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ZONING BOARD OF APPEALS 12-19-17 1

VILLAGE OF GREENPORT

COUNTY OF SUFFOLK STATE OF NEW YORK

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ZONING BOARD

REGULAR MEETING

-----X

Third Street Firehouse
Greenport, New York

December 19, 2017
5:00 p.m.

Before:

CHAIRMAN SALADINO

MEMBER CORWIN

MEMBER GORDON

MEMBER NEFF

MEMBER TASKER

VILLAGE ATTORNEY

Joseph W. Prokop

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I N D E X

Item No. 1

Motion to accept the minutes of the
November 21, 2017 ZBA meeting.

PAGE: 5 - 7

Item No. 2

Motion to approve the minutes of
the October 17, 2017 ZBA meeting.

PAGE: 7

Item No. 3

Motion to schedule the next ZBA
meeting for January 16, 2018 at 6:00 p.m.
at the Third Street Fire Station,
Greenport, New York 11944.

PAGE: 7 - 8, 128 - 132

Item No. 4

Discussion and possible motion on
the recommendations to be directed to the
Planning Board of the Village of Greenport

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regarding the application of the Landmark Group, for the property located at 222 Manor Place.

SCTM# 1001-2.-2-411

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Item No. 5

Motion to accept an application, schedule a public hearing, and order a site visit for the application of Alexander and Isabel Iwachiw, represented by Michael Iwachiw. The application is for an area variance for a property located at 177 Sterling Street, Greenport, NY 11944. This property is located in the Historic District, and the application is schedule to come before the Historic Preservation Commission of the Village of Greenport on January 8, 2018.

SCTM# 1001-3.-4-15

PAGE: 16 - 29

Item No. 6

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Discussion and possible motion of
the variance application of the Miller
Family 2012 Irrevocable Trust for the
property located at 424 Fourth
Street, Greenport, NY 11944
SCTM# 1001-6.-8-18.1

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Item No. 7

Motion to Adjourn.

PAGE: 133

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CHAIRMAN SALADINO: Folks, this is the Village of Greenport Zoning Board of Appeals Regular Meeting. Item number one, motion to accept minutes of the November 21, 2017 ZBA meeting. So moved.

MEMBER NEFF: Second.

MEMBER GORDON: I have something I wanted to point out about the meeting. First of all, I want to thank -- I think we just lost, is it Stephanie? I want to compliment her and your organization for doing the minutes because it must have been much harder to do them from the transcript than to do it from our real performance here.

MEMBER NEFF: The transcription of it.

MEMBER GORDON: So thank you very much. So there are -- they are little nit picky things, but one of them is important

1 because it is a mistake concerning a vote.

2 On page 136 there is a word,
3 "colloquy", which is applied to my
4 colleague, Ellen Neff. She is not a
5 colloquy. Although she may engage in one.
6 She is a colleague. So that should be
7 edited.
8

9 And on page 158 a mistake that some
10 students I used to have made all the time.
11 The word used was, "statue". And it should
12 be statute. It is about a law.

13 On page 165 the word, "nose", is in
14 the minutes rather than noise. Which was
15 a concern about the landmark application.

16 On page 178, there is a peculiar
17 thing. It says, "Andy nay". There is no
18 Andy on the board voting yea or nay. So I
19 just -- I know these are little silly
20 things but I would just like to get it
21 right.

22 As I said, I am so glad that the
23 task of these hundreds of pages was done so
24 well. I want just want it to be perfect.
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That is my comment.

CHAIRMAN SALADINO: Are we going to accept the minutes with the corrections?

MEMBER TASKER: So moved.

CHAIRMAN SALADINO: All in favor?

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: Opposed?

(No response.)

CHAIRMAN SALADINO: Item number two: Motion to the approve the minutes of the October 17, 2017 ZBA meeting.

So moved.

MEMBER GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: Any abstentions?

MEMBER CORWIN: Abstain.

CHAIRMAN SALADINO: Four yes and one

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abstention.

Item number three: Motion to schedule the next ZBA meeting for January 16, 2018 --

Do you want to have this discussion now or do you want to schedule the meeting?

MEMBER CORWIN: Let's start with the motion for now.

CHAIRMAN SALADINO: Motion to schedule the next ZBA meeting on January 16, 2018 at 6:00 p.m. at the Third Street Fire Station, Greenport, New York 11944.

So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER TASKER: Aye.

MEMBER NEFF: Aye.

MEMBER GORDON: Aye.

CHAIRMAN SALADINO: Item number four --

MEMBER NEFF: Mr. Chairman, do we have a site visit for that, prior to that

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meeting? We haven't scheduled one but we have received an application.

CHAIRMAN SALADINO: I am kind of thinking maybe we will accept the application before we talk about that.

MEMBER NEFF: Okay. Thank you.

CHAIRMAN SALADINO: Item number four is discussion and possible motion on the recommendation to be directed to the Planning Board of the Village of Greenport regarding the application of the Landmark Group, for the property located at 222 Manor Place. Suffolk County Tax Map number 1001-2-2-41.1

Before I ask for a second is there any discussion on this?

MEMBER TASKER: I would just like to note, if I may, as I have throughout this application, in consideration of this application that I am not participating in any discussion or decisions related to it.

CHAIRMAN SALADINO: So Arthur is going to recuse himself.

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2 MEMBER GORDON: He already did. He
3 already did.

4 MEMBER TASKER: Yes, but I am not
5 going to leave the table. I am just going
6 to sit here mute.

7 CHAIRMAN SALADINO: Okay.

8 I'm not entirely in favor of this.
9 I think -- I think the Planning Board has a
10 mandate. They either do know it or should
11 know it. They have our minutes, which was
12 suggested to them that they read them. I
13 am uncomfortable sending a letter
14 suggesting how the Planning Board or what
15 the Planning Board should take up at their
16 meeting. So --

17 MEMBER GORDON: Could you maybe
18 read the proposed -- shouldn't the public
19 know what has been proposed?

20 CHAIRMAN SALADINO: Sure.

21 This is to the Planning Board of
22 the Village of Greenport from the Zoning
23 Board of the Village of Greenport dated
24 December 19, 2017 regarding the application
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of Landmark Group for the property located at 222 Manor Place, Greenport, New York.

We, the undersigned, have approved the area variance application of the above mentioned application. However, we want to express our concerns about matters that directly affect the neighborhood, particularly the following: Lighting, noise and the hours of operation, vehicular consideration. Particularly the driveway located on the west side of the property.

We ask that you, the Planning Board, address these issues that are under your purview and related to the impact of -- on the neighborhood.

I think it is -- I think we can -- I am uncomfortable sending this to the Planning Board as a Board. I have no problem standing at the podium and expressing my opinion about this application, as I have done in the past, to the Planning Board. But as a Board I'm uncomfortable. But again I am only one

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vote.

Anyone else?

MEMBER GORDON: If you stand at the podium and make comments to the Planning Board -- I mean is it absolutely clear that it wouldn't -- that those matters wouldn't come back to us? Is there any questions in which case you might have a conflict of interest? I know you would not want that.

CHAIRMAN SALADINO: I am of the opinion that none of these will come back to us. I am of the opinion that these are within the purview of the Planning Board. That -- actually we addressed them in our meeting. We just didn't vote on any of them because they weren't in front of us. We deferred to the Planning Board. None of them require a variance. So I don't see -- I don't see how it would come back to us. That's just my opinion. Anyone else?

MEMBER CORWIN: I've already voted no. I've already sent letters to the Planning Board with concerns I had as a

2 private citizen. One of them being the
3 lighting. Nobody counted up the lights.
4 Let me tell you, there is a lot of lights
5 on those plans that were never shown. I
6 pointed that out to the Planning Board as a
7 private citizen.

8 CHAIRMAN SALADINO: Just so you and
9 I are on the same page, you said you voted
10 no?

11 MEMBER CORWIN: Originally I voted
12 no when we talked about this last month.

13 MEMBER NEFF: Right.

14 CHAIRMAN SALADINO: Well this is a
15 new request in front of us.

16 Ellen?

17 MEMBER NEFF: When you exchanged
18 the expression, "come back to us", I didn't
19 quite understand in what way you were
20 saying.

21 CHAIRMAN SALADINO: Some of the --
22 do you --

23 MEMBER GORDON: No. Go ahead.

24 CHAIRMAN SALADINO: That some of
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the concerns that are listed here Dinni perhaps felt that the Planning Board might see the need for a variance.

MEMBER NEFF: Oh, okay.

CHAIRMAN SALADINO: If a member of the Zoning Board comments on them as a private citizen it would be in appropriate for them to participate if the variance came from us. I think that -- I think that maybe question as opposed to --

MEMBER NEFF: Well, I certainly hope that questions that come before the Planning Board that have been dealt with in the near time frame by the ZBA one would hope they reviewed the minutes. But having reviewed the minutes of the last days of our last meeting I know what a long time that takes. I think I might be more after hearing Mr. Corwin's point of view, to express any concerns to the Planning Board directly as a member of the public, I think that appeals to me. Do we ever make a point of requesting that the Planning Board

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review the minutes of our meeting related to an application before them? Do we ever do that?

CHAIRMAN SALADINO: I think when the subject came up at that hearing or with that discussion I believe -- and we can check the minutes and check the tape if we want -- that I wasn't in favor of this. I voted to put the resolution in front of us because we should -- every member should have the opportunity to vote, but I thought I had suggested that the Planning Board, if they needed any information to read our minutes. And then if they still have questions perhaps they should reach out to us with their questions.

I think this is -- I think for us to send this to the Planning Board to suggest to them that they don't know what their duties and responsibilities are or what their mandate is -- the word I want to use is insulting but I don't want to do that. I think I'm going to -- if we still

2 want to discuss we will keep it going. If
3 not, I am going to ask for a second.
4 Anybody? No? Is there a second?

5 MEMBER GORDON: Would you repeat
6 the motion, please?

7 CHAIRMAN SALADINO: Sure.

8 Discussion and possible motion on
9 the recommendations to be directed to the
10 Planning Board of the Village of Greenport
11 regarding the application for the Landmark
12 Group for the property located at 222 Manor
13 Place. Suffolk County Tax Map
14 1001-2-2-41-1.

15 So moved?

16 MEMBER GORDON: Is the motion to
17 make these recommendations?

18 CHAIRMAN SALADINO: Yes.

19 Motion on the recommendation to be
20 directed to the Planning Board.

21 Are we digesting now? Are we
22 debating on whether to second this or not?

23 Okay then. I am not hearing a
24 second. We are going to move on.

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Item number five: Motion to accept an application, schedule a public hearing, and order a site visit for the application of Alexander and Isabel Iwachiw, represented by Michael Iwachiw. The application is for an area variance for a property located at 177 Sterling Street, Greenport, New York 11944. This property is located in the Historic District and the application is scheduled to come before the Historic Preservation Commission of the Village of Greenport on January 8, 2018. Suffolk County Tax Map 1001-3-4-15.

Is a representative for the application? Would you like to tell us about the application?

MR. IWACHIW: Do I use this?

MEMBER CORWIN: Yes. And please spell your name for the record.

MR. IWACHIW: My name is Michael Iwachiw, I-W-A-C-H-I-W.

It is essentially what we're -- we have a very small kitchen area that doesn't

2 allow us to eat in the kitchen. We are
3 simply asking for a variance because we
4 want to put an extension on the back of the
5 house which is the same size of the deck,
6 replacing the deck.

7 In order to -- because the deck
8 itself is too close to the neighbor we are
9 asking for a four foot variance which would
10 make it legal.

11 CHAIRMAN SALADINO: Was the deck --
12 was the deck ever permitted?

13 MR. IWACHIW: Going back to the
14 early '80s.

15 CHAIRMAN SALADINO: So the deck is
16 legal?

17 MR. IWACHIW: I don't think it was
18 permitted, no.

19 MEMBER NEFF: There is a deck?

20 MR. IWACHIW: There is a current
21 deck there.

22 MEMBER NEFF: Is there a CO for the
23 deck?

24 MR. IWACHIW: I don't have a CO for
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the deck.

CHAIRMAN SALADINO: So you're asking to take down this deck and build this extension.

