

VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING AGENDA

November 20, 2013

5:00 p.m.

Meeting held at the Greenport Firehouse
236 Third Street, Greenport, New York 11944

APPEARANCES:

Douglas Moore - Chairman

David Corwin

Ellen Neff

Charles Benjamin

Denise Rathbun (Not Present)

Joseph Prokop - Village Attorney

David Abatelli - Village Administrator

Eileen Wingate - Village Building Inspector



ORIGINAL

1 (Whereupon, the meeting was called to order
2 at 5:05 p.m.)

3 CHAIRMAN MOORE: I think we can begin.
4 This is the Regular Session of the Greenport
5 Zoning Board of Appeals. It's about
6 five-after-five.

7 Just to let you know, I apologize in
8 advance, if I get a tickle, I will have to pass
9 on to someone else to carry out, but I'll try and
10 keep my voice going for the duration.

11 So what we have tonight is two public
12 hearings. One is a continuation, and then we
13 have our Regular Meeting agenda.

14 On Item #1 is a continuation of the Public
15 Hearing for the signage at Eastern Long Island
16 Hospital. Just to remind the audience, this is a
17 request for two lighted signs at the front of the
18 property. One is replacing a current illuminated
19 sign, and the other is an additional new sign.
20 They are restricted, because, one, they're
21 directly illuminated, and secondly, the area of
22 the signs exceeds the allowable 24 square feet.

23 So I think most people are familiar with
24 this process. We've had two months of public
25 testimony, but we have the hearing still open and

1 we'd like to give any additional people the
2 opportunity to make comments tonight, if there
3 are any. If someone has already spoken, we have
4 your comments on record, and unless there's
5 something new and different you would like to
6 say, we'd look for any new comments from members
7 of the community.

8 Are there any comments regarding Eastern
9 Long Island Hospital sign proposal, an
10 application for variance?

11 (No Response)

12 CHAIRMAN MOORE: If not, then, I would make
13 a motion to close the Public Hearing.

14 MR. CORWIN: Well, let's wait a few minutes
15 in case they show up.

16 CHAIRMAN MOORE: You would like to wait for
17 a few?

18 MR. CORWIN: And maybe we could just
19 suspend that one and start the other one.

20 CHAIRMAN MOORE: Okay. We could --

21 MR. CORWIN: If that's fine, if there's no
22 objections.

23 CHAIRMAN MOORE: Would that be agreeable to
24 the Board to do that?

25 (Affirmative Response)

1 CHAIRMAN MOORE: All right. The suggestion
2 was that, should there be some late arrivals,
3 people interested in the Hospital, that we would
4 hear them. So we'll just reverse the order of
5 the public testimony and start on the second
6 item.

7 This is a Public Hearing for a request for
8 an interpretation. And just bear with me for a
9 minute, I'll switch files. And just to indicate,
10 first of all, that this Public Hearing is for an
11 interpretation-appeal requested by Margaret
12 Richards, 415 Kaplan Avenue, Greenport, New York,
13 regarding issuance of a building permit for the
14 improvement of a nonconforming structure adjacent
15 to her property. The subject property, commonly
16 known as Kaplan's Market, is located at 407
17 Kaplan Avenue, Suffolk County Tax Map
18 1001-4-1-10.2, and is in the R-2 District.

19 Sections of the Greenport Village Code
20 referenced by the Applicant are Section 150-1,
21 Purpose, Intent, F, the Gradual Elimination of
22 Nonconforming Uses; Section 150-12A, Bulk and
23 Parking Regulation for Uses Permitted in R-1 and
24 R-2; Section 150-21A, Nonconforming Buildings
25 with Conforming Uses, Definition and

1 Modifications to Structures; Section 150-21B
2 (1)(2) and (3), Reconstruction of a Damaged
3 Building. And last cited by the Applicant is
4 Section 1 -- is Section 65-6A, Certificate of
5 Occupancy. And I have noted, this section, fire
6 prevention and building construction is not under
7 the purview or authority of the Zoning Board of
8 Appeals.

9 This hearing was properly noticed in the
10 Suffolk Times. I believe the placard, as
11 required, has been placed on the property at the
12 proper interval. And I don't have the map that
13 shows the location, but the people that were
14 notified, David Corwin and Thomas Crowler
15 (phonetic), 639 Main Street, Greenport, Josephine
16 Johnston and Thomas Watkins, 421 Kaplan Avenue;
17 Frank A. Field Realty, Inc., Post Office Box
18 30 -- 631, Greenport; Vicky Semler, 516 Madison
19 Avenue; Edgar and Arlene Marvin, Post Office Box
20 28, New Suffolk. I believe this is the corner
21 property of Madison and Kaplan; is that correct?

22 MS. RICHARDS: No, second over.

23 CHAIRMAN MOORE: It's one in. I'm sorry,
24 it's the second one in. Thank you. I just try
25 to identify sometimes where the properties are

1 when we have box numbers. And then, finally,
2 James Olinkiewicz, Post Office Box 591.

3 I'd like to first spend just a little time
4 with a few explanations on how we're going to
5 conduct this hearing and give a little bit of
6 information about what is actually the process
7 going on tonight.

8 Normally, most people are familiar with the
9 Zoning Board of Appeals issuing or considering
10 variances for applicants who have applied for
11 building permits, but been refused by the
12 Building Department. Another function of the
13 Zoning Board is to provide interpretations, and
14 this can be from several sources. One is that a
15 Village official or any of the Boards of the
16 Village can request an interpretation of the
17 meaning of the code. Secondly, an appellant for
18 a negative building permit or a citation can ask
19 for interpretation if they feel that the zoning
20 chapter was misapplied in refusing a building
21 permit. And, finally, a neighbor can actually
22 appeal the issuance of a building permit based on
23 an assertion that the code was incorrectly
24 followed on issuing the building permit.

25 So it's kind of an upside down appeal.

1 It's actually protesting the positive issuance of
2 a building permit, and that's the case we have
3 tonight.

4 We should at some point review the history
5 of the property. But what I'd like to do is go
6 to get public comments. And what I'd suggest we
7 do tonight is that, first, the Applicant, or the
8 person filing the appeal is Margaret Richards,
9 and I'd like to ask her to present her
10 information.

11 This issue is actually between herself and
12 the Building Department, and in cases like this,
13 the Building Department or the Village, in
14 general, is offered the opportunity to give their
15 input into the situation. Obviously,
16 Mr. Olinkiewicz, property owner, who has been
17 issued the building permit, has an interest and
18 he could talk as well, and then we'd entertain
19 any comments from the public in general.

20 What I'd like to ask, though, is that those
21 who are speaking from the public, who can be
22 anybody, you don't have to be a neighbor, you can
23 be anybody who has an interest, that you identify
24 the section of the Zoning Code, Chapter 150, on
25 which you're making your comments. That's very

1 important, because we do not have jurisdiction on
2 other matters. I know there's a lot of emotion
3 going on in this particular instance, and this
4 property has had a lot of contentious activity in
5 the past, but the issue tonight is strictly about
6 Chapter 150, and so I would ask you to restrict
7 your comments to that area.

8 So what I'll ask, then, is for Ms. Richards
9 to make comments. She did submit a fairly
10 extensive report about her assertions, and that
11 is available to be placed in the file, and I'm
12 sure you'll be referencing that. Can you say how
13 much time you're going to need for your
14 presentation?

15 MS. RICHARDS: Well, do you want me to
16 review the written part, or just a copy of it
17 submitted?

18 CHAIRMAN MOORE: Well, I have a copy of the
19 written part, it's been submitted, and we'll
20 provide that for the minutes. I would suggest
21 that, in your original appeal application, you
22 stated the different section of the code that
23 were being referenced, that you would use that as
24 your guide, and you certainly have prepared a
25 document for your own reference and you can say

1 whatever you would like.

2 MS. RICHARDS: I think I could do it rather
3 quickly.

4 CHAIRMAN MOORE: And just to remind
5 everybody, when you come to the podium, your
6 name, address, and any affiliations is
7 appropriate. Thank you.

8 MS. RICHARDS: Okay. Margaret Richards,
9 415 Kaplan Avenue.

10 A variance is a device that was written
11 into the law to allow for property owners with no
12 other option, the need for a handicapped ramp for
13 an elderly parent, an unexpected birth, sometimes
14 for estate planning purposes, to bring a building
15 up to code, never for purely monetary reasons,
16 yet this Village Board has been handing them out
17 like penny candies.

18 The Applicant's attorney, in August, had
19 the gall to bring up 314 Center street as a
20 precedent for variances granted in regards to the
21 Fifth Street matter. Mr. Olinkiewicz was the
22 applicant there as well, and, by the standards of
23 State Law, should never have been granted that
24 variance, nor the density allowed on those
25 parcels.

1 New York law provides statutory standards
2 for the issuance of variances. The statutes
3 impose a heavy burden upon an applicant of
4 demonstrating that a variance should be granted,
5 as that applicant is requesting the Zoning Board
6 of Appeals to alter the local Legislature's
7 determination that a specific circumstance is not
8 appropriate in the zoning district.

9 The fact that the property needed
10 variances, it shouldn't have gotten a building
11 permit.

12 CHAIRMAN MOORE: Excuse me.

13 MS. RICHARDS: Yes.

14 CHAIRMAN MOORE: Can you identify what
15 property you're referencing?

16 MS. RICHARDS: 407 or 411 Kaplan, depending
17 on what paperwork you're looking at, Kaplan's
18 Market.

19 CHAIRMAN MOORE: Okay. You're talking
20 about the Kaplan?

21 MS. RICHARDS: Yes, Kaplan's Market.

22 CHAIRMAN MOORE: And what variance are you
23 referencing that was issued?

24 MS. RICHARDS: No, a variance was not
25 issued, a building permit was issued.

1 CHAIRMAN MOORE: Okay.

2 MS. RICHARDS: The point I'm making is that
3 a variance should have been required, and that is
4 a way of giving notice to people around the
5 building of what its deficiencies were, what its
6 insufficiencies are, and how the Village is going
7 to deal with that.

8 With this particular -- now, nowhere in the
9 file did I see anything addressing how he was
10 going to make up in extra parking, required
11 parking space. If he was going to have a
12 two-family dwelling in that building, it
13 absolutely requires three parking spaces; the
14 plans show two.

15 I understand he owns the property next door
16 to it, but nothing is in the file referencing
17 that. But, if he is considering using that other
18 property as access or a parking space, he's
19 proposing taking two nonconforming properties and
20 intensifying the nonconformity of both of them.
21 But, in any event, he cannot have a two-family
22 dwelling there.

23 One part is that the ZBA in the past has --
24 the word is escaping me. They said that it would
25 only be a single-family residence. That was an

1 issuance from a prior ZBA.

