November 18, 2015 Regular Meeting

VILLAGE OF GREENPORT
COUNTY OF SUFFOLK STATE OF NEW YORK

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ZONING BOARD OF APPEALS
REGULAR MEETING

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Third Street Firehouse
Greenport, New York

November 18, 2015
5:00 P.M.

BEFORE:

DOUG MOORE - CHAIRMAN
ELLEN NEFF - MEMBER
DAVID CORWIN - MEMBER
JOHN SALADINO - MEMBER
DINNI GORDON - MEMBER
EILEEN WINGATE - VILLAGE BUILDING INSPECTOR
JOSEPH PROKOP - VILLAGE ATTORNEY
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* There were no Public Hearings for this Meeting.

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CHAIRMAN MOORE: This is the regular meeting of the Zoning Board of Appeals, November 18th. Looks like 5:07. That is the right time. We don't have any public hearings tonight. Just regular business before the Board.

As I mentioned, Item No. 1, we're going to place later in the agenda, as we're waiting for one of the members of the church to be here. So we can have a full discussion.

So the next item of business is No. 2, and it’s a motion to approve the findings, determination and decision document approving an area variance for Marta Thomas, 211 Bridge Street, SCTM #1001-2-2-10.1. The applicant seems a building permit for a new detached accessory building for a structure which has already been constructed. The property is located in the R1 Residential District. The accessory building is located 2 feet from the south property line requiring
an area variance of 3 feet for the rear yard setback. Section 150-13A(1.b) of the Village of Greenport Code requires a 5 foot setback from the rear or side yard lot lines. Before I put that motion to vote, I just want to mention on this one, the findings and determination is for me to sign, but I would like to thank Ellen Neff for officiating last month’s meeting, as I was absence. And I have caught up with all the dialogue for this determination and the variance was eventually approved by the Board. And with that in mind, the document was distributed.

Unless the Board has any questions or corrections with the document, I would make a motion to approve the document as presented. Could I have a second?

   MEMBER SALADINO: Second.

   CHAIRMAN MOORE: All in favor?

   MEMBER SALADINO: Aye.

   MEMBER GORDON: Aye.

   MEMBER NEFF: Aye.
CHAIRMAN MOORE: And I will abstain since I was not part of that process.

Any opposed or abstentions?

MEMBER CORWIN: I abstain. I haven't read it yet.

CHAIRMAN MOORE: So we have 3 Aye's and 2 abstentions. So that carries as well.

If there are any typo's in the document, we can certainly make it before I sign it. I should sign this tonight, if possible, as well as the other document.

And Item No. 3 is listed as a ZBA acknowledgment of a letter of determination from the Village Attorney returning an appeal for an area variance to the Building Inspector for issuance of a building permit for Jack and Jeffrey Rosa, 506 Main Street, SCTM # 1000-4-3-33. The applicant proposed to construct a second floor roof deck over a reconstructed preexisting
nonconforming mudroom/power room at
the premises located at 506 Main
Street. The ZBA determined that no
variance was necessary for the
proposed construction. The Historic
Preservation Commission approved the
plan and construction materials
submitted for review at the 9/14/15
meeting. I would just like to mention
that this is prepared as a decision
document and I will confirm with the
Village Attorney. I would assume that
we should make a motion to approve
this document, Mr. Prokop?

MR. PROKOP: Do you have a copy
of that?

CHAIRMAN MOORE: I believe.

MS. WINGATE: Here you go.

CHAIRMAN MOORE: I wasn't
certain if the document prepared was
going to be for determination or
decision and didn't know if it would
require Board approval.

MR. PROKOP: I'm sorry, what
was the question?
CHAIRMAN MOORE: I am just asking if we should make a motion to approve this document as it wasn’t a full findings and destination because it is not a variance appeal decision --

MR. PROKOP: My recommendation would be that you still make a motion.

CHAIRMAN MOORE: Very well. I will just make a comment that this is an accurate record of the different decisions and votes over several meetings for this application with the final determination made that the application did not require a variance and should be returned to the Building Inspector to issue a building permit. If the Board has seen the document, I would make a motion that we approve it and ask for a second?

MEMBER NEFF: Second?

CHAIRMAN MOORE: Any discussion?

MEMBER GORDON: I just think
that the sentence in the last paragraph, “John Saladino made a motion to return the application for a variance for construction of a second floor roof deck with a setback of .6 feet to the Building Inspector.” I think there should be an additional phrase that indicates the implications of it. We decided that there is no need for a variance. So shouldn't we be saying that return to the Building Inspector for -- I don't know, for the issuance of a building permit as no variance is required?

MEMBER GORDON: That is what I would suggest.

CHAIRMAN MOORE: Perhaps.

MEMBER GORDON: It just seems to me, without saying what the consequence of this is, it’s not as clear.

CHAIRMAN MOORE: Missing from this document are other discussions on the basis for returning it. So I think it’s a valid point to say at
least why it is being returned. Would you suggest the wording be then to the Building Inspector --

MR. PROKOP: The decision was exactly word for word from the minutes. And this Board -- if anybody has a different review of the minutes, I apologize. That’s fine. We can return it to the Building Inspector but it’s still up to her to issue a building permit.

MEMBER GORDON: So we could say consideration.

CHAIRMAN MOORE: For consideration, yes.

MS. WINGATE: Can you start that over from the beginning?

MEMBER GORDON: It’s the sentence that starts with John Saladino and ends with a setback of .6 feet to the Building Inspector for consideration --

CHAIRMAN MOORE: Of issuance of a building permit. And that might suffice because it’s up to the
Building Inspector to review the results and issue a building permit. I agree with the Village Attorney that we don't want to imply we're directing an issuance. Is that satisfactory?

MR. PROKOP: I just took this from the minutes.

CHAIRMAN MOORE: That’s fine. I reviewed it and it’s factually reviews all of the votes and the considerations made the way. Would the Board be prepared to vote on this document based on that correct?

MEMBER SALADINO: I would.

MEMBER GORDON: Yes.

CHAIRMAN MOORE: So again, I will ask -- I made the motion and I will ask for a second?

MEMBER GORDON: Second.

CHAIRMAN MOORE: All-right.

All in favor?

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.
Any opposed or abstaining?

MEMBER CORWIN: Nay.

CHAIRMAN MOORE: So that was 4 Aye’s and 1 Nay.

MEMBER NEFF: Mr. Chairman,

this is written so that I would be the one to sign it, but since we're reviewing it at this meeting --

CHAIRMAN MOORE: I can sign it. I read through the discussions. So I am aware and I can take part in that signature.

The next item is a motion to accept an application for an area variance and schedule a site visit and public hearing for Robert Moore, 139 Fifth Street. SCTM #1001-7-4-09. The property is located in the R2 District. The applicant seeks a building permit for a deck and a fence which have already been constructed. The deck is 9.5 feet from the south property line requiring a 20.5 foot front yard area variance. There is also Section 150-13B(2) of the Village
of Greenport code requires that on a
corner lot, front yards are required
on both street frontages. One yard
other than the front yard shall be
deemed to be a rear yard and the other
or others to be side yards. The
330 square foot deck increases the
total lot covers to 35.20% requiring a
lot coverage variance of 5.20%,
336 square feet. The existing lot
coverage is 30.25%, which includes the
existing house and garage. Section
150-12A of the Village of Greenport
code requires that one family homes in
the R2 District have a maximum
permitted lot coverage of 30%. The
existing 6 foot height in fence is
located within the required front yard
setback along the south and west
property lines. Section 150-B(2) of
the Village of Greenport Code requires
that on a corner lot, front yards are
required on both street frontages.
I have briefly looked over the
application. It seems to have all of
the required materials. Has the Board also reviewed this to determine that proper materials are present for this variance application? Any comments from the Board? We do have a signed authorization. We do have the variance request, which is signed by the representative. It is notarized with date including the year. And I believe everything else is here. Would the Board be prepared to accept the document for consideration?

MEMBER NEFF: I have one question. Quickly in looking at this, does this -- we don't know when this fence was constructed; is that right?

MS. WINGATE: It’s not more than five years old. It says the six foot fence has been in existence for a very long time. So you're saying --

MS. WINGATE: It’s not.

