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VILLAGE OF GREENPORT
COUNTY OF SUFFOLK STATE OF NEW YORK

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ZONING BOARD OF APPEALS

REGULAR SESSION

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Third Street Firehouse
Greenport, New York

October 16, 2018
6:05 p.m.

B E F O R E :

JOHN SALADINO - CHAIRMAN

DAVID CORWIN - MEMBER

ELLEN NEFF - MEMBER

DINI GORDON - MEMBER

ARTHUR TASKER - MEMBER

ROBERT CONNOLLY - ATTORNEY

KRISTINA LINGG - BUILDING CLERK

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2 CHAIRMAN SALADINO: Folks, this is the
3 Village of Greenport Zoning Board of Appeals
4 Regular Meeting.

5 Item number 1 is motion to accept the
6 minutes of the September 18, 2018 Zoning
7 Board of Appeals meeting.

8 So moved.

9 MS. NEFF: Second.

10 CHAIRMAN SALADINO: All in favor?

11 MS. GORDON: Aye.

12 MS. NEFF: Aye.

13 MR. CORWIN: Aye.

14 MR. TASKER: Aye.

15 CHAIRMAN SALADINO: And I vote aye.

16 Item number 2 is motion to approve the
17 minutes of the August 21, 2018 Zoning Board
18 of Appeals meeting.

19 So moved.

20 MR. TASKER: Second.

21 CHAIRMAN SALADINO: All in favor?

22 MS. GORDON: Aye.

23 MR. CORWIN: Aye.

24 MS. NEFF: Aye.

25 MR. TASKER: Aye.

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2 CHAIRMAN SALADINO: And I'll vote aye.

3 Any abstentions?

4 MR. CORWIN: Abstain.

5 CHAIRMAN SALADINO: Item number 3 is
6 motion to schedule the next Zoning Board of
7 Appeals meeting for Tuesday, November 20,
8 2018 at 6:00 p.m. at the Third Street Fire
9 Station, Greenport, New York.

10 So moved.

11 MS. GORDON: Second.

12 CHAIRMAN SALADINO: All in favor?

13 MR. CORWIN: Aye.

14 MS. GORDON: Aye.

15 MS. NEFF: Aye.

16 MR. TASKER: Aye.

17 CHAIRMAN SALADINO: And I'll vote aye.

18 Item number 4 is 416 South Street.

19 It's a motion to accept the findings and
20 determinations in the matter of the
21 application of Laura Dicapua for the
22 property located at 416 South Street,
23 Greenport, New York 11944.

24 Suffolk County Tax Map number is
25 1001-4-5-12.

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2 The findings that we have have a couple
3 of minor mistakes. I thought we could
4 correct them here.

5 Arthur, do you have those numbers?

6 MR. TASKER: The page numbers I gave
7 you?

8 CHAIRMAN SALADINO: Not the page
9 numbers, the numbers for the --

10 MR. TASKER: I think I can find them in
11 the -- bear with me just a minute, please.

12 Here is what we addressed, what we
13 discussed with the applicant and what we, I
14 believe, intended to do with respect to the
15 variances; and they affected only the side
16 yards because they had resolved the front
17 yard question with regard to the staircase.

18 What we had determined to do was to
19 permit a side yard variance, but less of a
20 variance; that is a greater side yard
21 requirement than what the applicant
22 originally asked for.

23 It resolved itself as follows: That
24 the proposed side yard setback, and I'm
25 reading from the notice of disapproval dated

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2 May 14, 2018, and in that notice of
3 disapproval, what was proposed was, the
4 proposed side yard setback is two feet,
5 requiring an area variance of eight feet.

6 We agreed collectively amongst ourselves and
7 the applicant concurred to grant the
8 proposed side yard setback of four feet,
9 requiring an area variance of six feet.

10 Similarly, the combined side yard
11 setback was proposed to be five point five
12 feet, requiring an area variance of nineteen
13 point five feet, by reducing, I'm sorry, by
14 increasing the setback two feet on the east
15 side, the combined side yard setbacks that
16 we concurred with ourselves and with the
17 applicant was the combined side yard setback
18 is seven point five feet, requiring an area
19 variance of seventeen point five feet.

20 So just to recap, it moved,
21 essentially, the pillars of the portico
22 share of the west side two feet closer to
23 the house, giving two additional feet
24 setback.

25 CHAIRMAN SALADINO: Okay.

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2 Would the members be comfortable on
3 voting on this tonight with these
4 corrections and then we can --

5 MR. TASKER: Yeah, we would vote with
6 those corrections to be inserted, right?

7 CHAIRMAN SALADINO: Right.

8 MR. TASKER: Okay.

9 CHAIRMAN SALADINO: All right.

10 So I'll make a motion that, make this
11 motion to accept the findings and
12 determination with the corrections in the
13 matter of the application of Laura Dicapua
14 for the property located at 416 South
15 Street, Greenport, New York.

16 So moved.

17 MS. GORDON: Second.

18 CHAIRMAN SALADINO: All in favor?

19 MR. CORWIN: Aye.

20 MS. GORDON: Aye.

21 MS. NEFF: Aye.

22 MR. TASKER: Aye.

23 CHAIRMAN SALADINO: And I'll vote aye.

24 Item number 5 is the discussion and
25 possible motion on the area variances sought

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2 by James Olinkiewicz for the property
3 located at 412 Third Street, Greenport, New
4 York 11944.

