VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING
May 21, 2014
5:00 p.m.

Meeting held at the Greenport Firehouse
236 Third Street, Greenport, New York 11944

APPEARANCES:
Douglas Moore – Chairman
Charles Benjamin
David Corwin
Ellen Neff
Joseph Prokop – Village Attorney
David Abatelli – Community Development
(Whereupon the meeting was called to
order at 5:04 p.m.)

CHAIRMAN MOORE: This is the regular session
of the Greenport Zoning Board of Appeals on May
21st, at about 5:04. And we have a public hearing
tonight and then our regular agenda.

And I'd like just to read the item for the
public hearing. It is a public hearing for an
appeal for an area variance for Orin and Jamie
Kimball, 818 Main Street, Greenport, New York,
11944; Suffolk County Tax Map #1001-2-2-24.1. The
property is located in the R-1 District and within
the Historic District.

The owners propose to build an addition to an
existing structure and the building permit was
disapproved on the following grounds:

The proposed side yard setback for the new
construction is 9 foot 0 inch, requiring a 3-foot side yard area variance for the new foundation walls.

The proposed addition has a basement access door which will diminish the side yard by an additional 3 foot 8 inches, reducing the side yard to 5.4 feet, increasing the required variance to 6 feet 8 inches on the south property line.

Section 150-12A of the Village of Greenport Code requires a 12-foot side yard setback in the R-1 District.

Just to review the notifications, I believe this was noticed in the Suffolk Times. The placard was on the property, I noticed, an appropriate period of time, and the following property owners were notified:

Gary Rempel and Mary Ann Rempel, 500 Gagens Landing Road, Southold. I don't know the adjacent property location. Cindy McNamara, 322 Monsell Place; Gary Short and Laura Short, 812 Main Street; 837 Main Street Realty Corp; James Betts, 262
Montgomery Street, Jersey City, New Jersey; Richard and Mary Fiedler, 1380 Beach Road, Greenport; and Victoria Filonenko, 843 Main Street, Greenport, New York. And they have the confirmations of the certified mail for those notifications.

I would invite the owner or the representative, or both, to make a brief comment about the scope of the project and what's being requested.

MR. UELLENDAHL: Good evening. My name is Frank Uellendahl. I'm here with Orin Kimball, the owner. I am taking care -- I am the architect to design the addition that is proposed here. The addition, as you can see on my site plan, is located on the south side of the existing structure. The existing structure is a new building that was built --

MR. KIMBALL: In 2000.

MR. UELLENDAHL: In 2000. It has -- it's situated at the corner of Monsell Place, Monsell Place and Main Street, so we do have to deal with
two 30-foot front yards.

The property is improved with a garage facing Monsell Place, and there is also an addition, a one-story addition, on the south side of the existing structure. And this is where we are planning to extend the building to improve it with a master bedroom suite. There is no bedroom on the first floor, and, unfortunately, we have to have a bedroom on the first floor which is handicapped accessible.

So it's quite a modest extension, it's only 14 by -- 14 feet by 22, and plus a handicapped accessible bathroom. But it will encroach onto the 12-foot side yard. We have two side yards, and this is the 12-foot side yard in the R-2 -- in the R-1 District. And we cannot really make it work to push the building back, because we need a little bit more space for access into the bedroom. We do need to make sure that we have the ADA -- ADA-compliant five-foot radius for a wheelchair to turn around within the bathroom, as well as in the
foyer going into the master bedroom.

So there is also a full basement that is proposed, and in order to make the basement accessible, we are proposing to have a Bilco door type access on the south side of this addition.

There is currently an eight-foot, a very tall wall that was built at the time, and it was approved by the ZBA and the Building Department as an accessory structure. That's why it had to be moved five feet off the property line. So, basically, the owner to the south has the benefit of five feet right now of using the driveway and some of the plantings.

The design proposes to basically keep the 8-foot wall, but we're not married to this. If we need to move it, if you decide that it would not be possible, then we could talk about this. But, at this point, we're going to keep the 8-foot wall, and that also hides the addition even more. So it is hardly visible from Main Street, only a corner of it is visible. It will have the same height as
the existing addition, which is 12 feet. It will have a flat roof. And this is what we're proposing tonight.

It did go through HPC approval this month, and so we passed that hurdle, but now we have to ask for a variance.

CHAIRMAN MOORE: Okay. And did the owner himself wish to make a comment?

MR. KIMBALL: I have nothing to add to that brilliant -- I think it was put forth perfectly.

CHAIRMAN MOORE: Would you just for the record identify your name.

MR. KIMBALL: I'm Orin Kimball.

CHAIRMAN MOORE: Yes.

MR. KIMBALL: I am one-half of the ownership of 818 Main Street.

CHAIRMAN MOORE: Thank you. So I think what I'd like to do is take any additional public comment, if there is any. And then, if we close the public hearing, we could engage in a discussion about some of the details of the project.

Anyone else from the public wish to speak? I'll look directly at you, since you're the only other ones here.
AUDIENCE MEMBER: No.

CHAIRMAN MOORE: Very well.

MS. NEFF: Any written? No written.

CHAIRMAN MOORE: We don't have any written information on file that I know of. I don't believe so.

We had a discussion at the site visit with the owner, that he is very friendly with his neighbor to the south, which would be the most affected property. And, according to Mr. Kimball, the neighbor has no objections to the project, although we have not heard directly from the neighbor on that.

MR. KIMBALL: That is correct.

CHAIRMAN MOORE: Okay. Very good. Would the Board want to entertain a motion to close the public hearing?

MS. NEFF: I move that we close the public hearing.

CHAIRMAN MOORE: All right. And could I have a second, please?

MR. CORWIN: Second.
MR. BENJAMIN: Second.

CHAIRMAN MOORE: Yes. Any discussion on the matter?

(No response.)

