

1 VILLAGE OF GREENPORT
2 ZONING BOARD OF APPEALS
3
4 REGULAR MEETING
5 October 15, 2014
6 5:00 p.m.

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8

9 Meeting held at the Greenport Firehouse
10 236 Third Street, Greenport, New York 11944

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- 12 APPEARANCES:
- 13 Douglas Moore – Chairman
- 14 Charles Benjamin
- 15 David Corwin
- 16 Diana Gordon
- 17 Ellen Neff
- 18
- 19 Joseph Prokop – Village Attorney
- 20 Eileen Wingate – Village Building Inspector

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1 (Whereupon, the meeting was called to order
2 at 5:03 p.m.)

3 CHAIRMAN MOORE: This is the regular
4 meeting of the Greenport Village Zoning Board of
5 Appeals, and it's just after 5 p.m.

6 We have one Public Hearing tonight, and
7 then our regular meeting agenda. And we'll start
8 first with our Public Hearing, and it is a Public
9 Hearing for an appeal for an area variance for
10 Debra Riva, 433 Sixth Street, Greenport, New
11 York; Suffolk County Tax Map 1001-6-3-4. The
12 property is located in the R-2 District. The
13 applicant proposes to construct a new mudroom
14 addition and a deck. The proposed addition is 36
15 square feet, and the proposed deck is 192 square
16 feet.

17 Section 150-12A of the Village Code of

18 Greenport requires a 25-foot combined side yard
19 setback in the R-2 District.

20 The proposed aggregate side yard setback is
21 21.39 feet, requiring 3.61-foot combined side
22 yard variance for the new extension and proposed
23 deck.

24 Section 150-12A of the Village of Greenport
25 Code requires a 30-foot front yard setback in the

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1 R-2 District. The proposed deck is located in
2 the front yard and is set back 27.23 feet,
3 requiring a 2.77-foot front yard variance.

4 I should just mention that this was
5 properly noticed in the newspaper, and the
6 following neighbors were notified by mail, and I
7 believe the receipts for the mailings are in the
8 file here:

9 Jennifer Kennedy and James Kennedy, 293
10 Fourth Avenue, Saint James, New York; Enrique
11 Alvarez, 429 Sixth Street; Catharine Golisz and
12 Caouette -- Ralph, Caouette, 1300 Stars Road,
13 East Marion. Again Enrique Alvarez, 414 6th

14 Street, and Brett Stephenson and Karen
15 Stephenson, 428 Sixth Street, Greenport, New
16 York. I believe the placard has been placed on
17 the property, as required by the code.

18 And there is one letter, which I'll read
19 for the record, from a neighbor. It's regarding
20 the building variance, and it's from the -- I
21 believe the name is Caudette -- Caouette, and
22 it's, "Debra Riva of 433 Sixth Street has our
23 permission and blessings to build or add onto her
24 side entrance, north, facing our property, 447
25 Sixth Street, and within the 15-foot set

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1 variance. We have seen and heard about her
2 intentions within this rather modest addition,
3 and we have no issues, nor problems, with this
4 project." And it's signed Ralph Caouette and
5 Maureen Caouette.

6 We could take any comment from the
7 applicant, if you'd like to give a brief
8 description of what you're proposing to do. And
9 if you'd want to approach the podium and just

10 give us your name and address, and then say
11 whatever you'd like.

12 MS. RIVA: You want me to look that way.

13 CHAIRMAN MOORE: Yes, if you would, if you
14 could --

15 MS. RIVA: Oh, sure. My name is Debra Riva
16 and --

17 CHAIRMAN MOORE: Would you mind just
18 speaking at the podium? I don't know if the
19 mic's on or not.

20 MS. RIVA: At the -- at the podium? No,
21 not at all.

22 CHAIRMAN MOORE: But if you would, just so
23 everybody can hear you.

24 MS. RIVA: My name is Debra Riva. I live
25 at 433 Sixth Street in Greenport. And what I'm

5

1 asking for is a variance so that I can build a
2 mudroom and a deck that goes around the front of
3 my house.

4 This was my first winter in the house, and
5 I had just renovated the home, purchased it in

6 September and started renovating in October,
7 moved in December. And it was quite the winter
8 to be here for the first time in the house. And
9 because you walk right into my kitchen, and it's
10 a brand new kitchen, I would like to not have to
11 do that, number one.

12 Number two, between the snow, and the rain,
13 and the boots, and the coats, and I have a cat
14 that I have to make sure doesn't run out, I
15 thought that a mudroom would really make a
16 difference for me. And as I grow older, I would
17 like to be able to have that opportunity, so that
18 I don't have to worry about my packages, and the
19 cat, and so on and so forth. And continued the
20 deck around the front of the house, because I
21 just thought it would enhance the property.

22 CHAIRMAN MOORE: Okay.

23 MR. CORWIN: Question. On your plot plan,
24 you show the mudroom and a door for the mudroom.
25 You show, I guess, the existing set of steps in

1 the front of the house. Are you going to have

2 any kind of access or steps on the side of the
3 deck or the side of the house? Because now
4 you're going to have to go to the -- from your
5 car to the front stoop, and then around to the
6 mudroom.

7 MS. RIVA: What -- and I'm sorry that it's
8 not on there, because I thought that it was, but
9 where the "L" is, coming from the mudroom and
10 then going out to the front of the house, there
11 will be steps there, not going out into the
12 driveway, but in the front. And it will not be
13 beyond the line, it will be inside the line.

