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VILLAGE OF GREENPORT COUNTY OF SUFFOLK
STATE OF NEW YORK

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ZONING BOARD OF APPEALS
REGULAR SESSION

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Third Street Firehouse
Greenport, New York

May 16, 2017
6:00 p.m.

- JOHN SALADINO - CHAIRMAN
- DAVID CORWIN - MEMBER
- ELLEN NEFF - MEMBER
- DINI GORDON - MEMBER
- ARTHUR TASKER - MEMBER

- JOSEPH PROKOP - VILLAGE ATTORNEY
- EILEEN WINGATE - VILLAGE BUILDING
- INSPECTOR KRISTINA LINGG - BUILDING CLERK

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2 CHAIRMAN SALADINO: This is the Village
3 of Greenport Zoning Board of Appeals May
4 16th meeting.

5 Item number 1 is motion to accept the
6 minutes of the April 18, 2017 meeting.

7 So moved.

8 MR. TASKER: Second.

9 CHAIRMAN SALADINO: All in favor?

10 MR. CORWIN: Aye.

11 MS. NEFF: Aye.

12 MS. GORDON: Aye.

13 MR. TASKER: Aye.

14 CHAIRMAN SALADINO: Item number 2,
15 motion to approve the minutes of the March
16 21, 2017 ZBA meeting. So moved.

17 MR. TASKER: Second.

18 CHAIRMAN SALADINO: All in favor?

19 MS. GORDON: Aye.

20 MS. NEFF: Aye.

21 MR. TASKER: Aye.

22 MR. CORWIN: I abstain.

23 CHAIRMAN SALADINO: Item number 3 is
24 motion to schedule the next ZBA meeting for
25 June 20, 2017 at 6:00 p.m. at Station 1 of

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1 the Greenport Fire Department. So moved.

2 MS. GORDON: Second.

3 CHAIRMAN SALADINO: All in favor?

4 MR. TASKER: Aye.

5 MR. CORWIN: Aye.

6 MS. NEFF: Aye.

7 MS. GORDON: Aye.

8 CHAIRMAN SALADINO: Item number 4 is
9 the application of Alexander and Ju-lie Bell
10 has been withdrawn. We have a letter from
11 the applicant, I'm not going to read it.
12 Did everybody get it?

13 MS. GORDON: Yes.

14 CHAIRMAN SALADINO: Okay. So and item
15 number 6, we might as well go to that, the
16 applicant was just here, they withdrew their
17 application, Sprout Natural Parenting, so we
18 won't have to deal with that this evening.

19 Item number 5 is continued public hearing on
20 the request for an interpretation of how
21 Chapter 150-18 relates to the Village Zoning
22 Districts. Anybody from the public? You
23 guys ganging up all three of you at once?
24

25 MR. KAPPELL: No. We're here to offer

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2 some history and background on this
3 question. My name is David Kapell, 400
4 Front Street in Greenport, and I'm
5 accompanied by --

6 MR. HORTON: Gail Horton, 190 Sterling
7 Street in Greenport.

8 MR. BURNS: Ben Burns, 172 Central
9 Avenue, Greenport.

10 MR. KAPELL: I thought I'd start by
11 giving you some history. The question that
12 is before you, the amendment to the zoning,
13 in permitted apartments, residential uses
14 only in the upper stories of commercial
15 buildings was adopted in 2002, 15 years ago
16 when Ben, Gail and I were on the Village
17 Board. The reason, the rationale for the
18 adoption at the time was that we observed
19 that there was the diminution in the stock
20 of housing available for rental by operation
21 of a couple of trends. One was the
22 conversion of what had been year-round
23 single-family residences into part-time
24 single-family residences, and the other was
25 a process by which single-families that had

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2 been converted to two-families were being
3 bought up and restored back to their
4 one-family, original one-family
5 configuration; and the net effect of that
6 was that we were losing housing stock that
7 was available for rental or for families.
8 So in our wisdom, our collective wisdom at
9 the time, we held a public hearing on this
10 and I think, I believe you all have the
11 minutes of that hearing. It was really, in
12 my view, one of the most dynamic hearings
13 that I had ever chaired in the Village.
14 This room was packed. There were people pro
15 and con. We were here for a couple of
16 hours. We talked it through. And at the
17 end, there was a wide consensus in the room
18 that we needed to do something to respond to
19 this trend. So in our wisdom what we did
20 was to amend the zoning to permit what
21 hadn't been permitted under the original
22 zoning, when it was adopted in 1971 to allow
23 residences above stores in the Commercial
24 District. Mind you, that's no different
25 than how these buildings were originally

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1 intended to be occupied; that's how they
2 were built. These buildings were built,
3 people lived over the stores; so it was back
4 to the future in that regard. The thing we
5 did was to liberalize the process for
6 converting one-family homes to two-family to
7 make it easier to go the other way, to kind
8 of offset the trend that was operating
9 against us. And I would submit that 15
10 years later as we stand here today, that the
11 conditions that we observed in 2002 have
12 only gotten much worse, that there is a
13 powerful gentrification wave affecting,
14 impacting this Village and that the trends
15 that I just described are ongoing and
16 accelerating and if left unabated are going
17 to result in a real hardship for people that
18 make this place interesting and that have
19 always characterized this and made this a
20 working class village. I understand that
21 there is some confusion in Village Hall
22 about how this operates with respect to
23 another provision of the zoning, which I
24 would maintain there is absolutely no
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2 relevancy whatsoever, and that is a section
3 of the zoning that deals with multi-family
4 dwellings which was adopted when the zoning
5 was originally implemented in 1971 and was
6 designed to address projects in the
7 residential districts. It defies common
8 sense to suggest that we as a Board at the
9 time would have enacted a zoning for the
10 Business District where there virtually are
11 no two-acre lots that would comply with the
12 requirements of the multi-family dwelling
13 section; it defies common sense to think
14 that we, to suggest that we had intended for
15 that to apply to what we were trying to do.
16 On the contrary, what we were doing was
17 trying to make it easy to create rental
18 housing in existing structures, mind you,
19 this has nothing to do with new construction
20 or new development, this was simply to make
21 better use of what still in many cases
22 remain vacant spaces in the Business
23 District. Look at what used to be White's
24 Hardware, the mechanic's building. I can go
25 on and on up and down Main Street, less so

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1 on Front Street because there are a lot of
2 one-story buildings on one side and there is
3 a park on the other, but there still was a
4 lot of underutilized space in this Village
5 that could be put to good use for
6 residential purposes to house people. It
7 would also increase the tax base of the
8 Village which is always a challenge for the
9 Village Board. I just can't understand the
10 process by which you have come to this
11 hearing. It makes no sense whatsoever to
12 apply the multi-family provision to this
13 particular section of the code. We did not
14 intend it --

16 CHAIRMAN SALADINO: If we could just --

17 MR. KAPPELL: Sir, I'm sorry --

18 CHAIRMAN SALADINO: We're not
19 suggesting anything. We were asked to make
20 an interpretation.

21 MR. KAPPELL: An interpretation of
22 whether or not the multi-family zoning
23 applies to this provision.

24 CHAIRMAN SALADINO: What zoning
25 districts it does apply to.

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2 MR. KAPPELL: Yeah, so that's what I'm
3 arguing. So let me finish my speech,
4 please.

5 CHAIRMAN SALADINO: Sorry.

6 MR. KAPPELL: So I don't understand how
7 this came up. There is no controversy in
8 the Village that I'm aware of that would
9 give rise to public controversy, so I guess
10 this is a product of some internal
11 discussion that has been going on within
12 Village Hall. I submit that this is not in
13 the public interest, and I submit also that
14 it's outside the intended purview of the
15 Zoning Board of Appeals. What you're
16 talking about doing, if you were to apply
17 this provision, this would have a profound
18 impact on the very nature of this Village by
19 limiting the availability of rental housing
20 to the people that need it and that make
21 this place special, the working families
22 that make Greenport what it is and make us
23 so attractive to outsiders. One of the
24 reasons people come here is because this
25 place is still real, and the reason it's

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2 real is that real people still live here and
3 the reason they can live here is because we
4 have a rental housing stock that no place
5 else on the North Fork has. If we lose it,
6 we lose our identity, we lose what makes us
7 great; and I submit that if that's something
8 that the Village wants to do that comes
9 under the purview of the Village Board,
10 that's a profound public policy question
11 that's outside the scope of what the Zoning
12 Board of Appeals should be considering. I
13 don't know if my colleagues on the Village
14 Board have anything to add.

15 MS. HORTON: I just want to say, I
16 always -- when I first ran for election, I
17 ran on the issue of affordable housing and
18 keeping the working people here in
19 Greenport; and that there were other things
20 that I spearheaded too, but that was always
21 a drive of mine, and I still believe
22 heartily and I believe maybe it's needed
23 more than when I first came on the Board
24 which, I forget when that was, but it was in
25 the '70s. I think it's even now more, as

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2 you see houses made into rentals that aren't
3 necessarily available to working class
4 people. So that's why I'm saying I was
5 totally behind having the rentals over the
6 stores.