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

So the public hearing is closed. So now we can directly discuss this with the owner and the representative.

From the site visit, this is not a substantial addition to the building. The lot coverage comes out to just under 30%, which is the threshold, I believe.

We had a little bit of discussion. As you mentioned, the -- I guess it's referred to as a wall structure. It's within the original construction, I believe, of the building. And you mentioned both the ZBA and the Building Department
dealt with that?

MR. UELLENDahl: Well, this is what I heard from Eileen Wingate. She told me that this was approved as an accessory structure at the time.

CHAIRMAN MOORE: Right, right.

MR. UELLENDahl: It was approved by the ZBA Board.

CHAIRMAN MOORE: Oh, okay. I don't know the actual official process it went through.

MR. UELLENDahl: I did not -- I didn't see the actual deliberation on this, but I took her word for it.

CHAIRMAN MOORE: Right, yeah. At the time, as it turns out, that was the interpretation. If it's described as a fence, it exceeds the allowable height and would have to be further from the property line.

MR. UELLENDahl: Correct.

CHAIRMAN MOORE: Now, at the site visit, it's not clear whether this wall structure will remain intact during the construction, or it might have to
be taken down. I would only say that I don't personally consider it an issue for tonight's, you know, discussion on the construction. There's no request in on that item.

If it did come down and it was desired to re-erect that wall, that might result in a need for further variance. If it became a fence that's compliant with code, it could be within the allowances of a fence, according to the code. So I'd just bring that point out. But I don't --

MR. UELLENDahl: But that would not require a variance if we were to take down the 8-foot wall and replace it with a 6-foot fence on -- possibly on the property line.

CHAIRMAN MOORE: It would be a Building Department issue.

MR. UELLENDahl: It was a Building Department and HPC issue, but not a ZBA issue.

CHAIRMAN MOORE: Correct. And the only concern I have, as I indicated, and I think the Board understands what I'm talking about, is that
if the wall was to be replaced and it did have to be removed, that would probably generate a Notice of Disapproval, and you might have to appeal for a variance to replace that which is already there.

MR. KIMBALL: I feel that if we were to move it or take it down, we'd stay within code. And I don't think we'd build it right on the property line, I don't think our neighbors would enjoy that. However, we could move it over somewhat. But it would not be an attachment or an accessory building to the building.

CHAIRMAN MOORE: Yes.

MR. KIMBALL: It would become a 6-foot fence.

MR. UELLENDahl: Okay.

CHAIRMAN MOORE: Are there any comments or questions from the Board members?

(No response.)

CHAIRMAN MOORE: The structure is, I think you said, 12 feet high, and flat roof profile, a single-story structure.

MR. UELLENDahl: Correct.
MR. KIMBALL: Right.

MR. BENJAMIN: Did we open the meeting yet?

CHAIRMAN MOORE: Yes. Yeah, we closed the public hearing, and we're dealing with the first item on the agenda. I didn't make that clear, perhaps, but I'm not going to read the same statement again. It's referencing Item #1, discussion for the Kimball request.

MR. BENJAMIN: Yeah, I understand that, but we'd have to open the regular meeting before we start.

CHAIRMAN MOORE: Okay. Well, I didn't know that we had to officially declare it open, but --

MR. BENJAMIN: Okay.

CHAIRMAN MOORE: -- we are open.

MR. CORWIN: A question for the Architect. On this proposed master bedroom, I guess there's two doors. You couldn't count the door to the bathroom. I'm just thinking in terms of fire and escaping the fire, and what are the requirements for fire? In other words, a bedroom, you're
supposed to have a window you can get out of; is that correct?

MR. UELLENDÄHL: A bedroom -- excuse me, I didn't get --

MR. CORWIN: In case of fire.

MR. UELLENDÄHL: Right. The bedroom has in the corner, facing the wood deck, an 8-foot sliding door

MR. CORWIN: Okay. That wasn't clear to me.

MR. UELLENDÄHL: That is access to the courtyard.

MR. CORWIN: Thank you.

CHAIRMAN MOORE: And will that be the same grade as the deck, then? You're going to be able to access the back?

MR. UELLENDÄHL: Yes, we're connecting it to the existing deck.

CHAIRMAN MOORE: I had noticed the little door in the corner as well.

MR. UELLENDÄHL: Yeah.

CHAIRMAN MOORE: And it's, I suppose, a 36-inch door?

MR. UELLENDÄHL: Yes. These are slide pocket
doors, 36 inches. That's the -- that's required for handicapped access.

CHAIRMAN MOORE: And I'm just wondering, the exit door in the corner.

MR. UELLENDAHL: Well, the exit -- well, the exit door, I would consider the 8-foot slider the exit door as per code.

CHAIRMAN MOORE: The only other thing is that we are aware, of course, that the -- not Bilco door, but the stairwell extends further south from the building, so that we're talking quite a small setback, if we do include that in our consideration.

I should point out that we have a request from the Building Inspector for an interpretation of Bilco doors, chimneys and stairwells, because there were some discussions in this proposal. And we were not able to have that discussion before this meeting, because that still has to be publicly noticed, and we'll have a meeting, we'll be discussing it next month.

There are some thoughts, and I'm not going to talk details, because we're not deliberating the
question on the code, but this stairwell is
contained within the fence wall. It will be no --

not at all visible from any external property line,
and is really a matter of safety for entry and
egress as far as its construction. That's a
Building Department issue, as far as I'm concerned.

You know, I'd like to focus on the structure
itself, but we will keep in mind that there's an
additional foundation line that is further south
than the main line of the building. So, instead of
a 3-foot variance, we're really talking about a
much smaller -- or a much larger variance.

MR. UELLENDahl: Right. We started with the
variance, but then the Building Inspector was asked
by one of your Board Members to -- or by our
attorney, to include for this application the Bilco
door. That's why it is now --

CHAIRMAN MOORE: Right. And we certainly
have to take into account the size of that
additional structure and its significance to the
overall project.
MR. UELLENDAHL: It was an amendment to the approval.