14 MR. CORWIN: Would it be possible to just
15 sketch it on this so I can understand?

16 MS. RIVA: Okay. So I'm talking about
17 right here. It would either be going this way --
18 you want me to write on it?

19 MR. CORWIN: Yes.

20 MS. RIVA: Either go straight on -- those
21 are my steps. Well, maybe on a slant, but right
22 now, it looks like it makes sense going that way.
23 And again, it's not beyond the six foot out
24 there, okay? Does that make sense?

25 MR. CORWIN: Well, as you show it, yes. So

1 everybody can see.

2 CHAIRMAN MOORE: Oh, I see it's forward
3 facing, yeah. She's indicated that there might
4 be some steps here.

5 MS. NEFF: Okay.

6 CHAIRMAN MOORE: And that have would still
7 allow access on the deck around the corner.

8 MS. RIVA: Either way, yeah.

9 CHAIRMAN MOORE: Either way. The steps
10 wouldn't be a hazard to walking in that area of
11 the deck, I guess.

12 MR. CORWIN: Now, I don't think that's
13 practical. I'm sorry to bring up these technical
14 things, but if you put it on the corner, as you
15 propose, you've got to have a handrail there. So
16 that's going to kind of impede your access when
17 somebody uses the front steps and goes all the
18 way around. I'm not sure it's going to fit
19 together well.

20 It's not a big deal what you're asking for,
21 and I don't want to hold you up, but I'm not sure
22 what we have in front of us is exactly what

23 you're going to do, and it probably should be.

24 CHAIRMAN MOORE: Yeah. What I'm seeing
25 from that is that if it was -- interfered with

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1 traffic on the deck, it might require the steps
2 to extend forward a bit past the deck, which
3 would just extend the variance that you would
4 need. You'd need a bit more just for those
5 stairs. But it might make a more practical use
6 of the deck and a little bit safer.

7 MS. RIVA: Or if I put the steps on a
8 diagonal within that -- within the line.

9 MR. CORWIN: But the point is you have to
10 have a guardrail, a handrail --

11 MS. RIVA: I understand.

12 MR. CORWIN: -- inside the deck now if you
13 put steps inside the deck.

14 CHAIRMAN MOORE: Well, okay. We can
15 discuss that a bit more after the public hearing
16 part has been completed. There'll be ample time
17 for us to have back and forth with you about some
18 of the details of the plan. Does that seem

19 appropriate --

20 MR. CORWIN: Yes.

21 CHAIRMAN MOORE: -- to ask for public
22 comment? Okay. Well, thank you. And we'll,
23 obviously, have a few more questions as we
24 discuss it.

25 Any members of the public wish to make any

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1 comments on this proposal?

2 (No response.)

3 CHAIRMAN MOORE: If not, then I would
4 entertain a motion from the Board to close the
5 public hearing.

6 MS. NEFF: So moved.

7 MR. CORWIN: So moved. Second.

8 CHAIRMAN MOORE: And Mr. Corwin seconded.
9 And all in favor?

10 MR. BENJAMIN: Aye.

11 MR. CORWIN: Aye.

12 MS. GORDON: Aye.

13 MS. NEFF: Aye.

14 CHAIRMAN MOORE: Aye.

15 So the public hearing is closed. And we
16 can discuss it a bit further now that we're in
17 the regular agenda, discussing the request for
18 the variance by Debra Riva.

19 That's -- one of the questions that comes
20 up is that if the steps were embedded into the
21 deck, it might make access across the deck from
22 the front to the back a little more difficult.
23 So it hasn't been applied for, but perhaps if the
24 steps were forward a bit more, perhaps partly in
25 the deck, and extending out a few steps might

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1 make that easier. It would only change the
2 variance by a couple of feet. And I'm sure we
3 could work that out, if it was agreeable to the
4 Board.

5 As Mr. Corwin said, this is a very small
6 variance request being asked for, and the
7 neighbor who's most affected wrote a letter which
8 indicates they have no problem with the changes
9 that you propose.

10 Any questions from the Board? Would the

11 Board prefer to have this a little more specific?

12 MR. CORWIN: I would prefer to see a
13 specific drawing, because who knows how this is
14 going to end up. And I don't think we should be
15 designing it, so.

16 MS. NEFF: Right.

17 CHAIRMAN MOORE: Would you be willing to
18 consider the placement of the steps, because it
19 seems mechanically somewhat of a problem on the
20 deck, and have that drawn up and return next
21 month? I imagine, you know, winter is a bit off.

22 MS. RIVA: Well, I really want this done
23 before the end of the -- before the bad weather.

24 CHAIRMAN MOORE: Well, we would be in a
25 position to make a decision next month, so you'd

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1 be on your way.

2 MS. RIVA: Well, then I lose a whole month.

3 CHAIRMAN MOORE: You do, yes. But it's
4 just -- it's a problem with the deck, and as
5 Mr. Corwin says, we're really not here to design
6 a solution for the deck.

7 MS. RIVA: I understand that.

8 CHAIRMAN MOORE: And if we --

9 MS. NEFF: May I just ask, has the person
10 who's going to build it for you already done a
11 design? Have you seen such a design?