2 Secondly, the criteria in the code can only
3 be waived if an existing residence is on the
4 property, in which event only the parking
5 requirement needs to be met. The last legal use
6 of the property, the last CO was commercial.

7 Also triggering Criteria #3, if he should
8 go looking for a variance, that the requested
9 variance would be substantial, because the
10 property needs multiple variances, as well as
11 State variances. These codes were put into place
12 for a reason and should not be made light of for
13 monetary gain.

14 And unless you want me to go into
15 specifics, that's -- those are my comments.

16 CHAIRMAN MOORE: Okay. Perhaps you should
17 review the portions of the zoning code --

18 MS. RICHARDS: Okay.

19 CHAIRMAN MOORE: That would not permit
20 issuance of a building permit.

21 MS. RICHARDS: The section -- Section
22 150-21-B(1) is having to do with not being able
23 to reconstruct a building that's been damaged
24 more than 50%. And it's my assertion that having
25 an open warehouse converted into three separate

1 uses with five bedrooms, and an extra loft, and
2 commercial space, all of that done without any
3 building permits, I consider that damage. If you
4 go to the --

5 MR. CORWIN: Could you -- before you go on,
6 you went to 150-21B(1).

7 MS. RICHARDS: Yeah.

8 MR. CORWIN: In your handout, you have
9 highlighted 150-21A. So I assume you're
10 referring, and I do believe you referred to that,
11 too, in your application. So could you just
12 mention that one, too, if you consider that
13 relevant?

14 MS. RICHARDS: 150-21.

15 MR. CORWIN: Nonconforming Buildings with
16 Conforming Uses, 150-21.

17 MS. RICHARDS: Okay. Now, when you get
18 into 150-21B, it talks about building --

19 MR. CORWIN: But you just mentioned 120 --
20 you just went over 150-21B, correct?

21 MS. RICHARDS: Yes.

22 MR. CORWIN: And I'm saying how does
23 150-21A apply?

24 MS. RICHARDS: I don't see anything in here
25 about 150-21A.

1 MR. CORWIN: You have it in your
2 application and you've highlighted it in your
3 handwriting.

4 MS. RICHARDS: Well, that's just the
5 definitions, is it not? I don't have the code
6 with me, I only have what I wrote out.

7 CHAIRMAN MOORE: You have it in front of
8 you, we can read it.

9 MR. CORWIN: All right.

10 MS. RICHARDS: I know I could get
11 something.

12 MR. CORWIN: We'll just go by the written
13 testimony or the written handout on that.

14 MS. REA: We actually have a copy.

15 MR. OLINKIEWICZ: We have a printed copy of
16 the code, if you want.

17 CHAIRMAN MOORE: I apologize for, you know,
18 being persistent in questions, but this is --
19 gets to be a very technical discussion, and I'm
20 sure we're going to be discussing it in detail.

21 (Cell Phone Rang)

22 CHAIRMAN MOORE: Excuse me, I'm sorry. I
23 apologize for having that on, I usually turn it
24 off.

25 MS. RICHARDS: All right.

1 CHAIRMAN MOORE: Anyway, it's very
2 important that you reference any particular
3 section of the code that you are taking exception
4 with that has been improperly applied.

5 MS. RICHARDS: I'm looking at 150-20 --
6 150-21?

7 MR. OLINKIEWICZ: Bottom of Page 2.

8 MR. CORWIN: This is what you gave us.
9 You've highlighted this and quoted that and you
10 cite it in your application.

11 MS. RICHARDS: It's the definition of a
12 nonconforming building --

13 MR. CORWIN: Okay. Thank you.

14 MS. RICHARDS: -- with a nonconforming use.
15 Okay. The next part I have on here is with
16 reference to the bulk and parking, which is what,
17 150-12?

18 CHAIRMAN MOORE: Yes, I believe so,
19 Section -- probably Section A.

20 MS. RICHARDS: On two-and-a-half sides,
21 this building has virtually no property at all.
22 The front has 3.2 feet to the municipal sidewalk.
23 He will not be able to install the Hardie plank
24 siding on my side, on the north side, as it takes
25 a tiny six-inch setback and makes it an even

1 tinier four-inch setback. It also would preclude
2 any access to my backyard, because the property
3 up to the wall of that building is paved and has
4 been utilized as a driveway to my property for
5 over 50 years.

6 The siding should not have been allowed on
7 the south, as it increased the setback deficiency
8 of 7.8 inches to 5.8 inches, and in the rear from
9 six inches to four inches.

10 There are new openings in the roof, three
11 industrial fans and some skylights, and I was --
12 the roof was substandard when the prior owner
13 owned it, and if any changes were made to it, it
14 needed to be brought up to code. That's not --
15 actually, that's not a zoning issue. I'm sorry,
16 that's a State Building Code requirement.

17 I already went over what the parking issues
18 are. And should you decide that he -- that he
19 would be allowed to use the adjacent property
20 that he owns, he would have to put a recorded
21 easement on that property with the County.

22 Otherwise, he could change that at any point in
23 time and sell it to somebody without parking.

24 It is definitely a self-created hardship,
25 because all of these issues existed before he

1 purchased the property. The fact that it's been
2 in dispute has been open and notorious. The
3 owner is also a contractor and, as such, is
4 familiar with all local and State building codes.
5 Therefore, he knowingly proceeded with
6 construction that could not meet either.

7 It is substantial in the number of
8 variances required in the decree of
9 nonconformity.

10 And I touched on this earlier about one of
11 the reasons that it should have been referred to
12 the ZBA in the first place, and possibly to the
13 Planning Board as well, that there is a
14 fundamental element beyond administrative review
15 for applying for and displaying a building permit
16 and public hearings before the ZBA and Planning
17 Board for more than basic changes to your
18 property; this element is notice. Other
19 homeowners and residents of your neighborhood and
20 community have a right to know that what you are
21 doing behind closed doors will not impact upon
22 their quality of life or property values. This
23 aspect has been conspicuously absent in how the
24 owners and the Village of Greenport have been
25 proceeding in regard to the Kaplan Market project

1 for about 13 years now.

2 If this property is ever allowed human
3 occupancy, my property and other surrounding
4 properties have been and will be illegally
5 burdened with the need for fire access, egress
6 and parking in the street.

7 And that's enough, because I'm shaking like
8 a leaf. Thank you.

9 MR. PROKOP: Can I ask you a question?

10 MS. RICHARDS: Oh, I'll answer the
11 question, sure.

12 MR. PROKOP: Somewhere along the way you
13 said that you thought that there was a prior
14 variance that restricted the use of this property
15 to a single-family. Do you know when that was?

16 MS. RICHARDS: Would have been September of
17 2009, more than likely. Mary Bess was the
18 Chairman. She has mentioned to me that that's
19 her understanding, because I said, "Wasn't that
20 kind of washed out when the variance was washed
21 out?" And she said, as far as she was concerned,
22 it was set in stone.

23 MR. PROKOP: When did she say that to you,
24 in 2009 or recently?

25 MS. RICHARDS: No. She said that to me at

1 a recent meeting. So that would be something
2 that you got to kind of interpret for yourself,
3 because I'm not really positive on that, but that
4 was Mary Bess' understanding.

5 CHAIRMAN MOORE: Yeah, and we can go over
6 that. We'll be doing some kind of review of the
7 property history, and we can kind of clarify
8 that, perhaps, or look at what it actually might
9 say.

10 MS. RICHARDS: Uh-huh.

11 CHAIRMAN MOORE: Okay?

12 MR. PROKOP: You said -- I'm sorry. Could
13 I ask something?

14 CHAIRMAN MOORE: Yes.

15 MS. RICHARDS: Yeah.

16 MR. PROKOP: You just said at the end that
17 if the building reverted to residential use, that
18 that would be a burden on you for fire hazard
19 reasons or something?

20 MS. RICHARDS: Yes

21 MR. PROKOP: But wasn't -- before the --
22 before the commercial variance was issued, wasn't
23 it residential use before that?

24 MS. RICHARDS: Not legally.

25 MS. WINGATE: Not legally.

1 MR. PROKOP: Not legally

2 MS. RICHARDS: Never legally.

3 MR. PROKOP: Okay, good. All right.

4 Thanks. That's what I wanted to question.

5 Thank you.

6 CHAIRMAN MOORE: Okay. So, next, if the
7 Village would have any comments in response to
8 the appeal.

9 MS. WINGATE: Do you have that piece of
10 paper I gave you?

11 CHAIRMAN MOORE: Which one? Oh, yes.

12 MS. WINGATE: With the -- I just want to
13 refer to it.

14 CHAIRMAN MOORE: This one.

15 MS. WINGATE: That one. Perfect.

16 MR. CORWIN: Let me just note, before you
17 make your remarks, apparently, the -- a former
18 Zoning Board of Appeals, September the 27th,
19 2006, says there -- Section 2 on Page 7, "There
20 will be only one unit tenant for use of the
21 premises."

22 MS. WINGATE: That was part of the use
23 variance.

24 MS. NEFF: Are you reading from the
25 minutes?

1 MR. CORWIN: I'm reading from --

2 CHAIRMAN MOORE: From the Findings and
3 Determination.

4 MR. CORWIN: -- the boiler plate Findings
5 Determinations and Decisions. So that I don't
6 know if that's what the --

7 MS. WINGATE: That was for permission to be
8 in commercial property.

9 MR. CORWIN: Okay.

10 CHAIRMAN MOORE: It references the
11 commercial tenant, yes.

12 MS. WINGATE: The commercial -- right. It
13 references the commercial variance.

14 MR. CORWIN: All right. Thank you.

15 MS. WINGATE: No problem. I will not be
16 speaking on the condition of the building permit,
17 that's not why we're here.

18 CHAIRMAN MOORE: If you would, just for the
19 record.

20 MS. WINGATE: Eileen Wingate. I'm the
21 Building Inspector for the Village of Greenport.

22 I will, however, share with the Board the
23 measures that the Building Department has taken
24 to minimize any accusations of the proper
25 procedure.

1 Dave Abatelli and I knew that the
2 redevelopment of the Market was going to be
3 challenging. We made every effort to insulate
4 the Department. Dave Abatelli went to the
5 Village Board and the Board decided that by using
6 consulting engineers, we might eliminate any
7 questions of code compliance.

8 The consulting engineers reviewed the plans
9 for compliance with New York State Building and
10 Fire Prevention codes. In addition to that level
11 of review, we also contacted the Department of
12 State Regional Architect, Richard Smith. He was
13 asked to review the application, as well as all
14 plans. Upon approval of -- from all these
15 professionals, Building Permit Number 2419 was
16 issued.

17 The consulting engineer was also on site
18 for all the inspections that were performed. So
19 far, we're almost through -- we've done a
20 pre-final inspection and now we're just waiting
21 to get through this last hump to issue a
22 Certificate of Occupancy.