MR. IWACHIW: That is correct.

MEMBER NEFF: Are you saying it may or may not have a CO or for sure there is not?

MR. IWACHIW: I don't think I have a CO.

MEMBER GORDON: It says on the notice of this approval an existing non-conforming house.

MR. IWACHIW: House?

MEMBER GORDON: An addition to an existing non-conforming house. Can we assume that that non-conforming status was granted to the house including the deck?

CHAIRMAN SALADINO: I am not prepared to accept that.

MEMBER NEFF: No.

CHAIRMAN SALADINO: I am not prepared to do that. The house is --

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MEMBER GORDON: I though he might have a CO for the house which would indicate the deck.

CHAIRMAN SALADINO: Do you have a CO for the house?

MR. IWACHIW: I don't think so. I don't -- I don't -- I've never seen a CO for the house itself.

MEMBER CORWIN: I think that is one thing you have is do as your first order of business is get some sort of CO, whatever you have to do. They will probably give you a pre-CO. You would need that before we can do the work we have to do.

CHAIRMAN SALADINO: We have also -- just -- you are not the owner of the house?

MR. IWACHIW: Well, the house is in my children's name at this point.

CHAIRMAN SALADINO: So you are the owner of the house?

MR. IWACHIW: I guess I am.

MEMBER CORWIN: No, he is not.

MEMBER NEFF: You have been the

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owner?

MR. IWACHIW: I have been.
Absolutely.

MEMBER NEFF: May I ask, how long
have you owned the house, approximately?

MR. IWACHIW: Oh, since '81

MR. PROKOP: Is it in your name or
is it in your children's name?

MR. IWACHIW: It was -- the title
was changed about two years ago to my son
and my daughter.

MR. PROKOP: So you are not the
owner of the house?

MR. IWACHIW: Technically at this
point I'm not.

MEMBER TASKER: But you have owned
it since '81, you said?

MR. IWACHIW: Correct.

CHAIRMAN SALADINO: Do you have
something from your children, aside from
this, that says --

MR. IWACHIW: There is a letter in
the application.

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CHAIRMAN SALADINO: It says the owners of the house -- approve the building of an extension to the back of the house.

MEMBER TASKER: There is an authorization for him to represent the owners as part of the package that we have. Are we concerned about his authority to represent them?

CHAIRMAN SALADINO: I'm concerned about this letter.

MEMBER GORDON: Here is the authorization. It doesn't seem to be notarized but it is here.

MEMBER CORWIN: The application is notarized.

CHAIRMAN SALADINO: So we have to deal with an as built deck and an application to build an extension.

MEMBER GORDON: The application doesn't take into account the other variance here is based on the requirement of the code that there is an aggregate side yard set back. So it requires an 11.3

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combined side yard variance. So it isn't just the 3.9 feet side yard area variance.

MR. IWACHIW: So I have to address the other variance as well -- the other --

MEMBER GORDON: Well that is the usual. Has the deck been on the house since you bought it?

MR. IWACHIW: Yes.

MEMBER NEFF: And it has footings and all those kinds of things?

MR. IWACHIW: Yes, it does.

MEMBER NEFF: Okay.

So it is an addition to the house in the same configuration as the existing deck?

MR. IWACHIW: Right.

MEMBER NEFF: And the building is approximately 12X20?

MR. IWACHIW: Correct.

MEMBER NEFF: Approximately. But there aren't plans. There is a sketch of what it would look like from the rear and one side, but there aren't plans for the

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building.

MR. IWACHIW: I think -- you mean the actual -- from the designer?

MEMBER NEFF: Yes. showing details, lots of details.

MR. IWACHIW: I have that. Yes.

CHAIRMAN SALADINO: Are we going to ask for a CO?

MEMBER GORDON: Yes.

MEMBER CORWIN: I think we have to.

MR. PROKOP: Yes.

MR. CORWIN: We could go ahead and schedule a public hearing for someone that doesn't have a CO. So I think we should say you got to go back and do a little more homework and get the CO.

CHAIRMAN SALADINO: There is a little bit more information that we kind of feel we need here. I would like to look -- before we accept the application I would like to look at a set of plans. We would like to know exactly if the deck is permanent or not.

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MEMBER NEFF: Basically it becomes the foundation of a pretty substantial addition.

CHAIRMAN SALADINO: That is the other thing. There is no information about how you are going to deal with this except replace deck with --

MEMBER NEFF: With the same footprint. That is what it tells us.

CHAIRMAN SALADINO: That is an area thing.

MEMBER NEFF: Right.

CHAIRMAN SALADINO: That is not construction.

MEMBER NEFF: Right. It is not construction.

CHAIRMAN SALADINO: Do you -- I'm sorry.

MEMBER GORDON: We do have these plans.

MEMBER CORWIN: That is the partial plan. I think it is not going to be easy to do this in a month. If the building

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inspector is not is going to -- it is going to take research to find.

CHAIRMAN SALADINO: I don't think that is up to us to -- what?

MR. TASKER: If it is strictly a matter of asking to approve a CO, make the hearing conditional on providing the CO in sufficient time before the meeting.

CHAIRMAN SALADINO: I am not comfortable scheduling a public hearing until we have that information.

MEMBER NEFF: Just ask for the further information like plans and the CO. We really need a survey. Well, we have a survey. The survey was done -- thank you.

CHAIRMAN SALADINO: August 3rd. What is the pleasure of the Board? Do you want accept this on the condition he provides additional information, schedule a public hearing, schedule a site visit. I'm uncomfortable doing that.

MR. TASKER: Can I ask the applicant, when do you have in mind to do

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the work?

MR. IWACHIW: Excuse me?

MEMBER TASKER: When do you have in mind to do the work?

MR. IWACHIW: As soon as I can.

MR. TASKER: So you would start this winter presumably?

MR. IWACHIW: Yeah. Yeah.

MEMBER GORDON: So if we waited and looked at the plans in January and did the public hearing in February you wouldn't be doing it in the coldest part of the winter but you could start presumably in the very early spring.

CHAIRMAN SALADINO: I don't -- I don't think that is for me to decide when he does the work. I think that is for him to decide. I think what should have been here is more information. There is a good chance -- somebody raised the question because we have no building inspector some of this information might be hard to get. We would have to cancel the public hearing

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that is scheduled. I just think it is
easier to get the information and then --
and then --

MEMBER GORDON: In January.

CHAIRMAN SALADINO: And then
schedule the public hearing and the site
visit.

MEMBER CORWIN: Yes.

MEMBER NEFF: Yes. A more complete
application. To request of the application
that we have a little more detail,
including COs and --

CHAIRMAN SALADINO: That is my
feeling. Let me ask the attorney. What do
you think, Joe?

MR. PROKOP: Well based on what we
have heard -- so I think the recommendation
would be a motion to table this until the
January meeting. I don't think you can
proceed without the full legal background
on the house.

CHAIRMAN SALADINO: So what are we
requesting from him?

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MEMBER TASKER: Let's make sure it is specific so that --

MEMBER CORWIN: We want a CO or a pre-CO, we want an application that addresses the side yard variance of 25 feet on both sides. And we want some kind of clarity on the deck, when it was built and by whom. And if it was prior to the gentleman's purchase, well he should have run the CO when he bought the house. There may be some fine involved in building the deck.

CHAIRMAN SALADINO: Anybody else? Is it kind of clear to you?

MR. IWACHIW: What?

CHAIRMAN SALADINO: Is it kind of clear to you what we are going to need next month?

Okay. I am going to make a motion to table this application until next month.

MEMBER CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

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MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN SALADINO: Any opposed?

MEMBER TASKER: Abstain.

CHAIRMAN SALADINO: One abstention.

Four yes. One abstention. Item number six is the discussion and possible motion on the variance application of the Miller Family 2012 Irrevocable Trust for the property located at 424 Fourth Street, Greenport, New York 11944. Suffolk County Tax Map 1001-6-8-18-1.

At last month's meeting we closed the public hearing but we kept the record open for written comments. We received some written comment from the applicant's attorney. I'm going to ask her if she wants me to read or if she would like to read it or not have it read into the record but we are going to have to address it.

MS. MOORE: It is however you prefer.

CHAIRMAN SALADINO: No. It is your

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comment. It is however you prefer.

MS. MOORE: Well, usually --

CHAIRMAN SALADINO: Could you come to the podium.

MS. MOORE: I would be happy to read it into the record. Usually a written comment is made part of your record. I assume you have all had an opportunity to read it. So it doesn't necessarily need to be read out loud, but that is fine.

CHAIRMAN SALADINO: It is not what I prefer. It is what you prefer. Normally that is how we do handle written comments. But this goes a little bit beyond that.

MS. MOORE: I'm sorry. Patricia Moore.

CHAIRMAN SALADINO: So --

MEMBER CORWIN: It would be nice to read it so the folks at home watching this.

MS. MOORE: Okay. I will read it out loud.

CHAIRMAN SALADINO: Well, let me ask the Board. Does the Board have any

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objection? No.

MS. MOORE: That's fine. My letter was sent and it was prior to the close of your public comment period.

So I started by saying, Dear Chairman Saladino, Members of the Board, pursuant to the Board's resolution to accept written comment we wish to submit the following comments after the public hearing:

The appeal to the Board is uncomplicated and straight forward. It is to allow the approved B&B to continue as it was approved in 2001 with the conditional use permit and set site plan approval. The variance is to physically detach the large house from the existing cottage, second dwelling. The cottage was renovated in 2007 pursuant to a building permit, number 2136. The work was completed with six inspections, over \$100,000 in costs to improve the cottage. Once the structures are detached then a Certificate of

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Occupancy for the cottage could be issued and the B&B use will continue as approved in 2001.

First issue, Mr. Arthur Tasker is ineligible to serve as a member of the Greenport Zoning Board of Appeals. Members of the Village Zoning Board of Appeals must be residents of the Village. New York Public Officer's Law, section 3 sets forth the requirements for eligibility of public officers to serve. If it is a local office a resident of the political subdivision or municipal subdivision of the state for which he or she shall be chosen.

During the public hearing on this application Mr. Tasker expressly stated that he and his wife live in Peconic Landing. Video of the public hearing posted on Village of Greenport website, November 21, 2017 at 1:01:17.

The Peconic Landing facility is located outside of the Incorporated Village of Greenport. Accordingly Mr. Tasker is

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not eligible to serve as a member of the Village of Greenport Zoning Board of Appeals and he must resign his position. Tasker recusal required. Even if Mr. Tasker has a legal basis to remain on the Board of Appeals he must recuse himself. Applicants before an administrator for quasi judicial body such as the Zoning Board of Appeals are entitled to be heard by a Board that is impartial and without bias against the applicant.

When a board member holds and expresses outright bias against the application the board members must recuse himself or herself from participating in or ruling on the application. See Devane versus Troy Savings Bank, 119 miscellaneous second, 463 465 Supreme Court. Affirmed at the Appellate Division 101634 Third Department 1984.

"The person presiding over the hearing must be impartial." The New York State Attorney General has rendered an

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opinion declaring if a neighbor has prejudged on an application we believe this disqualifies the individual from serving on the Planning Board or Zoning Board of Appeals with respect to the application.

Also, if the Planning or Zoning Board member appears to have a conflict of interest based on circumstances or facts surrounding the application he should recuse himself from serving on the Board with respect to the application. That is the opinion of the Attorney General, 1988, 115.

Board Member Tasker is a former neighbor of the Millers. In the course of the public hearing Mr. Tasker's animus to the Millers was obvious. He went so far as to challenge Mrs. Miller's veracity. Again, I cite the public hearing record, 156.

