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VILLAGE OF GREENPORT

COUNTY OF SUFFOLK : STATE OF NEW YORK

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ZONING BOARD OF APPEALS

REGULAR SESSION

-----X

Station One Firehouse

Third & South Streets

Greenport, New York 11944

6:00 p.m.

BEFORE:

JOHN SALADINO ~ CHAIRMAN

DINNI GORDON ~ MEMBER

SETH KAUFMAN ~ MEMBER

DAVID NYCE ~ MEMBER

JACK REARDON ~ MEMBER (absent)

All other interested parties

(The Meeting was Called to
Order at 6:02 p.m.)

CHAIRPERSON SALADINO: Good
evening, folks. It's 6:02 and
this is the Zoning Board of
Appeals Regular Meeting.

Item Number 1 is a motion to
accept the minutes of the
August 20, 2024, Zoning Board of
Appeals meeting. So moved.

MEMBER GORDON: Second.

CHAIRPERSON SALADINO: All in
favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And I
vote aye.

Item Number 2 is a motion to
schedule next Zoning Board of
Appeals meeting for October 15,
2024, at 6:00 p.m., Station One
Firehouse, Third and Center
Street, Greenport, New York 11944.

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So moved.

MEMBER NYCE: Second.

CHAIRPERSON SALADINO: All in favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And I'll vote aye.

Item Number 3 is 181 Fifth Street. Is this is a motion to accept the findings and determinations for 181 Fifth Street, LLC. This property is located in the R-2, One- and two-family district and is not located in the Historic District. The Suffolk County Tax Map Number is 1001-7-4-19. So moved.

Everybody read the findings?

MEMBER KAUFMAN: Yes.

MEMBER GORDON: Yes.

MEMBER NYCE: Yes.

CHAIRPERSON SALADINO: So

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moved.

MEMBER NYCE: Second.

CHAIRPERSON SALADINO: All in favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And I'll vote aye.

Item Number 4 is 218 Sixth Street. This is a continuation of a reopened public hearing regarding the application of Frank Uellendahl on behalf of Sandra Benedetto and Elizabeth Gertz.

The relief requested is on the agenda. The property is located in the R-2, one- and two-family district. It's not located in the Historic District and the Suffolk County Tax Map Number remains the same as 1001-7-2-4. Is there anyone from the public that would like to speak?

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2 MR. UELLEND AHL: Good evening
3 my name is Frank Uellendahl. I'm
4 on behalf of my clients, Sandra
5 Edwards (sic) and Elizabeth.
6 Anyway, I just want to introduce
7 my clients to you.

8 I'm very happy that you granted
9 the variance for the most
10 important part of our application,
11 which is the addition of -- for
12 the first floor addition to
13 improve the kitchen garden room
14 area.

15 What's left to be discussed
16 today is the deck extension. We
17 were trying to get an extension of
18 the existing deck of five feet and
19 there was a problem based on an
20 application, a building permit
21 application, back in the 90's,
22 which we're we were not aware of
23 that the building inspector
24 decided that the deck that was
25 supposed to be built, was supposed

1
2 to be set back five feet off the
3 property line.

4 For some reason the deck was
5 built and my clients received a
6 C of O for the deck as built. So
7 this is what we're here for.
8 We're going -- we would like to
9 basically settle this tonight.

10 There are a couple of other
11 designs that were in discussion,
12 but we really would like to get
13 back to the original design to
14 have you grant the five-foot
15 addition of the existing deck
16 close to the property line.

17 With that, I would like to
18 introduce Ms. Gertz who will get
19 more into detail with it. Thank
20 you.

21 CHAIRPERSON SALADINO: Thank
22 you.

23 MS. GERTZ: Thank you. Good
24 evening, Mr. Chair, members of the
25 Board. Elizabeth Gertz, 218 Sixth

Street, Greenport, New York.

I want to first raise some procedural issues that I would like to have clarified from both of the last two hearings. I will say that I contacted counsel, Mr. Stolar, that I intended to raise these issues and hoped we could talk. We were not able to. We did have a short e-mail exchanged, but the issues were not resolved.

So I would like to raise them now, in large part because they effect both the substance of the issues and, you know, what happens here ways basically, just not procedurally.

At the July 16th hearing, all of you, but Mr. Kaufman were here then. There was a tie vote to deny the variance with respect to the deck. At that time, we discussed numerous things. The

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chair asked the attorney what they did then and the attorney said it's a no decision and you will discuss it at next month's meeting and you will deliberate and you can still deliberate even if there's only four people here. If it turns out the other vote is a know, have you a three to one vote at that time. If it turns out the other way, you'll know what the vote is and you'll vote it in September and make the final decision then.

The Village ZBA, as I'm sure you know, governed by the Village Code and the Village Law. Village Law Section 7-712-A-13 provides voting requirements. 7-712-A-13-A provides that as -- except as provided in Subdivision 12 of this session, which pertains to rehearings, every ZBA motion shall require for its adoption the

affirmative vote of a majority of all the members of the Board of Appeals.

7-712-A-13-B goes on to provide that when an affirmative vote of a majority of the Board is not attained on a motion or a resolution to grant a variance, it is deemed a default denial.

13-B also expressly provides that such a failed motion may be reconsidered and amended without being subject to the rehearing process as set forth in Subdivision 12 of this section.

This is important because Subdivision 12 requires a unanimous vote to reverse a decision. Subdivision 13-B makes clear that that requirement does not apply when there's a default denial and a reconsideration. Not a rehearing, a reconsideration, which you can do at any time.

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2 So that's one thing I would like
3 to have clarified in terms of how
4 we're proceeding. Because at the
5 end of the last hearing, the Chair
6 stated that we needed a unanimous
7 vote of all members in order to
8 reverse the denial. So I'd like
9 to -- I'd like to understand
10 which -- you know, how we're
11 proceeding here on that.

12 Obviously -- and to be totally
13 transparent, you know, as you all
14 should know from the couple of
15 months that we've been here, we're
16 not likely to get a unanimous
17 vote. That's been sort of made
18 clear to us. But we might get a
19 majority vote and I'd like to have
20 that opportunity to have that vote
21 taken. So are there any questions
22 for me about that?

23 CHAIRPERSON SALADINO: I
24 don't have any questions. I have
25 a response, but I'm not sure if I

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should make it now or after we --
I'll be -- this Board is required
to go for training every year.
And in those training seminars,
it's been the policy of this Board
and the understanding of this
Board and from those people giving
that training seminar, that a
two -- two vote was a denial.
That's the policy of this Board.
I'm on this Board nine years.
Diana has been here --

MEMBER GORDON: A little
longer.

CHAIRPERSON SALADINO: -- a
little longer. David is a former
mayor. Seth's been on the Board
for a while. That's been the
policy of this Board.
Sometimes -- and I wouldn't say
this attorney, but we had a
previous attorney that worked in
other jurisdictions -- that this
Board doesn't have original

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jurisdiction.