7 CHAIRMAN SALADINO: But you understand
8 that's not the question in front of us.

9 MR. KAPPELL: The question in front of
10 you is whether you're gonna apply a
11 provision that would limit to two units in a
12 building on the upper stories, and that's
13 not what we had in mind, John. I'm sorry.

14 CHAIRMAN SALADINO: Can I dispute that
15 now?

16 MR. KAPPELL: Please.

17 MR. TASKER: John, let's let him
18 finish.

19 CHAIRMAN SALADINO: Oh, I thought --

20 MR. KAPPELL: Correct me if I'm
21 mistaken, my understanding is that the
22 controversy is whether or not the
23 multi-family provision in the zoning applies
24 in the Commercial District; am I correct?

25 MR. TASKER: No. That is not the

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2 question. The question was where is -- what
3 does 150-18 mean with respect to the zoning
4 districts, so this is a broadened question
5 really. Where does 150-18 fit in the
6 construction of different forms of housing?
7 Specifically in this case multi-family
8 housing; that is the question I perceive is
9 before us.

10 MR. KAPPELL: 150-18 is the multi-family
11 housing provision?

12 CHAIRMAN SALADINO: Standards law.

13 MR. TASKER: It's the standards for
14 construction of multi-family housing.

15 MR. KAPPELL: Right. Which requires a
16 two-acre lot.

17 MR. TASKER: Yes.

18 MR. KAPPELL: So I ask --

19 MR. TASKER: It is a technical section
20 of the code that in effect said where
21 multi-family housing is permitted, these are
22 the standards you have to meet.

23 MR. KAPPELL: And it requires a two-acre
24 lot.

25 MS. WINGATE: Yes.

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2 MR. KAPPELL: So what I'm conveying to
3 you, and you can take this as you like, but
4 the intent of the Board that passed the
5 provision for apartments over stores was not
6 to have that apply, otherwise it would have
7 been silly. There are no two-acres lots in
8 the Business District to which this could be
9 applied; there is no opportunity to build a
10 multi-family dwelling in the Business
11 District as a matter of physical reality.

12 CHAIRMAN SALADINO: Was it the
13 contention of the Board at the time that
14 there would be multi-family residential over
15 commercial at that time?

16 MR. KAPPELL: We didn't put a limitation
17 on it, all we said was -- here's what we
18 said --

19 CHAIRMAN SALADINO: I have what you
20 said.

21 MR. KAPPELL: -- we had vacant spaces
22 over retail uses in the Business District.
23 These are not productive for tax purposes
24 and they're also wasted opportunity for
25 residential purposes; so we said, now you

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2 can do it; and we let the State Construction
3 Code apply, so whatever the State
4 Construction Code provides for the size of a
5 dwelling unit would dictate what could be
6 put in the upper stories of these buildings.

7 CHAIRMAN SALADINO: But that's contrary
8 to what you stated your intention as a
9 Board, you stated your intention was, when
10 you had the public hearing and you made
11 comment on that, you made comment in
12 reference to that, to the Residential
13 District, and you also made comment that
14 same logic would apply when asked, that same
15 logic would apply in the Commercial
16 District.

17 MR. KAPPELL: That's what I just said,
18 that's exactly what I just said.

19 CHAIRMAN SALADINO: That's what I'm
20 saying, you said that it would be two-family
21 in the Residential.

22 MR. KAPPELL: No, that's not what we
23 said, I'm sorry, and that's not --

24 CHAIRMAN SALADINO: Should I read from
25 the minutes?

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2 MR. KAPPELL: No, it's also not what the
3 Zoning provision says. Listen, John, I
4 understand --

5 CHAIRMAN SALADINO: Mr. Mayor, this is
6 the official document.

7 MR. KAPPELL: That may be, but we were
8 the Board members that adopted this zoning;
9 there are three of us here; we're the
10 majority of the Board that existed at the
11 time, and we're telling you what our intent
12 was. It was never our intent to limit the
13 opportunity to two units in a commercial
14 building, it wouldn't have made sense. It
15 would not have made sense.

16 CHAIRMAN SALADINO: So you're saying
17 this --

18 MR. TASKER: Why not?

19 MR. KAPPELL: Because why would you
20 limit it like that? You've got some
21 buildings, there are buildings and I can
22 show you now that can accommodate more
23 apartments than that. Why would you --
24 you're trying to make a two-family, a
25 commercial building, a mixed-use building

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2 into a two-family house?

3 CHAIRMAN SALADINO: We're trying to
4 interpret what you said at a particular
5 moment in time, and what you said at that
6 time is not what you're saying now.

7 MR. KAPPELL: No, that's not true.

8 MR. TASKER: And further not --

9 CHAIRMAN SALADINO: Mr. Mayor --

10 MR. TASKER: Further -- excuse me,
11 John. Not just what you said in terms of
12 your intent in the meeting of July 11, 2002,
13 but the way you wrote the statute. You
14 wrote the ordinance, that was what was
15 adopted. It doesn't say anything about the
16 number of units more or less --

17 MR. KAPPELL: So it doesn't --

18 MR. TASKER: -- or where multi-family
19 housing is permitted as different from what
20 the ordinance had been prior to 2002. In
21 other words, if you wanted multi-family
22 housing to be permitted in the Commercial
23 Retail District, you would have said
24 something. You had that opportunity.
25 You're saying now that you only meant that

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2 in your intention and the words that you
3 said and argued at the time that it was
4 passed, but that isn't what the ordinance
5 the you passed says.

6 MR. KAPPELL: Arthur, what we passed
7 made no mention of multi-family dwelling at
8 all.

9 MR. TASKER: That's right.

10 MR. KAPPELL: I believe that the
11 multi-family dwelling provision applies to
12 the Residential Districts. It defies --
13 there are no two-acre properties as a matter
14 of physical reality in the Business District
15 that could comply and be developed as a
16 multi-family dwelling. It makes no sense,
17 Arthur.

18 MS. GORDON: The only place where there
19 is any mention at all of the possibility of
20 multi-family dwelling is where the
21 conversion is happening in the R-2 District,
22 and it seems to be another way to look at
23 this if you want to stick to the language of
24 the statute is to say that if that's the
25 only place that discusses this multi-family

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2 construction then it's clear that the
3 statute means that that's the only place
4 where it's going to be considered in the R-2
5 District, and therefore, what you're doing
6 in the Commercial District is up to whatever
7 the legislative determination at the time
8 was; and you're giving us evidence of that
9 intent, and I think we should take that
10 seriously.

11 MR. KAPPELL: I would suggest this, that
12 this is, again that this is a question of
13 such profound impact on the Village that
14 this is properly, if you have any real
15 question about it, you should put it to the
16 Village Board and let them resolve it; this
17 is really not -- this is a major policy.

18 CHAIRMAN SALADINO: It's always the
19 purview of the Village Board to legislate.
20 The only contention I would make in relation
21 to what you're saying about multi-family
22 over Commercial is that no one is opposed to
23 it, we just asked for a variance.

24 MR. KAPPELL: No. We know how that
25 works, John. First off --

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2 CHAIRMAN SALADINO: No. Explain it to
3 me.

4 MR. KAPPELL: First of all, it's a use
5 variance and the burden is very heavy.

6 CHAIRMAN SALADINO: It's not a use
7 variance because there is a residential
8 component in the Commercial District, so it
9 wouldn't be a use variance.

10 MR. KAPPELL: No, if it's a
11 multi-family, if you're talking about a
12 multi-family use, then it would be a use
13 variance. That's exactly what you're
14 discussing, but why put the applicant
15 through that? Look, the point is, we wanted
16 to make it easy, you're trying to make it
17 hard.

18 CHAIRMAN SALADINO: In all fairness to
19 us, Mr. Mayor, now 15 years later, perhaps
20 you should have wrote a law that wasn't so
21 ambiguous.

22 MR. KAPPELL: I don't think it's
23 ambiguous. I think --

24 CHAIRMAN SALADINO: Can I quote from
25 your statement?

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2 MR. KAPPELL: Quote from the law; quote
3 anything you'd like, John.

4 CHAIRMAN SALADINO: If I thought you
5 would listen, I would.

6 MR. KAPPELL: I'll be happy -- look, I'm
7 not the one that has to make the decision,
8 you are. We're just here, we came here, the
9 three of us because we feel very strongly
10 about the issue, we did at the time, we
11 still do, we think it's even more relevant
12 now than it was then, and what you're
13 proposing to do, if you are to interpret the
14 zoning such that the multi-family provision
15 applies in the Commercial District would be
16 to shut down the very process that we tried
17 to put in play in 2002; and did put in play.