12 MS. RIVA: The person who's going to build
13 it for me?

14 MS. NEFF: Yes.

15 MS. RIVA: No.

16 MS. NEFF: No, okay.

17 CHAIRMAN MOORE: This is kind of -- it's
18 more of a conceptual drawing, the details of
19 where everything is falling.

20 MS. RIVA: Well, if I had known that I
21 needed something beyond this, I would have done
22 it, you know.

23 CHAIRMAN MOORE: Yeah. Okay. So what I'd
24 do is make a motion. I guess this would be
25 tabling the --

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1 MR. PROKOP: Yes.

2 CHAIRMAN MOORE: -- discussion?

3 MR. CORWIN: Well, before we go on --

4 CHAIRMAN MOORE: Yes.

5 MR. CORWIN: -- I note the site plan, the
6 plot plan does not show the driveway, and I think
7 that it should show the driveway, too.

8 And then I would like to ask about the
9 survey, the Building Inspector. Is this just a
10 copy of part of the survey, or is there a whole
11 survey, a whole stamped, sealed survey?

12 MS. WINGATE: Is that VanTuyle's?

13 MS. NEFF: Yes.

14 MR. CORWIN: Yes.

15 MS. WINGATE: There's an old one, there's
16 old surveys.

17 MR. CORWIN: In your file you have the
18 whole stamped set?

19 MS. WINGATE: No, in the Building
20 Department file that's not here with me now.

21 MR. CORWIN: But in the Village in the
22 file?

23 MS. WINGATE: Yeah, I believe there is.

24 MR. CORWIN: You believe or there is?

25 MS. WINGATE: I believe there is. I can't

1 be sure, David.

2 MR. CORWIN: Okay. Well, let's put that as
3 a stipulation, too.

4 MS. WINGATE: Okay.

5 MR. CORWIN: That we want to make sure
6 there's a -- this is an old survey. We'll accept
7 it, or at least I'll accept it, but I think we
8 need to know that it's a detailed survey, not
9 just a copy of something.

10 MS. NEFF: Or, if such a survey does not
11 exist, just a sketch that shows the dimensions of
12 the driveway.

13 MS. RIVA: What is the --

14 MR. CORWIN: Yeah, but it's got to have a
15 survey. That's a requirement, a survey, to make
16 the application, if I'm not mistaken. But the
17 plot plan should show the driveway, too, I think.

18 MS. RIVA: What does the driveway have to
19 do -- I know the side driveway we're talking
20 about, but what does the whole driveway have to
21 do with this? There are homes in Greenport that
22 don't even have driveways.

23 CHAIRMAN MOORE: Yes.

24 MS. RIVA: And that's not public property,
25 you know, that's not open to the public.

14

1 CHAIRMAN MOORE: No, no. But the idea is
2 that we're looking at the access of the driveway
3 that does exist, and right now, the position of
4 the stairs that you would probably be placing
5 somewhere in that area, for instance, if they
6 extended out to the side because you decided,
7 after looking at it, that was more practical to
8 it, it might affect the consideration of the
9 variance, because it might interfere with the use
10 of the driveway.

11 MS. RIVA: That was -- that's not my
12 intention.

13 CHAIRMAN MOORE: No, I know, but it's not
14 -- there's nothing on a drawing that doesn't have
15 sufficient detail where we could determine that.
16 I mean, we're not involved in Building Code
17 examination of the plans, that's the job of the
18 Building Inspector. But we don't really have a
19 good drawing to show exactly where the components

20 are going to be. So it's a little hard to make a
21 decision whether that's, you know, a reasonable
22 variance that we'd be granting.

23 As we've indicated, it's really a minor
24 allowance from what the code requires, so we
25 don't see a big problem with that, we'd just like

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1 to see the specific details. So if you could get
2 that together by next month, we'd be able to make
3 a decision on it, I believe.

4 MS. RIVA: But there's nothing that could
5 be done for you to look at it sooner?

6 CHAIRMAN MOORE: Well, we'll be looking --
7 as soon as you have it, we'll have the
8 opportunity to look at it and be prepared to
9 discuss it with you at the meeting. That would
10 certainly save time. So as soon as you can have
11 it, bring it to the Building Inspector --

12 MS. RIVA: Yeah. No, I would have it -- I
13 would get it as quickly as I can.

14 CHAIRMAN MOORE: It will be distributed to
15 the members.

16 MS. RIVA: And so I would have to still
17 wait for them?

18 CHAIRMAN MOORE: Yes, yeah. The only
19 decisions occur during our regular monthly
20 meeting. So I apologize for that, but we would
21 like to have that information. Any other
22 questions?

23 MS. RIVA: No.

24 CHAIRMAN MOORE: Okay.

25 MR. CORWIN: Just this -- the Building

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1 Inspector should really go over these things a
2 little more carefully, I think. But there's no
3 scale on this drawing, which you can scale and
4 figure out what it is, but there should be a
5 scale. And it's a difficult drawing to follow,
6 because it is such a small scale. So, if you
7 could make it a little bigger, I think it would
8 be helpful.