If we had original jurisdiction and we were ruling on something like a site plan, a two-two tie just keeps going, it carries on. But a two-two tie, from our point of view, was always a denial.

When I spoke to our attorney about it, we weren't -- I wasn't sure -- I was sure of my position. I wasn't sure of his position and I thought it warranted a discussion later between him and I where since that time, since from when you quoted the minutes, we received and voted on the findings and determinations for your application.

And in the findings it's -- the variances for the front yard setback and shed side yard setback are existing conditions. The expansion of the dwelling and deck addition are enlargements.

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2 It's here somewhere. I have it
3 underlined here somewhere. As to
4 the deck with regards to the front
5 yard setback, shed setbacks,
6 addition to the house, they would
7 not interfere fear and we voted to
8 affirm that.

9 As to the deck, it's proposed
10 extended location would increase
11 and relocate -- I'm reading
12 from -- I apologize. I'm reading
13 from the balancing test, which I
14 have it here.

15 This position of application for
16 the reasons set forth herein, the
17 Board denies the variance
18 necessary to extend the deck. You
19 were here when we got these
20 findings.

21 MS. GERTZ: I would like to
22 respond to that at some point too.

23 CHAIRPERSON SALADINO: Also,
24 so as far as the findings and
25 determinations for that

1
2 particular -- before we reopened
3 the public hearing, before we
4 voted to give you an
5 opportunity -- to give the other
6 principal the opportunity to
7 consider the compromise that the
8 Zoning Board offered, as far as
9 this Board was concerned, that
10 issue was settled.

11 We had a unanimous vote to
12 reopen the public hearing for new
13 testimony from your partner,
14 perhaps from the architect.

15 At the following public hearing,
16 it was decided that there would be
17 no compromise and because there
18 was three members present and we
19 thought it would be fair to have
20 the majority of the Board here, we
21 postponed that hearing until...
22 But as far as the determination,
23 the application was denied.

24 MS. GERTZ: Yes, it was
25 denied. It was denied on a tie

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vote, which is called a default denial.

CHAIRPERSON SALADINO: No, I have the vote in front of me.

AUDIENCE MEMBER: Right, and the statute addresses that particular kind of denial in a very particular kind of way. It differentiates it. It differentiates it by saying it can be reconsidered.

The statute is pretty here clear as I read it. And especially if you read it in conjunction with the previous subsection, 13-A, which says every motion must be -- requires, prior to adoption, requires a vote of the majority.

CHAIRPERSON SALADINO: To be adopted.

MS. GERTZ: To be adopted. Well, there was no majority. That's why they have a default denial provision, which says --

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CHAIRPERSON SALADINO: But
there --

MS. GERTZ: -- says when
there's not a majority. There was
not a majority vote.

CHAIRPERSON SALADINO: There
was a quorum.

MS. GERTZ: There was a
quorum, but there was not a
majority.

CHAIRMAN FARLEY: Which means
that it failed.

MS. GERTZ: No -- yes, it
failed by default when it's less
than the majority. I wonder if
your counsel might address this
because the statute is very clear
that it says, in exercising the
appellate jurisdiction -- not
original jurisdiction --

CHAIRPERSON SALADINO: No, I
understand.

MS. GERTZ: -- but an
appellate jurisdiction. If an

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2 affirmative vote is not attained,
3 it's a default denial and may be
4 amended without being subject to
5 the rehearing process as required
6 in Subdivision 12.

7 That seems to be very clear that
8 what should have happened here is
9 that the hearing should have been
10 continued, which is sort of was,
11 and we should have had an
12 opportunity for another vote.

13 CHAIRPERSON SALADINO: Well,
14 let me ask you this: If this
15 Board -- because if you recall on
16 that Board, there was one
17 member -- there was one member
18 that didn't -- that was --

19 MS. GERTZ: Absent.

20 CHAIRPERSON SALADINO: --
21 reluctant to vote to have a
22 rehearing.

23 MS. GERTZ: It wasn't a
24 rehearing though. That's the
25 thing. That's one of the other

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things that I want to point out.
You reopened the hearing. This
was not a rehearing and that
brings me to the second issue.

CHAIRPERSON SALADINO: Just
if I could explain.

MS. GERTZ: Okay.

CHAIRPERSON SALADINO: We
reopened the hearing. We didn't
have to. We didn't have to reopen
that hearing. The vote could have
stood at two-two. You could have
claimed it's a default denial.

We understood it to be a denial.
It's in the findings and
determinations. And 62 days
later, without any more comment or
addresses from this Board, it
would have become an official
defile, not a default denial. And
as a courtesy to you, we reopened
the hearing.

MS. GERTZ: It wasn't just --
okay. It wasn't just a courtesy

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2 to me. There was more information
3 that the Board was interested in
4 having. They wanted the
5 Certificate of Occupancy.

6 CHAIRPERSON SALADINO: That
7 wasn't brought up until the
8 following month.

9 MS. GERTZ: It certainly one.

10 CHAIRPERSON SALADINO: No,
11 not at that meeting.

12 MS. GERTZ: Well, one of the
13 members stated that they wanted
14 the Building Department file to
15 see what was in it. The
16 Certificate of Occupancy was in
17 it.

18 You know that's actually not my
19 client though. My point is simply
20 that the statute requires
21 something that didn't happen here.

22 And the second point I wanted to
23 make was about the findings and
24 determinations, which, as you
25 noted at one point, can be

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2 extended. The time can be
3 extended. I had no idea when you
4 voted to accept those findings and
5 determinations that that covered
6 the deck as well. Because as far
7 as I knew, the issue of the deck
8 was left -- was reopened.

9 CHAIRPERSON SALADINO: I told
10 you that the findings, after we
11 voted and accepted them, could be
12 extended?

13 MS. GERTZ: No. You said
14 that earlier on at one point,
15 which is correct. That the time
16 to issue the findings and
17 determinations can, upon mutual
18 consent of the Board and
19 applicant, be extended. We
20 haven't didn't have an opportunity
21 to even ask for that.

22 And as I just said, I had no
23 idea that those findings and
24 determinations covered the deck
25 application because as far as I

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2 knew, at the July hearing, the
3 issued of the deck application was
4 reopened, not for a rehearing, but
5 for further consideration. And
6 that's why we came in with
7 additional evidence, including the
8 Certificate of Occupancy and
9 testimony from our neighbor.

10 VILLAGE ATTORNEY STOLAR:

11 Chair? Can I suggest we go into
12 executive session for legal
13 advice?

14 CHAIRPERSON SALADINO: I'll

15 put it to the Board.

16 MEMBER GORDON: Of course.

17 CHAIRPERSON SALADINO: Should

18 we adjourn to -- I make a motion
19 to adjourn into executive session.

20 MEMBER GORDON: Is it adjourn

21 though?

22 VILLAGE ATTORNEY STOLAR:

23 Well, we adjourn to a private
24 location for executive session and
25 then we'll come back into public

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session. So there's a motion.

MEMBER NYCE: I'll second the motion.

CHAIRPERSON SALADINO: All in favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

(Whereupon the Board went into executive session.)