5 Suffolk County Tax Map number is
6 1001-4-2-4.6.

7 What I thought we would do because
8 there is some interest generated with this
9 application, perhaps we should limit our
10 discussion to each of the five questions,
11 and then we'll discuss the application as it
12 relates to those five questions, and then we
13 can actually recite the five questions and
14 vote on them individually.

15 Is that agreeable?

16 MS. NEFF: Discussing the five
17 questions, I understand that, but not vote
18 on them through our first go-through.

19 CHAIRMAN SALADINO: Well, we want to
20 create a record. We want to create a
21 narrative for the applicant and for the
22 Village. This way, there's a complete
23 record, there's reasoning behind our
24 either -- behind our reasoning, our logic
25 and --

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2 MS. NEFF: Okay.

3 MR. TASKER: That's it.

4 CHAIRMAN SALADINO: So the first
5 question, the first area we should be
6 talking about whether an undesirable change
7 will be produced in the character of the
8 neighborhood or a detriment to nearby
9 properties will be created by granting the
10 area variance.

11 MS. NEFF: Mr. Chairman, are we talking
12 about all the area variances?

13 CHAIRMAN SALADINO: Well, we could
14 separate it by lot 1 and lot 2, and then if
15 the Board decides, we could vote each
16 variance individually or we could take them
17 collectively.

18 MS. GORDON: The trouble with, I think,
19 with doing it by lot 1 and lot 2 is that
20 part of the problem is the difference in
21 sizes and configuration of lot 1 and lot 2.
22 So I would find it hard to separate them.

23 CHAIRMAN SALADINO: So you want to do
24 it individually. All the discussion will be
25 about lot 1, the first set of five questions

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2 would be about lot 1, and then --

3 MR. TASKER: John, if I may, since
4 we're talking about the existing parcel and
5 the subdivision of it, the application for
6 the subdivision, I think we can, in looking
7 at the five questions starting with the
8 first question, I think that we members can
9 comment on that requirement as it affects
10 the parcels in whatever dimension or
11 whatever particular aspects strike each of
12 us individually.

13 CHAIRMAN SALADINO: I kind of thought
14 we could do that, but, you know, Dini --

15 MS. GORDON: Okay.

16 CHAIRMAN SALADINO: You don't have to
17 give up so easy.

18 MR. TASKER: In other words, a
19 free-for-all discussion on question 1,
20 free-for-all discussion on question 2.

21 CHAIRMAN SALADINO: I thought -- and in
22 the past, we have done that, so that's what
23 I thought we would do this evening, but if
24 it's going to be confusing or perhaps -- I
25 don't want to say confusing, but hard to

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2 understand, you know, it would be just as
3 easy to do it the other way, but I'm -- I
4 would leave it up to the members.

5 David, what do you think?

6 MR. CORWIN: I like your way of doing
7 it.

8 MS. NEFF: Excuse me?

9 MR. CORWIN: I like John's first
10 proposal.

11 MS. NEFF: In other words, we're
12 talking about all of them at once, five
13 questions as it relates to the
14 subdivision --

15 CHAIRMAN SALADINO: To the property of.

16 So I can repeat the question number 1
17 again and we can talk about it.

18 Whether an undesirable change will be
19 produced in the character of the
20 neighborhood or detriment to nearby
21 properties will be created by the granting
22 of the area variance.

23 MR. TASKER: One dimension, if I may.

24 CHAIRMAN SALADINO: Yes.

25 MR. TASKER: Did you want to start at

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2 the right hand of the table?

3 CHAIRMAN SALADINO: No.

4 MR. TASKER: All right, start at the
5 left, see what happens.

6 One dimension that we did speak of, and
7 I think bears heavily on this particular
8 question of the change in the neighborhood,
9 is the fact that the division of the lots as
10 proposed with a shared title right-of-way
11 that comprises a substantial part of the
12 total square footage of the parcel and of
13 each of the proposed subdivided lots is
14 turned over to parking.

15 Particularly what's proposed for lot 1
16 which is the present single-family house, I
17 think, lot 1, the whole front yard is
18 parking of it, and right-of-way, which can't
19 be obstructed.

20 Similarly, the substantial part of lot
21 2 as proposed looking at the plot plan, it
22 too is, roughly by eye, fifty percent
23 parking, and a very small remainder in the
24 front of the house which, according to the
25 plot plan, is gravel, not yard, and a pretty

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1 modest side yard.

2
3 So I think that the combination of
4 those factors would be an undesirable change
5 in the neighborhood compared to the adjacent
6 properties and the others in the same block.

7 MS. NEFF: My point of view about the
8 issue that you raise is, at present, that is
9 exactly what's happening if you look at the
10 photograph. I don't see that it would
11 create an undesirable change. It is, the
12 existing parcel has exactly that kind of
13 parking. So I don't see that the proposed
14 subdivision creates a different undesirable
15 effect.