23 The plans for reconstruction for the
24 building really do fit the code well. Section
25 150-1(F) mandates the elimination of all

1 nonconforming uses. This building is located in
2 an R-2 District, one and two-family homes. It
3 might not look like a conventional home, but it
4 certainly has been reconstructed to be just that.

5 Furthermore, Section 150-21, Nonconforming
6 Buildings with Conforming Uses, nothing in
7 this -- and I'm just going to read it. We were
8 just talking about that particular section of the
9 code.

10 "Nothing in this article shall be deemed to
11 prevent normal maintenance, repair, structural
12 alteration, moving, reconstruction or enlargement
13 of a nonconforming building, provided that such
14 action does not increase the degree or create any
15 new noncompliances with regards to regulations
16 pertaining to such buildings."

17 This is a nonconforming building in an R-2
18 Zone. Putting in two families does not at all
19 require a variance.

20 And, as far as the easement goes, we have
21 -- we have preliminary paperwork filed with the
22 County for easements for parking for two cars.

23 MR. CORWIN: Wait a minute. Wait a minute.
24 You just said, "We have." You're saying the
25 Village is doing this?

1 MS. WINGATE: The Village. It's in the
2 file.

3 MR. CORWIN: But the Village is filing this
4 with the County?

5 MS. WINGATE: No, no, no, the owner is
6 filing this. The owner --

7 MR. CORWIN: So "he" would be the proper
8 pronoun.

9 MS. WINGATE: "He," meaning my files,
10 David.

11 MS. RICHARDS: It wasn't in the file when
12 you gave it to me.

13 MS. WINGATE: Okay.

14 MS. REA: We just did it today.

15 MR. PROKOP: It's dated today.

16 MR. CORWIN: One person at a time.

17 MR. PROKOP: Just so everybody knows,
18 there's A -- in the packet before the ZBA is an
19 easement, what purports to be a Declaration of
20 Non-Exclusive Easement, dated today, November
21 20th, so nobody would have known. I don't know
22 when this came about. This came about at five
23 o'clock or three o'clock? When was this
24 submitted?

25 MS. REA: Earlier, earlier this afternoon.

1 This has been in the works, however. It's always
2 been contemplated there would be an easement to
3 provide access for parking in the back at 510
4 Madison.

5 CHAIRMAN MOORE: Perhaps what we can --

6 MS. REA: That's always been part of this
7 project.

8 CHAIRMAN MOORE: Just to avoid back and
9 forth testimony, perhaps you can give some more
10 information about that. I just received my copy
11 today by email, so it is a late-arriving item.

12 MS. WINGATE: There was a preliminary one
13 that's been in the file maybe a week or so saying
14 that they are preparing, and today I guess it was
15 prepared. But, again, it's a nonconforming
16 building in an R-2 Zone and it does not require
17 any variances at all.

18 And just for a little bit of history, back
19 in 2004, the previous owner put in a building
20 permit application, and it was disapproved
21 because he asked for office use. In 2005, he put
22 in a building permit for light commercial and it
23 was disapproved for that. So history says that
24 this past owner has tried any number of ways to
25 use that building and they were all turned down,

1 until, eventually, in 2006, he applied for light
2 commercial and he was approved for a use
3 variance.

4 In 2007, a building permit was issued for
5 the correction of all the deficits the building
6 has. The rear roof was reconstructed, since the
7 whole -- the whole building was essentially
8 brought up to code in 2007. The reason it wasn't
9 given a Certificate of Occupancy at that time was
10 because the previous owner refused to file CNRs
11 for the property. At that point in time, the
12 Zoning Board --

13 MS. NEFF: Excuse me. CNRs are?

14 CHAIRMAN MOORE: Explain what that is.

15 MS. WINGATE: Covenants and Restrictions.

16 MS. NEFF: I got it. Thanks.

17 MS. WINGATE: At that point in time, the
18 Zoning Board of Appeals chose to revoke his use
19 variance and left the building vacant. The
20 building has been vacant now since -- I think it
21 went on the market in 2006, 2007, and it's been
22 vacant ever since. So, therefore, it absolutely
23 has lost its nonconforming use.

24 And the other -- the last little piece of
25 this is there have been any number of people who

1 have come into my office to look at the file for
2 Kaplan Market, some people serious buyers, and
3 some people just looking for a cheap investment
4 here in Greenport. There have been a handful of
5 really serious buyers who are looking for a place
6 to live, or make art, or have an office, and kind
7 of a home office situation, and, frankly, they've
8 all been scared away by Margaret's property to
9 the north, and by the neighbor who lives with
10 Margaret to the north. Chasing people down in
11 the street was -- well, probably would scare
12 anybody who's getting ready to make an
13 investment, and you know it's true.

14 MR. SWISKEY: Yeah, you're out of line,
15 though. You can't talk like that.

16 MR. CORWIN: I have to agree with
17 Mr. Swiskey.

18 MS. WINGATE: Okay. Then I --

19 MR. CORWIN: I think that you're giving us
20 an opinion.

21 MS. WINGATE: Excuse me.

22 CHAIRMAN MOORE: Yeah, don't --

23 MR. CORWIN: And I don't think you're
24 correct.

25 MS. WINGATE: We won't go there now.

1 CHAIRMAN MOORE: And if you're hearing
2 comments from the audience, then perhaps the
3 audience could withhold those comments as well.

4 MS. WINGATE: I felt that this property
5 fell into the hands of a developer because I'm
6 not so sure that the buyers who are coming into
7 the office had the means to continue to fix it
8 and the wherewithal to work with all the given
9 situations. That was it.

10 CHAIRMAN MOORE: Okay. Either the owner or
11 representative of the owner wish to speak? And
12 we have your letter, we received your letter, it
13 was a late arrival.

14 MS. REA: Yes.

15 CHAIRMAN MOORE: Do you intent to read the
16 letter or just make comments?

17 MS. REA: No. I think it would be best to
18 simply cover the high points of it, because I
19 think it might dispel some factual aspersions
20 here.

21 CHAIRMAN MOORE: We will file the letter,
22 then, with the minutes, if that would be
23 appropriate.

24 MS. REA: Yes, please. I would like the
25 letter that we submitted today --

1 CHAIRMAN MOORE: And please identify and --

2 MS. REA: Dated November 20th, from me,
3 Kimberlea Rea, from Westervelt and Rea --

4 CHAIRMAN MOORE: That's good, thank you.

5 MS. REA: -- Attorneys for the Applicant.

6 It is a four-page letter. It contains two
7 attachments. The first is the 2011 resolution
8 enacted by the ZBA revoking the commercial use
9 variance that was granted to the prior owner in
10 2006.

11 The second attachment is a copy of
12 guidelines issued by the New York State
13 Department of State, issued under the auspices of
14 the James A. Coon Local Government Technical
15 Series. And it basically outlines the procedures
16 that I think you, Chairman Moore, have outlined
17 tonight. I simply attached that because I wanted
18 to be certain that we didn't spend a lot of time
19 tonight with public testimony regarding matters
20 that are commonly considered for requests for
21 variance. That's just not what we have here
22 tonight at all.

23 The Building Inspector, I believe, has made
24 clear that this is a nonconforming building with
25 a conforming use. We're not seeking variances

1 here, we don't need to. The code, Section
2 150-21, provides that, quote, "A nonconforming
3 building with conforming use is any building
4 which does contain a use permitted in the
5 district in which it is located, but does not
6 conform to the district regulations for lot area,
7 width or depth, front, side or rear yards,
8 maximum height, lot coverage, or maximum livable
9 floor area per dwelling unit."

10 The code goes on to say, "Such building
11 shall have been legally existing prior to the
12 effective date of this chapter or any amendment
13 thereto."

14 There is no dispute that this building was
15 built prior to the enactment of the zoning code,
16 I believe in approximately 1929. I don't believe
17 that there's any dispute that for years it
18 operated as a market. It was a commercial use,
19 but that, as the Building Inspector has said,
20 that commercial use variance was rescinded by
21 this Board; that was in August of 2011.

22 I'm not aware of a 2009 ruling by anybody,
23 whether it be dicta, resolution, or anything,
24 restricting the use of this building to
25 one-family, and I've been through these minutes,

1 I've pored through this. I believe that what we
2 are dealing with here is very simple. We have a
3 building that is nonconforming, because, indeed,
4 there are -- it doesn't meet setback requirements
5 and certain other of the bulk district
6 limitations. However, its use is that of -- it's
7 within the two-family, and the building permit
8 was properly issued to allow construction of a
9 two-family dwelling inside.

10 There was earlier -- when Ms. Richards was
11 talking something about the code, 150-21B, that
12 talks about buildings that have been damaged by
13 fire in which the fair market value has been
14 diminished. That does not apply here. There's
15 not been a fire. This is a straightforward
16 issue.

17 MS. RICHARDS: This is -- I'm sorry.

18 MS. REA: This is a straightforward issue
19 of this building, and, certainly can see,
20 everyone can see it does not conform to the bulk
21 district requirements. However, its use is,
22 indeed, that of a two-family.

23 If Mr. Olinkiewicz wanted to go in and put
24 a market in today, he wouldn't be able to do that
25 without coming and getting a use variance, which

1 the code frowns upon.

2 Regarding the parking --

3 MR. SWISKEY: Yeah, I'll call you back.

4 CHAIRMAN MOORE: Mr. Swiskey, we can't see
5 you, but we can hear you. Maybe you could go
6 outside.

7 AUDIENCE MEMBER: We can see you.

8 CHAIRMAN MOORE: Now we can see you. I'm
9 sorry. Can you either -- Mr. Swiskey, can you
10 either hang up or go outside, please?

11 MR. SWISKEY: All right.

12 CHAIRMAN MOORE: All right. Thank you.
13 All right. Go ahead.

14 MS. REA: Regarding the parking and the
15 easement that was brought up earlier, I'd like to
16 explain that. It has always been contemplated as
17 part of this project that an easement would be
18 granted from the property behind the Kaplan
19 Market property, that is 510 Madison, which is
20 owned by Mr. Olinkiewicz, to grant ingress and
21 egress to the back of the Kaplan Market property
22 on 407 Kaplan Ave, but that's always been
23 anticipated.

24 The actual drawing of the easement was done
25 this afternoon by my law partner. It has been in

1 the works for a very long time, and, in fact, the
2 surveyor has been working on it. So that will be
3 sent to Suffolk County for filing. This isn't
4 something that's new or a surprise, this is just
5 something that's been in the works. So what that
6 will permit is ingress and egress along the
7 driveway of 510 Madison, which, as I said,
8 Mr. Olinkiewicz owns and has the legal right to
9 grant to the 407 Kaplan Avenue property since
10 he's the owner of that one.