CHAIRPERSON SALADINO: Folks, I'm going to make a motion that we exit the executive session and reenter the regular meeting. So moved.

MEMBER KAUFMAN: Second.

CHAIRPERSON SALADINO: All in favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And I'll vote aye.

Is there anything else?

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MS. GERTZ: There are a number of other things, but I guess I would like to hear if there's something relevant I should be told.

CHAIRPERSON SALADINO: There absolutely is something relevant. That we're going to, without assigning blame to anybody, we're going to reissue the findings with a correction.

And even though we followed the specific process for years, we're going to -- I'm searching for the word. I want to say acquiesce. --- we agree with our lawyer's, our attorney's advise.

I take blame for this. I reopened the public hearing with less than -- normally our process would have been just leave the public hearing closed and the decision the way it was. Since we reopened the public hearing -- it

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2 was pointed out to us, since we
3 reopened the public hearing, we're
4 going to continue with this public
5 hearing tonight and if there's a
6 motion for a discussion and a vote
7 on -- after we close the public
8 hearing, if there's a motion to
9 discuss and vote on this
10 application tonight, we'll do
11 that.

12 Acquiesce: Okay. I do have
13 a question. When you say you're
14 going to reissue the findings and
15 determination, what's going to
16 change?

17 CHAIRPERSON SALADINO: The
18 attorney will go over the findings
19 and determinations and make any
20 corrections. After the discussion
21 tonight, he'll make any
22 corrections on the findings that
23 he thinks is necessary.

24 MS. GERTZ: Can you be more
25 specific?

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MEMBER GORDON: -- a
separation of the issue from the
deck from the rest of it.

CHAIRPERSON SALADINO: I'm
responding to her question, what's
going to be different.

MEMBER GORDON: I was
thinking that the answer, as we
understood it from the attorney,
was that the issue of the deck
would be separated from -- simply
removed from the findings and
determinations because we haven't
made a determination that holds.

CHAIRPERSON SALADINO: Well,
I think it's -- are you prepared
to relitigate the house and the
shed and?

MEMBER GORDON: No.

CHAIRPERSON SALADINO: So I
think it just makes sense that the
issue that we're talking about is
the deck.

MEMBER GORDON: Yeah.

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MS. GERTZ: But it wasn't clear to me that that's what you were talking about. So you're saying the findings and determinations with respect to the deck will be removed from the findings and determinations that were issued on August 20th?

CHAIRPERSON SALADINO: That portion of the findings we're going to -- I'm going to leave it to our attorney to reword it. He's here. He's been part of the discussion. He was part of the executive session. He has access to the minutes. He was here for the meeting that we voted, and he'll draft the findings to reflect what's happened.

MS. GERTZ: All right but, you know, I'm sorry, it's a little vague and I want to know how we're proceeding. Are we proceeding now

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2 to reconsider the application on
3 the deck without any findings and
4 determinations made on it? Is
5 that the status of where we are?

6 CHAIRPERSON SALADINO: I
7 believe it is.

8 VILLAGE ATTORNEY STOLAR:
9 There was no effective
10 determination with regard to the
11 deck. That hearing is still open.

12 MS. GERTZ: Okay.

13 MS. BENEDETTO: I see.

14 MS. GERTZ: Okay, and then am
15 I correct in considering that we
16 are able to reconsider the
17 application for the deck without
18 the Section 12 requirements of a
19 unanimous vote?

20 VILLAGE ATTORNEY STOLAR: So
21 I'll be clear. The Board reopened
22 the hearing --

23 MS. GERTZ: Yes.

24 VILLAGE ATTORNEY STOLAR:
25 Rather than await the 62 days for

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2 a default denial. So the two-two
3 vote was a non-vote at the time.
4 Now, having reopened it, the Board
5 can consider it in the same manner
6 as an original application.

7 MS. GERTZ: Okay. All right,
8 so that leads me to want to go
9 back and, at least, summarize our
10 original request and the reasons
11 for it.

12 I will say that when the hearing
13 was reopened on August 20th, we
14 did bring in -- it was mostly and
15 for the purposes of the member who
16 wasn't here and may not have had a
17 chance to read the transcript --
18 but we brought in new evidence
19 including the Certificate of
20 Occupancy to address the issue of
21 legality of the deck and we had a
22 neighbor come in and testify on
23 our behalf.

24 And that next door neighbor,
25 Dave Kapel his name was -- is,

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2 came in and said, we have
3 absolutely no objection whatsoever
4 to their building a deck where the
5 existing deck is one foot off the
6 property line. We feel it would
7 be an improvement to the
8 neighborhood. The bottom line is
9 the house was built 100 years ago
10 effectively on the property line.
11 We bought the house with a
12 certificate -- we meaning
13 Ms. Benedetto and I -- bought the
14 house with a Certificate of
15 Occupancy, not only for the house,
16 but for the deck and relied on
17 that in making an investment.

18 So if you're suggesting that the
19 deck should be -- the C of O
20 should be revoked, you're actually
21 taking away and damaging us.

22 He further stated, add and I'm
23 quoting him because I've said
24 this, but he may have said it more
25 pointedly.

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2 The deck was, in a logical
3 manner, built as an extension of
4 the north side of the house.
5 That's what any rational person
6 would choose. Why this Board
7 would go against that when there's
8 nobody being damaged by approving
9 the application is beyond me.
10 We're the only ones that would be
11 adversely effected and we are in
12 support of it.

13 So the basis -- we are seeking
14 this extension for a number of
15 reasons and Ms. Benedetto will
16 want to say a few words as to her
17 personal needs for it. It is a
18 five-foot extension. It's a small
19 house. It's a narrow property,
20 but it's a long property. So even
21 extending this deck five feet, we
22 still have over 100 feet beyond
23 that.

24 The objections that were raised
25 in both hearings concerned such

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2 issues as it simply being too
3 close to the property line to be
4 reasonable. Also that it would
5 not give any relief to the
6 neighbors to have a deck so close.
7 But the neighbors came in and very
8 clearly stated they had no problem
9 with it. I don't know how any
10 harm could be done to the
11 neighbors who are, in fact,
12 supporting it.

13 And as to the question or the
14 issue or concern that was raised
15 as to future property owners next
16 to us, Mr. Kapel said, "We're not
17 going anywhere." But even if he
18 is, to think about -- I mean, to
19 think about what somebody 10, 15,
20 20 years down the road might think
21 about what we're doing does not
22 seem reasonable to me.

23 I don't know -- and in going
24 through -- I mean, you could say
25 that, you could say that about any

1
2 variance that anybody requested
3 that some years down the road
4 somebody is going to object to it.
5 I don't think that's on balance, a
6 reason to deny this variance.

7 I have a few other points and
8 then I'll stop. Okay, just to
9 address those sort of balancing
10 points. Two of the ones that were
11 not considered favorably by a
12 couple of the Board members, not
13 interfering with the neighbors
14 enjoyment. That's one of the
15 factors to consider.

