

1 VILLAGE OF GREENPORT
2 COUNTY OF SUFFOLK STATE OF NEW YORK
3 -----x

4 ZONING BOARD OF APPEALS
5 REGULAR MEETING
6 -----x

7
8 Third Street Firehouse
9 Greenport, New York

10 August 19, 2015
11 5:00 P.M.

12
13 B E F O R E:

14
15 DOUG MOORE - CHAIRMAN

16 DAVID CORWIN - MEMBER

17 JAMES SALADINO - MEMBER

18 DINNI GORDON - MEMBER

19 ELLEN NEFF - MEMBER

20 EILEEN WINGATE - VILLAGE BUILDING INSPECTOR

21 JOSEPH PROKOP - VILLAGE ATTORNEY
22
23
24
25

1 CHAIRMAN MOORE: Call the meeting
2 of the Zoning Board of Appeals to order.
3 Public hearing for an appeal for a use
4 variance for Lydia Wells Warden of Holy
5 Trinity Church, 758 Main Street, SCTM
6 1001-2-3-5. The applicant proposes to
7 construct a second residential unit in an
8 existing one family house in the R1
9 District. Section 150-7A(1) does not
10 permit any building to be used, in whole or
11 in part for any use except one-family
12 detached dwellings, not to exceed one
13 dwelling on each lot. We did have a site
14 visit this afternoon. As far as
15 notifications, this was published in the
16 Suffolk Times. The property has been
17 placarded. People have received notices.
18 Uni Gardner, 314 Manor Place, Elena Mosco,
19 PO 371, East Marion. I note that was
20 returned. Ronald Lettern, 301 Manor Place,
21 Greenport. Deborah Shapiro and Kieran Polo
22 (phonetic). And it's a New York address.
23 They're the property – I don't see it on
24 the map here but I believe it was right
25 across the street. And Carlos and Patricia

1 DeJesus, 754 James Street. Those were the
2 surrounding addresses and the official
3 notification by mail. Customarily, we will
4 have the applicant or representative come
5 up first and make public comments. I would
6 just like to note that this is a revision
7 of a use variance already granted in 2013.
8 And I think the applicant's can explain
9 what has changed and I would appreciate if
10 you could give a history, especially of the
11 use of the house prior to the variance that
12 was provided and what you would like to
13 accomplish with your application.

14 MS. WELLS: Okay. The rectory has
15 been existence -

16 CHAIRMAN MOORE: Just identify
17 yourself -

18 MS. WELLS: Lydia Wells. I am one
19 of the wardens at the Holy Trinity Church.
20 The rectory has been part of the church
21 property for over 150 years, I assume. We
22 had had a priest live in the rectory with
23 their families, but for about the last 25
24 years, we have not had a full-time priest
25 at Holy Trinity Church. We have had

1 supplied priests. About two years ago, we
2 – the Bishop of Long Island had a priest
3 that he thought that would work out for us.
4 That we needed to provide housing for. And
5 we also had a sexton at that point. Who
6 was living in the house as part of his
7 package. So he was a church employee. So
8 we did hire Father Pat McNamara for a short
9 period of time. He was a part-time priest.
10 And at that point, we had come to the
11 Zoning Board to ask for a use variance. So
12 we could have two apartments. One for the
13 sexton and one for the priest. During the
14 time that Father Pat was here, we did pay
15 for his housing at another apartment in
16 town while the construction was going on.
17 At the time, we had a mold problem. Mold
18 problem in there. So we worked out
19 remediating that. We worked out
20 remediating – there was asbestos of some
21 type in the basement. We knew we had to
22 get that replaced. So we bought a lot of
23 materials that we were working on in making
24 the two apartments. Father McNamara left
25 us and we're back to the supplied priest.

1 shared -

2 MS. WELLS: There is that
3 possibility. Mattituck is without a priest
4 right now. So if they were to, that is
5 where. There is nothing in the works yet.

6 CHAIRMAN MOORE: Is that income
7 possibility -

8 MS. WELLS: If a priest was - if
9 he were to have those priests that we were
10 paying and even if shared with Mattituck,
11 we would have to provide some type of
12 housing for them.

13 CHAIRMAN MOORE: That might be
14 something that requires some kind of
15 numerical analysis.

16 MR. PROKOP: Well, I think it's
17 required especially since it's in the R1
18 district.

19 CHAIRMAN MOORE: Because the --
20 the permitted use would be to a one-family
21 house and you wouldn't be here asking for a
22 revision of the variance. I realize the
23 plans have changed back from 2013 when we
24 approved the original variances, based on
25 the housing supplying space for a staff of

1 the church. It's a change. The types of
2 rentals that you're thinking of, I assume,
3 are long term?

4 MS. WELLS: Yes. Definitely.
5 Long term. With permits.

6 CHAIRMAN MOORE: Do you have any
7 other people from the church that wish to
8 -- we can engage in a dialogue with you.

9 MS. WELLS: I have George. Fred.
10 Fred is our Treasurer. He helps out with
11 the finances.

12 CHAIRMAN MOORE: I am not sure if
13 we can move forward with questions without
14 the actual documents.

15 MS. WELLS: I mean, I can show you
16 current report, which I was working on
17 yesterday. That the finances are not the
18 best.

