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VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING

August 20, 2014

5:00 p.m.

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

- APPEARANCES:
- Douglas Moore – Chairman
 - Charles Benjamin
 - David Corwin
 - Diana Gordon
 - Ellen Neff

 - Joseph Prokop – Village Attorney
 - Eileen Wingate – Village Building Inspector

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1 (Whereupon, the meeting was called to order
2 at 5:07 p.m.)

3 CHAIRMAN MOORE: This is a regular session
4 of the Greenport Zoning Board of Appeals, August
5 20th, and it's about seven after five.

6 We have a fairly busy agenda tonight, but
7 I'd just like to make one announcement in the
8 form of an introduction. Diana Gordon is our
9 newly appointed member of the Zoning Board of
10 Appeals. She's a longtime local resident, having
11 had a house on Shelter Island for 35 years, and
12 has been a full-time resident and homeowner of
13 the Village of Greenport since 2008. She has a
14 legal background as a J.D. from Harvard Law
15 School, and a Bachelor's Degree from Radcliffe,
16 and has been a Professor in New York for many
17 years, and is, I guess you'd say, semi-retired in

18 Greenport. And we're very pleased to have her on
19 the Board. I'm sure she'll be a valuable
20 participant.

21 And I have mentioned to her that as a new
22 member, we only have some administrative matters
23 carrying over from before, so I wouldn't expect
24 her to vote on those. But any of the matters
25 newly before the Board tonight, she is welcome,

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1 should she feel comfortable with her knowledge of
2 the code so far, to participate in the voting, or
3 she may abstain as she chooses until she is fully
4 engaged with --

5 MR. UELLEND AHL: Welcome, Dinni.

6 CHAIRMAN MOORE: -- with the Board. So we
7 do welcome you and --

8 MS. GORDON: Thank you very much.

9 CHAIRMAN MOORE: -- hope you'll enjoy your
10 time here.

11 We have three public hearings tonight, and
12 then the discussion on them, should we close the
13 public hearings. And so we should move right

14 along.

15 The first is a public hearing for Tom
16 Farmakis. And I should point out that a lot of
17 these -- two of these are complicated in that
18 they need multiple variances, typical of the
19 small lots that are present in so many cases in
20 Greenport. So it's somewhat lengthy, so bear
21 with me.

22 It's a public hearing for an appeal for
23 area variances for Thomas Farmakis, 437 First
24 Street, Suffolk County Tax Map 1001-4-6-39,
25 located in the R-2 District and within the

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1 Historic District. The Applicant proposes to
2 expand a mud room and porch addition with an
3 expansion of 58 square feet and 78 square feet,
4 respectively.

5 Section 150-12A of the Village of Greenport
6 Code requires a 10-foot side yard setback in the
7 R-2 District.

8 The proposed side yard setback for the new
9 construction is 3.5 feet, requiring a 6.5-foot

10 side yard area variance for the new mudroom
11 extension.

12 Section 150-12A of the Village of Greenport
13 Code requires a 25-foot combined side yard
14 setback in the R-2 District.

15 The proposed combined side yard setback is
16 23.8 feet, requiring a 1.2-foot combined side
17 yard setback variance for the new extension.

18 This appeal was properly noticed in the
19 Suffolk Times, and the adjacent property owners
20 were notified. And the record of those
21 notifications are to Stephen Bull and Terese
22 Svoboda, 56 Ludlow Street. I don't know their --
23 they are immediately north of them, I believe.

24 MR. UELLEND AHL: Right, correct.

25 CHAIRMAN MOORE: North, yes. Geraldine

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1 Henze is 115 Center Street, to the back. Lisa
2 Budischak, 432 First Street, Greenport, New York;
3 Eric Urban, Post Office Box 830, Greenport, New
4 York, across the street; Georgia Rudder, Post
5 Office Box 403, again to the south, and Ercole

6 Schiavoni, 330 Second Street, Greenport, New
7 York, and that's the property to the rear. The
8 placard was appropriately placed on the property,
9 I believe, for the proper length of time.

10 And so we could take any comments first
11 from the property owner or representative, and
12 then from the public.

13 MR. UELLEND AHL: Okay. My name is Frank
14 Uellendahl. I am here on behalf of the owners,
15 Miriam and Thomas Farmakis. We are dealing with
16 an historic structure, a beautiful home on First
17 Street, which used to be the Hartley House. And
18 Miriam Hartley, I believe, past away two or three
19 years ago and it's now in new hands. And the new
20 owners' name is Miriam, again, and Thomas, and
21 they are doing a very nice job renovating the
22 exterior and the interior.

23 What they now would like to ask is an
24 approval for a variance to extend their mudroom
25 in the back of their kitchen. This is all facing

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1 the rear yard. It's not visible from the street.

2 The existing mudroom is in disrepair. We
3 actually have to remove it and rebuild it, put in
4 a new crawl space, foundation, heat it, and
5 extend it slightly further into the rear yard,
6 and this is the reason why we're here. This is
7 about 33 square feet of space within the 10-foot
8 side yard setback that we need a variance for.

9 They would like to use the mudroom also
10 as -- we're calling it a mudroom, but it's really
11 more, you know, a utility, laundry room, and also
12 a little sitting area, which opens up to the --
13 to the garden. Those homes back then did not
14 even open up to the rear yard. There were
15 staircases, there were maid's entrances and --
16 but, you know, this is now 2014. People are
17 buying these in order to use the garden, so they
18 would like to extend the porch.

19 By the way, the porch is not going to be
20 part of the variance, because that's within the
21 building envelope, it's just a portion of the
22 mudroom extension that we would like you to
23 approve.

24 As you can see on the elevations, the
25 plans, I mean, it makes a big difference as far

1 as the fenestration of windows are concerned.
2 We're going to match what's there already. And
3 if there are any other questions, I would be able
4 to answer them.

5 CHAIRMAN MOORE: Does the Board have any
6 questions specifically about the plan? We can
7 have discussion with the applicant during the
8 discussion period as far as some of the details
9 that might relate to a possible variance. Any
10 questions on that?

11 MR. BENJAMIN: Yeah. Frank, there's a --
12 on this piece here, it says 3.5 feet.

13 MR. UELLEND AHL: Yes.

14 MR. BENJAMIN: From the new mudroom to the
15 fence?

16 MR. UELLEND AHL: To the property line.

17 MR. BENJAMIN: Now there's another red
18 line.

19 MR. UELLEND AHL: Yes. I didn't mention
20 this. I was there at the walk-through earlier
21 this afternoon. There is a bump-out that is
22 actually larger than what we're proposing. The

23 red line means -- basically delineates the
24 current situation. We're retreating from this,
25 because there's only 1.8 feet to the property

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1 line. People cannot -- hardly squeeze through,
2 so we would like to make this easier for them to
3 walk around their house. So we are actually
4 improving that situation.

5 MR. BENJAMIN: Okay. Thank you.

6 MR. UELLEND AHL: You're welcome.

7 CHAIRMAN MOORE: Any other questions from
8 the Board?

9 (No response.)

10 CHAIRMAN MOORE: Okay. Thanks. We could
11 take comments from the general public at this
12 point. Is anybody interested in making a comment
13 about the proposed addition and the variance
14 requested?

15 (No response.)

16 CHAIRMAN MOORE: If not, then would the
17 Board entertain closing the public hearing at
18 this point?

19 MR. CORWIN: So moved.
20 CHAIRMAN MOORE: And a second, please?
21 MS. NEFF: Second.
22 CHAIRMAN MOORE: And all in favor?
23 MR. BENJAMIN: Aye.
24 MR. CORWIN: Aye.
25 MS. GORDON: Aye.

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1 MS. NEFF: Aye.
2 CHAIRMAN MOORE: Aye.
3 So it passes unanimously. That public
4 hearing is closed. And then we'll be discussing
5 this during the regular meeting.
6 Okay. The second public hearing is a
7 public hearing for an appeal for area variances
8 for Jack and Jeffrey Rosa, 506 Main Street,
9 Suffolk County Tax Map 1001-4-3-33, located in
10 the R-2 District and within the Historic
11 District. The applicants propose to construct a
12 new covered porch, a new side stair and a new
13 rear deck.
14 Section 150-13D(3) of the Village of

15 Greenport Code requires a calculated average of
16 existing front yard setbacks for neighboring
17 properties to determine the minimum front yard
18 setback requirement.

19 The proposed front yard setback for the new
20 covered porch is 4.08 feet, requiring a 7.42-foot
21 front yard setback variance, based on an average
22 minimum front yard setback requirement of 11.5
23 feet.

24 Section 150-12A of the Village of Greenport
25 Code requires a 10-foot side yard setback in the

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1 R-2 District.

2 The proposed front porch construction also
3 requires a side yard variance. The proposed
4 porch side yard setback is .2 feet, requiring a
5 9.8 side yard setback variance.

6 Section 150-12A of the Village of Greenport
7 Code requires a 25-foot combined side yard
8 setback in the R-2 District.

9 The proposed landing, with side step on the
10 south side of the building, is 5.8 feet wide,

11 with a six-foot combined side yard setback,
12 requiring a 19-foot combined side yard setback
13 variance.

14 Section 150-12A of the Village of Greenport
15 Code requires a 10-foot side yard setback in the
16 R-2 District.

17 The proposed rear deck is .7 feet from the
18 north property line, requiring a side yard
19 setback of 9.3 feet on the north side.

20 And the applicant or representative can
21 speak.

22 MR. RUSSO: Hi. My name is Paul Russo.
23 I'm the Architect here representing the owners,
24 Jack and Jeffrey Rosa; they're the applicants as
25 well.

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1 So what we're doing here is we're
2 renovating this Village Colonial inside and out.
3 It's something that has been -- has been in a bad
4 state for quite some time now. It's an existing
5 two-family structure. We are proposing to bring
6 it back to a one-family building.

7 We do have current plans in for the
8 interior renovation and replacement of siding and
9 windows on this building as we speak.

10 We're here before you to request four area
11 variances. One is -- actually, two variances are
12 for the front porch, which we want to add to the
13 dwelling. Currently, there's just a metal awning
14 off -- above the front door facing Main Street.
15 This one-story portico that we're proposing, I'll
16 show you an elevation of it if you don't have it,
17 it -- we're basically adding that to give some
18 character to the home, to also give some shelter
19 when someone arrives at the front of the
20 building.

21 We're required variances because of the
22 nonconforming use of the property and the
23 setbacks, as you said. The property is a narrow
24 lot, it's only 29.2 feet wide. The building is
25 currently .2 inches -- .2 feet off of the

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1 property line on the north side. So that is our
2 second variance, is a side yard setback to the

3 side of the porch. The front of the porch is
4 also -- we're proposing to be 4.08 feet off the
5 street, and the average there is 11.5 feet.

6 I was just there a little while ago and
7 some of the buildings on either side of the
8 house, I guess it's number 510 to the north of
9 this property, their front porch is about 13 feet
10 from the road. The house directly to the south
11 of us, number 500, is about four feet from the
12 road, basically what we're proposing. And the
13 one south of that, which is number 416, is right
14 on the street, so it's about zero. That's our
15 first set of variances we're requesting for the
16 front one-story portico.

17 The third variance, we're requesting a side
18 yard setback to just a simple platform. It's
19 about eight inches tall and it will allow us to
20 step up from the sidewalk -- from the side yard
21 of the property off our walkway and into the back
22 of the home.

23 The fourth variance is for the rear deck,
24 which is nonexistent now. We're proposing to put
25 a rear deck up, and it varies in height from

1 about eight inches to about 12 inches in height
2 off the ground. There's no hand rails required
3 here, there's none being proposed, as well as the
4 prior landing that I mentioned for the area
5 variance, number three, there's no -- there's no
6 railings there as well.

7 What we're proposing, I think, will really
8 enhance the structure. I think it will be a
9 benefit for the owners, as well as the community.
10 I really don't see any detriment to the adjacent
11 owners or to the Village. And I hope that the
12 Board sees this vision and grants us these area
13 variances.

14 And I'd like to show you the elevation of
15 this so you can see what we're talking about.

16 CHAIRMAN MOORE: That would be helpful,
17 because when we were at the site, there were some
18 questions about what things were going to look like.
19 And we were able to see the plans that were
20 before the Historic Preservation Board, but we
21 didn't have it in our own package, so we're going
22 to be needing that to be submitted.

23 MR. RUSSO: So on the northwest side of the

24 property is the front portico in question that I
25 highlighted in blue. I believe it's in your

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1 handout as well. This page is Page A-3.

2 MR. CORWIN: Maybe you could move the
3 whole --

4 MR. RUSSO: Oh, of course.

5 MR. CORWIN: -- easel to look forward.
6 Unfortunately, the people in the back can't see
7 it. But if anybody wants to look at it, get up
8 and take a look.