9 MS. RIVA: There is a larger scale. I
10 don't know why.

11 MS. WINGATE: It was issued --

12 MS. RIVA: This is what you should be
13 looking at.
14 CHAIRMAN MOORE: Yes, we've seen it.
15 MS. RIVA: I don't know what you're looking
at.
16 MR. CORWIN: I'm looking at what I got.
17 MS. RIVA: It doesn't matter what you got,
18 I'm just --
19 CHAIRMAN MOORE: Yeah, right.
20 MR. CORWIN: You got to tell the Building
21 Inspector to give everybody the sheets.
22 MS. RIVA: She has the same thing.
23 MS. GORDON: I have this.
24 MR. CORWIN: I don't.
25 MS. WINGATE: Everybody has the same

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1 paperwork.
2 MR. CORWIN: No, they don't.
3 CHAIRMAN MOORE: Not on this one. It has
4 two drawings instead of three, so it's not a
5 complete package here. But that -- is this done
6 by the builder or --
7 MS. RIVA: By the -- no, the architect.

8 CHAIRMAN MOORE: I'm sorry?
9 MS. RIVA: By my architect.
10 CHAIRMAN MOORE: Oh, by the architect.
11 MS. RIVA: Right.
12 CHAIRMAN MOORE: And it would be helpful to
13 show the whole property, if possible, on the
14 drawings, because you don't see the perspective
15 with the rest of the property. That would be
16 helpful.
17 MS. RIVA: I was told that this was all
18 that you needed, so --
19 CHAIRMAN MOORE: Okay.
20 MS. GORDON: You got this page?
21 CHAIRMAN MOORE: No, he apparently didn't
22 get that one.
23 MR. CORWIN: And if I did, I didn't -- not
24 satisfied with it, because it should be the whole
25 thing.

18

1 CHAIRMAN MOORE: Yeah, like the whole plot
2 plan would be helpful.
3 MS. RIVA: Okay.

4 CHAIRMAN MOORE: Well, if you understand
5 what's required, then I would make a motion to
6 table this until the meeting next month, where we
7 could take it up and likely resolve the appeal.
8 Would I have a second on that, please?

9 MR. CORWIN: 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 MS. RIVA: Thank you.

17 CHAIRMAN MOORE: So we will discuss it next
18 month. Thank you.

19 Now the next item on the regular agenda,
20 and the rest of the agenda is mostly
21 administrative, is to make a motion to accept an
22 appeal for an area variance, publicly notice and
23 then schedule a public hearing for Ralph and
24 Sarah Edwards, 163 Fifth Street, Greenport, New
25 York; Suffolk County Tax Map 1001-7-4-14. The

1 applicants seek a building permit to construct an
2 in-ground swimming pool.

3 Section 150-7-(3a) of the Village of
4 Greenport Code requires the edge of the pool
5 shall be kept a distance of not less than 20 feet
6 from all property lines.

7 The proposed swimming pool setback is 10
8 feet on the north property line, requiring an
9 area variance of 10 feet.

10 And I will read, since the -- each of the
11 sections is the same section, which is a 20-foot
12 setback. The proposed swimming pool setback is
13 12 feet on the west property line, requiring an
14 area variance of eight feet, and the proposed
15 swimming pool setback is 14 feet on the south
16 property line, requiring an area variance of six
17 feet.

18 I make that motion to accept the
19 application. It seems to be in order. It has
20 all the drawings and paperwork, as far as I can
21 see, that's required. So I make that motion and
22 ask for a second.

23 MR. CORWIN: Second.

24 CHAIRMAN MOORE: And all in favor?

25 MR. BENJAMIN: Aye.

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1 MR. CORWIN: Aye.

2 MS. GORDON: Aye.

3 MS. NEFF: Aye.

4 CHAIRMAN MOORE: Aye.

5 Charlie, did you --

6 MR. BENJAMIN: I said "aye."

7 CHAIRMAN MOORE: I'm sorry, I didn't hear
8 you.

9 MS. NEFF: Yeah.

10 CHAIRMAN MOORE: So that motion carries.

11 Can I have a motion to accept --

12 MS. GORDON: May I --

13 CHAIRMAN MOORE: Yes.

14 MS. GORDON: -- ask a question? This is
15 just part of my getting educated about this. Do
16 we assume, since the description includes the
17 size of the pool that they wish, that this is a
18 part, necessarily an essential part, of the
19 request?

20 CHAIRMAN MOORE: The size of the pool?

21 MS. GORDON: The size of the pool.

22 CHAIRMAN MOORE: The code doesn't state
23 anything about pool size, but just how far from
24 the property line it would be.

25 MS. GORDON: Right. But if you had a

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1 smaller pool, it would be less far from the
2 property line.

3 CHAIRMAN MOORE: That's correct. And we
4 can discuss that with the applicant as one of the
5 alternatives, because, obviously, the minimum
6 variance granted is more desirable than a large
7 variance. So that's always a goal.