19 CHAIRMAN MOORE: Just so the Board
20 members know, when we finish, we can then
21 engage in a direct dialogue with additional
22 questions. If you said your peace, we
23 would ask if any other members of the
24 church or any other members of the public
25 would want to get up and say something?

1 MEMBER CORWIN: I have a question.

2 Does the church pay any real estate taxes?

3 MS. WELLS: Yes, we do.

4 MEMBER CORWIN: On the church?

5 MS. WELLS: Not on the church. On
6 the rectory.

7 CHAIRMAN MOORE: Now I do recall,
8 this parcel addition includes a rectory and
9 a church structure.

10 MS. WELLS: Yes, that's correct.

11 CHAIRMAN MOORE: Thank you.

12 Anyone else from the public or member from
13 the church?

14 MR. CLARKE: Good evening. My
15 name is Peter Clarke and I live at 806 Main
16 Street. We're not adjacent to the property
17 in question, but live one property away
18 from a property that is adjacent. Before I
19 speak, I just want to thank the Board for
20 their time and efforts and service that
21 they provide to the Village. We know that
22 the boy scouts and cub scouts meet there.
23 We know that the other activities go on,
24 community based activities which we support
25 and encourage 100%. So we're friends of

1 the church and support its activities.
2 However, to grant the variance for a
3 permanent two family in this location, I
4 would encourage you to disapprove just
5 because of the pressure of the amount of
6 traffic that is already existing in that
7 lot. The amount of already grandfathered
8 variances within that very small section of
9 Manor Place. Main Street does not have
10 that kind of pressure. The two blocks that
11 Manor Place takes have a great deal of
12 pressure on them. So my feeling along with
13 many of my neighbors is that certainly
14 we're going to support the church and
15 support the Board in its initial findings
16 in 2013, to allow a variance for church
17 members and for a sexton and/or a part-time
18 or full-time rector, and a church employee
19 or administrator or whatever. We support
20 that but we don't support additional
21 variances to be granted just to try and
22 prevent any additional density pressure and
23 traffic pressure in what is already a
24 fairly delicate and very, very busy part of
25 Greenport Village.

1 CHAIRMAN MOORE: Could I just ask
2 you to clarify when you say, pressures,
3 you're referring to -- basically traffic
4 and --

5 MR. CLARKE: It's a very highly
6 traffic for this area.

7 CHAIRMAN MOORE: Residential
8 pressure?

9 MR. CLARKE: Well, we do have a
10 great deal of variance already on Main
11 Street. We do have other two family units
12 that have variances from the start of
13 zoning. So it's not a particularly clean
14 block in already adhering to R-1. So I
15 would not encourage any further development
16 in that direction in order to respect the
17 initial character of that district of the
18 Village.

19 CHAIRMAN MOORE: When you say
20 variances, are you referring to granted
21 variances?

22 MR. CLARKE: Granted variances,
23 yes.

24 CHAIRMAN MOORE: As opposed to
25 grandfathered --

1 MR. CLARKE: No. Grandfathered.

2 Not granted. Excuse me. Yes.

3 CHAIRMAN MOORE: Thank you.

4 MR. CLARKE: Any other questions?

5 MEMBER SALADINO: I do. Peter in
6 your personal observation on the days and
7 times that the church is active, Sunday's
8 obviously. Thursday's when there is
9 meetings there. Are those parking spaces,
10 are those spaces all taken up on Manor
11 Place?

12 MR. CLARKE: No, not all of it.
13 To be, you know, fair and honest, during
14 the day the lower half of Manor Place and
15 the medical building and the hospital is
16 completely parked out. And at night when
17 at night, the meetings, the other half is
18 completely parked out. If you're willing
19 walk a block, you will find a parking spot.
20 Thank you.

21 CHAIRMAN MOORE: Thank you.
22 Anyone else? If there is anyone else from
23 the neighborhood? Yes.

24 MS. SHAPIRO: Hi. I am Debbie
25 Shapiro. I live at 802 Main Street. Right

1 across from the property. I didn't get any
2 letters, so this is a last minute thing. I
3 have been there for ten years. We have had
4 some problems with people that have lived
5 there in the past.

6 MEMBER NEFF: You said you had
7 some problems with what?

8 MS. SHAPIRO: People who have
9 lived in that house in the past. I guess
10 the church hired and probably not aware of
11 their doings. When we first moved in,
12 there was a lot of traffic. There were
13 drugs that were being sold out of there.
14 Then another couple came in. And now, I
15 know that you want to clean it up and make
16 it better, but that being said, we have a
17 B&B across the street, which I don't think
18 Peter mentioned. So we have a lot of
19 density and people and traffic. Not so
20 much in parking that you asked for
21 meetings, but more -- we have a hospital
22 right down the street. And it's busy. And
23 to me, that house should be a one family
24 house. I am asking the Board to not to
25 give a variance for a two-family home. I

1 think if they need to raise money if
2 they're going to rent it out, they will
3 make money on a one family home. My hopes
4 would be to see it given to either a sexton
5 or a priest to live there. It is still
6 part of the church, and not what I would
7 think it to be commercial property. I
8 don't see it being commercial property. It
9 has been part of the church, since she
10 mentioned over 125-150 years. I do
11 understand that they're financially
12 strapped. But you know, there is something
13 to be said about keeping your property up
14 and the insides and all of that. I don't
15 see it being a two family house.