CHAIRMAN MOORE: Yes, very good. Are there questions or discussion?

MS. NEFF: Is there an existing Bilco door somewhere else now to this?

MR. KIMBALL: No.

MS. NEFF: No, okay.

CHAIRMAN MOORE: And the house has a basement currently?

MR. KIMBALL: It has a very tall crawl space.

CHAIRMAN MOORE: Yes.

MR. KIMBALL: I could navigate like this (demonstrating).

CHAIRMAN MOORE: Okay. So the new addition will have a full --

MR. KIMBALL: Full.

CHAIRMAN MOORE: Full basement.

Are there questions or discussion from the Board on the matter?

MR. BENJAMIN: Well, the obvious, did you
consider putting the Bilco on the east side?

MR. KIMBALL: Well, yes. We discussed a few things on the east side. The east side will be a visible area for recreation, if there's such a word for this. It's some of the little bit of land that would be remaining in the backyard for activity off of the deck. So it does have an incursion in terms of walkability or usability, plus, visually, it's quite an eyesore.

Also, if you're suggesting that the Bilco may one day become part of a structure, this is a violation, too, because we would then have to -- we're on 30 feet. That's one of the hardships here of this property by being a corner lot. It has two front yards and a backyard and they're both -- all three of them are 30 feet, which -- so the side we're talking about here is our sole side of 9 foot, 12 foot, 10 foot, 5 foot, zero foot, whatever is the negotiation. So I believe that your suggestion would also have an issue from a potential legal or zoning issue.
CHAIRMAN MOORE: Ellen, did you have adequate opportunity for questions?

MS. NEFF: Uh-huh.

CHAIRMAN MOORE: And I think the statistics, it all boils down to a side yard setback for which you only have one side yard, and the requirement is 12 feet in the R-1 District.

MR. UELLENDahl: And just for the record, I would like to add that there are many examples in the Village of Greenport where the structures or residences are much closer to the property line, and I mentioned this at our site visit. On Central Avenue, Lorraine Kreahling's house that blew up during a gas explosion, we basically built the same kind of access into a full basement there, and it was right on the property line. Here, we are still five-foot-something off the property line.

CHAIRMAN MOORE: Yeah. Well, my impression on the whole thing is that it's a small addition, and if you include the stairwell, it does come quite close to the property line. But one saving
grace is the existing 8-foot-high wall which already provides quite a good screen from that angle. I think it neutralizes the Bilco door issue or the stairwell issue. And that's going to be covered or just open?

MR. UELLENDahl: No, it should be -- it will be covered. It will be covered, because, you know, you don't want to create an open staircase.

CHAIRMAN MOORE: It would have a trap door kind of thing?

MR. UELLENDahl: Yes, it will have some kind of cedar door opening and then you walk down. It's going to be protected. And there will be a drain. Otherwise, we would have a drain issue.

CHAIRMAN MOORE: Right.

MR. UELLENDahl: But we don't want to do this, so it's going to be covered.

CHAIRMAN MOORE: You know, because it's enclosed, again, and it's totally screened from public access, again, you know, it's nothing that anyone would stumble into --
MR. UELLENDahl:  Right.

CHAIRMAN MOORE:  -- because it's enclosed within the property.

So would the Board want to entertain moving ahead with the questions and the process?

MR. CORWIN:  Yes.

MS. NEFF:  Uh-huh.

CHAIRMAN MOORE:  Very good. So the first item is that we declare ourselves the Lead Agency with regard to SEQRA, and that I would move that this is a Type II Action. And I'd ask for a second.

MR. CORWIN:  Second.

CHAIRMAN MOORE:  Any discussion?

(No response.)

CHAIRMAN MOORE:  Then all in favor?

MR. CORWIN:  Aye.

MS. NEFF:  Aye.

MR. BENJAMIN:  Aye.

CHAIRMAN MOORE:  Aye.

So the motion carries.

And then the -- I'll just get my paperwork in
order here. We have the standard five questions for an area variance.

Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to the nearby properties will be created by the granting of an area variance?

And I'll ask for individual votes on this.

Mr. Benjamin?

MR. BENJAMIN: No

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.

CHAIRMAN MOORE: And I vote no.

That whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance?

Mr. Benjamin?

MR. BENJAMIN: No.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.
Whether the requested area variance is substantial?

Mr. Benjamin?

MR. BENJAMIN: No.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.

CHAIRMAN MOORE: And I vote no.

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Mr. Benjamin?

MR. BENJAMIN: No.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.

CHAIRMAN MOORE: And I vote no.
And whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Mr. Benjamin?

MR. BENJAMIN: No.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: Yes.

CHAIRMAN MOORE: And I also vote yes.

MR. CORWIN: Wait. I want to change my vote.

CHAIRMAN MOORE: Okay.

MR. CORWIN: The answer is yes.

CHAIRMAN MOORE: Yes.

MR. CORWIN: The correct answer is yes, in my thinking.

CHAIRMAN MOORE: Okay. And that is not binding on our decision.

And then, finally, I would entertain a motion
to approve the variance. If you want, I can
describe it, that we are approving the area
variance for the setback, including the stairwell,
and I assume with no stipulations. Any
stipulations being offered by the Board?

MR. BENJAMIN: The runoff, because it's going
to be closer to the property now, the runoff from
the roof, the flat roof -- it's a flat roof?

MR. UELLENDHAHL: Correct.

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MR. BENJAMIN: Is going where?

CHAIRMAN MOORE: It would be contained on the
property?

MR. UELLENDHAHL: Are we talking about roof run off?

MR. BENJAMIN: The rain runoff from the
addition.

