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VILLAGE OF GREENPORT COUNTY OF SUFFOLK
STATE OF NEW YORK

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ZONING BOARD OF APPEALS
REGULAR SESSION

-----x

Third Street Firehouse
Greenport, New York

March 20, 2018
6:15 p.m.

- JOHN SALADINO - CHAIRMAN
- DAVID CORWIN - MEMBER
- ELLEN NEFF - MEMBER
- DINI GORDON - MEMBER
- ARTHUR TASKER - MEMBER
- JOSEPH PROKOP - VILLAGE ATTORNEY
- ROBERT CONNOLLY - VILLAGE ATTORNEY
- KRISTINA LINGG - BUILDING CLERK

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CHAIRMAN SALADINO: Okay, folks.

We apologize.

This is the Regular Meeting of the
Greenport Village Zoning Board of
Appeals.

Item number 1 is motion to accept
the minutes of the February 20, 2018
meeting.

So moved.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote
aye.

Item number 2, motion to approve
the minutes of the January 16, 2018 ZBA
meeting.

So moved.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MS. GORDON: Aye.

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2 MS. NEFF: Aye.

3 MR. TASKER: Aye.

4 CHAIRMAN SALADINO: And I'll vote
5 aye.

6 Any abstentions?

7 MR. CORWIN: Abstain.\

8 CHAIRMAN SALADINO: One
9 abstention.

10 Item number 3, and let me explain
11 about this. We lost the venue, we
12 normally meet on a Tuesday, we lost the
13 venue for April this year, so if the
14 members agree, we're going to schedule
15 a meeting for the Wednesday after.

16 Motion to schedule the next ZBA
17 meeting for Wednesday, April 18, 2018
18 at 6:00 p.m. at the Third Street Fire
19 Station, Greenport, New York.

20 So moved.

21 MS. NEFF: Did you say it's for
22 the whole year?

23 CHAIRMAN SALADINO: No, just next
24 month.

25 MS. GORDON: All right.

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MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote
aye.

So everybody just make a note that
Wednesday, April 18th instead of
Tuesday, April 17th.

Item number 4, public hearing
regarding the area variance sought by
Alexander and Isabel Iwachiw,
represented by Michael Iwachiw for the
property located at 177 Sterling
Street, Greenport, New York 11944.

Suffolk County tax map number
1001-3-4-15.

For the folks that are interested,
the public notice is attached.

I have my list here. We know that
the applicant, that Mr. Iwachiw is
representing, that Michael Iwachiw is

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2 representing Alexander and Isabel.

3 Public notice was published, and I
4 have the mailings. I'll read these for
5 you folks.

6 Notified was Joan Berglund, 25605
7 Main Road, Orient, New York 11957.

8 Richard Kohut, 172 Sterling Street,

9 Greenport, New York. Karolina

10 Petersson, 907 Grand Street, Brooklyn,

11 New York. Susette Ovisinak, 174

12 Sterling Street, Greenport, New York

13 11944, O-V-I-S-I-N-A-K. John Citera,

14 173 Sterling Street, Greenport, New

15 York. And Antoon Scholle, 47 South

16 Oxford Street, Brooklyn, New York.

17 We have the applicant.

18 This is like old stuff to you.

19 Does the Board have any questions
20 for the applicant?

21 (No response.)

22 Anyone?

23 (No response.)

24 No. Thank you.

25 MR. IWACHIW: Should I stay until

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2 the next one?

3 CHAIRMAN SALADINO: Well, we're
4 going to let the public speak. We're
5 gonna ask the public if they want to
6 speak, so if there is someone here that
7 might want to speak, we're gonna let
8 them do it and then we'll close the
9 public hearing and have the discussion.

10 Is there anyone from the public
11 that would like to comment?

12 Chatty.

13 Name and address for the
14 stenographer.

15 MS. ALLEN: Chatty Allen, Third
16 Street.

17 Just reading what is being
18 proposed, basically nothing is changing
19 except what it's being called now. You
20 know, this seems like a
21 straightforward, basically putting one
22 room and just changing it to another
23 room. It's not changing what's already
24 been there, so, if I had my say, I'd
25 say approve it.

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CHAIRMAN SALADINO: You can put Chatty down for a yes.

Anyone else from the public that would like to speak?

(No response.)

If not, what's the pleasure of the Board, make a motion to close the public hearing or comment?

MR. CORWIN: I second the motion.

CHAIRMAN SALADINO: All right.

I'm gonna make this motion to close the public hearing, second by David.

All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

Item number 5 is discussion and possible motion on the variance application of Alexander and Isabel Iwachiw, represented by Michael Iwachiw

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2 for the property located at 177
3 Sterling Street, Greenport, New York
4 11944.

5 Suffolk County tax map number
6 1001-3-4-15.

7 Does the Board have any comments?

8 MR. CORWIN: I'll note that I'm
9 not thrilled with this because it's so
10 close to the neighbors, but if you look
11 at Google Earth, each house on that
12 street is set back a little more, so
13 it's not really a fire hazard to the
14 neighbor to the west, so I guess
15 there's no argument there.

16 What I am uncomfortable with and
17 we have no say over at this point in
18 time is in the back of that lot there's
19 a couple of sheds, and they back right
20 up, couple feet away from what used to
21 be Tommy Christianson's (phonetic)
22 house, and really these things were set
23 up for fire considerations as far as I
24 understand, so I don't like the way the
25 backyard is set up, but, once again,

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2 that's not what we're here for.

3 CHAIRMAN SALADINO: Okay. Anyone
4 else?

5 MR. TASKER: I have a modest
6 concern that the project is to
7 essentially enclose what is the deck
8 and turn it into interior living space
9 in terms of the square footage. And I
10 have concerns that at some point in the
11 future, we're going to see an
12 application to add a deck, and just get
13 into kind of going like topsy in terms
14 of consecutive variances or something
15 of that sort.

16 MS. GORDON: But these proposals
17 do not, these variances do not change
18 existing nonconformity uses, so such a
19 proposal later on would change the
20 nonconforming use, it would be a new
21 nonconforming use so --

22 MR. TASKER: I understand your
23 point, if you'll take mine.

24 MS. GORDON: Sure.

25 CHAIRMAN SALADINO: I don't have a

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2 problem with this, you know. It's
3 almost, it's almost that if the deck
4 was certified to be sound and he had
5 intentions of leaving the deck and it
6 was someone, an engineer certified it
7 to be sound and build worthy, I mean he
8 could build this enclosure almost as of
9 right on top of that deck, so, I mean,
10 to remove the deck, build something in
11 kind except enclosed, as far as
12 building a deck afterwards, should we
13 be thinking about the unborn?

14 I don't have any objection to this
15 application.

16 Ellen, anything?

17 MS. NEFF: No, I don't agree. I
18 mean, if the area of the deck and the
19 volume of the addition are -- I mean,
20 it's a great difference between them in
21 my view, but if it fits in with the
22 character of the neighborhood that it,
23 in fact, is happening on a lot that's a
24 little bit less than 40 feet wide, I
25 think it represents a consideration of

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the limitations and comes up with a reasonable addition.

CHAIRMAN SALADINO: So you're okay with this?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Just checking.

So should we go through the five questions for this application and do SEQRA?

MR. CORWIN: SEQRA first.

CHAIRMAN SALADINO: Should we go through the five questions and do SEQRA or do we have any more discussion?