MEMBER NEFF: I didn't think so.

CHAIRMAN MOORE: Without the benefit of the building permit, it
makes the determination up to local
observation.

MS. WINGATE: There is very
little information that was submitted.

CHAIRMAN MOORE: I just want to
be sure that there is no other drawing
or document missing that would allow
us to properly examine this. So this
has a street on three sides. One
thing we will have to be sure of, we
have to understand which are the side
and front and rear yards if it can be
determined. One of the considerations
if variances are granted is that the
designation of the yard is fixed for
future issues on the property.

MEMBER CORWIN: So does that
mean it has three front yards?

CHAIRMAN MOORE: No, I think
the code defines which are the front
yards and then one becomes a side yard
and one becomes a rear yard. We will
have to examine the drawing because
we sort of have front yards and the
rear --
MEMBER SALADINO: I don't see a rear yard.

CHAIRMAN MOORE: There is a side yard to one side and we might have to consider -- there is three front yards designated apparently. So we will have to get an update on that before we go into discussions. I don't know if it will effect any of the determinations because clearly the front yard is designated down the side. That is best left for discussions following the public hearing.

MEMBER NEFF: Doug, I didn't understand what you just said.

CHAIRMAN MOORE: Okay.

MEMBER NEFF: The front yard is Fifth Street; right?

CHAIRMAN MOORE: Yes.

MEMBER NEFF: And this has been here since the 40’s. Somewhere from the lot of the beach park is --

CHAIRMAN MOORE: Okay.

MEMBER NEFF: Do we know that?
MS. WINGATE: No. I have very little.

MR. SWISKEY: All my life.

Sixty something years.

MEMBER NEFF: Then definitely the front yard is Fifth Street.

CHAIRMAN MOORE: Well, we will clarify that. We want to --

MR. PROKOP: If we are going to accept this -- my recommendation would be that we straighten it out tonight.

CHAIRMAN MOORE: Yes. In the interim before we bring it up is what you're saying?

MR. PROKOP: No, it has to be corrected before we accept it. There is a couple of things in the application that we seem to be in disagreement about.

CHAIRMAN MOORE: Okay. Well, since this is going to change. I would say let’s just not accept it tonight and ask for some determination of where these yards
That someone has to -- the owner has the discretion, I believe to declare the yards.

MR. PROKOP: Well, not the front yards. The front yards are the two street frontages --

MS. WINGATE: There are three street frontages.

MR. PROKOP: Yes.

MS. WINGATE: So I made it all front yards. The way the code reads, it says you get two front yards and you get to chose your back and your side, but I don't think that this works for this property.

MR. PROKOP: It doesn't. There are three front yards.

CHAIRMAN MOORE: You would have to deal with the property owner because there is an issue about the property corner as to whether that establishes a corner or not. In the code, a corner is defined by a certain degree of intersection of the streets.

So the issue of the corner lot in the
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1. back may be a moot point and it may require them to say that is the backyard and be done with it.
2. Obviously this isn't delaying and construction. So I think we can answer the owners to come back next month and have corrected drawings.

   MS. WINGATE: Can do.

   CHAIRMAN MOORE: And I don't think that we need to vote on that. Does the Board agree with all that?

   MEMBER CORWIN: I was willing to accept this and have it corrected before the next meeting.

   CHAIRMAN MOORE: Okay.

   Mr. Corwin has suggested that we could go ahead and accept it with the provision that they correct that issue prior to the public hearing?

   MEMBER SALADINO: No, the application has to be complete and correct and it’s not correct.

   MS. WINGATE: As far as what Doug said about a corner doesn't necessarily hold water in this
application because it’s not a corner.
It’s a road that happens to meander.
So the road --

CHAIRMAN MOORE: Well, why
don't we just sit on this and let you
figure that out and not be confused
when the hearing suddenly comes up and
we still don't know. Okay. Agreed
with the Board? Thank you for the
suggestion, Mr. Corwin, but I think we
will let the Building Inspector
resolve that before the hearing is
set. Okay. Is it clear what we want?

MS. WINGATE: No, not really.
I will talk to you.

CHAIRMAN MOORE: We will talk
about it.

MEMBER GORDON: I live around
the corner and I don't see how -- but
I live around a real corner, I don't
really see how a corner could be
designated in any non-artificial
way. It seems to me that it would be
quite artificial to describe this
curve as a corner. On the other hand
it might be varies part of the boundary here which is clearly on the -- on what is considered to be the second front yard.

CHAIRMAN MOORE: I am saying that it probably doesn't affect our business.

MEMBER GORDON: I just don't know what the correction is likely to be.

CHAIRMAN MOORE: The only issue will be that front yards do establish fence sites as the Board has previously discussed and that may have bearing on the results.

MR. PROKOP: I am not sure what is going to happen next because we have a turn down -- I think there is probably a couple of more variances that could be done.

CHAIRMAN MOORE: We're discussing the fence.

MR. PROKOP: I don't know if you want to tie up the meeting.

CHAIRMAN MOORE: We have time.
We're waiting for one item. So Mr. Prokop inquired about the number of variances required and I am just looking at the document here. We're looking at a lot coverage. That is an obvious one. We're looking at a setback of the preexisting deck from the front yard. And we're also looking at some issues on fences --

MS. WINGATE: That's correct.

CHAIRMAN MOORE: On the front versus the rear yard. Is there anything else?

MS. WINGATE: No.

CHAIRMAN MOORE: Okay. So we will just ask for that clarification before we move forward. Okay.

MEMBER CORWIN: When was the garage built? If the garage was built after '47 or '48 then you should have a variance; right?

CHAIRMAN MOORE: I assume. In a perfect world. Well, we will have to find out. You can review the permit file to see what is there.
MS. WINGATE: There is very little. This house has been in the same family for long time. There is very little information.

CHAIRMAN MOORE: Well, right now the garage is not in our review, I guess, other than contributing to the lot coverage. Now, should we move to Item No. 1, the Holy Trinity people are all present? Yes?

MEMBER GORDON: I think so.

CHAIRMAN MOORE: I think we should do that next.

I would like to review Item No. 1, which to remind everybody that it’s a discussion and possible action on the appeal for a use variance for Lydia Wells, warden of Holy Trinity Church, 718 Main Street, SCTM No. 1001-2-3-5. The applicant proposes to construct a second residential unit in an existing one family house in the R1 District. Section 150-7A(1) does not permit any building to be used in whole or part,
for any use except one family detached
dwelling, not to exceed one dwelling
on each lot. There was a ZBA site
inspection at 718 Main Street at 4:30
p.m. on August 19th. I think we
should spend a few minutes reviewing
the progress so far. I should mention
that this variance appeal is based on
a change in direction on the church’s
plans. Originally, a variance had
been approved for a second residential
unit, July 17, 2015 or earlier --
2013, I am sorry. And that was based
on the plan use that church staff
would occupy the two apartments to be
built in the single family dwelling.
And it was stipulated in the variance
that it was for use of Holy Trinity
church employees only. And there was
also a stipulation that the variance
would be terminated and the second
dwelling would have to be eliminated
if the parcel property was ever
separated from the church or sold for
private use. So that’s where we
stand. I was not present last month. I understand that the public hearing was closed, if Ms. Neff can confirm some of my comments, if I am not remembering. The other thing is that coordinated review that was required because this was an unlisted action elevated to a Type I because of the Historic District. That was concluded?

   MEMBER NEFF: Uh-huh.

   CHAIRMAN MOORE: Yes. And I guess there was some discussions revolving around the use of the property. I guess some discussions whether it was church use, religious activity or not. I don't know if you came to any conclusions on that.

   MR. PROKOP: No.

   CHAIRMAN MOORE: One thing that came up in our 2013 determination, which I was present for, was the federal code for religious land use and institutionalized persons act. I am
not sure if that acronym is
pronounced as a word but it’s RLUIPA.

Mr. Prokop had advised me by e-mail
that this act protects religious
activities and specifically addresses
land use and zoning law restrictions
on property use that religious
institutions do not share the same
burden as private properties do
regarding zoning code. The
complication and the discussion is
that this activity is -- I guess
considered -- would you say a -- what
RLUIPA rental activity not associated
with a church/religious activities?

