VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING
October 15, 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
Diana Gordon
Ellen Neff

Joseph Prokop – Village Attorney
Eileen Wingate – Village Building Inspector
(Whereupon, the meeting was called to order at 5:03 p.m.)

CHAIRMAN MOORE: This is the regular meeting of the Greenport Village Zoning Board of Appeals, and it's just after 5 p.m.

We have one Public Hearing tonight, and then our regular meeting agenda. And we'll start first with our Public Hearing, and it is a Public Hearing for an appeal for an area variance for Debra Riva, 433 Sixth Street, Greenport, New York; Suffolk County Tax Map 1001-6-3-4. The property is located in the R-2 District. The applicant proposes to construct a new mudroom addition and a deck. The proposed addition is 36 square feet, and the proposed deck is 192 square feet.

Section 150-12A of the Village Code of
Greenport requires a 25-foot combined side yard setback in the R-2 District.

The proposed aggregate side yard setback is 21.39 feet, requiring 3.61-foot combined side yard variance for the new extension and proposed deck.

Section 150-12A of the Village of Greenport Code requires a 30-foot front yard setback in the R-2 District. The proposed deck is located in the front yard and is set back 27.23 feet, requiring a 2.77-foot front yard variance.

I should just mention that this was properly noticed in the newspaper, and the following neighbors were notified by mail, and I believe the receipts for the mailings are in the file here:

Jennifer Kennedy and James Kennedy, 293 Fourth Avenue, Saint James, New York; Enrique Alvarez, 429 Sixth Street; Catharine Golisz and Caouette -- Ralph, Caouette, 1300 Stars Road, East Marion. Again Enrique Alvarez, 414 6th
Street, and Brett Stephenson and Karen Stephenson, 428 Sixth Street, Greenport, New York. I believe the placard has been placed on the property, as required by the code.

And there is one letter, which I'll read for the record, from a neighbor. It's regarding the building variance, and it's from the -- I believe the name is Caudette -- Caouette, and it's, "Debra Riva of 433 Sixth Street has our permission and blessings to build or add onto her side entrance, north, facing our property, 447 Sixth Street, and within the 15-foot set variance. We have seen and heard about her intentions within this rather modest addition, and we have no issues, nor problems, with this project." And it's signed Ralph Caouette and Maureen Caouette.

We could take any comment from the applicant, if you'd like to give a brief description of what you're proposing to do. And if you'd want to approach the podium and just
give us your name and address, and then say whatever you'd like.

MS. RIVA: You want me to look that way.

CHAIRMAN MOORE: Yes, if you would, if you could --

MS. RIVA: Oh, sure. My name is Debra Riva and --

CHAIRMAN MOORE: Would you mind just speaking at the podium? I don't know if the mic's on or not.

MS. RIVA: At the -- at the podium? No, not at all.

CHAIRMAN MOORE: But if you would, just so everybody can hear you.

MS. RIVA: My name is Debra Riva. I live at 433 Sixth Street in Greenport. And what I'm asking for is a variance so that I can build a mudroom and a deck that goes around the front of my house.

This was my first winter in the house, and I had just renovated the home, purchased it in
September and started renovating in October, moved in December. And it was quite the winter to be here for the first time in the house. And because you walk right into my kitchen, and it's a brand new kitchen, I would like to not have to do that, number one.

Number two, between the snow, and the rain, and the boots, and the coats, and I have a cat that I have to make sure doesn't run out, I thought that a mudroom would really make a difference for me. And as I grow older, I would like to be able to have that opportunity, so that I don't have to worry about my packages, and the cat, and so on and so forth. And continued the deck around the front of the house, because I just thought it would enhance the property.

CHAIRMAN MOORE: Okay.

MR. CORWIN: Question. On your plot plan, you show the mudroom and a door for the mudroom. You show, I guess, the existing set of steps in the front of the house. Are you going to have
any kind of access or steps on the side of the
deck or the side of the house? Because now
you're going to have to go to the -- from your
car to the front stoop, and then around to the
mudroom.

MS. RIVA: What -- and I'm sorry that it's
not on there, because I thought that it was, but
where the "L" is, coming from the mudroom and
then going out to the front of the house, there
will be steps there, not going out into the
driveway, but in the front. And it will not be
beyond the line, it will be inside the line.

MR. CORWIN: Would it be possible to just
sketch it on this so I can understand?