16 MR. TASKER: I understand what you're
17 saying. My thought with respect to that is
18 that the single ownership makes that sort of
19 thing substantially more manageable with
20 respect to what happens on the property. As
21 to the owners' desire as to how the property
22 should be, it could be substantial
23 disagreement between two individual owners
24 as to how much front yard parking there's
25 going to be.

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2 CHAIRMAN SALADINO: I think that there
3 is -- create the lot, we have heard that --
4 and the applicant and I have a different
5 opinion of how to measure this property.
6 Lot 1 is -- I come to a different
7 calculation because I take into
8 consideration the right-of-way, the
9 right-of-way for the joint right-of-way is
10 2,378 square-foot, it's not buildable, it's
11 not -- I mean it -- I use the analogy like
12 if you had a 10,000 square-foot lot and
13 9,000 square feet of that lot is a flag lot
14 and 9,000 square feet of that lot was
15 driveway, you would be left with a 1,000
16 square-foot lot.

17 To me, to create a lot that's 3,393
18 square feet, even with the smaller lots in
19 Greenport, I don't think, I don't think -- I
20 don't know any 3,000 square-foot lots in
21 Greenport, so --

22 MS. GORDON: But does that change the
23 nature of the neighborhood?

24 CHAIRMAN SALADINO: Well, if there are
25 none -- if there are none -- if the

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2 neighborhood has a particular character by
3 house size or lot size and you add something
4 that's considerably different, I think,
5 yeah, it does change the character of the
6 neighborhood.

7 I also think by creating smaller lots,
8 it is a detriment to adjoining property
9 owners. Someone who has a legal lot or a
10 lot that's slightly nonconforming, to create
11 a house on the property next to it that's
12 considerably smaller, I think that does
13 change the character of the neighborhood.

14 And we've heard -- well, that's kind of
15 like my thought on that as far as --

16 Dini, would you --

17 MS. GORDON: Well, I think it's a very
18 awkward situation and it remains an awkward
19 situation, and it still, you know, next to
20 the basketball court, it still has those
21 issues.

22 I don't see that it changes the
23 character of the neighborhood, and it seems
24 to -- it's sort of idle speculation to
25 decide whether it's a detriment to the

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2 nearby properties. It might improve them.

3 So I would -- on that one, I would --

4 CHAIRMAN SALADINO: Okay.

5 David?

6 MR. CORWIN: No comment on that one.

7 CHAIRMAN SALADINO: Okay.

8 Question number 2 is whether the
9 benefit sought by the applicant can be
10 achieved by some method feasible for the
11 applicant to pursue other than an area
12 variance.

13 MR. TASKER: Other than remove one of
14 the buildings, I don't see how.

15 I mean, it's clear that when you look
16 at the aerial photograph that, and from the
17 plot plan and from the subdivision plan,
18 this particular cluster of property is
19 cobbled together out of part of the
20 backyards of one, two, three, four different
21 lots and, you know, it's going to be --
22 never going to be better than a pig with
23 lipstick, whether it's two owners or one
24 owner.

25 CHAIRMAN SALADINO: Ellen?

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2 MS. NEFF: There are other lots in the
3 immediate neighborhood and elsewhere in the
4 Village that are, and I might add
5 regrettably, but it's not up to me to say
6 regrettable, history made this happen.

7 So your expression, the pig, you know,
8 wink, wink, I get that.

9 MR. TASKER: I borrowed that from Sarah
10 Palin, if you remember.

11 MS. NEFF: Okay.

12 Anyway, the right-of-way is fifteen
13 feet wide; is that correct, Mr. Chairman? I
14 think it is.

15 MR. TASKER: That's what I see.

16 MS. NEFF: Okay.

17 The part that runs along the lot, the
18 basketball court and the other house, I take
19 that right-of-way until you get into the
20 area of the two lots, it's around 1700
21 square feet, that's not an exact number, so
22 it is what it is. I think that the two
23 lots, the two -- the way the lots are
24 currently utilized, I would like it if one
25 of them wasn't a two-family house, but I

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2 don't have the power to change that.

3 So, again, I don't see the size of the
4 lots, since they, the houses do exist in the
5 place that they are as the overriding
6 concern here.

7 CHAIRMAN SALADINO: Well, I have a
8 problem with the concept that a subdivision
9 is the only method feasible for the
10 applicant to pursue. I dispute that.

11 I mean, the property can go on the way
12 it is. The property could be sold. You
13 know, there's other areas, there's other
14 options open to the applicant other than
15 these area variances. So, I mean, to
16 suggest that the only way the applicant can
17 go forward with this plot is to subdivide
18 it, I disagree with that.

19 I mean, in his narrative, he says the
20 existing property contains three rental
21 units. It's unlikely that the property
22 would convert to owner occupancy. I don't
23 see that at all. I think there are ways for
24 it to go that route, it could be a
25 mother/daughter, it could be owner occupied

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2 and an investment property. So I -- that's
3 kind of like my thought on that.