16 This is not interfering with the
17 neighbors' enjoyment and we don't
18 know what will happen in the
19 future.

20 No adverse impact on the
21 neighborhood. I don't see how
22 this can have an adverse impact on
23 the neighborhood. Our neighbors
24 support it and recommend it. It
25 will improve our property. It

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2 will make our life better and it's
3 not going to hurt any of the
4 neighbors or the community. As
5 you know, this Village is filled
6 with houses close to the property
7 line. Many of them have extended
8 beyond and beyond and beyond, two
9 and three extensions beyond. So
10 they're nonconforming proximity to
11 the property line has been
12 continued.

13 We are asking to do that also.
14 And it is close to the property
15 line, granted, there's no dispute
16 of that, but this is a minor
17 extension. And as to whether a
18 deck versus --

19 CHAIRPERSON SALADINO: Can I
20 just interrupt one second?

21 MS. GERTZ: Yes.

22 CHAIRPERSON SALADINO: We're
23 not talking about an extension.

24 AUDIENCE MEMBER: Yeah, we
25 are.

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CHAIRPERSON SALADINO: No, we're not. We're not talking about a five-foot extension to the east. We're talking about the proximity to the property line.

MS. GERTZ: Yes.

CHAIRPERSON SALADINO: The five foot extension, as exhibited in part of the plan, is not in question.

MS. GERTZ: Right, the five-foot attention along the property line --

CHAIRPERSON SALADINO: No.

MS. GERTZ: -- that's what I'm saying.

CHAIRPERSON SALADINO: Well, I misunderstood because the plan calls for a five-foot extension to the east of the deck. To the east, not to the north.

MS. GERTZ: Yeah, along the property line. To the east, along the property line.

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AUDIENCE MEMBER: On the northern property line.

MS. GERTZ: Yeah, on the northern property line, but it's going to the east. I mean, I'm not sure. The deck is here and we want to add a little bit here (indicating). That's what we're saying. That's all we're saying. I mean, I have the original drawing if anybody wants to see it.

CHAIRPERSON SALADINO: Yes.

MS. GERTZ: Yes, you want to see it?

CHAIRPERSON SALADINO: No, we have it.

MS. GERTZ: Okay. But my point is, I mean, I don't think there's a dispute about which direction we're trying to extend it. And that we're only trying to extend it five feet. So I'm simply saying that that's a pretty

1
2 minor change and on balance of, I
3 believe, that the benefit to us
4 does outweigh the disadvantage to
5 any of our neighbors or the
6 community.

7 You know, and as to the matter
8 that it is your job to eliminate
9 nonconforming uses, well, it's
10 actually not your job to eliminate
11 nonconforming uses. If that were
12 your job, there wouldn't be any
13 variances granted. Your job is to
14 determine whether a variance or,
15 you know, a variance would be an
16 undue -- would lack of a variance
17 be an undue hardship for us.

18 You're not, as was stated at the
19 last meeting, an enforcement
20 agency. You are, you know, you
21 are essentially, as our Court of
22 Appeals have said, a safety valve
23 invested with the power to vary
24 zoning regulations in specific
25 cases in order to avoid

unnecessary hardship or practical difficulty arising from a literal application of the Zoning Law.

This would create practical difficulty for us if we had to change the design of this deck. We want simply to keep the deck in line with the house. We are not using up -- there's no issue of, you know, coverage. There's no issue of rather setback and there's no issue of the other side setback.

It's simply that we want to do this as it was logically done in the first place to extend it. The reason we want to extend it is because we are extending the house five feet, which you have already agreed we could do. So we're taking that five feet that we're losing from the deck and simply seeking to put it on the end of the deck again and have the same

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size deck.

That's our request here. Happy to answer any questions. If not, I think Ms. Benedetto would like to say a few words as well.

MS. BENEDETTO: Good evening. My name is Sandra Benedetto. I live at 218 Sixth Street, Greenport, New York 11944. So I'm just going to going to speak very shortly and just reiterate some things that I said the last -- at the last meeting. I was not at the first meeting because I was ill. I'd say again, you know, with COVID and illness we still don't have a full Board to speak to. I regret that.

But I just want to restate that the house is, they tell us, built in 1880. It was probably one of the first houses in the area. However the property was subdivided, we now find ourselves

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on the property line, inches from
the property line.

The deck was built over 30 years
ago. We do have a Certificate of
Occupancy for that deck. We
simply, as Betsy says, want to
extend it out.

But, you know, one of the things
that I want to point out, as I did
point out earlier, I'm a 70-year
old woman, aging. I'm having
difficulty with walking and
mobility and balance. It's been
suggested here, well, we could
just build step out the back of
our house to a patio. That won't
work for me. That is part of why
I want a deck. It will never work
for me to walk out of my house,
walk down four steps to a patio
with a platter of food to serve to
my guests. I need to just walk
out of my house and be able to be
at an area where I can feel safe.

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To us ask us to move the entire deck, and I heard you say earlier Mr. Saladino -- and, you know, I understand that the previous findings may be revised -- but that we don't have approval to extend the deck. But even the existing footprint, as I understand it, even the existing footprint of walking out and having five feet cover the back of the house has been, as I understand it, is being denied and I think that's unreasonable.

For me to open up sliding glass doors, as I said the last time, and step to the right and I step on the deck, but step to the left and there is a gap there because the house -- the house is where it is. I mean, we can't pick the house up and move it. It's been there for over 100 years just like this.

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2 So I just, again, want to, you
3 know, please ask you to consider
4 that. I don't think our request
5 is unreasonable. And I do think
6 it is not only aesthetic for the
7 design, but for me, you know,
8 safety in terms of not having to
9 walk down steps or walk -- or not
10 having to have a gap, you know, to
11 the left.

12 So, once again, I just want to,
13 you know, ask you to approve the
14 variance for the extension of our
15 deck along the property line to
16 the north and the extension is to
17 the east. Thank you.

18 CHAIRPERSON SALADINO: Just
19 one question.

20 MS. BENEDETTO: Yes, of
21 course.

22 CHAIRPERSON SALADINO: Did
23 you see the revised drawings that
24 the architect submitted to the
25 Board?

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MS. BENEDETTO: I did see those. I did see those. I'm not sure the whole Board saw them, but I do feel like I would like to go back again and revisit the fact that I do not want to have a gap.

CHAIRPERSON SALADINO: No, that's fine. I just wanted to know if you saw the drawings.

MS. BENEDETTO: Yes, of course. He's my architect. But we have not formally submitted those. I think you received them because you talked to the clerk. I'm not sure that the rest of the Board saw them.

CHAIRPERSON SALADINO: Well, I was asking if you wanted us to consider them and there was like no response. So we just.

MS. BENEDETTO: Okay. I did see them, yes.

CHAIRPERSON SALADINO: Okay.

MS. GERTZ: At the last

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meeting I did say we wanted to go back to the original plans.

CHAIRPERSON SALADINO: No, and that's fine. That's your right. It's your application. You fill it out and you make the request any way you want. I was just curious if you saw them.

