

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 November 18, 2015  
11 5:00 P.M.

12  
13 B E F O R E:

14  
15  
16 DOUG MOORE - CHAIRMAN

17 ELLEN NEFF - MEMBER

18 DAVID CORWIN - MEMBER

19 JOHN SALADINO - MEMBER

20 DINNI GORDON - MEMBER

21  
22  
23 EILEEN WINGATE - VILLAGE BUILDING INSPECTOR

24 JOSEPH PROKOP - VILLAGE ATTORNEY

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX OF DISCUSSIONS

\* There were no Public Hearings for this Meeting.

NAME	PAGE
Holy Trinity Church	21-87(66)
Marta Thomas	3-5(2)
Jack & Jeffrey Rosa	5-11(5)
Robert Moore	11-21(10)
John Costello	87-94(7)

1                   CHAIRMAN MOORE: This is the  
2                   regular meeting of the Zoning Board of  
3                   Appeals, November 18th. Looks like  
4                   5:07. That is the right time. We  
5                   don't have any public hearings tonight.  
6                   Just regular business before the  
7                   Board.

8                   As I mentioned, Item No. 1,  
9                   we're going to place later in the  
10                  agenda, as we're waiting for one of the  
11                  members of the church to be here. So  
12                  we can have a full discussion.

13                  So the next item of business is  
14                  No. 2, and it's a motion to approve the  
15                  findings, determination and decision  
16                  document approving an area variance for  
17                  Marta Thomas, 211 Bridge Street,  
18                  SCTM #1001-2-2-10.1. The applicant  
19                  seems a building permit for a new  
20                  detached accessory building for a  
21                  structure which has already been  
22                  constructed. The property is located  
23                  in the R1 Residential District. The  
24                  accessory building is located 2 feet  
25                  from the south property line requiring

1 an area variance of 3 feet for the rear  
2 yard setback. Section 150-13A(1.b) of  
3 the Village of Greenport Code requires  
4 a 5 foot setback from the rear or side  
5 yard lot lines. Before I put that  
6 motion to vote, I just want to mention  
7 on this one, the findings and  
8 determination is for me to sign, but I  
9 would like to thank Ellen Neff for  
10 officiating last month's meeting, as I  
11 was absence. And I have caught up with  
12 all the dialogue for this determination  
13 and the variance was eventually  
14 approved by the Board. And with that  
15 in mind, the document was distributed.

16 Unless the Board has any  
17 questions or corrections with the  
18 document, I would make a motion to  
19 approve the document as presented.  
20 Could I have a second?

21 MEMBER SALADINO: Second.

22 CHAIRMAN MOORE: All in favor?

23 MEMBER SALADINO: Aye.

24 MEMBER GORDON: Aye.

25 MEMBER NEFF: Aye.

1                   CHAIRMAN MOORE: And I will  
2                   abstain since I was not part of that  
3                   process.

4                   Any opposed or abstentions?

5                   MEMBER CORWIN: I abstain. I  
6                   haven't read it yet.

7                   CHAIRMAN MOORE: So we have 3  
8                   Aye's and 2 abstentions. So that  
9                   carries as well.

10                  If there are any typo's in the  
11                  document, we can certainly make it  
12                  before I sign it. I should sign this  
13                  tonight, if possible, as well as the  
14                  other document.

15                  And Item No. 3 is listed as a  
16                  ZBA acknowledgment of a letter of  
17                  determination from the Village  
18                  Attorney returning an appeal for an  
19                  area variance to the Building  
20                  Inspector for issuance of a building  
21                  permit for Jack and Jeffrey Rosa, 506  
22                  Main Street, SCTM # 1000-4-3-33. The  
23                  applicant proposed to construct a  
24                  second floor roof deck over a  
25                  reconstructed preexisting

1 nonconforming mudroom/power room at  
2 the premises located at 506 Main  
3 Street. The ZBA determined that no  
4 variance was necessary for the  
5 proposed construction. The Historic  
6 Preservation Commission approved the  
7 plan and construction materials  
8 submitted for review at the 9/14/15  
9 meeting. I would just like to mention  
10 that this is prepared as a decision  
11 document and I will confirm with the  
12 Village Attorney. I would assume that  
13 we should make a motion to approve  
14 this document, Mr. Prokop?

15 MR. PROKOP: Do you have a copy  
16 of that?

17 CHAIRMAN MOORE: I believe.

18 MS. WINGATE: Here you go.

19 CHAIRMAN MOORE: I wasn't  
20 certain if the document prepared was  
21 going to be for determination or  
22 decision and didn't know if it would  
23 require Board approval.