4 MR. TASKER: John, in support of that
5 thought, in fact, you have to think that's
6 what the present owner must have had in mind
7 in terms of the number of times that he
8 bought and sold that property. He sold it
9 and, forgive me, I'm not recalling the
10 dates, he sold it after believing, but not
11 ascertaining that his variance in whatever
12 year it was to subdivide it had been turned
13 down. He sold it because he didn't want,
14 apparently, he didn't want to own it under
15 those circumstances, but he bought it back
16 under the same circumstances that existed
17 before he made the variance application,
18 that is what we presently find to this day.

19 He must think there's something there
20 or he wouldn't be back in the pool.

21 MR. CONNOLLY: Can I clarify that
22 statement?

23 MR. TASKER: Please.

24 MR. CONNOLLY: The question is, to
25 effectuate the subdivision of the property,

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2 are there any other avenues that the
3 applicant can explore other than obtaining
4 area variances? It's not whether or not
5 there's other benefits or other uses that
6 the owner of the property can benefit from.
7 It's specific to the area variance request.

8 MR. TASKER: Okay. That kind of flips
9 us over then to self-created hardship.

10 MR. CONNOLLY: Sure.

11 CHAIRMAN SALADINO: Well, the other
12 thing is, this should be -- should we really
13 be taking into consideration -- I'm
14 uncomfortable applying our logic to how it
15 relates to a subdivision. We're not the
16 Planning Board, the Planning Board rules on
17 subdivisions. We don't decide about
18 subdivisions, we decide about lot coverage,
19 area variances, land use.

20 I mean to -- I read from the
21 applicant's narrative, only to point out
22 that everything in this relates to a
23 subdivision, everything in my mind relates
24 to front yard, rear yard, side yard setback.

25 Maybe we could kind of focus on that,

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2 and the question whether the benefit sought
3 by the applicant can be achieved by some
4 method, right now the applicant is here
5 asking us for area variances, can he achieve
6 these by some other method, that's the
7 question that comes up in my mind, not
8 whether the subdivision should be what we're
9 considering. So if it gets that far to the
10 Planning --

11 MR. TASKER: But the variances he's
12 seeking, side yard, et cetera, arise because
13 of the fact of subdivision, the idea of
14 subdividing it, we're going to be looking at
15 variances because this is pre-existing in
16 the Village, I'm not sure when, but probably
17 before 1944.

18 CHAIRMAN SALADINO: I agree with you,
19 and the conversations that we have had in
20 the past, that question always came up, it
21 was the elephant in the room. You know, the
22 Planning Board says no, they sent it to
23 Zoning, and we, in effect, without having
24 to -- without discussing outright
25 subdivisions, talk about variances that

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2 wouldn't come in front of us if the
3 applicant wasn't looking to subdivide.

4 MR. TASKER: So we're chasing our
5 tails.

6 CHAIRMAN SALADINO: As far as question
7 number 2, Diana, do you have anything?

8 MS. GORDON: I think it's very
9 difficult to see how he could have done much
10 of anything else, so I guess that's it.

11 CHAIRMAN SALADINO: David, do you have
12 anything?

13 MR. CORWIN: Well, the question is
14 whether the benefit sought by the applicant,
15 what's the benefit sought by the applicant,
16 it's to make money, and I'm going to assume
17 both of those buildings he paid for, and the
18 applicant could always tear down and put up
19 one house on that lot, so there's other
20 things that can be done besides granting an
21 area variance.

22 CHAIRMAN SALADINO: Okay.

23 Item 3, question number 3 is whether
24 the requested area variance is substantial.

25 MR. TASKER: I would say in all cases,

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2 both side yards, gross area, I think you
3 recited the percentage amounts, but they
4 were big numbers.

5 CHAIRMAN SALADINO: I'm gonna do it
6 again when I get up.

7 Ellen?

8 MS. NEFF: I agree they're substantial.

9 CHAIRMAN SALADINO: Dini?

10 MS. GORDON: I do too.

11 CHAIRMAN SALADINO: Just for the
12 record, I'm going to read it into the
13 record, if I could find the notice of
14 disapproval.

15 Lot 1, front yard setback is six point
16 three feet, requiring an area variance of
17 twenty point seven feet, seventy-nine
18 percent.

19 The rear yard setback is ten point four
20 feet, requiring an area variance of nineteen
21 point six feet, which is sixty-five percent,
22 lot area is 4,615 square feet, requiring an
23 area variance 2,884 square feet, which is
24 forty percent.

25 Lot 2, side yard setback is three point

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2 four feet, requiring an area variance of six
3 point six feet, sixty-six percent. Rear
4 yard setback is three point one feet,
5 requiring an area variance of twenty-six
6 point nine feet, which is eighty-nine point
7 six percent. The lot area for lot 2 is
8 3,393 square feet, requiring an area
9 variance of 4,106 square feet, which is
10 fifty-five percent.

11 I would be forced to answer yes for
12 that.

13 David?

14 MR. CORWIN: The application speaks for
15 itself on that question.

16 CHAIRMAN SALADINO: Question number 4
17 is whether the proposed variance will have
18 an adverse effect or impact on the physical
19 or environmental conditions in the
20 neighborhood or district.

21 Arthur?

22 MR. TASKER: Well, given that on the
23 day after the variances were -- the
24 variances are granted, the subdivision is
25 permitted by the Planning Board the next

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2 day, nothing has changed, and after that,
3 all we need is a crystal ball to address
4 this question.