Mr. Prokop if you could elaborate a
little bit?

MR. PROKOP: What RLUIPA does
is it precludes and prohibits land use
regulations from restricting religious
expression or freedom. And those
limitations are directly aimed at any
limitations on religious freedom or
expression or practice of a religion.

It’s generally not associated --
extended to income generated activities.

CHAIRMAN MOORE: Okay.

MR. PROKOP: In general.

CHAIRMAN MOORE: Perhaps I can ask one of the church representatives a question.

MS. MILLER: I am Lorraine Miller. I am a Co-Warden.

CHAIRMAN MOORE: Okay.

MS. MILLER: There was some recollection or discussion about the property tax issues of the church. Are you exempt from property tax?

MS. MILLER: No, we are not. We are being taxed right now.

CHAIRMAN MOORE: For the full property?

MS. MILLER: No, because -- it's in an unlivable state. I don't know how you would call that, but we do pay property tax.

CHAIRMAN MOORE: Would that relate to the residential part?

MS. MILLER: Of the rectory,
yes. Not of the church itself.

CHAIRMAN MOORE: Now, was that fixed in stone and permanent?

MS. MILLER: Well, see there was an article in the Suffolk Times a while back about the people that were living there. That was the sexton and they were wearing face masks and saying how unhealthy --

CHAIRMAN MOORE: Yes, I recall.

MS. MILLER: And I know Bob Scott from the Assessor’s Office and he called me up and says, “Lorraine, is this true?” and I said, well, yeah, I thought that was allowed. And he said it was not allowed. The only time it could be tax free is if you have a rector or a priest.

CHAIRMAN MOORE: That is what I was assuming.

MS. MILLER: And so we became on the tax roll. It’s only a lesser amount because it’s a lesser amount because when they came inside and
looked at it, it’s not liveable.

It wasn't like it was in a livable status. So they reduced the tax.

CHAIRMAN MOORE: I was just curious. That is my understanding from some of the discussions that I have heard. And the point is, I guess, if the minister or the rector church returned and occupied, you would then have a change in tax status?

MS. MILLER: We will have a priest come January, except he has a family home in Greenport. There is no need for him to live in there because he has his own home.

CHAIRMAN MOORE: The rental of that property and I guess the rental of that property to non-connected to the church residents would keep it in the taxable --

MS. MILLER: Correct. No doubt. And it would be up to value too.

CHAIRMAN MOORE: I am just
stating that as a basis for some of
our considerations because you know,
that has to be some discretion for
religious activities but then it gets
kind of complicated as to whether this
is directly related to religious
expression or not, and whether the law
would apply. So any discussion from
the Board or questions? Basically, I
think we have gone through most of the
discussions of factual basis and what
the intentions of the church are. We
have heard from the public and the
concerns. Does anyone have further
questions at this point?

  MEMBER CORWIN: Just to note
  that some of the neighbors did
  object.

  CHAIRMAN MOORE: Yes.

  MEMBER CORWIN: You were not
  here last month and some came back and
  objected.

  CHAIRMAN MOORE: During the
  public hearing commercial?

  MEMBER CORWIN: Yes.
MEMBER NEFF: The Building Inspector presented a sketch of all the properties in the vicinity of that area that showed various uses to two-family, multiple, commercial, hospital, etc. But yes, there were certainly some members of the public who have objected on that ground.

CHAIRMAN MOORE: Okay.

MR. PROKOP: May I say something?

CHAIRMAN MOORE: Absolutely.

MR. PROKOP: It’s hard for me to talk to the Board when I am sitting at the end. So at the last meeting, at the end of the meeting, it was suggested that a couple of the Board members could meet with the Village if they wanted to just discuss Zoning or --

CHAIRMAN MOORE: The Church Board members.

MR. PROKOP: Church Board members, I apologize. They had process questions because they just
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1 seemed not certain about the
2 process but nothing else. I just
3 wanted to mention that we did have two
4 of the representatives of the church
5 who did come to the Village Hall. I
6 was asked to attend. I attended it
7 with Mr. Pallas. And during the
8 meeting, we basically just showed them
9 the code section that they have to --
10 is the burden for them. The only
11 other -- one thing that was mentioned
12 at the meeting from them, there was
13 additional financial material shown to
14 us but I don't -- I said it has to be
15 shown to the Board, if you want -- it
16 is not really relevant for us. So I
17 don't know if they have it or it has
18 already been submitted. But the
19 only other thing that was mentioned
20 at the meeting that I wanted to bring
21 to the Board’s attention was -- we had
22 a diagram of the other two-family
23 properties in the vicinity. Whether
24 they are legal or not legal, I have no
25 idea. The other properties have two
families on them. But one thing came out which was relayed to us is that this property, I think is fairly proximate to the boundary of the R1-R2 districts, if I am not mistaken. I have not independently verified that but it was mentioned to me. I am not sure if that is correct or not. Then at the end of the meeting, I did mention to them because it’s definitely something that is on the table for us to consider is this RLUIPA discussion. You know, we have to at least be aware that that is around. Whether it applies in this circumstance, we have to decide. We had to at least be aware that it’s around.

CHAIRMAN MOORE: I think that’s an issue. It’s not clear cut in this case. But it has to have the assumption that income generated on the church’s property benefits the existence and the continuation of the church. As such, it’s not a direct
religious expression but it’s a support. The income was said not to go elsewhere. It’s going directly to the church. Coffers, if I understand.

MR. PROKOP: In a situation that I have come across before, as far as income, the situation where a religious place will build a hall and in the consideration of approval of a construction of a hall, there is a question about use. And then the possible use for catering of income events. It’s my understanding that generally that discussion goes towards, you know, members. It’s okay to generate income from members having parties, events but then to -- when you reach the point when a hall transitions into a commercial facility, that becomes a problem. That is really not a religious use or expression.

CHAIRMAN MOORE: That generated a lot of questions.
MEMBER CORWIN: It came up at the last meeting that the Greenport Episcopal Church, Holy Trinity didn't own that property the Diocese did.

MEMBER NEFF: Diocese.

MEMBER CORWIN: Diocese. Is there any information about that?

MR. PROKOP: I didn't review any documentation about that, no. I think that they would be considered to be applying as an agent of the church.

CHAIRMAN MOORE: And basically that doesn't really change the situation.

MR. PROKOP: I don't think so.

CHAIRMAN MOORE: Let's have questions first. Go ahead.

MEMBER GORDON: I wanted to know from members of the church are they planning to advertise, if this variance were granted, would they be advertising these rental properties on the open market? On the regular real estate?
MR. PROKOP: I think they're going to do whatever they need to do to rent it out.

MEMBER GORDON: So it seems to be that that suggest it’s a commercial enterprise.

MR. PROKOP: You would have to ask them, I am sorry. I don't know if they have friends involved.

MS. MILLER: At this point, we are just hoping to get the variance. It would be at least a year if --

MEMBER GORDON: But it wouldn't be necessarily members of the church who would be renting the space?

MS. MILLER: I can't speak for what the future holds. I'm sorry.

Eastern Long Island Hospital has approached us and heard that we were applying for a variance, and they were very interested because they had employees that were looking to move closer.

CHAIRMAN MOORE: Almost kind of raises the question that you can kind
of induce the residents-- future residents of the apartment to be church members and make a difference.

That is just a joke on my part.

MEMBER SALADINO: I am having a problem -- by the applicant’s admission that they're going to put it on the open market, I believe that was some place in this statement. I am having a hard time relating that to expression of religious freedom. I don't know how the two --

MR. PROKOP: I think that is correct.

CHAIRMAN MOORE: I think that allows us to step back a bit from the RLUIPA actual -- not that it doesn't apply.

MEMBER SALADINO: The other question that I would have for the attorney, does the proximity to another zone carry any weight?

MR. PROKOP: Well, it’s not controlling. You have to go through the balancing of the different
MEMBER SALADINO: Another question that I have is, can you give us a ballpark definition of financial hardship or what’s the other term -- reasonable return when it comes to commercial real estate? When it comes to residential rental?