MS. RIVA: Okay. So I'm talking about
right here. It would either be going this way --
you want me to write on it?

MR. CORWIN: Yes.

MS. RIVA: Either go straight on -- those
are my steps. Well, maybe on a slant, but right
now, it looks like it makes sense going that way.
And again, it's not beyond the six foot out
there, okay? Does that make sense?

MR. CORWIN: Well, as you show it, yes. So
everybody can see.

CHAIRMAN MOORE: Oh, I see it's forward facing, yeah. She's indicated that there might be some steps here.

MS. NEFF: Okay.

CHAIRMAN MOORE: And that have would still allow access on the deck around the corner.

MS. RIVA: Either way, yeah.

CHAIRMAN MOORE: Either way. The steps wouldn't be a hazard to walking in that area of the deck, I guess.

MR. CORWIN: Now, I don't think that's practical. I'm sorry to bring up these technical things, but if you put it on the corner, as you propose, you've got to have a handrail there. So that's going to kind of impede your access when somebody uses the front steps and goes all the way around. I'm not sure it's going to fit together well.

It's not a big deal what you're asking for, and I don't want to hold you up, but I'm not sure what we have in front of us is exactly what
you're going to do, and it probably should be.

CHAIRMAN MOORE: Yeah. What I'm seeing

from that is that if it was -- interfered with

traffic on the deck, it might require the steps
to extend forward a bit past the deck, which
would just extend the variance that you would
need. You'd need a bit more just for those
stairs. But it might make a more practical use
of the deck and a little bit safer.

MS. RIVA: Or if I put the steps on a
diagonal within that -- within the line.

MR. CORWIN: But the point is you have to
have a guardrail, a handrail --

MS. RIVA: I understand.

MR. CORWIN: -- inside the deck now if you
put steps inside the deck.

CHAIRMAN MOORE: Well, okay. We can
discuss that a bit more after the public hearing
part has been completed. There'll be ample time
for us to have back and forth with you about some
of the details of the plan. Does that seem
appropriate --

MR. CORWIN: Yes.

CHAIRMAN MOORE: -- to ask for public comment? Okay. Well, thank you. And we'll, obviously, have a few more questions as we discuss it.

Any members of the public wish to make any comments on this proposal?

(No response.)

CHAIRMAN MOORE: If not, then I would entertain a motion from the Board to close the public hearing.

MS. NEFF: So moved.

MR. CORWIN: So moved. Second.

CHAIRMAN MOORE: And Mr. Corwin seconded.

And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.
So the public hearing is closed. And we can discuss it a bit further now that we're in the regular agenda, discussing the request for the variance by Debra Riva.

That's -- one of the questions that comes up is that if the steps were embedded into the deck, it might make access across the deck from the front to the back a little more difficult. So it hasn't been applied for, but perhaps if the steps were forward a bit more, perhaps partly in the deck, and extending out a few steps might make that easier. It would only change the variance by a couple of feet. And I'm sure we could work that out, if it was agreeable to the Board.

As Mr. Corwin said, this is a very small variance request being asked for, and the neighbor who's most affected wrote a letter which indicates they have no problem with the changes that you propose.

Any questions from the Board? Would the
Board prefer to have this a little more specific?

MR. CORWIN: I would prefer to see a specific drawing, because who knows how this is going to end up. And I don't think we should be designing it, so.

MS. NEFF: Right.

CHAIRMAN MOORE: Would you be willing to consider the placement of the steps, because it seems mechanically somewhat of a problem on the deck, and have that drawn up and return next month? I imagine, you know, winter is a bit off.

MS. RIVA: Well, I really want this done before the end of the -- before the bad weather.

CHAIRMAN MOORE: Well, we would be in a position to make a decision next month, so you'd be on your way.

MS. RIVA: Well, then I lose a whole month.

CHAIRMAN MOORE: You do, yes. But it's just -- it's a problem with the deck, and as Mr. Corwin says, we're really not here to design a solution for the deck.
MS. RIVA: I understand that.

CHAIRMAN MOORE: And if we --

MS. NEFF: May I just ask, has the person who's going to build it for you already done a design? Have you seen such a design?

MS. RIVA: The person who's going to build it for me?

MS. NEFF: Yes.

MS. RIVA: No.

MS. NEFF: No, okay.

CHAIRMAN MOORE: This is kind of -- it's more of a conceptual drawing, the details of where everything is falling.