MR. UELLENDHAHL: Okay. Well, right now,
there are two -- I don't know if you saw them.
There were two copper leaders. One of them we're
going to maintain, because it's within the existing
addition towards Main Street. And the other one,
we're going to move down to collect the water, and
it will be -- yes, it will be contained.

You know, if we -- there is landscaping. We
can put a drain pipe into the landscaping, but it
will not go into public land or on the neighbor --
the neighbor's property.

MR. CORWIN: We would like to see some kind
of dry well.

MR. UELLENDahl: Would you like --

MR. CORWIN: Yes.

MR. UELLENDahl: -- to see a dry well? Okay.

We can -- Orin, are you opposed to bringing those
two leaders, connecting them to a dry well in the

backyard, that would be in the backyard?

MR. KIMBALL: A dry well consists of a
cylindrical --

MR. UELLENDahl: It's a concrete structure,
right. And I have to design this based on the
square footage. It's probably going to be a 4-foot
diameter or 6-foot diameter, and we could --

MR. KIMBALL: So it will be done?
MR. UELLENDahl: This is not a big deal.

MR. KIMBALL: We already have one on the Monsell side with one of our leaders.

MR. UELLENDahl: Okay.

CHAIRMAN MOORE: Okay. We would simply stipulate that the roof runoff would not exit the property, so you would attend to that appropriately.

MR. CORWIN: Yes.

MR. UELLENDahl: Okay.

CHAIRMAN MOORE: Whether it's a cistern, a dry well, or what have you.

MR. UELLENDahl: We will make sure that it will be contained on the property.

CHAIRMAN MOORE: Yes. So I would move that we approve this area variance for a side yard setback, with the only stipulation that any

rainwater running off of the structure be contained on the property. So moved. And may I have a second?

MS. NEFF: Second.
CHAIRMAN MOORE: And I will ask for the vote.

Mr. Benjamin?

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: Yes.

CHAIRMAN MOORE: And I vote yes.

So that motion carries, and the variance is approved. And good luck with the project.

MR. UELLENDAHL: Thank you very much.

MR. KIMBALL: Thank you very much.

CHAIRMAN MOORE: I think it's very well designed and presented, and I think it will certainly be an addition to the house that you need and will appreciate.

MR. KIMBALL: Thanks to this gentleman over here. Thank you all.

MR. CORWIN: Good luck.

MR. KIMBALL: Thank you.

CHAIRMAN MOORE: Okay. Now we can move to

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Item #2. If you'll bear with me while I put things away. Item #2 is a motion to approve the Findings, Determination and Decision document approving an area variance, with restrictions, for Mark LaMaina, 119 Main Street, Greenport, New York; Suffolk County Tax Map 1001-5-4-34, for a restaurant sign which is directly illuminated.

We received only today from Mr. Prokop the Determination Document, and I have gone through it. I thank you for sending the notice about the correction, but I had already made corrections. And what I propose to do is simply identify the corrections that I have made on a clean copy, which I'd like to present for approval today. And in case you had noticed some inconsistencies in the current document, I'll just identify those as we go through.

MS. NEFF: So may I ask a question?

CHAIRMAN MOORE: Yes.

MS. NEFF: The one I have in front of me has been slightly revised?

CHAIRMAN MOORE: Yes.

MS. NEFF: Okay.

CHAIRMAN MOORE: I'm not sure which version you have, but it has been further corrected.
In the third paragraph, on the first page, Zoning Board of Appeals, the "April 16, 2014" can be removed, because we did close the public appearing on February 19th. And then it properly identifies that the meeting continued and we discussed it on April 16.

On Page 2, the subject premises is located -- improved by a restaurant, and the sign in question is a newly installed existing sign; that this clarifies that, or existing --

MS. NEFF: What paragraph are you talking about?

CHAIRMAN MOORE: The very first sentence on Page 2.

MS. NEFF: Okay.

CHAIRMAN MOORE: On the --

MS. NEFF: Would you read the change? I don't know --

CHAIRMAN MOORE: I just added "a newly installed existing sign."

MS. NEFF: Okay. Thank you.
CHAIRMAN MOORE: There was some concern that it may appear that this sign has been there for quite a period of time and it's not --

MR. CORWIN: So let's get rid of "existing sign" and say --

CHAIRMAN MOORE: "Newly installed."

MR. CORWIN: "illegally installed sign."

CHAIRMAN MOORE: If you wish to use that instead of "newly installed." How does the Board feel about that?

MR. BENJAMIN: I agree.

CHAIRMAN MOORE: So you're saying "illegally installed"?

MR. CORWIN: Installed without a permit.

CHAIRMAN MOORE: Or how about "is a newly installed sign with no permit"?

MR. BENJAMIN: Good.

MR. CORWIN: That says it.

MS. NEFF: Okay.

CHAIRMAN MOORE: Okay, which is what had happened.
In the third paragraph, "that for the Zoning Board of Appeals," I -- on the third line there, I replaced "okay" with "acceptable."

MS. NEFF: Okay.

CHAIRMAN MOORE: If not right. It is the Historic Preservation Commission, not the Housing Preservation Committee.

MR. PROKOP: Thank you. I'm Sorry. I apologize --

CHAIRMAN MOORE: Yes, that's right.

MR. PROKOP: -- to the Chair.

CHAIRMAN MOORE: And it said same initials, though, HPC. And --

MS. NEFF: It's a commission, not committee, right?

CHAIRMAN MOORE: Commission, I believe; is that correct?

MR. UELLENDahl: Correct.

CHAIRMAN MOORE: Commission, yes. That sounds very authoritative. At the bottom of this --
MR. UELLENDahl: Just responding.

CHAIRMAN MOORE: -- same page, Rathbun is replaced -- should be replaced with the name Corwin. Denise Rathbun is no longer a member of the Zoning Board of Appeals.

On Page 3, in the voting, under B, "The benefit sought by the applicant could not be achieved by some method," the document has been corrected to say, "The Zoning Board of Appeals was undecided, the benefit sought by the applicant," because the voting in that case was even.