5 MS. GORDON: I didn't hear the last
6 part.

7 MR. TASKER: I said after that, all we
8 need is a crystal ball to address this
9 question.

10 MS. NEFF: In my opinion, that it would
11 have an adverse, my answer to that is no,
12 it's not proof, you know, that's speculation
13 of, if you offer a crystal ball. It could
14 be better, you don't know that, but in
15 itself would it create an adverse effect, I
16 think not.

17 CHAIRMAN SALADINO: Well, again reading
18 from the applicant's narrative, the
19 applicant says, one property most likely
20 will remain as investment property and
21 commercial financing. I'm not sure if --
22 I'm not sure if I agree with that. I'm not
23 sure that -- like Arthur, I don't have a
24 crystal ball, so I don't know if it's gonna
25 remain as investment property. Again, it

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2 might be owner occupied, might be
3 mother/daughter. Since everybody's just
4 speculating, offering an opinion, that's
5 mine.

6 The other thing that I think I might
7 want to say about that is, if eventually the
8 property was split and it did revert to not
9 owner occupied, I think it could have an
10 adverse effect on the neighborhood, increase
11 density. There is a rental permit law in
12 effect. There might be a short-term rental
13 law, but we don't know. As far as how many
14 people could be in that house, how many
15 short-term renters if it does go VRBO or
16 short-term rental, I think the increase in
17 density might make a difference to the
18 neighbors, but I can't be sure.

19 MS. GORDON: I like the way Arthur
20 described it. It seems to me we can only
21 look at the shortest possible term and that
22 we have wetlands problem, we don't have --
23 I'm told there is already a trash issue,
24 that's not going to be worse; so I guess I
25 don't think, as far as we can know, we don't

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2 have an adverse effect.

3 CHAIRMAN SALADINO: David?

4 MR. CORWIN: When this application came
5 before the Planning Board a couple years
6 ago, it was presented as splitting up one
7 property to sell two separate properties.

8 MS. NEFF: Excuse me, split up one?

9 MR. CORWIN: The one piece of property
10 as two separate properties to facilitate
11 sale of each of the separate structures on
12 the property, and my concern is that it's
13 going to make two separate properties owned
14 by absentee landlords.

15 I don't know that the applicant is a
16 bad landlord; I'm not calling him a bad
17 landlord because he seems to do what the
18 Village asks him to when something comes up,
19 but what happens when it's two new landlords
20 who just want to squeeze all the money they
21 can out of the property?

22 MR. TASKER: Particularly if the two
23 properties are, in fact, LLC-1 and LLC-2.

24 CHAIRMAN SALADINO: Question 5 is
25 whether the alleged difficulty was

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2 self-created, which consideration shall be
3 relevant to the decision of the Board of
4 Appeals, but not necessarily preclude the
5 granting of the area variance.

6 Arthur?

7 MR. TASKER: I'm reminded of the
8 definition of, I forgot exactly what term,
9 doing the same thing over and over again
10 thinking you're going to get a different
11 answer. Here is no question that the owner
12 of this property knew what he was getting
13 into in his most recent purchase. Of course
14 it's self-created.

15 MS. GORDON: It seems to be an
16 unusually clear case of being self-created
17 because he bought and sold, and this was the
18 pickle from the beginning from before he
19 applied for variances in 1998. I don't see
20 how you could answer that any way other than
21 to say it is self-created.

22 MR. TASKER: In 1998, thinking he had
23 no variance, he sold it. It's kind of like
24 coming to the nuisance in the different
25 situation.

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2 CHAIRMAN SALADINO: David, do you
3 agree?

4 MR. CORWIN: I agree, yes.

5 MS. NEFF: And I agree.

6 CHAIRMAN SALADINO: As do I.

7 So I'm gonna ask, are we gonna take
8 each one of these variances by itself, are
9 we going to vote on them as part of a whole
10 application or --

11 MR. TASKER: I think we should do it
12 all together.

13 MS. NEFF: Agreed.

14 MS. GORDON: Um-hum.

15 MR. CORWIN: Yes.

16 CHAIRMAN SALADINO: Let me ask the
17 attorney.

18 The only reason I say that is, again,
19 to create a record for, if this perhaps
20 should go someplace else, to create a record
21 for someone.

22 MR. CONNOLLY: I think you can consider
23 them all as a whole.

24 MR. TASKER: I move that we approve the
25 variance as applied for in the applications.

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2 CHAIRMAN SALADINO: You move that we
3 approve the variances as applied for in the
4 application?

5 MR. TASKER: Yes.

6 CHAIRMAN SALADINO: But we're gonna
7 have to vote --

8 MR. TASKER: We can have the motion in
9 front of us, do the five questions and vote
10 on motion.

11 CHAIRMAN SALADINO: Okay, and you
12 wanted the vote in the negative.

13 Okay.

14 I'll second it.

15 All in favor?

16 MR. TASKER: No.

17 MS. GORDON: Yes.

18 MR. TASKER: Nope, we not voting on
19 motion.

20 MR. CORWIN: We got to ask the
21 questions.

22 CHAIRMAN SALADINO: I thought you just
23 made the motion.

24 MR. TASKER: I did, but we're gonna
25 look at the five questions first, are we

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1
2 not?