MS. RIVA: Well, if I had known that I needed something beyond this, I would have done it, you know.

CHAIRMAN MOORE: Yeah. Okay. So what I'd do is make a motion. I guess this would be tabling the --

MR. PROKOP: Yes.

CHAIRMAN MOORE: -- discussion?
MR. CORWIN: Well, before we go on --

CHAIRMAN MOORE: Yes.

MR. CORWIN: -- I note the site plan, the plot plan does not show the driveway, and I think that it should show the driveway, too.

And then I would like to ask about the survey, the Building Inspector. Is this just a copy of part of the survey, or is there a whole survey, a whole stamped, sealed survey?

MS. WINGATE: Is that VanTuyle's?

MS. NEFF: Yes.

MR. CORWIN: Yes.

MS. WINGATE: There's an old one, there's old surveys.

MR. CORWIN: In your file you have the whole stamped set?

MS. WINGATE: No, in the Building Department file that's not here with me now.

MR. CORWIN: But in the Village in the file?

MS. WINGATE: Yeah, I believe there is.

MR. CORWIN: You believe or there is?

MS. WINGATE: I believe there is. I can't
be sure, David.

MR. CORWIN: Okay. Well, let's put that as a stipulation, too.

MS. WINGATE: Okay.

MR. CORWIN: That we want to make sure there's a -- this is an old survey. We'll accept it, or at least I'll accept it, but I think we need to know that it's a detailed survey, not just a copy of something.

MS. NEFF: Or, if such a survey does not exist, just a sketch that shows the dimensions of the driveway.

MS. RIVA: What is the --

MR. CORWIN: Yeah, but it's got to have a survey. That's a requirement, a survey, to make the application, if I'm not mistaken. But the plot plan should show the driveway, too, I think.

MS. RIVA: What does the driveway have to do -- I know the side driveway we're talking about, but what does the whole driveway have to do with this? There are homes in Greenport that don't even have driveways.

CHAIRMAN MOORE: Yes.
MS. RIVA: And that's not public property, you know, that's not open to the public.

CHAIRMAN MOORE: No, no. But the idea is that we're looking at the access of the driveway that does exist, and right now, the position of the stairs that you would probably be placing somewhere in that area, for instance, if they extended out to the side because you decided, after looking at it, that was more practical to it, it might affect the consideration of the variance, because it might interfere with the use of the driveway.

MS. RIVA: That was -- that's not my intention.

CHAIRMAN MOORE: No, I know, but it's not -- there's nothing on a drawing that doesn't have sufficient detail where we could determine that. I mean, we're not involved in Building Code examination of the plans, that's the job of the Building Inspector. But we don't really have a good drawing to show exactly where the components
are going to be. So it's a little hard to make a
decision whether that's, you know, a reasonable
variance that we'd be granting.

As we've indicated, it's really a minor
allowance from what the code requires, so we
don't see a big problem with that, we'd just like
to see the specific details. So if you could get
that together by next month, we'd be able to make
a decision on it, I believe.

MS. RIVA: But there's nothing that could
be done for you to look at it sooner?

CHAIRMAN MOORE: Well, we'll be looking --
as soon as you have it, we'll have the
opportunity to look at it and be prepared to
discuss it with you at the meeting. That would
certainly save time. So as soon as you can have
it, bring it to the Building Inspector --

MS. RIVA: Yeah. No, I would have it -- I
would get it as quickly as I can.

CHAIRMAN MOORE: It will be distributed to
the members.
MS. RIVA: And so I would have to still wait for them?

CHAIRMAN MOORE: Yes, yeah. The only decisions occur during our regular monthly meeting. So I apologize for that, but we would like to have that information. Any other questions?

MS. RIVA: No.

CHAIRMAN MOORE: Okay.

MR. CORWIN: Just this -- the Building Inspector should really go over these things a little more carefully, I think. But there's no scale on this drawing, which you can scale and figure out what it is, but there should be a scale. And it's a difficult drawing to follow, because it is such a small scale. So, if you could make it a little bigger, I think it would be helpful.

MS. RIVA: There is a larger scale. I don't know why.

MS. WINGATE: It was issued --
MS. RIVA: This is what you should be looking at.

CHAIRMAN MOORE: Yes, we've seen it.

MS. RIVA: I don't know what you're looking at.