16 CHAIRMAN MOORE: You said you did
17 not receive the notice?

18 MS. SHAPIRO: No, I didn't.

19 CHAIRMAN MOORE: It was signed for
20 by a V. Gordon at your address. It's at a
21 New York, 201 East 31st Street?

22 MS. SHAPIRO: Is there an
23 apartment number on there?

24 CHAIRMAN MOORE: No. Doesn't look
25 like it.

1 MS. SHAPIRO: Maybe that was the
2 problem. I will go down to the -- I will
3 fix it. I will put the apartment on there.
4 I am here pretty much full-time.

5 CHAIRMAN MOORE: I believe the
6 addresses come from the tax --

7 MS. SHAPIRO: I get my taxes for
8 sure. I also didn't get the variance for
9 2013. I never got that one either. So I
10 knew nothing of that. That it was granted.
11 Nothing like that. And as I said, I do
12 live exactly across the street. I can see
13 into their backyard. I can see into the
14 house. It would be nice to have somebody
15 there but I don't see it as being a
16 two-family home.

17 CHAIRMAN MOORE: How many parking
18 slots do you have --

19 MS. WELLS: In that driveway?

20 CHAIRMAN MOORE: In that driveway?

21 MS. WELLS: You could park double
22 and it's wide. So I would probably say at
23 least four. Really, in the past it was
24 only used by the sexton. He pulls up to
25 the back and dropping off stop. And the

1 garage.

2 CHAIRMAN MOORE: Do people
3 attending events there, meetings, use that
4 driveway?

5 MS. WELLS: No.

6 CHAIRMAN MOORE: Okay. Is there
7 anyone else from the public who would like
8 to speak tonight? If not, before we make a
9 motion to close the hearing, I would just
10 read a letter. It's from Arthur Tasker who
11 is a resident of Sandy Beach. He made
12 comment to the Zoning Board. This is from
13 Arthur M. Tasker addressed to the Zoning
14 Board of Appeals. I write to express my
15 objection to the subject application to
16 create a second dwelling unit in the Holy
17 Trinity Parsonage located in the R1
18 District that is restricted to use for a
19 single one family dwelling. While I am
20 sympathetic to the financial plight of the
21 Holy Trinity parish, full disclosure, I am
22 Episcopalian, their approach to alleviating
23 their financial problem by renting out two
24 dwellings unit in their vacant rectory, I
25 suppose because they have no rector to

1 occupy it, is ill-conceived and will burden
2 all of the single family properties in the
3 district with a potential flood of similar
4 applications. The controversy concerning
5 the AIR BNB type shorter term rentals
6 should be very much top of mind as well in
7 considering this application. First,
8 permitting such a variance, a two family in
9 a one family zoning district is a classic
10 example of spot zoning because it will
11 benefit a individual owner only. Illegal
12 spot zoning occurs whenever the change us
13 other than part of well-considered and
14 comprehensive plan calculated to serve the
15 general welfare of the community. The
16 question of whether a rezoning constitutes
17 spot zoning, should be answered by
18 determining whether rezoning was done to
19 benefit an individual owner rather than
20 pursuant to a comprehensive plan for the
21 general welfare of the community. Second,
22 while the presumed object of the applicant
23 is to be able to rent more dwelling units
24 and thereby provide greater income to the
25 parish, that reasoning does not stand the

1 test for self imposed hardship. The
2 present dwelling can be rented as a single
3 family unit and deliver income to the
4 parish. And while a second dwelling unit,
5 after considering the cost of constructing
6 the second unit, might provide more income.
7 That's not a test of hardship. In other
8 words, here the applicant must demonstrate
9 that the renting the permitted existing
10 single family house as such will not give
11 reasonable return to its owner. It does
12 not mean that a variance should be granted
13 because an even greater return might be had
14 with a use that is not otherwise permitted.

15 And we will put that into the
16 record. I think that was the only letter
17 that were received. If the Board doesn't
18 have any other immediate questions, we can
19 accept a motion to close the hearing?

20 MEMBER CORWIN: I have a question.

21 CHAIRMAN MOORE: Yes, sir.

22 MEMBER CORWIN: One is, I think we
23 should leave the public hearing open.

24 CHAIRMAN MOORE: That's a good
25 point.

1 MEMBER CORWIN: If they're going
2 to supply additional information.

3 CHAIRMAN MOORE: That's a good
4 point.

5 MEMBER CORWIN: And then, it
6 doesn't appear that they have made any
7 filing fee. There is a filing fee that is
8 supposed to be submitted with each
9 application. I don't see it with the
10 application.

11 MS. WINGATE: There is a filing
12 fee.

13 MS. WELLS: It was \$600.00. I
14 have the receipt. I have that for now.

15 CHAIRMAN MOORE: We can get that
16 information. I am sure. I agree with Mr.
17 Corwin about closing the public hearing. I
18 think we would be unable to complete the
19 questions and one of them specifically
20 about financial information, which would
21 not allow the variance to succeed. At that
22 point, I think we should leave the public
23 hearing open until next month's meeting. I
24 would ask that the applicant provide
25 financial information as best as you can.