18 CHAIRMAN SALADINO: But that's not --
19 our job is to support the code.

20 MR. KAPPELL: Your job is to support the
21 Village, John. That's a technical argument
22 you're making, and I challenge you to think
23 about what's good for this Village.

24 CHAIRMAN SALADINO: It's not. Our job
25 is to support the code.

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MR. KAPPELL: And the Village.

CHAIRMAN SALADINO: By extension of the Building Code.

MR. KAPPELL: Right.

CHAIRMAN SALADINO: If the code says something, we don't have the power or the authority to ignore it.

MR. KAPPELL: Hey, listen, I'll grant you one thing, if your desire is to stop this, then you're absolutely right, go for it.

CHAIRMAN SALADINO: Now you put it on a personal level.

MR. KAPPELL: No, I'm not. I'm putting it on --

CHAIRMAN SALADINO: I'm telling you --

MR. KAPPELL: I'm not putting it on a personal level, I'm putting you on the spot. I'm putting you on the spot. If the intent is to slow this process down or stop it, then you should interpret the way you're suggesting it.

CHAIRMAN SALADINO: I would say be inclined to interpret what the man that

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1 wrote the law at the time --

2 MR. KAPELL: I'm right here telling
3 you.

4 CHAIRMAN SALADINO: -- said for the
5 official record, not 15 years later in
6 hindsight.

7 MR. KAPELL: John, I'm going to repeat
8 what I said. If you're inclination is to
9 vote to stop this process, then go for it,
10 but understand, you know, the hardship that
11 you're creating for the people that are
12 affected by this and for the impact that it
13 will have on the character of the Village
14 going forward. The Village is in a very,
15 very important transitional moment and
16 without this sort of opportunity, it's just
17 gonna get worse.

18 CHAIRMAN SALADINO: The Village Board
19 is well within its power to clarify the law
20 that was written back then that's ambiguous
21 today, so the ZBA is not on the spot. The
22 ZBA is charged with interpreting the code,
23 the Village Board legislates.

24 MR. KAPELL: Can I ask, who brought the

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question up?

CHAIRMAN SALADINO: The Building
Inspector.

MR. KAPPELL: For what reason?

MR. TASKER: Hasn't she told you?

MR. KAPPELL: No.

MS. WINGATE: No.

ATTORNEY PROKOP: I'd just like to
point out to you very respectfully, that
this is actually the second trip through
this Board for this question. The first
time it came to the Board, the Board voted
not to accept the question. Then it came
back again.

MR. KAPPELL: I think that was the
proper decision, and I encourage you to act
likewise.

MS. WINGATE: My decision on an issue
with a building permit for the Mason Ole
building was challenged, and I felt
perfectly justified --

MS. NEFF: For what building?

MS. WINGATE: The Mason Ole building.
I gave the building permit for three

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2 apartments. I felt that the code supported
3 me, I was challenged and --

4 MR. KAPELL: Challenged by whom?

5 MS. WINGATE: It doesn't matter.

6 MR. KAPELL: I think it does because if
7 it was an outside party challenging your
8 decision and bringing this question before
9 the Zoning Board, that would be one thing,
10 but for the Zoning Board basically to take
11 it up as an internal Village matter, I don't
12 understand that.

13 CHAIRMAN SALADINO: I'm not sure what
14 you're accusing the Zoning Board of.

15 MR. KAPELL: I'm not accusing anybody
16 of anything. I'm just observing.

17 MS. GORDON: I'd like to ask Eileen,
18 the Board's role is a quasi judicial one.
19 We are supposed to be dealing with what
20 lawyers call cases in controversies; and I'm
21 not convinced that this matter that arose
22 that you dealt with constitutes a case in
23 controversy of the sort that we're supposed
24 to be hearing. I thought we were supposed
25 to be interpreting in the context of a

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2 matter that was before us to decide on a
3 variance or not and this was not such a
4 thing. We have not had before us the Mason
5 Ole issue at all; and we have just been
6 through a training which the discussion of
7 the Zoning Board's responsibilities
8 suggested that interpretations would be
9 raised, initiated by a neighbor or by the
10 applicant. Now, the law does allow for an
11 internal initiative, but it seems to me that
12 it really is, our task is really in the
13 context of an ongoing dispute about the
14 property owner's rights with respect to what
15 is in the code.

16 CHAIRMAN SALADINO: Do you guys have
17 anything else? Let somebody else speak.

18 MR. KAPPELL: One more thing, John. I
19 just want for the record, I want to point
20 out that at the Planning Board meeting, at
21 one of the Planning Board meetings on the
22 Olinkiewicz application on Mason Ole, you
23 spoke up and promoted this question to be
24 brought before the Zoning Board for
25 interpretation.

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2 CHAIRMAN SALADINO: That's certainly
3 true and I was about to say that. I
4 questioned the appropriateness of
5 multi-family in the Commercial Retail
6 District. It had nothing to do with Mr.
7 Olinkiewicz. It had nothing to do with the
8 Mason Ole building. It raised the question
9 to the Planning Board.

10 MR. KAPPELL: But you actually
11 advocated, you advocated for the question to
12 be referred to the Zoning Board.

13 CHAIRMAN SALADINO: I asked -- no, I
14 didn't.

15 MR. KAPPELL: Yes, you did. It's on the
16 record.

17 CHAIRMAN SALADINO: No, you're
18 mistaken.

19 MR. KAPPELL: It's in the record.

20 CHAIRMAN SALADINO: I know it's in the
21 record because I have the record, you're
22 mistaken.

23 MR. KAPPELL: You advocated for it to be
24 referred to the Zoning Board, John, for an
25 interpretation. I was there, I heard it. I

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2 even, I warned you at that time that you
3 were -- that was something you shouldn't do.

4 CHAIRMAN SALADINO: Mr. Mayor --

5 MR. KAPPELL: It compromises --

6 CHAIRMAN SALADINO: We can take another
7 time and read the record into the record --

8 MR. KAPPELL: Excuse me, sir, this is a
9 public hearing, I have the right to be
10 heard.

11 CHAIRMAN SALADINO: Nobody is denying
12 that right.

13 MR. KAPPELL: Yes, you are.

14 CHAIRMAN SALADINO: I am not, you're
15 just going over the same thing over and
16 over.

17 MR. KAPPELL: No, I'm not.

18 CHAIRMAN SALADINO: I'm more than
19 willing to listen, but I have to correct the
20 record as you say it.

21 MR. KAPPELL: I think you should recuse
22 yourself. I think you compromised yourself
23 when you promoted at a public hearing,
24 public meeting of the Planning Board that
25 the matter be referred to your board for

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2 your vote as an interpretation.

3 CHAIRMAN SALADINO: You don't think
4 zoning issues should be referred to the
5 Zoning Board?

6 MR. KAPPELL: I don't think it's the
7 place of the Zoning Board chairman to
8 promote that at a public meeting for the
9 Planning Board.

10 CHAIRMAN SALADINO: I wasn't the
11 chairman. I think it's the place of anybody
12 that's familiar with the code to make
13 another statutory board aware of perhaps
14 they're misinterpreting the code.

15 MR. KAPPELL: I think as a Board member,
16 you have --

17 MR. TASKER: I would support you
18 completely on that, John.

19 MR. KAPPELL: I think you have an
20 obligation to maintain neutrality until your
21 --

22 CHAIRMAN SALADINO: I think I am
23 neutral. I think I am more than capable of
24 deciding this question.

25 MR. KAPPELL: Thank you.

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2 CHAIRMAN SALADINO: Thank you.

3 MR. KAPELL: Ben or Gail, did you have
4 anything you wanted to add?

5 MR. BURNS: I've been through this
6 situation twice, one through the Board
7 several years ago which we really were
8 trying to find ways to promote additional
9 housing in the Village, and at the time
10 people were housed all over the place; so I
11 think we did that. And then I was on the
12 Planning Board when we also approved the
13 three apartments in Mason Ole. I think
14 those were the right decisions, and I think
15 that's the way it ought to stand. How you
16 limit housing in certain areas is a subject
17 for zoning, and I don't think multi-family
18 zoning is wise downtown because there is
19 just not enough space for multi-family, you
20 need more ground to build a multi-family
21 according to what I see in the code. Thank
22 you.

23 MS. NEFF: Can I just say in response
24 to what you said, I think you have the
25 history of when these various things change

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2 in the code, but you also have the housing
3 stock which predates all of, we have the
4 ability with two commercial streets
5 basically, maybe in others with one-family,
6 I mean one-story, two-stories and
7 three-story; and I think why we are having
8 this conversation is that some are
9 three-story; and I have also been in
10 apartments over commercial areas in this
11 village that have unbelievably beautiful
12 apartments that were built long before any
13 of this. They were just part of how the
14 Village evolved. If we think in any way to
15 limit the number without looking at the
16 structure we're dealing with, we're not
17 making a plan for how there's gonna be all
18 this multi-family built in this Village,
19 it's way too small, way too limited for that
20 to be a question; so I would look at each
21 proposal, as you said, Dini, you have to
22 look at the individual one and the right
23 board has to be looking at the questions and
24 sometimes several boards will, as we well
25 know; but to begin by saying multi-family

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2 means if it's in the Commercial, it
3 shouldn't be, therefore, not three
4 apartments doesn't make sense to me.