9 MR. RUSSO: So what we've done here is
10 currently this portico does not exist on the
11 building. There's a simple awning on the
12 building. We're proposing to put this one-story
13 portico with a flat roof above this. We couldn't
14 do any pitched roof or anything because of the
15 windows. This is something that we presented to
16 the Historical Preservation Committee, and it was
17 approved with some modifications, which are shown
18 on the drawings that will be submitted for
19 building permit. Those modifications were just

20 simply some slender columns and different divided
21 lite patterns with respect to the width of the
22 muntins. But this is for massing purposes, what
23 it would look like.

24 It's a simple two -- there's two columns at
25 the front part of the portico closest to the

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1 street, which is about 4.08 feet from the
2 property line, and it's a simple flat roof, and
3 some crown detailing that actually picks up some
4 of the detailing on the building.

5 This is the west elevation facing Main
6 Street, and if you want to see it from the side,
7 the south elevation, you could see how it pulls
8 out. And there's no hand rails, it's just two
9 columns and a flat roof.

10 The other variances were applied for.

11 MS. NEFF: Excuse me.

12 MR. RUSSO: Sure.

13 MS. NEFF: Just -- and I see it there, the
14 portico, but the distance, you're talking about
15 from the sidewalk? You say the street, but

16 you're talking about from the sidewalk?
17 MR. RUSSO: From the sidewalk, yeah.
18 MS. NEFF: Yeah, that's what I thought.
19 MR. RUSSO: That's approximately the
20 property line as well.
21 MS. NEFF: Yes, right.
22 MR. RUSSO: I paced it out as well and it
23 was about 4.8 feet -- 4.08 feet.
24 MR. CORWIN: Paced it, or you measured it?
25 MR. RUSSO: I'm sorry?

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1 MR. CORWIN: Paced it, or you measured it?
2 MR. RUSSO: I measured it. I'm not a
3 surveyor, but it was -- I trust the survey.
4 On the -- let's see. On the north
5 elevation, you can also see the side of the
6 portico as well. I mentioned the other area
7 variances for the side stoop, and on Elevation B,
8 the south elevation, these sets of doors that I'm
9 pointing to now are -- is the entrance to the
10 back of the kitchen there, and this is the simple
11 stoop here, it's about eight inches tall. And

12 then the other variance we're requesting is the
13 rear deck, which is about -- it's shown on the
14 east elevation, it's about 12 inches tall. As I
15 said, there's no railings there, it's just a
16 simple deck and platform on this one, and this
17 was the proposed portico.

18 MS. NEFF: But it's a wood platform, the
19 deck?

20 MR. RUSSO: The decks are, yes. And this
21 would be also detailed in either wood or some
22 sort of composite material, like an Azek, and
23 that's what we presented to the Board.

24 As I said, it's not existing now, there's
25 just an awful metal awning there. I think we

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1 would remove that and it would a thousand times
2 better. But I think we do need something there,
3 because it's such a flat building. I think by
4 adding this, it really does make a difference
5 there.

6 CHAIRMAN MOORE: And the south side landing
7 that you proposed, is it replacing an existing --

8 MR. RUSSO: Yes.

9 CHAIRMAN MOORE: -- stoop of some sort?

10 MR. RUSSO: Yes. It's not the same size.

11 CHAIRMAN MOORE: It's a bit bigger. It's

12 essentially replacing in kind.

13 MR. RUSSO: Yes. It's basically replacing

14 what we have, but there was always an entrance

15 there.

16 CHAIRMAN MOORE: Yes.

17 MR. RUSSO: And the rear, the rear deck

18 wasn't existing.

19 CHAIRMAN MOORE: Yes, we observed that.

20 MR. CORWIN: Do you have any information on

21 the decibels of the AC units when they are

22 running?

23 MR. RUSSO: I don't have that, but we can

24 provide that to the Village. We will get the

25 most economical and quietest units, I should say.

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1 MR. CORWIN: The quietest --

2 MR. RUSSO: Quietest.

3 MR. CORWIN: -- aren't going to be the most

4 economical.

5 MR. RUSSO: That's what I meant by that,
6 quietest. They are going to be screened. We
7 thought about putting them in the rear yard, but
8 it really defeated the purpose of trying to have
9 a nice lawn area, and really cleaning up this
10 property by having them there. We thought that
11 it would work best on this side. They will be
12 screened. We will have the quietest units that
13 are available. We can make that a condition. I
14 know I'm not here for air conditioning units, but
15 that's something that we can make a condition to
16 this.

17 MR. CORWIN: Good. Thank you.

18 CHAIRMAN MOORE: Okay. Questions at this
19 point?

20 (No response.)

21 CHAIRMAN MOORE: We'll have time for
22 discussing other details --

23 MR. RUSSO: Okay.

24 CHAIRMAN MOORE: -- once the public has
25 been heard. Thank you.

1 MR. RUSSO: Thank you.

2 CHAIRMAN MOORE: And just to get back in
3 the proper order, I want to mention that it was
4 properly noticed in the Suffolk Times. The
5 neighbors notified are the immediately adjacent
6 and neighbors across the street. Jonathan
7 Sperling, 203 South Street, Greenport, New York.
8 Of course, Jeffrey Rosa, 297 Burkran Road, Locust
9 Valley, New York; 502 Carpenter LLC, Post Office
10 Box 389, Cutchogue, New York. That is the
11 building across Carpenter Street to the rear.
12 Jonathan L. Sperling Trust, Care Of Gary Lillis,
13 203 South Street, Greenport, New York; Rachel
14 Comey and Clay Weiner, 235 Elizabeth Street,
15 Apartment 1A, New York, New York, and that would
16 be to the rear, I believe. Mac Cato and Holly
17 Cato, 500 Main Street, Greenport, New York; Jon
18 Kerbs, 510 Main Street, Greenport, New York. And
19 I believe those were the proper notifications,
20 and there was a placard placed on the property,
21 as required.

22 Members of the public that would like to
23 speak, if they can come forward at this time.

24 MR. UELLEND AHL: My name is Frank

25 Uellendahl. I'm the Chairman of the Historic

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1 Preservation Commission, and I'm here to support
2 the application by Paul Russo and the owner.

3 We approved the portico, and that's
4 basically all we were interested in. We asked to
5 make some modifications to the elevation, as far
6 as the size, the width or the slenderness of the
7 portico columns are concerned. This is something
8 that the Building Inspector will have to approve.
9 And that's basically all I have to say tonight.

10 CHAIRMAN MOORE: Thank you. Would anyone
11 else wish to speak regarding this application for
12 a variance?

13 (No response.)

14 CHAIRMAN MOORE: If not, I'd entertain a
15 motion from the Board to close the public
16 hearing.

17 MS. NEFF: So moved.

18 CHAIRMAN MOORE: And a second, please.

19 MR. CORWIN: Second.

20 CHAIRMAN MOORE: And all in favor?

21 MR. BENJAMIN: Aye.
22 MR. CORWIN: Aye.
23 MS. GORDON: Aye.
24 MS. NEFF: Aye.
25 CHAIRMAN MOORE: Aye.

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1 That carries, so the public hearing is
2 closed for this.

3 The next public hearing is a hearing for an
4 appeal for an area variance for Virginia Ludacer,
5 131 Sixth Street, Suffolk County Tax Map
6 1001-7-1-15.1. The property is located in the
7 R-2 District. The applicants seek a building
8 permit for an "as built" construction of a
9 15-by-30-foot in-ground swimming pool.

10 Section 150-7C(3)(A) of the Village of
11 Greenport Code requires not less than a 20-foot
12 setback from all property lines.

13 The side yard setback for the swimming pool
14 is 7.3 feet, requiring a side yard area variance
15 of 12.7 feet.

16 And just to get things straight, is this

17 address 131 or 133?

18 MR. KAPELL: 133.

19 CHAIRMAN MOORE: It's in various documents
20 through the time on the property, seems 131 or
21 133.

22 MR. KAPELL: 133 is the correct address.

23 CHAIRMAN MOORE: 133, okay. Thank you.

24 And I have the folder here for this. And
25 this was noticed in the Suffolk Times. The

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1 neighboring property owners, which were notified,
2 are Valerie Anderson, 143 Sixth Street,
3 Greenport; Lisette Coly, 315 East 72nd Street,
4 New York, and that is across the street; Sandra
5 Abbatiello and Carol Polgar, 10 Southview Court,
6 Carle Place, and that again is to the north. I'm
7 sorry, it is to the rear of the property.

8 Gretchen Mackenzie, 229 East 79th Street, New
9 York, and that is across the street, it looks
10 like. And Catharine Byrne, 134 Sixth Street,
11 Greenport, and Kenneth Ludacer, 133 Sixth Street,
12 Greenport. The placard was appropriately placed

13 on the property.

14 And we could take any comments from the
15 applicant or representative at this point.

16 MR. KAPELL: Mr. Chairman, members of the
17 Board, my name is David Kapell, 400 Front Street,
18 for the applicant.

19 First of all, let me explain that the --
20 I'm here joined today by Doug and Mary Roberts,
21 who are successors in title to Virginia Ludacer,
22 the original applicant, so they are now the new
23 applicant. We filed a letter notifying you of
24 this last week.

25 We're here essentially to correct a defect

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1 in an earlier action that was undertaken by the
2 Zoning Board of Appeals in 2003 to permit the
3 pool, which now exists on the property.

4 With the Board's permission, I'd like to
5 distribute some information. What I'm handing
6 you is an analysis of what had appeared to have
7 gone wrong with the first application, which was
8 an erroneous statement of the proposed side yard

9 setback, which was stated in the original
10 application of 2003 as 13 feet. That was based
11 on a plan that -- a sketch that was made of the
12 proposed pool on a survey that had been done in
13 2001 by John Ehlers. And the notation on that
14 survey associated with the sketch was that the
15 side yard setback would be 13 feet. When we had
16 the property surveyed recently for the
17 transaction that just transpired, the survey
18 showed that the actual setback of the pool is 7.3
19 feet.

20 I've done a little analysis on an
21 enlargement that I made of the 2001 survey which
22 shows how the error was made, if you'll follow me
23 for a moment. The rear property line is 93 --
24 this is the property line to the west, is 93.28
25 feet total. The distance between the northerly

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1 property line and the point where the pool begins
2 is 56 feet, and the pool itself is 30 feet,
3 totaling 86 feet. If you subtract 86 feet from
4 93.28 feet, you come up with 7.28 feet, let's

5 call it 7.3 feet, which is the actual setback.

6 The point I want to make most strongly is
7 that the pool that is, in fact -- that was
8 constructed 10 years ago and exists there today
9 is exactly what shows on the original sketch.
10 The problem was with the math -- was with the
11 arithmetic that was done to show the side yard
12 setback at 13 feet, when in actuality it was 7.3
13 feet.

14 So we're here today to ask for the Board's
15 relief to grant a new variance permitting the 7.3
16 setback so that we can obtain a Certificate of
17 Occupancy.

18 We did get a building permit, by the way.
19 This pool was built subject to a building permit,
20 and had no idea that this mistake existed until
21 we produced the new survey and it was brought to
22 our attention by the Building Inspector. That's
23 what brings us here this evening, and I'm
24 available to ask any questions -- answer any
25 questions, excuse me.

1 CHAIRMAN MOORE: Just one is you indicated
2 a building permit. We'll be going over kind of
3 the time line of the whole process during our
4 discussion. But you say there was a building
5 permit issued prior to construction of the
6 swimming pool?

7 MR. KAPPELL: Yes, in 2003.

8 CHAIRMAN MOORE: In 2003.

9 MR. KAPPELL: I have it.

10 CHAIRMAN MOORE: Oh, good. It would be
11 helpful, because we weren't able to find any
12 evidence of a building permit being issued.
13 There was a variance record, you know, record of
14 variance being issued, but a subsequent building
15 permit, and this is prior to our Building
16 Inspector.

17 MS. WINGATE: I have a receipt for monies
18 paid. I have an application, but I don't
19 actually have the permit.

20 MR. KAPPELL: I'd be happy to -- a permit, I
21 see. Okay. Excuse me for one moment.

22 CHAIRMAN MOORE: And we'll be able to
23 discuss that in more detail as we go over the
24 time line for the whole process.

25 MR. KAPPELL: I stand corrected and accept

1 the Building Inspector's report. I have an
2 application for a building permit; we paid the
3 fee.

4 CHAIRMAN MOORE: Yes.

5 MR. KAPPELL: And we applied for and
6 obtained the variance that contained the defect.

7 MR. CORWIN: So there never was a building
8 permit, is what you're saying.

9 MR. KAPPELL: I can't say whether there was
10 or there wasn't. We paid for it.

11 CHAIRMAN MOORE: Okay. Well, all right.
12 Any other questions from the Board about the
13 details of the request for the variance, not
14 necessarily the other things we'll talk about?
15 No?

16 MS. NEFF: So we don't know from the facts
17 presented when the pool was finished, because
18 there isn't a CO for it; is that right?