MR. PROKOP: That is one of the threshold problems with this application because generally you are supposed to take -- you are not supposed to buy residential property and then claim that you can't get a proper return. It’s either residential or it’s commercial. Normally -- general rule is that you can't make that with a residential property. You can only make it with commercial. Commercial is basically the viability of the property. So in other words, the example that comes up all the time -- you bought a gas station and you're trying to get a variance to open a convenience store.
As a gas station you are losing money. If you get the variance to turn part of it into a market, then you will get a viable return. A few percent in this market. A few percent after your carrying costs.

CHAIRMAN MOORE: Understand that the way the code is written realizing reasonable return for all permitted uses at the property. And as residential property, that is very limited. And so it really boils down to the return for residential use and the way that I see it is, as a single or two family house that a two family requiring the use variance. In the financial, it just occurred to me, I think there was about a $12,000.00 difference between the one family versus a two family -- something like that.

MEMBER NEFF: That is roughly correct.

CHAIRMAN MOORE: Was there any change in tax levy that was factored
in that keeps you as the $12,000.00 margin --

MS. MILLER: Yes.

CHAIRMAN MOORE: Yes.

MS. MILLER: It goes to a full value. I don't know if it becomes two apartments but I know the tax -- he had said and I don't remember exactly, whether it was for one whole living -- you know.

CHAIRMAN MOORE: Okay.

Mr. Saladino was pointing out line items that were representing that.

MS. MILLER: I don't remember if Mr. Scott said it was for the two family or a one family home. We are not paying $8,000.00 presently but perhaps it would go up to that or somewhere in that ballpark.

MEMBER SALADINO: I have the annual increase would be $5800.00 over and above. $5815.00 over and above.

MS. MILLER: We are paying $2200.00 now. So over and above, it makes it that $8,000.00. It's
$2200.00 something now.

CHAIRMAN MOORE: I see.

Monthly and annually. Okay. So any other comments from the Board?

MEMBER NEFF: I think that we all do have the financial's. That all the numbers represent estimates. And that in the big picture, what we're talking about is a difference between it being used as a single family house and it’s use as a two unit. And that is the use requested. We granted this when we were considering it back in 2013 if they were church employees. And stated in our findings and determinations is that use is rescinded if it’s no longer used by the church. So the issue is, can this more flexible way of possibly taking a very substantial and usable building in the middle of its renovation and that the Diocese is requesting some certainty about it? Not just wanting to go ahead without a variance. So that is
our issue. Exact numbers are not
the issue, I don't think.

CHAIRMAN MOORE: As Ms. Neff
indicated, that property having been
granted a variance was considered not
an unreasonable increase in activity.
In other words, giving a use
variance. The property is diagonally
essentially across Main Street from
the beginning of the R2 District.
It's at the corner of the R1 District.
So again, that factor might have
influence. Additionally, the
improvements to the building are all
internal. Doesn't change the
building. And they're not apparent
whether it's a one family or a two
family besides increase parking, which
has been the case, it's available on
site.

MEMBER CORWIN: So what are you
saying because it's on Main Street,
it's okay --

CHAIRMAN MOORE: No, I am
saying that one influencing factor is
not afar from the R2 District, which doesn't automatically allow it but we have indicated there is some additional two family homes -- I forget what is the proximity of the other properties --

MEMBER SALADINO: More than 200 feet.

CHAIRMAN MOORE: Not any immediate but a few doors down and a few doors up. As well as a B&B.

MEMBER SALADINO: I am having a problem. The questions for a use variance are specific and there is no latitude. There is flexibility in them. They're either yes or no answers. And there is no gray area. The State doesn't allow for flexibility. And for me, one of the questions about realizing a financial hardship -- I have another question but that one especially, having bought investment property or being a landlord at times of my life. If I could buy a piece of property or own a
piece of property and the income from
that property -- the rent from that
property, paid my mortgage. Paid my
construction loan. Paid my taxes,
paid my utilities. Paid my heat.
Paid my insurance and at the end of
the year, there was revenue neutral,
it was zero out of my pocket, I can't
see that as a financial hardship.

MS. MILLER: Well, we have
less than $60,000.00 in a balance
fund. That is all we have left. I
know you're saying it's not a
financial hardship, people are --
people are leaving Greenport left and
can't --

MEMBER SALADINO: I can't think
about the trials and tribulations of
organized religion when it comes to
those five questions.

MS. MILLER: I mean, I didn't
buy the rectory and say that we're
going to make money on it. This is
what it has been.
MEMBER SALADINO: You are trying to pose -- and I come from a very religious family. So this is hard for me. You are trying to pose moral issues over legal issues. And I am having a hard time.

CHAIRMAN MOORE: Can I question to Mr. Prokop? In the case that we are more familiar with, area variances, that the questions, especially the last one which was a self created one, Number 5 on area variances. Overall the basis of the final decision to approve or disapprove is based on an overall consensus based on the questions. And is that the case on a use variance as well? That the questions drive a final decision but not necessarily enumerated mathematically?

MR. PROKOP: Not mathematically. I just wanted to mention that the thing that we have to keep in mind is that the considerations for a use variance are different. There are
four different considerations.

CHAIRMAN MOORE: Right. One of them being the reasonable return.

MR. PROKOP: Right. First is reasonable return. Second is that the hardship is unique and does not apply to a substantial portion of the neighborhood.

CHAIRMAN MOORE: That’s correct.

MR. PROKOP: The third is that the requested use variance if granted will not alter the character of the neighborhood. And then fourth, whether the alleged hardship was self created.

CHAIRMAN MOORE: Yes.

MR. PROKOP: One of the things that I would like to mention is that we did some findings in the 2013 decision. And there are findings on this.

CHAIRMAN MOORE: Yes, and I mentioned them earlier. And one of the considerations and I am not trying
to push this through is, the nature of the rental can also be controlled as to being a long term rental with little turnover. You know, basically a leased base. And again, the same provisions with subdivisions and change of management of the property could also prevent. But that would only come in the time of a motion. So would the Board be prepared to run the questions in the absence of any more discussion and make a determination?

MEMBER SALADINO: I only have one more question for the attorney as -- are the answers cumulative like an area variance or the way that I read the code -- the way that I read use variance if there is one no answer --

MR. PROKOP: I think that is right. No use variance shall be granted without showing the applicable zoning regulations created an unnecessary hardship and --

CHAIRMAN MOORE: I think it goes through each and every --
MR. PROKOP: Right. For each and every permitted use zoning regulations for where the property is located. So it’s more of -- stricter.

MEMBER SALADINO: And you also -- I am only asking these questions because I am having a hard time with this application. Moral/legal. You said there was additional financial information?

MR. PROKOP: Apparently there was.

MEMBER NEFF: We have this --
MEMBER SALADINO: I have that. I thought the attorney said there was additional information.

MR. POLLEO: Yes. The October updates and the cash flow and all the pledges, it continues to show that we are suffering losses. The church currently has a stewardship and trying to increase a number of pledges units. Basically we are on track to lose the same amount of money that was lost last year, even though the church has
reduced expenses by 30%. So at this
point in time, there are no variable
costs left. We have reduced personnel
costs. We have reduced the secretary
to part-time job. We have reduced the
sexton to a part-time job. Again, we
have reduced the costs to about a
third and are continuing to lose as
much money as we have lost last year.

MEMBER SALADINO: But no new
additional financial information as
far as the financial statements
concerning the building? The
construction costs?

MR. POLLEO: No. Just with
respect to the church as a whole.

MR. PROKOP: To the extent that
there is any increase shown in these
documents that they have given us and
it’s really slim. A very narrow
margin, but that narrow margin towards
flips positive -- it could be used
right now for a rental property.
Right now it could be used as rentals.
The question is how many units?
CHAIRMAN MOORE: Yes.

MR. PROKOP: And then there is if it goes to two units, that flips it positive.

CHAIRMAN MOORE: Okay. What is the pleasure of the Board at this point? Do you want to proceed with the formal determination and questions?

MEMBER NEFF: Yes.

CHAIRMAN MOORE: I know it’s an agonizing decision but we have to move forward on this.

MEMBER SALADINO: I am prepared to move forward. I am not sure that anybody is going to like my answers.

CHAIRMAN MOORE: That’s fine.

MEMBER CORWIN: We should get this over with.