3 CHAIRMAN SALADINO: We are, but the
4 motion is to word it as you said, to vote in
5 negative as opposed to what we normally do,
6 whether to approve the area variances.

7 MR. TASKER: I'm sorry.

8 Our motions are typically to approve a
9 variance.

10 CHAIRMAN SALADINO: Right.

11 MR. TASKER: When we don't want to
12 grant it, we vote no.

13 MS. NEFF: How is this different?

14 MR. TASKER: It isn't.

15 CHAIRMAN SALADINO: So why would we --
16 I'm just confused, Arthur, as to why bring
17 it up now before SEQRA and before the five
18 questions; what am I missing?

19 MR. TASKER: So that we know we're
20 looking at all of the individual variances
21 as the lot.

22 CHAIRMAN SALADINO: Okay.

23 MS. NEFF: As a whole might work
24 better.

25 CHAIRMAN SALADINO: I'm sure one of us

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2 would have brought that up and the attorney
3 is here to remind us too that we're gonna
4 take all the variances together as opposed
5 to vote on them separately.

6 MR. TASKER: All right. Well, then
7 I'll withdraw my motion, if the second was,
8 withdraw the second.

9 CHAIRMAN SALADINO: So did we do SEQRA?

10 MS. NEFF: No.

11 CHAIRMAN SALADINO: I have to ask the
12 attorney, is it a Type 2 action?

13 MR. CONNOLLY: Type 2 action area
14 variances.

15 CHAIRMAN SALADINO: I'll make a motion
16 that the Zoning Board of Appeals appoints
17 itself lead agency for the purposes of
18 SEQRA.

19 So moved.

20 MS. NEFF: Second.

21 CHAIRMAN SALADINO: All in favor?

22 MR. CORWIN: Aye.

23 MS. GORDON: Aye.

24 MS. NEFF: Aye.

25 MR. TASKER: Aye.

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2 CHAIRMAN SALADINO: And I'll make a
3 motion that this a Type 2 action for the
4 purposes of SEQRA.

5 So moved.

6 MR. TASKER: Second.

7 CHAIRMAN SALADINO: All in favor?

8 MR. CORWIN: Aye.

9 MS. GORDON: Aye.

10 MS. NEFF: Aye.

11 MR. TASKER: Aye.

12 CHAIRMAN SALADINO: And we'll do these
13 five questions.

14 Whether an undesirable change will be
15 produced in the character of the
16 neighborhood or a detriment to nearby
17 properties will be created by granting of
18 the area variance.

19 David?

20 MR. CORWIN: Yes.

21 CHAIRMAN SALADINO: Dini?

22 MS. GORDON: No.

23 CHAIRMAN SALADINO: Ellen?

24 MS. NEFF: No.

25 CHAIRMAN SALADINO: Arthur?

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MR. TASKER: Yes.

CHAIRMAN SALADINO: I'm going to vote
yes.

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

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: I'll vote yes.

Whether the requested area variance is
substantial.

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

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2 CHAIRMAN SALADINO: Arthur?

3 MR. TASKER: Yes.

4 CHAIRMAN SALADINO: I'll vote yes.

5 Whether the proposed variance will have
6 an adverse effect or impact on physical or
7 environmental conditions in the neighborhood
8 or district.

9 David?

10 MR. CORWIN: Yes.

11 CHAIRMAN SALADINO: Dini?

12 MS. GORDON: No.

13 CHAIRMAN SALADINO: Ellen?

14 MS. NEFF: No.

15 CHAIRMAN SALADINO: Arthur?

16 MR. TASKER: I'm gonna abstain.

17 CHAIRMAN SALADINO: I'm sorry?

18 MR. TASKER: I'm abstaining on that
19 question.

20 CHAIRMAN SALADINO: I'll vote yes.

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

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2 David?

3 MR. CORWIN: Yes.

4 CHAIRMAN SALADINO: Dini?

5 MS. GORDON: Yes.

6 CHAIRMAN SALADINO: Ellen?

7 MS. NEFF: Yes.

8 CHAIRMAN SALADINO: Arthur?

9 MR. TASKER: Yes.

10 CHAIRMAN SALADINO: I'll vote yes.

11 Arthur, do you want to make that
12 motion?

13 MR. TASKER: Okay.

14 I move that we adopt or grant all of
15 the individual variances set forth in the,
16 what is it called, set forth in the
17 application for the Zoning Board.

18 MS. NEFF: I think revised is --

19 MR. TASKER: Revised June 21, '18 if
20 that is the latest.

21 CHAIRMAN SALADINO: No. I have -- my
22 notice of disapproval says July 10, 2018.

23 MR. TASKER: No. I'm looking at the
24 application in Zoning, that's where the
25 variances are set forth.

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2 CHAIRMAN SALADINO: This is a revised

3 --

4 MS. NEFF: It can go from that, I
5 think.

6 MR. TASKER: Let's step aside for just
7 a second.

8 What we're doing is approving or
9 disapproving his request for variances.

10 CHAIRMAN SALADINO: My only concern
11 is --

12 MR. TASKER: The variances are set
13 forth in the Zoning Board of Appeals
14 application.

15 CHAIRMAN SALADINO: My only concern is,
16 I have three applications from this
17 applicant in front of me with different
18 dates. One is March, one is April, one is
19 July 10th. So if --

20 MS. MOORE: They kept changing the
21 notice of disapproval, so take the last one.

22 MR. TASKER: The notice of disapproval
23 is dated July 10th. The same as the
24 application to the ZBA, I believe.

25 Is that right?

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2 MS. MOORE: I know I kept submitting
3 new paperwork just to update based on the
4 newest notice of disapproval.