19 CHAIRMAN MOORE: That's correct. We assume
20 that it started in 2008, that when the variance
21 was granted.

22 MS. NEFF: Three you're talking about.
23 CHAIRMAN MOORE: I'm sorry.
24 MR. KAPELL: 2003.
25 CHAIRMAN MOORE: I was saying 2008 at the

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1 site. Yes, it was 2003, my mistake.
2 MR. CORWIN: Run that by me once more. The
3 building permit was applied for in 2003, so it
4 was built in 2003, 2004?
5 MR. KAPELL: To the best of my knowledge,
6 yes. I wasn't a direct party to it.
7 CHAIRMAN MOORE: June of 2003 was receipt
8 of pool and fence permit with the fee.
9 MS. NEFF: We don't know when it's built?
10 CHAIRMAN MOORE: Presumably, in a
11 subsequent --
12 MR. KAPELL: At that time.
13 CHAIRMAN MOORE: -- year, and perhaps early
14 the next. It's not clear.
15 MR. CORWIN: But there was a temporary
16 Certificate of Occupancy issued at one point in
17 time?

18 MR. KAPELL: Yes, in 2010.

19 MR. CORWIN: And what was the purpose of
20 the 2010?

21 MR. KAPELL: I believe that was in
22 connection with the refinancing on the property
23 that required a Certificate of Occupancy.

24 MR. CORWIN: And then that just expired,
25 temporary building permit expired; is that

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1 correct?

2 CHAIRMAN MOORE: A CO.

3 MS. WINGATE: Temporary CO.

4 MR. CORWIN: A CO.

5 MR. KAPELL: Yes, to the best of my
6 knowledge.

7 CHAIRMAN MOORE: It says here also "pending
8 new survey," which at that time was not done.
9 Okay.

10 MR. KAPELL: Any other questions?

11 CHAIRMAN MOORE: No, I don't think so.

12 MR. KAPELL: Thank you.

13 CHAIRMAN MOORE: At this point, we could

14 take comments from the public. The pending
15 owners wish to comment, or any members of the
16 public? Just identify your name and address, if
17 you would.

18 MR. ROBERTS: Doug Roberts, 133 Sixth
19 Street, the applicant, new owner of 133 Sixth.

20 You know, I don't know if you've ever been
21 in this situation, but we're inheriting someone
22 else's, I don't know, error, or, you know, just
23 they didn't think about it, I have no idea. We
24 just want to buy the house. We've lived in
25 Greenport for eight years. We've lived on Sixth

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1 Avenue, so we're moving four blocks to the south.
2 We love it here. We hope that this won't be an
3 issue. If there's something that's -- if there's
4 something within our power to do to make it
5 better for everybody -- we've actually gone -- we
6 know several of the folks who live around there.
7 We just met you today, that was great. But, you
8 know, we met -- we went and met with the existing
9 neighbors, we know them from living here.

10 Everyone seems to be fine with it, so we're --
11 you know, we plan to be good, respectful
12 neighbors, and hope that this won't be an issue.
13 Thank you.

14 CHAIRMAN MOORE: Okay. Any other members
15 of the public wish to speak?

16 (No response.)

17 CHAIRMAN MOORE: If not, I would entertain
18 a motion to close the public hearing.

19 MR. CORWIN: So moved.

20 CHAIRMAN MOORE: And a second, please.

21 MR. BENJAMIN: Second.

22 CHAIRMAN MOORE: Charles seconded. And all
23 in favor?

24 MR. BENJAMIN: Aye.

25 MR. CORWIN: Aye.

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1 MS. GORDON: Aye.

2 MS. NEFF: Aye.

3 CHAIRMAN MOORE: Aye.

4 And the hearing is closed.

5 So we can proceed with the regular agenda

6 at this point. We'll regroup here. So we'll now
7 have some discussion back again to the Farmakis
8 application on First Street, and this is the
9 mudroom extension. We had an informative site
10 visit, and this house is typical of many in
11 Greenport. It does have a fairly good-sized lot.
12 The width of the lot, again, is -- it's 50 feet?

13 MR. UELLEND AHL: One second. Yes. Let me
14 just check.

15 CHAIRMAN MOORE: Okay. So it's about 50
16 feet wide and it's a typical house displaced
17 northward.

18 MR. UELLEND AHL: 50.15, yes.

19 CHAIRMAN MOORE: And by Greenport
20 standards, has a rather ample 1.8 feet of
21 clearance to the north line, which is proposed to
22 increase to two-and-a-half feet to allow passage
23 on that side. And the sticking point here is
24 that the addition, which expands the
25 nonconformity, is to be 3.5 feet from the

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1 property line, which requires a variance. The

2 combined side yard clearance is not diminishing,
3 it is increasing the size of the footprint, but
4 the combined side yard setback, I believe, is not
5 really changing, it just continues to be
6 noncompliant, just on a bigger footprint. So
7 that was also part of the variance required. But
8 the principal focus is this additional 53 square
9 feet of house.

10 One comment I'd like to make is that the
11 position of the porch and the house doesn't
12 change, it's the same sight line, so that we're
13 not imposing by approving this, if we should
14 approve it, any additional visibility to the
15 north neighbor. And there's really not much of a
16 view issue from the south neighboring property.
17 So this is a minor increase in nonconformity for
18 this property. And so far, it's been a beautiful
19 restoration of the house.

20 Does the Board have any additional
21 questions?

22 MR. CORWIN: I'd just like to make one
23 note, that rainwater runoff on the structure to
24 the back, the leaders are just going to the
25 backyard, which I don't think is a problem. I

1 think the backyard grass area will absorb that
2 runoff. However, in the front, there's two
3 leaders, one off the porch and one off the main
4 roof. One of them is directed now with a
5 temporary pipe right out to the edge of the
6 porch. And I would like to have the Zoning Board
7 stipulate that any approval would put some kind
8 of dry well in to collect the rainwater from the
9 front of the structure, so that it does not run
10 off into the street, to help the Village meet its
11 MS4 municipal storm sewer requirements that the
12 State is imposing upon us.

13 CHAIRMAN MOORE: I made a note of that at
14 this point. Other discussion from the Board?

15 MS. GORDON: I have a question.

16 CHAIRMAN MOORE: Yes.

17 MS. GORDON: Maybe for the other members of
18 the Board. I'm wondering whether in a case where
19 it's a very old house within the Historic
20 District with setbacks that don't reflect the
21 code, because there was no code, does the
22 combined side yard variance matter more? Because

23 it seems to me that the combined side yard
24 variance is very, very slight here, 1.2 feet.
25 And, I mean, I would assume that if these old

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1 houses are just chockablock next to each other,
2 that probably the combined variance matters more
3 than the individual side variances, but I'm
4 asking if that's true. If it's true, then it
5 seems to be the 1.2 feet is tiny.

6 CHAIRMAN MOORE: I guess it depends on the
7 neighboring property situation. The one we most
8 critically deal with is the minimum 10 foot on
9 one side, which is most frequently not being
10 that.

11 MS. GORDON: Right, the old houses.

12 CHAIRMAN MOORE: And in this case, the
13 variance requested for the combined side yard
14 setback is quite small, it's only one -- like you
15 said, 1.2 feet.

16 MS. GORDON: Yes.

17 CHAIRMAN MOORE: And, you know, one could
18 argue that it's not really changing, because the

19 combined side yard setback is essentially the
20 same, but it is being represented by a section of
21 the house that has gotten bigger. So whether
22 that's an increase in side yard intrusion or not,
23 you know, is sort of up for interpretation. I
24 would say the main point here is whether the
25 overall mass of the house and with its

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1 substandard setback is of any real significance.
2 And it really balances out to the benefit
3 obtained by the applicant versus any detriment to
4 neighboring properties. And this is what comes
5 up when we do go through the questions that are
6 part of the test.

7 MS. GORDON: Right.

8 CHAIRMAN MOORE: So that that's something
9 that we would do, should we proceed with the
10 decision at this point.

11 MS. NEFF: I would just like to say that
12 this proposed change is slight, relatively
13 speaking, to the whole mass of the house and the
14 property size, and that it is not a significant

15 change, and that there's an added improvement,
16 both for the use of the occupants and certainly
17 aesthetics.

18 CHAIRMAN MOORE: And I believe in your
19 application, you have the percent coverage is
20 still less than 30%. And, obviously, it's not a
21 very big increase of what the percentage was
22 previous to that, but you have 28-and-a-half-foot
23 lot coverage.

24 MR. UELLEND AHL: The increase is 1.73%.

25 CHAIRMAN MOORE: Is there any other

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1 discussion of the Board, or would you like to
2 move forward?

3 MR. PROKOP: I just wondered, what's going
4 to happen with the two bump-outs on the north
5 side, are they staying?

6 CHAIRMAN MOORE: There is one bump-out on
7 the north side that is a topic of discussion,
8 because it's becoming smaller. Mr. Uellendahl
9 indicates that the current 1.8-foot clearance on
10 the bump-out is going to increase to

11 two-and-a-half feet. So it's actually
12 withdrawing from the property line during that
13 reconstruction of that section of the house.

14 MR. UELLEND AHL: We are rebuilding this
15 bump-out in a smaller scale, because there is no
16 proper foundation present.

17 CHAIRMAN MOORE: And I think I agree with
18 Mr. Corwin's comment. Our focus is on the back
19 of the house, but that we always have been -- in
20 recent times, been specifying when there are roof
21 lines and potential new gutters, that rainwater
22 be contained on the property. It may well be
23 that at the front of the property, the only
24 remedy for that is to have a dry well. In the
25 rear, I think the grade of the property will

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1 allow the property to absorb the runoff directly.
2 So it will be a condition that it just can't
3 leave the property, and then a proper remedy will
4 have to be worked out with the Building Inspector
5 during an approval process.

6 MR. UELLEND AHL: I discussed this with the

7 owners. Even though it's not related to the
8 actual variance here, but I -- they were open and
9 said, yes, whatever the Board decides, we're
10 going to implement. So they're prepared to put
11 in a dry well, because it is a hazard during the
12 winter when the water is freezing on top of the
13 sidewalk.

14 CHAIRMAN MOORE: Any other discussion from
15 the Board at this point?

16 MR. BENJAMIN: Well, not to be nitpicky,
17 but you don't want to overlook that clean-out
18 that's standing in the yard. And again, it's not
19 -- it's not my problem, but it's been observed
20 and noted that the cover, the clean-out cap is
21 not glued into the pipe, which leads me to
22 believe it was used for something else, because
23 when you -- when you use a clean-out, you unscrew
24 the cap, you don't take the whole fitting off,
25 and I'd like that attended to.

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1 CHAIRMAN MOORE: So your concern is that
2 rainwater being --

3 MR. BENJAMIN: Rainwater going into the
4 sewer system, for one thing.

5 CHAIRMAN MOORE: -- divided into the
6 sanitary sewer system?

7 MR. BENJAMIN: And odors coming out,
8 because it's in between the sewer and the house
9 trap. So it's a very questionable piece of --

10 CHAIRMAN MOORE: Well, we can just refer
11 that to the Building Inspector for proper code
12 requirements.

13 MR. BENJAMIN: I think we should do that.
14 Other than that, I don't have any problems with it.

15 CHAIRMAN MOORE: Okay. Will the Board want
16 to proceed with a decision at this point?

17 MR. CORWIN: Yes.

18 CHAIRMAN MOORE: And did you want to
19 participate?

20 MS. GORDON: Yes.

21 CHAIRMAN MOORE: Yes, okay.

22 So the first task we have is that we are
23 declaring the Zoning Board of Appeals the Lead
24 Agency, according to SEQRA, and that the decision
25 here would be considered a Type II Action. And I

1 would like to make that motion, and ask each to
2 respond if they agree.

3 (Roll Call Vote by Chairman Moore.)

4 MR. BENJAMIN: Yes.

5 MR. CORWIN: Yes.

6 MS. GORDON: Yes

7 MS. NEFF: Yes

8 CHAIRMAN MOORE: And I indicate yes.

9 And then the first question that has to be
10 satisfied is whether an undesirable change will
11 be produced in the character of the neighborhood,
12 or a detriment to nearby properties will be
13 created by the granting of the area variance?

14 (Roll Call Vote by Chairman Moore.)

15 MR. BENJAMIN: No.

16 MR. CORWIN: No

17 MS. GORDON: No.

18 MS. NEFF: No.

19 CHAIRMAN MOORE: And I say no.

20 Whether the benefit sought by the applicant
21 can be achieved by some method feasible for the
22 applicant to pursue other than an area variance?

23 (Roll Call Vote by Chairman Moore.)

24 MR. BENJAMIN: No.

25 MR. CORWIN: No.

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1 MS. GORDON: No.

2 MS. NEFF: No

3 CHAIRMAN MOORE: And I say no.

4 Whether the requested area variance is
5 substantial?

6 (Roll Call Vote by Chairman Moore.)

7 MR. BENJAMIN: No.

8 MR. CORWIN: No.

9 MS. GORDON: No.

10 MS. NEFF: No.

11 CHAIRMAN MOORE: I answer no.

12 Whether the proposed variance will have an
13 adverse effect or impact on the physical or
14 environmental conditions in the neighborhood or
15 district? And this, of course, is taking into
16 consideration the suggestions we have for runoff
17 requirements.