CHAIRMAN MOORE: Okay. The questions, the first one, for a use variance, is that the applicant cannot realize a reasonable return provided that lack of return was substantial and demonstrated by competent
financial evidence. And I will poll
the Board and that is Mr. Corwin?

MEMBER CORWIN: First of all,
it’s difficult to answer yes or no to
some of these questions. I really
don't understand them. I will say
here, yes.

(Whereupon, the alarm sounded.)

CHAIRMAN MOORE: Just to
clarify, a yes answer means that you
agree that the applicant cannot
realize --

MEMBER CORWIN: No. I want to
tell you what my thinking is. The
applicant cannot realize a reasonable
return. All right. So my answer
would be no, the applicant can realize
a reasonable return as a one family
house. This is a residential property
and renting out a one family house can
realize a reasonable return.

CHAIRMAN MOORE: Okay. So
relative to the question as stated in
full under No. 1 are you answering yes
or are you answering no?
MEMBER CORWIN: Like I said, I can't understand the question. The applicant cannot realize a reasonable return. I am saying yes, the applicant can realize a reasonable return on a one family house.

CHAIRMAN MOORE: And that is among the permitted uses. I don't want to change your vote --

MEMBER NEFF: Can I just point out that the applicant is requesting two unit use. That is what their request is.

MR. PROKOP: Let's straighten this out.

CHAIRMAN MOORE: I think we're going over semantics here because --

MR. PROKOP: The first question is, the applicant cannot realize a reasonable return provided that lack of return is substantial and demonstrated by competent financial evidence. So the applicant cannot realize a reasonable return.

CHAIRMAN MOORE: And just
above, it says that the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located that. So we're making a determination that they cannot realize a reasonable return within the permitted use. Yes?

MR. PROKOP: So Mr. Corwin said, if I am not mistaken, that No, they cannot realize a reasonable return?

MEMBER CORWIN: My answer to the question is no. I stated that they can realize a reasonable return as a one family house.

CHAIRMAN MOORE: I understand your statement. So then your answer is no.

MR. PROKOP: Okay.

CHAIRMAN MOORE: Ms. Neff?

MEMBER NEFF: Yes.

CHAIRMAN MOORE: Ms. Gordon?

MEMBER GORDON: Yes.
November 18, 2015 Regular Meeting

1. CHAIRMAN MOORE: Mr. Saladino?

2. MEMBER SALADINO: I am going to vote no.

3. CHAIRMAN MOORE: I am voting yes.

4. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood?

5. Mr. Corwin?

6. MEMBER CORWIN: No, it’s not unique and it applies to all the other structures in the neighborhood.

7. CHAIRMAN MOORE: Ms. Neff?

8. MEMBER NEFF: Yes.

9. CHAIRMAN MOORE: Ms. Gordon?

10. MEMBER GORDON: Yes.

11. CHAIRMAN MOORE: Mr. Saladino?

12. MEMBER SALADINO: I am going to vote no, again.

13. CHAIRMAN MOORE: And I am going to vote yes, based on the fact that the property is unique and it’s different then the rest of the R1
residential structures, which don't come under the same.

No. 3, That the requested use variance if granted will not alter the essential character of the neighborhood? Mr. Corwin?

MEMBER CORWIN: My answer to that, is yes, it will alter the essential character of the neighborhood. And we have heard from several people in the neighborhood express concerns about overcrowding and that is a busy road right now.

MEMBER GORDON: Could you read it again, then I would then think he would be voting no.

MEMBER NEFF: I would too.

CHAIRMAN MOORE: Yes, I think it will not alter. It’s funny the way that these are worded. You answer no by disagreeing it will not. So it’s like a double negative. I think that represents a no vote. In other words a fail vote.

Ms. Neff?
MEMBER NEFF: Yes.

CHAIRMAN MOORE: Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRMAN MOORE: Mr. Saladino?

MEMBER SALADINO: Again, I am confused. I had written yes here, but what you just said contradicts that. I think it will alter the character of the neighborhood.

CHAIRMAN MOORE: So that is a no. It’s kind of a double negative. I would answer, yes, that it will not alter.

That the alleged hardship has not been self-created? Mr. Corwin?

MEMBER CORWIN: I would answer, yes, the alleged hardship has been self-created.

CHAIRMAN MOORE: That ends up being a no. The ways that these are written they come out being reverse. So if you agree that it is self-created, then it is a no.

MEMBER CORWIN: All right, so you want me to answer no, because this
is a self created hardship?

CHAIRMAN MOORE: Yes.

Ms. Neff?

MEMBER NEFF: Now you got me thinking.

CHAIRMAN MOORE: You're answering if it has not been self created?

MEMBER NEFF: Yes.

CHAIRMAN MOORE: Ms. Gordon?

MEMBER GORDON: I vote yes, and I would just like to say since other people are commenting on their votes, that I think we're talking about something that has been created by the declining congregation. And that seems to me totally out of the control of the applicants.

CHAIRMAN MOORE: Yes.

Mr. Saladino?

MEMBER SALADINO: I am going to vote, no. Just as a question, Dinni, what did you say?

MEMBER GORDON: That’s a good question. I said that, I would have
to vote, yes, because the applicants
are not the cause of the problem.
The cause of the problem is the
decline of the congregation, which is
happening to other congregations
also. We are in the middle of a shift
in the position of churches in small
towns and in particular this church,
in this building. It's a rectory
and the rectory no longer serves such
as sizable congregation. I don't
think that is the fault of the
applicant.

CHAIRMAN MOORE: Okay. And I
would answer, yes, on that. Now, I
would like to review the voting
because it is confusing. For the
reasonable return, the votes were
Yes-3 and 2-No. Meaning that passes.
That they cannot realize a return.
The voting is not totally
consistent.

MEMBER SALADINO: Can I
just --

CHAIRMAN MOORE: Yes.
MEMBER SALADINO: Are the first
two double negatives also?

CHAIRMAN MOORE: They appear to
be. You're agreeing that they cannot
realize a reasonable return by voting
yes, and you voted no. Meaning they
could.

MEMBER SALADINO: Okay.

CHAIRMAN MOORE: That was
clear. We had 3-Yes’s --

MS. WINGATE: Doug?

CHAIRMAN MOORE: Yes?

MS. WINGATE: Doug just asked
that you not vote on the last piece
until he gets back.

CHAIRMAN MOORE: Yes. I had
considered myself whether I should
vote or not and I had been through
most of these proceedings and felt
that I have an accurate understanding
of last month. So we're just
reviewing the vote again. We covered
the alleged hardship and that was a
pass 3-2. The variance will not alter
the character, that was again a pass,
3-2.

And lastly, the alleged difficulty was not self created and we agreed 3-2, that it was not self-created.

Mr. Prokop, I just reviewed the votes to clarify where we are. The different questions were passes, 3-2 across the board.

MR. PROKOP: Okay.

CHAIRMAN MOORE: Now we are required to raise a motion --

MR. PROKOP: You need to do SEQRA.

CHAIRMAN MOORE: I believe I can review that. That was handled last month due to the coordinated review. To review the results, it was a Type I question in the district and the voting was in agreement that it had no significant effect on the environment 4-0. So that the process could proceed. So let’s see if I can put together a motion, which then comes under the consideration of the
Board members whether to approve and that is a motion to approve the requested variance for rental of a -- conversion to a two family unit or rental to customers on the open market on the church property. I would recommend that the considerations of stipulations -- first of all be the same as the original variance that was granted in 2013. That the property, if it were ever separated from the church, the residential portion or sold for private use, that the variance be rescinded. That we are not restricting in the new resolution restriction of church employees only and I would also include in the motion and stipulations, that the rental would have to be on a long term basis. Namely more than 30 days and on a lease. Month to month continuing basis for tenants or residents.

MEMBER SALADINO: I am not sure that the ZBA is allowed to make that condition. I thought the variance --
MEMBER GORDON: We do it all the time.

MEMBER SALADINO: I thought the variance went with the land?

CHAIRMAN MOORE: Generally they do, but in this case, we would have a conversion of church property to private property and I am assuming that would be an allowable restriction for variance.

MR. PROKOP: You are allowed to impose any reasonable conditions.

MEMBER SALADINO: Land use?

MR. PROKOP: Yes. Right.