8 MS. GORDON: But we're to assume that
9 they're -- they are applying solely for a pool on
10 of this size?

11 CHAIRMAN MOORE: That's what they're asking
12 for, yes.

13 MS. GORDON: Okay.

14 CHAIRMAN MOORE: So I made the motion, and
15 did I have a second?

16 MS. NEFF: I believe so.

17 CHAIRMAN MOORE: Yes, okay.
18 MR. CORWIN: I think we voted on that.
19 CHAIRMAN: Oh, we voted.
20 MS. NEFF: Yeah.
21 MS. GORDON: Yeah.
22 CHAIRMAN MOORE: Okay. I'm sorry. I
23 thought we were in the midst of voting.
24 Okay. So item #3, motion to accept the
25 request by the Planning Board for an

22

1 interpretation --
2 MR. CORWIN: Wait a minute, I'm confused.
3 CHAIRMAN MOORE: We're at Item --
4 MR. CORWIN: Oh, okay.
5 CHAIRMAN MOORE: Did I misnumber?
6 MR. CORWIN: Yes, you're correct.
7 CHAIRMAN MOORE: No. Item 3 on Page 2.
8 Motion to accept the request by the
9 Planning Board for an interpretation of the
10 Village of Greenport Code, publicly notice and
11 schedule a public hearing for November 19th,
12 2014. At their October 2nd, 2014 meeting, the

13 Planning Board questioned the meaning of Section
14 150-9A(18) regarding a mixed use proposal for a
15 structure at 211 Carpenter Street. The applicant
16 proposes to have commercial use on the first
17 floor, and a residential unit on the second
18 floor. The structure is located in the
19 Commercial Retail District.

20 I would make that motion, and ask for a
21 second.

22 MR. CORWIN: Second.

23 CHAIRMAN MOORE: Any discussion on the
24 matter?

25 MR. CORWIN: I would just note that the

23

1 applicant sent a letter probably prematurely,
2 because it's prior to the public hearing.

3 CHAIRMAN MOORE: That's correct.

4 MR. CORWIN: But I notice some people in
5 the audience that are interested, so they may be
6 interested in going to Village Hall and reading
7 the letter.

8 CHAIRMAN MOORE: Right. That would be

9 available prior to the hearing. And we would
10 schedule a hearing next month. And I would -- I
11 see a few members of the Planning Board are here.
12 I would ask that either the Chairperson or a
13 representative come to the meeting and indicate
14 the specific issues you have regarding the code,
15 so we can better understand what the question
16 was, and then we can proceed with the
17 interpretation. And with that in mind, I made
18 the motion. Where are we in that?

19 MS. NEFF: Could I ask one question?

20 CHAIRMAN MOORE: Yes.

21 MS. NEFF: Are we going to have more
22 information when we actually take this up at our
23 next meet meeting, like the plot? You know, I
24 understand it's by interpretation of the code,
25 but it seems to me that if you actually see what

24

1 you're talking about and the surround -- you can
2 look at the surrounding area, that it's helpful.

3 CHAIRMAN MOORE: Well, we can go through
4 and take a look if you'd like. The question is

5 more general, but it's --

6 MS. NEFF: Yes.

7 CHAIRMAN MOORE: -- precipitated by a
8 specific project request before the Planning
9 Board. So we can certainly go take a look at the
10 property as it exists, and I think that would be
11 a good thing to do.

12 MR. PROKOP: Well, we have the Planning
13 Board application and that has a lot of
14 information. Maybe we can get copies of the
15 Planning Board application.

16 CHAIRMAN MOORE: Yes, that would be good
17 also. And, presumably, one of the members will
18 be here as well for the meeting. Okay.

19 MR. PROKOP: Well, it is a general
20 question, not specific to a property.

21 CHAIRMAN MOORE: Yes, yeah. And our
22 deliberation doesn't represent an approval of
23 that project, it simply gives information back to
24 the Planning Board so they can proceed with their
25 process.

1 So I think we have a second. So if there's
2 no further discussion, all in favor?

3 MR. BENJAMIN: Aye.

4 MR. CORWIN: Aye.

5 MS. GORDON: Aye.

6 MS. NEFF: Aye.

7 CHAIRMAN MOORE: Aye.

8 And that motion carries.

9 Number 4, motion to accept the ZBA minutes
10 for September 17th, 2014. So moved. May I have
11 a second?

12 MS. NEFF: Second.

13 MR. JAUQUET: Wait. As a Planning Board,
14 we were just going to ask you the questions that
15 we had right now, instead of waiting.

16 CHAIRMAN MOORE: We can't take any public
17 discussion of it until it's properly noticed
18 and --

19 MR. JAUQUET: Is the Planning Board the
20 public?

21 CHAIRMAN MOORE: I'm sorry?

22 MR. JAUQUET: Are we the public as the
23 Planning Board?

24 CHAIRMAN MOORE: No, but you certainly have
25 a specific interest in it, and you would speak

1 first regarding the issue, and then we would take
2 any comments from the public regarding that
3 section of the code.

4 MR. JAUQUET: So tonight's meeting isn't
5 the time to do it?

6 CHAIRMAN MOORE: Tonight's meeting is
7 simply to accept your request, and it will be on
8 the agenda in November.

9 MR. JAUQUET: All right. So we've got to
10 wait a month, too.

11 MS. NEFF: Yes.

12 CHAIRMAN MOORE: So we have a second on
13 accepting the minutes. And all in favor?

14 MR. BENJAMIN: Aye.

15 MR. CORWIN: Aye.

16 MS. GORDON: Aye.

17 MS. NEFF: Aye.

18 CHAIRMAN MOORE: Aye.

19 The motion carries.

20 And a motion to approve the ZBA minutes
21 from August 20th, 2014. So moved. May I have a

22 second?
23 MR. CORWIN: Second.
24 CHAIRMAN MOORE: And all in favor?
25 MR. BENJAMIN: Aye.