11 That easement runs with the land, it will
12 always exist. It provides access, and egress and
13 ingress for parking spaces. I believe that there
14 are two on the plans. However, there's ample
15 room for four. The way the surveyor has plotted
16 it on the easement, there are room for four cars.
17 So there should be no problem here at all with
18 off-street parking. There's more than enough
19 off-street parking.

20 There was earlier some mention by
21 Ms. Richards, I believe, of a substandard roof.
22 My client doesn't know what she means by that,
23 but, in any case, the roof is fine. There are
24 five skylights. They're very attractive and they
25 provide very nice light within the dwellings.

1 She mentioned earlier that this was a,
2 quote, unquote, self-created hardship for
3 Mr. Olinkiewicz. That does not apply here,
4 because he's not seeking a variance. There is no
5 -- a variance is not at issue here, because one
6 is not needed, since this is a conforming use.

7 I don't know when I've ever seen quite so
8 much technical review by a municipal board in
9 advance of the issuance of a building permit. It
10 was an extraordinary amount of very rigorous
11 technical review before the building permit was
12 even issued. And since then, there have been
13 numerous inspections by not only the Building
14 Inspector, but the Consulting Engineer, Joseph
15 Fischetti, who was hired by the Village to assist
16 the Building Department, which, by the way, my
17 client is paying for, and gladly, as a part of
18 this application.

19 Richard Smith, who is the New York State
20 Department of State Regional Architect, was
21 consulted. So these plans have been vetted by at
22 least four sets of professionals, five sets if
23 you include my client's Architect and Engineer,
24 who provided stamped plans by a Professional
25 Engineer and his Architect, Anne Sherry. So

1 we're looking at technical review by five sets of
2 professionals.

3 It sounds as though we're not going to get
4 into construction issues that I believe were part
5 of Ms. Richards' submission earlier, so I take it
6 I don't need to go into that. But I can assure
7 the Board that, at least to date, my client has
8 been assured by these professionals that the
9 property has been constructed, and the two-family
10 dwelling is in full compliance with New York
11 State and local codes. I believe it's ready for
12 occupancy, and I think this Board simply has to
13 decide.

14 I'd ask that the Board close the Public
15 Hearing tonight, finish taking whatever testimony
16 it needs, and then make its decision to interpret
17 this section of the code.

18 My client has leases for the occupants of
19 these two -- the occupancy of these two
20 dwellings. The front building, or the front
21 dwelling, is a three-bedroom dwelling. It's 1200
22 square feet, and the tenant is a single mother
23 with four children. Three of these children
24 attend the Greenport Schools. Their lease was
25 set to commence on November 1st. That was

1 because we didn't know until last month, when we
2 were here at this hearing, or at the ZBA hearing
3 on another one of Mr. Olinkiewicz's properties,
4 that there had been an appeal filed. So he had
5 that -- he started working on those leases. That
6 particular lease was set to commence November
7 1st. So this mother and her four children are
8 very anxiously awaiting permission to be able to
9 move in. It's ready for her and she's -- a
10 horrible hardship has been worked on her. She's
11 really, really in a bind.

12 Similarly, the rear dwelling, which is a
13 600-square-foot dwelling with two bedrooms, has
14 been leased to a single adult mother. She
15 actually plans to live there by herself. She has
16 a young son who visits once every two weeks on
17 the weekends. That is set to commence on
18 December 1st; also a terrible hardship on her if
19 she's not able to move in.

20 So I would ask that this Board hear the
21 public comment that's applicable to this
22 interpretation, close the hearing, and, please,
23 promptly make a determination. Thank you.

24 MR. PROKOP: Could I ask you a question?

25 MS. REA: Yes.

1 MR. PROKOP: 510 Madison Avenue, is that a
2 vacant property?

3 MS. REA: Yes. When Mr. Olinkiewicz bought
4 the property, it was vacant. He then constructed
5 a two-family dwelling on that property. It did
6 not need a variance, it was code compliant. It
7 was compliant in every respect with respect to
8 the plans, so that there was a building permit
9 issued and --

10 MR. PROKOP: Okay. So when that house was
11 built, was there an application to the Planning
12 Board?

13 MS. WINGATE: Yes.

14 MR. PROKOP: And didn't the layout of that
15 property -- how many spaces were indicated on the
16 layout of the property to the Planning Board?

17 MR. OLINKIEWICZ: The parking?

18 MR. PROKOP: Yes.

19 MS. REA: 510 Madison? You're talking
20 about 510 Madison?

21 MR. PROKOP: Yeah.

22 MR. OLINKIEWICZ: James Olinkiewicz, to
23 answer the question. On 510 Madison Avenue, when
24 we applied, it was set up with three, at least
25 three, if not four, parking spots which have not

1 been touched with the allowance of this ingress
2 and egress. So there's still the available three
3 parking or four parking spots that are at Madison
4 now, and the new ingress and egress does not
5 touch them, does not affect them at all, and you
6 can just drive down the driveway and turn in
7 behind Kaplan Market.

8 MR. PROKOP: The parking layout for Madison
9 Avenue that we're talking about that was approved
10 by the Planning Board, that was for parking for
11 Madison Avenue, it wasn't -- there wasn't an
12 easement discussed where there would be parking
13 for the Kaplan Avenue property also, I don't
14 recall.

15 MS. WINGATE: The parking is on --

16 MR. ABATELLI: Let them answer.

17 MR. OLINKIEWICZ: I'm losing you.

18 MR. PROKOP: The layout at 510 Madison that
19 was approved by the Planning Board --

20 MR. OLINKIEWICZ: That layout has not
21 changed.

22 MR. PROKOP: No, but it was approved for
23 510 Madison, it wasn't approved -- and, I'm
24 sorry, I don't recall. I'm asking you, I'm just
25 trying to open a discussion about this. But the

1 layout for 510 Madison that was approved with
2 parking --

3 MR. OLINKIEWICZ: Correct.

4 MR. PROKOP: -- was the parking for 510
5 Madison, it wasn't the parking for Kaplan Avenue,
6 right?

7 MR. OLINKIEWICZ: Correct, but the Kaplan
8 does not even go through the parking areas for
9 Madison. They will share a driveway, but it does
10 not affect the parking areas that were approved
11 by the Planning Board for Madison Avenue.

12 MR. PROKOP: But the thing is, when we --
13 when the Planning Board reviews parking, it's in
14 terms of the use for that -- of that property,
15 you know, whatever the use is going to be, a
16 one-family house, two-family house, whatever it
17 is, you know, to make sure, for instance, that
18 there isn't a burden with on-street parking, you
19 know, things like that, to make sure there's
20 enough parking on the property for that house.

21 MR. OLINKIEWICZ: But there's no
22 stipulation in the Greenport Code to have to go
23 back to the Planning Board when you file ingress
24 or egress across property you already own.

25 MS. REA: Right, and that's a restatement

1 of law. But I think, just to get at what I think
2 you're asking about, I'm not sure, but I think
3 what you're asking, is there enough parking, and
4 the parking for 510 Madison is directly behind
5 510 Madison. There's a lot of space back there;
6 it's reached by the driveway. The parking for
7 Kaplan Avenue is a separate -- it's over to the
8 right, it's completely separate. It's on the
9 Kaplan property site. So there's a lot of
10 parking back there.

11 MR. PROKOP: No, it's not --

12 MS. REA: There's Kaplan parking and then
13 there's Madison Ave. parking.

14 MR. PROKOP: Yeah. I mean, obviously, it's
15 not for me to say whether there is or isn't, but
16 the thing is -- the only point I'm making is that
17 this was all reviewed. Whatever exists on 510
18 Madison, honestly, the last time I saw the lot,
19 it was vacant, and I don't remember the Planning
20 Board application, but whatever is there was
21 determined by the Planning Board to be okay for
22 that property, there was no other use for any
23 other property discussed.

24 MS. REA: Right. He didn't own 407 Kaplan
25 at that time.

1 MR. PROKOP: Okay.

2 MS. REA: And the other thing is I think
3 that -- I think that the law of easements permits
4 this. And I don't know about a Village ordinance
5 or State Law that would contravene this easement
6 and this use of the driveway.

7 MR. PROKOP: But where do the -- the people
8 that are living at 510 Madison, where are they
9 supposed to park?

10 MS. REA: They park behind the building at
11 510 Madison and that won't be affected. They
12 have adequate off-site parking, which is separate
13 from the Kaplan Ave. parking, it's just reached
14 by the same driveway.

15 MR. PROKOP: Right.

16 MS. REA: There's more than enough parking
17 for both dwellings, is the point.

18 CHAIRMAN MOORE: Okay.

19 MS. REA: Any other questions?

20 CHAIRMAN MOORE: Any questions from the
21 Board? No?

22 (No Response)

23 CHAIRMAN MOORE: Thank you, then.

24 MS. REA: Thank you. Thanks very much.

25 CHAIRMAN MOORE: So we can move. If there

1 are any members of the public who would like to
2 speak regarding this interpretation? Yes. And,
3 again, I would like to ask people to keep your
4 comments as brief as possible. We are under some
5 time constraints tonight. And, again, I would
6 like you to reference that portion of the zoning
7 code in Chapter 150 that you are concerned about.
8 Thank you.

9 MR. WATT: My name is Stephen Watt,
10 S-T-E-P-H-E-N, W-A-T-T. I live at 426 Kaplan
11 Avenue in Greenport.

12 And I started out by saying I don't know --
13 I've never met Mr. Olinkiewicz and I do not know
14 him. I certainly do know -- I'm aware of his
15 activities around the Village, and I do share
16 some concerns of my neighbors to the south on
17 Fifth Avenue of land use density, and also issues
18 of using buildings that were once utility
19 buildings and converting them into residences.
20 But my concern is with this building on Kaplan
21 Avenue known as Kaplan's Market and its sister
22 project at 510 Madison.

23 And I guess I want to go to just briefly to
24 the point that the Building Inspector made about
25 how it just takes a certain -- I'm reluctant to

1 say it, but sometimes it takes the private sector
2 to do what the public sector can't. That
3 building at 510 Madison was such a danger to the
4 public and languished for so many years without
5 any action by this Village. And subsequent to
6 its demolition for a foundation -- for the
7 foundation left open and also abandoned, and
8 then, again, no action by the Village.

9 We are -- we have, I guess, God's good
10 graces to thank for having not just sustained any
11 lawsuit from a parent of some child who could
12 have gotten grievously injured or killed in that
13 -- on that property.

14 And Mr. Olinkiewicz's project there was
15 just a real turn-around, and, likewise, on
16 the project on Kaplan Avenue. I guess I speak
17 for a number of my neighbors when I say that what
18 this represents, what the development of this
19 property represents to many of my neighbors is
20 the nearest glimmer, the light at the end of a
21 very dark tunnel, which is the history of this
22 building and its neighbor to the north, where we
23 have just -- I mean, the Spanish word "basta"
24 comes to mind, we've just had enough. And this
25 development, this change in the status of this

1 building to a code-compliant and zoning-compliant
2 two-family residence is -- represents relief,
3 final relief.