1 I am not sure if we need anything else, but
2 that we would be open for any additional
3 information at this point through next
4 month. At which time then, we might close
5 the public hearing. If we are all in
6 agreement with that --

7 MEMBER NEFF: I have a question.

8 CHAIRMAN MOORE: Yes.

9 MEMBER NEFF: The applicant
10 mentioned in describing the project that
11 there was seeking a loan from the diocese
12 or whatever it's called. Is there any
13 detail about that?

14 MS. WELLS: What we need first is
15 to -- we will need to get cost estimates,
16 bids on it and that has to be submitted
17 with paperwork. We have met with the
18 bishop and it's kind of -- church property
19 as I understand it, we can't sell the house
20 without their permission. There is certain
21 things we can't do without their
22 permission. The diocese permission. In
23 this case, they're kind of like co-owners
24 in some way. So we will have to apply for
25 the loan. They have funds available to

1 help us and then they would, you know, we
2 would have to give the estimates.

3 MEMBER NEFF: Just for a point of
4 clarification. An application for a loan
5 from the diocese or whatever entity it is
6 called, if you could describe what is
7 needed to complete it as a one-family
8 house. There is nothing in that process
9 that makes it a two-family.

10 MS. WELLS: Right.

11 MEMBER NEFF: Okay.

12 MS. WELLS: The reason why we
13 continued with the two family is because
14 some of the work had already been done for
15 the two family. From two years ago as far
16 as the two bathrooms. The starting of the
17 kitchen. Supplies had been purchased. You
18 know, two washer and dryers. That type of
19 thing. That is why we continued with that.

20 MEMBER GORDON: I have a question
21 for the Building Inspector. The comment
22 referred to other variances and I am
23 wondering, you know, one thing you can say
24 is that there shouldn't be yet another
25 variance, but on the other hand, there are

1 many variances in this area and it already
2 compromises the R1 District and what
3 difference does it make if there is another
4 one? I would like to know, are there quite
5 a few variances in the area? How could you
6 characterize that?

7 MS. WINGATE: There are several
8 two family houses.

9 MEMBER NEFF: Can I just -- many
10 of the variances are historically and have
11 nothing to do with a variance application
12 that existed --

13 MS. WINGATE: It existed before
14 the code. And some of them were gifted
15 variances and I really don't know -- I do
16 know of one or two that I can think of.
17 But I have to do a quick study.

18 CHAIRMAN MOORE: We would ask you
19 to do, since it appears that we are going
20 to be pushed back for another month, is do
21 that research and any preexisting
22 nonconforming as they were being described.
23 And I am not sure of what you mean by
24 gifted variances, as opposed to granted
25 variances.

1 MS. WINGATE: Granted.

2 CHAIRMAN MOORE: All right. If
3 you could do that, that would be part of
4 our analysis next month.

5 MS. WINGATE: How far? What is
6 the area that you want me to --

7 CHAIRMAN MOORE: I would say Manor
8 Place to two blocks.

9 MS. WINGATE: Okay.

10 CHAIRMAN MOORE: A block north and
11 south of Main, would that do?

12 MS. WINGATE: On both sides of the
13 street.

14 CHAIRMAN MOORE: On both sides of
15 the street. So then if there are no other
16 questions from the Board, I would make a
17 motion that we table the public hearing and
18 leaving it open for any additional comments
19 or correspondence, and with some homework
20 assignments for a number of people. And we
21 will reconvene at our September meeting.
22 So moved.

23 MEMBER CORWIN: I would just
24 suggest that we say adjourned instead --

25 CHAIRMAN MOORE: Adjourned.

1 MR. PROKOP: The meeting should be
2 adjourned and open -- the meeting should be
3 tabled or adjourned.

4 CHAIRMAN MOORE: So I will use the
5 term adjourned.

6 MEMBER CORWIN: I'll second.

7 CHAIRMAN MOORE: Thank you.

8 And all in favor?

9 MEMBER CORWIN: Aye.

10 MEMBER SALADINO: Aye.

11 MEMBER NEFF: Aye.

12 MEMBER GORDON: Aye.

13 CHAIRMAN MOORE: Aye.

14 Motion carries.

15 We will resume next month.

16 We will resume to our regular
17 agenda. The first item obviously

18 The next item is just some
19 clean-up homework on an interpretation that
20 we all agreed to. Probably about three
21 months ago and we have run out of time.

22 Does everyone have a copy? Basically what
23 we agreed to is that the code is very
24 specific as far as placement of fences of
25 what is considered front yards.

1 Specifically that we require front yard
2 setbacks. There has been confusion over
3 some years between the definition of
4 required yards. And if everybody is
5 satisfied with that document as the proper
6 direction, I would ask someone to make a
7 motion that we approve that document

8 MR. PROKOP: I don't remember all
9 the lists.

10 CHAIRMAN MOORE: Two pages with
11 the diagram. Basically it's acknowledging
12 especially on corner lots, that front yard
13 is a 30 foot setback would be the current
14 placement for fences.