MR. CORWIN: I'm looking at what I got.

MS. RIVA: It doesn't matter what you got, I'm just --

CHAIRMAN MOORE: Yeah, right.

MR. CORWIN: You got to tell the Building Inspector to give everybody the sheets.

MS. RIVA: She has the same thing.

MS. GORDON: I have this.

MR. CORWIN: I don't.

MS. WINGATE: Everybody has the same paperwork.

MR. CORWIN: No, they don't.

CHAIRMAN MOORE: Not on this one. It has two drawings instead of three, so it's not a complete package here. But that -- is this done by the builder or --

MS. RIVA: By the -- no, the architect.
CHAIRMAN MOORE: I'm sorry?

MS. RIVA: By my architect.

CHAIRMAN MOORE: Oh, by the architect.

MS. RIVA: Right.

CHAIRMAN MOORE: And it would be helpful to show the whole property, if possible, on the drawings, because you don't see the perspective with the rest of the property. That would be helpful.

MS. RIVA: I was told that this was all that you needed, so --

CHAIRMAN MOORE: Okay.

MS. GORDON: You got this page?

CHAIRMAN MOORE: No, he apparently didn't get that one.

MR. CORWIN: And if I did, I didn't -- not satisfied with it, because it should be the whole thing.

CHAIRMAN MOORE: Yeah, like the whole plot plan would be helpful.

MS. RIVA: Okay.
CHAIRMAN MOORE: Well, if you understand what's required, then I would make a motion to table this until the meeting next month, where we could take it up and likely resolve the appeal. Would I have a second on that, please?

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

MS. RIVA: Thank you.

CHAIRMAN MOORE: So we will discuss it next month. Thank you.

Now the next item on the regular agenda, and the rest of the agenda is mostly administrative, is to make a motion to accept an appeal for an area variance, publicly notice and then schedule a public hearing for Ralph and Sarah Edwards, 163 Fifth Street, Greenport, New York; Suffolk County Tax Map 1001-7-4-14. The
applicants seek a building permit to construct an
in-ground swimming pool.

Section 150-7-(3a) of the Village of
Greenport Code requires the edge of the pool
shall be kept a distance of not less than 20 feet
from all property lines.

The proposed swimming pool setback is 10
feet on the north property line, requiring an
area variance of 10 feet.

And I will read, since the -- each of the
sections is the same section, which is a 20-foot
setback. The proposed swimming pool setback is
12 feet on the west property line, requiring an
area variance of eight feet, and the proposed
swimming pool setback is 14 feet on the south
property line, requiring an area variance of six
feet.

I make that motion to accept the
application. It seems to be in order. It has
all the drawings and paperwork, as far as I can
see, that's required. So I make that motion and
ask for a second.

MR. CORWIN: Second.

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

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

Charlie, did you --

MR. BENJAMIN: I said "aye."

CHAIRMAN MOORE: I'm sorry, I didn't hear you.

MS. NEFF: Yeah.

CHAIRMAN MOORE: So that motion carries.

Can I have a motion to accept --

MS. GORDON: May I --

CHAIRMAN MOORE: Yes.

MS. GORDON: -- ask a question? This is just part of my getting educated about this. Do we assume, since the description includes the size of the pool that they wish, that this is a part, necessarily an essential part, of the request?

CHAIRMAN MOORE: The size of the pool?
MS. GORDON: The size of the pool.
CHAIRMAN MOORE: The code doesn't state anything about pool size, but just how far from the property line it would be.
MS. GORDON: Right. But if you had a smaller pool, it would be less far from the property line.
CHAIRMAN MOORE: That's correct. And we can discuss that with the applicant as one of the alternatives, because, obviously, the minimum variance granted is more desirable than a large variance. So that's always a goal.
MS. GORDON: But we're to assume that they're -- they are applying solely for a pool on of this size?
CHAIRMAN MOORE: That's what they're asking for, yes.
MS. GORDON: Okay.
CHAIRMAN MOORE: So I made the motion, and did I have a second?
MS. NEFF: I believe so.
CHAIRMAN MOORE: Yes, okay.

MR. CORWIN: I think we voted on that.

CHAIRMAN: Oh, we voted.

MS. NEFF: Yeah.

MS. GORDON: Yeah.

CHAIRMAN MOORE: Okay. I'm sorry. I thought we were in the midst of voting.