4 And I am not going to be able to address
5 Section 150 and the four subsections that the
6 Appellant has brought to this Board one by one.
7 I'm just going to tell you that this project
8 going forward, this permit being allowed to stand
9 and be executed, and two new neighbors moving
10 into a building that has been derelict for so
11 long is just -- I just implore you to accept this
12 permit and this exhaustively and
13 thoroughly-researched permit and let it stand,
14 and let the owner move forward with this project.
15 It is an untenable situation to date, and this
16 represents some hope for many of the residents on
17 that block. And I thank you for your time.

18 CHAIRMAN MOORE: Thank you. Yes, ma'am.

19 MS. MC ENTEE: Good evening. My name is
20 Joanne McEntee, 242 Fifth Avenue.

21 There's been a big issue with R-2 zoning
22 here, and I understand, talking to Eileen
23 Wingate, that 75 to 80% of the homes that are
24 located now in the Village of Greenport has been
25 rezoned and it's very overwhelming. So most of

1 the people which are -- could be landlord, and
2 they are landlord-owned, they're not -- it's
3 great for us to have if there was an owner that
4 was living in the home to be able to keep that
5 home and rent one part of their home out for a
6 two-family. That's my interpretation. That's
7 not what Mr. Olinkiewicz's interpretation is.
8 He's there for the almighty buck.

9 I'm looking to keep our Village alive, I'm
10 looking to keep it where we have middle class
11 people coming in and people that bring up our
12 town, not bring it down.

13 I'm also wondering, the issuance of the
14 easement for the parking, is that finalized?

15 MR. PROKOP: What do you mean? I think
16 it's --

17 MS. MC ENTEE: Is it finalized? It was
18 just submitted, correct, today?

19 MR. PROKOP: It hasn't been anything.

20 MS. MC ENTEE: Okay.

21 MR. PROKOP: It's just been applied.

22 MS. MC ENTEE: Okay. So Eileen Wingate is
23 ready for the CO, she's ready for the CO. And on
24 December 1st, we want to have the renters move
25 right in because we have these needy families

1 immediately. Now how can we do that when we
2 don't have the easement? How about if the
3 easement doesn't go through?

4 MS. REA: The easement's going to be filed
5 this week.

6 MS. MC ENTEE: It may be filed, but this
7 also needs to be --

8 CHAIRMAN MOORE: Excuse me. You have to
9 make your questions rhetoric. I don't think you
10 can expect an answer, but we will deal with it.

11 MS. MC ENTEE: That's fine. That's fine,
12 but I'm just -- understand that if you don't have
13 an easement coming through, where is that parking
14 going to be? So you can't possibly give a CO to
15 a building or a property without having that,
16 with no parking. They're going to be parking on
17 the street?

18 I also did a site visit today, and I looked
19 over there and there's wetlands behind there.
20 Has anybody taken into consideration DEC? We're
21 not far from wetlands. That's freshwater
22 wetlands and that's a big issue.

23 I see that -- I went over there, there's
24 gravel everywhere. Every piece of land has been
25 disturbed. I know that because I own a piece of

1 property that I had to go through this, and I did
2 it the right way. And I believe that somebody
3 needs to investigate, whether it's Eileen and
4 either the Board and Mr. Abatelli, somebody needs
5 to investigate the DEC with the wetland setback.

6 One thing I don't understand is that
7 this -- to me, R-2 zoning, if I made my house --
8 if I had a house here in Greenport and I made my
9 house that I was living in to an R-2, the -- and
10 I had somebody rent the place, I would be fine
11 with that, that would be my home. What
12 Mr. Olinkiewicz is doing is running a business.
13 To me, this is commercial zoned -- commercial.
14 R-2 has not truly been defined, has it?

15 That's all I have to say, and I appreciate
16 you listening to me. Thank you.

17 CHAIRMAN MOORE: Okay.

18 MS. SOLOMON: Hi. My name is Connie
19 Solomon. I live on Kaplan Avenue, 422. My
20 mother brought the property on Kaplan Avenue in
21 1975, we've been there ever since.

22 I didn't understand some of the comments
23 about middle class families and a landlord living
24 in the house and renting a house. I don't think
25 -- I don't know you. I'm glad that, finally,

1 someone's going to do something to that eyesore.
2 And I hate to say it, Margaret, but the property
3 to the right, to the north is an eyesore as well.
4 I'm sorry. I know we're friends, but it is.

5 Kaplan Avenue, traditionally, it's a nice
6 family block, it's quiet, but it just looks
7 run-down. You know, I've complained a lot about
8 that Kaplan Avenue property. I think that you're
9 providing a much-needed product, service. You're
10 providing homes for families. Now, whether you
11 want to say that's middle class, or what, lower
12 class? Or, you know, rents are so out of whack
13 anyway, they need Section 8 to help them out.
14 But I don't think we need to prejudge these
15 people.

16 I'm just happy that maybe, you know, our
17 property prices, or whatever, will not continue
18 to just slide, because Kaplan Avenue looks, you
19 know -- and it's got -- it looks bad with the
20 market and also that other property. It's really
21 an eyesore. And I would love just for this
22 project to go forward and have families that need
23 housing. You're obviously providing a need, a
24 much needed need in this community. Thank you
25 very much.

1 CHAIRMAN MOORE: Thank you. Someone else?

2 MS. GLASGOW: Hi. I'm Elizabeth Glasgow.
3 I own the property at 502 Madison Avenue. I am
4 on the south side of Kaplan's Market. I actually
5 also got notice of this in the mail, even though
6 my name wasn't mentioned.

7 And I just wanted to say that I'm very
8 pleased with the way Kaplan's Market looks. When
9 we -- when I go out of my backyard, that's the
10 first thing that I look at, and I've been looking
11 at an abandoned building for six years.

12 Mr. Olinkiewicz came to talk to my husband
13 and me before he started any construction, told
14 us what his plans were, told us, you know, what
15 kind of siding is going to be put on the
16 building, and I think it looks great. And he was
17 on our property. All the workers were wonderful,
18 everything was cleaned up. I have no problem
19 with the Market. I'm glad it's been renovated,
20 and I'm happy that he bought the building.

21 CHAIRMAN MOORE: Thank you.

22 MS. RICHARDS: Can I rebut?

23 CHAIRMAN MOORE: Anybody else, members of
24 the community would like to speak?

25 (No Response)

1 CHAIRMAN MOORE: Okay. And to be -- give
2 everybody the opportunity to hear all the
3 arguments and try and get this straightened out,
4 if possible, tonight, I'd offer the Applicant to
5 make a final brief comment, if you would, but
6 with the opportunity that the Village could
7 respond. And so, if you would like to make any
8 further comments, Ms. Richards.

9 MS. RICHARDS: When Eileen spoke and she
10 told us of all the engineers, and DOS, and
11 everybody coming around, that was all about State
12 Building Code. Nothing was mentioned about
13 Greenport Zoning Code; that 150-12A, Note 1 is
14 explicit, that you cannot have a second family
15 unless you meet all the requirements, except --
16 wait. I got that backwards. The only way you
17 can have a second family that doesn't meet all
18 the requirements, except parking, which has to be
19 given, is if you had an existing residence there
20 and you were adding a second residence. That is
21 not true on this property. So, therefore, he has
22 to meet all of the -- he has to show a backyard,
23 he has to show a front yard, a side yard, size of
24 the property, density. All of those bulk
25 requirements that are in that code have to be met

1 to give him a second family, there's no getting
2 around it. And for Eileen to stand there and say
3 it doesn't need any variances is totally wrong.

4 As far as 510 Madison, what Joe was
5 bringing up before was very -- Mr. Prokop. When
6 the Planning Board looked at that, they take
7 everything into consideration, not just parking.
8 They take into consideration whether you're going
9 to have a backyard for your tenants, whether
10 there's going to be a place for children to play.
11 We're going to put all this parking for two
12 two-family houses and burden those little, tiny
13 -- there'll be no backyard for those four
14 children to play in, there will be nothing.
15 They're going to be in our streets. They're not
16 going to have a backyard, and there's no backyard
17 for people at 510 Madison either with all these
18 cars, and easements, and driveways, and that's a
19 requirement, too. And 600-square-foot apartment?
20 I thought that the minimum had to be 1,000.

21 MS. WINGATE: No. Read your code.

22 MS. RICHARDS: I did read the code.

23 MS. WINGATE: No. The code says --

24 CHAIRMAN MOORE: Perhaps you could wait
25 until your turn comes up. I'm sorry. I'll just

1 allow you to finish.

2 MS. RICHARDS: Okay. And I believe that if
3 an easement is put on 510 Madison, it will
4 overburden that property, which already has a
5 two-family home on it, and it was a small
6 property to begin with.

7 Okay. Backyards. I think that that's all
8 the notes I took. Thank you.

9 CHAIRMAN MOORE: Thank you. Perhaps you'd
10 want to go up and make any final comments.

11 MS. RICHARDS: I just have one more thing.
12 I'm sorry.

13 CHAIRMAN MOORE: Oh, sorry. Go ahead.

14 MS. RICHARDS: Yes, it looks pretty. When
15 Mr. Gordon painted it, it looked pretty, too, but
16 it has to meet code and it has to be safe.

17 CHAIRMAN MOORE: Would you care to say
18 anything further?

19 MS. WINGATE: (Shook head no.)

20 CHAIRMAN MOORE: No? All right.

21 MS. WINGATE: I think I've said everything.

22 MR. ABATELLI: I think, if anything --
23 David Abatelli, Village Administrator.

24 It's just that a lot of effort went into
25 researching this. We were really very careful

1 and dealt with many people, agencies in -- I
2 mean, I don't really want to get into a long
3 story other than saying we really put a lot of
4 effort into this, and we feel as confident as we
5 realistically can that this is being done
6 properly. And it's just -- you know, I don't
7 want to -- I'm not prepared to debate every item
8 that she had said, but --

9 CHAIRMAN MOORE: Okay. Thank you.

10 MS. RICHARDS: You ignore one pertinent
11 part of the code. That's beautiful.

12 MR. ABATELLI: But, again --

13 CHAIRMAN MOORE: All right. Any other
14 comments?

15 MS. REA: Can we make a comment?

16 CHAIRMAN MOORE: Yes, if you'd like to make
17 a final comment.

18 MR. OLINKIEWICZ: James Olinkiewicz. Yes,
19 I do own 510 Madison Avenue. Yes, I do own 407
20 Kaplan Avenue.

21 It's been brought up that the whole
22 backyard of Madison Avenue was covered with
23 stone. That is not a fact. We -- when we did
24 the final grading in the end of October, you
25 can't plant grass seed at the end of October,

1 beginning of November when it's 35 degrees
2 outside. It will not grow, so we were unable to
3 plant the lawn. But there is definitely yard for
4 both houses, areas with barbecues, areas for
5 bicycles, to sit, areas for swing sets, if they
6 would like them. There's more than enough space
7 there.