5 CHAIRMAN SALADINO: The question is not
6 so much should it be, shouldn't it be. The
7 question is, is it a permitted use under the
8 code?

9 MR. TASKER: That's the question we
10 have been asked to look at.

11 MS. NEFF: I think if it's New York
12 State building things, the building, I think
13 a question of saying it can't be three
14 apartments because of something the code
15 says, that is multi-family as this code --
16 it almost like some other place, it's not
17 about this place. We have to look at what
18 we have and try to promote something that
19 fits.

20 MR. KAPELL: Thank you very much.

21 MR. TASKER: Mr. Burns, I'm sorry.
22 Would you mind clarifying again because I
23 didn't quite understand the last statement
24 you made with regard to multi-family housing
25 being permitted in the district -- I believe

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2 you said that it is your contention,
3 recommendation, I don't want to put words in
4 your mouth, that multi-family housing should
5 not be permitted in that district. We can
6 check the --

7 MR. BURNS: That's not what I said.
8 What I said was --

9 MR. TASKER: We can check the
10 stenography in due course, but I just want
11 to know for the purposes of this discussion
12 whether that is what, in fact, you said.

13 MR. BURNS: What I understand is
14 multi-family requires a certain amount of
15 ground, certain amount of area to begin with
16 before you can call it a multi-family area.
17 Two acres, is that the minimum?

18 CHAIRMAN SALADINO: Forty-eight
19 thousand square feet.

20 MR. KAPELL: That's an important point.

21 MR. TASKER: And therefore, with
22 respect to --

23 (Whereupon, Mr. Tasker and Mr. Burns
24 spoke simultaneously.)

25 MR. TASKER: Therefore, with respect to

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2 the CR District, how does that work in terms
3 of your determining the scope of that?

4 MR. BURNS: Maybe I'm --

5 MR. TASKER: Your remarks lead me to
6 believe that you felt that multi-family
7 housing should not be permitted in the CR
8 District and that's what I'm trying to get
9 you to clarify; is that what you meant?

10 MR. BURNS: You can interpret what I
11 meant that way, but I'm --

12 MR. TASKER: I'm asking you, is that
13 what you meant?

14 MR. BURNS: My understanding of the
15 code is that you need more space, like two
16 acres in order to begin to build a
17 multi-family unit.

18 CHAIRMAN SALADINO: There's a portion
19 of the code, 150-18, that sets standards for
20 multi-family. They're unbelievably harsh.
21 I'm sure the mayor knows the reason that
22 they were implemented in 1971. There was a
23 mindset among people that think they know
24 the reason. Nobody disputes that. No one
25 disputes that, so that that portion of the

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2 code is in an envelope, a standalone article
3 that if you were to think about it, it was
4 -- I'm trying not to say something here and
5 I apologize but --

6 MR. KAPPELL: I think this makes it an
7 important point though actually, which is
8 that inasmuch as a multi-family dwelling
9 requires a two-acre lot and inasmuch as
10 there are no two-acre lots in the Commercial
11 Retail District, then it can't apply as a
12 matter of logic, it cannot apply. In order
13 for a property to be considered a
14 multi-family, it would have to be on a
15 two-acre lot. There are no two-acre lots in
16 the Business District, it cannot apply.

17 MR. TASKER: That would be appropriate
18 if you didn't have a permissive code. We
19 have a permissive zoning code that says, you
20 may do this in the District A, B, C, D, you
21 may do this in that District A, B, C and D
22 and if it's not, it isn't permitted. That's
23 a permissive code. If we had a code that
24 said unless it's forbidden, you can do it,
25 like the Italians, probably in their laws,

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2 unlike the Germans who have different ways
3 of viewing those. We have a permissive
4 code, it says you may do certain things in
5 certain districts; if they aren't listed,
6 you can't do it without a variance or some
7 other form of permission.

8 MR. KAPPELL: Again, I would state that
9 inasmuch as the definition of a multi-family
10 property is two acres, and no such
11 properties exist in the Business District.

12 CHAIRMAN SALADINO: You're misstating
13 it.

14 MR. KAPPELL: What is that?

15 CHAIRMAN SALADINO: You're misstating,
16 that's not the definition. That's the
17 standard for construction.

18 MR. KAPPELL: Right, you can't --

19 CHAIRMAN SALADINO: But the definition
20 is something entirely different.

21 MR. KAPPELL: But, John, there are no
22 two-acre lots. I mean this is a matter of
23 common sense, it's a matter of common sense,
24 there are no two-acre lots in the Business
25 District.

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2 CHAIRMAN SALADINO: It's 48,000 square
3 feet.

4 MS. WINGATE: Everybody seems to not be
5 looking at, I think it's 415 where it says
6 apartments over retail, it doesn't say
7 limited to two, there is a plural and nobody
8 seems to have --

9 CHAIRMAN SALADINO: Just to respond to
10 that --

11 MR. TASKER: John, let's get the public
12 hearing underway.

13 CHAIRMAN SALADINO: Okay. Is there
14 anybody else from the public that would like
15 to speak?

16 (No response.) No. What is the
17 pleasure of the Board; are we gonna keep
18 this up or are we gonna close the public
19 hearing?

20 MR. CORWIN: I motion we close the
21 public hearing.

22 MS. GORDON: Second.

23 MR. TASKER: They've stayed away in
24 droves.

25 CHAIRMAN SALADINO: I couldn't hear

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you.

MR. TASKER: The public has stayed away
in droves.

MS. GORDON: You have a seconded
motion.

CHAIRMAN SALADINO: I know. All those
in favor of closing the public hearing?

MR. TASKER: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MS. GORDON: Aye.

CHAIRMAN SALADINO: Aye. The last item
on the agenda is discussion and possible
action on the request for the interpretation
of 150-18 with respect to the zoning
districts. To respond to Eileen, if I
could, it's true it says S, there is an S.
The Building Department, perhaps this Board,
perhaps members of the audience, have to
decide for themselves in essence if S is two
or more than two. In making an
interpretation, Zoning Board goes by the
dictionary, commonsense interpretation or
the legislator's written intent.

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2 MR. TASKER: If there is ambiguity.

3 CHAIRMAN SALADINO: Well --

4 MR. TASKER: If there is ambiguity, you
5 can go to the legislative intent. If
6 there's not ambiguity, there is nothing to
7 interpret. I think the starting point is,
8 look at 150-18 and see what it has to say
9 about where multi-family housing can be
10 conducted, and since -- and I'm going to
11 jump ahead, 150-18 says absolutely nothing
12 about where multi-family housing can be
13 permitted, so that interpretation, as I said
14 at the February meeting, is going to be
15 mercifully brief. There is nothing to
16 interpret. There is no ambiguity in 150-18
17 as to where multi-family housing can be and
18 can't be because it doesn't even address
19 that topic. That's because looking at
20 150-18 as a starting point puts the cart
21 before the horse. 150-18 arises out of a
22 reference to the conversion of a property to
23 a multi-family home which is conditional use
24 in the R-2 District. It says, conditional
25 uses, the following conditional uses are

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1 permitted, subject to approval by the
2 Planning Board. Number 2, conversion of an
3 existing dwelling to a multi-family dwelling
4 as provided in article 7 of this chapter.
5 In other words, if you're going to convert
6 an existing dwelling or multi-family
7 dwelling in an R-2 District, you do it
8 according to article 7. Well, flip to
9 article 7 and that's 150-18. That puts the
10 horse before the cart. So 150-18 does have
11 a home, it has a home in support of 150-9,
12 150-8b1, and that's where 150-18 fits; so it
13 doesn't tie into, 150-18 doesn't back into
14 any other district in the Village because
15 there is no such reference in any other
16 district in the Village than R-2. You can
17 beef all you like about the fact that it
18 becomes an impossibility because of 48,000
19 square feet, not 48,000 square feet. The
20 Village is built out, there isn't room to
21 build anything. There are a lot of attempts
22 to build things, but this Village is built
23 out. Trying to permit substantial numbers
24 of apartments, I won't say too many, how
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1 many, three, four, multi, whatever, trying
2 to permit substantial numbers of apartments
3 above commercial in that district is
4 shoveling sand against the tide because the
5 ship has already left in terms of what has
6 happened in this Village as the mayor
7 pointed out, it started in 1971 in
8 reference, started in 2002, it was well,
9 single-family conversions, two-family
10 housing, some of the other examples that you
11 made, you're going to have to repeal the
12 laws of economics to change that. I'd be
13 interested to know whether the Building
14 Department can tell us how many potential
15 buildings in the Commercial Retail District
16 could be affected by this. What's their
17 square footage; how does that fit with the
18 apartment size that's permitted by the
19 Building Code? Take a census, in other
20 words, but I would venture to say that the
21 difference between permitting two which is
22 plural or three which is also plural
23 apartments in that district is not gonna
24 create but a few additional apartments, so I
25

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1 don't think that this Board can be
2 suggesting, and I think someone said
3 erroneously that we're gonna turn the
4 Village of Greenport into a real bad place
5 for anybody who might want to live here, is
6 an apt characterization of what we're trying
7 to do in interpreting the statute. We are
8 obligated to interpret the ordinance by
9 virtue of the question the Building
10 Department and statutes provide for that
11 request, the statute provides for us to make
12 that interpretation. The statutes and the
13 laws also say how you make that
14 interpretation in terms of first looking for
15 ambiguity and without ambiguity, it's over.
16 There is nothing to interpret, so I'd like
17 to start from that point in terms of our
18 discussion. Is there ambiguity in 150-18?
19 No one from the public has suggested that.