27

1 MR. CORWIN: Aye.
2 MS. GORDON: Aye.
3 MS. NEFF: Aye.
4 CHAIRMAN MOORE: Aye.
5 MS. WINGATE: Before you adjourn the
6 meeting --
7 CHAIRMAN MOORE: Yes, ma'am.
8 MS. WINGATE: -- Ed would like to ask you a
9 question.
10 CHAIRMAN MOORE: Yes. Mr. Werthner, right?
11 MR. WERTHNER: Yes. Hi. How are you
12 doing? I'm sorry, by the way.
13 MR. CORWIN: Could you give your name,
14 please?
15 CHAIRMAN MOORE: Just identify yourself.
16 MR. WERTHNER: My name is Edward Werthner,
17 and right now, I'm residing in New Suffolk, okay,

18 in a house. And I have plans, if I could, to
19 build a house on Bridge Street on the vacant lot,
20 and it needs a ZBA variance. And I don't know.

21 I have a contract, I went into contract
22 with the people, and the contract was upon
23 stipulation that I can build a house, because I'm
24 not going to buy the property and put a tent on
25 it, basically. And this is -- if you want, this

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1 is a note from the owners.

2 MR. CORWIN: But you gave us some paperwork
3 already, right?

4 MR. WERTHNER: Already, yeah. Yes, I did.
5 Then I --

6 MR. CORWIN: And it wasn't on your agenda
7 for some reason.

8 CHAIRMAN MOORE: No, it's not because
9 the -- at last month's meeting --

10 MR. WERTHNER: Right.

11 CHAIRMAN MOORE: -- we needed to table
12 that, because at that time you had no standing in
13 the issue, because at that time --

14 MR. WERTHNER: I had no contract, that's
15 correct.
16 CHAIRMAN MOORE: -- you did not purchase.
17 MR. WERTHNER: Yeah.
18 CHAIRMAN MOORE: So we will need to confirm
19 with the Attorney that the appropriate documents
20 are available.
21 MR. WERTHNER: Okay.
22 CHAIRMAN MOORE: And that will be presented
23 to us, and we will accept it next month for
24 consideration.
25 MR. WERTHNER: Okay.

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1 CHAIRMAN MOORE: So the package should come
2 to us to be included in the agenda for next
3 month.
4 MR. WERTHNER: I see.
5 CHAIRMAN MOORE: If it had been available
6 last week, when we were putting the agenda
7 together --
8 MR. WERTHNER: I was not in the contract.
9 CHAIRMAN MOORE: It would have -- sorry

10 about that.

11 MR. WERTHNER: I know.

12 CHAIRMAN MOORE: But it would have been
13 otherwise on the agenda this month to be
14 accepted.

15 MR. WERTHNER: I gotcha.

16 CHAIRMAN MOORE: So, unfortunately, it just
17 gets pushed back.

18 MR. WERTHNER: Pushed back another month.

19 CHAIRMAN MOORE: Yes.

20 MR. WERTHNER: Okay. So then -- all right.
21 You know, whatever the rules are.

22 CHAIRMAN MOORE: Okay.

23 MR. WERTHNER: You know, I mean, I'll build
24 it in March, if I get it, you know what I'm
25 saying?

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1 CHAIRMAN MOORE: Okay. It would have been
2 nice to be able to proceed last month --

3 MR. WERTHNER: I know.

4 CHAIRMAN MOORE: -- but we were technically
5 not able to.

6 MR. WERTHNER: I was away, you know, and
7 Eileen called me, and I shut my phone off so I
8 don't get those roaming charges.

9 MR. PROKOP: So I got asked this question
10 this afternoon as I was driving out here.

11 CHAIRMAN MOORE: Sure.

12 MR. PROKOP: And what we'd like you to do,
13 just so you know, is we appreciate the fact that
14 you have a contract. Please make that part of
15 the file.

16 MR. WERTHNER: Sure.

17 MR. PROKOP: But if you could also get a
18 letter of authorization.

19 MR. WERTHNER: I have that here.

20 MR. PROKOP: You have that. Okay, great.
21 Okay. Thank you.

22 MR. WERTHNER: Okay. I've got seven
23 copies.

24 CHAIRMAN MOORE: Right. Actually, you can
25 deal with the Building Inspector on that. You

1 understand, it's kind of a catch 22, because, you

2 know, your condition to purchase is permission to
3 build, and to build, you need a variance.

4 MR. WERTHNER: I know.

5 CHAIRMAN MOORE: So it kind of goes in a
6 vicious circle.

7 MR. WERTHNER: Yeah. And I just -- I did
8 this once before, you know, and it's a pretty
9 simple thing.

10 CHAIRMAN MOORE: I think it will get worked
11 out once we get the details.

12 MR. WERTHNER: It will get work out, okay,
13 yeah.

14 CHAIRMAN MOORE: Just for another question,
15 if an alternative -- would it be a viable
16 alternative for the owner of the property
17 currently to have applied for a variance, acting
18 as an agent for the prospective buyer? Is that
19 something that works?

20 MR. PROKOP: Well, no. They would just be
21 the owner. They wouldn't be an agent for
22 anybody, they would just be the owner.

23 CHAIRMAN MOORE: Yeah, just be the owner.

24 MR. PROKOP: Yeah. So the rules are that
25 if anybody other than the owner applies, that

1 person needs an authorization. But the owner
2 would not need an authorization, no.