Okay. So item #3, motion to accept the request by the Planning Board for an interpretation --

MR. CORWIN: Wait a minute, I'm confused.

CHAIRMAN MOORE: We're at Item --

MR. CORWIN: Oh, okay.

CHAIRMAN MOORE: Did I misnumber?

MR. CORWIN: Yes, you're correct.

CHAIRMAN MOORE: No. Item 3 on Page 2.

Motion to accept the request by the Planning Board for an interpretation of the Village of Greenport Code, publicly notice and schedule a public hearing for November 19th, 2014. At their October 2nd, 2014 meeting, the
Planning Board questioned the meaning of Section 150-9A(18) regarding a mixed use proposal for a structure at 211 Carpenter Street. The applicant proposes to have commercial use on the first floor, and a residential unit on the second floor. The structure is located in the Commercial Retail District.

I would make that motion, and ask for a second.

MR. CORWIN: Second.

CHAIRMAN MOORE: Any discussion on the matter?

MR. CORWIN: I would just note that the applicant sent a letter probably prematurely, because it's prior to the public hearing.

CHAIRMAN MOORE: That's correct.

MR. CORWIN: But I notice some people in the audience that are interested, so they may be interested in going to Village Hall and reading the letter.

CHAIRMAN MOORE: Right. That would be
available prior to the hearing. And we would
schedule a hearing next month. And I would -- I
see a few members of the Planning Board are here.
I would ask that either the Chairperson or a
representative come to the meeting and indicate
the specific issues you have regarding the code,
so we can better understand what the question
was, and then we can proceed with the
interpretation. And with that in mind, I made
the motion. Where are we in that?

MS. NEFF: Could I ask one question?

CHAIRMAN MOORE: Yes.

MS. NEFF: Are we going to have more
information when we actually take this up at our
next meeting, like the plot? You know, I
understand it's by interpretation of the code,
but it seems to me that if you actually see what

you're talking about and the surround -- you can
look at the surrounding area, that it's helpful.

CHAIRMAN MOORE: Well, we can go through
and take a look if you'd like. The question is
more general, but it's --

MS. NEFF: Yes.

CHAIRMAN MOORE: -- precipitated by a specific project request before the Planning Board. So we can certainly go take a look at the property as it exists, and I think that would be a good thing to do.

MR. PROKOP: Well, we have the Planning Board application and that has a lot of information. Maybe we can get copies of the Planning Board application.

CHAIRMAN MOORE: Yes, that would be good also. And, presumably, one of the members will be here as well for the meeting. Okay.

MR. PROKOP: Well, it is a general question, not specific to a property.

CHAIRMAN MOORE: Yes, yeah. And our deliberation doesn't represent an approval of that project, it simply gives information back to the Planning Board so they can proceed with their process.
So I think we have a second. So if there's no further discussion, all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

And that motion carries.

Number 4, motion to accept the ZBA minutes for September 17th, 2014. So moved. May I have a second?

MS. NEFF: Second.

MR. JAUQUET: Wait. As a Planning Board, we were just going to ask you the questions that we had right now, instead of waiting.

CHAIRMAN MOORE: We can't take any public discussion of it until it's properly noticed and --

MR. JAUQUET: Is the Planning Board the public?

CHAIRMAN MOORE: I'm sorry?

MR. JAUQUET: Are we the public as the Planning Board?

CHAIRMAN MOORE: No, but you certainly have a specific interest in it, and you would speak
first regarding the issue, and then we would take
any comments from the public regarding that
section of the code.

MR. JAUQUET: So tonight's meeting isn't
the time to do it?

CHAIRMAN MOORE: Tonight's meeting is
simply to accept your request, and it will be on
the agenda in November.

MR. JAUQUET: All right. So we've got to
wait a month, too.

MS. NEFF: Yes.

CHAIRMAN MOORE: So we have a second on
accepting the minutes. And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

The motion carries.

And a motion to approve the ZBA minutes
from August 20th, 2014. So moved. May I have a
MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

MS. WINGATE: Before you adjourn the meeting --

CHAIRMAN MOORE: Yes, ma'am.

MS. WINGATE: -- Ed would like to ask you a question.

CHAIRMAN MOORE: Yes. Mr. Werthner, right?

MR. WERTHNER: Yes. Hi. How are you doing? I'm sorry, by the way.

MR. CORWIN: Could you give your name, please?

CHAIRMAN MOORE: Just identify yourself.