At the bottom of Page 3 again, "okay" has been acceptable -- has been replaced by "acceptable."

And then, at the end, the motion on Page 4 by Chairman Moore, and it has been fixed to say, "The variance of the lighted sign subject to the stated conditions of the approval." This, apparently, came from a previous document, so it was
incorrectly stated as maximum height limitation.

That might have been Rhumbline --

    MR. BENJAMIN:  Or a flashing sign.

    CHAIRMAN MOORE:  -- from the past.  And then,
again, in favor on that page is David Corwin as our
member, and deleting Ellen Rathbun.

    So with that, I believe the document is
correct and properly represents the conditions.

    I should point out that we had stipulated
that the sign is to remain in its current location.
The sign must be softly self-illuminated.  The
border lights, which are number 40, are acceptable
if not bright.  The sign cannot be flashing, and no
flashing lights are permitted.  And the Zoning
Board of Appeals and the HPC will review the sign
when lighted after dark once the lights are

adjusted.  And the variance is for the existing
sign only, and does not carry over to a new or
different business or owner.

    So, with those corrections and those
stipulations within the Approval Document, I will
make a motion that we approve this document as corrected, and I would ask for a second.

MR. BENJAMIN: Second.

CHAIRMAN MOORE: Any discussion on the matter?

MR. CORWIN: Quite simply, the sign is on and flashing. I think the Zoning Board of Appeals did Mr. LaMaina a favor, and I think it's highly insulting to the Zoning Board of Appeals, and the Village of Greenport, and the Building Department for the gentleman to go ahead and turn the flashing sign on after we did him a favor. So why should we approve it?

CHAIRMAN MOORE: Okay.

MR. CORWIN: I say don't approve it.

MR. PROKOP: If he's already in violation, he should be issuing -- he should be getting summonses at this point. And my recommendation would be that you don't vote to --

CHAIRMAN MOORE: Okay.

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MR. PROKOP: You don't take any further
action.

CHAIRMAN MOORE: If I can add any comment here, the Building Inspector did have several telephone calls. I don't know if she relayed them to you, Mr. Prokop, but --

MR. PROKOP: No.

CHAIRMAN MOORE: -- she spoke with him on -- two times today. And, apparently, he was closing on a purchase of a house today and she didn't want to continue the conversation. He indicated his urgency to maintain his sign over the weekend. She came back to him because of the holiday weekend. He has been enjoying, I think, this interim period where he's not in compliance, but he's still waiting for an official document describing what is required of him.

So, I agree, that he's taken advantage of the Board. The Building Inspector is going to speak with him again tomorrow and ask him not to have the sign flashing. And I would feel that pending the adjustment of the lighting, if he does not have it flashing, but illuminated, that we could live with that. He says he's going to have the sign taken down Tuesday and --
MS. NEFF: Tuesday, as in next --

CHAIRMAN MOORE: Next Tuesday for the electrician to make the necessary repairs and adjustments. So that's where we are with that. I understand the discomfort of the Board.

AUDIENCE MEMBER: May I?

CHAIRMAN MOORE: I'm sorry, we're not taking any public comment.

The situation we're in right now, it's a code enforcement issue. It's out of compliance whether it's flashing or not, because it doesn't meet the Village -- you know, the Village code. Our variance that we are allowing on this sign makes it acceptable to the HPC and the Zoning Board, and that will come as promised by the owner when the sign is adjusted. So I don't know that --

MS. NEFF: Can I ask you a question?

CHAIRMAN MOORE: Yes.

MS. NEFF: Are you saying that the owner is unaware of the language that's used in this Findings and Determination?

CHAIRMAN MOORE: I don't know what --
MS. NEFF: Because I can't believe that that's true.

CHAIRMAN MOORE: -- he's aware of. I think he knows what's expected of him. And I would have expected he could have spent some valuable time having the sign adjusted in this interim period, which he's not done.

MS. NEFF: Right. And what leads me --

CHAIRMAN MOORE: But that he --

MS. NEFF: Could I just continue?

CHAIRMAN MOORE: Yes.

MS. NEFF: It just leads me to think that that is probably, most likely, is to say, well, but what about the weekend? There's always another weekend. And I think that withdrawing his motion makes the most sense. And that we could, if we are in agreement, make the recommendation that a summons be issued in a timely fashion.

CHAIRMAN MOORE: We can do that.

MS. NEFF: About --

CHAIRMAN MOORE: We can do that.
MS. NEFF: Yeah.

CHAIRMAN MOORE: I think one of the difficulties is that the longer we delay a definitive directive as to what needs to be done, that makes it official, because we have already decided this is the solution to the request for the lighted sign. We can't act as a code enforcement agency by withholding an approval, we've already made the approval.

MS. NEFF: Can I ask a question?

CHAIRMAN MOORE: We would have to bring it up for a whole new process if we wanted to reconsider.

MS. NEFF: Could I ask a question? Can we direct that the Building Inspector share the language of the determination, so there could not be some confusion about what exactly, quote, unquote, we want?

CHAIRMAN MOORE: Yes.

MS. NEFF: I think it was pretty clear from --

CHAIRMAN MOORE: Yes I think it was clear --
MS. NEFF: Yes.

CHAIRMAN MOORE: -- from the public record, yes.

MR. PROKOP: One of the things -- I mean, I'm sorry for the delay in this, but one of the things that I needed to do in this is go through several different documents and sort of pull them together. And I also had to figure out that Lucharito's was the same thing as LaMaina.

CHAIRMAN MOORE: Yes.

MR. PROKOP: But the -- I mean, it was clear from -- I wasn't present at the April meeting, but it was clear from the record what the conditions were.

CHAIRMAN MOORE: Yeah. He was not present at the meeting.