8 Is there an acre of yard? No. Is there
9 40-by-50 or 60? Yes, on Madison in the backyard,
10 plus that. And is there 50-by-30 or 40 after you
11 take out the parking for Kaplan? Yes, there is
12 that there also. But I don't know of any mandate
13 that tells me I can't even put gravel on my whole
14 yard if wanted to.

15 So, other than that, I came, I went through
16 an exhaustive questions and brought -- was thrown
17 curve balls on every turn with other people that
18 had to review the project, that had to go through
19 it. I have never actually had, with 30 years of
20 building experience through Shelter Island,
21 Southampton, the North Fork, never had to go
22 through three different levels of approvals, and
23 including, I mean, pre -- after even my architect
24 drew something. So it's been looked at, and
25 looked at, and looked at, and looked at, and

1 looked at to meet code and all the requirements.

2 So it's an R-2 house in an R-2 zone. Thank you.

3 CHAIRMAN MOORE: Thank you. So I think all
4 members of the public and the Applicant having
5 had the opportunity, I think I would offer to
6 entertain a motion to close the Public Hearing.

7 MS. NEFF: I move to close the Public
8 Hearing on Kaplan Market

9 CHAIRMAN MOORE: Can I have a second?
10 Second, please. Anyone second it?

11 MR. BENJAMIN: Second.

12 CHAIRMAN MOORE: And then all in favor?

13 MS. NEFF: Aye.

14 CHAIRMAN MOORE: Before I ask for a vote,
15 any discussion on the matter?

16 (No Response)

17 CHAIRMAN MOORE: Okay. All in favor?

18 MR. CORWIN: Give me a second.

19 CHAIRMAN MOORE: Oh, I'm sorry.

20 MR. CORWIN: I'm a little slow.

21 CHAIRMAN MOORE: I'm sorry, I misread you.

22 MR. CORWIN: We have received additional
23 information. I'm going to make a couple of
24 comments that possibly somebody would want to
25 address after the public hearing is closed, so --

1 CHAIRMAN MOORE: Yes, we'll have
2 opportunity to discuss it.

3 MR. CORWIN: I'm not sure if it's proper to
4 close the Public Hearing.

5 CHAIRMAN MOORE: I'm not sure I understand.
6 Are you saying that other members of the public,
7 or that the Board --

8 MR. CORWIN: Yes, that's what I'm saying.

9 CHAIRMAN MOORE: -- the Board itself?

10 MR. CORWIN: By the time -- the recently
11 submitted information and any remarks I have
12 might change somebody's mind.

13 CHAIRMAN MOORE: Okay. I think what we
14 really need to do is continue with the motion to
15 close the Public Hearing and take a vote. And if
16 all agree, then it will be closed. If not, we'll
17 have to keep it open. So may I have a vote that
18 we close the Public Hearing?

19 MS. NEFF: Aye.

20 CHAIRMAN MOORE: Aye.

21 MR. BENJAMIN: Aye.

22 CHAIRMAN MOORE: Charlie. And any opposed?

23 MR. CORWIN: No.

24 CHAIRMAN MOORE: It's three in favor, one
25 opposed. Public Hearing is closed.

1 We will have the opportunity to discuss
2 this during the regular part of the meeting,
3 because -- and we will do that, I hope, tonight.
4 We're under some time constraints. It's 6:15 and
5 we probably have to complete by 7:15. I believe
6 you mentioned 7:30 for the Fire Department.

7 MR. ABATELLI: We need -- we should
8 probably try to be out by seven, because they'll
9 rearrange the furniture.

10 CHAIRMAN MOORE: Yes, okay.

11 MR. ABATELLI: So somewhere, either 7,
12 7:15.

13 CHAIRMAN MOORE: What I'm going to
14 recommend is -- anyone from the Hospital
15 officially here tonight? Are there personnel
16 from the Hospital?

17 (No Response)

18 CHAIRMAN MOORE: Okay. So what I think we
19 will do is, in the absence --

20 MR. CORWIN: Could I make a suggestion?

21 CHAIRMAN MOORE: Yes.

22 MR. CORWIN: Since they handed in another
23 application for the emergency sign, which I
24 assume is the end of Madison or Manor Place?

25 CHAIRMAN MOORE: I think it's on the south

1 side of the building, but that only arrived today
2 and it's not under our consideration at this
3 point.

4 MR. CORWIN: I just -- I think it's better
5 if these things are one big ball. That's what
6 I'm trying to get at.

7 CHAIRMAN MOORE: Yes.

8 MR. CORWIN: And maybe, if they had -- I
9 don't know if it's possible, if they amended
10 their application and then we kept the Public
11 Hearing open to try to take two things together.
12 I don't know if that's feasible or not, but just
13 a suggestion.

14 CHAIRMAN MOORE: Yeah. I might have an
15 alternate suggestion. In the absence of the
16 Hospital here, and, apparently, in the absence of
17 any members of the public -- is anyone here from
18 the public wishing to speak about the Hospital?
19 Okay.

20 AUDIENCE MEMBER: I'll speak, but --

21 CHAIRMAN MOORE: Yes.

22 AUDIENCE MEMBER: I only wanted one comment
23 for the person, so I've made my letter.

24 CHAIRMAN MOORE: Okay. Do you feel there's
25 anything additional to add to your --

1 AUDIENCE MEMBER: No.

2 CHAIRMAN MOORE: Okay. So it's on file.

3 AUDIENCE MEMBER: I want to follow through
4 and see what's the developing story.

5 CHAIRMAN MOORE: When we discuss --

6 AUDIENCE MEMBER: I would certainly like to
7 know if there's been a new application, what the
8 signs look like, or what's going on with that.

9 CHAIRMAN MOORE: Okay. Right now we're
10 considering an application for the two signs
11 originally applied. Mr. Corwin has a very good
12 point, and there's several ways we might be able
13 to address that.

14 The Hospital has not submitted a
15 comprehensive sign plan, so we are looking at
16 this piecemeal. And the fact that a building
17 permit, I think only today or yesterday, was
18 submitted for now another sign change, that it
19 might be appropriate to go back to the Hospital
20 and ask them to solidify it.

21 Another alternative would be to act on two
22 signs and require, as a contingency, that they
23 present a sign plan to the Planning Board for
24 complete review. We can go either way, but in
25 the absence of the Hospital being here, I think

1 it's only fair to keep the hearing open, so I
2 would suggest that.

3 And do we need a motion to keep the hearing
4 open?

5 MR. PROKOP: Normally, we table.

6 CHAIRMAN MOORE: We could just table?

7 MR. PROKOP: I think the motion is tabling
8 it, because there's no appearance by the
9 Applicant.

10 CHAIRMAN MOORE: There's not much point in
11 getting into a discussion after we even close the
12 hearing. So I would suggest we table the hearing
13 until next month, and I'll make that motion.
14 Could I have a second, please?

15 MR. BENJAMIN: Second.

16 CHAIRMAN MOORE: And any further
17 discussion?

18 (No Response)

19 CHAIRMAN MOORE: If not, all in favor?

20 MR. CORWIN: Aye.

21 MR. BENJAMIN: Aye.

22 MS. NEFF: Aye.

23 CHAIRMAN MOORE: Aye.

24 So that's tabled until next month. And we
25 can now move on to the Regular Meeting agenda.

1 Obviously, Number One will wait until next
2 month regarding the sign application.

3 We now move on to our discussion of the
4 request for interpretation by Margaret Richards.

5 Just to review, I think the history of this
6 property has been reviewed in some detail,
7 perhaps dating back to 1926. There was a
8 subdivision on this property, which was approved
9 by the ZBA in 1997, and was officially registered
10 with the County in 2000. That's an additional
11 piece of information. And this separated the
12 house, which faces Madison Avenue from the Market
13 property on Kaplan.

14 We've covered the fact that there were
15 several applications for different commercial
16 uses which disapproved. There was a variance
17 issued in 2006 by a previous Zoning Board of
18 Appeals. As the Building Inspector indicated, no
19 action was taken on this. In July of 2011, this
20 current Zoning Board of Appeals rescinded that
21 use variance, reverting the property to its
22 original designation of residential use.

23 So the only zoning code allowed use of this
24 property is currently residential use, and that
25 is what the Applicant has been issued a building

1 permit for.

2 I would like to entertain any discussion
3 from the Board concerning some of the assertions
4 that there are issues with the zoning code that
5 this property development does not meet. Is
6 there any discussion that Board Members would
7 like to make in this regard?

8 MR. CORWIN: Well, the first thing I want
9 to say is that I looked through Executive Law,
10 codes, rules and regulations, International
11 Building Code, and the Village Code, and I didn't
12 find any place that the Building Inspector is
13 authorized to issue building permits or COs.

14 If you go to Southold Town, their code,
15 they specifically say the Building Inspector can
16 issue a building permit and CO. If you go to
17 some other villages in the State of New York,
18 they say that specifically. There's, I think,
19 three things the Building Inspector -- enumerated
20 that the Building Inspector can do in the Village
21 of Greenport and it does not include issuing a
22 building permit or a CO. So that's one thing I
23 have to note.

24 I went to look at this file. I filed a
25 FOIL request. And it's difficult to go through

1 the files, because they put you in a little desk
2 in the business office there. And I asked for a
3 copy of the big plan by the architect, and I
4 wanted -- I was willing to go and copy the plan
5 myself and pay the fee myself. Mr. Abatelli was
6 there, he said to the Deputy Clerk, "Well, you
7 probably could let him do it," blah, blah, blah,
8 but the Deputy Clerk didn't want to do that,
9 because she had checked with the Clerk, who had
10 gone for a walk.

11 Then I got an email that that particular
12 plan, the large format architect's plan, was no
13 longer valid. I guess there was a new one. I
14 didn't see it, I didn't see any marks on the
15 page. So what they did, they e-mailed me a small
16 format plan by the architect that's illegible.
17 So I didn't get the opportunity to go through the
18 plan, which I wanted to do, and I would still
19 like to do.

20 And then there's been building permits
21 issued in the past by the Building Department
22 that should not have been issued, notably Dutch
23 Macomber's garage that was turned into a detached
24 housing unit as an apartment. And, as I pointed
25 out at the time, that floods, that area floods.

1 That used to be known as Cook's Pond.

2 And your position, Mr. Chairman, is we're
3 just interested in zoning issues, and I think
4 you're partly correct, but I think you're missing
5 the last question in the five questions we
6 answer, which says, "Affect on the environment."
7 And I think if building is done in error and not
8 corrected, that that has to be our concern.