21 CHAIRMAN SALADINO: I don't think
22 anybody suggested that. I think it's hard
23 to answer a question, as somebody said, I
24 think it was Arthur that said you can't ask
25 a question that's in a vacuum. If the

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2 reason for doing or not doing something is
3 because of a portion of code that some might
4 or might not think is appropriate or applies
5 to a particular district and it's too
6 laborious to follow, I'm not sure where that
7 leaves us. I mean, I just don't know where
8 we go from there. If everything else
9 reverts back to that particular portion of
10 the code, I'm just -- David, do you have
11 something? Dini?

12 MS. GORDON: I agree with Arthur. I
13 don't think there is a real issue here. I
14 think we shouldn't be having this hearing,
15 and I really do feel that the context of an
16 interpretation should be a matter that is
17 contested, that is before us which is not
18 the case; so I have a basic procedural
19 disagreement with this.

20 MR. TASKER: Okay. You know what,
21 Dini, I'm willing to forgo my procedural
22 objection.

23 MS. GORDON: Well --

24 MR. TASKER: And do this, let's
25 interpret officially, if you will, for want

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2 of a better word, let's interpret 150-18 as
3 to whether or not it says anything about its
4 applicability in any zoning district. I
5 think the answer should be no --

6 MS. GORDON: I do too.

7 MR. TASKER: -- we can discuss that.

8 But I'm willing to forgo my procedural
9 concern and say let's take the second half
10 of the question that the Building Inspector
11 asked us and go down zoning district by
12 zoning district to see whether or not
13 multi-family housing is permitted, whether
14 officially or conditionally, whether it's a
15 permitted use in district by district. What
16 that will turn out to be, as it already
17 existed in the R-2, is that if it's
18 permitted in a particular district then
19 150-18 applies to it, if it's not permitted
20 in that district, you don't have to look at
21 150-18; but take it a step further,
22 interpret and, again, I'm not sure if it
23 takes any interpretation beyond a simple
24 reading as to what, in what districts is a
25 multi-family housing permitted under any

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2 conditions.

3 MS. GORDON: Isn't it only the R-2
4 District with the conversion situation; how
5 could it be anywhere else?

6 MR. TASKER: There is a great deal of
7 hinging on plurality here, numbers of
8 things, whether an S means two or three or
9 five or ten, it can mean any of those, but
10 let's look at 150-9 which are the standards
11 for Retail Commercial District and I'm going
12 to skip over some of the language, but it
13 says Retail Commercial District nothing can
14 be used or intended for any use except as
15 listed below, and it lists the following
16 permitted uses: Retail stores and banks,
17 plural, plural stores, plural banks;
18 personal service stores, plural; eating and
19 drinking places, plural; business,
20 professional or government offices, plural;
21 service establishments, plural; theaters,
22 plural; hotels, plural; motels, plural;
23 outlets and pickup stations, plural; clubs
24 and fraternal lodges, plural; mortuaries and
25 funeral parlors, plural; marina and docking

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1 facilities, plural; gasoline service
2 stations, plural; self-service gasoline
3 stations, plural; service stations and
4 repair garages, plural, and then accessory
5 apartment dwelling units, plural. Is anyone
6 going to suggest that eight out of ten of
7 those that I just cited would be permitted
8 in even two to be on a given parcel of land,
9 let alone three? In other words, I don't
10 see how you can bootstrap a long list of
11 plural things as to the kinds, plural, of
12 things that are permitted in a district are
13 bootstrapped into how many is plural; and I
14 think that's what we're trying to be
15 squeezed into doing. Frankly, if I had
16 known that the Mason Ole question of three
17 apartments had come up previously, and I was
18 not at the Planning Board meeting when I
19 guess John expressed his concerns about
20 that, I would have strongly supported him at
21 that time at that meeting for just this very
22 question. I don't know how -- and to then
23 ex post facto ask for an interpretation, I
24 just don't get that.
25

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2 CHAIRMAN SALADINO: Anyone else?

3 Ellen? David?

4 MR. CORWIN: I can only interpret
5 150-18 one way, accessory apartment dwelling
6 units over retail stores and residences,
7 professional and government offices existing
8 as of July 1, 2002, and to me this little
9 section is to legalize existing apartments
10 at that time. July 1, 2002. It doesn't, to
11 me it doesn't say they're allowed after July
12 1, 2002.

13 CHAIRMAN SALADINO: There was just, I
14 might not be following what you just said,
15 but just to add some clarity, there was an
16 interpretation by the Zoning Board in 2012.

17 MS. WINGATE: Okay.

18 CHAIRMAN SALADINO: No, 2014, where
19 they reaffirmed that this portion of the
20 code didn't necessarily mean apartments but
21 buildings, the building had to be in
22 existence prior to, so we have a subsequent
23 interpretation by the Zoning Board that it
24 was buildings and not individual apartments.

25 MR. TASKER: As to pre-existence?

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CHAIRMAN SALADINO: Yes.

MR. CORWIN: Which I didn't agree with at that time.

CHAIRMAN SALADINO: Okay.

MR. TASKER: I don't think that restrains us.

CHAIRMAN SALADINO: I don't think it restrains us from asking this Board, resolving this question. I don't think anybody questioned that residential was a permitted use over commercial. I think the question is how many, from reading the record, from reading the intention of the Village Board as expressed to the public during the public hearing without any mention in the official record of the International Fire and Building Code, you know, to 15 years later.

MR. TASKER: I haven't scanned the minutes of the July 2002 meeting where this was discussed by the Board members and so forth, including then Mayor Kapell, but I suspect that if you did a word search, you wouldn't see multi-family anywhere in that

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1 transcript.

2 CHAIRMAN SALADINO: If anything,
3 multi-family was --

4 MR. TASKER: So that the attempt now to
5 roll it back and set multi-family into the
6 intention stands for what it is.

7 CHAIRMAN SALADINO: If anything, the
8 record reflects that multi-family when
9 raised, the question of multi-family was
10 disputed, it said no, only two apartments.

11 MR. CORWIN: My understanding of
12 multi-family, and correct me if I'm wrong,
13 from the State Building Code, you can have
14 residential which can be two units, after
15 two units when it gets to three, it's
16 multi-family.

17 MR. TASKER: So that's consistent with
18 the Village's definition of multi-family,
19 and it doesn't go beyond.

20 MS. GORDON: The Village's definition
21 of multi-family uses the term dwelling
22 house, it seems to me, we don't have --

23 CHAIRMAN SALADINO: No, not always, not
24 always.

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2 MR. TASKER: The definition is what it
3 is.

4 CHAIRMAN SALADINO: If I could, there's
5 definition of multi -- there's one chapter
6 that defines multi-family dwelling, there's
7 another chapter that defines
8 multiple-dwelling building. There's another
9 chapter that goes on to mention multi-family
10 dwelling.

11 MR. TASKER: None of which terms are
12 defined. None of which terms are defined
13 except for multi-family dwelling.

14 MS. GORDON: Right. Which is a
15 dwelling house.

16 CHAIRMAN SALADINO: No. There's
17 Chapter 88-1B says multi-family,
18 multiple-dwelling building is any building
19 wherein there are two or more dwelling
20 units.

21 MR. TASKER: But a multi-family
22 dwelling is three or more by definition.

23 MS. GORDON: Definition in our code.

24 MR. TASKER: I don't know where the
25 definition of multi-unit dwelling -- is that

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the term?

CHAIRMAN SALADINO: Multi-dwelling building.

MR. TASKER: Multi-dwelling building, where is that definition found?

CHAIRMAN SALADINO: 88-1B.

MR. TASKER: Of?

CHAIRMAN SALADINO: Our code.

MS. WINGATE: Also New York State uses the term mixed use, they don't use -- they reserve multiple-family dwellings for apartments, it is not -- it's categorized differently.

CHAIRMAN SALADINO: Also in Chapter 103-4 of our code, there is a definition for multiple-dwelling buildings, a building or portion thereof containing three or more dwelling units.