15 MR. PROKOP: Is this document
16 before the Board?

17 CHAIRMAN MOORE: We all agreed to
18 the principle document. It had been
19 prepared. We have had it up on the agenda
20 for approval and have not done so because
21 of time constraints. It's really --

22 MR. PROKOP: I just don't remember
23 seeing this.

24 CHAIRMAN MOORE: We do understand
25 that people on corner lots are usually

1 seeking a high fence down their side line
2 to get some privacy. In those cases, they
3 would have to seek a variance. In some
4 cases, it might be appropriate and in other
5 cases where it might not. So we would have
6 to do that. Fences are in the required
7 yards, setbacks then it's a Building
8 Department issue. So if the Board is
9 satisfied with the document, I would ask
10 for a motion to approve?

11 MEMBER CORWIN: I had mentioned
12 this to you, the drawing on the last page,
13 if you look at that, you would come to the
14 conclusion that a high fence on a corner
15 lot can be put up to the house but in case
16 -- some of this here is for a conforming
17 lot --

18 CHAIRMAN MOORE: Yes.

19 MEMBER CORWIN: If it's not a
20 conforming lot --

21 CHAIRMAN MOORE: Correct,

22 MEMBER CORWIN: And your response
23 at the time was, well, in a test, it
24 explains it and I can't go through that now
25 and find it, but I just wanted to note that

1 this diagram is for conforming lots.

2 CHAIRMAN MOORE: Yes. In fact
3 that could be modified to have required
4 front yard on the diagram and make that
5 quite clear. If that is the key issue
6 here, it has to be a required front yard
7 that would align with the building. Now
8 the blue squares is just an indication.
9 It's not necessarily a house. With that in
10 mind, conforming lot. Would anyone like to
11 make a motion to approve?

12 MR. PROKOP: Can I ask you a
13 question?

14 CHAIRMAN MOORE: Yes.

15 MR. PROKOP: This --

16 CHAIRMAN MOORE: That is the table
17 of setbacks, I believe.

18 MR. PROKOP: There is no --
19 required yards, where is that in the
20 defined terms? I apologize --

21 MS. WINGATE: In the definitions.

22 CHAIRMAN MOORE: On the first
23 page, I think I have it cited.

24 MR. PROKOP: You have a term which
25 is required yards that is in quotes.

1 CHAIRMAN MOORE: Yes.

2 MR. PROKOP: So this is your
3 definition --

4 CHAIRMAN MOORE: No, no. I am
5 referring to the definition of what a
6 required front yard is. There is more
7 generic terms. Front yard is the space in
8 front of the house. Required yard is the
9 section of the property that is required to
10 satisfy the setback. And I thought it was
11 in the definitions, 150-12. It talks about
12 minimum requirement and I think
13 generically, yard setbacks are those
14 described that are referred to that are
15 required front and side yard.

16 MR. PROKOP: Yes.

17 CHAIRMAN MOORE: It says, minimal
18 require both side yards, front yards.

19 MR. PROKOP: When I look at this,
20 this is not colored -- is it your intention
21 that a colored diagram is going to become
22 part of the code? Because if a colored
23 diagram is going to become part of this,
24 which is going to become relevant to
25 something, why is this not --

1 CHAIRMAN MOORE: Well, it's used
2 -- it's been colored to highlight the
3 pictures. It doesn't have to be colored.

4 MR. PROKOP: Okay.

5 CHAIRMAN MOORE: I believe. So
6 the definition would have to be in those
7 regulations as it --

8 MR. PROKOP: Okay. I'm sorry.
9 Thank you.

10 MEMBER CORWIN: Perhaps we have
11 put this off so many times, maybe we should
12 take the time to make sure that we all
13 understand it.

14 CHAIRMAN MOORE: Tell you what, I
15 will add required as indicated that this is
16 -- represents a conforming lot. All right.
17 One more time

18 MR. PROKOP: Can I just make one
19 more suggestion, you have required yards in
20 parenthesis and some not, was that just to
21 shorten --

22 CHAIRMAN MOORE: Correct.
23 Perhaps. Yes.

24 MR. PROKOP: If you look at this,
25 if someone came in and looking at this,

1 they wouldn't see required.

2 CHAIRMAN MOORE: Just more
3 general.

4 MEMBER GORDON: It seems to me
5 that this is complicated because if this is
6 going to be required front yards, then
7 there is a whole universe of front yards
8 that are not, as I understand it, required
9 because they're not conforming. So it's
10 not going to settle the question.

11 CHAIRMAN MOORE: This drawing not
12 being so specific, it's to serve the
13 purpose of both a front yard and a side
14 yard. If this is a house, front yard would
15 be here.

16 MEMBER GORDON: We need to make
17 two decision there.

18 CHAIRMAN MOORE: Let's think about
19 it for a moment. We are going through a
20 lot of time here on something that we have
21 talked about a lot. So do we need a motion
22 to put this over?

23 MR. PROKOP: Yes.

24 CHAIRMAN MOORE: Then I would
25 entertain a motion from someone to put this

1 off?

2 MEMBER CORWIN: I move that we
3 table this until the September meeting and
4 that that be the first item on the agenda
5 and no more proceedings until it's settled.