MR. WERTHNER: My name is Edward Werthner, and right now, I'm residing in New Suffolk, okay,
in a house. And I have plans, if I could, to build a house on Bridge Street on the vacant lot, and it needs a ZBA variance. And I don't know. I have a contract, I went into contract with the people, and the contract was upon stipulation that I can build a house, because I'm not going to buy the property and put a tent on it, basically. And this is -- if you want, this is a note from the owners.

MR. CORWIN: But you gave us some paperwork already, right?

MR. WERTHNER: Already, yeah. Yes, I did. Then I --

MR. CORWIN: And it wasn't on your agenda for some reason.

CHAIRMAN MOORE: No, it's not because the -- at last month's meeting --

MR. WERTHNER: Right.

CHAIRMAN MOORE: -- we needed to table that, because at that time you had no standing in the issue, because at that time --
MR. WERTHNER: I had no contract, that's correct.

CHAIRMAN MOORE: -- you did not purchase.

MR. WERTHNER: Yeah.

CHAIRMAN MOORE: So we will need to confirm with the Attorney that the appropriate documents are available.

MR. WERTHNER: Okay.

CHAIRMAN MOORE: And that will be presented to us, and we will accept it next month for consideration.

MR. WERTHNER: Okay.

CHAIRMAN MOORE: So the package should come to us to be included in the agenda for next month.

MR. WERTHNER: I see.

CHAIRMAN MOORE: If it had been available last week, when we were putting the agenda together --

MR. WERTHNER: I was not in the contract.

CHAIRMAN MOORE: It would have -- sorry
about that.

MR. WERTHNER: I know.

CHAIRMAN MOORE: But it would have been otherwise on the agenda this month to be accepted.

MR. WERTHNER: I gotcha.

CHAIRMAN MOORE: So, unfortunately, it just gets pushed back.

MR. WERTHNER: Pushed back another month.

CHAIRMAN MOORE: Yes.

MR. WERTHNER: Okay. So then -- all right. You know, whatever the rules are.

CHAIRMAN MOORE: Okay.

MR. WERTHNER: You know, I mean, I'll build it in March, if I get it, you know what I'm saying?

CHAIRMAN MOORE: Okay. It would have been nice to be able to proceed last month --

MR. WERTHNER: I know.

CHAIRMAN MOORE: -- but we were technically not able to.
MR. WERTHNER: I was away, you know, and Eileen called me, and I shut my phone off so I don't get those roaming charges.

MR. PROKOP: So I got asked this question this afternoon as I was driving out here.

CHAIRMAN MOORE: Sure.

MR. PROKOP: And what we'd like you to do, just so you know, is we appreciate the fact that you have a contract. Please make that part of the file.

MR. WERTHNER: Sure.

MR. PROKOP: But if you could also get a letter of authorization.

MR. WERTHNER: I have that here.

MR. PROKOP: You have that. Okay, great. Okay. Thank you.

MR. WERTHNER: Okay. I've got seven copies.

CHAIRMAN MOORE: Right. Actually, you can deal with the Building Inspector on that. You understand, it's kind of a catch 22, because, you
know, your condition to purchase is permission to
build, and to build, you need a variance.

MR. WERTHNER: I know.

CHAIRMAN MOORE: So it kind of goes in a
vicious circle.

MR. WERTHNER: Yeah. And I just -- I did
this once before, you know, and it's a pretty
simple thing.

CHAIRMAN MOORE: I think it will get worked
out once we get the details.

MR. WERTHNER: It will get work out, okay,
yeah.

CHAIRMAN MOORE: Just for another question,
if an alternative -- would it be a viable
alternative for the owner of the property
currently to have applied for a variance, acting
as an agent for the prospective buyer? Is that
something that works?

MR. PROKOP: Well, no. They would just be
the owner. They wouldn't be an agent for
anybody, they would just be the owner.

CHAIRMAN MOORE: Yeah, just be the owner.

MR. PROKOP: Yeah. So the rules are that
if anybody other than the owner applies, that
person needs an authorization. But the owner would not need an authorization, no.

CHAIRMAN MOORE: No. But I'm saying, could the owner have applied in behalf of the prospective buyer, obtain the variance, and then have that carried with the property.

MR. PROKOP: Yes.

MS. NEFF: It would carry with the property owner.

CHAIRMAN MOORE: It would carry, as most variances do.