MR. TASKER: Sorry, John, what is the reference on that?

CHAIRMAN SALADINO: 103-4.

MS. NEFF: But the context here is zoning and we are looking at the zoning chapter and multi-family is clearly intended

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1 dwelling house.

2
3 CHAIRMAN SALADINO: Well, read the
4 whole definition.

5 MS. GORDON: Okay, the whole definition
6 designed to accommodate or accommodating
7 three or more families and shall include but
8 not be limited to an apartment house, garden
9 apartment house, cooperative apartment
10 house, apartment hotel and condominium. It
11 does not include anything that looks like
12 mixed use which is what our --

13 CHAIRMAN SALADINO: We don't have a
14 mixed use definition.

15 MS. GORDON: We don't have a mixed use
16 definition, but we have a mixed-use
17 situation, many of them.

18 CHAIRMAN SALADINO: Right. But we also
19 have a section of the code, in the zoning
20 portion of the code that defines
21 multi-family with more than just dwelling
22 house.

23 MS. GORDON: It's not the definition,
24 it's a set of standards, it's a restrictive
25 --

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2 CHAIRMAN SALADINO: No, this is a
3 definition.

4 MS. GORDON: This is a definition.
5 This doesn't say what you said it says. It
6 says the section of the code which I think
7 you're thinking of is not a definition, it's
8 a set of restrictions.

9 CHAIRMAN SALADINO: No. I'm reading
10 this definition. I'm reading over your
11 shoulder.

12 MS. GORDON: A dwelling house.

13 CHAIRMAN SALADINO: Well, it says more
14 than dwelling house. It lists more than
15 just --

16 MS. GORDON: Do any of these listed
17 items include commercial establishments?
18 No. Apartment house, garden apartment
19 house, cooperative apartment house,
20 apartment hotel and condominium. No retail
21 commercial activity.

22 MR. TASKER: All of which are
23 residential uses, not --

24 MS. GORDON: Right, and not mixed uses
25 in the sense that, as I understand it, New

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2 York State defines the buildings downtown
3 which have apartments.

4 CHAIRMAN SALADINO: Under New York
5 State Building Code, a lot of those things
6 are mixed-use buildings, condominiums,
7 apartment houses, they are mixed uses.

8 MS. GORDON: Trump Tower.

9 MR. KAPPELL: Ownership is not a use.
10 Condominium, cooperative, rental, that's not
11 a use, that's a --

12 MS. WINGATE: New York State Building
13 Codes and residential Building Code,
14 anything other than a two-family house would
15 be found in the commercial code which is
16 where they use the term mixed use most of
17 the time, they use multi-family in
18 apartments, they wouldn't use it for
19 townhouse, they use the word townhouse, they
20 don't use the word condominium all that
21 often and that all has to do with fire
22 separation and townhouses, even though
23 they're attached, they're separate
24 ownership, so it's actually not a
25 multi-family use because they have fire

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1 separation between each unit, so going back
2 to the Building Code only makes it more
3 complicated.
4

5 MR. TASKER: Which we are not being
6 asked to interpret.

7 MS. WINGATE: I have one other thing.
8 Anything more than two families requires
9 fire suppression and fire suppression in a
10 150-year-old Village is a wonderful thing.

11 ATTORNEY PROKOP: If it's commercial
12 and residential it's mixed use.

13 MS. WINGATE: If it's commercial and
14 residential.

15 ATTORNEY PROKOP: So if it's commercial
16 on the first floor and there's three
17 apartments on the second floor, what is the
18 mixed use?

19 MS. WINGATE: Retail and residential.

20 ATTORNEY PROKOP: It's not retail
21 multi-family?

22 MS. WINGATE: No. It's retail
23 residential, it would be considered R-2.

24 CHAIRMAN SALADINO: Could you repeat
25 what you said about fire suppression?

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2 MS. WINGATE: Anything with more than
3 two apartments has to have fire suppression.

4 MR. CORWIN: More than two apartments
5 or anything commercial with --

6 MS. WINGATE: Let me start again. Any
7 residential over retail, unless it's
8 existing, needs fire suppression, so that
9 means --

10 MR. TASKER: And that's the State
11 Building Code.

12 MS. WINGATE: That's the State Building
13 Code. Let's take an old one, Mills building
14 doesn't have fire suppression because it's
15 been around forever. The Suffolk Times
16 building put in fire suppression. The
17 Daniel Gale building was putting in fire
18 suppression. Stirling Square is putting in
19 fire suppression, so anything with
20 commercial and residential requires fire
21 suppression and again, 150-year-old Village,
22 it doesn't get better than that.

23 MR. TASKER: I think we're getting led
24 away from our focus here. We're not worried
25 about a Building Code, we're not worried

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2 about definitions of the Building Code that
3 are non-apropos of the objects and subjects
4 that we're discussing here, so let's get
5 back to those. I suggested interpreting
6 150-18 in a negative manner and withdrawing
7 my objection to going beyond and looking at
8 the second part of question that was asked
9 and zoning district by zoning district, look
10 at it. Is multi-family permitted in that
11 district, yes or no, and then we can go
12 home.

13 CHAIRMAN SALADINO: You wouldn't like
14 to think about this a little while?

15 MR. TASKER: John, I already have.

16 MR. CORWIN: Does that imply when you
17 say multi-family, does that imply the
18 definition of multi-family is three or more
19 or --

20 MR. TASKER: It is, 150-2 definition is
21 multi-family dwelling three or more.

22 MR. CORWIN: So we all, I think, agree
23 that 150-18 doesn't apply because there is
24 no place to put it.

25 MR. TASKER: Not that there is no place

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2 to put it, there is no place it's permitted
3 to be put.

4 MR. CORWIN: Okay.

5 MR. TASKER: So if it's to be done, it
6 needs the variance as the chairman
7 suggested.

8 MR. CORWIN: That says that, 159
9 paragraph 18, does not allow multi-family,
10 it allows two apartments, and that is what I
11 always understand from back in 2002 when I
12 attended many meetings the way it was going
13 to be. I think that question was asked, how
14 many apartments, and the answer was two. It
15 may not have been --

16 MR. KAPPELL: I think the transcript
17 supports that recollection.

18 MR. TASKER: To further elaborate just
19 a little bit, the examples that I read, the
20 listing of permitted uses in commercial
21 retail district, take, for example,
22 theaters, hotels and motels, can anyone
23 imagine more than one of those, let alone
24 more than two of those on a single parcel in
25 the Village in the CR District? Can anybody

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2 imagine more than one, let alone two, more
3 than two funeral parlors on a single parcel
4 in that district? More than one, let alone
5 more than two gas stations on a single
6 parcel in the CR District; so the argument
7 that accessory apartment dwelling units
8 can't be limiting whether as a practical
9 matter or as the statutory matter is a
10 specious argument. The fact that it's
11 plural at all simply follows the pattern of
12 writing the ordinance. It doesn't address
13 the limitations on what plural means.

14 CHAIRMAN SALADINO: Like David, I was
15 at that meeting, at that public hearing and
16 I left that public hearing with the mindset
17 that it was two apartments from the
18 testimony of the mayor, some of the members
19 of the Village Board, the questions by the
20 public, in my mind, I was assured that it
21 meant two. I was certain in that and then
22 when the question arose about a different
23 district, about the Commercial District, the
24 response by the Board was that the same
25 logic would apply as in the Residential

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2 District.

3 MR. KAPELL: Is that in the minutes,
4 John?

5 CHAIRMAN SALADINO: Yes, it is.

6 MR. KAPELL: Can you read it?

7 CHAIRMAN SALADINO: Yes, I can. This
8 is from the mayor. I'm not going to read
9 the entire --

10 MR. KAPELL: Can you tell us what page
11 you're on, John, please?

12 CHAIRMAN SALADINO: Seven. It's a
13 quarter way down the page. The maximum
14 number of dwelling units that would be
15 allowed in a house would remain at two, so
16 there is no potential here by the creation
17 of a small accessory apartment in one of
18 these houses for another one to be created
19 such that you would have the three-family
20 house.

21 MR. KAPELL: In the Residential
22 District, that was relative to the R-2
23 District.

24 CHAIRMAN SALADINO: If I could, further
25 down the page, you go on to say, in the

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1 Business District, the same logic applies.
2
3 I think if after time has passed, some
4 people's thinking changes, some people's
5 recollection is clouded, some people, what
6 we have is the official record, we have the
7 intent of the Board at that time.

8 MR. TASKER: My position is, if you
9 don't have ambiguity, there is nothing to
10 interpret and the intent doesn't mean a
11 thing, the ordinance is all that counts.

12 MS. GORDON: I never thought I would
13 describe myself as a contextualist, but I
14 think we have a plural here, it does not say
15 two, and I think you're wrong, Arthur, you
16 can have more than two retail stores in one
17 parcel, in fact, we have Ralph's in the
18 front and the new parenting store in the
19 back and the oyster people, again that's one
20 parcel.