(No response.)

I'm gonna make a motion that the ZBA declare itself lead agency.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: Aye.

I'm gonna make a motion that we declare this a Type 2 action.

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MR. CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: Aye.

And we can go through these five questions here and vote on this variance if that pleases the Board.

MS. GORDON: Yes, please.

CHAIRMAN SALADINO: Item number 1 is whether an undesirable change would be produced in the character of the neighborhood or detriment to nearby properties will be created by granting of the area variance.

Kristina, you're gonna keep -- David?

MR. CORWIN: No.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?

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MR. TASKER: No.

CHAIRMAN SALADINO: And I'll vote
no.

Whether the requested area
variance is substantial.

Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: And I'll vote
yes.

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

David?

MR. CORWIN: No.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

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MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: No.

CHAIRMAN SALADINO: And I'll vote
no.

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

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: And I'll vote
yes.

I'm going to make a motion to
approve the area variance.

MR. TASKER: Second.

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CHAIRMAN SALADINO: David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: And I'll vote
yes.

MR. IWACHIW: Easy peasy. Three
times a charm. Thank you.

CHAIRMAN SALADINO: Item number 6,
motion to accept the application,
schedule a public hearing, and arrange
a site visit for the application of
Kathleen M. McDowell, for the property
located at 19 Front Street, Greenport,
New York 11944.

Suffolk County tax map number
1001-5-4-29.

Is the applicant here?

MS. McDOWELL: Yes.

So basically --

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CHAIRMAN SALADINO: Name and address for the stenographer.

MS. McDOWELL: I'm sorry. Kathleen McDowell, 51540 Main Road, Southold, New York.

So basically, we're opening a cheese shop at 19 Front Street and we would like to hang a sign perpendicular to the building. My understanding is that that sign can only be nine inches in diameter.

CHAIRMAN SALADINO: It could be two square feet per sign, the dimensions are up to you.

MS. McDOWELL: Okay.

I was originally told nine inches.

MR. TASKER: No, two square feet. If it were one-foot by two feet, that is two square feet.

MS. McDOWELL: Right. Okay.

MR. TASKER: Just to scale.

MS. McDOWELL: So what we would like to do, we have measured the signs that are next door to us, hanging at

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2 the Galleria, those are all 24 by 36.
3 There is four signs hanging there. The
4 only difference is that ours is oval
5 and their's is rectangular and we would
6 like to hang the sign above the door
7 between the first and second floor.

8 CHAIRMAN SALADINO: It's my
9 understanding that just a little bit of
10 the difference is, and one of the
11 reasons you're here is, the signs next
12 door aren't over, are not over a
13 Village sidewalk, that portion of
14 sidewalk belongs to them.

15 MR. TASKER: I'm sorry, which ones
16 are you --

17 CHAIRMAN SALADINO: The building
18 she mentioned, the Galleria building.

19 Right?

20 MS. LINGG: Yes.

21 CHAIRMAN SALADINO: So just so you
22 understand what's up.

23 MS. McDOWELL: Okay.

24 CHAIRMAN SALADINO: The
25 application is for a two-sided sign.

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2 It's 25 by 36. It's 12-and-a-half
3 square feet, so you need a variance of
4 eight-and-a-half square feet for the
5 sign.

6 MS. NEFF: May I just point out,
7 if you actually use the area of an
8 oval, it's substantially less than what
9 you just quoted.

10 CHAIRMAN SALADINO: Yeah, but
11 that's not what the code says, the code
12 says the rectangular --

13 MS. NEFF: But it's not a
14 rectangle.

15 CHAIRMAN SALADINO: The code says
16 the rectangle that encloses the circle.
17 That's how you measure it.

18 MS. NEFF: Okay. I would like to
19 check.

20 MR. TASKER: I'd like to see that.
21 Do you have the code?

22 MR. PROKOP: It's right here
23 (handing).

24 MS. McDOWELL: You're scaring me.

25 CHAIRMAN SALADINO: Don't be

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2 scared, as long as there is no hitting,
3 you shouldn't be scared.

4 MR. TASKER: The point that she is
5 making is one that I intended to make
6 and that is, you're really looking for
7 a smaller variance than it states on
8 the document.

9 MS. McDOWELL: Exactly because it
10 doesn't take up -- I like where you're
11 going.

12 CHAIRMAN SALADINO: I'm gonna read
13 from the code.

14 The area of the sign shall be --
15 this is Chapter 150-15C.

16 The area of the sign shall be the
17 area of the largest rectangle required
18 to enclose the sign or each face of the
19 two-faced sign.

20 MR. TASKER: Okay.

21 CHAIRMAN SALADINO: Are we in
22 agreement that that's the way to
23 measure it?

24 MR. TASKER: Yes.

25 I still think that, as Ellen does,
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that there's some --

CHAIRMAN SALADINO: Well, we can certainly negotiate that.

MS. NEFF: Are we adding the area of two sides?

CHAIRMAN SALADINO: Yes.

MR. TASKER: But you're doubling the allowance, so that's okay.

CHAIRMAN SALADINO: Wait, I'm confused by that.

If it's a two-faced sign, you're allowed two square feet for each side.

MS. NEFF: Okay.

CHAIRMAN SALADINO: Are we in agreement that that's what we are talking about since I just read it from this big book?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Ms. McDowell, do you understand?

MS. McDOWELL: I do.

CHAIRMAN SALADINO: Okay.

MS. GORDON: But it seems to me the area variance that's being

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2 requested is 12.5 square feet minus
3 five, not minus -- so that would be 7.5
4 square feet.

5 CHAIRMAN SALADINO: Why five?

6 MS. GORDON: Because isn't it
7 two --

8 CHAIRMAN SALADINO: -- square feet
9 for each side of the sign.

10 MS. GORDON: Oh, okay.

11 CHAIRMAN SALADINO: Just so we're
12 all on the same page, the numbers that
13 I have, if you do the math, 25 by 36,
14 it comes out to 900 square inches,
15 which if we use mathematical equation
16 and divide by a hundred forty-four, it
17 comes out to 12.5 square feet, comes
18 out to 6.25 square feet because it's a
19 double-sided sign, the total square
20 footage of the sign is 12-and-a-half
21 square feet. Allowable is four square
22 feet, so the area variance is for
23 eight-and-a-half square feet.

24 MS. NEFF: Thank you for doing the
25 math.

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2 CHAIRMAN SALADINO: Looks like
3 Arthur still has a question.

4 MR. TASKER: No, I'm not sure I
5 concur with your calculation, but we're
6 all on the same wavelength.

7 CHAIRMAN SALADINO: Well, it's
8 math, it's easy enough to check. I
9 mean, you know, it's math. If somebody
10 wants to check that, you know, but I'm
11 pretty sure the Building Department did
12 the numbers, I did the numbers, so I'm
13 willing to accept those numbers as
14 being correct.

15 MS. GORDON: Is the difference
16 between what is allowed overhead and
17 what is allowed next door attributable
18 to the fact that an overhead sign might
19 fall and the sign next door wouldn't
20 fall?

21 CHAIRMAN SALADINO: I don't know.
22 I don't know. I don't know the logic
23 in -- I don't know the reasoning behind
24 the different sizes allowed for
25 overhead sign that projects from the

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2 building as opposed to an overhead sign
3 that is attached to the building, not
4 perpendicular to the building, attached
5 to the building, I don't know.