During the hearing Mr. Tasker declared that he had owned a two family house which shared a right of way across

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the Miller's property. The ill will between these two former neighbors was obvious when Mr. Tasker said he sold his two family property because, "I did not want to live in that neighborhood."

The enclosed affidavit of Mrs. Miller describes a difficult relationship the Millers had with Mr. Tasker. The ill will displayed by Mr. Tasker during the hearing is evidenced by his continued animosity toward the Millers and requires his recusal.

The final straw was his accusation of my client's veracity. That is stating that she is dishonest. An applicant is entitled to a fair and impartial review of an application. Mr. Tasker's statements to the Board and the public must be stricken from the record and he must withdraw from the review of this application.

Three, area variance, standard of review. The standards by which the Zoning Board is to consider an area variance is

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set forth New York Village law. The line of questioning pursued by Mr. Tasker bore no relationship to the standards to be considered. Simply stated the proposed physical separation of the building which was built long before the enactment of the Village Zoning Code does not change either the character to the neighborhood or the community.

Further, as was confirmed by the Building Inspector, the State of New York codes division states that this is the only solution to retaining the B&B special use permit granted in 2001. At the hearing Ms. Miller testified that the attached cottage was rented and occupied with a long term tenant in 2001 while the Planning Board reviewed the application and made inspections of the property. We know that they inspected the property because there were comments in the transcripts of the public hearing noting that they had inspected the property prior to the

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hearing.

Neighbors opposition. The neighbor who opposed the expansion of the B&B, which is not the application, had no discernable objection to the cottage. In fact, the Board questioned the neighbor to consider to enable the cottage to be rented independently from the B&B use would result in less traffic and less disturbance to the neighborhood.

Number four is hardship. It is our belief that the existence of the accessory apartment or the cottage was an issue for the Village Planning Board or prior Building Inspector. No one ever considered the main house when an attached cottage/apartment as a two family dwelling. In fact, according to the Building Inspector's testimony, when she issued the building permit for the owner to make alterations and additions to the cottage with the full knowledge of the B&B use in the main house, it did not occur to her

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that the main house and cottage was a two-family dwelling. This issue did not come up until all the construction had been completed, after six building department inspections and final sign off of the Certificate of Occupancy. Thereafter, out of the blue, the Building Inspector determined, after years of struggling with this -- according to the public hearing -- that the structure was a two-family.

This determination has caused significant financial hardship to the owner. The owner had obtained financing for the renovation to the cottage. This issue has caused unnecessary stress to Mr. and Mrs. Miller who are older and impediment to the year round rental to the cottage since 2007.

Finally, without accepting or acknowledging any responsibility for this mess, the Village initiated criminal violations for failing to obtain a Certificate of Occupancy for the cottage.

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We ask you to review this application based on the standards of an area variance. The application will be approved and the owner can undertake the costly remediation to continue her three bedroom B&B in her house and separate existing cottage.

We copied Mr. Prokop as well on this letter. In addition, we had attached an affidavit -- which I am looking for because it is not attached to my letter. That was an affidavit on Ms. Miller with respect to her feelings with respect to the hearing and the bias and treatment that she had to endure.

I apologize. I don't seem to have the affidavit here. But I would be happy to read it from any one of your copies. Thank you.

MEMBER CORWIN: I am not sure you have to, but.

MS. MOORE: What?

MEMBER CORWIN: I am not sure you have to.

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MS. MOORE: I am only reading as much as you care to. I was happy to have this be part of the record. If you want the affidavit is in your possession and it is part of the record. It is up to you.

CHAIRMAN SALADINO: I don't need it to be read. If David --

MS. MOORE: Okay.

CHAIRMAN SALADINO: So, where do we start?

I am going to let Arthur address -- if he wants to. I am going to let Arthur address the first portion of this as far as residency and -- I have to be honest with you before I say another word. I am kind of taken aback by this. I think this is -- I mean some of the stuff in here is -- it -- it -- in my mind is not what was said at that public hearing. But before I have my say I am going to let Arthur -- Arthur, did you want to --

MR. TASKER: I thought you wanted to speak first, John, but I will be happy

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to respond to a couple of points that were written in the applicant's letter.

First, just to follow on your statement with the letter and comparison to the events of the hearing, I think if you read the letter as you watched the hearing testimony you will see that there is great disparity there. Let me continue.

First, I have resided in Greenport since I was born here. Since about 1980 when I acquired my house on Sandy Beach in the Village of Greenport that has been my legal residence. Since 1982 I have been registered to vote from that address in Greenport by the Suffolk County Board of Elections. And I have voted in Greenport elections thereafter, and of course other elections too. Although I have a winter residence -- not in Vero Beach or West Palm, but Peconic Landing. My domicile and permanent residence was, is and will remain in the Village of Greenport.

Next I want to address the

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scurrilous assertion of applicant's attorney that I have pre-judged or biased against or have a conflict of interest with the applicant. I have no interest at all in the applicant so I can't have a conflict of interest with her.

This seems to be a blatant attempt to smear the objectivity of someone who presents uncomfortable facts regarding the application. That sort of thing is happening in the national scene, claims of fake news, other falsehoods. Specifically the applicant stated in her letter that I went so far as to challenge the applicant's veracity.

The job of the ZBA is to make findings to support whether or not to grant a variance to an applicant. And those findings have to be based on information that is both pertinent to the question and reliable. And reliable to me means credible.

According to the general counsel of

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the New York State Department of State in a legal memorandum entitled, "Role of Findings in Local Government Decisions." I would like to give that to the stenographer to be included in the record, please. I am going to site from parts of it.

Findings of a Board memorializes the process the Board undertakes when it makes a decision. It first must collect the evidence found in the record. Then appraise the evidence by assigning it appropriate credibility. When reviewing a decision of the Board, courts will limit their review to, ascertaining whether the determination has the rational basis and is supported by substantial evidence. Making findings necessarily requires the Zoning Board to set forth in its determination the evidence it relied upon when reaching its conclusions.

As a sideline, whether or not the evidence it relied on is credible.

The Board must discern however

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truly factual information from mere general sentiment. First hand observations of neighbors incorporated into the record are distinguishable from conclusory or general observations and may be considered by a Board in its discretion.

Similarly, personal observations and knowledge of Board members may provide a factual basis for a decision. So long as these observations and knowledge are entered in the record.

The General Counsel's memo concluded the courts will defer to the determination of an administrative body relating to the credibility of a witness saying, "the agencies assessment of the credibility of witnesses, inferences to be drawn from the evidence and findings of fact are conclusive." That means they are not reviewable.

During the course of the hearing the Board was trying to ascertain the state of use of the building. It had many

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dimensions. And while the applicant's attorney seems to think it went far afield, there is a lot of uncertainty about that building as came up during the course of the hearing. Here the applicant made extensive statements about her use of the property as her residence, as a B&B, as a building with two separate living quarters, a two-family house, a full-time rental of a dwelling. And during the course of the applicants statements members of the Board, including myself and others had occasions to raise questions about the specifics of her statements, about those uses, their history, the frequency of occupation, the nature of the premises and the like because the applicant's statements or answers or her attorney's statements or answers raised questions that engendered the following comments as reported in the transcript of the public hearing.

I am going to read first from page 50 of the transcript.

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CHAIRMAN SALADINO: So there has been no use in that cottage for the last ten years?"

MRS. MOORE.

Not the applicant.

I want to say minimal, very minimal.

She is testifying to facts as to which she has no personal knowledge.

"MR. TASKER: What is minimal?"

MRS. MILLER: Empty in the winter (inaudible) summer.

MR. TASKER: Occasional use?

MRS. MILLER: (Inaudible) been able to really advertise to --

ATTORNEY PROKOP: Can we have her sworn?"

Page 66. I think this is Mrs. Moore testifying or speaking.

"Because of the fact it was suddenly redefined as a two-family when it has always been a single family with an accessory cottage.

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MR. TASKER: Suddenly redefined?

MRS. MOORE: It was redefined.

MR. TASKER: Suddenly?

MRS. MOORE: It was. Nobody ever applied, nobody ever mentioned, nobody, even the Village Board when they granted the B&B permit, nobody called it a two-family. That was quite unique to call this structure two-family.

MR. TASKER: Was the presence of the second dwelling unit made clear at the hearing for the B&B approvals?

MRS. MOORE: Well they made a full inspection of the property. You have to believe that they see what they see."

But as the Building Inspector later stated, "in 2001 they applied for a B&B. It was not done by the Zoning Board."

This is page 99.

So the Zoning Board was not there. B&Bs are a product of Planning Board review. Planning Board typically does not do site visits.

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It says does not do site plan but I believe it was correctly stated as, does not do site visits.

On page 70 I was inquiring with regard to some of the things we saw when the Zoning Board of Appeals made its visit. I was talking about some of the photographs which show the signage of the cottage. And I am reading from the record right now.

"There is a sign on it that says, "Cottage", hanging from it.

Mrs. Miller says, "What are these from?"

The last one of your exhibits on Exhibit A.

"MR. TASKER: The photograph shows a sign.

MRS. MOORE: Okay. There is a little sign on the door.

MR. TASKER: A little sign. It is about two feet by two feet. That little sign?"

I noticed when -- this is my

1 testimony or question, "I noticed when I
2 visited the property when I was there by
3 the swimming pool and saw the cabana there
4 was a sign about the same size on the
5 cabana that said, "cabana". We also
6 noticed in the cabana there was a bed.

7 "MS. MOORE: A what?"

8 MR. TASKER: A bed. That is
9 suggestive of providing -- meaning the
10 signs, is suggestive of providing
11 directions to people that have come and
12 ended up in the driveway of the house to
13 get to the unit that they are going to
14 sleep in.
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16 As the Building Inspector later
17 noted during the course of the hearing,
18 there were also signs saying pool and
19 bathroom in that area.

20 Mr. Tasker of Mrs. Miller, "Why are
21 those signs there?"

22 "MS. MILLER: Why is what there?"

23 MR. TASKER: Why are those signs on
24 those buildings?
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MS. MILLER: It is my decorative sense. The cabana, the pool, that whole area is private.

MS. MOORE: It is not the B&B.

MS. MILLER: The pool is not available to guests. It is only for private, us.

MR. TASKER: Therefore, those signs are there for your own edification?

MS. MILLER: Yes.

MR. TASKER: Okay."

But in an Internet listing that I took down last night, the Harbor Knoll Bed and Breakfast, it sites the amenities of the Harbor Knoll Bed and Breakfast, 424 4th Street. And I will get this to the stenographer for the record. And at the bottom it sites the amenities that are available. Free Wi-Fi, free breakfast, free parking, air-conditioning, bar and an outdoor pool. So that seems to be a false statement there.

Going on page 75, Chairman

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Saladino. Ms. Moore goes on, "By full-time, are you describing full-time, you mean year-round?"

"CHAIRMAN SALADINO: As opposed to short-term, as opposed to transient.

MS. MILLER: No, because to be honest, I was scared and --"

"Okay", said Saladino.

"MS. MILLER: To lease for someone for a year and next thing, they'd be thrown out or something.

CHAIRMAN SALADINO: That's fine. But you had no qualms about renting it to transients on occasion?

MS. MILLER: Short-term, very short-term and minimally and with all the --" ending there.

At that point Ms. Gordon interjected, "it does make it sound more like it is part of the B&B. I think that is part of what we're -- and she was cut off, not recorded at that point. Trying to find out about the building. In other

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words, a lack of understanding on Ms. Gordon's part, as well as others, as to just what we were being told.

Then I questioned Ms. Miller again.

Mr. Tasker: So there never came an occasion, let's say when someone phoned you to see if there is a B&B room available on which you might have -- on which occasion you might have said, well, we are limited to three. They are all booked but we have a cottage in the back that we can rent you.

Ms. Miller answered, "on occasion I might have done that. Yes. But not much."
"Thank you", said I.

On the website for the Northfork Bed and Breakfast Association which I looked at last night.

CHAIRMAN SALADINO: Arthur, do you want to take this up in our discussion?