9 And I will tell you two things that were
10 done in error, in my opinion, on the Center and
11 Third Street projects by Mr. Olinkiewicz. They
12 were both built on fill. The one on the west
13 side of Third Street was built right where Cook's
14 Pond was, and the building code says that if it's
15 built on fill, you have to have an engineer's
16 report on the nature of the material and how much
17 it can support, and I looked through the files, I
18 didn't see that.

19 And I also note that on the house on the
20 east side of Third Street, I'm assuming the old
21 chimney is still in service. I'm assuming the
22 old chimney is still in service and the building
23 code says 10 feet over, three feet up. I don't
24 think that chimney meets that requirement.

25 So there have been errors on the part of

1 the Building Department in the past, and I think
2 these things have to be scrutinized a little bit.

3 CHAIRMAN MOORE: Okay. Thank you. Do you
4 have any specific comments about the current
5 protest of the building permit regarding the --

6 MR. CORWIN: Not without studying it
7 further.

8 CHAIRMAN MOORE: Okay. Any comments from
9 Charlie or Ellen?

10 MR. BENJAMIN: I just have --

11 CHAIRMAN MOORE: Go ahead, Charlie.

12 MR. BENJAMIN: -- one question, one
13 question about -- and I don't even know if it's
14 relevant or not. That's my question, is that it
15 appears that there's wetlands about 150 feet or
16 so to the north and west, I guess. It looks like
17 a swamp area, it might have been at one time. I
18 don't know if that has anything to do with what
19 was done there, you know, but the building
20 existed, it's a preexisting building. I mean,
21 maybe it existed before the DEC got in there.
22 But there was a question brought up and I don't
23 know what that has to do with anything, but I
24 think I would have to know, that's all. And
25 that's the only comment I have. It's just a

1 question.

2 CHAIRMAN MOORE: Perhaps what I could do is
3 ask the Building Inspector, and possibly
4 Mr. Prokop, if a wetlands issue regarding this
5 property for renovation is a factor that has been
6 overlooked, or is the factor at all in issuance
7 of a building permit.

8 MR. PROKOP: Normally, if the Village feels
9 that wetlands are involved, the wetlands, we
10 require that the wetlands be what's called
11 flagged. The nearest wetland boundary has to be
12 flagged, and then there's a determination as
13 to -- depending on where that -- where the
14 wetlands boundary is, I believe that an
15 application to the DEC may be required, and,
16 also, that may bring in the wetland jurisdiction
17 of the Village. That has to -- but that has to
18 be determined by flagging of the wetlands.

19 MR. ABATELLI: I mean, it's an existing
20 building.

21 MS. WINGATE: Generally, only if there's
22 excavation or --

23 CHAIRMAN MOORE: Can you hear okay?

24 MS. BRAATEN: Not very much.

25 CHAIRMAN MOORE: If you could speak up a

1 little louder, yes.

2 MR. ABATELLI: I mean, it's an existing
3 building. I mean, I don't think that that would
4 be a normal procedure that we would go through a
5 DEC review, or even make a request when there's
6 an existing building being renovated. I'm not
7 aware of any situation where that's been done. I
8 hope that's the case. I mean, that would be a
9 surprise to me if this would have required a DEC
10 review, but, you know.

11 MR. PROKOP: That's correct, there's no
12 exterior change. Yeah, I would be correct on
13 that, there's no exterior change in the building,
14 that's right. So I think there's no exterior
15 change. The only question that I have, then,
16 would be about the parking, a parking area being
17 created that either in or adjacent to wetlands,
18 that might be an issue.

19 MS. RICHARDS: No exterior change?

20 MS. MC ENTEE: That will be disturbed?

21 MR. ABATELLI: I mean, if we're talking
22 about -- I really don't want to get into a
23 debate, you know, but with siding, that they put
24 siding on. I mean, that's --

25 CHAIRMAN MOORE: Just to continue

1 discussion, and, Ellen, comments?

2 MS. NEFF: I was just going to say, at the
3 time that the building was created on two -- I
4 mean, excuse me, 510 Madison Avenue, which is --
5 runs to the rear of the property at -- on Kaplan
6 Avenue, would be much -- at the time that
7 building was built, it's much closer, if it is,
8 in fact, close to any swampy areas or wetlands,
9 and that those issues would have come up at that
10 time, and they don't seem to be relevant of the
11 visit that I made to this site, that question.

12 CHAIRMAN MOORE: Okay.

13 MS. NEFF: And I think that we have an
14 example, and this happens in other places in the
15 Village, but maybe nowhere to the extent of this,
16 where a building, preexisting, as we all
17 acknowledge, occupies a substantial part of the
18 property, and at different times in its history
19 been a derelict building, and that we're looking
20 at issues regarding what has happened recently.
21 And that, in many ways, what has happened
22 recently, as many people in this room have
23 spoken, have positive impact, and whether the
24 rest of the story needs to give us pause now is
25 our question.

1 CHAIRMAN MOORE: Yes. And the comments
2 that I'd like to make is that this property has
3 had a lot of contentious issues on it in its
4 past, which is certainly way before the issues
5 that we're dealing with now.

6 There have been many references to this
7 property being commercial, and it was actually
8 never commercial property by zoning, but its use
9 was principally commercial through most of its
10 history. It did have the sanctification of a use
11 variance, which was issued only in 2006, and that
12 variance, due to the failure of the owner to
13 register the proper covenants, was rescinded.
14 And so the property, which has all along been
15 residential R-2 District, which is one or
16 two-family occupancy, is now back to full
17 residential use, and the owner is developing the
18 structure, which is preexisting nonconforming for
19 residential occupancy.

20 The interesting thing about this property
21 is that when it was originally configured with
22 the Madison and Kaplan Avenue properties intact,
23 it had mixed use as residential and commercial,
24 and the subdivision that was approved in 2000,
25 finally registered in 2000, separated those uses.

1 And the property, which is probably the poster
2 child of a preexisting nonconforming use, had
3 additionally added -- the lot became a
4 substandard lot in size, and its occupancy of
5 footprint of building, again, exceeded the
6 permissible lot coverage. I believe the building
7 now occupies, the Kaplan Market Building, 67% of
8 lot coverage. So this is a very unusual
9 property, but it is preexisting.

10 My feeling is that the opportunities to
11 restore this to residential use have been taken
12 by the owner, and I have difficulty in seeing any
13 interference of the zoning code, which has been
14 done. Again, and this has been read before,
15 "Nothing in this article shall be deemed to
16 prevent normal maintenance and repair, structural
17 alteration, moving, reconstruction or enlargement
18 of a nonconforming building, provided that such
19 action does not increase the degree or create any
20 new noncompliance with regards to the regulations
21 pertaining to such buildings," and those are the
22 bulk regulations for residential properties.

23 I think one of the assertions of
24 enlargement of the building by the application of
25 siding I think is insignificant. We're talking

1 about inches. And I would hardly think that any
2 homeowner elsewhere in the Village who had a
3 noncompliant house and wished to remodel it would
4 expect to have a variance to add siding to the
5 building. I just don't see that.

6 I think that we have been very consistent
7 on the Zoning Board in considering needs for
8 variances and approving variance applications,
9 that when the footprint of the building changes
10 and increases the noncompliance, we require a
11 variance. This hasn't been the case in the past,
12 but in recent years, this has been the case and
13 it's been very strictly applied. So there have
14 been a number of requests for things such as
15 porches and other additions to houses that we
16 have examined and approved on a case-by-case
17 basis.

18 I don't see that a variance would be
19 required for the improvements that have been made
20 on this house, and because of that, I would feel
21 personally that the building permit was properly
22 issued. There may be issues of building codes,
23 which is out of our realm, and they can be
24 investigated by proper inquiries to the Building
25 Department. My understanding is there are

1 processes where this would occur. I'm not
2 familiar with them, but it's not a Zoning Board
3 activity.

4 Any other discussion from the Board before
5 we move forward?

6 MR. CORWIN: One other thing is --

7 CHAIRMAN MOORE: Yes.

8 MR. CORWIN: -- possibly the Fire
9 Department should have some input on this,
10 because what is the access to that building in a
11 fire? They certainly can't run a hose to the
12 back of the building very easily.

13 CHAIRMAN MOORE: And that would be an issue
14 relative to issuance of a CO, I take it.

15 MR. CORWIN: I don't know.

16 CHAIRMAN MOORE: Before occupancy, I would
17 guess. I think that's a valid suggestion. I
18 don't know that it's a question before the Zoning
19 Board. That would be something to do with
20 building standards. Charlie?

21 MR. BENJAMIN: A comment on that is that
22 you can get to the one apartment from the south
23 and the other apartment from the east. So you
24 have access to both apartments from the street.
25 I don't know where the fire hydrants are, but

1 anybody might have that same problem. You know,
2 you might have to go to one street or the other,
3 but you could still get there. And if you have
4 an easement, you can't park in the easement, so
5 they could drive their fire truck right up and
6 get to both, you know, of the easements.

7 CHAIRMAN MOORE: I'd like to ask a question
8 of the property owner.

9 MR. CORWIN: You can't park in an easement?

10 MS. REA: No, you cannot.

11 MS. WINGATE: No.

12 MR. BENJAMIN: Well, you're not supposed
13 to.

14 MR. CORWIN: You're not supposed to --

15 MR. BENJAMIN: Yeah.

16 MR. CORWIN: -- but you can.

17 MS. REA: Actually the easement
18 specifically prohibits that.

19 MR. BENJAMIN: Good.

20 MR. CORWIN: Yeah. Well, who's going to be
21 there to -- I don't want to get into it. You can
22 park --

23 CHAIRMAN MOORE: I just have a question of
24 the property owner representative. What is the
25 width of the easement that's being filed?

1 MR. OLINKIEWICZ: Ten feet.

2 CHAIRMAN MOORE: And is that sufficient for
3 fire apparatus to pass?

4 MR. OLINKIEWICZ: Yeah. You minimally have
5 to have eight feet, and then you can go up to 10
6 feet. We put the wider easement down the
7 property to allow for possibility for fire
8 apparatus or ambulance.

9 CHAIRMAN MOORE: And what is the actual
10 width of the driveway? The easement is one
11 thing.

12 MR. OLINKIEWICZ: The width of the driveway
13 is 10 feet.

14 CHAIRMAN MOORE: As far as free access?

15 MR. OLINKIEWICZ: Correct. And that's on
16 the side of the house that has -- was a 15-foot
17 setback when they originally built that house.
18 So there's actually two more feet on one side and
19 three feet on the other side, so --

20 CHAIRMAN MOORE: Okay. That's what I'm
21 driving at, to find out whether there was
22 available access.

23 So any other questions from the Board?

24 MR. PROKOP: I just --

25 MS. RICHARDS: Can I just say one thing?

1 CHAIRMAN MOORE: Yes. We finished public
2 testimony.

3 MS. RICHARDS: I know, but you're
4 completely going -- you're the Zoning Board and
5 you're completely ignoring Section 150-12A,
6 Note 1. You haven't even discussed it, and that
7 is the most pertinent.