6 MS. GORDON: Are there any other
7 nonconforming overhead signs?

8 CHAIRMAN SALADINO: Well, we're
9 going to ask -- I'm gonna ask the
10 applicant -- if we decide to accept
11 this application, I'm gonna ask the
12 applicant when she shows up at her
13 public hearing, since she says in her
14 application that there are numerous
15 other signs that are this size, that
16 perhaps list them for us so when we
17 come for the inspection, we can see
18 them.

19 MS. McDOWELL: Okay.

20 MR. CORWIN: May I add something
21 to that?

22 CHAIRMAN SALADINO: Sure.

23 MR. CORWIN: I'd like to see a
24 cardboard cutout to give us an idea how
25 big the sign is, and also on the

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2 diagram, there's got to be some kind of
3 cable or chain holding up the sign, I
4 assume.

5 MR. TASKER: That's specified on
6 the sheet --

7 MS. McDOWELL: I thought it was
8 specified.

9 MR. CORWIN: Yeah, but the frame
10 that's gonna hold up the sign has to be
11 supported somehow, right?

12 CHAIRMAN SALADINO: I agree with
13 you, David, but I kind of think that is
14 the Building Department's thing, you
15 know, if they're satisfied with the way
16 it's affixed to the building, you know
17 --

18 MS. McDOWELL: And I'm not
19 installing it; obviously, a licensed
20 contractor -- the building is mason, so
21 I imagine there will be bolts and
22 cables and whatever is necessary. I
23 mean, I certainly don't want it to
24 fall.

25 CHAIRMAN SALADINO: Let me do

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2 this, let me ask David to just tell us
3 what he would like and we'll make that
4 request from you, and if it's possible
5 to have something to satisfy his
6 request.

7 MR. CORWIN: The drawing I have in
8 front of me doesn't show any cables or
9 chain or anything suspending the sign.
10 Now, the contractor says I'm just gonna
11 drill into the masonry, I would argue
12 against that. I would say you've got
13 to have some kind of cable or chain or
14 something to hold up the frame that the
15 sign is gonna be attached to.

16 CHAIRMAN SALADINO: Do you mean
17 like that (indicating)?

18 MR. CORWIN: Exactly. Yes.

19 And I'd like to get an idea of how
20 big that is and what it's gonna be made
21 of.

22 MS. GORDON: I'd like to know what
23 the sign and the bracket weigh as part
24 of understanding this.

25 CHAIRMAN SALADINO: So we would

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like the support, cable and weight of
the sign, of the sign and the bracket.

MS. McDOWELL: Weight of the sign
or the bracket or both?

MR. CORWIN: Both.

MS. NEFF: And how wind will
affect, it must move.

CHAIRMAN SALADINO: I kind of
think we're overstepping our bounds
here.

MR. TASKER: I think --

CHAIRMAN SALADINO: --
technically --

MS. McDOWELL: Can I just say one
thing?

CHAIRMAN SALADINO: Sure.

MS. McDOWELL: Okay. So Karma
(phonetic) who is also down the street
from me and I believe her sign does
hang over Village property.

CHAIRMAN SALADINO: You can
certainly tell us that.

MS. McDOWELL: But she has a
36-inch sign in diameter hanging that's

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2 been there for years that doesn't show
3 any -- it's just hanging on a bracket
4 with S-hooks.

5 CHAIRMAN SALADINO: I'm not sure
6 if any -- I wasn't on the ZBA, if
7 that's something --

8 MS. McDOWELL: Okay.

9 CHAIRMAN SALADINO: -- by the ZBA.
10 I'm not sure if any of the other
11 members were there, here. Perhaps
12 Ellen?

13 MS. NEFF: No.

14 CHAIRMAN SALADINO: When that sign
15 was up.

16 We really can't -- when we come
17 for the inspection, Karma's four doors
18 down from you, five doors down from
19 you.

20 MS. McDOWELL: Right.

21 CHAIRMAN SALADINO: We'll look at
22 it, but it's the Building Department --
23 my theory is, if the Building
24 Department deems it safe, I would, me
25 personally would rather not be involved

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in that, you know, if the building
inspector --

MR. TASKER: I'm in complete
agreement with you, John.

CHAIRMAN SALADINO: So what are we
thinking about Ms. McDowell's
application; are we gonna accept it?

I'll make a motion we accept this
application.

MR. TASKER: I second it.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And we're
gonna schedule a site inspection for
April 18th. What time -- we're gonna
have three inspections that day, so
what time, like 5 o'clock?

MS. GORDON: Sure.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

MR. TASKER: Yes.

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CHAIRMAN SALADINO: So we're gonna have a site inspection, we're gonna schedule a public hearing for 6 o'clock on April 18th.

MS. McDOWELL: Okay.

CHAIRMAN SALADINO: And we're gonna have a site inspection --

MS. McDOWELL: Okay, would it help if the sign and the contractor were both there at the site inspection to answer any questions, maybe to show you guys --

CHAIRMAN SALADINO: Well, site inspection is a public meeting because we're all gonna be there.

MS. McDOWELL: Right.

CHAIRMAN SALADINO: And if you had the sign there, it would --

MS. McDOWELL: Well, I can't have the sign made until I know the sign is approved.

MR. CORWIN: Which is why I asked that you have some kind of cardboard cutout.

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MS. McDOWELL: We have it done on canvas so you would be able to see it.

MR. CORWIN: But a cardboard cutout would give me an idea of how big it is in the scheme of whatever else is on the street.

MS. NEFF: Canvas would do that.

CHAIRMAN SALADINO: So if you have a representation of the sign at the property, whether it be canvas or cardboard --

MS. McDOWELL: Okay.

CHAIRMAN SALADINO: The sign, you don't have to do the sign, just --

MS. McDOWELL: No, it's already done, so --

CHAIRMAN SALADINO: Just the shape, if you had it at the property, it would save you the trouble probably of bringing it here because I'm not sure -- well, maybe you would have to bring it here if you wanted to, in case the public wanted to see it.

MS. McDOWELL: Okay.

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CHAIRMAN SALADINO: But we're not going to require you to bring the sign here.

MS. McDOWELL: Okay.

CHAIRMAN SALADINO: Mr. Corwin would like some kind of explanation about the support cable, and you could ask the sign contractor the weight of the sign with the bracket.

MS. McDOWELL: Okay.

CHAIRMAN SALADINO: Just because a couple of members asked that question.

MR. CORWIN: Let me point out too that when Andy's was The Rhumbline, there was a half model of a ship up on the side of the building, and it fell off and it closed the road down; so I don't think we take this lightly.

CHAIRMAN SALADINO: I don't think we are. I don't think we are taking it lightly. There's just certain -- I don't believe in crossing crafts, you know, I think we're charged with one thing and the Building Department is

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2 charged with the other, and at some
3 point we have to accept the fact that
4 maybe they know what they're doing.

5 Okay. I lost my train of thought
6 here.

7 We accepted the application, we
8 scheduled the public hearing, we
9 scheduled the site visit.

10 MS. McDOWELL: Correct.

11 CHAIRMAN SALADINO: See you next
12 month.

13 MS. McDOWELL: Okay. So I just
14 meet you on the 18th at 5 o'clock in
15 front of the building?

16 MS. GORDON: Does she put up the
17 signs?

18 CHAIRMAN SALADINO: No.

19 MS. McDOWELL: No, I mean, it's
20 going up between the first and second
21 floor.

22 MS. GORDON: And the notices of
23 the hearing, does there have to be a
24 notice of public hearing?

25 MS. LINGG: Yes. I'll be in

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contact with you about that.