MR. PROKOP: Yes.

CHAIRMAN MOORE: Yes. So that was another possibility, if an owner would be so inclined.

MR. WERTHNER: Yeah. I had kind of a difficult time between the realtor and the owner, and I should have had -- we agreed on the price two months ago.

CHAIRMAN MOORE: Okay.

MR. WERTHNER: And I went on the computer and I found a nice little house that wasn't, you know, obnoxious for the neighborhood, and a 700
square foot house.

CHAIRMAN MOORE: Right.

MR. WERTHNER: You know what I'm saying.

CHAIRMAN MOORE: Well, I think you can rest easy. The stock market's performance, I think it's keeping prices down.

MS. NEFF: I have a question.

CHAIRMAN MOORE: Sure.

MS. NEFF: So when we have this package, including what we just talked about, will it also include those plans for a specific house, or are we talking about a building envelope? What would we be talking about?

CHAIRMAN MOORE: I think the package had a proposed house on it.

MR. PROKOP: Proposed house, right.

MS. NEFF: The proposed house.

MR. WERTHNER: And I had Peconic Surveyors put it there.

MS. NEFF: Okay.

MR. WERTHNER: Because they had done
something in 2004 which restricted the building, a 16-foot variance. You're probably aware of that. So they did that, I think. I'll get more copies to the Board.

MS. NEFF: Okay.

MR. WERTHNER: Because that's what the owners wanted, so they were serious. Before they

sent me the fax and signed the contract, they wanted to know how serious I was. So I did the right thing to meet their terms. And my Attorney didn't suggest, by the way, to let him go for the variance.

CHAIRMAN MOORE: Yes, I understand.

MR. WERTHNER: You know, he said that's not really a good thing to do at this point.

CHAIRMAN MOORE: Okay. And I think, as long as you keep in touch with the Building Inspector, everything should be in order to get it on the agenda for the following month.

MR. WERTHNER: Okay, you've got it. All right.
CHAIRMAN MOORE: Very good. Thank you for your patience.

MR. WERTHNER: Take it easy. Bye-bye.

CHAIRMAN MOORE: Yes. I appreciate you coming. So then I was at the point -- yes.

MS. NEFF: I have one other point about the -- is it 211 Carpenter Street?

CHAIRMAN MOORE: Carpenter, yes.

MS. NEFF: Just if that application, which you have, that's in front of the ZBA, is a big file, as long as it's available to us, say, in two weeks before our next meeting, that we don't need a copy of everything, I wouldn't think.

MS. WINGATE: It is available to you.

MS. NEFF: Okay. Does that work for the rest of the members?

CHAIRMAN MOORE: Yeah. And I'm sure there are going to be some historical questions about the house, not hysterical, historical, and those, too, perhaps. But I'm going to do a little background checking with the Building Inspector
in the intervening period, so we have a good idea of its history, and then we will deal with the current question at the meeting.

Okay. So I would make a motion to schedule the next regular ZBA meeting for November 19th, 2014. So moved. May I have a second?

MS. GORDON: Second.

MS. NEFF: Second.

CHAIRMAN MOORE: And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

And if there's no further discussion, I would make a motion --

MS. NEFF: Would we make a time for --

MR. CORWIN: We have some times for inspections.

CHAIRMAN MOORE: Times, yes. The Fifth Street property, I would suggest we go about
4:15, if you want to go there first, and then we'll go to Carpenter Street at about 4:40.

MS. WINGATE: Oh, we're going to go to Carpenter Street?

CHAIRMAN MOORE: Yeah. We'll just take a quick look.

MS. WINGATE: Okay.

CHAIRMAN MOORE: Just so people know what the property is that's referenced and --

MS. WINGATE: Great.

MS. NEFF: What's the time on Sixth Street -- Fifth Street?

CHAIRMAN MOORE: About 4:15.

MS. NEFF: Okay, 4:15, fine.

CHAIRMAN MOORE: And then 4:40 we can go over to Carpenter, take a quick look, and come back here for the 5:00 meeting.

MR. PROKOP: If the variances change on the Riva application, they have to go through the formal notice process. So she can't -- I just realized, I was going to let you know after the
meeting --

CHAIRMAN MOORE: Yeah.

MR. PROKOP: -- you know, that we would have to do a new notice, but then I realized that she has to be told that, because she can't come in like two days before the hearing and say, "By the way, I need a bigger variance," because --

CHAIRMAN MOORE: We're going to renotice the public hearing.