8 MR. PROKOP: So my comment is --

9 CHAIRMAN MOORE: Yes.

10 MR. PROKOP: My comment, I just have a
11 comment. And I was trying to speak to -- I was
12 speaking to David Abatelli about this to try to
13 get an answer, but what the regulations call for
14 is, if you increase the -- if you change the
15 property from R-1 to R-2, you get a waiver of the
16 bulk area requirements for the -- what it says,
17 the new unit. And I'm not -- you know, I don't
18 think it's a holdup to try to figure out what the
19 new -- what means as far as the new unit. It
20 probably is -- means you get a waiver from the
21 bulk area requirements, period, except that you
22 don't get a waiver from parking.

23 CHAIRMAN MOORE: That's correct.

24 MR. PROKOP: And the parking requirement, I
25 believe, unless I'm mistaken, is three cars.

1 CHAIRMAN MOORE: For the two units.

2 MR. PROKOP: For the two units, right.

3 CHAIRMAN MOORE: Yes.

4 MS. RICHARDS: But you only get the waiver
5 if you have an existing residence.

6 CHAIRMAN MOORE: I'm sorry.

7 MR. PROKOP: So the first thing is tonight,
8 we got -- I mean, I don't know if it was
9 discussed previously, but inside the Village
10 Office, it wasn't discussed with me that I
11 remember, but tonight I have an easement
12 agreement that is between Parcel A and Parcel B,
13 and they're supposed to be -- there's no
14 description about Parcel A or Parcel B, and
15 there's supposed to be a Schedule C attached.

16 MS. REA: There actually is a description.

17 MR. PROKOP: And there's no Schedule C
18 attached.

19 MS. REA: The surveyor has -- the surveyor,
20 in your copy -- maybe it didn't come through your
21 copy. Let me give you a Schedule C.

22 MR. PROKOP: I have a two-page copy.

23 MS. REA: It must have -- here's Schedule
24 C. Does anyone else need a copy?

25 MS. NEFF: Please.

1 CHAIRMAN MOORE: I have a copy, I have it
2 on file.

3 MS. NEFF: Thank you.

4 CHAIRMAN MOORE: Thank you.

5 MR. PROKOP: So. My only comment is that,
6 normally, when there's an easement involved, or
7 covenants and restrictions involved, there's a
8 decision that's made that incorporates them and
9 subject to the Attorney's approval, subject to
10 the Attorney's review and approval, and that the
11 decision does not go into effect until recorded.
12 That's my first comment. So this has to be put
13 together into a real easement and has to be
14 reviewed.

15 And then the second thing is that I believe
16 that the change in the use of part of the
17 premises of 510 Madison is subject to the -- some
18 kind of review of the Planning Board, only
19 because the Planning Board reviewed that
20 property, the layout of that property. And, you
21 know, I'm not saying it's a good idea, a bad
22 idea, I'm not saying yes or no, I'm just saying
23 that I think that that -- if you move ahead with
24 this, it has to be subject to the review of that
25 Board.

1 So those are two comments that I have about
2 the application. I wanted to, if I could have
3 some leeway for a second, and address the people
4 from Madison Avenue, the people -- is it Madison
5 Street? I'm sorry.

6 MS. WINGATE: Madison Avenue.

7 MR. PROKOP: Madison Avenue. I'm sorry.

8 And, also, there was somebody from Kaplan Avenue
9 that mentioned the 510 Madison property. I just
10 wanted to say, since there was a problem,
11 apparently misinformation, the Village worked --
12 we understood that that was a bad situation at
13 that property, and the Village worked for a long
14 time trying to correct it. We were actually in
15 Southold Town Court for at least probably two
16 years with a lot of effort from myself and also
17 Eileen Wingate and Dave Abatelli trying to clean
18 up what existed.

19 The property was, for all intents and
20 purposes, abandoned by a corporate owner. Omni
21 Ventures was the owner, and they basically
22 abandoned the property, and we went through the
23 normal course, which is to go -- to start issuing
24 violations and try to get some kind of relief
25 that way for the neighborhood and also for the

1 Village.

2 I happened to be -- have a meeting one
3 night in Holtsville at an address called
4 Peachtree Court in an office building there, and
5 I -- just by chance, the office that I was in was
6 across the hall from Omni Ventures, and the next
7 day I was there with a summons and we served
8 them. They continued for a few months to not
9 appear in court. And then, consulting with the
10 Mayor, and the Board, and also Eileen and Dave,
11 what we did is we started a new track, and what
12 ended up happening was the Village went in there
13 with the expenditure of Village money. The
14 Village spent a lot of money, close to \$10,000 of
15 Village -- of public money cleaning that property
16 up, filling -- removing the old foundation,
17 backfilling it and grading it, and I think also
18 putting in a fence. And I know that -- I know it
19 then became -- continued to become kind of a
20 problem and we tried to stay on top of it, but
21 that a lot of hard work went into trying to clean
22 it up for the Village. I wish it had happened in
23 a couple of days instead of a couple of years,
24 but we went by -- you know, there's a procedure
25 that we have to go by and that's what we did.

1 Thank you.

2 CHAIRMAN MOORE: Okay. Would the Board be
3 prepared to entertain a decision on this request
4 for appeal of the building permit, because I
5 might be able to put together some level of
6 coherent statement needed.

7 MR. PROKOP: I think that even though it's
8 an interpretation, you do have to do SEQRA and
9 it's --

10 CHAIRMAN MOORE: Yes.

11 MR. PROKOP: I believe it's a Type II.

12 CHAIRMAN MOORE: I was about to do that.

13 So the first matter of business, prior to
14 making a proposal for a decision, is that we
15 would declare the Zoning Board of Appeals Lead
16 Agency for this matter and declare a SEQRA Type
17 II Action. So I make that motion, and may I have
18 a second?

19 MS. NEFF: Second.

20 CHAIRMAN MOORE: All in favor?

21 MR. CORWIN: Aye.

22 MS. NEFF: Aye.

23 MR. BENJAMIN: Aye.

24 CHAIRMAN MOORE: Aye. Motion carries.

25 And then, next, see if I can word this

1 properly. First of all, I think there's been
2 plenty of input from the public, also from the
3 Board, and the property owner, and the Village.
4 I think the complicated past of this property has
5 added a level of confusion to it, and also other
6 issues, because it's also a construction project
7 that some people have taken some objection to.
8 And whether or not there are any building code
9 issues, I can't say, it's not my field.

10 But, as far as the zoning code is
11 concerned, this structure on residential property
12 meets the requirement of a nonconforming building
13 with a proposed conforming use. And with that in
14 mind, I would make the motion that we reject the
15 appeal of the Applicant, which will allow the
16 building permit to proceed. There may be some
17 technical questions about the easement, which I
18 think can be resolved before issuance of any CO.
19 With that, I make that motion, and may I have a
20 second?

21 MS. NEFF: Second.

22 CHAIRMAN MOORE: Is there any further
23 discussion?

24 (No Response)

25 CHAIRMAN MOORE: If not, all in favor?

1 MS. MC ENTEE: Will you be --

2 CHAIRMAN MOORE: I'm sorry, no questions
3 right now.

4 MS. MC ENTEE: Are you getting involved
5 with wetlands as well?

6 CHAIRMAN MOORE: I'm not proposing any
7 involvement with wetlands.

8 All in favor?

9 MR. CORWIN: Do we have to do the five
10 questions?

11 CHAIRMAN MOORE: No. This is not an
12 application for an appeal, it's simply a vote on
13 whether an appeal of the building permit will be
14 permitted or not.

15 So may I have a vote, please? All in
16 favor?

17 MS. NEFF: Aye.

18 CHAIRMAN MOORE: Aye.

19 MR. BENJAMIN: Aye.

20 CHAIRMAN MOORE: And opposed?

21 MR. CORWIN: Aye.

22 CHAIRMAN MOORE: So we have three in favor
23 and one opposed. That means that the appeal for
24 rescinding the building permit is rejected and
25 the building permit stands. And thank you.

1 I believe we only have administrative
2 business from this point on. If anybody in the
3 audience is interested in departing, I suggest
4 you could do so.

5 We have pushed back the further
6 deliberation and tabled discussion for the
7 Hospital, so that will be coming up next month.

8 And we'll be moving on to Item Number 3, is
9 a motion to accept the ZBA minutes for October
10 17th, 2013. So moved. May I have a second,
11 please?

12 MS. NEFF: Second.

13 CHAIRMAN MOORE: All in favor?

14 MR. BENJAMIN: Aye.

15 MS. NEFF: Aye.

16 CHAIRMAN MOORE: Aye.

17 MR. CORWIN: Aye.

18 CHAIRMAN MOORE: Motion to approve the ZBA
19 minutes for September 18th, 2013. So moved.
20 Second, please.

21 MS. NEFF: Second.

22 CHAIRMAN MOORE: All in favor?

23 MR. CORWIN: Aye.

24 MS. NEFF: Aye.

25 MR. BENJAMIN: Aye.

1 CHAIRMAN MOORE: Aye. The motion carries.

2 And motion to schedule the next regular ZBA
3 meeting for December 18, 2013.

4 MS. NEFF: Doug, do we have to accept the
5 application of the Hospital?

6 CHAIRMAN MOORE: Not yet.

7 MS. NEFF: No?

8 CHAIRMAN MOORE: It's not a request of this
9 building permit request.

10 MS. NEFF: Sorry.

11 CHAIRMAN MOORE: That's all right. So we
12 would have our next meeting December 18th. Is
13 that amenable, being so close to Christmas, to
14 everybody? How's does that sound? Is the 18th
15 all right with you?

16 (Affirmative Response)

17 CHAIRMAN MOORE: So we will schedule the
18 next meeting for December 18th, which is a
19 Wednesday, third Wednesday in December, and that
20 has been scheduled.

21 And I would make a motion to adjourn the
22 meeting. Second?

23 MR. BENJAMIN: Second.

24 CHAIRMAN MOORE: Charlie seconded it. Then
25 all in favor?

1 MR. CORWIN: Aye.

2 MR. BENJAMIN: Aye.

3 MS. NEFF: Aye.

4 CHAIRMAN MOORE: Aye.

5 So the meeting is adjourned.

6 (Whereupon, the meeting was adjourned at

7 6:45 p.m.)

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

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STATE OF NEW YORK)
) SS:
COUNTY OF SUFFOLK)

I, LUCIA BRAATEN, a Court Reporter and
Notary Public for and within the State of New
York, do hereby certify:

THAT, the above and foregoing contains a
true and correct transcription of the proceedings
taken on November 20, 2013.

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of November, 2013.

Lucia Braaten
Lucia Braaten

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