6 CHAIRMAN MOORE: Yes. With
7 corrections to be made.

8 MEMBER GORDON: Second.

9 CHAIRMAN MOORE: All in favor?

10 MEMBER CORWIN: Aye.

11 MEMBER SALADINO: Aye.

12 MEMBER GORDON: Aye.

13 MEMBER NEFF: Aye.

14 CHAIRMAN MOORE: Aye.

15 Okay.

16 We have the determination
17 documents. We can go quickly through them.
18 The first is for findings and
19 determinations for Carol Wilder, 218 Sixth
20 Avenue; SCTM #1001.4.4-26. The property is
21 located in the R2 District. The applicant
22 proposed to construct an in ground swimming
23 pool. An area variance was conditionally
24 approved for a side yard setback. There
25 were some conditions that we placed. A

1 covenant on the property that it not be
2 subdivided. The pool system would be
3 arranged in to have a back flow system and
4 overflow would go to the sewer system. And
5 as we indicated in the minutes, an
6 insulated pool cover would be installed if
7 the pool is heated. I will accept a motion
8 to accept this document as presented.

9 MEMBER NEFF: So moved.

10 MEMBER GORDON: Second.

11 CHAIRMAN MOORE: All in favor?

12 MEMBER CORWIN: Aye.

13 MEMBER NEFF: Aye.

14 MEMBER GORDON: Aye.

15 CHAIRMAN MOORE: Aye.

16 MEMBER SALADINO: Abstain.

17 Motion carries. Mr. Saladino
18 abstains. He was not present for that
19 decision.

20 The next one on the agenda is for
21 Motion to approve the findings and
22 determinations document approving area
23 variances for Chuck Kitz, 228 Sixth Street;
24 SCTM# 1001-7.2-1. The applicant proposed
25 to construct a new front porch addition at

1 the premises located at 228 Sixth Street.
2 The property is located at in the R-2
3 District. Area variances were
4 conditionally approved for a front yard
5 setback to the West calculated from a
6 reduced front yard setback and for a front
7 yard setback. (Second front yard, corner
8 lot) to the north. This determinations
9 document had conditions that were to be
10 applied, and they were that the applicant
11 would install gutters and leaders on the
12 porch and the entire house. Collected rain
13 water and runoff would be contained on the
14 property in dry wells. The new porch
15 addition will not have a roof deck and the
16 new porch will not be structurally
17 enclosed. If everyone has seen the
18 document, I will entertain a motion to
19 approve it.

20 MEMBER CORWIN: So moved.

21 MEMBER GORDON: Second.

22 CHAIRMAN MOORE: All in favor?

23 MEMBER CORWIN: Aye.

24 MEMBER NEFF: Aye.

25 MEMBER GORDON: Aye.

1 CHAIRMAN MOORE: Aye.

2 MEMBER SALADINO: Abstain.

3 Mr. Saladino abstains.

4 No. 5 is a motion to the findings
5 and determination document approving area
6 variances for Walter Foote, 22 Brach
7 Street; SCTM # 1001-2-5-40. The property
8 is located in the R2 District and is
9 situated as a corner lot. The applicant
10 proposed to construct a new addition and
11 deck expansion to an existing
12 non-conforming house. Area variances were
13 conditionally approved for a rear yard
14 setback and a front yard setback (second
15 front yard, corner lot.) If everyone has
16 seen the document, I should point out that
17 there were a number of conditions with the
18 approval of the variance. And they are the
19 water from the shower shall be contained on
20 the property and disposed in a manner that
21 is directed by the Village of Greenport.
22 And the work shall comply with regulations
23 in Suffolk County Department of Health
24 Services Office Waste Water Management. So
25 this is the document and I would ask for a

1 motion to approve it.

2 MEMBER NEFF: So moved.

3 MEMBER SALADINO: Second.

4 CHAIRMAN MOORE: All in favor?

5 MEMBER CORWIN: Aye.

6 MEMBER NEFF: Aye.

7 MEMBER GORDON: Aye.

8 CHAIRMAN MOORE: Aye.

9 MEMBER SALADINO: Abstain.

10 Mr. Saladino abstains.

11 The next one is motion to approve
12 Findings and Determination document
13 disapproving area variances for Tracy
14 Combs, 516 Second Street; SCTM
15 #1001-2-6-24. The property is located in
16 the R2 District. The applicant proposed to
17 construct a house addition and an in-ground
18 swimming pool. An area variance of a
19 combined yard setback for an addition to
20 the house and three area variances (two
21 side yard and one rear yard setback) for
22 construction of an in ground swimming pool
23 were disapproved. I believe everybody has
24 been able to see this document. It does
25 represent the motion which occurred for

1 that, which was to disapprove for the
2 variances.

3 Motion to accept it?

4 MEMBER CORWIN: So moved.

5 MEMBER SALADINO: Second.

6 CHAIRMAN MOORE: All in favor?

7 MEMBER CORWIN: Aye.

8 MEMBER SALADINO: Aye.

9 MEMBER NEFF: Aye.

10 MEMBER GORDON: Aye.

11 CHAIRMAN MOORE: Aye.

12 That motion carries.

13 We just have a brief item here.

14 It's a discussion and motion to return to
15 the Building Inspector of an appeal for
16 area variance for Jack and Jeffery Rosa,
17 5-6 Main Street; SCTM 1001-4-3-33. The
18 building Inspector issued a Notice of
19 Disapproval dated June 8, 2015 and the
20 applicant filed an appeal for a variance on
21 July 10, 2015. A proposed construction of a
22 roof deck does is over preexisting
23 nonconforming part of the structure and the
24 proposed construction does not create new
25 nonconformance or increase nonconformance

1 accepting an applicant for variance because
2 it's a matter for Building Inspector. If
3 she wishes for any further review, I am
4 sure she will direct the Planning Board if
5 it's deemed necessary. It's not to the
6 Zoning Board for consideration of variance.