18 (Roll Call Vote by Chairman Moore.)

19 MR. BENJAMIN: No.

20 MR. CORWIN: No.
21 MS. GORDON: No.
22 MS. NEFF: No.
23 CHAIRMAN MOORE: My answer is no.
24 Was the alleged -- whether the alleged
25 difficulty was self-created, which consideration

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1 shall be relevant to the decision of the Board of
2 Appeals, but shall not necessarily preclude the
3 granting of the area variance?
4 (Roll Call Vote by Chairman Moore.)
5 MR. BENJAMIN: No.
6 MR. CORWIN: No.
7 MS. GORDON: No.
8 MS. NEFF: Yes.
9 CHAIRMAN MOORE: And I would say no.
10 And then, finally, I would make a motion
11 that we approve the requested variance based on
12 stipulation that the runoff from the new
13 construction be directed onto the property and
14 not exit --
15 MR. CORWIN: Correction.

16 CHAIRMAN MOORE: -- the property.
17 MR. CORWIN: The runoff from the old -- the
18 new --
19 CHAIRMAN MOORE: And -- yes.
20 MR. CORWIN: I'm sorry. I'm sorry, go
21 ahead.
22 CHAIRMAN MOORE: Okay. That the new
23 construction provide means that the runoff is not
24 exiting the property, and that the current runoff
25 at the front be remediated so that it does not

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1 exit the property by an inappropriate method. So
2 I'll make that motion, and with that --
3 MS. NEFF: Second.
4 CHAIRMAN MOORE: -- I'd ask for a second.
5 MS. NEFF: Second.
6 CHAIRMAN MOORE: And in favor of the
7 variance?
8 (Roll Call Vote by Chairman Moore.)
9 MR. BENJAMIN: Yes.
10 MR. CORWIN: Yes.
11 MS. GORDON: Yes.

12 MS. NEFF: Yes.

13 CHAIRMAN MOORE: And I answer yes.

14 So the motion carries and the variance is
15 approved.

16 MR. UELLENDahl: Thank you very much.

17 CHAIRMAN MOORE: So our next topic for
18 discussion is the Rosa property. And if the
19 Board has any additional questions, we can
20 entertain those.

21 I would like to just say that this is, I
22 would say, a very typical, but extreme, case of
23 property setbacks in that this property is only
24 29-point-something feet wide, and that the house
25 is sitting less than a foot off the north

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1 property line, and that two of the construction
2 items are following the line of the house, so,
3 therefore, they are very close to the property
4 line.

5 I'd like to point out that if the house on
6 the property, if the property were larger, were
7 otherwise conforming, the front porch would

8 likely be allowable based on the accepted items
9 of porticos, you know, with their extension into
10 a restricted area. But since the house itself is
11 nonconforming, that does not apply.

12 One thing on our site visit, and not
13 provided in the plans, are elevations of the
14 house additions, and that would be helpful to us.
15 It was very helpful when you showed them to us,
16 but we'd like those included into the file.

17 The front porch addition, there is
18 essentially a stoop and awning, which could be
19 represented as a porch, except it's being
20 improved and somewhat enlarged. On the south
21 side, the step-up to the side entrance is
22 essentially replacing something that's already
23 there, almost of the same size. And that the
24 most significant addition is to the rear, which
25 is the deck.

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1 Looking across the property line, there's a
2 high fence and there's not much activity on the
3 rear of the property to the north. I assume that

4 the fence will either be retained or replaced
5 with a similar fence with the new construction.
6 I think that would be imperative in a decision we
7 make, that with the deck to the rear, it would
8 be -- if there were no fence, it would be
9 directly adjoining the rear of the property to
10 the north.

11 There were some questions about the air
12 conditioning units. We did observe that the
13 neighboring house to the south has its air
14 conditioning units on the north side facing your
15 property, so perhaps it would be sort of a battle
16 of the air conditioning compressors. So the best
17 thing to do is to have them as quiet as possible.

18 And other than that, my impression is that
19 all of these additions, you know, improve the
20 appearance of the house, and are not greatly
21 significant as far as any effect on the
22 neighboring properties, that the other Board
23 Members might wish to comment about, the
24 additions to the house.

25 MR. BENJAMIN: Who owns the fence on the

1 north side?

2 CHAIRMAN MOORE: Do you know the ownership
3 of the fence?

4 MRS. ROSA: I think part of it might be
5 ours on the north side, and the rest belongs to
6 the gentleman in the blue house, I think, I'm not
7 100%.

8 CHAIRMAN MOORE: This perhaps is because of
9 the meandering fence?

10 MRS. ROSA: Yeah.

11 CHAIRMAN MOORE: And have you -- we have no
12 letters responding to this application.

13 MS. WINGATE: (Shook head no.)

14 CHAIRMAN MOORE: And have you had comments
15 from neighbors as far as your plans?

16 MRS. ROSA: They're very happy.

17 MR. CORWIN: Wait a minute, I thought we
18 were talking about Rosa. I'm confused.

19 CHAIRMAN MOORE: Rosa, yes. I have Rosa
20 out, I think.

21 MR. CORWIN: Well, why is Mrs. Ludacer
22 answering questions?

23 CHAIRMAN MOORE: This is not Mrs. Ludacer.

24 MRS. ROSA: Mrs. Rosa.

25 MR. CORWIN: Oh, I'm sorry. I'm sorry.

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1 CHAIRMAN MOORE: No, just confusing. They
2 probably look a lot alike.

3 MS. GORDON: I have a question.

4 CHAIRMAN MOORE: Yes.

5 MS. GORDON: Another question.

6 CHAIRMAN MOORE: Sure.

7 MS. GORDON: I get -- since I'm a newbie, I
8 can ask questions. We are dealing with a
9 nonconforming building with conforming uses, that
10 section, as I understand it, of the code, and I
11 want to understand what conforming uses really
12 means. The addition of the deck does change the
13 use of the house somewhat, but it's obviously a
14 use that, you know, everyone in Greenport wants
15 to have a little outdoor space. Could you just
16 describe to me what conforming uses means in the
17 context of the Greenport Code?

18 CHAIRMAN MOORE: Right. Well, the best
19 way, perhaps, to refer to it is if you look at a
20 use variance, and that is defined, if it's

21 written here, to grant use variances. And
22 there -- perhaps it's in the introductory
23 section, that I don't have a copy of it right
24 before me. But a use variance basically is use
25 of a property in a district that does not permit

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1 that use, so it would be commercial use in a
2 residential area, a two-family use in an R-1
3 District, that sort of thing.

4 MS. GORDON: Okay.

5 CHAIRMAN MOORE: Residential use in a
6 Commercial District, in reverse, so that the
7 normal household uses are not a use variance.

8 MS. GORDON: So with that kind of standard,
9 this would not be a nonconforming use.

10 CHAIRMAN MOORE: And this qualifies in an
11 area variance because of setback requirements.

12 MS. GORDON: Right. Okay. Thank you.

13 CHAIRMAN MOORE: Sure.

14 MR. BENJAMIN: But then again, it's not
15 conforming to the code of the setbacks.

16 CHAIRMAN MOORE: That's correct.

17 MS. GORDON: Right. Okay.

18 MR. BENJAMIN: The house isn't. So then
19 when you put something on, an addition for a
20 porch or something, you want that to conform as
21 close.

22 MS. GORDON: Right.

23 MR. BENJAMIN: -- for it to be --

24 MS. GORDON: It doesn't increase the degree
25 of, or create any new noncompliance with regard

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1 to the regulations, is that -- that's the
2 question.

3 MR. BENJAMIN: Yeah. Basically, it is
4 increasing the area of nonconforming use.

5 CHAIRMAN MOORE: It does, yes.

6 MS. NEFF: When we're talking about a
7 preexisting condition, are we really talking
8 about whether the house conforms or not? Isn't
9 that a not -- it's sort of like a -- not the
10 right question to be asking. You have a house
11 that is where it is. It existed part of -- some
12 of it, and maybe all of it, prior to the code,

13 and we're talking about an addition, which we
14 have to interpret the code and try to figure out
15 how it can be added to a house that -- we're not
16 talking about the house, the house is what it is.

17 CHAIRMAN MOORE: Yeah. The house is
18 nonconforming, but can continue to do so.

19 MS. NEFF: Well, I think it's better to
20 call it a preexisting house.

21 CHAIRMAN MOORE: Yeah, it's a preexisting
22 nonconforming house.

23 MS. NEFF: Right.

24 CHAIRMAN MOORE: If you go to the code,
25 there are issues on damage to nonconforming

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1 houses --

2 MS. NEFF: Right.

3 CHAIRMAN MOORE: -- which do not allow them
4 to be returned. So that in this case, the house
5 is fine. You have the thrill of living in a
6 nonconforming structure, but it's permissible.

7 Is there terminology that should be used,
8 Mr. Prokop, on describing such properties?

9 MR. PROKOP: Well, I think that when
10 Ms. Gordon asked the question first, I mean, she
11 used the right terminology. My question was, is
12 this house presently one-family? Is it staying
13 one-family, or is there one-family going to
14 two-family, do we know?

15 CHAIRMAN MOORE: It was a two-family house,
16 and the proposal with the conversion is to make
17 it a one-family house.

18 MR. PROKOP: Make it a one-family, okay.
19 So I think it's a nonconforming structure with a
20 conforming use.

21 CHAIRMAN MOORE: Conforming use, yes.

22 MR. PROKOP: That's basically it.

23 MS. GORDON: Thank you.

24 CHAIRMAN MOORE: Any other discussion with
25 -- among the Board members at this point?

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1 MR. CORWIN: I have to note that I don't
2 have a signed application. So, as far as I can
3 see, it's an incomplete application. And I
4 question whether we should --

5 CHAIRMAN MOORE: All right.

6 MR. CORWIN: -- accept incomplete
7 applications. And this is not the first time
8 this has happened.

9 CHAIRMAN MOORE: Can you check and see,
10 Eileen? You're probably more familiar with the
11 file than I am. We've been kicking around that
12 question about the notarizing of an application.
13 If an applicant themselves signs the application,
14 is it a notarizing requirement, or is it --

15 MR. PROKOP: Yes.

16 CHAIRMAN MOORE: It's regardless of whether
17 it's a representative or an applicant?

18 MR. PROKOP: Yeah. The another thing that
19 I noticed on some of these is that whoever signs
20 it has to print their name under the signature.
21 We're getting these that --

22 MR. CORWIN: You can't read the signature,
23 yes, you're correct.

24 MR. PROKOP: The notary really shouldn't,
25 you know, be notarizing unless the name is

1 printed somewhere, so we should --

2 MS. WINGATE: I'll make a note.

3 CHAIRMAN MOORE: And a notary is currently
4 available within Village Hall.

5 MR. PROKOP: Yes.

6 CHAIRMAN MOORE: Which is suitable.

7 Okay. Does that satisfy your question?

8 MR. CORWIN: Yes.

9 CHAIRMAN MOORE: Okay. Would the Board
10 have any other discussion?

11 MR. BENJAMIN: One more question. You see,
12 when the porch and the patio are so close to the
13 property line, now to work on it and maintain it,
14 you run into a problem when you stand at the side
15 that the fence is on. So I'm wondering about
16 allowing something so close to the property line
17 when it could be moved in, maybe even a foot, to
18 allow for maintenance, or whatever, inspection,
19 digging, planting bushes.

20 CHAIRMAN MOORE: Now the building itself is
21 not the discussion point, I guess, because we're
22 not --

23 MR. BENJAMIN: It's the two additions.

24 CHAIRMAN MOORE: Yes. The deck, I assume,
25 could be maintained without --

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1 MR. BENJAMIN: Right, the property.

2 CHAIRMAN MOORE: -- needing adjoining
3 properties. The porch is open space, I believe,
4 at the front of the property.

5 MR. RUSSO: Yeah, it's open.

6 CHAIRMAN MOORE: And I imagine would just
7 have the courtesy of asking the neighbors access,
8 should you need to do maintenance.

9 MR. BENJAMIN: Well, what came to mind was
10 the Kaplan store.

11 CHAIRMAN MOORE: Well, not everybody can
12 have neighbors so cooperative.

13 MR. BENJAMIN: It was just a thought.

14 CHAIRMAN MOORE: Yes, I understand.
15 Fortunately, you're probably getting along with
16 your neighbors currently, yes?

17 MRS. ROSA: Very well.

18 CHAIRMAN MOORE: Good.

19 MR. CORWIN: You know, one more thing is I
20 did not think to look at the gutters and leaders
21 on the house. It's so close to Main Street, and

22 it's so easy to have the water just run off into
23 Main Street. But, again, I think if we approve
24 this, the runoff needs -- if it goes in the
25 backyard, I don't see a problem, the grass will

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1 absorb it, but the runoff shouldn't go to the
2 front onto the ground, because it will just run
3 onto Main Street. So I would like any approval
4 to have that stipulation, that there's no runoff
5 onto Main Street.