MR. TASKER: No. This is reference to the assertion that I have I bias against her because I asked questions that went to the veracity of what she was stating.

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CHAIRMAN SALADINO: Okay.

MR. TASKER: That is the
fundamental point, I believe, of Ms.
Moore's letter.

The Northfork Bed and Breakfast
Association, Harbor Knoll information, yada
yada. And it says all of the three
bedrooms offer beautiful views, private
bathrooms, flat screen TVs air-conditioning
and fireplaces. In addition we have a
recently restored Enchanted Cottage,
capital E, capital C, where pets and
children are welcome.

There was an extensive discussion
of my reciting the story of an incident
regarding the maintenance of the driveway.
Mrs. Moore, again, without personal
knowledge recited that the Millers have
always maintained the driveway and so
forth. And since they hadn't I brought up
the incident where I had to do it myself.
And had the police called on me.

Subsequently in her affidavit Mrs.

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Miller says, well it turned out the police shouldn't have come because it was a civil matter. Well, Mr. Miller, who is an attorney himself should have known that before he called the police. That it was a civil matter.

A neighbor, Mrs. Robinson, this is again whether or not people have found the assertions and allegations of the applicant and her attorney to be credible.

Mrs. Robinson said on page 89, "Well that would be so if actually three rooms were being rented. There are many more from my estimation. And that area is visible, there are many more than three rooms that are rented."

On page 106 Chairman Saladino said, we are asking. Ms. Moore interrupted and said, I mean we are not asking. Chairman Saladino said, "but what we are asking for is an accurate assessment of what exactly is going on here. That is all we ask for."

On page 108, Ms. Wingate said, "it

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is my opinion that the initial application to be a B&B was flawed because it was dishonest because it was a two-family house at the time. There was -- and she was cut off.

Chairman Saladino on page 113, "but we just heard testimony and the applicant's own admission that you have been less than forthcoming about who has been using the building."

Page 114, Mrs. Miller, "I have a website." Chairman Saladino, "So the cottage is advertised on your website?" Ms. Miller, "No."

But I just sited the Northfork B&B listing from the -- from the Internet.

The attorney opened the door to the discussions I raised about my own personal experience with the Millers with regard to the maintenance of the driveway. I then went on page -- what page are we on? Page 118 I guess.

"I never lived in that house. I

1 rented it. It was a two-family house when
2 I bought it and I operated it as a
3 two-family house with rentals in the
4 expectation that someday my wife and I
5 would like to retire there. We had better
6 thoughts when we had been exposed to the
7 neighborhood."

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9 There are buses idling by in the
10 parking lot. There is ferry traffic. The
11 is Jitney traffic. But to use this episode
12 to show bias is quite a stretch. And to
13 say that I didn't like the neighborhood or
14 we didn't like the neighborhood after we
15 had better thoughts about it certainly does
16 not suggest bias as to the Millers
17 certainly.

18 And finally at page 121, continuing
19 on Chairman Saladino said, we are going get
20 past the driveway issue -- and I
21 interrupted and said, "it is not a driveway
22 issue. It is a veracity issue." That is
23 what this --

24 Miller's attorney said, the final
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straw was his accusation of my client's veracity, IE stating: Ms. Moore's conclusion that she is dishonest.

As evidenced from these examples, I, other members of the Board, its attorney, the Building Inspector and member of the public were concerned with the veracity of the applicant. Not just me. So it makes me wonder why I was the applicant's attorney's choice to accuse of bias against her client when she could have included others. Perhaps she mistakenly thought I was low hanging fruit.

So to summarize, to make its findings a Board must first, "collect the evidence found in the record. Then appraise the evidence by assigning it appropriate credibility." Which is what that hearing was aimed at doing.

And the agency's assessment of the credibility of witnesses is conclusive. As I said earlier, this accusation is a blatant attempt to smear my objectivity

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because I and others are raising
uncomfortable facts regarding this
application. So let's move on. Thank you,
Mr. Chairman.

CHAIRMAN SALADINO: I have a couple
of comments also. This letter was
addressed to the Zoning Board. The Zoning
Board doesn't appoint members. It is the
Village Board that confirms the Mayor's
appointment. I have to assume that when
Arthur was appointed it was well vetted.
He is not new in the neighborhood. He is
well known to the Village Board, to the
Mayor, to the members of this board.

I don't believe anyone on this
Board had a problem with Arthur serving.
Not that it matters because we don't get a
say of who serves. So for the Mayor to
appoint him and for him to be confirmed by
the Village Board I think to take a word
out of -- out of context, well I live at
Peconic Landing. When Mrs. Moore -- I am
going to give her the benefit of the doubt

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and assume she knew kind of what he was saying. To have two residences, as an attorney, you know, it is where you vote, what is on your driver's license I guess. Is it the best system? I don't know.

The other thing is that, you know, I found that -- I found that Mr. Tasker's animus to the Millers was obvious, I have to -- I have to -- I didn't see that. I don't think anybody on this Board pre-judged this application, including Arthur. I didn't see anybody or hear anybody express that opinion.

As far as living in that neighborhood, who knows where somebody wants to live. I mean Arthur is a hundred percent -- I live in that neighborhood. But I also worked for the railroad for 28 years. So the train doesn't bother me. I sleep just fine on the train. At that time -- could I ask you what year did you own that house?

MEMBER NEFF: It is in the record,

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1982 to --

MEMBER GORDON: To '95.

MEMBER TASKER: Thank you all. And that is about right.

MEMBER SALADINO: From 1982 to 1995 there was no electric on the on the -- on the railroad dock. On the commercial dock.

MEMBER TASKER: I never lived there. I rented it the whole time.

CHAIRMAN SALADINO: All I am saying is that there is many, many, many reasons for not wanting to live in a particular neighborhood; the train, the generators from the boats. There was no electric on the train at that time. It was noisy. Actually a prominent citizen made the same complaint. Even offered to put electric in so they would shut the generators off.

This letter also goes on, it says, "it was confirmed by the Building Inspector, the State of New York Codes Division that this is the only solution retaining the B&B special use permit

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granted in 2001." I have a letter from the Building Inspector and I will read it for the record. It is from Eileen Wingate in response to Pat Moore's letter.

"Dear John, I feel it necessary to clarify a statement made on page 2, paragraph 3 of Pat Moore's letter dated 12-4-2017. As the Building Inspector I have never assumed or stated that the separation of the dwelling units was, "the only solution", to retain the B&B special use permit. I did however speak with Richard Smith of the Code Division. He explained to me why the Code Division Appeals Unit would not accept that application for a variance. Thank you for your time. Eileen Wingate. Building Inspector."

It was the Building Inspector's opinion -- as far as neighbor's opposition, it was me that raised the question asking the neighbor if the cottage was rented full-time as opposed to what we found --

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what we believe we found was going on there from 2007 to when the cottage was renovated to the present, which was short-term -- What is the term we are comfortable with, short-term transient --

MEMBER NEFF: Transient.

CHAIRMAN SALADINO: Renters. My contention -- my question was if a couple lived there was there a possibility of two cars. If it was short-term renters it would be perhaps one car. Perhaps two cars if they came separately. It wouldn't be less cars. It would be different cars. So the traffic -- you know.

As far as the renovation we keep hearing the \$100,000 number. I have an application for a building permit. And it says the cost of construction was \$35,000. So maybe a lot more stuff went on after this building permit was issued.

I have a lot more to say. I am going to save it for if we have another discussion. Does anybody else have

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anything else to say about this?

MEMBER GORDON: I guess I just wanted to comment on the New York State Attorney General's opinion that you site. If a neighbor has pre-judged an application, is the phrase that introduces this quote, and it seems to me that the application is for the Board to approve the separation of the two buildings. And in fact, Mr. Tasker's comments have very little to do with that. They have to do with they are the first-hand observations of neighbors, that are allowed. They don't really bear on what it is that the applicant wants done. So to conclude that he has pre-judged an application is invalid on that ground.

I also think that the New York State Attorney General says, if the Planning or Zoning Board member appears to have a conflict of interest based on the facts and circumstances surrounding the application. There is no -- it seems to me

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there is no interest that Mr. Tasker has in 2017. No interest in the sense of no stake, no material stake. He hasn't had any interest in the neighborhood whatsoever in 20 years. I just think that, you know, this statement is supposed to be if not determinative, influential on the judgement about Mr. Tasker's role here and I don't think it works. That's it.

CHAIRMAN SALADINO: David.

MEMBER CORWIN: Well, this is our discussion phase and I will just make some comments on some notes.

First I want to note that it is a unique property --

CHAIRMAN SALADINO: David, before you start, if we are going into our discussion phase here maybe Pat -- Mrs. Moore sit down.

MS. MOORE: May I?

CHAIRMAN SALADINO: If we are continuing to address the letter she might want to -- if we are going into discussion.

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Ellen did you have anything to say about
this letter before we move on?

MEMBER NEFF: No. I think that we
have dealt with all parts of the letter.

CHAIRMAN SALADINO: David, I'm
sorry.

MS. MOORE: I would like to address
the letter for one moment. I just want to
say very clearly, it was not an intention
to insult anyone, including Mr. Tasker.
Okay? The concern we had and my client was
here and generally before you appear before
a Zoning Board you are -- it is nerve
wracking to say the least if you have ever
appeared before a Board. You know you are
subject to questioning. The least you
should expect is a fair impartial hearing.
And it may be that you are all very fair
and very impartial. The problem is that
the only thing that the applicant gets is
the comments. The comments -- and you can
make very good comments -- that they are
very relevant. But it is the way that the

1
2 comments are brought that is it an
3 inquisition or is it an observation or a
4 discussion? If it is -- understand that
5 that letter was a response to what we felt
6 was an inquisition by the manner of
7 questions that were posed by really -- Mr.
8 Tasker, you were pretty much the primary
9 questioner --

10 MR. TASKER: Let's count pages if
11 that is your concern.

12 MS. MOORE: We watched the
13 transcript before we wrote it. We did --
14 we looked at the transcript. I had my own
15 notes.

16 In the eyes of the beholder
17 understand that to an applicant, not just
18 Ms. Miller, but any applicant, how
19 questions are posed and the comments and
20 you know being called a liar or maybe the
21 facts were -- maybe I overstated that she
22 always pays for the road improvements.
23 Because in the '80s apparently she didn't
24 pay to improve the road enough. Certainly
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1 on the record we would have told you that
2 the road has been paved and all the
3 improvements were done by the Millers. And
4 the road that you drove on that you thought
5 was in very good condition or should have
6 appeared to be in very good condition, have
7 been improved by the Millers. So
8 understand that the -- that letter was a
9 reaction to a hearing. I thank you if the
10 Board is going to be fair and impartial.

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12 Again, Ms. Gordon raised a very
13 succinct point. The application was to
14 separate the two structures. We went way
15 far afield at the last hearing which is the
16 reason we felt something. Was it an
17 animosity that suddenly there was an
18 opportunity to take it out on my client or
19 not. It just felt at that time --

20 CHAIRMAN SALADINO: I disagree.

21 MS. MOORE: Understand that it is
22 in the eye of the beholder.

23 CHAIRMAN SALADINO: I would like to
24 respond to that. I don't feel that we did
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2 go far afield. We were questioning the use
3 of a particular building. What it was used
4 for in the past. What it is used for in
5 the present and what perhaps its future use
6 would be. I don't think we went far afield
7 that we questioned a misrepresented
8 statement or less than forthcoming answers
9 about a particular piece of property.

10 MS. MOORE: Well, may I?

11 CHAIRMAN SALADINO: I just lost it.
12 And if you object to someone's -- I mean
13 the questions that seem to be objecting to
14 that one member asked were questions that
15 were on everyone's tongue. That was in my
16 mind, the feeling of the Board. Those
17 questions that were being asked, perhaps by
18 Arthur, were questions that I had in my
19 mind. It seems like it was more about tone
20 than it is about the validity of the
21 question.