CHAIRMAN SALADINO: That's for the Building Department.

MS. LINGG: I'll take care of that.

CHAIRMAN SALADINO: Thank you.

MS. McDOWELL: Thank you very much.

CHAIRMAN SALADINO: Item number 7 is -- the application was withdrawn. The Building Department -- between Sparkling Point and the Building Department came to something, so that application was withdrawn.

Item number 8 is 412 Third Street, motion to accept the application, schedule a public hearing, and arrange a site visit for the application of James Olinkiewicz for the property located at 412 Third Street, Greenport, New York 11944.

Suffolk County tax map number 1001-4-2-4.6.

Ms. Moore, name and address for Flynn Stenography & Transcription Service (631) 727-1107

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2 the stenographer.

3 MS. MOORE: Patricia Moore on
4 behalf of the applicant. My address is
5 51020 Main Road, Southold. I'm the
6 attorney for the applicant.

7 I submitted to you as part of the
8 application a memorandum of law which
9 explains our first position, which is
10 we don't think we have to be here.

11 Just as factual background, this
12 is a piece of property that has two
13 homes on it, and back in 1998, the
14 applicant sought and received an
15 variance for the, area variances to
16 split the property. At the time in
17 '98, there was no Planning Board in
18 place, and the only thing that he
19 needed to do was, nothing. He had
20 nothing to do.

21 For whatever reason, he either
22 misheard or misunderstood that the
23 Board had, in fact, granted the
24 approval. He was under the impression
25 it had been denied. So he was going

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2 through personal matrimonial, the
3 property was sold and lo and behold, he
4 has now reacquired the property.

5 While he was pursuing going
6 through the subdivision process again
7 and did a FOIL, he discovered that, in
8 fact, the Zoning Board had granted the
9 approval in 1998, and submitted the
10 application -- or actually the prior
11 attorney sent communication to the
12 Planning Board and explained, well, the
13 Zoning Board had granted the variance
14 in 1998, the two property -- the
15 property, everything remains the same.
16 The Planning Board was not in, was not
17 a board at the time, so the --

18 CHAIRMAN SALADINO: I'm gonna have
19 to interrupt you.

20 The Planning Board, there was, in
21 fact, a Planning Board in 1998.

22 MS. MOORE: I'm sorry. There was
23 no -- they did not do the subdivision
24 of this parcel.

25 MR. TASKER: They didn't have

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2 any --

3 MS. MOORE: They didn't have
4 jurisdiction over, I guess two lot
5 subdivisions. They probably had site
6 plan approval, but not subdivision
7 process.

8 In any case, they went to the
9 Planning Board and said, would you
10 recognize this? If you won't, then
11 just give us an answer. They were not
12 getting an answer, so when they came to
13 me, I said, well, file an application,
14 they have to respond to an application.

15 So Mr. Olinkiewicz filed the
16 application to the Planning Board. The
17 Planning Board had it, it would have
18 been scheduled for April; however,
19 prior to that, he was advised that he
20 needed to come to this Board for a
21 variance.

22 The reason I gave you memorandum
23 of law is that, the law, and I'll --
24 obviously, you're gonna consult with
25 your own Village attorneys, but to

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2 begin with, a variance, as a matter of
3 law, runs with the land. It's a very
4 basic principle in zoning law that
5 variances run with the land.

6 The exception to that is if a
7 variance has a condition of a time
8 limit or the code has some kind of
9 condition; and the only thing I found
10 under current law, under the current
11 code variance is that variances
12 terminate if construction has not
13 commenced. In this situation, there
14 was no construction, the houses are
15 existing, there was no real -- there
16 was no action that had to take place,
17 so the variance, as a matter of law,
18 that continues to run with the land is
19 in place now. The only issue being
20 that, going to the Planning Board since
21 the Planning Board now does have
22 jurisdiction, is completing the process
23 with the Planning Board. That was the
24 next step.

25 So I would like a determination

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2 from this Board or something that says,
3 for the Planning Board's purpose, that
4 yes, in fact, the variance runs with
5 the land and the Zoning Board doesn't
6 have to act on this.

7 CHAIRMAN SALADINO: As you said,
8 the code says that construction has to
9 actively be pursued --

10 MS. MOORE: Has to commence.

11 CHAIRMAN SALADINO: -- actively be
12 pursued within six months or the
13 variance is voided.

14 MS. MOORE: Right.

15 CHAIRMAN SALADINO: Couldn't that
16 also be construed as the next logical
17 step in the variance process?

18 MS. MOORE: No, because conditions
19 have to be very specific. You can't
20 assume things. It has to be what the
21 code says. If there is a -- because,
22 as I said, the law is that variances
23 run with the land so --

24 CHAIRMAN SALADINO: You're
25 assuming that construction means

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2 driving a nail or putting on a roof or
3 building a house or -- I mean, couldn't
4 construction be setting out side yard,
5 front yard boundaries, couldn't
6 construction also mean --

7 MS. MOORE: The only thing that
8 would have been the next step would
9 have been deeds, that's it.

10 CHAIRMAN SALADINO: Or physically
11 separate the land --

12 MS. MOORE: To physically --

13 CHAIRMAN SALADINO: -- fence or --

14 MR. TASKER: And that was not
15 done, correct?

16 MS. MOORE: Correct, because --

17 MR. TASKER: There was no actual
18 subdivision done.

19 MS. MOORE: Well, let's back up.

20 In terms of deeds --

21 MR. TASKER: In terms of --

22 MS. MOORE: Yes, correct.

23 MR. TASKER: -- two separate
24 parcels --

25 MS. MOORE: There were no --

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MR. TASKER: -- titled to which is owned by X and Y or X and X.

MS. MOORE: Correct. The deeds were not recorded. The property --

MR. TASKER: Were the deeds transacted?

MS. MOORE: No, there were no deeds prepared.

MR. TASKER: You said they weren't recorded.

MS. MOORE: No, there were no deeds prepared, correct. There was no, nothing done, and again in part because the Zoning Board legally has an obligation to send notice. It's a matter of Village law and I always, you know, it's something that I hope will be corrected sometime soon by this Board, but the variance, there are two steps to establishing a variance that the Board has made a decision. One is it's filed with the Village clerk and, two, it's given notice to the owner. In this instance, he heard that it was

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2 denied, and since there was no written
3 decision that was served on him or
4 filed with the Village clerk, there
5 was, it was rumor, and unfortunately --

6 CHAIRMAN SALADINO: Do we know
7 that for fact?

8 MS. MOORE: He looked for a
9 decision and there wasn't anything.

10 CHAIRMAN SALADINO: But we don't
11 know for a fact that he wasn't
12 notified.

13 MS. MOORE: Well, FOIL would have
14 disclosed if there was, in fact, a
15 decision filed with the Village clerk.
16 There has to be a decision that is
17 identifiable, that's something that,
18 again, procedures, just proper
19 administrative procedure --

20 CHAIRMAN SALADINO: I understand
21 that.

22 Has there ever been, in your
23 experience or perhaps these attorneys'
24 experience, has there ever been a piece
25 of paper that was misfiled or not

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delivered but, in fact, existed?

MS. MOORE: Not when it comes to having them not delivered and not existing both in the Village files, Village clerk's office.