7 CHAIRMAN MOORE: Mr. Prokop?

8 MR. PROKOP: I think it's clear
9 under New York State, if you have a
10 structure that is nonconforming, either
11 preexisting or nonconforming, or it's
12 legally in a side yard, that does not give
13 you the right under New York State law --

14 (Whereupon, the tone alarm went
15 off.)

16 MR. PROKOP: That doesn't give the
17 right to extend other structures in prior
18 nonconforming setbacks. So in simple
19 terms, if the required setback is 20 feet
20 and you granted 10 feet. That does not
21 give you the right to enlarge that
22 structure within the 10 feet -- between the
23 10 feet and the 20 feet or put another
24 structure within that setback. That is
25 clear within New York State law. The other

1 thing is, this application was presented to
2 us as a variance for one deck, which was
3 either a ground level deck in the rear of
4 the structure. That -- it was specifically
5 -- when you consider the impact on the
6 neighborhood, if was for your consideration
7 that this structure was going to be a flat
8 roof. It's in the minutes that it was
9 specifically stated to the Board. And it
10 was in the original plans. I think this is
11 a modification of the original application
12 and it requires de novo review by the
13 Board. The third thing is that, I have
14 been -- I have been through the historic
15 committee minutes of this and what happened
16 with this building. There was an
17 application of windows. There was never --
18 as far as I can tell, maybe it would take
19 some more time, it appears there was never
20 a vote approving that application. So that
21 application was not for the original rear
22 deck or the first floor roof deck or second
23 floor deck. And my recommendation to this
24 Board and all future boards regarding the
25 property that is in the historic distort,

1 no determinations be made until it has
2 passed through the historic district.

3 CHAIRMAN MOORE: I was going to
4 respond to your mass comment by saying that
5 this be for Historic Board, then so be it.
6 Then to just hold off on a final decision
7 to accept it or not. I think your first
8 comment is directed over the first section
9 of the house was new construction and it
10 was not. It was constructed as it was
11 present and being renovated. When we did
12 this original interpretation, any building
13 which does contain of which does not
14 conform with the lot regulations, such
15 building shall be amended there to. I
16 would indicate that if this is a matter
17 that impacts the community, with this
18 additional change in the plans, that it go
19 to the Planning Board or Historic Board.
20 It is not in the hand of this board.

21 MR. PROKOP: Okay. My job is to
22 give you the law. I just want to make sure
23 that you heard me when I said that either
24 preexisting or nonconforming other than a
25 variance, would take it to account this

1 building, and that doesn't establish a
2 setback that you can add on to -- as long
3 as you do not increase the area of the
4 nonconformance.

5 MEMBER SALADINO: So I have a
6 question for you. So you're saying that if
7 it fits into the existing footprint, you
8 are still within the height requirement of
9 the Village?

10 MR. PROKOP: If you add mass or
11 volume, that is considered --

12 MEMBER SALADINO: That is contrary
13 to what the code says.

14 CHAIRMAN MOORE: That is contrary
15 to the way the code is written. That is
16 why the previous interpretation was made.
17 It allows for structural alteration,
18 enlargement of nonconformance. Enlargement
19 is adding a deck.

20 MEMBER SALADINO: The other
21 question that I have, are roof decks
22 specifically prohibited?

23 MR. PROKOP: We don't have a
24 prohibition against roof decks. It has to
25 be considered in a variance.

1 CHAIRMAN MOORE: I would propose
2 that we table or adjourn a decision whether
3 to accept this or not accept this
4 application --

5 MS. WINGATE: They are scheduled
6 to go to Historic. Historic was not until
7 the 7th.

8 CHAIRMAN MOORE: Is the Board
9 agreeable to that?

10 MEMBER CORWIN: I would like the
11 opportunity to say something.

12 CHAIRMAN MOORE: Sure.

13 MEMBER CORWIN: First of all, we
14 visited this before.

15 CHAIRMAN MOORE: We did make a
16 site visit.

17 MEMBER CORWIN: Not this
18 particular property. Sandy Beach. For the
19 railroad.

20 CHAIRMAN MOORE: Yes.

21 MEMBER CORWIN: And then you
22 rendered a determination that since then we
23 have to change venues.

24 CHAIRMAN MOORE: Yes.

25 MEMBER CORWIN: The other

1 consideration, you have to show everything
2 on that plan and everything is not shown
3 when we granted the variance. So my
4 position is that the applicant has to go
5 through the process.

6 CHAIRMAN MOORE: What I am going
7 to propose is let the other Board's do what
8 they need to do and until that time, we
9 table this deliction.

10 MS. ST. LOUIS: Just for
11 clarification, this is going to the
12 Historic Board for approval not for Zoning
13 board?

14 CHAIRMAN MOORE: We have
15 tentatively suggested that it's not Zoning
16 issue.

17 MS. ST. LOUIS: Okay.

18 MEMBER CORWIN: Wait a minute.
19 You have suggested it.

20 CHAIRMAN MOORE: I have suggested
21 it. At this point, we have some additional
22 issues that Historic has and Mr. Prokop has
23 made some suggestions.