22 MS. MOORE: Well --

23 CHAIRMAN SALADINO: If you are
24 taking exception to someone's tone, you
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know, I am folksy. Arthur is not. David is quiet.

MS. MOORE: Okay.

CHAIRMAN SALADINO: I'm finished. Go ahead you want to address the --

MEMBER NEFF: I think the way -- excuse me?

MS. MOORE: She wanted to say something.

MEMBER NEFF: Okay. We come to this with the history. The hearing and the documents we have before. The fact, one of the salient facts here is this has been an open building permit since 2007.

MS. MOORE: Yes.

MEMBER NEFF: That speaks to complicated and difficult to resolve over time with different characters. You know so that tells us one thing. We have this statement that in the Village of Greenport, a bed and breakfast is three rooms. I think the -- in a single family house. Thank you.

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So I think this is a difficult way forward. And how do we go forward? The history says there have been problems, serious problems evolving over time and we don't quite know how the path forward is going to be. And that is a very difficult place to be.

That is my point of view. And certainly, my fellow member, I have learned a lot from and need the input of all of us and did not find it in a way demanding a recusal because of his tone. This is my point of view.

MS. MOORE: Okay.

CHAIRMAN SALADINO: Okay.

MS. MILLER: Can I?

CHAIRMAN SALADINO: If it is important and really relevant.

MS. MILLER: This is part of my sense that I really have been victimized in all of this process.

CHAIRMAN SALADINO: Whoa. Whoa. Wait a second.

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MS. MILLER: I have never, ever had opened the pool for example -- to address some of the issues that Mr. Tasker -- I can not control -- there are thousands of websites out there. People take aerial photographs. People come and say, oh you have a pool. And I have to say, no, the pool is strictly for the family. The fact that the pool somehow merges -- if you look at my website there is no mention of a pool. There has never been. The entrance to the pool says private on both sides and I have never opened the pool to guests. I guess I could. I have chosen to keep that area private for the family.

And it is true that immediately after the renovation of the cottage and I put it on the website and subsequently when all of this variance application came I took it off the website. I was surprised that it is still on the Northfork Bed and Breakfast website. I have checked that recently. I didn't see it. If I had seen

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it I would have asked for it to be immediately deleted. But there are websites -- I mean the B&B has been in existence for about 17 years. And so it is -- it is difficult to control old websites. I can assure you that I am renting a three bedroom bed and breakfast.

And then for a neighbor to say that there are more people in the house. Yes, there are sometimes more people in the house. I have family. I have children that come. I have my own guests.

CHAIRMAN SALADINO: Mrs. Miller.

MS. MILLER: To say that I am somehow running a house of ill repute is just --

CHAIRMAN SALADINO: I don't think anybody suggested that.

MS. MILLER: -- is just beyond things. And that I'm doing it for economic gain. I mean, it is really -- it is all a bit much.

Initially I think I put in a figure

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of \$59,000 for the renovation of the cottage. I don't think it was 39. And the cost escalated because we pretty much gutted the entire building and the house inspector would have seen and the costs really escalated over what we were hoping to spend.

This whole thing has been ten years. Ten years in existence. We have it hanging over. We have tried to contact the Village Inspector, the Village Lawyer. Just going around and around and around with nothing happening and my occasional renting of the cottage for occasional summer rentals. Very little. Not advertising. I don't know. I just -- the whole thing is really.

I just got my taxes yesterday. Clearly says one-family house. We have never talked about a two-family house.

As for traffic if I sold the house tomorrow do you think an elderly couple is going to buy the house with ten bedrooms?

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There is going to be at least a family.
Lots more cars. We have now one car. My
husband can't drive. Just my car goes in
and out. I don't know what people expect.
It is reaching kind of a ridiculous level.
This whole experience has been really cruel
and hard.

CHAIRMAN SALADINO: Before you say
anything else, since we -- the -- the
public hearing is closed, as a courtesy we
let you speak. But I think it is time now
that we stop because some stuff is being
said --

MS. MILLER: I am sorry. I get
emotional. It is a very emotional
experience. Very frustrating.

CHAIRMAN SALADINO: David, I
interrupted you.

MR. PROKOP: Before we start the
discussion. This has gotten twisted around
in court. It has gotten twisted around
here. I just want to get this straight.

As I understand it, the Village has

1 never made any recommendation that these
2 buildings be separated. The Village has
3 never made a statement that it concurs with
4 anybody's else recommendation that the
5 building be separated. If the applicant
6 chooses to act on a recommendation that she
7 claimed that she got from somebody else
8 that is entirely up to her. The Village is
9 not blessing that or saying it will put her
10 in a better situation. The -- as far as
11 the application for a variance to New York
12 State, it has been represented -- we
13 confirmed this last month, there is an
14 application pending before New York State.
15 If the applicant chooses to recognize what
16 they claim is advice they have been getting
17 from the local architect from the New York
18 State Department of State, that is their
19 position and the Attorney's responsibility.
20 It has nothing to do with any position or
21 recommendation of the Village. I just
22 wanted to clarify that.

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24 CHAIRMAN SALADINO: Just to further
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2 clarify that, we have a comment from the
3 applicant's attorney but we have no writing
4 or no statements from Richard Smith. All
5 we have is her interpretation of that phone
6 call. But we do have from the Building
7 Department that she did speak with Richard
8 Smith of the Code Division and, he
9 explained to me why the Code Division
10 Appeals Unit would not accept an
11 application, would not accept an appeal for
12 a variance.

13 MR. PROKOP: That doesn't -- they
14 don't not accept applications. You either
15 make an application or you don't make an
16 application. If you make an application it
17 will find its way to Albany and as I
18 understand it you will be heard. My
19 understanding is they do not not accept
20 applications. And I don't think it is
21 relevant to this proceeding. It has
22 nothing to do with it.

23 CHAIRMAN SALADINO: I kind of agree
24 with you. What happens in Albany stays in
25

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MR. PROKOP: Any recommendation from the New York State Department of State would be with reference to the international code. The New York State Fire Prevention and Building Code only. Not with respect to the Village of Greenport Code.

CHAIRMAN SALADINO: Okay. David.

MEMBER CORWIN: First I want to say this is kind of a unique property. It is such a big structure. There was a big piece of property but it was subdivided. Now it has got a narrow, private road. I want to point out there is a parking problem there. When I went to the inspection I couldn't park my truck there. I got stuck half way in the driveway. It was really mortifying that I couldn't maneuver in there. And what is happening is going from a bed and breakfast to a cottage. A bed and breakfast and a cottage. So right now it is a bed and

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breakfast in a single-family house. It would go from a bed and breakfast in a single-family house to a cottage, which is not allowed under the code of the Village.

I am not in favor of people putting these cottages. They call them studios. They call them cottages. I know the former Building Inspector was big on these cottages. But I'm not. Because what is going to happen is once one person -- if the Zoning Board of Appeals says, yeah, you can have a cottage, once one person does that there is going to be a line out the door for cottages. And it is not going to be cottages for Joe Blow to rent a place to rent. It is going to be cottage for weekend rentals. And these weekend rentals -- I call them Air B&B type rentals are really a problem. They are turning the whole community on its head. And I think adding them or making more of them just aggravates the problem with rentals. Because people see, hey I can make \$20,000

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in a couple of weekends over the summer.
That is what I see happening with this and
everything else. The main request is two
special uses; a bed and breakfast and a
cottage.

In the past I know there
have been excesses on that piece of
property. At one time it was advertized or
set up as a wedding venue with more than
three bed and breakfast type units rented
out. That was a bone of contention and I
got this from the Building Inspector. She
was quite concerned about it.

I did my own research. I looked up
the site on Air B&B and where ever it was.
And it looked to me that it was being
rented out as more than just three bedrooms
as a bed and breakfast.

So I have to say the applicant has
not been completely straight forward with
the Village. And that was kind of brought
out last month in the back and forth.
Basically what is going on here is this is

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going to end up more as a hotel than anything else. Maybe that is what it was originally constructed for.

I see both sides of this because it is a big structure. So many bedrooms. Well let me use all the bedrooms. The other side of the story is under the code I don't see how it happens. Thank you.

MR. TASKER: David, let me give you some historical information. That property, the entire property before it was subdivided was owned by, built by a man named Mr. Elmer of the Elmer company, the scientific company. That was his personal private estate. That is why he had a caretakers cottage in the front, which was the building that I owned for several years.

MS. MILLER: He was not the original owner. He was the third or fourth.

MEMBER TASKER: You know the history better than I. But it was the

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estate of a wealthy person.

CHAIRMAN SALADINO: I don't think we should concern ourselves with how many rooms there were or are. You know people build things. Look at Buckingham Palace. Four people live there.

MEMBER TASKER: John, I think it is important, as we have been trying to do in the hearing. How is the building being used? How should it be used? How is what is being asked for going to change that potential use and what is going to happen? I think there are an awful lot of unknowns here that we ought be able to have information on in order to answer those questions.

CHAIRMAN SALADINO: I agree with you 100% that we should be concerned about the future use of that accessory apartment. What is going to happen there? As far as the seven bedrooms in the house. One I assume Mrs. Miller occupies. The other three are advertised as B&B units. The

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2 other six, that is for code enforcement. I
3 don't think that is for us. I think that
4 is outside. If somebody makes a complaint,
5 a valid complaint then it is up to the code
6 enforcement officer to address that. Not
7 us. We shouldn't deal on -- with the
8 unborn.

9 As far as the apartment -- we keep
10 calling it the cottage. It is an accessory
11 apartment to a house. Isn't that classic
12 definition, perception of a two-family
13 house. The fact that in 2001 the Planning
14 Board didn't address it -- that is -- not
15 to sound harsh, that is on the Planning
16 Board. You know, if they didn't address it
17 or they didn't take interest in it --
18 what?

19 MR. TASKER: Who are they going to

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21 CHAIRMAN SALADINO: Well, also, in
22 all fairness to the Planning Board in 2001,
23 Greenport was a bit of Dodge City. You
24 know, they didn't know. It might have
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servant's quarters. It might have been,
you know, a studio. It might have been --

MEMBER GORDON: It was smaller then
too.

CHAIRMAN SALADINO: It was smaller.
It might not have had a kitchen. There is
stuff we don't know in 2007 when it was
renovated. I personally think it is
possible to do a renovation without the
Building Inspector -- maybe in her heart or
maybe in her head, his or her's, might know
this may be used as a second dwelling unit.
But to add a bedroom to a house, an
existing house and then find out later on
that it is going to be used as a second
dwelling.

MEMBER GORDON: I would like to
follow up and get back to the present on
what David was saying. On page 49 somebody
said -- of our last month's minutes.
Somebody said cutting the building --
cutting the building creates other issues.
Of course that is right. Buildings have to

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be ten feet apart. There is a whole sequence of problems that I think would occur. It seems to me inevitably legitimizing the use which is for short-term rentals. And the concerns David has about permitting short-term rentals to dominate the market in Greenport and cut out the options for people who so badly need rental housing is to me a serious issue.

Secondly, the building has been used without a permit. So we are being asked to overlook some of this. And I'm uncomfortable with that. That is a form of illegal behavior that concerns us in the context with other people that come before the Board. So that concerns me. Last week the applicant said she was renting for a week at a time with no CO. And we know of advertising for a wedding. At least one. I don't know if more than one. So there is some indication it seems to be of what will happen in the future from what has happened

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in the past to the extent we know what has happened in the past. So I feel very negative about this application. I am sorry to increase hardship that the applicant feels but that is my view at the moment.

CHAIRMAN SALADINO: Ellen.

MEMBER NEFF: I noticed a few minutes ago that this is a survey of a May 2017. It says two and a half story Inn. I don't know how many of you have noticed that. I bet it is picking it up from a previous survey. In a lot of ways it may be that this structure, the two as they are now is one structure, have operated as an Inn. The CO situation is that it is a bed and breakfast, which in this Village is a three bedroom in a single-family house. I still don't know how we go forward. I think I am more likely inclined to give the building permit, which is still open. Cutting it so there is a foot between it and calling it an accessory apartment or --

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2 it does make it a two-family house even
3 there is great disparity in the size of the
4 two. So I am still confused about that on
5 how to proceed.