CHAIRMAN MOORE: Restrictions or conditions on use --

MR. PROKOP: So the question as to the rental, yes, you could limit it to a long term.

MEMBER CORWIN: That wasn't the question.

MEMBER NEFF: Or we could -- if it becomes sold, as the church decides to sell, then it is a single family house.
MR. PROKOP: And also if the property as a whole is transferred. It can only be -- the income from the rental has to go to the church only.

CHAIRMAN MOORE: Okay. Let me write these down.

MEMBER CORWIN: I have to note that the property is already divided from the church.

MEMBER NEFF: It’s what?

MEMBER CORWIN: The question is the ownership of the property.

MEMBER NEFF: Did you say that it was or was not?

MEMBER CORWIN: The property is already divided from the church.

There is two parcels.

MEMBER NEFF: No.

CHAIRMAN MOORE: That would be new information.

MS. MILLER: Only the rectory because that was taxed.

MEMBER CORWIN: Please let me talk. There is two parcels. There is a church parcel and then there is a
rectory parcel. They're divided. The ownership is questioned. If the ownership of the rectory changes, that is, if and when the church -- I don't want to use the word fail, but if and when the church can no longer support itself and they decide to sell the rectory on a private market, then the ownership changes.

CHAIRMAN MOORE: I understand what you're saying but I am thinking you are referring to the property as divided in a -- more of a descriptive. Are there two tax numbers for that property?

MS. MILLER: I don't believe so.

CHAIRMAN MOORE: I believe not.

MEMBER CORWIN: Then we have to start all over again because in the beginning my understanding and I asked that question in the beginning. If they were two separate parcels.

CHAIRMAN MOORE: I believe the discussions were consistent
throughout. I am just looking for a plot diagram. It has been published through our discussions as a single tax number, which doesn't mean that --

MEMBER CORWIN: We don't have a survey.

CHAIRMAN MOORE: We need --

MR. TASKER: If I may, if someone has a computer, the Southold Tax Map is accessible online at the Southold Town website. It will have each and every parcel whether it’s separate or not. So if someone has a computer turn it on.

CHAIRMAN MOORE: I am looking at the Village Zoning Map for the Greenport and it’s shown as a single parcel.

MEMBER CORWIN: But what you have to look at is the assessment roll for 2015 for the Town of Southold.

CHAIRMAN MOORE: I understand what you're saying and that’s a proper point but the question is -- it’s being clouded by the fact that the
parcel has been, you know, not
subdivided but a portion of the parcel
has been put on the tax roll map as a
percentage of the property. The
question is, there is no official
subdivision that I am aware of. So
that it’s not officially divided and
we need to confirm that.

MEMBER CORWIN: My
understanding from the first meeting
was that it was and I was under the
assumption that it was two separate
parcels.

MEMBER NEFF: In the findings
and determinations from July, 2013, it
doesn’t say that.

MEMBER CORWIN: Well, do we
have a survey? I am asking the
question, do we have a survey?

CHAIRMAN MOORE: I would ask
Mr. Prokop whether that’s a
significant issue in a determination?
I mean, it could effect the control
that a variance has over a
property.
MR. PROKOP: I think it’s very important.

CHAIRMAN MOORE: Do you recommend we simply table the final motion pending review of the tax map?

MEMBER SALADINO: How is it assessed?

MR. PROKOP: It’s one tax parcel. I think we have the tax map.

MS. WINGATE: I have plenty of tax maps. It’s one parcel.

MEMBER NEFF: And it’s also a place that we made a site visit. We have a diagram of the proposed floor 1 and floor 2 and egress, parking.

CHAIRMAN MOORE: But we don't have a survey of the parcel.

MEMBER NEFF: Right, but we never had one. We were there and we knew exactly what we were dealing with.

MEMBER SALADINO: I was just asking how they assessed you.

MS. MILLER: He said they were assessing the rectory. They were
going to assess that piece of property because it came out in the paper that there were people living in there that weren't priests. Clergy.

CHAIRMAN MOORE: I think we need to consider that this is a technical issue on how a determination and a stipulations of conditions might be affected by the question of whether it's a separate parcel or not and I think it would be proper to determine that and then be able to put a motion together when we know that. I agree with Mr. Prokop that that is a critical question.

MEMBER NEFF: What is the critical question? I'm sorry.

CHAIRMAN MOORE: As to wether the conditions that we might apply to a variance with the assumption that it's a single parcel, that in fact, if it were two parcels, it might change the control of that.

MEMBER NEFF: The only statement that we had if they were two
parcels -- there is no confirmation of that.

MEMBER SALADINO: We have the Building Inspector saying --

MEMBER NEFF: It’s one parcel.

MEMBER SALADINO: She has a tax map.

MEMBER NEFF: I have a tax map. We have had it from the beginning.

MEMBER SALADINO: You have a tax map?

MEMBER NEFF: Yes.

CHAIRMAN MOORE: That is the zoning map of the Village.

MEMBER NEFF: I'm sorry, it’s both. Do you see those lines?

CHAIRMAN MOORE: Yes.

MEMBER NEFF: And the numbers.

CHAIRMAN MOORE: It’s a single parcel.

MEMBER SALADINO: I believe the Building Inspector that it’s one parcel.

CHAIRMAN MOORE: Then I think --
MR. PROKOP: I don't know if that is going to affect Mr. Corwin's vote. He has to raise that as a question. If there was a misunderstanding that he has to raise that as an issue?

CHAIRMAN MOORE: I don't think -- over -- I don't know how many months, has there ever been an issue that this was two parcels. It has never been discussed openly and no one has ever indicated that question. I don't doubt your concerns --

MEMBER CORWIN: I specifically asked Ms. Well's when she was here because I was surprised. She said it was two parcels.

MS. MILLER: Well, we can't ask Ms. Wells. She's on a cruise ship. So I can't access her in any way to find out if this is what she stated.

CHAIRMAN MOORE: We can certainly find out and your tax bills, you can present those.

MS. MILLER: I will get a
letter from Bob Scott saying that.
Will that suffice?

CHAIRMAN MOORE: Mr. Prokop,
do you think that is sufficient to
delay a determination to clarify that
issue?

MR. PROKOP: I think what is
going to -- we are going to have to
adopt a written decision anyway. And
I think that there is enough of this
going back and forth that we should --
we should probably considering voting
on it and adopting a resolution on the
same night.

CHAIRMAN MOORE: Okay.

MR. PROKOP: It's not going
to go into effect until a decision
is --

CHAIRMAN MOORE: Is signed.

MR. PROKOP: I think what we
should all do tonight since it’s fresh
in our minds, is agree to the
conditions.

CHAIRMAN MOORE: Yes. What I
would do is take those discussions
from the Board to put together at
least the stipulations for a positive
determination. Following a
determination if positive. And I
think that would be the rental income
-- we are agreeing that it would be
rented in a motion. That the rental
income would be directly applied to
the church coffers.

MEMBER NEFF: Why does that
have to be part of our motion?

CHAIRMAN MOORE: The point of
it is that it’s going into the church
finances.

MEMBER NEFF: Why would it be
any other understanding that that is
the case?

CHAIRMAN MOORE: Just clarifies
it. We would also stipulate, I
believe, that the rentals would be on
a long term basis as defined by more
than 30 days, which is defined by the
code. That the -- any separate of the
property though subdivision or
converted through private use would
rescind the two family variance.

MR. PROKOP: So that includes any ownership change in either property --

CHAIRMAN MOORE: Either portion. The change of ownership, I would assume if it was changed from the church wouldn't effect the viability of the variance. But if the property was sold for private use --

MR. PROKOP: No, I think of any use. You could have any church come in financial circumstance --

CHAIRMAN MOORE: What would that change anything?

MR. PROKOP: Yes, because it’s a hardship.

CHAIRMAN MOORE: Okay. I don’t quite see that.

MR. PROKOP: Now we have legalized the use. What about changes in the size of the building?

CHAIRMAN MOORE: If the building in the future had alterations they would require area variances, I
assume. If the structure were
changed, that would totally be a
different issue. It wouldn't affect
the two family.

CHAIRMAN MOORE: You mean as
far as an addition?

MR. PROKOP: Right. Expanding.