MS. BENEDETTO: Yes, I'm aware.

CHAIRPERSON SALADINO: Is there anyone else from the public that would like to speak?

MS. NEFF: This is very high. Am I speaking...

CHAIRPERSON SALADINO: Ellen, we can hear you.

MS. NEFF: All right. I'm Ellen Neff. I live at 629 Second Street, Greenport.

I think the right meeting for me to have been at to say something was the July meeting, but I was at the August meeting, which was, in

1
2 a lot of ways, it was what it was,
3 a small gap.

4 Anyway I have lived at 629
5 Second Street since 1974. My
6 house, like 218 Sixth Street is
7 more than 100 years old and sits
8 on the north property line. When
9 I wanted to add a 14 by
10 16 one-story addition to the rear
11 of the house, my plan got a notice
12 of disapproval. What a shock.
13 What did I know about all the
14 regulations?

15 I lived in a street -- this is a
16 map of Greenport in 1878
17 (indicating). My house is on it
18 and it's clustered with other
19 houses. The zoning map comes to
20 be in 1971. There's going to be
21 -- and, yes, we have gotten used
22 to the fact that late -- you know,
23 when I served on the Zoning Board
24 of Appeals for almost ten years, I
25 learned that this kind of surprise

1
2 that oh, my God, look, I live in a
3 jurisdiction that has rules that I
4 didn't know about when I bought my
5 house.

6 However, such unique challenges
7 for owners, for the Building
8 Department and certainly members
9 of the Zoning Board of Appeals,
10 you work through them and you make
11 some kind of adjustments.

12 In my case it was very easy to
13 do. If I followed the what the
14 Zoning Board zoning regulations
15 said, my house would not have
16 connected to the modest addition.
17 Moving it over five feet, getting
18 the permission of the ZBA to have
19 a five-foot distance from the
20 property line, I could go on with
21 my life and I have gone on with my
22 life.

23 However Sandy and Betsy want to
24 make changes that are necessary
25 for their continued safe enjoyment

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2 of their property. What they want
3 to do is modest and in so many
4 ways, if we look around our
5 Village, it's exceedingly modest.
6 I urge the Board to grant them the
7 relief that they seek. The street
8 scape will not be changed. The
9 present owners, and I know that
10 they won't always be the owners of
11 the house next door, have no
12 objections. So that's -- my point
13 is, I urge you to grant them the
14 relief.

15 When I read just now, which I
16 had not seen before, the findings
17 and determination, I was like,
18 well, there's no way. But I think
19 there is a way forward because you
20 are reasonable people and what
21 they seek is a reasonable. Thank
22 you.

23 CHAIRPERSON SALADINO: Thank
24 you. Is there anyone else from
25 the public that would like to

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Speak?

(No response.)

CHAIRPERSON SALADINO: I'm going to make a motion that we close this public hearing.

MEMBER GORDON: Second.

CHAIRPERSON SALADINO: All in favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And I'll vote aye.

We have -- as everyone is well aware of, at this point in time, we have 62 days to make a decision. I think that's crazy. I think we should discuss this this evening and vote. That's my idea. Is that the pleasure of the Board?

MEMBER KAUFMAN: I agree.

MEMBER GORDON: Yes.

MEMBER NYCE: I agree.

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CHAIRPERSON SALADINO: I have a few comments I want to address almost immediately because you brought it up at the podium. The Zoning Board's mandate is the gradual elimination of nonconforming uses. That's in the code. It's in black and white.

The opinion that was given by a neighbor who was never a member of the Zoning Board, never served on the Zoning Board who has an opinion, which everyone does.

Part of Village Law also says that the Zoning Board, the exercise of its appellate power, it's not only our function to merely decide, but to, in fact, act as a building inspector. That's part of our role here.

So enforcement is part of all Zoning Boards, not this Zoning Board, all Zoning Boards' duties.

So I wanted to get that out of the

1
2 way that we were overstepping by
3 making these comments or bringing
4 that issue up.

5 A few of the comments that I
6 have is that -- it was brought up,
7 again, by a neighbor. The
8 neighbor testified that they have
9 no problem. For that particular
10 neighbor, the Zoning Board, since
11 it's a small town and since we
12 know a lot of people in town, as
13 you all do, we know that's
14 investment property for that
15 particular neighbor. That
16 neighbor doesn't live there.

17 So to say it's not an issue to
18 him, that very well might be true.
19 But the fact that of the matter
20 is, it makes a bigger difference,
21 in my mind, if someone came forth
22 and said I live there and it won't
23 bother me.

24 It was brought up that we would
25 be devaluing your property, there

1
2 would be a taking. In fact, my
3 opinion is that we enhanced the
4 value of your property. We
5 granted a new extension, a larger
6 extension to your home. I don't
7 see how that would devalue your
8 property.

9 We also gave you the option --
10 we didn't say you couldn't have a
11 deck. We just said you couldn't
12 have a deck right there. So you
13 have ample space to put a deck,
14 just not right there. I don't
15 know how that devalues the
16 property. I don't believe it
17 does.

18 My notes are disjointed because
19 I copy them as we go. It was
20 brought up that it's not a big
21 deal. Variances don't have the
22 weight of precedence, but they
23 should be consistent. In my
24 tenure on the Zoning Board -- and
25 so I'm guessing for David and

1
2 Seth, perhaps Dinni, since she
3 served prior to me coming to the
4 Zoning Board have seen -- but I've
5 never saw -- never saw this Zoning
6 Board issue a variance for an
7 accessory structure on a property
8 line. Never happen. Never saw
9 it.

10 So if we're going to -- there is
11 no precedent, but variance, as we
12 know, should be consistent.

13 MS. GERTZ: I'm sorry, I know
14 the public hearing is closed, but
15 I really need respond to that.
16 Because first of all, as is in the
17 record, it's not on the property.
18 It's a foot from the property
19 line.

20 CHAIRPERSON SALADINO: It's
21 .8 inches from the property.

22 MS. GERTZ: No, it is not.
23 It is 1.1.

24 CHAIRPERSON SALADINO: That's
25 the building.

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MS. GERTZ: Yes, and the deck --

VILLAGE ATTORNEY STOLAR:

It's proposed at ten inches from
the property line.

MS. BENEDETTO: Right.

VILLAGE ATTORNEY STOLAR:

Which is .8.

MS. GERTZ: The deck will
follow the line of the building.

CHAIRMAN FARLEY: If I could,
I allowed you -- you know, I'm not
sure we're going to open it up to
the public again, but if I could
just go through my thoughts for
the Board because this is our
discussion now?

So my system for granting a
variance, Ellen brought it up, it
was always my belief some members
of the Board take an interpretive
view. I look at the code and read
it the way it's written, and I
have a formula for moderately
tailored relief. That's how I do

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it.

I believe the deck would be an intrusion on the neighbor. It's elevated. It's unobstructed view into the neighbor's backyard, the side of their home. In fact, from our inspection, we saw that you even extended the side yard fence an additional three feet or so, which doesn't conform to code.