5 Whatever is the last date.

6 CHAIRMAN SALADINO: I believe July 10th
7 is the last day I have.

8 MS. MOORE: That would be it.

9 CHAIRMAN SALADINO: So just so it's
10 clear, again, can you make that --

11 MR. TASKER: Okay.

12 I move that we grant the variances set
13 forth in the notice of disapproval dated
14 July 10, 2018.

15 CHAIRMAN SALADINO: Is there a second?

16 MR. CORWIN: Second.

17 CHAIRMAN SALADINO: David?

18 MR. CORWIN: Nay.

19 CHAIRMAN SALADINO: Dini?

20 MS. GORDON: Nay.

21 CHAIRMAN SALADINO: Ellen?

22 MS. NEFF: Yes.

23 CHAIRMAN SALADINO: Arthur?

24 MR. TASKER: No.

25 CHAIRMAN SALADINO: And I'll vote no.

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2 MS. GORDON: I guess I would like to
3 reiterate for the record what I said last
4 month, which is that our code is really
5 deficient in not having a sort of
6 exceptional situation or something that
7 could deal with some of these problems which
8 have to do with unique composition of the
9 lots that we deal with because I voted no
10 because I think the request is very
11 substantial. It's too substantial, given
12 the way the code presents these choices. I
13 have to honor the code, but I think it's a
14 shame that we don't have a more flexible set
15 of standards for unique cases. And if we're
16 ever going to revise, this should be one of
17 the things that is attended to.

18 CHAIRMAN SALADINO: Well -- I'm sorry,
19 Ellen.

20 MS. NEFF: Go ahead.

21 CHAIRMAN SALADINO: I agree with some
22 of the stuff that you said, but I read from
23 the notice of disapproval, for us to decide
24 any other way than we did, especially when
25 it comes to Section 150-C, no lot shall be

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2 formed on part of the lot already occupied
3 by a building, that's almost legislating.
4 If we ignore that, we could in effect be
5 legislating new code.

6 As far as the other variances asked, at
7 what point in time does too much become too
8 much? We're talking about a seventy-nine
9 percent, sixty-five percent, sixty-six,
10 forty, eighty-nine percent, sometimes too
11 much is just too much.

12 MS. GORDON: I agree. I am suggesting
13 that some legislation might deal in the
14 future with situations like this.

15 MR. TASKER: Dini, the only thing I
16 would say to that, to your concern about
17 unusual situations such as this lot, I think
18 by unusual situations, you're talking about
19 the geometry of it, but if this lot were a
20 perfectly rectangular lot of the same total
21 square footage, with the same houses on it,
22 fronting perfectly, squarely on the street,
23 and the same subdivision proposal to split
24 in some way to create two separate lots out
25 of it with side yard problems and total area

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2 problems, we've got the same question, the
3 difficulty of applying the ordinance is no
4 different in that situation than in this
5 one.

6 What I'm saying is, just because it's a
7 crazy shaped lot doesn't change what we have
8 to do.

9 MS. NEFF: If I may say, in your
10 hypothetical, you talked about lots oddly
11 configured varying greatly from what the
12 code requires, and on the street, that's not
13 the case here.

14 And so leaving that aside, I think the
15 thing that Dini mentioned about, in place
16 that historically has many structures on
17 many lots with a great diversity that were
18 there way before the code was adopted.

19 I will talk about one such house just
20 to the east of lot 2, there is the very old
21 house, probably a house prior to 1840, moved
22 to that lot, which you can see if you have
23 this thing in front of you, with a structure
24 added to it that probably covers more than
25 fifty percent of the lot.

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2 Now, the fates have smiled on this
3 particular property, well cared for
4 throughout its history, and fate has not
5 dealt kindly with this thing that was
6 created and buildings were either moved or
7 constructed in those sites. It is what it
8 is, and I think that the body that has to do
9 what you're basically suggesting, Dini, is
10 Zoning Board of Appeals, that's faced with
11 weighing things, and we have to weigh them
12 and the givens are not always what we'd
13 like, but they are the givens. And in this
14 case, it's this configuration with this
15 right-of-way, those buildings and those
16 lots.

17 MR. TASKER: So, Mr. Chairman, send a
18 message -- no, I guess we don't a message to
19 the Village Board.

20 CHAIRMAN SALADINO: The Village Board,
21 if the applicants so chose, after they went
22 to the Planning Board, had the right to go
23 to the Village Board and address these
24 questions. The Zoning Board, the appeal
25 process with the Zoning Board is an

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2 administrative law judge. The appeal from
3 the Planning Board is the Village Board.