3 CHAIRMAN MOORE: No. But I'm saying, could
4 the owner have applied in behalf of the
5 prospective buyer, obtain the variance, and then
6 have that carried with the property.

7 MR. PROKOP: Yes.

8 MS. NEFF: It would carry with the property
9 owner.

10 CHAIRMAN MOORE: It would carry, as most
11 variances do.

12 MR. PROKOP: Yes.

13 CHAIRMAN MOORE: Yes. So that was another
14 possibility, if an owner would be so inclined.

15 MR. WERTHNER: Yeah. I had kind of a
16 difficult time between the realtor and the owner,
17 and I should have had -- we agreed on the price
18 two months ago.

19 CHAIRMAN MOORE: Okay.

20 MR. WERTHNER: And I went on the computer
21 and I found a nice little house that wasn't, you
22 know, obnoxious for the neighborhood, and a 700

23 square foot house.
24 CHAIRMAN MOORE: Right.
25 MR. WERTHNER: You know what I'm saying.

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1 CHAIRMAN MOORE: Well, I think you can rest
2 easy. The stock market's performance, I think
3 it's keeping prices down.
4 MS. NEFF: I have a question.
5 CHAIRMAN MOORE: Sure.
6 MS. NEFF: So when we have this package,
7 including what we just talked about, will it also
8 include those plans for a specific house, or are
9 we talking about a building envelope? What would
10 we be talking about?
11 CHAIRMAN MOORE: I think the package had a
12 proposed house on it.
13 MR. PROKOP: Proposed house, right.
14 MS. NEFF: The proposed house.
15 MR. WERTHNER: And I had Peconic Surveyors
16 put it there.
17 MS. NEFF: Okay.
18 MR. WERTHNER: Because they had done

19 something in 2004 which restricted the building,
20 a 16-foot variance. You're probably aware of
21 that. So they did that, I think. I'll get more
22 copies to the Board.

23 MS. NEFF: Okay.

24 MR. WERTHNER: Because that's what the
25 owners wanted, so they were serious. Before they

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1 sent me the fax and signed the contract, they
2 wanted to know how serious I was. So I did the
3 right thing to meet their terms. And my Attorney
4 didn't suggest, by the way, to let him go for the
5 variance.

6 CHAIRMAN MOORE: Yes, I understand.

7 MR. WERTHNER: You know, he said that's not
8 really a good thing to do at this point.

9 CHAIRMAN MOORE: Okay. And I think, as
10 long as you keep in touch with the Building
11 Inspector, everything should be in order to get
12 it on the agenda for the following month.

13 MR. WERTHNER: Okay, you've got it. All
14 right.

15 CHAIRMAN MOORE: Very good. Thank you for
16 your patience.

17 MR. WERTHNER: Take it easy. Bye-bye.

18 CHAIRMAN MOORE: Yes. I appreciate you
19 coming. So then I was at the point -- yes.

20 MS. NEFF: I have one other point about the
21 -- is it 211 Carpenter Street?

22 CHAIRMAN MOORE: Carpenter, yes.

23 MS. NEFF: Just if that application, which
24 you have, that's in front of the ZBA, is a big
25 file, as long as it's available to us, say, in

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1 two weeks before our next meeting, that we don't
2 need a copy of everything, I wouldn't think.

3 MS. WINGATE: It is available to you.

4 MS. NEFF: Okay. Does that work for the
5 rest of the members?

6 CHAIRMAN MOORE: Yeah. And I'm sure there
7 are going to be some historical questions about
8 the house, not hysterical, historical, and those,
9 too, perhaps. But I'm going to do a little
10 background checking with the Building Inspector

11 in the intervening period, so we have a good idea
12 of its history, and then we will deal with the
13 current question at the meeting.

14 Okay. So I would make a motion to schedule
15 the next regular ZBA meeting for November 19th,
16 2014. So moved. May I have a second?

17 MS. GORDON: Second.

18 MS. NEFF: Second.

19 CHAIRMAN MOORE: And all in favor?

20 MR. BENJAMIN: Aye.

21 MR. CORWIN: Aye.

22 MS. GORDON: Aye.

23 MS. NEFF: Aye.

24 CHAIRMAN MOORE: Aye.

25 And if there's no further discussion, I

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1 would make a motion --

2 MS. NEFF: Would we make a time for --

3 MR. CORWIN: We have some times for
4 inspections.

5 CHAIRMAN MOORE: Times, yes. The Fifth
6 Street property, I would suggest we go about

7 4:15, if you want to go there first, and then
8 we'll go to Carpenter Street at about 4:40.

9 MS. WINGATE: Oh, we're going to go to
10 Carpenter Street?

11 CHAIRMAN MOORE: Yeah. We'll just take a
12 quick look.

13 MS. WINGATE: Okay.

14 CHAIRMAN MOORE: Just so people know what
15 the property is that's referenced and --

16 MS. WINGATE: Great.

17 MS. NEFF: What's the time on Sixth
18 Street -- Fifth Street?

19 CHAIRMAN MOORE: About 4:15.

20 MS. NEFF: Okay, 4:15, fine.

21 CHAIRMAN MOORE: And then 4:40 we can go
22 over to Carpenter, take a quick look, and come
23 back here for the 5:00 meeting.