CHAIRMAN SALADINO: Just to let the public know, it's been 19 years or 20 years --

MS. MOORE: Yes.

CHAIRMAN SALADINO: -- so sometimes --

MS. MOORE: Well, I review variances that are 30, 40 years, you know, so --

CHAIRMAN SALADINO: I'm not saying for the most part that --

MS. MOORE: Could they be lost and gone forever? I don't know. I don't think so because I think that the Village does a good job maintaining records. You know, I found old records that the Village --

CHAIRMAN SALADINO: Just, and it has nothing to do with this or what

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2 you're saying, but we just had an
3 incident, 222 Manor Place, where there
4 were records that we couldn't find and
5 we knew to exist and couldn't find the
6 and couldn't prove or disprove them;
7 but we're gonna let that go.

8 MS. MOORE: Okay.

9 CHAIRMAN SALADINO: I just have a
10 question here. Your statement here
11 says you're asking one of three things.
12 One, that we decide that this should go
13 back to the Planning Board, that the
14 variance runs with the land.

15 MS. MOORE: Right.

16 CHAIRMAN SALADINO: Me personally,
17 I have a problem with that.

18 The second one, if a time limit is
19 applicable, you want an extension and
20 if that doesn't work for you, in the
21 alternative, to use your words, you
22 want to submit this as a reapplication.

23 What exactly --

24 MS. MOORE: What am I trying to
25 say with that?

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CHAIRMAN SALADINO: No. What exactly, I mean, you know we have heard two bites at the apple, but this is like three bites.

MS. MOORE: No. No. No.

Imagine if I have to go to court depending on what the circumstances are here.

CHAIRMAN SALADINO: Don't you have to -- I mean --

MS. MOORE: I'm trying to explain it to you.

CHAIRMAN SALADINO: But all I'm asking is, don't you have to tell us exactly what you want?

MS. MOORE: I did. I told you, one, I don't think we have to be here, that the variance runs with the land. If you disagree with me, my choice is to go straight to court and disagree. Item two is, there is a provision about extending, since the issue is, did the variance terminate after six months, did it go away after six months,

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2 another alternative is, fine, it's --
3 we will recognize it and extend it so
4 that you can go back to the Planning
5 Board and finish the process, so that's
6 the extended process. That's the
7 second request, that if a time limit is
8 applicable, we seek an extension of the
9 time for the variance, that the
10 variance will be considered to be still
11 in effect because you have given it the
12 extension to be current as of today.
13 And if you say to him, all right, if
14 you don't do anything, don't come back
15 and complain, but we'll give you
16 whatever the time period is to go back
17 to the Planning Board with --

18 CHAIRMAN SALADINO: Isn't item
19 number --

20 MS. MOORE: -- an application to
21 the Planning Board.

22 CHAIRMAN SALADINO: Isn't item
23 number two more of an interpretation of
24 what previously -- are you asking for
25 like our interpretation of --

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2 MS. MOORE: It's you do it by way
3 of what your decision is on one is an
4 interpretation, so to that extent it's
5 giving you the alternatives that are
6 one, two, worse come, if you say, I'm
7 sorry, come back in with a variance
8 application. All right, we've got a
9 variance application, but I'm telling
10 you that as a matter of law if you feel
11 that the variance is going to be denied
12 given that the circumstances changed
13 and I've given you the case law and all
14 of the -- and the facts surrounding
15 this property, then should you deny it,
16 it would be considered arbitrary and
17 capricious and there would be a basis
18 in law. That would be our argument in
19 court so --

20 CHAIRMAN SALADINO: Are we going
21 to court already?

22 MS. MOORE: We might. My job is,
23 you know, it's not to be a jokester
24 about it, but really the bottom line is
25 that really we shouldn't be here. I

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2 understand the Planning Board feeling
3 that we had to come in to the Planning
4 Board the complete the progress because
5 that's what the law is today. Had the
6 lots been sold off back in '98 or at
7 any point in time then, you know, there
8 were two different owners --

9 CHAIRMAN SALADINO: Weren't they
10 sold off?

11 MS. MOORE: Yes, they were, but
12 the same owner bought both.

13 MR. TASKER: As a single parcel.

14 MS. MOORE: The middle owner, yes,
15 they owned it as one, okay, and then my
16 client bought it back.

17 MR. PROKOP: Wasn't there several
18 other transactions in between?

19 MS. MOORE: I don't know. I don't
20 have the whole title history. My
21 client seems to think it was just one
22 owner because he bought it back from
23 the person he sold it to, so I think
24 there was only one.

25 CHAIRMAN SALADINO: So if I could

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2 just get it clear in my mind, so you
3 are, in fact, asking for, in question
4 one, in item one, are, in fact, asking
5 for an interpretation and then that
6 interpretation will decide what happens
7 next, whether -- so just to remind the
8 members, an interpretation requires a
9 public hearing. We had an incident, if
10 we all remember, we had an incident
11 with a hotel on Front Street where we
12 combined the hearing for the
13 interpretation and the hearing for the
14 variance into one public hearing and it
15 kind of got convoluted.

16 It would be my preference that if
17 we are gonna be asked for an
18 interpretation, we schedule a separate
19 public hearing for that.

20 MS. MOORE: That will be
21 procedure, but honestly it's more of a
22 legal question, so item one is, does
23 the variance run with the land or not.
24 You will, you know, discuss it with
25 your Village attorneys and there's not

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2 much to be said at that public hearing,
3 other than well, as a matter of law,
4 this is our position and, you know, you
5 can't read into the code anything that
6 the code doesn't say.

7 CHAIRMAN SALADINO: Well,
8 you're -- we can certainly have our own
9 opinion about the term construction, we
10 can certainly have an opinion about
11 what, in fact, construction means.

12 MS. MOORE: Here's the technical
13 problem with your procedure. What will
14 happen is, let's assume you come to the
15 conclusion that your interpretation is
16 construction meant a deed, okay, or
17 some, you know, sell off to two
18 different people; and I have to
19 preserve my rights with the client.
20 I'm gonna have to file an Article 78
21 because there's only 30 days, statute
22 of limitations, so from the time you
23 issue a decision, presumably you'll
24 file it and serve us with a copy, I
25 have 30 days so you'll get litigation.

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2 You don't care because you have
3 Village attorneys that get paid whether
4 they handle litigation or not, but I
5 think it's costly for my client when
6 it's really a matter that, if it turns
7 out that you ultimately grant the
8 variance anyway, what am I gonna go to
9 court and say, Judge, I was right, it
10 shouldn't have been required and the
11 judge is gonna look at me and say, are
12 you an idiot, you got approval, go
13 away.

14 CHAIRMAN SALADINO: You certainly
15 don't mind if we follow the procedure.
16 I mean, aren't we obligated to follow
17 the same procedure as you and your
18 client would like us to follow? I
19 mean, we can't pick and choose what
20 procedure -- I mean it's mandated for
21 the ZBA to have a, with an
22 interpretation, a public hearing is
23 required.