6 MR. TASKER: You can have a --

7 CHAIRMAN SALADINO: How so?

8 MR. TASKER: If you separate the
9 building with the accessory apartment if
10 you separate it from the rest of the
11 building you may have created a situation
12 where you have a single family house with
13 three permissible B&B rooms. But you get
14 this thing hanging out there which is a
15 second building, which is not only not ten
16 feet separated but it is also a second
17 dwelling unit on the same parcel. So you
18 have two single family houses. One of
19 which is a B&B on the same parcel of land.
20 You fix up the B&B so it is not a two
21 family house. But you create another
22 gaping.

23 MEMBER GORDON: Presumably the
24 reason the State prohibits a two-family
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house from being a B&B is that the second family is -- who is in the structure doesn't want the traffic, the human traffic of the B&B around it.

MEMBER NEFF: We don't really know why.

MEMBER GORDON: Why else would the --

MEMBER NEFF: By definition I think. More than --

MEMBER GORDON: The only reason I can come up with for the State to say no B&B in a two-family house is so one family won't be so inconvenienced by having the other family's space used by the B&B. It seems to me this is going to be sort of the situation with the separated -- you have only got -- it is like having -- you have chopped out one foot but you still have the ambiance of the two-family dwelling with one B&B as part of the two-family.

MEMBER TASKER: The one foot separation is sort of smoke and mirrors.

1 B&Bs used to be called tourist homes.
2
3 There are tourist homes all over the
4 Northfork. My grandparent's ran a tourist
5 home on the Northfork in a big estate.
6 They took in borders in the summer. So it
7 is not a new phenomenon. A B&B is not a
8 new phenomenon. I think they knew how to
9 run it so no one was inconvenienced. They
10 wanted to run their business but they
11 wanted their guests to enjoy.

12 CHAIRMAN SALADINO: One of my
13 concerns is from listening to the applicant
14 and her attorney and the public and the one
15 letter we have from the public, even if
16 this is to come to pass, that we saw fit to
17 let them cut a foot away from the building
18 that would create this second dwelling unit
19 on the property. When we say dwelling unit
20 I'm just not inconvenienced it is not going
21 to be an extension of the -- and I know it
22 might be an assumption but I am just not
23 convinced it is not going to be an
24 extension of the B&B operation.
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So you know we have heard testimony of a full-time occupant prior and -- prior to 2001. We haven't heard anything from 2007 to the present. It just -- it just -- not yet. It just -- an excuse my tone. It just seems to me that from all that we have heard there was an opportunity to rent it full-time in 2007. The applicant chose not to do that because she was afraid of being violated. But had no qualms of renting it as a fourth B&B room, by her own admission. So we are kind of deciding which law we are okay with breaking as opposed to which law we are more likely to get caught breaking.

And just to address one more thing in this letter that we received. It says the neighbors had no problem -- the neighbors that wrote a letter had no problem with the B&B operation. And were more concerned with traffic. Actually the first paragraph of the letter says that they were in fact concerned about more than three rooms. I believe there was testimony

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that they saw the cottage occupied on different occasions. I am just finding it hard, unless somebody has got some document or something that this is not a two-family house. I just can't get it clear in my head that this right now, at this particular moment in time with 10 bedrooms and a living room and a dining room and a kitchen over here and a living room and a kitchen and a bathroom and a separate bedroom with no access to the other building is not a two-family house. Now you are asking us because you still want the B&B operation and you can't have it in a two-family house, you ask us to allow you to separate the house, not the ten feet that is required. Overlook the fact that if we granted these variances would create a separate dwelling on the property which is against the code. In my mind, right here and now, it is a big ask. And the fact that it is -- that you have been inconvenienced -- you consider it a

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2 hardship since 2007 -- I have no answer for
3 that. Sometimes we make bad decisions and
4 we have to live with them. But the
5 solution to your problem, to the
6 applicant's problem going forward I don't
7 really have an answer for her.

8 MR. PROKOP: If I could, I wanted
9 to make a legal point -- I was waiting to
10 make the point. I think you said it. If
11 the properties are two and two-family is
12 legal, it doesn't mean that two one-family
13 is legal. So I think that there is another
14 problem that is being created here. It
15 wasn't part of the application. I believe
16 that you can't go from a one two-family to
17 two one-family.

18 CHAIRMAN SALADINO: I thought the
19 variance would be to create a separate
20 dwelling on the property regardless of what
21 the other dwelling was.

22 MR. PROKOP: I don't have the
23 Notice so I can't say. I just have the
24 agenda.
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MEMBER CORWIN: Can I make a suggestion, Mr. Chairman?

CHAIRMAN SALADINO: Sure.

MEMBER CORWIN: I don't see much support for this. Before I came in here, let's hold it over for another month and think about it. I don't see the support so why don't we go ahead and seek the resolution and take a vote and see what happens.

MEMBER GORDON: Yes, I agree.

MEMBER TASKER: Is there not another out to have the Planning Board look at this to review the use?

CHAIRMAN SALADINO: I am not going to --

MEMBER NEFF: Could I ask Arthur to say more about that.

MEMBER TASKER: The Planning Board, I guess, has jurisdiction over B&B -- is it a special use waiver?

MEMBER CORWIN: They are not going to have a better answer than we have. We

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just -- if we do that we are saying we don't want to deal with it, you deal with it.

CHAIRMAN SALADINO: Exactly. I think to pass it off to the Planning Board is us saying we don't want to deal with this.

MEMBER TASKER: No. I think we can do the variance application. Nothing changes. If this variance is denied or if it is approved. Nothing changes on that property. Except it looks good on paper. We have a one foot gap.

CHAIRMAN SALADINO: The thing is that happens to us all the time. We rule on a variance or we grant or deny a variance and nothing changes. So --

MEMBER TASKER: I understand your reluctance to refer this to the Planning Board. I understand that. This is a little --

CHAIRMAN SALADINO: What would we tell the Planning Board.

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MR. PROKOP: In the denial letter there was a determination as to the use. The Building Inspector determined that the separation would end up with not a permitted use. Then there was also an area problem with the ten foot separation. I think her determination that it was going to go with a not a permitted use should really have required a use variance not an area variance. There was no testimony with what is normally required for a use variance.

MEMBER CORWIN: Well let's move along.

CHAIRMAN SALADINO: Wait.

MEMBER NEFF: Mr. Prokop, did you say that we didn't know about a use variance?

MR. PROKOP: Most of the discussion is about the use and if you look at the Notice of Disapproval the first basis for the disapproval is what I had said before that you would be separating one

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residential building which is a two-family in an R-2 District. You would be separating it into two one-families. Which I don't believe a legal use. And in fact the Building Inspector made that as her first reason for denial. If the separating the building into two one-families is not a permitted use then the use variance would have been required in addition to the ten foot separation variance. And the use variance has a different standard of proof.

CHAIRMAN SALADINO: We know. We also know that if we require a use variance we would start from --

MEMBER GORDON: No. We couldn't do that in this session. We can only -- we could only refuse to separate the two buildings.

CHAIRMAN SALADINO: I thought we could do that without bring use variance to the -- to the discussion.

MEMBER NEFF: You only bring the use variance into the discussion if we

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permit --

CHAIRMAN SALADINO: That is not what the attorney is saying.

MEMBER NEFF: Isn't that what you said?

MR. PROKOP: That is correct. If the buildings are not separated then it is not an illegal use. It is still a permitted use as a combined building. Being R-2.

MEMBER TASKER: Then you have a violation then remaining of the -- in the two-family dwelling.

CHAIRMAN SALADINO: But that is not for us --

MEMBER TASKER: That is what happens.

CHAIRMAN SALADINO: We understand that is what happens. We understand that. We don't -- we are not here to cure the world's illness. Only what is in front of us know. If somebody is listening -- if somebody from the Planning Board or the

1 Building Department is listening out there
2 in television land they might want to take
3 that up with somebody in authority. As far
4 as this board is concerned I think we
5 should deal with what is in front of us now
6 as opposed to after we make a decision what
7 happens then.
8

9 I'll leave it up to you.

10 Dinni says she should be allowed to
11 speak.

12 MS. MILLER: First I just wanted to
13 point out that certainly I don't want to
14 divide the building. It is a building that
15 has been around for over 100 years. And
16 the idea of dividing it only came up as a
17 possible solution to the situation we find
18 ourselves in. The usage of -- I call it
19 the cottage, before it was renovated was
20 almost more or less long term. On a year
21 round basis. For reasons of having someone
22 to provide security as well as some
23 obviously small additional income at the
24 time. My desire is to have the cottage for
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1 a year round rental. If I wanted a fourth
2 room I could have asked for a variance for
3 an additional fourth room, which has been
4 granted to other B&Bs in Greenport. But my
5 intention of the usage was to provide year
6 round. And -- year round occupancy. My
7 husband who is disabled and the idea of
8 having someone permanently in the cottage
9 appeals to me. There also may be a time
10 when I don't want to do the B&B anymore.
11 And I'm not getting any younger and so
12 right now you know if we wanted to revert
13 the house to room residential use or even
14 if we wanted to sell it. Without a CO -- I
15 mean you really have us in a kind of a
16 bind. And if I had known there was this
17 issue before investing in the cottage and
18 renovating it I never would have. And the
19 most that cottage would occupy is two
20 people. Not a family. It is small. It
21 was enlarged a little bit but it is small.
22 It is still a tiny dwelling area. So if we
23 stop the B&B then can we still continue the
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2 house as we did before with renting the
3 cottage? Which apparently for years and
4 years never was a problem. Is it suddenly
5 a problem? Am I supposed to --if I
6 continue the B&B have this cottage with
7 expensive renovation which I can't even
8 have family, a child live in it legally. I
9 mean this is --

10 CHAIRMAN SALADINO: Why not?

11 MS. MOORE: The reason that it
12 could not be rented full time after 2007 is
13 without a CO you can't rent year round
14 occupancy.

15 CHAIRMAN SALADINO: Joe, if she
16 took the stove out --

17 MS. MILLER: There is no stove.

18 CHAIRMAN SALADINO: The kitchen.

19 MS. MOORE: There is a microwave,
20 right?

21 MS. MILLER: Yeah.

22 MR. PROKOP: If they had access to
23 the house.

24 CHAIRMAN SALADINO: Make access to
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the house.

MR. PROKOP: Yeah. It is up to the Building Department. But I don't think there is a distinction. Unless there is something that I am unaware of I don't think you are legally okay to rent it but not rent it for a year. If it doesn't have a CO it can't be used for habitation.

MS. MILLER: Right. I can't use it, period, legally.

MR. PROKOP: But I think the discussion that we have had with you in the past is that it needs to be made part of the house. Excuse me, our suggestions was that you consider making it part of the house.

MS. MILLER: How? I mean for what purpose?

MS. MOORE: As an extra bedroom?

MR. PROKOP: As part of the house.

CHAIRMAN SALADINO: Or whatever you decide to make it.

MS. MOORE: I think that is part of

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the problem.

I think that is my family looking for me. I am supposed to be on the road.

It was a cottage before and this whole thing has terminated the use that was there before -- we think before zoning. The problem is that nobody got pre COs because it was not required.

MR. PROKOP: In New York State you are not allowed to have a bed and a breakfast in a two family house. This is a two-family house.

MS. MOORE: They why --

MR. PROKOP: In the Village of Greenport you can't have it.

MS. MOORE: I understand but she was given a building permit. It was called a cottage. So the --

MR. PROKOP: You called it the Enchanted Cottage when you advertised it.

MS. MOORE: No. The building permit is called a cottage. A building permit for a cottage.

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2 MR. PROKOP: You called it the
3 Enchanted Cottage.