MR. PROKOP: Right. So somebody has to contact her --

CHAIRMAN MOORE: Yes.

MR. PROKOP: -- and tell her that if she is going to increase the variances that are necessary, she has to let us know quickly.

CHAIRMAN MOORE: That's excellent, because it will be an increase if she does make a design change.

MR. PROKOP: Right.

CHAIRMAN MOORE: That's a good point. So in that case, just, you know, be sure there'll be plenty of time.

MR. PROKOP: And then on Carpenter Street,
I just wanted to let you know, so, you know, when you're thinking about this during the next month, what happened there was the -- many years -- in I think the 1970s, there was a C of O issued to that property for a rooming house, if I have this correct.

MS. NEFF: When was it, you said 1980?
MR. PROKOP: Maybe 1980.
MS. NEFF: Okay. Somewhere along then, okay.
MR. PROKOP: It was a long time ago. There was a building -- there was a C of O issued to the owner for a rooming house. And one of the neighbors challenged the C of O to the ZBA, and then I think the ZBA approved it, and then -- approved that use, and then the neighbor did an Article 78 to the Supreme Court and litigated what the proper use of the building was, and I believe that the Court upheld the use of a rooming house. So the -- which was a nonconforming -- which was a nonconforming use. So the rooming house use existed for many years as a nonconforming use. It's in the Commercial
Retail District, if I'm correct.

MS. WINGATE: Right.

MR. PROKOP: And --

CHAIRMAN MOORE: And that use has since lapsed.

MR. PROKOP: Right, and it was discontinued, so the nonconforming use lapsed. And now we're back to the allowable uses, or whatever is permissible under the CR District.

CHAIRMAN MOORE: Correct.

MR. PROKOP: And that's basically where we're at with this.

CHAIRMAN MOORE: And I'll tune up my memory by studying up on your description that you gave to understand where the house was and where it is now.

MR. PROKOP: Okay.

CHAIRMAN MOORE: Or the structure. I shouldn't say house, I should say structure, probably.

MR. PROKOP: The question -- the question
basically is to have the Board look at this 18 --
I don't want to take it -- I'm not going to say
anything material or substantive about the
application, because I know you don't want that
tonight, but it really focuses on the
interpretation of that 150-18A.

CHAIRMAN MOORE: Exactly.

MR. PROKOP: Thank you.

CHAIRMAN MOORE: Good.

MR. CORWIN: Before we close, could you
just run -- this gentleman that was just here, he
didn't come forward with his contract in a timely
manner to review it, or why couldn't we have
accepted it and said, "All right, we've got
everything, we'll hold a public hearing," or
schedule a public hearing?

MR. PROKOP: I think we just got it today,
if I'm not mistaken.

MS. WINGATE: I have deadlines, you know.

MR. CORWIN: That's fair enough, I'm just
asking.
CHAIRMAN MOORE: Yeah.

MR. CORWIN: So he didn't make the deadline.

MS. WINGATE: (Shook head no).

CHAIRMAN MOORE: Right. Essentially --

MR. CORWIN: And he knew --

MS. WINGATE: And I called him twice.

MR. CORWIN: Okay, fair enough.

MS. WINGATE: And I felt that was fair enough.

CHAIRMAN MOORE: Essentially, we set a deadline of the close of business the week before the meeting.

MS. WINGATE: The week before.

CHAIRMAN MOORE: To be able to get everything --

MS. WINGATE: Tuesday, the end of the day, the week before.

CHAIRMAN MOORE: -- in proper order to be acceptable, and then to get the agenda set up for the following Wednesday.
MS. WINGATE: He called me this morning, and I said, "Come," but it is what it is.

CHAIRMAN MOORE: And it was difficult. You know, perhaps you can squeak something in on a Monday, if we haven't finished the agenda, but, of course, this Monday was a holiday, so it was difficult to do that. So it will happen next month.

So I would like to make a motion, if there is no further discussion, to adjourn. Second, please.

MS. NEFF: Second.

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

The meeting is adjourned.

(Whereupon, the meeting was adjourned at
8  5:40 p.m.)
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1  CERTIFICATION
2
3  STATE OF NEW YORK )
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 October 15, 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 27th day of October, 2014.

__________________________________________
Lucia Braaten