MS. GERTZ: It wasn't a fence.

MS. BENEDETTO: A trellis.

MS. GERTZ: It's a trellis on the deck.

CHAIRMAN FARLEY: It's a structure.

MS. GERTZ: It's a trellis to grow plants on.

CHAIRPERSON SALADINO: I don't want to get into a debate with you, but for the sake of a code, a trellis, a wooden lattice, is a structure according to our

1
2 code. And the side of the side
3 yard against fence, the structure,
4 can be six and a half feet.

5 So the next door neighbors
6 privacy does come into effect and
7 it is part of the balancing test.
8 The fact that the neighbor says
9 he's not going any place, how
10 often does this Board hear that?

11 We did offer two compromises to
12 the applicants. Both of them, in
13 my mind, were moderately tailored
14 relief. The later design that the
15 architect gave us allowed them to
16 have a deck elevated just five
17 feet from the property line. It
18 could have been as long as they
19 wanted. It fit his plan, he
20 designed it. It fit in his plan.

21 Both those compromises seem to
22 have been rejected. It's been
23 said that the deck has been there
24 a long time so somehow that makes
25 it legal. This Board nose that

1
2 the to be grandfathered to be
3 legal -- to be grandfathered at
4 all, it has to be legal to begin
5 with, which this deck is not.

6 We can go around; we can beat
7 around; we can circle around; we
8 can, semantics, the deck is
9 illegal as it stands now. It was
10 built outside the conditions of
11 the building permit. The CO says
12 that the CO was issued as per the
13 plans submitted. Those couldn't
14 be the plans that were submitted
15 because it didn't conform to the
16 building permit.

17 The CO becomes moot once you
18 tear the building down. Once you
19 add the extension and you tear up
20 the deck to build a new deck, the
21 CO becomes moot because any new
22 construction we know, while it's
23 preexisting nonconforming and we
24 gave you relief to build the
25 building, but once you tear the

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2 building down, it becomes new
3 construction and a new CO would be
4 required. So that CO becomes
5 moot.

6 If the CO perhaps was issued in
7 error, I believe -- I think maybe
8 the lawyer -- it doesn't prohibit
9 the Village from enforcing its
10 code. So the new addition was
11 given the variance. We made -- we
12 decided that it wouldn't impose on
13 the neighbor. It was indoor
14 space. It was an extension of the
15 building. It wouldn't impose on
16 the neighbors rights. The deck
17 would.

18 My opinion is that since the
19 last -- I want to word it that I
20 don't get in trouble in legal. We
21 had a public hearing. A vote was
22 taken. In my mind, we agreed to
23 reopen the public hearing to allow
24 the principals to discuss the
25 compromises that the Zoning Board

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2 offered and only those things. In
3 my mind nothing has changed from
4 the previous decision.

5 That's my opinion and unless --
6 you know, I'll kind of tip my hand
7 here -- unless my colleagues offer
8 something I haven't considered,
9 that opinion will probably be
10 expressed in my vote.

11 So that's what I have to say.
12 Is there -- Dave? Dinni? Seth?
13 Somebody?

14 MEMBER KAUFMAN: No, you
15 covered it.

16 MEMBER GORDON: I have some
17 comments.

18 CHAIRPERSON SALADINO: Sure.

19 MEMBER GORDON: I think a
20 number of factors have to be
21 weighed here. One is the reliance
22 of the applicants over a 25-year
23 period on the structure that
24 they've assumed would prevail if
25 they made changes.

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And another is the idea that the deck is an accessory structure. I don't see the deck as an accessory structure. I see it as, you know --

CHAIRPERSON SALADINO: You can't dispute the code.

MEMBER GORDON: All right, but in terms of thinking about how they make their existing house, what it was before, with a little bit of additional space and comfort, I just, it's hard for me to think of the deck as an accessory structure, but rather as an extension of what's now.

And the third something this larger question that Ellen was really bringing up, which is the sort of general accommodation that we need to make to these 100-year old houses and their modifications as we need more space and better kitchens.

And I think all of these things

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2 have to be weighed and they -- you
3 know, if the distance that they
4 wanted to extend it, this deck,
5 was greater, I would give less
6 consideration to the -- the,
7 consideration of whether their
8 house is really including the
9 deck.

10 I just feel as though these are
11 triple factors that cannot be
12 separated and that they're
13 combination makes it extremely
14 difficult to make a decision at
15 this point. And yet they need to
16 get on with their project. And it
17 just, when I look at how many
18 other projects we have or have had
19 that require much greater variance
20 from this than the standard that
21 the code sets, I think this is
22 really very minimal.

23 So I voted, as you know, in the
24 -- previously for granting this
25 variance and I will vote again to

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grant the variance.

CHAIRPERSON SALADINO: Okay.

Anyone else? Dave? Seth?

MEMBER KAUFMAN: No.

MEMBER NYCE: Yeah. A couple of thoughts. Oddly enough I agree with everything that's been stated. I take Dinni's point. I also live in a house that's right on the property line and I've looked into the possibility of extending the house. Part of owning an old house is also, as a homeowner, is you also have to compromise.

My feeling on this is, having seen the first set of plans, seeing the nonsubmitted amendment that Mr. Uellendahl put in and also understanding that -- also having been through the same thing where there's a C of O or not a C of O -- in this instance, if you follow what John said, the

1
2 building permit, the initial
3 building permit for that deck
4 states it should be five feet off
5 the property line. Ae C of O says
6 it's built according to the plans,
7 we don't know if it was altered
8 post. We don't know -- we have to
9 go with the paperwork that's
10 there. The paperwork that's there
11 indicates to me that that deck
12 should be five feet off the
13 property line.

14 So in my mind, if you go back
15 and if that had been the case,
16 your design and plan would be very
17 different. So I understand that
18 in the situation and position that
19 you are now, you'd very much like
20 it to be the way it is. I see it
21 more as just a design function.
22 It's not necessarily a hardship
23 that your sliding door doesn't
24 exactly line up in the middle of
25 your deck. That to have the

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2 portion of the deck that exists,
3 if you're not going to demolish
4 it, just any extension, what I'd
5 like to see is the compromise that
6 we not increase the nonconformity,
7 like, for a deck.

8 The other thing that I will
9 state is that a deck is used very
10 differently than a backyard. A
11 backyard is very much a passive
12 space. People who have a backyard
13 party, they tend to congregate on
14 a patio or a deck. So that deck,
15 to me, being where it is and the
16 on the property line, yes,
17 obviously, not with the current
18 neighbors, but in future could be
19 an imposition to the neighbor
20 that's next door because that
21 space is going to be used much
22 more actively than if it were
23 ground level and in the backyard.

24 All those things I would take
25 into consideration and think that

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2 there are compromises to be made
3 and the indication, to me, is that
4 the applicant is not interested in
5 any sort of compromise other than
6 the application that is submitted
7 initially.