24 MS. MOORE: I'm not disagreeing.
25 If you want a public hearing, you can

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2 have a public hearing. What I'm saying
3 is --

4 CHAIRMAN SALADINO: And when we
5 debate at that public hearing, when we
6 hear from you, which I'm sure we
7 will --

8 MS. MOORE: I'm sure you will.

9 CHAIRMAN SALADINO: And we hear
10 from perhaps somebody from the public
11 and we close the public hearing and we
12 decide on that interpretation, we'll
13 decide with the advice of our counsel
14 what exactly the next step is in that
15 provision of the code when a variance
16 has to be actively pursued, whether
17 construction could mean a deed, a
18 fence, drive a nail, build a house,
19 apply for a building permit and then
20 we'll take it from there.

21 MS. MOORE: But you've missed my
22 point. I think you're -- I don't know,
23 but here's the point. Let's say that
24 it was -- you had the hearing today,
25 you had the gentleman that had the

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2 hearing, he finished the hearing and
3 you came to a decision. Had the
4 decision been denied, he would have had
5 the right to within 30 days file for an
6 appeal and go to a higher level of, you
7 know, supreme court to say that your
8 decision wasn't correct.

9 Let's say that after you gave him
10 that decision, you then -- he had
11 multiple issues that he wanted to deal
12 with and now you're saying, well, I
13 denied you on this one, all right,
14 we're ready to act on the next one.
15 Okay, but he would come to me and I'd
16 say, well, if you have a problem with
17 the first decision, you have to appeal.
18 You have to bring the lawsuit within
19 the statute of limitations.

20 CHAIRMAN SALADINO: But you have
21 given us a third alternative. You said
22 give me this, if you say no, then give
23 me this and if you say no, then we're
24 gonna submit an application for an area
25 variance.

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2 MS. MOORE: No, you have already
3 an application -- I've already
4 submitted the application for a
5 variance, it's already in your file.

6 CHAIRMAN SALADINO: Well, what is
7 it that I'm reading?

8 MS. MOORE: What you told me, if I
9 understood, and if I misunderstood, I
10 apologize. What I thought you said to
11 me is, we're gonna have a hearing on
12 whether or not there is, whether the
13 variance runs with the land here or
14 whether it expired. That's what I
15 understood you to tell me.

16 CHAIRMAN SALADINO: Well, you told
17 me that was the interpretation you were
18 looking for.

19 MS. MOORE: No. What I'm
20 looking -- yes --

21 CHAIRMAN SALADINO: If I
22 misunderstood then I misunderstood.

23 MS. MOORE: Okay. How do I
24 explain it in a very -- Village
25 attorneys, can you help me? Am I not

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2 explaining it clearly or do you want me
3 to try again?

4 CHAIRMAN SALADINO: I'll defer to
5 the Board. If I misunderstand, I'll
6 ask my colleagues. I thought I heard
7 you say that number one was, the basis
8 for an interpretation was what you were
9 looking for, that the variance runs
10 with the land and there is no time
11 limit because our code doesn't specify
12 subdivision being construction. I'm
13 using your words. You told me that was
14 the interpretation you were looking
15 for.

16 MS. MOORE: But that
17 interpretation occurs almost
18 simultaneously in the sense that if the
19 decision is yes, we agree the variance
20 is still in effect, go away because
21 that means you already have a variance,
22 there is no further review by this
23 Board, okay. So the public hearing,
24 it's essentially a jurisdictional
25 issue.

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CHAIRMAN SALADINO: No, it's a process issue.

MS. MOORE: No, it's a -- okay.

It's jurisdictional issue as a matter of law whether or not there is a variance application required here or not.

MR. TASKER: Jurisdiction.

MS. MOORE: Pardon? Did you say something?

MR. TASKER: No, I'm just muttering to myself.

MS. MOORE: So typically when you go to a board and you have got multiple requests, it all occurs at the same time because in a sense, you're making a determination of the first issue, well, we think you should have put up a fence or we think you should have transferred the deeds. Okay.

Second issue, well, we don't want to extend it because we'd rather hear a variance application. Okay. We're here for the variance application,

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2 we'll proceed with the variance
3 application, give you an opportunity to
4 make that decision, then pretty much
5 it's a consolidated response, so it's
6 less time consuming and you also don't
7 fragment the application, so that you
8 have issues of statute of limitations
9 that continue to run by making one
10 decision after another in a consecutive
11 way.

12 CHAIRMAN SALADINO: Well, that's
13 how, perhaps you see it and perhaps
14 Southold would, all I can do is from my
15 own personal experience, one year worth
16 of public hearing with a previous
17 application, when we mixed the
18 interpretation in the same public
19 hearing with the area variances --

20 MS. MOORE: I don't know what your
21 other interpretation was and whether it
22 was --

23 CHAIRMAN SALADINO: It doesn't
24 matter. I'm just telling you it was a
25 bad experience for this Board, it was a
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2 convoluted experience for this Board.

3 MS. MOORE: I will react to
4 whatever you guys do. It's not, you
5 know, it's just -- and I ask you to
6 please discuss it with your Village
7 attorneys because these are legal
8 issues, not --

9 CHAIRMAN SALADINO: Does any other
10 member have something for Ms. Moore?

11 MR. TASKER: I just want to
12 clarify a couple of factual things that
13 you mentioned.

14 You said that your client had not
15 been notified of the earlier decision.

16 MS. MOORE: Correct.

17 MR. TASKER: Did I understand you
18 to say that, in fact, it could not be
19 found or it could be found?

20 MS. MOORE: It was never found.

21 MR. TASKER: Okay. And to this
22 day, I assume?

23 MS. MOORE: Well, the only thing
24 that was -- I stand corrected. The
25 only thing that was found was by

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2 reviewing the transcript of the Zoning
3 Board minutes, and that's how we
4 determined --

5 MR. TASKER: But there was no
6 resolution signed and --

7 MS. MOORE: No.

8 Just in the minutes, it was
9 determined that it was -- did not
10 impact the neighborhood and, therefore,
11 it could be granted.

12 MR. TASKER: The other is --

13 MS. NEFF: Excuse me.

14 Doesn't this -- the thing that you
15 gave us say that, in fact, there was a
16 vote and it was, everybody voted yes?

17 MS. MOORE: Yes.

18 MS. NEFF: But a statement, a
19 finding of -- what should I call it --

20 MR. CONNOLLY: You would need to
21 have a determination filed with the
22 Village clerk for it to be official.

23 MS. NEFF: That step did not
24 happen.

25 MS. MOORE: Correct.

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MS. NEFF: But it's clear that it was voted on and approved.

MS. MOORE: Yes. The transcript was very clear that it had been voted on and approved, yes.

MR. TASKER: But the final step is the determination.

MS. MOORE: Generally, there is a decision that is --

MR. TASKER: Okay.

MS. MOORE: I mean it's --

MR. TASKER: So there's another step in your --

MS. MOORE: Procedurally, as far as the Zoning Board is concerned?

MR. TASKER: Yes.

MS. MOORE: Well, you're asking a legal opinion and --

MR. TASKER: If you don't want to accept the minutes of the ZBA meeting, I can understand why you would not, as notice, shall we say, if you don't want to accept that, then there needs to be a determination to complete the process

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2 of granting the variance. If there is
3 no determination, the process wasn't
4 completed, was it?

5 MS. MOORE: No. I think you're, I
6 think you're -- I don't agree with the
7 way you're characterizing.

8 MR. TASKER: Okay.

9 MS. MOORE: Start off with Village
10 law explains or gives you guidance on
11 how the procedure, administrative
12 procedures of making a decision. Had
13 the Board said, after they came to that
14 resolution, the vote, filed a decision
15 that was a denial, then you would have
16 had a problem because obviously you
17 can't file a decision that's
18 inconsistent with the resolution that
19 the Board adopted at their meeting, so
20 if your issue -- well, we don't --
21 because the Board didn't file a
22 decision, then, therefore, there's no
23 variance, I'm not sure if that's what
24 you're going with that, then no, that
25 is not correct.