6 CHAIRMAN MOORE: The change in roof and
7 drainage would be the porch, I assume, as really
8 the only significant thing. Other --

9 MR. CORWIN: Well, I'm not so concerned
10 with the porch, because that's a small area.

11 CHAIRMAN MOORE: But, again, any
12 modifications to the building itself are within
13 the purview of the Building Inspector, and we
14 would suggest or recommend that that be
15 addressed.

16 MS. WINGATE: (Nodded yes.)

17 CHAIRMAN MOORE: Relative to the variance,

18 I think we have to ask that the porch drainage be
19 properly collected and not discharged off the
20 property. The deck I don't believe is a drainage
21 issue. The stoop, again, would not be a drainage
22 issue. But I'd take your point about any
23 modifications to the main house to the Building
24 Inspector.

25 Would the Board want to move forward, then,

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1 with a decision on this variance?

2 MS. NEFF: Yes.

3 MR. CORWIN: Yes.

4 CHAIRMAN MOORE: Yes. So the first matter
5 of business is, again, to declare ourselves Lead
6 Agency, according to SEQRA, and we declare this a
7 Type II Action. And ask all in -- I make that
8 motion and ask for a second.

9 MS. NEFF: Second.

10 CHAIRMAN MOORE: And all in favor?

11 MR. BENJAMIN: Aye.

12 MR. CORWIN: Aye.

13 MS. GORDON: Aye.

14 MS. NEFF: Aye.

15 CHAIRMAN MOORE: Aye.

16 And it was all yes. And then the
17 questions.

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

22 (Roll Call Vote by Chairman Moore.)

23 MR. BENJAMIN: No.

24 MR. CORWIN: No.

25 MS. GORDON: No.

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1 MS. NEFF: No.

2 CHAIRMAN MOORE: And I answer no.

3 Whether the benefit sought by the applicant
4 can be achieved by some method feasible for the
5 applicant to pursue other than an area variance?

6 (Roll Call Vote by Chairman Moore.)

7 MR. BENJAMIN: No.

8 MR. CORWIN: No.

9 MS. GORDON: No.

10 MS. NEFF: No.

11 CHAIRMAN MOORE: And I answer no.

12 Whether the requested area variance is

13 substantial?

14 (Roll Call Vote by Chairman Moore.)

15 MR. BENJAMIN: No.

16 MR. CORWIN: No.

17 MS. GORDON: No.

18 MS. NEFF: No.

19 CHAIRMAN MOORE: I answer no.

20 Whether the proposed variance will have an

21 adverse effect or impact on the physical or

22 environmental conditions in the neighborhood or

23 district?

24 (Roll Call Vote by Chairman Moore.)

25 MR. BENJAMIN: No.

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1 MR. CORWIN: No.

2 MS. GORDON: No.

3 MS. NEFF: No.

4 CHAIRMAN MOORE: And I answer no.

5 And whether the alleged difficulty was

6 self-created, which consideration shall be
7 relevant to the decision of the Board of Appeals,
8 but shall not necessarily preclude the granting
9 of an area variance?

10 (Roll Call Vote by Chairman Moore.)

11 MR. BENJAMIN: Yes.

12 MR. CORWIN: No.

13 MS. GORDON: No.

14 MS. NEFF: Yes.

15 CHAIRMAN MOORE: And I would say no.

16 And then, finally, I would make a motion to
17 approve the requested variance for the
18 construction of a porch, replacement of the
19 stoop, and construction of the deck to the rear,
20 with the stipulation that relative to our
21 purview, the porch roof runoff be retained on the
22 property. And we also make the recommendation to
23 the Building Inspector, relative to any other
24 construction on the building, that all runoff
25 from the roofs be retained on the property. And

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1 I'd make that motion and ask for a second.

2 MR. BENJAMIN: Second.

3 CHAIRMAN MOORE: Second. Any further
4 discussion?

5 (No response.)

6 CHAIRMAN MOORE: And those in favor?

7 (Roll Call Vote by Chairman Moore.)

8 MR. BENJAMIN: Yes.

9 MR. CORWIN: Yes.

10 MS. GORDON: Yes.

11 MS. NEFF: Yes.

12 CHAIRMAN MOORE: And I would answer yes.

13 So that variance is approved. Good luck on
14 your construction.

15 MR. CORWIN: Good luck.

16 CHAIRMAN MOORE: All right. The next is
17 the request of Virginia Ludacer and the
18 discussion at this point. Now the applicant is
19 Ms. Ludacer. The interested parties are here,
20 obviously, the people purchasing the property,
21 and Mr. Kapell is here to represent them all. I
22 would just like to review the time line.

23 The property was subdivided, I believe, in
24 '98 or '99, it was before 2000, by owners prior
25 to the Ludacers?

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1 MR. KAPELL: Yes.

2 CHAIRMAN MOORE: And that was a subdivision
3 which resulted in a fully compliant new lot,
4 which was 60 feet wide by 150-something.

5 MR. KAPELL: 165.

6 CHAIRMAN MOORE: 165 deep?

7 MR. KAPELL: Yes.

8 CHAIRMAN MOORE: And, you know, compliant
9 in the R-2 District, and left behind a larger
10 property, which is the Ludacer house that
11 remains.

12 The time line, which we've discussed in
13 some detail, is that the application for the
14 swimming pool, just historically, during the time
15 of the subdivision, because there was a deck on
16 the house that either crossed the property line
17 or came very close to the property line, and
18 there was a request at the time of the
19 subdivision for a variance to allow the deck to
20 be too close to the property line. That variance
21 was not approved by the Zoning Board of Appeals
22 at the time. The remedy was to remove the deck,

23 which was done.

24 Then we move to 2003, there's application
25 for a swimming pool. There was a Notice of

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1 Disapproval, and there was a variance granted,
2 and the variance granted was either 13 or 15
3 feet, depending on which piece of documentation
4 you're looking at, but we're looking essentially
5 at 13 feet was allowed. And, as Mr. Kapell has
6 pointed out, if you do the math from the north
7 side of the property, you end up with the
8 existing conditions, which is 7.3 feet,
9 essentially, from the property line. But what
10 was granted was the requested 13 feet of distance
11 from the property line, which was depicted on the
12 property survey, previous property survey of
13 probably 2001.

14 MR. KAPPELL: Yes.

15 CHAIRMAN MOORE: And was not correct. When
16 you look at the drawing, the 13 feet depicted, as
17 penciled in, doesn't appear to be correct, but at
18 the time, it was assumed the pool would be 15

19 feet -- 13 feet from the property line, and, of
20 course, we know it was constructed seven-plus
21 feet from the property line.

22 So we have the situation now that, as
23 Mr. Kapell indicated, there was a temporary CO
24 issued at the time the refinancing operation was
25 going on in 2010. It was indicated pending a new

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1 survey, but apparently no survey was done at that
2 time. So the true position of the pool, as laid
3 out by a survey, again, was not done. And only
4 now, when the survey was done in June of this
5 year, we find the pool is not meeting the -- what
6 the variance allowed back then.

7 MR. KAPPELL: Can I just --

8 CHAIRMAN MOORE: Yes.

9 MR. KAPPELL: Can I interject one thing,
10 sir? And that is that you said that the pool was
11 not positioned. The pool is positioned exactly
12 the way it was proposed. What was inaccurate was
13 the notation of the setback in relationship to
14 the southerly property line.

15 CHAIRMAN MOORE: Yes, and that was
16 discussed and approved according to what was
17 asked for, so --

18 MS. WINGATE: When you think about it, the
19 numbers that were sketched in were the numbers of
20 the variance that they should have asked for.
21 Instead of the numbers that existed, the sketch
22 numbers were the numbers of the variance.

23 CHAIRMAN MOORE: Yes, right. I don't
24 what --

25 MS. WINGATE: Which is somebody thinking

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1 out loud.

2 CHAIRMAN MOORE: You know, I don't think
3 there were verbatim minutes, but I don't believe,
4 from what I read in the file, that there was any
5 discussion that the pool was actually going to be
6 seven feet from the property line, it was always
7 13 feet.

8 MR. KAPPELL: Thirteen feet, yeah.

9 CHAIRMAN MOORE: So there was a mistake.
10 And it was not noticed during any of the

11 construction, or any inspections, or what may
12 have been done subsequent to that. So that we
13 sort of now have the dilemma that you have a
14 pool, which isn't likely to move again, and we
15 have a request to make this correct by issuing a
16 second variance. And it's unfortunate, because,
17 usually, when you issue a variance for an
18 exception, that's what's done, you get the
19 exception and everybody's happy, but now we're
20 back again.

21 You know, we should -- I could point out
22 that the pool has survived without complaint,
23 but, of course, the property owner of both
24 properties are the Ludacers who built the pool,
25 so they obviously aren't unhappy to have a pool.

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1 I'm looking ahead now to the future.

2 The vacant lot, we understand, is to be
3 built on by the Ludacers for their residence, and
4 so, again, I doubt they will complain about the
5 position of the pool, its proximity to the
6 property line. But we have to look forward to

7 future property owners of that property, and they
8 may not be happy. So that one of the thoughts I
9 had was that in condition, if we should approve a
10 second variance, that a proper and a
11 high-as-permissible fence be included in the
12 process, should a variance be granted, along that
13 property line.

14 MR. KAPELL: It's the Roberts' intention to
15 install a six-and-a-half-foot privacy fence along
16 that line. So, if you want to make that a
17 condition of the variance, that's fine.

18 CHAIRMAN MOORE: The proximity of the pool
19 equipment, you know, it was running when we were
20 there, and I thought it was extremely quiet, and
21 it's not necessary to change the position of
22 that. That's not the issue, it's really the
23 physical position of the pool.

24 I think, if way back in 2003, if this
25 difference had been noted, the pool could easily

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1 have been moved a little bit further north to
2 give a larger separation from the property line.

3 There are neighboring pools. I guess
4 Mr. Uellendahl has left. I was going to tap his
5 knowledge.

6 On Fifth and Sixth Street, the backyards of
7 those properties, there are roughly three pools,
8 I believe, in that same block in close proximity,
9 and I can't recall their separations. We did
10 approve a variance for a new pool, which is now
11 installed off of Fifth Street, and it did not
12 meet the 20 foot, but I don't recall the setback
13 that we permitted. It was more in the
14 neighborhood of teens of feet, but I don't
15 recall.

16 MS. WINGATE: Was it five foot?

17 CHAIRMAN MOORE: It was from the north and
18 rear property line in that case. So, whether
19 this is greatly different from other pools that
20 had been approved, I can't say.

21 Any further thoughts from the Board
22 members?

23 MR. CORWIN: Question on who is making the
24 application.

25 MR. KAPPELL: Doug and Mary Roberts.

1 MR. CORWIN: I don't see any paperwork to
2 that effect.

3 MR. KAPELL: I filed a letter with the
4 Building Inspector two weeks ago.

5 MR. CORWIN: It's not in front of me. I
6 don't know if anybody else has a copy.

7 CHAIRMAN MOORE: The application is listed
8 as Ludacer, so I don't know the technical
9 details.

10 MS. WINGATE: It's in the file.

11 MR. KAPELL: I have the letter here.

12 MS. WINGATE: I didn't think everybody
13 needed a copy; I would have included it.

14 CHAIRMAN MOORE: And you signed the
15 application as agent, so it doesn't make it -- it
16 doesn't make it clear. This I'm not familiar
17 with, successors to the title.

18 MR. PROKOP: I just have a quick -- can I
19 ask a quick question?

20 CHAIRMAN MOORE: Absolutely.

21 MR. PROKOP: It's really procedural, it
22 doesn't have that much to do with the
23 application, but what -- when it shows in the

24 time -- who did the time line, you did?

25 MS. WINGATE: I did.

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1 MR. PROKOP: When it shows in the time line
2 on June 19th that the building permit was
3 renewed, I thought you -- didn't you say -- did
4 you say that there was no building permit?

5 MS. WINGATE: I finally issued it.

6 MR. PROKOP: So it wasn't a renewal, it was
7 a new building permit, because it says renew the
8 expired building permit.

9 MS. WINGATE: Well, I couldn't find the
10 expired one, so I reissued it. I would consider
11 it a reissue, a renew.

12 MR. PROKOP: Okay. So I'm just trying to
13 figure out how they -- technically, how they're
14 here.

15 CHAIRMAN MOORE: It's a CO issue, I
16 believe.

17 MS. WINGATE: It's a CO issue. I can't --
18 I can't close the building permit.

19 CHAIRMAN MOORE: So, technically--

20 MS. WINGATE: I issued it.

21 MR. PROKOP: It doesn't conform with the --
22 the as-built doesn't conform with the building
23 permit. Okay. They have a building permit based
24 on the new survey. Based on the new survey, they
25 got a building permit.