4 MEMBER TASKER: A cottage is a --
5 the Building Inspector said is an
6 architectural style.

7 MS. MOORE: Oh, please. I
8 understand what she said, but it is a
9 cottage. It was on separate living
10 quarters before the building permit. And
11 it was all there and the Building Inspector
12 saw it and the building permit is showing
13 how it is going to be modified. The -- a
14 homeowner thinks, okay, I can make the
15 renovations and get the CO after six
16 inspections. It is unfair and I think you
17 would have to put yourself in her shoes to
18 get a building permit and then suddenly
19 find out that after all of the investment
20 that the B&B is made illegal or --

21 CHAIRMAN SALADINO: But you are
22 asking this Board to overlook a mistake
23 that was made perhaps in 2001 and perhaps
24 another mistake that was made in 2007. You
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2 are suggesting that this Board play it
3 forward. That just overlook that mistake,
4 disregard the evidence that is in front of
5 us.

6 MS. MOORE: If we had asked her to
7 disregard it we wouldn't be here.

8 CHAIRMAN SALADINO: By your own
9 testimony now it is like my client
10 shouldn't suffer for what happened then.
11 It was always that way. It is -- I can't
12 speak.

13 MS. MOORE: You have already
14 decided.

15 CHAIRMAN SALADINO: I have a
16 problem with that statement, that everybody
17 has decided. I haven't --

18 MS. MOORE: All right. I'm sorry.

19 MEMBER TASKER: I think that should
20 be retracted.

21 CHAIRMAN SALADINO: It doesn't
22 matter.

23 MS. MOORE: If the decision is
24 contrary to your comments.
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MR. PROKOP: I think one other thing -- on other point I would like if I understand what I have heard tonight is that, first off -- Chairman Saladino, you are correct. There has been a case. I think it is Parkville Associates which protects the Village and the Building Inspector from mistakes. And the -- basically from what I have heard, if I am not mistaken, that if it was recognized in 2007. There was some kind of problem here and you are here now and you have claimed years and years of hardship. But you could have made this application in 2007. This could have been addressed in 2007 by this application now.

MS. MILLER: We tried.

MR. PROKOP: I didn't see.

MS. MILLER: We tried to consult with you Mr. Prokop and there was previous lawyers.

MR. PROKOP: I have a problem with you saying that. I have always consulted.

2 If your position tonight is you have some
3 kind of a problem of hardship because you
4 tried to consult with me and I didn't
5 consult with you.

6 MS. MOORE: No. That is not what
7 she is saying.

8 MR. PROKOP: First off, it is not
9 true. It is offensive.

10 MS. MILLER: What I am trying to
11 say is we tried to address the problem
12 immediately.

13 CHAIRMAN SALADINO: This came
14 before the Zoning Board in 2007?

15 MS. MOORE: We had no Notice of
16 Disapproval or even direction. It was not
17 until --

18 MR. PROKOP: We don't direct you.
19 That is not our job to direct.

20 MS. MOORE: Well the Building
21 Inspector has to give us a Notice of
22 Disapproval on the direction we have to go.

23 MR. PROKOP: She doesn't hand out
24 Notices of Disapproval. You have to do

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something to get a Notice of Disapproval.

MS. MOORE: We had an open building permit. We couldn't get a CO. Based on that the next step is the Building Inspector gives the Notice of Disapproval. That is the procedure. Would you not agree?

MR. PROKOP: I don't agree.

CHAIRMAN SALADINO: Without agreeing or disagreeing because I am between two attorneys --

MS. MOORE: That's fine.

MEMBER GORDON: That is a terrible position.

CHAIRMAN SALADINO: Why didn't you ask the Building Inspector in 2007 when you could get a CO, ask for Notice of Disapproval so you could --

MS. MOORE: I wasn't the attorney at the time.

MS. MILLER: I had another attorney.

MEMBER TASKER: Same question.

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MS. MILLER: I mean they tried. I guess he tried to --

CHAIRMAN SALADINO: Can you understand our position that in 2007 you had recourse. You could have asked the Building Inspector. You had an open --

MS. MOORE: We are seeking that recourse today.

CHAIRMAN SALADINO: But you are saying for ten years you have been trying to do this. No you're not. You have been trying since August 11th.

MS. MOORE: They were working with the Village, however they were working. I know that there were active discussions. I had hoped that I could get the variance from the State so that we could continue to keep everything the way -- the State said we had no other option. That is why we are here.

MR. PROKOP: I don't think that is correct.

MS. MOORE: Please contact Mr.

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Smith directly.

MR. PROKOP: Mr. Smith is --

MS. MOORE: And the State Attorney called and there was nothing that I could do. Nothing I could do. Believe me we are not here because -- this is the last resort. I would have preferred the State. It seemed to be a pretty straight forward determination that we have a single-family house with an accessory cottage. Not a two-family. That is the way it has always been interpreted by COs. That it was a single-family dwelling. The cottage remained as it was since the beginning until Ms. Miller renovated it. It was the way it has always been.

CHAIRMAN SALADINO: And in 2007 after renovation it was discovered that this is not the way it is. Somebody previous to that overlooked something or did something.

By raising that question all I was doing -- we sat here for two meetings over

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2 the water for somebody else that perhaps
3 gave her bad advise or perhaps didn't --

4 MS. MOORE: Well, once I know how
5 you decide I will know if this application
6 was the appropriate method. A denial here
7 would still leave us in the same position
8 we are in.

9 CHAIRMAN SALADINO: Well, a denial
10 here doesn't stop you from going further.
11 We all know that a Judicial Review is
12 certainly your right.

13 MEMBER GORDON: I just think our
14 task here is to decide about both the
15 immediate effects and the longer term
16 consequences of what the applicant asks.
17 We should stick to that and not be too much
18 dredging up of who was responsible for
19 what.

20 CHAIRMAN SALADINO: Okay. Are we
21 ready to do SEQRA? Are we ready to do five
22 questions? What do you want to do?

23 MEMBER GORDON: Yes.

24 CHAIRMAN SALADINO: I make a motion
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2 that the Zoning Board declares itself lead
3 agent for the purposes of SEQRA.

4 MEMBER CORWIN: Second.

5 CHAIRMAN SALADINO: All in favor?

6 MEMBER CORWIN: Aye.

7 MEMBER GORDON: Aye.

8 MEMBER NEFF: Aye.

9 MEMBER TASKER: Aye.

10 CHAIRMAN SALADINO: And for
11 purposes of SEQRA I am going to declare
12 this --

13 MR. PROKOP: It is an unlisted
14 action.

15 CHAIRMAN SALADINO: It is an
16 unlisted action.

17 MEMBER GORDON: Yes. It is not.

18 MR. PROKOP: The other thing is I
19 recommend you consider some of the impacts
20 on the environment before you decide if it
21 will have a significant negative impact.

22 CHAIRMAN SALADINO: Okay. But we
23 have to do SEQRA --

24 MR. PROKOP: Some discussion on
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SEQRA before.

MEMBER CORWIN: I want to know what impact on the environment it is going to be. Increased parking on a private road. The neighbors have brought up questions and I certainly had an experience that didn't negate what the neighbors said. And I also want to note, as far as I can see this is going to end up two one-family houses. One of which will be a bed and breakfast. Which is producing a cottage for an accessory dwelling unit. That is what it is producing, an accessory dwelling unit that I have to maintain is not good for the rental market, low income housing in Greenport. And we know that that accessory dwelling unit is not going to be rented to no low income people. That is too broad a statement. I really question if that dwelling accessory unit will ever be rented to a low income family or couple.

Once again, once that door is open then you can have an accessory dwelling

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2 unit in your backyard they are going to be
3 lined up out this door for accessory
4 dwelling units. Which will have an effect
5 on that neighborhood and the whole Village
6 of Greenport.

7 CHAIRMAN SALADINO: Anybody else.

8 MEMBER GORDON: Well, it seems to
9 me the parking is the question, the
10 environmental question, but I am not sure
11 if it would change very much if we accept
12 the statements from various sources that
13 their have been renters in the cottage.
14 Now there will be once again renters in the
15 cottage. And it wouldn't be significant
16 that it was one foot separated from the
17 main residence. So I am not sure that the
18 parking problem would be effected
19 negatively.

20 CHAIRMAN SALADINO: Did I interrupt
21 you, Arthur? I'm sorry.

22 MEMBER TASKER: Yes.

23 CHAIRMAN SALADINO: I am going to
24 agree with Dinni. I mean the parking there
25

1 is -- we went for a site visit. The
2 parking there is tough. But what I am not
3 willing to admit is that apartment has been
4 vacant, that dwelling unit has been vacant
5 as often as being presented here. I'm
6 thinking the parking, the neighbors have
7 lived with that parking. I have to be
8 honest with you. I don't drive in there
9 much. So I don't really know what is going
10 on there. So I am not sure if parking is
11 that big a concern. The second dwelling
12 unit on the property is a concern for me.

14 MEMBER NEFF: It is a precedent.

15 CHAIRMAN SALADINO: As far as
16 SEQRA. As far as increased density.

17 MEMBER TASKER: John, if I may. As
18 I said in earlier remarks Board members can
19 speak to their own personal experience with
20 respect to a particular application. You
21 just said you don't have any personal
22 experience of how that parking is along
23 that road. I'm looking at the letter by --
24 submitted by Carrie Robinson and Walter
25

1 Candice-Tilford (phonetic) who are
2 residents in two houses adjacent to that.
3 In other words, they use that right of way,
4 shared right of way. They say the presence
5 of the B&B which is located on a very
6 narrow right of way that is shared with
7 other homes is already negatively changed
8 the character of the neighborhood. With
9 the increased traffic from B&B guests
10 coming and going, trucks making deliveries
11 and a loss of privacy and quality of life,
12 the strangers constantly around. It is for
13 these reasons that we oppose the granting
14 of the variances. And that would
15 potentially allow the B&B to add more rooms
16 over the three that they are currently
17 allowed to have and give our residential
18 neighborhood and even more commercial feel
19 and further deteriorate our quality of
20 life. So it is not that the neighbors have
21 not spoke out with respect to this, as
22 someone asserted, I think.

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24 CHAIRMAN SALADINO: Ellen.
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2 MEMBER NEFF: I agree. The
3 statement of the neighbors are saying over
4 time that it is a problem. I think the
5 granting of the variance, what it does is
6 makes -- it gives an official blessing as
7 it were to a condition that has been going
8 on at times at the property. And
9 therefore, could make the total impact of
10 it more negative to the neighborhood. It
11 has been going on but now you would
12 guarantee that it would be allowed to go on
13 if you grant the variance.

14 CHAIRMAN SALADINO: I agree with
15 that. I'm not sure. Can we go back
16 retroactive -- can we go back and say this
17 is how it was and now it has been fallowed
18 supposedly for ten years --

19 MEMBER NEFF: No. I don't think we
20 agree it has been fallowed. I think at
21 times it has been in use. How much of the
22 time I am not speculating.

23 CHAIRMAN SALADINO: That is because
24 we don't know.
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MEMBER NEFF: Right.

CHAIRMAN SALADINO: Are we done with SEQRA? About expressing our opinion about SEQRA.

MEMBER GORDON: Does that keep it an unlisted action?

MR. PROKOP: I think it is still an unlisted action. It is just a question of if there is an impact or not.

CHAIRMAN SALADINO: So the motion would be we would have -- it is an unlisted action that would have a negative impact on the environment. And if we vote yes --

MEMBER CORWIN: That means it doesn't have any problems.

CHAIRMAN SALADINO: If we vote no we have to square that away before we do the variance.

MEMBER CORWIN: That is what we are trying to do right now. What is the impact? My understanding is negative impact is no impact on the environment.

MR. PROKOP: A negative declaration

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means there is no negative impact. As positive declaration means that there is a negative impact.