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MR. TASKER: It's just as valid a question to ask as the ones you are.

MS. MOORE: Honestly, I would defer to Village law. I'll let you look at Village law.

MR. CONNOLLY: Are you asking this Board to ratify the decision that was previously granted by the Board in 1998 and then move it on to the Planning Board?

MS. MOORE: That's a very nice way of putting it. I think that's what was previously asked of the Planning Board, to ratify what had already been done by the Zoning Board.

By the first point that I made, it is in a sense ratifying because it's recognizing what you had done in 1998, so, correct, as far as a nicer term that you capture what is being requested, yes, number one is a ratification, which is an acknowledgment of what was done in 1998, so yes.

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2 MS. GORDON: Is there anything in
3 Village law that implies either
4 directly or indirectly a presumption
5 that the process is complete once the
6 Board has voted?

7 MS. MOORE: I mean, what happens
8 is, your opportunity to sue, okay,
9 which is really why procedures exist,
10 the next step for rights of somebody to
11 disagree, okay, there has to be that
12 decision to give notice and filing
13 because you can't go to the next step
14 to court, to the Article 78, because it
15 has to have that decision. So if
16 that's --

17 MS. GORDON: So that would argue
18 against my question about there being a
19 presumption.

20 MS. MOORE: It's not really a
21 presumption. I don't want to say
22 presumption because that would imply
23 something a little different.

24 That's why it's very important, I
25 personally think that you should always

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2 have a decision that -- and every board
3 I've ever appeared before has written a
4 decision that the applicant gets a copy
5 of, good or bad, it doesn't matter, and
6 it's filed with the Village clerk.
7 Then you know for your own sake as
8 well, okay, 30 days, it's finding or a
9 neighbor know, okay, I have 30 days to
10 challenge it; otherwise, live with it
11 because there is a time limit you're
12 supposed to give people the opportunity
13 as a neighbor even to know when is my
14 decision, when am I safe, where can I
15 build my house, or can I do whatever
16 I'm gonna do without my neighbor suing
17 to challenge it; so those are real,
18 kind of -- it's really for everybody's
19 benefit.

20 MR. TASKER: How long after the
21 these Zoning Board events took place,
22 how long after that did Mr. Olinkiewicz
23 go out of title and for how long was he
24 out of title?

25 MS. MOORE: I don't know the

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2 answer to that.

3 MR. TASKER: I'd like to know the
4 answer.

5 CHAIRMAN SALADINO: Just a minor,
6 I have a minor question. The
7 application here is for 410 and 412
8 Third Street, the previous application
9 was 408 Third Street and 412 Third
10 Street.

11 MS. MOORE: I think it has
12 different numbers, it's the same
13 property, it's the correct tax map, but
14 the numbers -- I've seen different
15 numbers on these. One of them, I
16 thought it was 500-something, it left
17 me a little confused, but these 410 and
18 412 at least are current numbers on the
19 houses.

20 Let's see if I have anything that
21 helps --

22 CHAIRMAN SALADINO: The previous
23 application was for 408 and 412, the
24 current application, the 410 and 412;
25 is it possible that the street numbers

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2 change?

3 MR. PROKOP: Sure.

4 MR. CONNOLLY: The tax map is
5 consistent though, right?

6 MS. MOORE: Yes, it's two houses
7 on one property.

8 CHAIRMAN SALADINO: Does anyone
9 have any other questions for Ms. Moore?

10 (No response.)

11 Do we know what we want to do
12 here; are we going to make an
13 interpretation that the variance runs
14 with the land and there is no time
15 limit or like myself, do some of us
16 think that there might be a time limit?

17 MR. CORWIN: I have to go along
18 with you, Mr. Chairman, after the
19 experience on Front and Third Street
20 and the combined interpretation and
21 variance, I think we need to set this
22 up as an interpretation and then move
23 from there.

24 MR. TASKER: Stepwise, is what
25 you're suggesting?

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MR. CORWIN: Yes.

MR. TASKER: Yes.

CHAIRMAN SALADINO: Ellen.

MS. NEFF: I think that the scope of the two projects are vastly different and that they could be dealt with at one time. That's my opinion.

CHAIRMAN SALADINO: Diana.

MS. GORDON: I'm not sure.

MS. MOORE: May I make a suggestion before you vote?

MS. GORDON: Yes.

MS. MOORE: I think it would be, I think it would be helpful for your board to discuss it with Village attorneys for procedures and so on and I can come back and we can continue this the next meeting after you had an opportunity to discuss it.

I don't know, would you think that would be helpful, Village attorneys?

MR. CONNOLLY: Yes.

CHAIRMAN SALADINO: So we'll table this application, we'll talk to the

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2 attorneys.

3 MS. MOORE: I think it would
4 be -- rather than -- because it is -- I
5 recognize that complexity, it's a brain
6 twister, I know that; but I think it
7 would be helpful for you to seek
8 guidance before we go -- I think the
9 Village attorneys.

10 MR. PROKOP: Rob's the Board
11 attorney.

12 MS. MOORE: Board attorneys.

13 CHAIRMAN SALADINO: I certainly
14 don't have a problem tabling this to
15 talk to the attorney.

16 MR. CORWIN: I make a motion we
17 table this application.

18 MR. TASKER: Second.

19 CHAIRMAN SALADINO: All in favor?

20 MR. CORWIN: Aye.

21 MS. GORDON: Aye.

22 MS. NEFF: Aye.

23 MR. TASKER: Aye.

24 CHAIRMAN SALADINO: I'll vote aye.

25 MS. MOORE: Thank you.

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2 If you want me to get the
3 information on the title history, I can
4 do that in the meantime; would you like
5 that, Village attorneys?

6 MR. CONNOLLY: Sure.

7 CHAIRMAN SALADINO: Before you go,
8 Ms. Moore, I'm gonna make one other
9 request, since I don't want to impose
10 on Mr. Prokop, but he had a lot of
11 experience with this application.
12 We're gonna talk to the attorneys, but
13 maybe Joe can think about being here
14 for when we finally take up this
15 application. Not as the attorney, but
16 as someone with your previous
17 experience with this application.

18 MR. PROKOP: Okay.

19 MS. MOORE: Were you attorney in
20 '98?

21 MR. PROKOP: I was spiritually,
22 not an attorney.

23 MS. MOORE: You were a child.

24 MR. PROKOP: I was an attorney in
25 1998, I was not Village.

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2 MS. GORDON: I have a question. I
3 seem to remember that there are some
4 consultations between the boards and
5 attorney which must be public meetings
6 and some that are just private
7 meetings. Do we need to have another
8 public meeting to talk with the
9 attorneys about this matter?

10 CHAIRMAN SALADINO: No. We can
11 consult with our attorney.

12 MR. TASKER: I think your question
13 is, if collectively we meet privately
14 with the attorney are we violating the
15 public meetings law.

16 MS. GORDON: Right.

17 MR. CONNOLLY: We can prepare
18 memorandum for you which is
19 attorney/client privilege.

20 CHAIRMAN SALADINO: Why is it we
21 can't consult with the attorney? Why
22 is it that the Board can't consult with
23 the attorney?