4 MR. CONNOLLY: An aggrieved party
5 brings an Article 78.

6 CHAIRMAN SALADINO: Our code, as a
7 matter of fact, I just read again that the
8 Planning Board can be appealed to the
9 Village Board. If I'm mistaken but it's --
10 I don't want to -- it doesn't matter here
11 now but.

12 MS. MOORE: Are you sure it's not for
13 site plan?

14 CHAIRMAN SALADINO: Again, if I'm
15 mistaken I don't want to get the big book
16 out because it doesn't matter here now,
17 but --

18 MS. MOORE: Are you sure it's not for
19 site plan?

20 CHAIRMAN SALADINO: Again, it's not --
21 it doesn't matter, if I'm mistaken I
22 apologize, I don't think I am, but I'm not
23 about to make a big deal out of it.

24 But as far as the Village Board, there,
25 I think this is up to them to legislate, to

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2 decide if uniquely formed nonconforming lots
3 should have come in front of the Planning
4 Board for subdivision, they can add
5 something to the code that they can drop the
6 lot size, they can do a number of things.

7 For me, as a member of the Zoning
8 Board, I know it's not supposed to be black
9 and white. Sometime it is, sometimes it's
10 not; but I can use a calculator and I can --
11 we keep hearing, we keep hearing it's about
12 land use and variances are about land use
13 and when they're excessive, I don't think
14 they should be granted, so, you know, that's
15 just kind of my thought.

16 Anyone else?

17 David, do you have something to say?

18 MR. CORWIN: No.

19 CHAIRMAN SALADINO: We have an item
20 number 6 that's been re-added to this,
21 recently added to this agenda.

22 Any other Zoning Board of Appeals
23 business that might come before this Board,
24 if anybody would like to say anything or
25 have a question about zoning, we'll be glad

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2 to listen. If not --

3 MR. CORWIN: Question.

4 CHAIRMAN SALADINO: Okay.

5 MR. CORWIN: It was former practice
6 that basically if it was a simple-enough
7 variance and everybody agreed, that the
8 building inspector would issue the building
9 permit rather than wait for the
10 determination, what we did tonight, and then
11 it came up in questions, can we do that or
12 not; and what is the status in that now and?
13 Are we holding straightforward applications
14 up for an extra month where it's clear that
15 the Zoning Board agrees that somebody should
16 have a variance?

17 CHAIRMAN SALADINO: Actually, I had the
18 conversation with the Building Department.
19 Their opinion is that if it's a relatively
20 simple application, they would issue the
21 building permit.

22 Am I getting this right?

23 MS. LINGG: Correct.

24 CHAIRMAN SALADINO: They would issue
25 the building permit.

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2 MS. GORDON: So that would mean Laura
3 Dicapua would get her building permit ASAP.

4 MS. LINGG: As long as there's been a
5 vote.

6 CHAIRMAN SALADINO: It was always my
7 recollection that they wouldn't, the
8 building inspector wouldn't issue the
9 building permit until findings and
10 determinations came out and that was voted
11 on, but also that was also my recollection
12 that sometimes that happened, sometimes it
13 didn't.

14 MR. TASKER: Well, that can lead to,
15 you know, an extended cycle because if a
16 building permit is issued on the strength of
17 a vote without the determination of the file
18 and all that, there is the prospect that an
19 aggrieved party is going to appeal to the
20 Zoning Board on the issuance of the building
21 permit. I have done that on behalf of
22 clients.

23 CHAIRMAN SALADINO: It's not for us to
24 decide that. That would be strictly up to
25 the -- what happens after we get up from

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2 this table, Arthur --

3 MR. TASKER: Who is sticking their neck
4 out is the question.

5 CHAIRMAN SALADINO: If the Building
6 Department is okay with that, I don't have a
7 problem with it.

8 David, do you?

9 MR. CORWIN: No. When it's obviously a
10 minor variance, as a general rule, no.

11 CHAIRMAN SALADINO: Ellen?

12 MS. NEFF: (No response.)

13 CHAIRMAN SALADINO: I'm willing to let
14 them hold the ball.

15 So the last thing we have is -- anybody
16 else have a question?

17 (No response.)

18 The last thing we have is item number
19 7, motion to adjourn.

20 MR. TASKER: So moved.

21 CHAIRMAN SALADINO: All in favor?

22 MR. CORWIN: Aye.

23 MS. GORDON: Aye.

24 MS. NEFF: Aye.

25 MR. TASKER: Aye.

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CHAIRMAN SALADINO: And I'll vote aye.

Thank you, folks.

(Time noted: 7:05 p.m.)

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C E R T I F I C A T E

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

I, STEPHANIE O'KEEFFE, a Reporter and Notary Public within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the proceedings taken on October 16, 2018.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter. IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of October, 2018.

Stephanie O'Keefe

STEPHANIE O'KEEFFE

CHAIRMAN SALADINO: [111]
MR. CONNOLLY: [6] 18/20
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MR. CORWIN: [29] 2/12 2/22
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MR. TASKER: [65]
MS. GORDON: [29] 2/10 2/21
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MS. LINGG: [2] 44/22 45/3
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