21 CHAIRMAN SALADINO: No, it's not.

22 MR. TASKER: Funeral parlors, gas
23 stations and so forth, the fact that plural
24 are permitted doesn't mean that it's going
25 to happen.

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2 MS. GORDON: It doesn't mean it's going
3 to happen, but a whole list here with -- it
4 doesn't say two dwelling units, it says
5 dwelling units general. I just -- you know,
6 I don't understand why we aren't sticking to
7 the language and of course you're sticking
8 to the language also when you say there is
9 nothing really to interpret because Section
10 150-18 doesn't give us any clues. The text
11 doesn't give us any clues.

12 MR. TASKER: The text of the other
13 permitted uses in the other zoning districts
14 doesn't give us clues, it gives us answers
15 as to what's permitted in each district.
16 What I'm saying is, I don't think it's
17 appropriate for us to even think about what
18 might they have meant when they used a
19 plural in defining accessory apartment
20 dwelling units. We don't even have to think
21 about what that means because we don't have
22 to go to that to answer the question of what
23 uses are permitted in each district. Let's
24 not beat ourselves up over whether units
25 means two, three, five, seven, however many,

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2 you don't need to define it to come to the
3 answer as to in what district is
4 multi-family permitted.

5 CHAIRMAN SALADINO: Is this something
6 we have to decide tonight? We have 60 days.

7 ATTORNEY PROKOP: You have 60 days.

8 CHAIRMAN SALADINO: Do you think we
9 have to decide tonight?

10 ATTORNEY PROKOP: No, you do not have
11 to decide if you're asking me.

12 CHAIRMAN SALADINO: I'm sure the
13 Village would extend the time limit if we
14 asked for it.

15 MS. WINGATE: Why not?

16 MR. TASKER: Well, my concern over a
17 delay is this, that there is gonna be
18 another application called Mason Ole two for
19 a building permit for three apartments, four
20 apartments in the arcade before we have
21 interpreted this.

22 CHAIRMAN SALADINO: We had an assurance
23 from --

24 MR. TASKER: No, we didn't have
25 assurance. The answer that I got to my

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1 question as to whether or not there would be
2 an assurance that such an application would
3 be brought to the attention of this Board
4 was, we're getting in the busy season, I
5 don't think we're gonna get any; that was
6 not an assurance.
7

8 MS. WINGATE: I still don't think that
9 we're going to get any, but.

10 MR. TASKER: You're entitled to your
11 opinion but that isn't an assurance.

12 ATTORNEY PROKOP: I don't think the
13 reason to make a decision on a particular
14 night is that you think there is, you know,
15 a prospective application that hasn't
16 occurred yet, that may be coming, I think
17 the Board should think.

18 CHAIRMAN SALADINO: I agree, we
19 shouldn't negotiate for the unborn.
20 Sometimes when there is a pending question,
21 things move from a back burner to a front
22 burner regardless of --

23 MR. TASKER: It's easy to imagine the
24 owner of the arcade getting religion and
25 firing in an application for four or five

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2 apartments up there in the arcade now that
3 they're vacant.

4 CHAIRMAN SALADINO: I think she has
5 other things on her mind at this particular
6 moment in time, but I understand your point.
7 I would be willing to take the Building
8 Inspector at her word.

9 MR. TASKER: We don't have that.

10 MR. CORWIN: I would like to try to
11 come to a decision tonight, and to put it
12 simply, I'm sorry I can't verbalize better,
13 my position is three apartments or more is a
14 multi-family that goes to 150-18, but there
15 is no place in multi-family that's allowed,
16 so in these commercial districts that I
17 object to because I don't read it that way.
18 By your interpretation, they can have
19 apartments plural, two apartments and that's
20 what I remember from the public hearing and
21 the discussions that went on before that.

22 MS. NEFF: I think that it does depend
23 on what the building we're talking about is,
24 its size, all those things matter; and the
25 idea that we say never three and make the

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1 language be there can never be three, that
2 doesn't make sense to me. Mostly, it may be
3 one or two, but that it's something the
4 Village has and needs more of, it seems also
5 clear.
6

7 MR. CORWIN: But that is up to the
8 Village Board. If there is an ambiguity or
9 if the code is not clear then it's the
10 Village Board. We make an interpretation,
11 if they don't like it, they change the code.
12 We don't change code.

13 CHAIRMAN SALADINO: Is the Board
14 prepared to vote on this tonight?

15 MR. CORWIN: I am.

16 MS. GORDON: What would we be voting
17 on?

18 MS. NEFF: Yes, that's a good question.

19 CHAIRMAN SALADINO: We would be voting
20 on the interpretation asked for by the
21 Building Inspector of 150-18, and in what
22 zoning district is multiple-family a
23 permitted use. Is that what I got from
24 this? And I say that because I copied a
25 section of the minutes from -- I know the

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1 original question, and there was a colloquy
2 between myself and Eileen, and it says, Ms.
3 Wingate says about different districts,
4 Commercial GC and Waterfront Commercial,
5 because the CR and the regs, there is a
6 residential component, and I asked but not
7 multi-family, and the response was, that's
8 what I'm asking you, that is the question.
9 So to me that, you know, we understand the
10 original question and then as Zoning Board
11 meetings do, it progressed this question.
12

13 MR. TASKER: Well, that, it seems to
14 me, to take that as how we got where we are
15 as a smokescreen for ignoring the question
16 where does Section 150-18 apply, when the
17 real question was, can multi-family -- is
18 multi-family permitted in the CR District,
19 that's the real question.

20 MS. WINGATE: Not necessarily --

21 MR. TASKER: Let me finish. I tried to
22 press that question on the Building
23 Inspector at least two prior meetings when
24 this came up, and I got no answer. I got
25 the same story, no, the question is, where

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2 does 150-18 apply, oh, and by the way, what
3 district is multi-family permitted, two
4 completely separate questions. I told you
5 that I would withdraw my procedural
6 objection to go into that separately, but
7 not separate. I'm not going to do one
8 without the other.

9 AUDIENCE MEMBER: Wasn't there a public
10 notice for this hearing?

11 MR. TASKER: Yes.

12 MS. WINGATE: The reason that I was
13 persistent on not focusing in necessarily on
14 the CR was because we also have WC, we also
15 have CG, which also have potential for
16 development.

17 MR. TASKER: No, but not for
18 multi-family housing.

19 MS. WINGATE: WC, other than condos and
20 townhouses, it has potential, we have 123
21 Stirling, I mean --

22 MR. TASKER: You mean because there is
23 a building that exists that could have more
24 than two residential units in it that there
25 is ambiguity in what is a permitted use in

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that district?

MS. WINGATE: I'd like --

MR. TASKER: You're bootstrapping.

MS. WINGATE: I liked your idea of going district by district and then you got away from that, I thought that made perfect sense. This would be --

MR. TASKER: I haven't withdrawn that.

MR. KAPELL: What did the public notice advertise, what's the question?

CHAIRMAN SALADINO: It's online, Mr. Mayor, you can read it online.

(Whereupon, several people spoke simultaneously.)

MS. WINGATE: It's right there on that, it is on that sheet.

MR. KAPELL: I think it's very relevant, that's what the hearing is about.

MS. GORDON: Does somebody have the public notice? Just the interpretation of 150-18.

MR. KAPELL: You know, otherwise it's not right.

MS. WINGATE: I can't paraphrase it,

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2 but the question was, where does 150-18 fit,
3 into which districts? That was the
4 question, but I'll pull it up here on the
5 website. An interpretation also liability
6 inspector on how Chapter 150-18 of the code
7 of the Village of Greenport relates to the
8 Village to zone districts. The requested
9 interpretation should include which zoning
10 districts should use 150-18 as a guideline
11 for development. That's the question.

12 MR. CORWIN: My answer is none of them.

13 CHAIRMAN SALADINO: Can we take five
14 minutes here for, can I recess the meeting
15 re-sense if meet for five minutes until the
16 absent member comes back; is that okay with
17 the Board?

18 MR. TASKER: Yes.

19 (Whereupon, a recess was taken at this
20 time.)

21 CHAIRMAN SALADINO: I think the sense
22 of the Board is they would like to resolve
23 this this evening. Me personally, I'm of
24 the opinion that either myself or with the
25 help of the attorney comes up with a

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1 resolution that would, a formal resolution
2 as opposed to one that's proposed here
3 tonight, present it to the members next
4 month, add or subtract comments to it and
5 vote on that formalized resolution at that
6 time. I have to be honest with the members
7 and the public, I'm uncomfortable writing a
8 resolution to this complicated question here
9 and now at this particular moment.

10
11 MR. TASKER: Mr. Chairman, can I
12 suggest that -- I sympathize with your
13 concern.