CHAIRMAN MOORE: I think what
we have to do is I have to try and
hash out the stipulations and
circulate them to the Board because
the Board has to agree to them. It’s
really up to us to decide on what they
are.

MEMBER SALADINO: I have to be
honest, it won't affect anything. I
was under the impression from the
discussion and from the financial's,
that it was a separate parcel.

MS. MILLER: It’s always been
one. She might have misunderstood
that there was two buildings.

MEMBER SALADINO: For me it
was more that one parcel was being
taxed and one was not. As soon as I
heard one building was being taxed
and the church building itself
wasn't --

MS. MILLER: I can get a letter
from Bob Scott from my knowledge, we
would have to do everything to get the
subdivided. We didn't do anything.
We didn't do any of that. The
Town can't go and subdivide your
property without doing it.

CHAIRMAN MOORE: That would go
through the Village process.

MS. MILLER: Unless we were
notified and we never got anything.

CHAIRMAN MOORE: The Town
controls the taxes. That is beyond
the Village's determination but the
Village controls the use, the
occupancy.

MS. MILLER: I understand what
you're saying. I am under the
impression that it's one parcel.

CHAIRMAN MOORE: We will find
out. Southold Town unlike
Greenport, has a rule that if it's
under the same ownership that it
becomes one. But this isn't the case
of the Village and this isn't the
question that is being asked. So is
this agreeable to the Board?

MEMBER NEFF: My question is.
Approximately how long have you had a
tax bill from the Town of Southold for
the rectory?

MS. MILLER: A year.

MEMBER NEFF: One year. Any my
subsequent question, this is the first
time at this meeting and I have
actually been at all and I have read
minutes, and I can't tell you how
important --

MEMBER GORDON: They are very
well done.

MEMBER NEFF: Any discussion
whatssoever of it being two parcels. I
am sorry.

MEMBER SALADINO: It’s okay.

MEMBER NEFF: Having read them.
My third point, that we table this to
continue discussions at this meeting
to not to have a delay upon delay upon delay and to try and get all our ducks lined up. So we can proceed. Now we have raised some new issues. Let’s be very clear in what they are. And do we really -- are they substantial and do they prevent us from voting on the use variance. That is my question.

MR. PROKOP: We don't know what the conditions are.

MEMBER NEFF: We don't want the applicant to be in the dark as to what they are either.

CHAIRMAN MOORE: Well, one thing I need to ask too is, is it permissible -- if we agree to wait till next month to finalize and sign a document that day, is it permissible for me to circulate among the Board members the different conditions and get their feedback?

MR. PROKOP: Individually, yes. But you can't vote on it.

CHAIRMAN MOORE: No voting.

Just recommendations for stipulations
and changes to it, is that permissible without public eye? Because it would come up then as a proposal at the next meeting or the final discussion.

MR. PROKOP: It’s my understanding that that is acceptable. If I find out differently, I will let you know right away.

CHAIRMAN MOORE: We are not just going to go cold and come back next month with a new set of discussions.

MR. PROKOP: I just want to finish one point and to me this is very critical. What is happening in other churches and not any particular church, is that the churches are dividing their time. I am saying church, not to categorize any religion, but places of worship are dividing their time and basically subletting their time. So if you go there at 8:00 and 10:00, it will be one religion. If you go there at
2:00 it will be another religion or
Monday’s and Wednesday’s. Whatever
division is the sublease. And my
concern is, you analyze this and gave
relief based on an application of a
particular circumstances in that other
building. If there is any change in
that --

MEMBER NEFF: Are you talking
about the building as the church
itself?

MR. PROKOP: Right. That I
think that has to either end the
variance or revisit the variance. If
we end up with some other religion in
the other buildings, they have a
completely different set of financial
circumstances and the whole thing has
to be revisited.

CHAIRMAN MOORE: We would have
to revisit it, I would think.

Certainly --

MEMBER NEFF: Excuse me, you're
suggesting or what you are talking
about is that the Diocese or whatever
words I should use to describe this church is no longer of the owner of the church or that they lease out the church, but if they are still the owner -- I mean, right now the church is used by many organizations but not as far as I know, different forms of worship; is that right? I mean, I don't see how that has a bearing. As long as they own it and you are talking about their use of what was formally their rectory --

MR. PROKOP: That is the next thing that I was going to mention and another concern of mine is basically the ownership -- I don't think it’s relevant because they can turn the entire site into an investment property.

MEMBER NEFF: I don't understand.

CHAIRMAN MOORE: I think Mr. Prokop was referring to a change of use of the church property to nonreligious activities. That they
dissolve --

MR. PROKOP: Or a different church.

MEMBER NEFF: We are talking about this application and this building. We are talking about a use variance for this building. Now the church as a whole; correct?

CHAIRMAN MOORE: Well, it’s for a portion of the property.

MEMBER NEFF: It’s for a building. Not two buildings or three.

MEMBER SALADINO: The discussion is that this particular church is experienced -- at this particular moment in time is experiencing a hardship and some of us are basing our yes or no answers on that particular situation. If a different organization, I think -- if a different organization came in, perhaps in better shape financially, would we still consider this property the same circumstances --

CHAIRMAN MOORE: I agree with
that.

MEMBER NEFF: Excuse me. We're still talking about a particular building, which we have seen plans for that building, in which we have seen.

MEMBER SALADINO: We're moving on from that. We're expanding --

MEMBER NEFF: We're talking about anything could happen. And yes, but -- that is what you're basically saying. Anything could happen.

MEMBER SALADINO: Well, I --

MEMBER NEFF: Excuse me, John. We're talking about this structure --

MEMBER SALADINO: Absolutely.

And the way that you prevent problems from occurring down the line is that you address all repercussions. All the situations that can happen --

MEMBER NEFF: About this building.

MEMBER SALADINO: About everything. And if you address them now and if it ever happens, of it happens, you have an answer for it.
You have recourse.

MEMBER NEFF: For each variance, you have to come in and make your case based on something -- a concrete proposal. Anything could not happen as long as there is Zoning Board of Appeal and some place where determinations are made.

MEMBER SALADINO: I just think it’s better to be proactive then reactive.

MEMBER GORDON: Can a condition be written that it specifically names this church? Maybe even this particular church with a couple of these --

MS. MILLER: You keep talking about what might happen in the future. This property is owned by the Diocese. It might be deeded to us to run it. Whether we run it properly or run it into the ground because there is nobody to come to church anymore to support it, but it’s owned by the Diocese. So it’s not like, okay,
another church is going to come in here. Like the Roman Catholic Church is going to come in --

CHAIRMAN MOORE: I think it’s a valid point from what Mr. Prokop is saying. That if there was a change of operations, a new church, a new ownership, I don't think there should be any restrictions to say that only this church can inherit. That there would be a need to revisit the hardship question because that is a significant part. I think the question if it’s one religion or another, it would void the basis for the variance.

MS. MILLER: The variance is for Holy Trinity Church. If that church is no longer here, that variance is no longer needed. If that’s how you need to word it. It’s our variance. We're the one who is asking for it.

CHAIRMAN MOORE: And if the church created a bingo hall or
recreational hall or wedding reception center, that again would be the basis for loss of the variance.

MS. MILLER: Right.

CHAIRMAN MOORE: Let me ask the Board if we can agree that we will table this proceeding for final determination document that will be available next month for a vote. We have done most of the process but the final vote. Is that agreeable to everybody?

MEMBER NEFF: So you're saying that we will have a final vote and adopt a statement that will --

CHAIRMAN MOORE: The determination will be prepared by next month. I will reach out to the members individually for comments, but not votes. And I will work with Mr. Prokop to have a document on-hand that can be decided up or down. Is that agreeable to everybody?

(Non-Verbal Response.)

CHAIRMAN MOORE: And I
MS. MILLER: What do you need from me?

CHAIRMAN MOORE: We have to be in agreement that this covers all the basis. I would hope that we wouldn't have any more discussion.

MS. MILLER: What do you need from Holy Trinity next month so that there is no questions that can be raised whether this is one parcel, two parcels or six parcels? What do you need?

MEMBER SALADINO: Just to lock it up, perhaps that letter.

MS. MILLER: I will contact the Diocese. They were supposed to send one. I don't know if you received it or not.