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1 CHAIRMAN MOORE: Well, technically, no.

2 MS. WINGATE: No. What I did was I renewed
3 the old building permit, and then I can't close
4 the building permit without a survey. So when
5 they finally gave me the survey, there was a
6 difference, and I couldn't close it because it
7 didn't conform with what they had given them.

8 MR. PROKOP: Okay. But where's the old
9 permit? That's what I'm trying to figure out.
10 Is there a permit number that's an old number?

11 MS. WINGATE: No, I don't know offhand. I
12 took a bad situation and tried to walk it through
13 and make it right at every step, until I got the
14 survey, when that put me back behind the eight
15 ball again.

16 MR. PROKOP: Okay.

17 CHAIRMAN MOORE: Mr. Corwin indicated to
18 me, and you have a copy of the Assessor's form,
19 that the pool does not appear on the current
20 Assessor's card from the Town Office, because,
21 apparently, without a building permit, it didn't
22 trigger --

23 MS. WINGATE: Probably.

24 CHAIRMAN MOORE: -- an assessment.

25 MS. WINGATE: Probably.

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1 CHAIRMAN MOORE: So they'll apparently be
2 coming to assess the pool at some point. So that
3 it seems that the gap in the building permit is
4 just one of the things along the way. But the
5 real problem was the fact that the -- there was a
6 discrepancy in the approved variance and the
7 actual planned position of the pool, which it
8 ended up where it was indicated it would be, but
9 in the absence of proper depiction of the
10 setback.

11 MS. WINGATE: Yes.

12 CHAIRMAN MOORE: So we don't know what the
13 Zoning Board at the time would have done. You
14 were there, so maybe you could --

15 MR. BENJAMIN: I was there. We made a
16 decision based on the information that was given
17 to us.

18 CHAIRMAN MOORE: Yes. But, I mean, if it
19 had been 7.5 feet, you know, maybe something
20 different would have been decided. But we can't
21 relive history, so we have to deal with the
22 present.

23 And any suggestions from the Board of any
24 other remedies?

25 MR. BENJAMIN: I have a question. When a

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1 mistake was made, which I'm not sure who made the
2 mistake, but assuming that it's not the Zoning
3 Board of Appeals' mistake --

4 MR. CORWIN: Wait, wait, wait, stop. Two
5 people are talking at once.

6 MR. BENJAMIN: Those two people are
7 talking.

8 MS. WINGATE: I'm sorry. I'm sorry.

9 CHAIRMAN MOORE: That's okay, you were just
10 having a side discussion.

11 MR. BENJAMIN: If a mistake is made and it
12 was made by the property owner, and the
13 information that they presented to the Zoning
14 Board was not correct, and so we based our
15 decision on the information that was given us,
16 now we find that after the fact that information
17 was not right, and that's what we have to deal
18 with.

19 CHAIRMAN MOORE: Exactly.

20 MR. BENJAMIN: So we have to correct it.

21 CHAIRMAN MOORE: Right. If you go back in
22 history and everything was being monitored, there
23 would have been an immediate discrepancy
24 discovered, and there might have been a
25 contractor/property owner issue about that. But

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1 right now, it's not. It's where the pool is and
2 whether that can be considered an acceptable
3 setback with the remedy of the fence for the

4 future use of those two properties. That's, I
5 guess, the question we have. And I would --

6 MR. PROKOP: It's sort of compounded. This
7 is why I was asking the question.

8 CHAIRMAN MOORE: Yes.

9 MR. PROKOP: Because along the way, it says
10 here we issued a C of O. In 2010, we issued a
11 C of O. So they -- you know, the first problem
12 was that the survey -- I guess the survey was
13 done incorrectly, whatever happened in 2003, but
14 then we sort of signed off on that in 2010.

15 CHAIRMAN MOORE: With a temporary.

16 MR. PROKOP: Yes. So, I mean, these people
17 had every reason to believe that everything was
18 okay, not only because the survey was wrong, but
19 because we --

20 MS. WINGATE: The temporary Certificate of
21 Occupancy gave them six months to give me a
22 survey, I think. I could look it up. Usually
23 not more than six months. But the temporary
24 Certificate of Occupancy expired and they still
25 didn't provide a survey.

1 MR. PROKOP: Okay.

2 CHAIRMAN MOORE: So now it's back to not
3 having a CO.

4 MS. WINGATE: So now it's back to without a
5 CO.

6 MR. PROKOP: Oh.

7 CHAIRMAN MOORE: So do you think --

8 MR. CORWIN: Do you have any knowledge of
9 why they didn't give you a survey?

10 MS. WINGATE: I could only write letters.
11 No, I have no idea why I did not get a CO. It
12 wasn't something that you just forget about. I
13 sent one or two follow-up letters, and after
14 that, I put a file away with a note that says,
15 "No CO."

16 CHAIRMAN MOORE: Which usually is resolved
17 when a house changes ownership.

18 MS. WINGATE: When a house changes hands,
19 right.

20 CHAIRMAN MOORE: And here we are. So would
21 the Board want to move forward and see how the
22 decision comes out? Does that seem to be the
23 best thing to do at this point? Yes, no? I
24 don't know whether we could be asking for any new

25 information or other remedies.

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1 MS. GORDON: Excuse me.

2 CHAIRMAN MOORE: Yes.

3 MS. GORDON: How was the question of who is
4 the applicant resolved? I understand -- who is
5 the applicant legally?

6 MS. WINGATE: You want me to find it, or
7 you have it?

8 CHAIRMAN MOORE: It just indicates that
9 the --

10 MS. GORDON: The successor owners.

11 CHAIRMAN MOORE: "The new owners are
12 successors in title to Virginia Ludacer for
13 property located at 133 Sixth Street, Greenport,
14 having closed title on August 1st. The property
15 is the subject of a pending variance application
16 for swimming pool filed by David Kapell on behalf
17 of the prior owner." So does that satisfy the
18 need for who is applying for the variance at this
19 point?

20 MR. PROKOP: Well, we should -- you know,

21 just as a formality, we should probably have --
22 I'm sure that there's an unrecorded deed floating
23 around somewhere from the closing, probably some
24 -- if we could just get something from the
25 closing, just anything from the closing.

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1 MR. KAPPELL: Sure.

2 MR. PROKOP: Any copy of the deed.

3 MR. KAPPELL: Sure.

4 MR. PROKOP: It doesn't have to be
5 recorded, just to drop in the file.

6 CHAIRMAN MOORE: To me, it doesn't change
7 the impact of what decision we might make, it
8 just --

9 MR. PROKOP: Right.

10 CHAIRMAN MOORE: -- makes things tidy.

11 Would the Board want to proceed, then, with
12 the process?

13 MS. NEFF: I have one question.

14 CHAIRMAN MOORE: Yes.

15 MS. NEFF: The survey that I have here,
16 this is the survey of 2000 and what?

17 CHAIRMAN MOORE: From the application?
18 MS. NEFF: Yes.
19 CHAIRMAN MOORE: The original application?
20 MR. PROKOP: 2014, isn't it --
21 MS. NEFF: Yeah. No, it is. It says, I
22 think, June 2014.
23 MR. PROKOP: Correct.
24 CHAIRMAN MOORE: Oh, you have the little
25 one.

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1 MS. NEFF: Yes.
2 MS. WINGATE: You have the new one.
3 MS. NEFF: Okay. So there is -- I just
4 want to make sure that this is what it says, what
5 the survey says. There's a gate, the gate shown
6 enclosing the pool. The fence on the south side
7 does not exist at this point. There is no fence
8 on the south side, but that's what's going to be
9 built?
10 MR. KAPPELL: Yes.
11 MS. NEFF: Okay. And is there any entrance
12 from the house into the outside pool?

13 MR. KAPPELL: No.
14 MS. WINGATE: No.
15 MS. NEFF: Okay.
16 MR. BENJAMIN: Yes. Yes, there is.
17 MS. NEFF: Well, you have to go through
18 gates to get to it, though. That's my concern.
19 Do you have to go through a gate to get from the
20 house to the pool area?
21 MR. KAPPELL: Yes.
22 MS. NEFF: Okay.
23 CHAIRMAN MOORE: So you can't exit the rear
24 of the house into the patio area.
25 MS. NEFF: You can't exit, that's the

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1 question.
2 CHAIRMAN MOORE: Oh, there's no door at
3 that point.
4 MR. KAPPELL: No, there's no exit from the
5 rear of the house.
6 CHAIRMAN MOORE: Okay. I thought that was
7 an issue at this point.
8 MS. NEFF: All right.

9 MR. PROKOP: The shed and the cabana, do
10 they both conform?

11 MS. WINGATE: The cabana is a shed. It is
12 not a cabana, it doesn't even have electricity.
13 Yes, they --

14 MR. PROKOP: Thank you. But does it
15 conform with the accessory setbacks?

16 MS. WINGATE: Well, actually, it looks like
17 it's 3.7 feet. It should be five, but it's been
18 there -- well, it's been there.

19 CHAIRMAN MOORE: It's not new construction?

20 MR. KAPPELL: No.

21 CHAIRMAN MOORE: It's not new construction
22 with the pool?

23 MS. WINGATE: Oh, no, no.

24 CHAIRMAN MOORE: No.

25 MR. CORWIN: Look. Is it shown on the

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1 Assessor's?

2 CHAIRMAN MOORE: Do they show the shed?

3 MR. CORWIN: I don't see them showing the
4 shed.

5 CHAIRMAN MOORE: Well, I don't know the
6 history of that question. I guess you could
7 inquire as a separate issue as to the
8 construction of the shed, its date and such
9 things.

10 MS. WINGATE: I can investigate the shed,
11 yes.

12 CHAIRMAN MOORE: That could be a new issue,
13 perhaps.

14 MR. KAPELL: The shed shows up on the
15 surveys, 2001 and 2014.

16 CHAIRMAN MOORE: It just depends on how far
17 back it goes and whether it was ever -- you know,
18 if it's preexisting or not, that's the question.
19 But it's not the matter before us, I don't think,
20 so we can just refer it to the Building Inspector
21 in her spare time to figure that one out.

22 Would the Board want to proceed, then, to
23 make a decision?

24 MS. NEFF: Yes.

25 MR. BENJAMIN: I would like to take care of

1 this matter, but I would like to have the proper
2 paperwork also, because it's not going to do much
3 good if we don't have the proper paperwork,
4 because this is how this -- this is how we got
5 into this position, by not having the proper
6 paperwork.

7 CHAIRMAN MOORE: So are we missing
8 something at this point?

9 MR. BENJAMIN: Well, an application by
10 somebody, a proper survey, which we more or less
11 have here.

12 CHAIRMAN MOORE: 2014.

13 MR. BENJAMIN: Do I have an application by
14 somebody?

15 MS. WINGATE: Sure.

16 MR. BENJAMIN: Where?

17 CHAIRMAN MOORE: Originally filed in behalf
18 of Virginia Ludacer by Dave Kapell, with a letter
19 indicating that there has been a succession of
20 ownership of the property.

21 MR. BENJAMIN: So that will work?

22 CHAIRMAN MOORE: So the question is whether
23 a new application is necessary for requesting a
24 variance by the new owner, or whether the
25 succession document transfers the application as

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1 well. I don't know the answer. Mr. Prokop,
2 would you --

3 MR. PROKOP: I'm okay with it. As long as
4 there's -- as long as there's a document in the
5 file evidencing the ownership of the property,
6 I'm okay with the applicant naming change.

7 CHAIRMAN MOORE: Are you okay with that?

8 MR. BENJAMIN: Yes.

9 CHAIRMAN MOORE: Okay. Good. Everybody
10 else? All right.

11 So then I would move ahead with the first
12 matter of business, which is to declare the
13 Zoning Board of Appeals Lead Agency, according to
14 SEQRA, and declare it a Type II Action. And I
15 would make that motion, and ask for a second,
16 please.

17 MR. BENJAMIN: Second.

18 CHAIRMAN MOORE: And all in favor?

19 MR. BENJAMIN: Aye.

20 MR. CORWIN: Aye.

21 MS. GORDON: Aye.

22 MS. NEFF: Aye.
23 CHAIRMAN MOORE: Aye.
24 Any opposed?
25 (No response.)

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1 CHAIRMAN MOORE: No. Questions follow:
2 Whether an undesirable change will be
3 produced in the character of the neighborhood, or
4 a detriment to nearby properties will be created
5 by the granting of an area variance?
6 (Roll Call Vote by Chairman Moore.)
7 MR. BENJAMIN: I don't think so, no.
8 MR. CORWIN: Yes.
9 MS. GORDON: No.
10 MS. NEFF: No.
11 CHAIRMAN MOORE: I would say no.
12 Whether the benefit sought by the applicant
13 can be achieved by some method feasible for the
14 applicant to pursue other than an area variance?
15 (Roll Call Vote by Chairman Moore.)
16 MR. BENJAMIN: No.
17 MR. CORWIN: Yes.