MR. PROKOP: I mean, in this Village, we run into this all the time. This is just somebody that's trying to buy more time. You people are volunteers. I'm getting paid to be here. You people are volunteers, and what he's doing is
directly insulting --

MS. NEFF: Yes.

MR. PROKOP: -- the whole process.

CHAIRMAN MOORE: Well, do you --

MR. PROKOP: I would go and pull the plug on the sign.

CHAIRMAN MOORE: Right.

MR. PROKOP: I wouldn't even have it on tonight.

CHAIRMAN MOORE: Right. If we don't approve the document, which I think properly now represents our deliberations and the variance that we issued or approved, are we benefitting the process by delaying that? Because it gives an opportunity for the individual to say, "Well, hey, I have nothing official from you." The Building Inspector can issue a violation with the current conditions in the absence of a variance, because the sign is in violation. So she could do that tomorrow morning.

MR. PROKOP: You know what I would do, is I would -- what I would do is I would -- you voted to
approve the variance, so, technically, the variance is approved. You're just at this point cleaning up paperwork that has to be taken care of. But what I would do is I would vote as a Board that if this isn't corrected by Friday, at 5 p.m. on Friday, that the variance is rescinded.

CHAIRMAN MOORE: Okay. So we could --

MR. PROKOP: Because it's a direct -- I'm sorry, I didn't mean to interrupt you, but --

CHAIRMAN MOORE: No, that's all right.

MR. PROKOP: It's true, that we are not the code enforcement function in this Village, and we should not get involved in that, that's accurate.

CHAIRMAN MOORE: The ZBA.

MR. PROKOP: The ZBA, but on the other --

CHAIRMAN MOORE: Yes.

MR. PROKOP: Excuse me. But, on the other hand, the Board does issue variances that are conditioned on certain things happening. And when somebody sits now, you know, for 29 days and does exactly what you said cannot happen, I would just
give him a very short leash, which I would recommend is Friday at 5 p.m., and then the variance is rescinded.

CHAIRMAN MOORE: And what would the direction be, that the sign not to be flashing?

MR. PROKOP: Yes. That all the conditions be -- all the conditions of the sign be met.

CHAIRMAN MOORE: All the conditions be met.

MR. PROKOP: By Friday.

CHAIRMAN MOORE: Would that be acceptable or --

MR. CORWIN: Yes.

MS. NEFF: Yes.

CHAIRMAN MOORE: So we would add an additional condition on approval of the document, since the variance is already issued, that by 5 p.m. Friday, May 22nd, that the conditions of the variance be met or the sign will be off.

MR. PROKOP: No.

MS. NEFF: Or -- no.

MR. PROKOP: The variance is rescinded.

MS. NEFF: The variance is rescinded.

MR. PROKOP: I would do it in a separate
vote.

CHAIRMAN MOORE: The variance is rescinded?

MR. PROKOP: Yeah. I would vote --

CHAIRMAN MOORE: I don't think we can ask him to make the necessary electrical connections to the box by tomorrow night, because I don't see as that being even feasible.

MR. PROKOP: This Friday --

CHAIRMAN MOORE: Is tomorrow night. Because he's having the sign taken down and worked on by whoever's going to make those adjustments.

MS. NEFF: So he said.

CHAIRMAN MOORE: So he says, yes.

MS. NEFF: Whether there are wires that are moved and pulled, it's done in five minutes, we don't know --

CHAIRMAN MOORE: We don't know.

MS. NEFF: -- exactly what it takes.

CHAIRMAN MOORE: I don't know, but I don't know that -- I think we can simply say that the variance document will not be approved without the condition that he comply with the requirements of the variance by tomorrow, however he does it. If
24 it requires turning the sign off in that regard, 
25 then so be it. But I don't think we can direct him 

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1 that he make specific changes to the sign by then. 
2 I don't think that would be considered in any kind 
3 of appeal as reasonable. 
4 MR. CORWIN: He can turn the sign off. He 
5 turned it off for two months — 
6 CHAIRMAN MOORE: He can turn it off, yeah. 
7 MR. CORWIN: — prior to the hearing. And as 
8 soon as we voted to approve it, he apparently 
9 turned the light on. And if you want to believe 
10 what's in the Suffolk Times, he knew what the deal 
11 was, because he said he didn't like it. 
12 CHAIRMAN MOORE: Yeah, he wasn't happy with 
13 the conditions. Yeah, I think that we simply have 
14 to say that the sign has to operate according to 
15 the variance granted, or be turned off. Whether he 
16 fixes the sign or not really is up to him, because 
17 if he doesn't fix it, he can't turn it back on 
18 then. Is that acceptable to the Board? 
19 MR. BENJAMIN: I don't recall the conditions
that were made when we approved the variance.

CHAIRMAN MOORE: Well, they are in --

MS. NEFF: They're stated right here.

CHAIRMAN MOORE: They are stated, and those are accurate. They came not only from the Historic Preservation Commission, that the sign has to be

where it is currently, the sign must be softly illuminated, that is the sign body itself, and the border lights have to be acceptable to the two Boards on demonstration, and the sign cannot be flashing and no flashing lights are permitted, and that we're going to inspect the sign. And the variance only carries with the current owner and business. So those are pretty right to the point.

MR. BENJAMIN: So we have -- we have the right to rescind it. We just have to finish this. But as soon as we sign this and go there and see that he has not corrected or complied, then we could, in effect, rescind it, but we wouldn't meet until another month.

CHAIRMAN MOORE: I think we would have -- the
only grounds I think that we could rescind the variance would be a continuous violation of the approved variance.

    MR. PROKOP: Well, he's not complying with the conditions as --

    CHAIRMAN MOORE: As stated.

    MR. PROKOP: You know, the clear conditions of the hearings.

    CHAIRMAN MOORE: Right.

    MR. CORWIN: He's violating the Village Code right now, this very minute. It says no self-illuminated signs.