MEMBER CORWIN: My position is there is some sort of impact on the environment. There is an impact -- if someone flushes a toilet there is an impact on the environment. Somebody drives down there and gets stuck in the driveway there is an impact on the environment. And certainly all of the neighbors that are inconvenienced. Somebody trying to move their car are going to say, gee, there was an impact on the environment.

CHAIRMAN SALADINO: I think we have to go passed the what if questions. I think we have to go with what is usual an customary for daily life. You know getting stuck in the driveway or a toilet backing up --

MEMBER CORWIN: My point is anything you do has an impact on the environment. If you flush the toilet. I

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don't expect it to be backed up but it has an impact on the environment.

MEMBER NEFF: Does this mean that you would never support a negative declaration?

MEMBER CORWIN: No.

MEMBER TASKER: May I ask the attorney, what are the procedural implications if they had an impact, a negative impact? What are the procedural implications of that?

MR. PROKOP: So number one, you could then recommend conditions if you wanted to ameliorate the impact, mitigate the impact. The other thing is your SEQRA finding falls into one of your five considerations. Because one of the considerations is whether or not there will be an impact on the environment. So those two determinations are really supposed to coordinate.

MEMBER GORDON: When you ask those questions, does it give a significant

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2 impact on the environment in the five that
3 we consider, does that only mean the
4 physical environment? I always that also
5 meant the social environment.

6 MR. PROKOP: That is more character
7 of the neighborhood; light, noise. If you
8 adopt a positive declaration you could
9 still move ahead with the application.

10 CHAIRMAN SALADINO: How? Just by
11 leveling conditions?

12 MR. PROKOP: You could recommend
13 conditions. Or like I said that could flow
14 into your consideration of the five
15 criteria because one of the five criteria
16 is whether or not there is going to be an
17 impact on the environment.

18 CHAIRMAN SALADINO: So would the
19 motion be to make a negative declaration
20 and that there would be no -- that there
21 would a negative impact and we would reject
22 that?

23 MEMBER TASKER: But you get into a
24 conflicting situation when you go into the
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2 five questions. There would be a negative
3 impact.

4 MR. PROKOP: I don't want to
5 suggest your result but if you are asking
6 me how do you find that there is an impact
7 on the environment it would be a motion to
8 adopt a positive declaration.

9 CHAIRMAN SALADINO: I thought we
10 would vote on a negative declaration. It
11 would be rejected and to make it --

12 MEMBER TASKER: Skip a step, John.

13 MR. PROKOP: If you are proposing
14 to adopt that there will not be any impact
15 on the environment then the motion is to
16 adopt a negative declaration. If you are
17 proposing to determine that there is going
18 to be an impact on the environment then you
19 should make a motion to adopt a positive
20 declaration.

21 I wouldn't defeat one motion and
22 then do another motion. My recommendation
23 is whatever one you want to do just make
24 that motion.

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CHAIRMAN SALADINO: Okay.

MEMBER GORDON: If we know it is not going to be unanimous it seems to me it should be making the motion in the direction that gives voice to the person that is not going to --

CHAIRMAN SALADINO: Like I always say, I think your opinion should be expressed in your vote. We will make a motion and people's opinions will be expressed in their vote.

So I make a motion that we make a positive declaration and we will make this -- have a positive impact on the environment.

MR. PROKOP: Negative impact.

CHAIRMAN SALADINO: Negative impact.

So moved?

MEMBER TASKER: Second.

CHAIRMAN SALADINO: Who seconds?

MEMBER CORWIN: Say the motion again, please.

1 CHAIRMAN SALADINO: I make the
2 motion that we declare this --

3 MEMBER GORDON: We are making a
4 positive declaration.

5 CHAIRMAN SALADINO: A positive
6 declaration and this will have a negative
7 impact on the environment. Is that it?

8 MEMBER CORWIN: I don't think so.

9 MR. PROKOP: You are adopting a
10 positive declaration determining -- the
11 motion is to adopt a positive declaration
12 therefore determining the application would
13 have a negative impact on the environment.

14 CHAIRMAN SALADINO: So moved.

15 MEMBER CORWIN: I'm sorry. I
16 haven't had any philosophy courses. I
17 can't quite figure this out. You are
18 making a motion that it is a positive
19 impact on the environment.

20 MR. PROKOP: No. The motion that
21 is proposed is to adopt a positive
22 declaration. A positive declaration means
23 that there will be a negative impact on the
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environment.

MEMBER GORDON: It is a way of saying, yes, the environment will be damaged.

MR. PROKOP: In other words, you tested positive.

MEMBER CORWIN: This is a problem I have had. Throwing these terms around -- a negative impact to me is you are doing something that harms the environment.

CHAIRMAN SALADINO: In this case, making a positive declaration that is exactly what you are saying.

MEMBER CORWIN: Make a positive declaration that it has a negative impact on the environment.

MEMBER GORDON: You are saying, yes. It has a negative impact.

CHAIRMAN SALADINO: If that is how you feel. Don't let Dinni push you.

MEMBER TASKER: For an attempt to understand, an affirmative declaration that it will have a negative impact.

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CHAIRMAN SALADINO: And negative is bad.

MR. PROKOP: Can I please rephrase.

MEMBER GORDON: Yes.

MR. PROKOP: It is a motion to determine that it will be a negative impact on the environment and therefore a positive declaration is adopted.

CHAIRMAN SALADINO: So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: Back to David.

MEMBER CORWIN: Let's do a role call.

CHAIRMAN SALADINO: Let's do a role call.

MEMBER CORWIN: My vote is yes, there will be some impact on the environment.

CHAIRMAN SALADINO: Dinni.

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ellen.

MEMBER NEFF: No.

CHAIRMAN SALADINO: Arthur.

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MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I am going to vote no. So it is three two. Can we do the five questions now?

Whether an undesirable change will be produced in the character of the -- before I read this, we are taking the application as a whole?

MEMBER GORDON: Together.

CHAIRMAN SALADINO: Both variance requests together as opposed to separating?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Okay. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance.

David?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: Yes.

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CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I vote yes.

Whether the benefits sought by the applicant can be achieved by methods feasible for the applicant to pursue other than an area variance.

David?

MEMBER CORWIN: No.

CHAIRMAN SALADINO: Diana?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I'm sorry I skipped you.

Ellen?

MEMBER NEFF: Yes.

CHAIRMAN SALADINO: And I will vote yes.

MEMBER NEFF: Did you get Arthur's vote?

MEMBER TASKER: She got it. That is all that counts.

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CHAIRMAN SALADINO: Whether
requesting an area variance is substantial?
Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: Yes.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I will vote
yes.

Whether the proposed area variance
will have an adverse affect or impact on
the physical and environmental conditions
in the neighborhood or district.

David?

MEMBER CORWIN: I am voting yes and
I want to note the word district in there
and calling the Village of Greenport a
district.

CHAIRMAN SALADINO: Okay. I
thought it was a zoning district, but okay.

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Diana?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: No.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: I'm sorry. Which
one are we on?

MEMBER NEFF: Five.

CHAIRMAN SALADINO: Whether the
proposed variance will have an adverse
affect or impact on the physical or
environmental conditions of the district or
neighborhood.

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: And I'm going
to vote no.

Whether the alleged difficulty was
self-created which consideration shall be
relevant to the decision of the Board of
Appeals but not necessarily preclude the
granting of the area variance.

David?

MEMBER CORWIN: Yes.

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CHAIRMAN SALADINO: Diana?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: No.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: And I will vote
yes.

And the question of the variance,
we made a motion to approve the area
variance.

MEMBER GORDON: It is plural,
right?

CHAIRMAN SALADINO: I thought by
saying we were going to consider as a
whole, but I will add the s if it makes
everyone comfortable.

I make a motion to approve the area
variances.

David?

MEMBER CORWIN: No.

CHAIRMAN SALADINO: Diana?

MEMBER GORDON: No.

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CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: No.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: I abstain.

CHAIRMAN SALADINO: And I vote no.

Item number 7 --

MEMBER CORWIN: One question that I brought up was whether we should we moved the meetings back to 5:00. One of the problems we had, particularly in this part of the year, is making an inspection just before the meeting. If we make an inspection in front of a 6:00 meeting we have to make an inspection at 4:00. That creates a dead hour for the Zoning Board of Appeals. I haven't heard anything from any of the participants that 5:00 would be a bad time to have meetings. We had 5:00 for a while and it worked. One person was interested in an application on Fifth Avenue, had a legitimate complaint because she had work and we moved the meetings up to 6:00 to give her a chance to get out of

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work. Maybe we can be a little flexible that way if somebody wants 6:00. That is a question an idea to kick around. If anybody else has an interest in 5:00.

CHAIRMAN SALADINO: I think it is nice we get to hang out for an hour or so. But I remember it was more than a couple of people and ironically those people don't seem to come anymore. I don't think Chatty --

MEMBER GORDON: Chatty would you come at 5:00?

MS. ALLEN: I am missing to be here at 5:00. So yes.

MEMBER TASKER: How about a seasonal consideration on that? Of course part of that is the darkness with the inspection. Now sunset is 4:30. That is about as late as it is going to get.

MEMBER CORWIN: That would be a solution.

MEMBER TASKER: Daylight savings time. 5:00 during standard time and 6:00

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for daylight savings time.

CHAIRMAN SALADINO: The problem is, as I see it, is not so much doing the inspections while it is light. the problem came up because there was an application or applications that people were interested in and they felt they were deprived of making comment because of the hour. So what happens is -- those people are going to have that same concern because obviously they weren't retired.

MEMBER TASKER: If you can't get there by 5:00 you can't get there by 6:00 in most instances.

CHAIRMAN SALADINO: I don't remember anyone complaining about 6:00.

MEMBER TASKER: There are other avenues to present your case to the Board. Although maybe more difficult to write an extensive letter simply to do it for the possible convenience of someone's personal opinions.

CHAIRMAN SALADINO: We didn't do it

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to give someone's personal convenience. We
did it --

MS. ALLEN: There was a lot of
people.

MR. TASKER: I am not disputing
that. We are always going to be facing
that, its a bad time for me.

MEMBER NEFF: Rather than picking
an informal look back at a year or forward
for the next year, we are really just about
scheduling our next meeting for 5:00. I
think we keep that the issue and figure it
out from there. 6:00 in winter seems very
late. I think scheduling our next
appointment for 5:00 and making a decision
there for the rest of our calendar, at
least for a couple of months, make sense.

CHAIRMAN SALADINO: You just voted
for 6:00.

MEMBER NEFF: I am saying the
proposal was for 5:00, our next meeting at
5.

CHAIRMAN SALADINO: No. David

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wanted to start the discussion moving forward.

MEMBER NEFF: I am going to make a motion to make our next meeting at 5:00. And discuss the matter.

MEMBER CORWIN: We may not even have a meeting next month.

CHAIRMAN SALADINO: What is it the rapture? Do you know something?

MEMBER CORWIN: One thing we can always do is start the meetings at 5:00 and go over whatever and schedule the public hearing at 6:00.

MEMBER TASKER: That is a good idea.

CHAIRMAN SALADINO: So we are going to rescind the motion, item number 3 for the next ZBA meeting on January 16, 2018 at 6:00 p.m.

MEMBER TASKER: So moved.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER GORDON: Aye.

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MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: We are going to make a new motion to schedule the new ZBA meeting for January 16th, 2018. Let's do this once. What time? 5:00.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: At the Third Street Firehouse, Greenport, New York 11958. So moved?

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: Just to explain the attorney had sent electronically the Findings and Determination for 222 Manor Place. We don't have them in our package. If everybody read it we can vote on it.

MEMBER TASKER: I haven't seen it.

CHAIRMAN SALADINO: Okay. We will

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vote on it next month.

Item number 7 is motion to adjourn.

MEMBER CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: So moved.

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

STATE OF NEW YORK

COUNTY OF SUFFOLK

I, Barbara D. Schultz, a Notary
Public within and for the State of New

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York, do hereby certify:

The witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am not in any way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have here unto set my hand.



Barbara D. Schultz