18 MS. GORDON: No.
19 MS. NEFF: No.
20 CHAIRMAN MOORE: And I would answer no.
21 Whether the requested area variance is
22 substantial?
23 (Roll Call Vote by Chairman Moore.)
24 MR. BENJAMIN: I would say yes.
25 MR. CORWIN: Yes.

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1 MS. GORDON: Yes.
2 MS. NEFF: Yes.
3 CHAIRMAN MOORE: And I would actually say
4 no, I don't think it is at this point.
5 Whether the proposed variance will have an
6 adverse effect or impact on the physical or
7 environmental conditions in the neighborhood or
8 district?
9 (Roll Call Vote by Chairman Moore.)
10 MR. BENJAMIN: No.
11 MR. CORWIN: No.
12 MS. GORDON: No.
13 MS. NEFF: No.

14 CHAIRMAN MOORE: I would say no.

15 Whether the alleged difficulty was
16 self-created, which consideration shall be
17 relevant to the decision of the Board of Appeals,
18 but not necessarily preclude the granting of the
19 area variance? And, in this case, I think we
20 have to look at the present situation and the
21 current owners.

22 (Roll Call Vote by Chairman Moore.)

23 MR. BENJAMIN: If you put it that way, no.

24 MR. CORWIN: Yes.

25 MS. GORDON: No.

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1 MS. NEFF: Yes.

2 CHAIRMAN MOORE: And I would say no as
3 well.

4 And then, finally, I would make a motion
5 that we approve the requested variance to allow
6 the pool to continue to be 7.3 feet from the
7 property line, with the stipulation that a
8 screening fence be constructed along the property
9 line to properly screen the fence from the

10 south -- property to the south. So moved. Any
11 discussion?

12 MR. BENJAMIN: One more point, in that I'm
13 concerned about the porch on the north side. I
14 know that you go down the stairs and go through
15 the gate to get into the pool area, but the
16 railings on the side of that porch are such that
17 anybody can climb off that porch and into the
18 pool area. So it doesn't protect young people
19 from going into the pool area. So I just want to
20 consider -- I want that porch considered on that
21 west side.

22 MR. KAPELL: We'd be happy to stipulate
23 that, we'll tighten that up.

24 CHAIRMAN MOORE: And I think, you know,
25 that is probably the most --

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1 MR. BENJAMIN: I would say yes.

2 CHAIRMAN MOORE: We can make a note of that
3 in the Decision Document, but I think, you know,
4 most appropriately, it should be a Building
5 Department issue.

6 MR. BENJAMIN: Well, it's just on the
7 record.

8 CHAIRMAN MOORE: Yes. And with that
9 addition, to make note of that, I would make a
10 motion to approve the requested variance with
11 those stipulations. And may I have a second?

12 MR. BENJAMIN: Second.

13 CHAIRMAN MOORE: And any further
14 discussion?

15 (No response.)

16 CHAIRMAN MOORE: If not, I'll record the
17 votes.

18 (Roll Call Vote by Chairman Moore.)

19 MR. BENJAMIN: Yes.

20 MR. CORWIN: Yes.

21 MS. GORDON: Yes.

22 MS. NEFF: Yes.

23 CHAIRMAN MOORE: And I would answer yes.

24 So the second variance is approved for 7.3.

25 MR. KAPPELL: I promise never to come back

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1 on this one.

2 CHAIRMAN MOORE: As long as the pool
3 doesn't move again.

4 MR. KAPPELL: Thank you very much.

5 MR. ROBERTS: Thank you all.

6 MRS. ROBERTS: Thank you.

7 CHAIRMAN MOORE: Sure. Enjoy your new
8 house.

9 MRS. ROBERTS: Thank you very much.

10 CHAIRMAN MOORE: All right. One more
11 business item. Bear with me, I'll be right
12 there. Okay. We're on our regular agenda part
13 here.

14 Item #4. Could I have the attention of the
15 members, please, so we can get through?

16 MS. NEFF: Here-here.

17 CHAIRMAN MOORE: Eileen, could we finish
18 the agenda?

19 MS. WINGATE: Yeah, sure.

20 CHAIRMAN MOORE: Thank you. Item #4 is a
21 motion to accept an appeal for an area/use
22 variance, publicly notice and schedule a public
23 hearing for Lekina Harris, Post Office Box 1548,
24 Shelter Island, New York, for property located at
25 612 Third Street, formerly Perry Day Care Center,

1 Greenport, New York, Suffolk County Tax Map
2 1001-2-5-7.1. The applicant proposes to use the
3 property as a Child Care Center/Nursery School.

4 Section 150-7B(2) states Schools are
5 permitted conditional use is provided:

6 (b) Any such school shall be a nonprofit
7 organization within the meaning of the Internal
8 Revenue Act and shall be registered effectively
9 as such thereunder.

10 The proposed Child Care Center/Nursery
11 School facility will be run by a for-profit
12 organization.

13 (c) Any such school shall occupy a lot with
14 an area not less than one acre plus one acre for
15 each 100 pupils for which the building is
16 designed.

17 The existing facility is located on a
18 parcel which is .51 of an acre, 23,256 square
19 feet.

20 Additionally, Section 150-7B(2)(a) states
21 the conditions of section 150-7B(1)(a) and (b)
22 must be met regarding the minimum setback of 50

23 feet from any street or property line and a
24 limitation of 20% of lot coverage of principal
25 and accessory buildings.

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1 I should point out that the application is
2 properly signed and notarized, I believe.

3 This is a combination of a use variance,
4 because the use is being proposed under a
5 non-permitted manner, which is a for-profit
6 organization. And there are area variances
7 because of the size of the parcel, and the
8 setbacks and limitation. I don't know if the 20%
9 lot coverage is an issue or not. We don't have
10 that calculation.

11 MS. WINGATE: I have it calculated, but I
12 don't think so. Oh, it's -- Joe, when I go to
13 calculate it, because it's a church, it's
14 commercial, do I use -- do I use the Residential
15 Code to calculate --

16 MR. PROKOP: No.

17 MS. WINGATE: -- lot coverage? I use the
18 commercial?

19 MR. PROKOP: Yeah, it's not commercial,
20 it's either residential or nonresidential. So
21 you don't need the -- even though it's
22 technically commercial, you can't use the
23 Residential Code.

24 MS. WINGATE: So use the nonresidential
25 code --

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1 MR. PROKOP: Nonresidential.

2 MS. WINGATE: -- to calculate lot coverage?

3 MR. PROKOP: Right.

4 MS. WINGATE: Okay. Thank you.

5 CHAIRMAN MOORE: So, you know, I just
6 wanted to point out in this application that this
7 is a former daycare center, but was being
8 operated, you know, through an ecumenical
9 organization as a nonprofit organization. So, as
10 such, it did not have an issue in the past with a
11 variance.

12 So we'll just be looking at the
13 revitalization of this nursery school and look at
14 the use variance. I think it would be important

15 for the applicant --

16 MS. WINGATE: She left.

17 CHAIRMAN MOORE: She left?

18 MS. WINGATE: She had to go back to work.

19 CHAIRMAN MOORE: Had to go. You know, look
20 at the requirements of a use variance and have
21 proper documentation regarding the financial
22 aspects.

23 MS. WINGATE: It's very hard to do
24 financial aspects, because it was a
25 not-for-profit and they have no foundation to

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1 even do -- we talked about it.

2 CHAIRMAN MOORE: And one of the issues is
3 to, you know, demonstrate the inability to use it
4 for any code-appropriate use in the Residential
5 District. And, in this case, the building is not
6 a residence, to my knowledge, it's a --

7 MS. NEFF: No.

8 CHAIRMAN MOORE: It's a school.

9 MS. WINGATE: It's a school.

10 CHAIRMAN MOORE: So that I think we'll have

11 a -- be able to discuss this through. But just
12 be sure that the applicant looks at the code and
13 has as much documentation as possible. So --

14 MR. PROKOP: Well, the problem with the use
15 variance is that, you know, there is that
16 requirement. But there's also another
17 requirement, that you have to establish hardship.
18 And if you purchase the property, no -- if you
19 purchase the property and there was no change in
20 the code, if the use that you're seeking -- if
21 the use that you're seeking was prohibited when
22 you purchased the property, then you cannot later
23 claim a hardship by -- so that's an issue.

24 CHAIRMAN MOORE: Well, we'll have to look
25 at that in detail.

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1 MS. WINGATE: The church still owns the
2 property. So the church hasn't sold the
3 property, the church just --

4 MS. NEFF: It's a lease.

5 MS. WINGATE: It just -- no, the church
6 still owns the property.

7 CHAIRMAN MOORE: Is it being leased?

8 MS. NEFF: Okay.

9 MS. WINGATE: The church just cannot fund
10 the daycare center any longer. So the building
11 has been sitting vacant since almost a year now.

12 CHAIRMAN MOORE: So is the building being
13 purchased?

14 MS. WINGATE: No. They're just going to
15 rent it from the church.

16 MS. NEFF: It's a lease.

17 CHAIRMAN MOORE: So it will be a lease
18 arrangement.

19 MS. WINGATE: Oh, it's a lease, yes.

20 MS. NEFF: Yes.

21 MR. PROKOP: Well, if you're going to
22 involve me in one of the discussions you have
23 with Eileen before the meeting --

24 CHAIRMAN MOORE: Yeah.

25 MR. PROKOP: -- if you give me --

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1 CHAIRMAN MOORE: I think we need to work
2 through the --

3 MS. WINGATE: Tell me what to ask for.

4 CHAIRMAN MOORE: -- separation of whether
5 this is church activity, or private church
6 activity on church property, because, you know,
7 when it comes to a church activity, we have a lot
8 more restraints as to what we say, you know, yes
9 or no. And then we, of course, have to look at
10 the overall benefit to the community, as well as
11 to the applicant. That's -- use variance has
12 some stringent tests.

13 MR. BENJAMIN: I thought it was built by
14 the Village.

15 MS. WINGATE: It was built by the Village.
16 It was built with Community Development funds,
17 which is why it never went through Zoning in the
18 first place. The Village has decided this was
19 good for the community, and that, therefore, it is.

20 MR. BENJAMIN: Yes. So it's not really
21 changing the use.

22 MS. NEFF: Question. Is it on the same
23 property with the church?

24 MS. WINGATE: I believe the --

25 MS. NEFF: Because I find this --

1 MS. WINGATE: It was a separate parcel and
2 they merged.

3 MS. NEFF: See, this survey tells me
4 nothing --

5 MS. WINGATE: Right.

6 MS. NEFF: -- because I can't read any
7 numbers on it, I don't see the church.

8 MS. WINGATE: I believe that there were two
9 parcels and the parcels were merged in the
10 development of the daycare center.

11 MS. NEFF: Okay. And, really, this is
12 about the church, as owner of the property,
13 wishing to get a lease to another individual
14 approved, isn't it?

15 MS. WINGATE: Well, I thought it was
16 appropriate for the tenant to fill out the
17 application, because that's how we would do it if
18 it were a commercial property downtown, but the
19 church could very well be the applicant as well.

20 CHAIRMAN MOORE: Maybe what we can do is we
21 accept this for consideration with the
22 understanding that you're going to have some
23 discussions to find out exactly who the

24 applicants are and what is going on.

25 MS. WINGATE: Well, as far as I know, this

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1 is -- this Lekina is the applicant. She has
2 arranged for a lease. I've talked to Valerie
3 Marvin, who is the Attorney for the church, so
4 there's a lease in place.

5 MS. NEFF: So there is a lease in place?

6 MS. WINGATE: Well, not quite yet, until
7 she's through with this.

8 MR. PROKOP: Well, it should say that
9 somewhere.

10 MS. WINGATE: Okay.

11 MR. PROKOP: Unless I'm missing it.

12 MS. WINGATE: No, it does not anywhere.

13 But she did offer a business plan, you know, how
14 she'd like to move forward.

15 CHAIRMAN MOORE: And as a conditional use,
16 should get a variance, or need a variance.

17 MS. WINGATE: Right.

18 CHAIRMAN MOORE: It will certainly go to
19 the Planning Board for their consideration,

20 because the numbers of students and such things
21 that do require additional property.

22 MS. WINGATE: It did go through the
23 Planning, so -- it didn't go through Zoning.
24 From what I read, and the files are thick --

25 CHAIRMAN MOORE: Well, I'm talking about

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1 upcoming for the new plan.

2 MS. WINGATE: Upcoming?

3 CHAIRMAN MOORE: Yes.

4 MS. WINGATE: Okay.

5 CHAIRMAN MOORE: Would it be a Planning
6 Board issue?

7 MS. WINGATE: I don't know.

8 MR. PROKOP: Yeah.

9 MS. WINGATE: It went through Planning last
10 time.

11 CHAIRMAN MOORE: So, anyway, I would just
12 propose that if the application is currently in
13 order, we accept it for consideration.

14 MR. CORWIN: Question.

15 CHAIRMAN MOORE: Yes.

16 MR. CORWIN: You just read off of the
17 agenda Post Office -- Lekina Harris, Post Office
18 Box 1548 Shelter Island. The application is
19 Lekina Harris, Post Office Box 853, Greenport.