    CHAIRMAN MOORE: Right.

    MR. CORWIN: And he has nothing in his hand that says he can do it.

    MR. BENJAMIN: But we really haven't finished --

    CHAIRMAN MOORE: The process, right.

    MR. BENJAMIN: Yeah. So we should finish.

    CHAIRMAN MOORE: So I think the additional motivation we need to put into this document is
that it will be, as you indicated, rescinded if the

corrections are not made. And is there a period of
time?

MR. PROKOP: I would recommend, since you

already -- the problem is the document is supposed
to reflect the vote that you took on April -- in

April.

CHAIRMAN MOORE: Yes.

MR. PROKOP: So which we should do. We

should adopt the document in accordance with the
vote in April. But then what I would do is I would

have a second vote that the -- that due to the

noncompliance with the conditions of the variance,

that the variance is rescinded if it's not -- if

the conditions are not fully complied with by, and

then give a date, give a date certain.

CHAIRMAN MOORE: Is that acceptable to the

Board?

MR. CORWIN: Yes.

CHAIRMAN MOORE: Okay.

MR. CORWIN: Friday suits me fine.
CHAIRMAN MOORE: Now the date of compliance, though, to operate the sign --

MR. CORWIN: All he has to do is turn the lights off.

CHAIRMAN MOORE: Turn the lights off, okay.

MR. CORWIN: Period.

CHAIRMAN MOORE: And then what would the Board offer for a time period that the sign, if illuminated, be -- well, maybe it just -- it does not come back unless it's compliant.

MS. NEFF: Right.

CHAIRMAN MOORE: Simple enough, right?

MS. NEFF: Yes.

CHAIRMAN MOORE: Okay. So what I'll do is offer a motion that we approve the Determination and Decision Document as corrected for the sign variance, and that we will have a second vote that will clean up the other issues. So I'll make the motion to approve the document as corrected. May I have a second, please?

MR. BENJAMIN: Second.
CHAIRMAN MOORE: And all in favor?

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

Opposed?

MR. CORWIN: No.

CHAIRMAN MOORE: So we have three in favor and one opposed. So the document is approved. And now what we'll do is -- how can we word this? That we will --

MS. NEFF: Failure to -- one suggestion is failure to comply with the conditions set forth in the variance will result in --

MR. CORWIN: And the Village Code.

MS. NEFF: -- rescinding the variance by -- by the date, result in rescinding the variance, and that, therefore, the sign would be off.

CHAIRMAN MOORE: How about I do it this way, that the sign may not operate outside of compliance with Village Code or the variance issued, or must remain off until compliant? Otherwise, by the next meeting of the Board, we will move to rescind the variance.

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MR. CORWIN: Yes.

CHAIRMAN MOORE: Is that acceptable?

MR. CORWIN: Yes.

CHAIRMAN MOORE: So, with that said, so moved. And may I --

MR. CORWIN: Well, why don't you just say that once more, just so we're all clear.

CHAIRMAN MOORE: I don't know if I can say it again.

MS. NEFF: I know you can.

CHAIRMAN MOORE: Let's see. That we will specify that the sign, which has an approved variance, must operate either within Village Code or within the parameters set within the variance, which was approved. And if the sign is operated outside of those terms and continues to do so by the next meeting of the Zoning Board of Appeals --

MR. CORWIN: No, no

CHAIRMAN MOORE: No?

MR. CORWIN: By Friday, or if you want to give him the middle of next week, but it's got to be done within one week.

CHAIRMAN MOORE: Okay. So that it has --
MR. PROKOP: But you don't have the -- you don't have the ability to direct him to comply with the code. If people in the Village don't comply with the code, that's the business of --

CHAIRMAN MOORE: Yes.

MS. NEFF: Right. So just say --

MR. PROKOP: -- Eileen.

MS. NEFF: -- that the -- yeah, talk about the variance.

MR. PROKOP: You have to deal with rescinding the variance.

CHAIRMAN MOORE: Okay. So that we will indicate, then -- now, what time period would there be for -- well, there doesn't need to be a time period, because it has to operate within the conditions of the code. And for what period of time of noncompliance would the Board entertain rescinding? Does it, you know --

MS. NEFF: I think that the owner is well
aware of the conditions set forth in the variance already, and that any time frame other than a week is not reacting in an appropriate manner to him pushing the envelope in the way that he has.

CHAIRMAN MOORE: So are you suggesting that he has a week to become compliant?

MS. NEFF: Yes, absolutely, or it's rescinded.

CHAIRMAN MOORE: Or it's rescinded.

MS. NEFF: Yes.

CHAIRMAN MOORE: All right. So I would make the motion, then, that we require that the owner comply with the conditions of the variance by the end of next week, which would be June 3rd or 4th? I'm trying to think what date. Pardon me while I look up --

MR. ABATELLI: It might be the 31st.

MS. NEFF: Sooner than that.

CHAIRMAN MOORE: It's sooner than that.

MS. NEFF: It's the -- that would be the 31st.
MR. ABATELLI: It should be the following Friday, I would say.

CHAIRMAN MOORE: The following Friday, yeah. Let me find that.

MR. BENJAMIN: Actually, it should be compliant right now.

CHAIRMAN MOORE: It should be. But he may not operate it out of compliance after a period of time. What you're doing, though, by stating it that way, we're granting him an allowance to operate out of compliance.

MR. ABATELLI: No, no.

MS. NEFF: No.

CHAIRMAN MOORE: But we don't want to do that.

MS. NEFF: No.

CHAIRMAN MOORE: How do we word this?

MR. ABATELLI: If I understand -- I mean, from -- being that I'm going to now be the one trying to -- you know, if we have to tell him what to do.
MS. NEFF: Yes.

MR. ABATELLI: My understanding from the last thing you're saying is by Friday at 5 o'clock, he either has to have just the lights on, not flashing, and ideally not very bright.