8 MS. GERTZ: That's not quite
9 accurate.

10 MEMBER NYCE: Those are my
11 thoughts.

12 CHAIRPERSON SALADINO: The
13 one thing I'll add to David and
14 Dinni's comments is that when
15 the -- this Board voted
16 originally, we did a balancing
17 test and the balancing test, we
18 felt, as it related to the
19 extension of the house, we thought
20 that it was -- that we were in
21 agreement that the balancing test
22 that the detriment to the Village
23 was less than the benefit to the
24 applicant when it came to the
25 extension of the house.

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2 When we did the balancing test
3 for the deck, it was the opposite.
4 Four of the five questions -- I
5 have five of the five questions,
6 but I might not be reading one of
7 them right, the response, four of
8 the five questions, unanimously by
9 this Board, it failed the
10 balancing test.

11 So as -- we hear it from people
12 all the time, from friends and
13 from neighbors that it's not a big
14 deal. To some of us it is a big
15 deal. It's a precedence. Like I
16 said, there's no precedence when
17 it comes to the variances, but our
18 variances should be consistent.

19 Dinni, perhaps, she remembered
20 something that I didn't. I've
21 never voted on a variance to build
22 an accessory structure, be it a
23 deck, a garage, a shed, on
24 someone's property line. I think
25 it would be a mistake for this

1
2 Board to set that kind of policy
3 going forward.

4 MEMBER KAUFMAN: I would just
5 like to add, you know, the problem
6 I have with this is typically when
7 we legitimize nonconforming uses,
8 they're for things that were
9 created 100 years ago, 80 years
10 ago. No one knew what the rules
11 were.

12 With this we realize it's
13 something that was built in 1995.
14 Everyone knew what the rules were
15 at that point. The Zoning Code
16 was well established. That's my
17 biggest problem with this, it's
18 not the extent or whether the
19 neighbors like it or not. Let's
20 leave it at that. But ultimately,
21 we'd be legitimizing something
22 that should never have been there
23 in the first place.

24 MEMBER NYCE: You got a
25 point.

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MS. BENEDETTO: But we didn't realize that.

MEMBER KAUFMAN: I understand. It's not -- no one's assigning blame here. It's simply --

MS. BENEDETTO: But we're assuming the burden of it.

MEMBER KAUFMAN: Unfortunately, sometimes --

MEMBER NYCE: That's the case. That's the case.

MEMBER KAUFMAN: Sometimes these things are not --

MS. BENEDETTO: I just want to go on record that it's not that we are refusing compromise. I want to make that clear. We wanted you to give us a determination on the original plan.

The other plans were not formally presented and so now you'll vote, and we will have to

1
2 look at your vote, then we will
3 proceed with the construction of
4 our house and once we understand
5 what will happen there, we
6 probably submit another
7 application.

8 But I do not want for everybody
9 to be here saying that we will not
10 compromise. Those plans, I think,
11 were submitted for some review,
12 but I don't believe the entire
13 Board looked at those plans. So I
14 want to make sure. They we're
15 denied before it got to the Board.

16 CHAIRPERSON SALADINO: Part
17 of our job is to offer reasonable
18 compromise to the applicant. So
19 the fact that we did that, it kind
20 of sounds like -- it almost sounds
21 like someone might be upset with
22 us that we offered alternatives to
23 the original plan that would have
24 progressed the application to
25 fruition.

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MS. BENEDETTO: It's still unclear to me, and I've heard multiple people say, we deny the extension of the deck, but it sounds like you also denied the existing footprint of the deck to occupy the space where it is. And that is not a compromise. That if we were to leave the deck the way it is and then compromise in an extension, but it's unclear. I keep getting --

CHAIRPERSON SALADINO: I'll try to make it clear for you.

MS. BENEDETTO: Yes.

CHAIRPERSON SALADINO: According to the plans that you submitted, the deck right now and the existing extension to the house right now abut each other.

MS. BENEDETTO: Exactly.

CHAIRPERSON SALADINO: You're going to tear down the current extension to the house and extend

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that five feet, which means you're going to have to tear up five feet of the deck. You're going to have -- and from conversations with your architect is intentionally a little bit ambiguous, oh, it's just a five-foot extension. He admitted that they'll try to save the deck, but it will probably be ripped up. So we're not talking about a five-foot extension. We're talking about a few deck.

MS. GERTZ: But we offered to

keep it the same footprint --

CHAIRPERSON SALADINO: But

you can't.

MS. GERTZ: -- that it is.

CHAIRPERSON SALADINO: But

you can't.

MS. GERTZ: Of course we can.

CHAIRPERSON SALADINO: No,

you can't. According to the plans the architect submitted.

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MR. UELLEND AHL: John? John?

MS. GERTZ: You know, there's
a house under construction now --

CHAIRPERSON SALADINO: We're
not talking about anything, but
218 Sixth Street.

MS. GERTZ: No, but it's
comparable. Let me just explain.

CHAIRPERSON SALADINO: No,
no, no. You're architect --

MS. GERTZ: Well, then let me
just say that --

CHAIRMAN FARLEY: No, no.
Your architect submitted a plan to
extend the extension of the house
an additional three or five feet?

MR. UELLEND AHL: Five feet.

CHAIRPERSON SALADINO: Five
feet. Your deck can't be the
original footprint if you're
extending the house five feet into
the deck.

MS. GERTZ: Sure we can. We
just don't extend the deck any

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further than it is. We have a smaller deck.

MR. UELLEND AHL: Yes. We can do this, John.

MS. GERTZ: And I thought Mr. Nyce had suggested that was a possible compromise, which I offered before.

CHAIRPERSON SALADINO: The application that is in front of us now, if and when we vote -- well, we're reasonably certain.

MR. UELLEND AHL: But the application does not include to redo the entire deck. We are only going to go for a five-foot extension. We can save the footings and everything that's there.

CHAIRPERSON SALADINO: The deck, regardless -- regardless what you're intention is, regardless what your plan is down the road in the future, right now

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that deck is illegal. Right now.

MEMBER NYCE: What we're considering is the original application, which is what was represented.

CHAIRPERSON SALADINO: And again, the application that you gave us is what we're considering now. We did SEQRA. Brian, we don't have to do SEQRA again?

VILLAGE ATTORNEY STOLAR: You did it previously, but --

CHAIRPERSON SALADINO: We'll just do it.

VILLAGE ATTORNEY STOLAR: There's no change in the application effectively so you don't have to do it, but you can. You can do the same thing. It's a Type II action anyway. It's no --

CHAIRPERSON SALADINO: So I'll make a motion that the Zoning Board of Appeals declare itself lead agency for the purposes of

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SEQRA. So moved.

MEMBER NYCE: Second.

CHAIRPERSON SALADINO: All in favor?

MEMBER NYCE: Aye.

MEMBER GORDON: Aye.

MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And it's a Type II action. No further action is necessary.

We've gone through the balancing test more than once.

VILLAGE ATTORNEY STOLAR: You don't have to separately go through every element. What you spoke about tonight --

CHAIRPERSON SALADINO: I thought our conversation here covers it.