24 MR. TASKER: There's no reason why
25 we can't. The question is collectively

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meet with the attorney and discuss a
legal issue.

MR. PROKOP: You can have an
attorney/client nonpublic meeting.

MR. TASKER: Good.

CHAIRMAN SALADINO: That was
always my impression.

Thank you, Ms. Moore.

MS. MOORE: Thank you.

CHAIRMAN SALADINO: Item number 9
is 237 Monsell Place, motion to accept
the application, schedule a public
hearing and arrange a site visit for
the application of Royal Tuthill for
the property located at 237 Monsell
Place, Greenport, New York.

Suffolk County tax map number
1001-2-2-25.

MR. WILSON: Robert Wilson, 115
Priscilla Avenue, Riverhead on behalf
of Royal Tuthill and family.

So the crux of this variance is
there's an existing house on the
property. The property is a corner

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2 lot, has two front yard setbacks. The
3 majority of the square footage of the
4 existing house is already outside of
5 the setbacks.

6 The Tuthill family is growing and
7 they would like to build an addition
8 onto the house, a second story and a
9 small increase in the footprint of the
10 house and part of the addition to the
11 house is going to also be on the other
12 side of the setback lines, but no part
13 of the addition will move the house
14 closer to the property lines, so there
15 is construction happening outside the
16 setbacks, but we're not increasing the
17 degree to which the existing house is
18 across the setback lines.

19 MR. CORWIN: Is this going to be
20 just an addition or are you gonna kind
21 of blow the house apart, start over
22 again?

23 MR. WILSON: No. They're
24 converting some exterior spaces into
25 interior spaces. They have a big

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2 screened porch on one side of the house
3 and they're turning part of that into
4 interior living space. They're putting
5 a second floor over, sort of, where the
6 existing kitchen is and they are
7 building a small addition on the, sort
8 of, the northeast side of the house,
9 but in terms of actually increasing the
10 square footage, it's not gonna be major
11 and it's not, they're not knocking the
12 house down and building a new house.
13 They're really, they're building over,
14 as much as they can, over the existing
15 footprint of the house.

16 This is actually the second design
17 for the house. The first design for
18 the house was really sort of building a
19 second house behind it that was
20 attached by a breezeway to keep it all
21 inside the setback, and it really would
22 have negatively impacted the character
23 of the neighborhood because it would
24 have looked like there were two houses
25 on the property connected by a hallway,

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2 just by the, you know, due to the
3 location of the existing house.

4 MR. TASKER: May I ask, the plan,
5 I just looked at them, do you have a
6 before and after footprint sketch as
7 part of the plans?

8 MR. WILSON: Do you have the site
9 plan that I prepared?

10 MR. TASKER: I am not sure we have
11 the site plan.

12 CHAIRMAN SALADINO: Is this it?

13 MR. WILSON: It's pretty clear on
14 the site plan what's existing and
15 what's proposed. I'm happy to come up
16 and take you through it.

17 MR. TASKER: I may have missed it
18 in my package here. I see it. Thank
19 you.

20 MR. WILSON: You're welcome.

21 And if that's not clear, I'm happy
22 to generate a new one that's a little
23 bit more clear about what's --

24 MR. TASKER: No.

25 MS. NEFF: It would help. I

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2 think.

3 CHAIRMAN SALADINO: Anyone, any
4 questions?

5 MR. CORWIN: I make a motion to
6 accept the application and set a time
7 for the site visit.

8 MS. GORDON: Second.

9 CHAIRMAN SALADINO: Okay. I was
10 going to say give these folks an extra
11 minute to decide if they have a
12 question.

13 Everybody's good?

14 MS. NEFF: I'm good.

15 CHAIRMAN SALADINO: So David made
16 the motion to accept this application,
17 so moved.

18 All in favor?

19 MR. CORWIN: Aye.

20 MS. GORDON: Aye.

21 MS. NEFF: Aye.

22 MR. TASKER: Aye.

23 CHAIRMAN SALADINO: Was it
24 seconded?

25 MS. GORDON: Yes.

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CHAIRMAN SALADINO: Dini seconded
it. Everyone's in favor.

So we're going to accept the
application. We're gonna set a time
for the public hearing, we set them all
at 6 o'clock and go from there. And
we're gonna show up for a site visit
at --

MS. GORDON: -- 5:30.

CHAIRMAN SALADINO: Olinkiewicz,
we don't have to be there, so we can be
5:30 or 5:20.

MR. TASKER: We got Front Street
at 5:00, correct?

CHAIRMAN SALADINO: 5 o'clock, so
by 5:30.

MS. NEFF: 5:20 sounds good to me.
How much can we do on a sign?

MR. CORWIN: Yeah, 5:20.

CHAIRMAN SALADINO: Everybody's in
favor of 5:20.

We'll be at the property at 5:20.

MR. WILSON: Terrific.

Is there any additional

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2 information you need between now and
3 the --

4 CHAIRMAN SALADINO: All we would
5 like is for you to have it staked out.

6 MR. WILSON: Absolutely.

7 CHAIRMAN SALADINO: Other than
8 that, I think we have the plans and
9 we'll have the public hearing.

10 MR. TASKER: Kristina will let you
11 know what you need to do in terms of
12 notices and signs.

13 MS. LINGG: Correct.

14 MR. WILSON: Thank you very much.

15 CHAIRMAN SALADINO: Before I
16 adjourn, does anyone have anything to
17 say, anybody want to say anything?

18 Chatty.

19 MS. ALLEN: Chatty Allen.

20 It has to do with the Olinkiewicz
21 property. I'm sitting here listening
22 to everything and what ran through my
23 head is supposedly the variance was in
24 1998 to subdivide --

25 CHAIRMAN SALADINO: Chatty, we're

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2 gonna save everything for the public
3 hearing.

4 MS. ALLEN: No, no, it just to me
5 it was sold, wouldn't that null and
6 void the variance? That's all I was
7 gonna say.

8 CHAIRMAN SALADINO: Well, it's
9 something we're gonna talk to the
10 attorney about.

11 MS. ALLEN: That's all I wanted to
12 say, that to me it seemed like it
13 should have been null and void and
14 should not have taken up all of your
15 time.

16 CHAIRMAN SALADINO: Item number 10
17 on the agenda is motion to adjourn.

18 So moved.

19 MS. NEFF: Second.

20 CHAIRMAN SALADINO: All in favor?

21 MR. TASKER: Aye.

22 MS. NEFF: Aye.

23 MS. GORDON: Aye.

24 MR. CORWIN: Aye.

25 CHAIRMAN SALADINO: Thank you for

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coming.

(Time noted: 7:30 p.m.)

CHAIRMAN SALADINO: [170]

MR. CONNOLLY: [6] 59/19
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MR. CORWIN: [34] 3/12 4/6
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MR. IWACHIW: [2] 6/24 16/11

MR. PROKOP: [8] 19/21 48/16
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MR. TASKER: [67] 3/15 4/2
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MR. WILSON: [8] 71/19 72/22
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MS. ALLEN: [4] 7/14 77/18
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MS. GORDON: [38] 3/13 3/22
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MS. LINGG: [4] 18/19 33/24
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MS. McDOWELL: [32] 16/23
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MS. MOORE: [76] 35/2 36/21

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MS. NEFF: [41] 3/10 3/14 3/25
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