24 MS. ST. LOUIS: Okay, I just
25 wanted clarification.

1 MEMBER NEFF: Can I just ask, when
2 is the Historic Preservation meeting?

3 MS. WINGATE: Well, it's the 14th
4 of September.

5 MR. PROKOP: Excuse me, are you
6 from the architects office?

7 MS. ST. LOUIS: Yes.

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

10 MS. ST. LOUIS: Sure.

11 MR. PROKOP: Are you familiar with
12 the property, with the as-built?

13 MS. ST. LOUIS: I do have some
14 prior knowledge of what is going on.

15 MR. PROKOP: That deck that was
16 built on the second floor, was that
17 originally extended to be a wrap around?

18 MS. ST. LOUIS: No, there was no
19 deck. This is the second phase.

20 MR. PROKOP: Thank you.

21 CHAIRMAN MOORE: I will entertain
22 a motion from the Board to table until
23 further review by the Historic Board and
24 get any information that we may get.

25 MEMBER CORWIN: So moved.

1 MEMBER GORDON: Second.

2 CHAIRMAN MOORE: All in favor?

3 MEMBER CORWIN: Aye.

4 MEMBER SALADINO: Aye.

5 MEMBER NEFF: Aye.

6 MEMBER GORDON: Aye.

7 CHAIRMAN MOORE: Aye.

8 That motion carries.

9 Last business matter, just
10 something that I recommend that the ZBA do
11 to bring us in compliance with the filings.
12 There is requirement that the reporting of
13 ZBA decisions to the Village Clerk. This
14 is generally at least at the first meeting
15 or second meeting going past the five day
16 limit. What I am suggesting that we do, I
17 record the votes on a spreadsheet. Any of
18 the conditions that are applied are
19 recorded. This form could be supplied to
20 the Village Clerk within the five day
21 requirement. I would ask Mr. Prokop if
22 this is a suitable way of what the votes
23 are and what the decisions are?

24 MR. PROKOP: I think it's good.

25 As long as it's understood that it's not

1 official. Yes, I think it's suitable.

2 CHAIRMAN MOORE: If the Board is
3 agreeable to that, this is what I will
4 start doing.

5 MR. PROKOP: We will start filing
6 them.

7 MS. WINGATE: They are permanent
8 property files.

9 CHAIRMAN MOORE: I would make a
10 motion that our filings be with the Village
11 Clerk, so that all of our filings would be
12 with her.

13 MS. WINGATE: That the original
14 signature go to the applicant and we
15 maintain copies. Is that correct?

16 MR. PROKOP: I think the original
17 stays in the file. I will go and check.

18 CHAIRMAN MOORE: I make that
19 motion.

20 MEMBER GORDON: Second.

21 CHAIRMAN MOORE: All in favor?

22 MEMBER CORWIN: Aye.

23 MEMBER SALADINO: Aye.

24 MEMBER NEFF: Aye.

25 MEMBER GORDON: Aye.

1 CHAIRMAN MOORE: Aye.

2 That motion carries.

3 Next is Motion to accept the ZBA
4 minutes of July 15, 2015.

5 MEMBER SALADINO: Second.

6 CHAIRMAN MOORE: All in favor?

7 MEMBER CORWIN: Aye.

8 MEMBER SALADINO: Aye.

9 MEMBER NEFF: Aye.

10 MEMBER GORDON: Aye.

11 CHAIRMAN MOORE: Aye.

12 And Motion to approve the ZBA
13 Minutes for June 17, 2015. So moved.

14 MEMBER NEFF: Second.

15 CHAIRMAN MOORE: All in favor?

16 MEMBER NEFF: Aye.

17 MEMBER GORDON: Aye.

18 CHAIRMAN MOORE: Aye.

19 MEMBER SALADINO: I'll abstain.

20 MEMBER CORWIN: I abstain.

21 CHAIRMAN MOORE: Motion to
22 schedule the next ZBA meeting for September
23 16, 2015.

24 MEMBER SALADINO: Second.

25 CHAIRMAN MOORE: All in favor?

1 MEMBER CORWIN: Aye.
2 MEMBER SALADINO: Aye.
3 MEMBER NEFF: Aye.
4 MEMBER GORDON: Aye.
5 CHAIRMAN MOORE: Aye.
6 And motion to adjourn.
7 MEMBER GORDON: Second.
8 CHAIRMAN MOORE: All in favor?
9 MEMBER CORWIN: Aye.
10 MEMBER SALADINO: Aye.
11 MEMBER NEFF: Aye.
12 MEMBER GORDON: Aye.
13 CHAIRMAN MOORE: Aye.
14 Motion carries.
15
16 (Whereupon, the meeting concluded.)
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C E R T I F I C A T I O N

I, Jessica DiLallo, a Notary
Public for and within the State of New
York, do hereby certify:

THAT, the witness(es) whose
Testimony is herein before set forth,
Was duly sworn by me, and,

THAT, the within transcript is a
True record of the testimony given by
Said witness(es).

I further certify that I am not
Related either by blood or marriage to
Any of the parties to this action; and
That I am in no way interested in the
Outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
Set my hand this day, September 2, 2015.

(Jessica DiLallo)

* * * *