20 MS. WINGATE: There would -- she just
21 recently got a Greenport Post Office Box, and
22 there were two applications, because first she
23 filled out the wrong application. She was given
24 the wrong application. So you might -- this is
25 the use variance. Oh, Doug had the first

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1 application, which was an area variance that we
2 could work with the agenda. When she came back
3 in on Monday, she filled this one out.

4 MR. CORWIN: So what address are we using?

5 MS. WINGATE: We're going to use the
6 Greenport address.

7 CHAIRMAN MOORE: Okay. Let's make note
8 that the applicant's mailing address is Post
9 Office Box 853, Greenport, and not the Shelter
10 Island address, so we can get that straight. And
11 that application is properly signed and

12 notarized.

13 MS. WINGATE: It is.

14 CHAIRMAN MOORE: So it's been an update.

15 MS. WINGATE: So going forward, what does
16 the Board -- is there anymore information that I
17 need from her, other than telling her to read the
18 code and be prepared?

19 CHAIRMAN MOORE: Well, we --

20 MR. CORWIN: Well, this seems very strange
21 to me, that a young woman has a plan to do a
22 daycare center on her own. If it is, God bless
23 her, that's a wonderful thing, but someplace
24 somebody's got to be behind you with insurance
25 policies, and money, and salaries, and

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1 inspections of the Suffolk County Department of
2 Health Services. So is she prepared for all
3 this, or does she have a partner, or what?

4 MS. WINGATE: I haven't heard of any
5 partners, but she's been in my office any number
6 of times, and she's talking of banks, and she's
7 got 25 kids all lined up, and apparently she's

8 dove in that pool. You know, I can't pry too
9 much.

10 CHAIRMAN MOORE: Well, I think what we'll
11 do is we can accept the application based on the
12 variances that we, at this time, think are
13 necessary from your analysis of the application,
14 and in the interim, ask to see if there are any
15 wrinkles in the ownership, lease and operator
16 issue, and then we can judge the request for a
17 use variance accordingly.

18 MS. WINGATE: Okay.

19 CHAIRMAN MOORE: You know, the facility
20 exists, so the issues of setback and other parts
21 of the code that are the area variance parts I
22 think are the less challenging issue.

23 MS. WINGATE: Are they going to be part of
24 the legal notice and the placard?

25 CHAIRMAN MOORE: I would say yes.

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1 MS. WINGATE: Okay.

2 CHAIRMAN MOORE: Yes. So I'm --

3 MR. BENJAMIN: I have a question, why

4 there's a -- why there's an application in the
5 first place, because that's what it was built
6 for, and that's what it was intended for. And
7 the reason why it's not now is because
8 financially it fell apart, they couldn't afford
9 to pay people to work there.

10 MS. NEFF: Well, they lost the Federal
11 funding.

12 CHAIRMAN MOORE: Under --

13 MS. WINGATE: Sequestration.

14 MS. NEFF: Yeah.

15 CHAIRMAN MOORE: Under the conditions of
16 use, the conditional use, the section requires,
17 150-7B(2) requires that it be a nonprofit
18 organization. So a for-profit business
19 constitutes a different use and requires a
20 variance. So it's that one key section of the
21 code.

22 MR. BENJAMIN: Aha.

23 CHAIRMAN MOORE: Now we have some area
24 issues also, because we're talking about a
25 substandard lot, and with the change of business

1 plan, that may enter into it as well.

2 MR. BENJAMIN: So if she was a
3 not-for-profit organization, she wouldn't have
4 any problems?

5 CHAIRMAN MOORE: It would follow the
6 conditional use. And it would still be a
7 Planning Board issue, because conditional uses
8 must go to the Planning Board, but it wouldn't be
9 a variance issue.

10 MR. BENJAMIN: I see.

11 CHAIRMAN MOORE: As far as I can tell. So
12 it's a complicated issue, and, hopefully, we can
13 get a little light on it before the meeting next
14 month.

15 MS. NEFF: And there's certainly the
16 atmosphere of a need to provide daycare for --
17 she says 25, or whatever number.

18 MS. WINGATE: That's what it is.

19 MS. NEFF: And the timeliness of such a
20 venture. So try to get the ducks lined up so the
21 left hand knows what the right one is doing. And
22 to me, it would -- someone sign a lease without
23 knowing all this is in place, I think not. So I
24 think then it is really about the church being

25 able to lease this building for this use, whether

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1 not-or-profit, which it was, or for-profit.

2 That's how I see it. I don't know.

3 CHAIRMAN MOORE: So we have to analyze
4 whether that change of use will, you know, be an
5 allowable variance. You know, that's why we're
6 being asked the question.

7 So, with that, you know, I made the motion
8 to something pertinent. I'll be glad to -- a
9 brief comment.

10 MR. TASKER: No. I'd like to make a
11 comment relative to what you're discussing now,
12 if I might. It might be helpful.

13 CHAIRMAN MOORE: We're just accepting an
14 application at this point, we're not adjudicating
15 the process.

16 MR. TASKER: Well, it's a point -- no, I
17 understand that. It's a point of information
18 that could help the applicant in this situation,
19 and it could be passed on.

20 CHAIRMAN MOORE: Maybe you should direct

21 that to the applicant. Do you have a point to
22 make? We're just trying to get through the
23 accepting procedure, and with that, we'll have
24 full opportunity next month to discuss that.

25 MR. CORWIN: Well, let's --

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1 MS. NEFF: Yes.

2 MR. CORWIN: If you don't mind.

3 CHAIRMAN MOORE: Yeah.

4 MR. CORWIN: Mr. Tasker may have some --

5 CHAIRMAN MOORE: Okay.

6 MR. CORWIN: Because who knows what's going
7 to happen next month. Why hold him up for
8 another month if we don't have to.

9 CHAIRMAN MOORE: All right. Well, we can't
10 take testimony regarding the application, because
11 we haven't gone through the process of noticing,
12 so --

13 MR. TASKER: This isn't testimony.

14 CHAIRMAN MOORE: Okay. Let's see what it
15 is, then. Go ahead and speak.

16 MR. TASKER: Perhaps the applicant is

17 unaware of the fact that -- my name is Robert
18 Tasker, I live at 17 Beach Street. Perhaps the
19 applicant is unaware of the fact that in July of
20 2014, the New York State Not-For-Profit Business
21 Law was extensively changed and permits easy
22 formation of a not-for-profit corporation in New
23 York State. If that information is available to
24 the applicant, it might assist in this whole
25 process. Thank you.

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1 CHAIRMAN MOORE: Well, it would likely
2 nullify the process. So we'll take that comment.
3 And just the same, we have an application before
4 us currently, and we will either accept it or not
5 accept it. So I move that we accept the
6 application, and I'm asking for a second.

7 MS. NEFF: Second.

8 CHAIRMAN MOORE: And any discussion
9 further?

10 (No response.)

11 CHAIRMAN MOORE: If not, all in favor?

12 MR. BENJAMIN: Aye.

13 MR. CORWIN: Aye.
14 MS. GORDON: Aye.
15 MS. NEFF: Aye.
16 CHAIRMAN MOORE: Aye.
17 And any opposed?
18 (No response.)
19 CHAIRMAN MOORE: So that application is
20 accepted, and we will continue next month again.
21 Next item of business is to accept the ZBA
22 minutes for July 16, 2014. So moved. A second,
23 please.
24 MS. NEFF: Second.
25 CHAIRMAN MOORE: All in favor?

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1 MR. BENJAMIN: Aye.
2 MR. CORWIN: Aye.
3 MS. GORDON: Aye.
4 MS. NEFF: Aye.
5 CHAIRMAN MOORE: Aye.
6 A motion to approve the ZBA minutes for
7 June 18, 2014. So moved. A second, please.
8 MR. CORWIN: Second.

9 CHAIRMAN MOORE: Mr. Corwin seconded. And
10 all in favor?
11 MR. BENJAMIN: Aye.
12 MR. CORWIN: Aye.
13 MS. GORDON: Aye.
14 MS. NEFF: Aye.
15 CHAIRMAN MOORE: Aye.
16 And then the motion is to schedule the next
17 regular ZBA meeting for September 17th, 2014.
18 MR. CORWIN: Second.
19 CHAIRMAN MOORE: I make that motion and ask
20 for a second. And all in favor?
21 MR. BENJAMIN: Aye.
22 MR. CORWIN: Aye.
23 MS. GORDON: Aye.
24 MS. NEFF: Aye.
25 CHAIRMAN MOORE: If everybody's available.

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1 Aye. So that's scheduled. And --
2 MS. NEFF: Motion to adjourn.
3 CHAIRMAN MOORE: And before I do that --
4 MS. NEFF: Oh, excuse me.

5 CHAIRMAN MOORE: Before I do that, I just
6 want to be sure that we accepted this application
7 for the day school. And we will need to make the
8 proper notifications, should that go forward, but
9 I would ask for some feedback along the way. If
10 anything changes, that we may need to, you know,
11 make a change in the agenda for next month.

12 MS. WINGATE: Okay.

13 MR. PROKOP: What's the process, because
14 usually -- I'm not sure what you're saying,
15 because normally when you get the paperwork --
16 what feedback are you looking for from us?

17 CHAIRMAN MOORE: Well, if there's some
18 change in the application, such as if somebody
19 else is applying for it --

20 MR. PROKOP: Okay.

21 CHAIRMAN MOORE: -- or should be withdrawn
22 for reconsideration, whatever. Otherwise, we'll
23 move forward with it with what we have and what
24 the applicant can provide. So that's all I'm
25 saying.

1 So I would now make a motion to adjourn and
2 ask for a second.

3 MR. PROKOP: Can I just make one --

4 CHAIRMAN MOORE: Yes.

5 MR. PROKOP: Tonight we approved an
6 application where there was other nonconformities
7 on the property. I'd recommend to the Board that
8 you don't do that -- you don't do that. But if
9 you're going to do that for some reason, you
10 specify that the variance is particular to the
11 structure that it applies to.

12 CHAIRMAN MOORE: Are you referring to that
13 we are suspicious that another structure is
14 nonconforming?

15 MR. PROKOP: No, we're not suspicious. If
16 it's indicated on the survey --

17 MS. WINGATE: The sheds, I was going to ask
18 you how to handle that.

19 MR. PROKOP: If other -- excuse me, I'm
20 sorry. If other nonconformities are shown on the
21 property that a variance has not been applied
22 for, the application should really stop and we
23 don't move ahead.

24 CHAIRMAN MOORE: Okay. We would have to
25 investigate the history of whether that's

1 pre-existing or not, though --

2 MR. PROKOP: Yeah.

3 CHAIRMAN MOORE: -- at this point. But we
4 don't know that at this point.

5 MR. PROKOP: It shouldn't be done. I mean,
6 that application --

7 MR. CORWIN: It's not on the Assessor's
8 card, so how can it be there?

9 CHAIRMAN MOORE: Apparently, it doesn't
10 exist on this Assessor's card, so it --

11 MR. PROKOP: Okay.

12 CHAIRMAN MOORE: I understand what you're
13 saying, but I think --

14 MR. PROKOP: I'm not talking about a
15 specific application.

16 CHAIRMAN MOORE: Yeah.

17 MR. PROKOP: I mentioned it when you were
18 considering it and we went ahead. In the future,
19 you shouldn't. But if for some reason you
20 decided --

21 CHAIRMAN MOORE: If there's a

22 nonconformance that is not preexisting. So, in
23 other words, some other aspect of the property
24 that appears to require a variance.

25 MR. PROKOP: Yeah. Most places, that will

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1 just stop the application. You have to get
2 everything straightened out at the same time,
3 that's all I'm saying.

4 CHAIRMAN MOORE: Oh, I understand. Okay.
5 That's a good point.

6 So I made the motion to adjourn and ask for
7 a second. I don't know if anyone did. Second,
8 please.

9 MS. NEFF: Second.

10 MR. BENJAMIN: Second.

11 CHAIRMAN MOORE: And all in favor?

12 MR. BENJAMIN: Aye.

13 MR. CORWIN: Aye.

14 MS. GORDON: Aye.

15 MS. NEFF: Aye.

16 CHAIRMAN MOORE: Aye. Thank you.

17 (Whereupon, the meeting was adjourned at

18 6:59 p.m.)

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

2

3 STATE OF NEW YORK)

4) SS:

5 COUNTY OF SUFFOLK)

6

7 I, LUCIA BRAATEN, a Court Reporter and

8 Notary Public for and within the State of New

9 York, do hereby certify:

10 THAT, the above and foregoing contains a
11 true and correct transcription of the proceedings
12 taken on August 20, 2014.

13 I further certify that I am not

14 related to any of the parties to this action by
15 blood or marriage, and that I am in no way
16 interested in the outcome of this matter.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand this 29th day of August, 2014.

19

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Lucia Braaten

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