VILLAGE ATTORNEY STOLAR: Yes, it covers this.

CHAIRPERSON SALADINO: So we're going to vote on this application.

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2 I'll make a motion that the
3 Zoning Board of Appeals grants the
4 application, that part of the
5 application for the rear yard
6 deck. Am I getting that right?

7 VILLAGE ATTORNEY STOLAR:

8 You're make a motion to approve,
9 to grant, the relief requested for
10 the deck.

11 CHAIRPERSON SALADINO: I'm
12 making a motion to approve the
13 variance, yes.

14 VILLAGE ATTORNEY STOLAR: So
15 to have the deck be at the point
16 where it meets the house 13 inches
17 from the property line and then 10
18 inches from the property line;
19 that's your motion to approve?

20 CHAIRPERSON SALADINO:

21 Where's ten inches?

22 VILLAGE ATTORNEY STOLAR:

23 It's on the plan.

24 MEMBER NYCE: Yeah, it's on
25 the survey.

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CHAIRPERSON SALADINO: Oh,
the deck itself. The house is
1.1 feet and the deck is .8.

VILLAGE ATTORNEY STOLAR:
Correct, but you already made the
decision on the house. You don't
have to touch the house.

CHAIRPERSON SALADINO: The
house and the shed we don't want
to touch the house and the shed.

VILLAGE ATTORNEY STOLAR:
Okay, so your motion, which seems
to be contrary to your statements
earlier is to approve the variance
for the deck.

CHAIRPERSON SALADINO: It
would be contrary only if I vote
yes. If I vote no, then it's not
contrary.

VILLAGE ATTORNEY STOLAR:
Okay. Okay, all right. I don't
-- all right, fine. Got you.

MEMBER NYCE: So it would be
a motion to approve --

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VILLAGE ATTORNEY STOLAR:

Okay, motion to approve, fine.

You can do that.

CHAIRPERSON SALADINO: Do you want me to make the motion in the negative?

VILLAGE ATTORNEY STOLAR: No, you can do it any way you want. You can do it any way you want.

CHAIRPERSON SALADINO: You're --

VILLAGE ATTORNEY STOLAR: No, it doesn't matter. I just wanted to clarify it. I thought you were going to go in the other direction. I did not realize you would start out in that path. It's fine.

MEMBER KAUFMAN: Can the Board reply in the negative?

MEMBER NYCE: I'll second John's motion.

CHAIRPERSON SALADINO: All right, we'll take a vote. I'm prepared to vote I vote no. Seth?

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MEMBER KAUFMAN: No.

CHAIRPERSON SALADINO: Dinni?

MEMBER GORDON: Yes.

CHAIRPERSON SALADINO: David?

MEMBER NYCE: No.

CHAIRPERSON SALADINO: That's
it.

MEMBER GORDON: That's a
majority.

MS. BENEDETTO: So it
resulted in --

VILLAGE ATTORNEY STOLAR:
You're not done. So you have to.
It's in the negative, like Seth
said --

MEMBER KAUFMAN: I warned
you.

VILLAGE ATTORNEY STOLAR: So
you denied the -- okay,
technically you're done.

CHAIRPERSON SALADINO: Okay,
right now the findings will be --
the decision --

VILLAGE ATTORNEY STOLAR: You

1
2 know what, just thinking about it,
3 because there was another version
4 of the plan that was posted on the
5 Village website and considered by
6 the Board, I feel more comfortable
7 if you complete the process and
8 make a motion in the opposite
9 direction to the contrary.

10 CHAIRPERSON SALADINO: To
11 deny the deck?

12 VILLAGE ATTORNEY STOLAR: To
13 the deny the deck.

14 CHAIRPERSON SALADINO: Okay,
15 that's not usual and customary,
16 but we'll do that. We'll do that.
17 Whatever makes it easier for
18 judicial review. We want a
19 complete record and in case
20 there's judicial review, we want
21 to dot all the I's and cross all
22 the T's. So I'll make a motion
23 that the Zoning Board of Appeals
24 denies the variances for the deck.

25 VILLAGE ATTORNEY STOLAR:

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Yes.

CHAIRPERSON SALADINO: So
moved.

MEMBER KAUFMAN: Second.

CHAIRPERSON SALADINO: Again,
we'll do a rollcall. I vote yes.
Seth?

MEMBER KAUFMAN: Yes.

CHAIRPERSON SALADINO: Dinni?

MEMBER GORDON: No.

CHAIRPERSON SALADINO: David?

MEMBER NYCE: No.

CHAIRPERSON SALADINO: So let
it be said; so let it be written.

MS. BENEDETTO: So this is a
denial of --

CHAIRPERSON SALADINO: One
second. Just let me get it on the
record for the stenographer.

MS. BENEDETTO: Sure.

CHAIRPERSON SALADINO: The
determination -- this Board's
determination on the vote will be
in the clerk's office within five

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2 days as described by code. The
3 decision will be there in
4 five-days. It will be there for
5 the clerk in five days. The
6 findings we'll vote on next month.

7 To proceed with this, you'll get
8 a building permit from the
9 Building Department for
10 construction of the addition. And
11 as I noted right now, this deck,
12 as it is right now, is illegal
13 regardless of the CO or the --

14 So having said that, any members
15 -- any member have any comments as
16 far as that?

17 MEMBER GORDON: Irregardless
18 of -- you said regardless of the
19 CO and regardless of 26 years of
20 reliance.

21 VILLAGE ATTORNEY STOLAR: I
22 would leave --

23 CHAIRPERSON SALADINO: The
24 portion I'll bring out -- I'll
25 point out to you again Diana, is

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2 that, to be grandfathered, even
3 those it's there 26 years, it has
4 to be legal to begin with. That's
5 my comment to Diana.

6 MEMBER GORDON: Yes.

7 VILLAGE ATTORNEY STOLAR:

8 Right, and the Building Department
9 can deal with that.

10 CHAIRPERSON SALADINO: That's
11 a Building Department issue.

12 VILLAGE ATTORNEY STOLAR: Yes.

13 CHAIRPERSON SALADINO: Item
14 Number 5 is any other Zoning Board
15 of Appeals business that might
16 properly become before this Board?

17 (No response.)

18 CHAIRPERSON SALADINO:

19 Hearing none, Item Number 6 is a
20 motion to adjourn. So moved.

21 MEMBER NYCE: Second.

22 CHAIRPERSON SALADINO: All in
23 favor?

24 MEMBER NYCE: Aye.

25 MEMBER GORDON: Aye.

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MEMBER KAUFMAN: Aye.

CHAIRPERSON SALADINO: And
I'll vote aye. Thank you.

(Whereupon, the meeting was
concluded at 7:23 p.m.)

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C E R T I F I C A T I O N

I, REBECCA WOOD, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

THAT the above and foregoing contains a true and correct transcription of the proceedings.

I further certify that I am not related, either by blood or marriage, to any of the parties in 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 3rd day of October, 2024.



REBECCA WOOD