CHAIRMAN MOORE: And perhaps, Mr. Scott, could reaffirm that manner for which the tax levy has been done?

MS. MILLER: I will give him a call.

CHAIRMAN MOORE: We will resume
next month. Do we need to vote on the table? I guess we should. I will make a motion to table the final decision pending preparation of the final determination document as we have discussed. I will ask for a second?

MEMBER SALADINO: Second.

CHAIRMAN MOORE: Any discussion?

(No Response.)

CHAIRMAN MOORE: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

That motion carries

MR. TASKER: (In Audible)

members, the questions and responses, will they be available for the public in advance of the next Zoning --

CHAIRMAN MOORE: Yes. I will print any emails back and forth and it’s basically to be sure that we have
added the appropriate restrictions
that we have discussed at this
meeting.

MR. PROKOP: I just want to
state for the record, that I am going
to review the guidelines from the New
York State Office of Committee and
Open Government regarding the process
that we discussed. Just to make sure
that they have a written decision that
would prohibit that. There are some
limitations that would -- I think it's
okay to circulate a document and to
have comments back for the next
meeting -- to be applied for the next
meeting but I will give you the
guidelines --

CHAIRMAN MOORE: You have to be
very careful with that, that it’s all
in view of the public and that no
decisions are made. All right. I
think we have moved on from No. 1 and
we have moved on to No. 5.

This is an item that comes up.
The ZBA has been included in the
distribution concerning SEQRA
Review/Coordinated review for wetlands permit submitted by John Costello, as agent for Greenport Shipyard. Located at 201 Carpenter’s Street. The basis for this discussion is that the ZBA could be an interested agent and we have the option of making any comments chose to make regarding the application, we would have to make a decision tonight if that is the case because I think the hearing is coming up in a matter of weeks before our next meeting.

MEMBER SALADINO: Really?

CHAIRMAN MOORE: When is the discussion of the hearing for the wetlands application coming up for the SEQRA Review?

MEMBER SALADINO: I thought --

MEMBER CORWIN: They have not scheduled anything. This is the first time we are hearing of it.

CHAIRMAN MOORE: Okay. We are not compelled to participate as
involved parties but we are listed as an interested party.

MEMBER CORWIN: Doesn't mean that we can't discuss it this evening but I don't think they have scheduled a hearing.

CHAIRMAN MOORE: I thought it was imminent. My recommendation is that we already have two members of the Zoning Board of Appeals on the Coastal Advisory Committee --

MEMBER CORWIN: Conservation Advisory Council.

CHAIRMAN MOORE: Sorry. Conservation Advisory Council. And there, I believe have made recommendations and there, we might reaffirm the recommendations that they have made.

MEMBER CORWIN: We have not even gotten any paperwork for that yet. We are just learning about it tonight.

CHAIRMAN MOORE: I assumed that that process was underway. Perhaps we
will wait for that process to occur.

My suggestion is that the CAC be involved in the direct discussion during the SEQRA review and coordinated review and that we would chose to affirm their recommendations or not chose to make comments.

MEMBER SALADINO: I have made numerus comments about this application for the record. And it was my understanding that anything that would be granted is on condition of certain testing and certain information. I don't think anybody should make any comments about anything until the results of those tests are made available to whatever statutory Board interested -- and what is it?

CHAIRMAN MOORE: Involved?

MEMBER SALADINO: Involved.

MR. PROKOP: Involved means that you are involved in the application. Interested means you are a citizen.
MEMBER SALADINO: So in this particular application, it would be the Board of Trustees and the CAC?

MR. PROKOP: Those are the involved parties.

MEMBER NEFF: Have they actually asked us?

MR. PROKOP: Yes.

CHAIRMAN MOORE: That is why I am bringing it up. And the CAC is advisory to the Board of Trustees. Perhaps I am jumping the gun. Perhaps we should wait till we see some new information.

MEMBER SALADINO: It’s my understanding that the Board would vote when it came before them. We have a trustee here --

TRUSTEE PHILLIPS: I am not going to comment.

MEMBER SALADINO: It was my understanding -- well, I don't want to say it wrong for the record. My understanding is that the Board would consider the application and grant the
permit conditionally when they got the
results of certain testing? As a
member of the CAC, I am not in
favor --

MEMBER CORWIN: That was Steve
Clarke’s right?

MEMBER SALADINO: John
Costello.

MEMBER CORWIN: Wait a minute.
What are we talking about?

CHAIRMAN MOORE: This concerns
the Phase II, I believe?

MEMBER SALADINO: No.

CHAIRMAN MOORE: I thought the
new --

MEMBER SALADINO: There is
no --

TRUSTEE PHILLIPS: In all
honesty, I don’t really understand why
it’s on your agenda. Okay.

CHAIRMAN MOORE: Okay. The
reason is, I was not able to print the
documents when I was reading them. So
I transcribed with what I thought I
understood. At some point, we have
been notified as an interested party.
As the other agencies have been.

MR. PROKOP: That’s right.

CHAIRMAN MOORE: Does it reference the Phase II of the project?

MR. PROKOP: I don't know.

MEMBER SALADINO: There is no application for Phase II.

CHAIRMAN MOORE: Well, it references some phase --

MEMBER SALADINO: Phase I.

CHAIRMAN MOORE: Perhaps we will just find out more information
and find out at a later date if we may or may not wish to comment. Is that agreeable to the Board?

MEMBER NEFF: I have a comment.

I am assuming that this is some rather large file and a bunch of things to look at, if this is a big project on the waterfront? Rather than in putting it in all our boxes, we could review it before a meeting.

CHAIRMAN MOORE: Apparently,
there is no meeting scheduled.

MEMBER SALADINO: You would be shocked at the lack of information with this application.

MEMBER CORWIN: I thought it was Hance Boatyard but John pointed out it was for Steve Clarke’s shipyard.

CHAIRMAN MOORE: I believe it was an e-mail distributed to us with very little information in it. I will copy it to the Board members. Perhaps we’re jumping the gun. That item can just rest. So then we have a few administrative items.

Item No. 6 is a motion to accept the ZBA Minutes for October 21, 2015. I will make that motion. May I have a second?

MEMBER SALADINO: Second.

MEMBER GORDON: There is a very small change. At the risk of being semantic, on the Page 20 it says $138.00 instead of $138,000.00.

Things like that. There is two of
November 18, 2015 Regular Meeting

1 those.
2 CHAIRMAN MOORE: We can just
3 request a correction for that. Prior
4 to accepting it next month, we can get
5 that correction.
6 (Whereupon, the court reporter
7 spoke.)
8 CHAIRMAN MOORE: Okay. So we
9 will ask for that to be clarified and
10 it may represent exactly what was
11 said, is what you're saying. Okay.
12 Very well.
13 We have a second, and if there
14 is no further discussion,
15 All in favor?
16 MEMBER CORWIN: Aye.
17 MEMBER SALADINO: Aye.
18 MEMBER GORDON: Aye.
19 MEMBER NEFF: Aye.
20 CHAIRMAN MOORE: Aye.
21 That motion carries.
22 Motion to approve the ZBA
23 Minutes from September 16, 2015. So
24 moved. Second, please?
25 MEMBER GORDON: Second.
CHAIRMAN MOORE: All in favor?

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

Opposed?

Abstained?

MEMBER CORWIN: I abstain.

CHAIRMAN MOORE: Mr. Corwin abstains.

Motion to schedule the next meeting for December 16, 2015. And that would include, not yet a site visit because we are clarifying those plans. Is that agreeable for everybody? So I would make that motion and ask for a second?

MEMBER GORDON: Second.

CHAIRMAN MOORE: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

That motion carries.
And motion to adjourn.

Second?

MEMBER SALADINO: Second.

CHAIRMAN MOORE: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

So moved.

(Whereupon, the meeting concluded.)
CERTIFICATION

I, Jessica DiLallo, a Notary Public for and within the State of New York, do hereby certify:

THAT, the witness(es) whose testimony is herein before set forth, was duly sworn by me, and,

THAT, the within transcript is a true record of the testimony given by said witness(es).

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

IN WITNESS WHEREOF, I have hereunto set my hand this day,

December 1, 2015.

Jessica DiLallo

(Jessica DiLallo)

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