CHAIRMAN MOORE: Yeah.

MR. ABATELLI: But not flashing, or he has to turn the sign off.

MS. NEFF: Yeah.

CHAIRMAN MOORE: By tomorrow.

MR. ABATELLI: That's by Friday. Tomorrow is Thursday.

CHAIRMAN MOORE: Tomorrow.

MS. NEFF: By Friday. He's got a day to think about it.

MR. ABATELLI: You said Friday, right?

MS. NEFF: Yeah, I agree with that.

MR. ABATELLI: Is that what you said?

Whatever, whatever day it is, but I wrote -- I think you said Friday. And if he fails to do that, the Board will -- you know, I don't even have to be
specific about the dates with him, but the Zoning Board will rescind the variance to have a lighted sign at all. If -- I don't think it's -- you know, again, this is complicated, but I don't think it's necessary to say you have to -- you have a week to get the sign to work the way we said. I think it's just he -- you know, if he's able to make it just not blink, which, you know, may be possible, you know, it may not be true that he needs to go through a whole big, you know, electrical engineer thing to get the lights to not flash.

MS. NEFF: Right.

MR. ABATELLI: Then he's done. If he does -- and his only other option is that he turn the lights off. I'm sure he has the technology to turn the lights off.

CHAIRMAN MOORE: And you're describing -- I believe he was able to operate the sign without

flashing

MR. ABATELLI: I think he can, but I'm not going to say that he -- I don't know for sure, but
I'm pretty sure he can.

CHAIRMAN MOORE: So we're saying that he will need to operate according to the variance, or by 5 p.m. Friday, the 22nd.

MS. NEFF: Friday, the 23rd.

CHAIRMAN MOORE: The 23rd. Sorry, this is Wednesday. Friday, the 23rd, would operate the sign to be not flashing, and that if, after a week's period, he's not in compliance, that we will move to rescind the variance; is that the right wording?

MR. ABATELLI: Well, I guess so. I guess if being not in compliance means -- let's say if it is true, that he has to have the sign sent to, you know, like GE, or something like that, to get it to work properly --

CHAIRMAN MOORE: Well, then it won't be there.

MR. ABATELLI: -- then he maybe needs more time. But he could still leave the sign and the sign would be down, because, if that is true, he's got to take the sign away.
CHAIRMAN MOORE: I mean, if it goes away, it's not in violation.

MR. PROKOP: Could I make a suggestion?

MS. NEFF: Yes.

CHAIRMAN MOORE: How -- somebody help me on this. I'm getting totally confused.

MR. PROKOP: Could I make a suggestion, that the motion is that the applicant is directed to -- excuse me. The applicant is directed to comply with the conditions of the variance, as stated, by 5 p.m. on Friday, May 23rd, or turn the sign off. Failure -- I'm sorry.

MS. NEFF: I was just going to say, until such time it is in compliance.

MR. PROKOP: Until such time as it is in compliance. Failure to comply with this condition will result in the recision of the variance at the June meeting of the Zoning Board of Appeals.

CHAIRMAN MOORE: So it will result in recision --

MR. PROKOP: Recision of the variance at the June meeting of the Zoning Board of Appeals. This matter is to be placed on the agenda for the June meeting of the Board of Appeals.
MS. NEFF: Which happens to be June 18th.

MR. PROKOP: For consideration.

CHAIRMAN MOORE: For consideration. So, with that said, I would move that we approve that additional condition on the variance, and ask for a second.

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

So that motion carries. And with that in mind, if the sign is illuminated and not flashing this weekend, I suppose we would leave it to up the Building Inspector to determine if it meets the conditions of the variance. I mean, obviously, that would be some -- we're going to be inspecting the sign after dark once it is fully adjusted, and I expect that we'll have a good result. So I think this will give the Building Inspector some
additional backup to get the sign compliant with our variance issue. So that is done, I believe.

We can move on to Item #3, which is a motion to accept a request from the Building Inspector for an interpretation of Sections 150-12A and 150-13D,

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publicly notice and schedule a public hearing for a request. And that can be deleted. Just public hearing, period. That was my mistake in writing this up.

An interpretation is requested regarding the exclusion or inclusion of Bilco doors, basement stairwells, chimneys and similar components for consideration in the yard setback requirements stated in section Section 150-12A. So moved. May I have a second, please? We're all aware of what this is about.

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.
CHAIRMAN MOORE: Aye.

So that motion carries.

Motion to accept ZBA minutes for April 16, 2014. So moved. Second, please.

MS. NEFF: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

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MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Motion to approve -- and that motion carries. Motion to approve the ZBA minutes for February 19th, 2014. So moved. May I have a second?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: No discussion on that?

(No response.)

CHAIRMAN MOORE: If not, all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.
CHAIRMAN MOORE: Aye.
The motion carries.
And motion to schedule the next regular ZBA meeting for June 18, 2014. So moved. Second, please.
MR. CORWIN: Second.
CHAIRMAN MOORE: All in favor?
MR. CORWIN: Aye.
MS. NEFF: Aye.
MR. BENJAMIN: Aye.
CHAIRMAN MOORE: Aye.
I make a motion to adjourn. Second, please.
MR. CORWIN: Second.

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CHAIRMAN MOORE: Second from David Corwin.
All in favor?
MR. CORWIN: Aye.
MS. NEFF: Aye.
MR. BENJAMIN: Aye.
CHAIRMAN MOORE: Aye.
(Whereupon the meeting was adjourned at 5:58 p.m.)
CERTIFICATION

STATE OF NEW YORK

) SS:
COUNTY OF SUFFOLK )

I, LUCIA BRAATEN, a Court Reporter and Notary Public for and within the State of New York, do hereby certify:

THAT, the above and foregoing contains a true and correct transcription of the proceedings taken on May 21, 2014.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of June, 2014.

__________________
Lucia Braaten