14 CHAIRMAN SALADINO: Thank you.

15 MR. TASKER: May I suggest a motion,
16 may I suggest a motion to the effect that it
17 is the sense of the Board that we should
18 write a resolution does the following, that
19 makes the following interpretation, and then
20 have something as you suggest to present to
21 the Board at the next meeting, we can argue
22 over the details, we can amend it, but then
23 we can go forward. Knowing what the sense
24 of this Board is, the only way we're going
25 to be able to draft a resolution of

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2 interpretation.

3 CHAIRMAN SALADINO: Arthur, that's a
4 great suggestion, the problem I see with it
5 just from listening here tonight a little
6 bit, that this is probably going to be a
7 split vote and the resolution is not going
8 to express the sense of the entire Board;
9 it's going to present a position and either
10 be agreed to or disputed by perhaps one, two
11 or three members or everyone, I'm not sure;
12 but I'll put it to my colleagues. What do
13 the members think?

14 MR. CORWIN: I'll go with Mr. Tasker's
15 suggestion.

16 CHAIRMAN SALADINO: Diana. I'll give
17 you a second. Ellen.

18 MS. GORDON: I think drafting something
19 with the intent to discuss it, in a way to
20 tabling the issue with the intent of having
21 a statement drafted.

22 MR. TASKER: What I'm suggesting is a
23 direction that the drafting is going to be
24 made for the further review before its
25 adoption.

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2 CHAIRMAN SALADINO: I'm personally
3 comfortable with that, but again I can't
4 speak for the rest of the members.

5 MR. TASKER: If we end up with a split
6 vote in either direction, we end up with a
7 split vote. I don't think we need to try to
8 do this in a way that would guarantee
9 unanimity.

10 CHAIRMAN SALADINO: No, that's not what
11 I'm saying. I'm not saying the vote tonight
12 -- what I'm saying is drafting a resolution
13 knowing that there's perhaps one, two, three
14 members that aren't going to agree with the
15 wording of that resolution just in my mind
16 makes it even harder to write the next
17 resolution; but I'm willing to do that,
18 willing to put that up for vote; are you
19 willing to write it, draft it?

20 MR. TASKER: I've got a problem because
21 I'm going to be traveling for ten days
22 immediately prior to the meeting. That's a
23 separate point. Let me suggest this: I'm
24 going to propose a motion that it is the
25 sense of the Zoning Board of Appeals that

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1 Section 150-18, the interpretation of
2 Section 150-18 is that it makes no mention
3 of the zoning districts in which it is
4 applicable, and further, that an examination
5 of each of the zoning districts within the
6 Village of Greenport indicates that
7 multi-family housing is not a permitted use
8 in any except -- and I would do it district
9 by district, but I'm compressing it in terms
10 of the resolution, of the sense of the Board
11 -- that multi-family housing is not a
12 permitted use in any of the districts in the
13 Village with the exception of R-2, where it
14 is a conditional permitted use under the
15 conditions of Section 150-18 which gives
16 150-18, which affirms that 150-18 does
17 indeed have a home. So I'll make that
18 resolution that that is the sense of the
19 Board.
20

21 MR. CORWIN: I second.

22 CHAIRMAN SALADINO: Just as a
23 discussion, so it's clear in my mind, this
24 is a draft?

25 MR. TASKER: Yes. To create a draft

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1 resolution that follows that sense.

2
3 ATTORNEY PROKOP: So the vote is not
4 the decision of the Board, it's only to
5 create this document which will then be
6 presented as consideration for the Board.

7 MR. TASKER: Right, for debate and
8 adoption or not.

9 CHAIRMAN SALADINO: This will be for
10 our next meeting?

11 MR. TASKER: Yes.

12 CHAIRMAN SALADINO: We had the motion
13 and we have a second.

14 MS. GORDON: Can I say something?

15 CHAIRMAN SALADINO: Yes.

16 MS. GORDON: I think the first part of
17 Arthur's resolution was fine. I feel that
18 the Section 18 doesn't give us any
19 guidelines to decide this question, and I
20 would stop there, so I would stop there; but
21 if everybody else wants to do it this other
22 way.

23 MR. TASKER: Procedurally, Dini, you
24 get another bite at that apple when the
25 formal resolution is present that follows

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2 that sense, you get a chance to state your
3 objection to the latter part again.

4 MS. GORDON: And to express my concern
5 about the way I think most of the rest of us
6 are defining multi-family.

7 CHAIRMAN SALADINO: The discussion will
8 be the discussion, you can raise any
9 question you want.

10 MR. TASKER: I shouldn't think we would
11 get into a debate again over what the
12 definition of a multi-family is.

13 CHAIRMAN SALADINO: I think by creating
14 a draft resolution, it leaves everybody the
15 right to rethink the issue.

16 MS. NEFF: Modify it.

17 CHAIRMAN SALADINO: Modify it, add a
18 comment, agree in total, disagree and
19 everybody's opinion will be expressed by
20 their vote.

21 MS. GORDON: Okay.

22 CHAIRMAN SALADINO: So we did, David
23 voted, Dini?

24 MS. GORDON: Um-hmm.

25 CHAIRMAN SALADINO: Yes. I'm voting

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yes. Ellen?

MS. NEFF: Yes.

MR. TASKER: Yes.

MR. CORWIN: We just had a roll call
vote; is that correct?

CHAIRMAN SALADINO: Yes.

MR. CORWIN: I just want to make sure,
yes.

CHAIRMAN SALADINO: I'm not sure I
understand.

MR. CORWIN: You didn't call my name,
and I didn't get the opportunity to say yes.
You didn't run down the names of the
members.

CHAIRMAN SALADINO: I apologize.
Should we vote again?

MR. CORWIN: Yes.

MR. TASKER: Call the roll.

CHAIRMAN SALADINO: Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

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CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: And Saladino, yes.

Item number 8 is a motion to adjourn.

MS. NEFF: So moved.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

MS. GORDON: Aye.

(Time noted: 7:35 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

) ss:

COUNTY OF SUFFOLK)

I, STEPHANIE O'KEEFFE, a Reporter and Notary Public within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the proceedings taken on May 16, 2017.

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 16th day of May, 2017.

Stephanie O'Keefe

STEPHANIE O'KEEFFE

ATTORNEY

PROKOP: [8] 24/8
55/10 55/14 55/19
63/6 63/9 64/11 75/2

AUDIENCE

MEMBER: [1] 68/8

CHAIRMAN

SALADINO: [135]

MR. BURNS: [7] 5/7
30/4 33/6 33/12 34/3
34/9 34/13

MR. CORWIN: [25]

3/9 3/21 4/5 37/19
38/9 47/3 48/2 49/11
56/3 57/15 57/21
58/3 58/7 65/9 66/6
66/14 70/11 72/13
74/20 77/4 77/7
77/11 77/17 77/20
78/7

MR. HORTON: [1]

5/5

MR. KAPPELL: [78]

4/24 5/9 9/16 9/20
9/25 10/5 12/8 12/15
12/19 13/9 13/14
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15/21 15/25 16/6
16/18 17/6 17/16
18/5 18/9 19/10
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30/2 32/19 33/19
35/5 36/7 36/13
36/17 36/20 54/8
58/15 60/2 60/5 60/9
60/20 69/9 69/17
69/22

MR. TASKER: [86]

MS. GORDON: [37]

3/11 3/18 4/2 4/7
4/13 18/17 25/16
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43/11 43/22 44/5
45/2 49/20 50/13
50/22 52/4 52/14
52/22 53/3 53/11
53/15 53/23 54/7
61/11 61/25 66/15
69/19 72/17 75/13
75/15 76/3 76/20
76/23 77/22 78/10

MS. HORTON: [1]

11/14

MS. NEFF: [15] 3/10

3/19 4/6 24/22 30/22
32/10 38/10 51/22
65/21 66/17 76/15
77/2 77/24 78/5 78/8

MS. WINGATE: [25]

13/24 24/7 24/18
24/23 25/4 37/3
47/16 51/9 54/11

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55/21 55/25 56/5
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67/19 68/11 68/18
69/2 69/4 69/15
69/24

'70s [1] 11/25

-----x [2]

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103-4 [2] 51/16 51/22

11 [1] 17/12

123 [1] 68/20

15 [5] 5/15 7/10

20/19 23/6 48/19

150-18 [38] 2/8 2/10

4/22 13/3 13/5 13/10

34/19 38/16 39/8

39/11 39/16 39/20

39/21 40/10 40/11

40/13 40/14 42/19

44/2 44/19 44/21

47/5 57/6 57/23

62/10 65/14 66/21

67/16 68/2 69/22

70/2 70/6 70/10 74/2

74/3 74/16 74/17

74/17

150-2 [1] 57/20

150-8b1 [1] 40/13

150-9 [2] 40/12 45/10

150-year-old [2]

55/10 56/21

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159 [1] 58/8
16 [2] 1/10 79/11
16th [2] 3/4 79/17
17 [2] 2/4 2/6
172 [1] 5/8
18 [41] 2/8 2/10 3/6
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