24 MR. PROKOP: If the variances change on the
25 Riva application, they have to go through the

1 formal notice process. So she can't -- I just
2 realized, I was going to let you know after the

3 meeting --

4 CHAIRMAN MOORE: Yeah.

5 MR. PROKOP: -- you know, that we would
6 have to do a new notice, but then I realized that
7 she has to be told that, because she can't come
8 in like two days before the hearing and say, "By
9 the way, I need a bigger variance," because --

10 CHAIRMAN MOORE: We're going to renotece
11 the public hearing.

12 MR. PROKOP: Right. So somebody has to
13 contact her --

14 CHAIRMAN MOORE: Yes.

15 MR. PROKOP: -- and tell her that if she is
16 going to increase the variances that are
17 necessary, she has to let us know quickly.

18 CHAIRMAN MOORE: That's excellent, because
19 it will be an increase if she does make a design
20 change.

21 MR. PROKOP: Right.

22 CHAIRMAN MOORE: That's a good point. So
23 in that case, just, you know, be sure there'll be
24 plenty of time.

25 MR. PROKOP: And then on Carpenter Street,

1 I just wanted to let you know, so, you know, when
2 you're thinking about this during the next month,
3 what happened there was the -- many years -- in I
4 think the 1970s, there was a C of O issued to
5 that property for a rooming house, if I have this
6 correct.

7 MS. NEFF: When was it, you said 1980?

8 MR. PROKOP: Maybe 1980.

9 MS. NEFF: Okay. Somewhere along then,
10 okay.

11 MR. PROKOP: It was a long time ago. There
12 was a building -- there was a C of O issued to
13 the owner for a rooming house. And one of the
14 neighbors challenged the C of O to the ZBA, and
15 then I think the ZBA approved it, and then --
16 approved that use, and then the neighbor did an
17 Article 78 to the Supreme Court and litigated
18 what the proper use of the building was, and I
19 believe that the Court upheld the use of a
20 rooming house. So the -- which was a
21 nonconforming -- which was a nonconforming use.
22 So the rooming house use existed for many years
23 as a nonconforming use. It's in the Commercial

24 Retail District, if I'm correct.

25 MS. WINGATE: Right.

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1 MR. PROKOP: And --

2 CHAIRMAN MOORE: And that use has since
3 lapsed.

4 MR. PROKOP: Right, and it was
5 discontinued, so the nonconforming use lapsed.
6 And now we're back to the allowable uses, or
7 whatever is permissible under the CR District.

8 CHAIRMAN MOORE: Correct.

9 MR. PROKOP: And that's basically where
10 we're at with this.

11 CHAIRMAN MOORE: And I'll tune up my memory
12 by studying up on your description that you gave
13 to understand where the house was and where it is
14 now.

15 MR. PROKOP: Okay.

16 CHAIRMAN MOORE: Or the structure. I
17 shouldn't say house, I should say structure,
18 probably.

19 MR. PROKOP: The question -- the question

20 basically is to have the Board look at this 18 --
21 I don't want to take it -- I'm not going to say
22 anything material or substantive about the
23 application, because I know you don't want that
24 tonight, but it really focuses on the
25 interpretation of that 150-18A.

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1 CHAIRMAN MOORE: Exactly.

2 MR. PROKOP: Thank you.

3 CHAIRMAN MOORE: Good.

4 MR. CORWIN: Before we close, could you
5 just run -- this gentleman that was just here, he
6 didn't come forward with his contract in a timely
7 manner to review it, or why couldn't we have
8 accepted it and said, "All right, we've got
9 everything, we'll hold a public hearing," or
10 schedule a public hearing?

11 MR. PROKOP: I think we just got it today,
12 if I'm not mistaken.

13 MS. WINGATE: I have deadlines, you know.

14 MR. CORWIN: That's fair enough, I'm just
15 asking.

16 CHAIRMAN MOORE: Yeah.
17 MR. CORWIN: So he didn't make the
18 deadline.
19 MS. WINGATE: (Shook head no).
20 CHAIRMAN MOORE: Right. Essentially --
21 MR. CORWIN: And he knew --
22 MS. WINGATE: And I called him twice.
23 MR. CORWIN: Okay, fair enough.
24 MS. WINGATE: And I felt that was fair
25 enough.

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1 CHAIRMAN MOORE: Essentially, we set a
2 deadline of the close of business the week before
3 the meeting.
4 MS. WINGATE: The week before.
5 CHAIRMAN MOORE: To be able to get
6 everything --
7 MS. WINGATE: Tuesday, the end of the day,
8 the week before.
9 CHAIRMAN MOORE: -- in proper order to be
10 acceptable, and then to get the agenda set up for
11 the following Wednesday.

12 MS. WINGATE: He called me this morning,
13 and I said, "Come," but it is what it is.

14 CHAIRMAN MOORE: And it was difficult. You
15 know, perhaps you can squeak something in on a
16 Monday, if we haven't finished the agenda, but,
17 of course, this Monday was a holiday, so it was
18 difficult to do that. So it will happen next
19 month.

20 So I would like to make a motion, if there
21 is no further discussion, to adjourn. Second,
22 please.

23 MS. NEFF: Second.

24 MR. CORWIN: Second.

25 CHAIRMAN MOORE: And 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 The meeting is adjourned.

7 (Whereupon, the meeting was adjourned at

8 5:40 p.m.)

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

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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 October 15, 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 27th day of October, 2014.

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Lucia Braaten

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