24 MR. PROKOP: I'm sorry, what  
25 was the question?

1                   CHAIRMAN MOORE: I am just  
2                   asking if we should make a motion to  
3                   approve this document as it wasn't a  
4                   full findings and destination because  
5                   it is not a variance appeal  
6                   decision --

7                   MR. PROKOP: My recommendation  
8                   would be that you still make a  
9                   motion.

10                  CHAIRMAN MOORE: Very well. I  
11                  will just make a comment that this is  
12                  an accurate record of the different  
13                  decisions and votes over several  
14                  meetings for this application with the  
15                  final determination made that the  
16                  application did not require a variance  
17                  and should be returned to the Building  
18                  Inspector to issue a building permit.  
19                  If the Board has seen the document, I  
20                  would make a motion that we approve it  
21                  and ask for a second?

22                  MEMBER NEFF: Second?

23                  CHAIRMAN MOORE: Any  
24                  discussion?

25                  MEMBER GORDON: I just think

1           that the sentence in the last  
2           paragraph, "John Saladino made a  
3           motion to return the application for a  
4           variance for construction of a second  
5           floor roof deck with a setback of .6  
6           feet to the Building Inspector." I  
7           think there should be an additional  
8           phrase that indicates the implications  
9           of it. We decided that there is no  
10          need for a variance. So shouldn't we  
11          be saying that return to the Building  
12          Inspector for -- I don't know, for the  
13          issuance of a building permit as no  
14          variance is required?

15                   MEMBER GORDON: That is what I  
16                   would suggest.

17                   CHAIRMAN MOORE: Perhaps.

18                   MEMBER GORDON: It just seems  
19                   to me, without saying what the  
20                   consequence of this is, it's not as  
21                   clear.

22                   CHAIRMAN MOORE: Missing from  
23                   this document are other discussions on  
24                   the basis for returning it. So I  
25                   think it's a valid point to say at



1           least why it is being returned.  Would  
2           you suggest the wording be then to the  
3           Building Inspector --

4                         MR. PROKOP:  The decision was  
5           exactly word for word from the  
6           minutes.  And this Board -- if anybody  
7           has a different review of the minutes,  
8           I apologize.  That's fine.  We can  
9           return it to the Building Inspector  
10          but it's still up to her to issue a  
11          building permit.

12                        MEMBER GORDON:  So we could say  
13          consideration.

14                        CHAIRMAN MOORE:  For  
15          consideration, yes.

16                        MS. WINGATE:  Can you start  
17          that over from the beginning?

18                        MEMBER GORDON:  It's the  
19          sentence that starts with John  
20          Saladino and ends with a setback of .6  
21          feet to the Building Inspector for  
22          consideration --

23                        CHAIRMAN MOORE:  Of issuance of  
24          a building permit.  And that might  
25          suffice because it's up to the

1 Building Inspector to review the  
2 results and issue a building permit.  
3 I agree with the Village Attorney that  
4 we don't want to imply we're directing  
5 an issuance. Is that satisfactory?

6 MR. PROKOP: I just took this  
7 from the minutes.

8 CHAIRMAN MOORE: That's fine.  
9 I reviewed it and it's factually  
10 reviews all of the votes and the  
11 considerations made the way. Would  
12 the Board be prepared to vote on this  
13 document based on that correct?

14 MEMBER SALADINO: I would.

15 MEMBER GORDON: Yes.

16 CHAIRMAN MOORE: So again, I  
17 will ask -- I made the motion and I  
18 will ask for a second?

19 MEMBER GORDON: Second.

20 CHAIRMAN MOORE: All-right.  
21 All in favor?

22 MEMBER SALADINO: Aye.

23 MEMBER GORDON: Aye.

24 MEMBER NEFF: Aye.

25 CHAIRMAN MOORE: Aye.

1 Any opposed or abstaining?

2 MEMBER CORWIN: Nay.

3 CHAIRMAN MOORE: So that was 4  
4 Aye's and 1 Nay.

5 MEMBER NEFF: Mr. Chairman,  
6 this is written so that I would be the  
7 one to sign it, but since we're  
8 reviewing it at this meeting --

9 CHAIRMAN MOORE: I can sign it.  
10 I read through the discussions. So I  
11 am aware and I can take part in that  
12 signature.

13 The next item is a motion to  
14 accept an application for an area  
15 variance and schedule a site visit and  
16 public hearing for Robert Moore, 139  
17 Fifth Street. SCTM #1001-7-4-09. The  
18 property is located in the R2  
19 District. The applicant seeks a  
20 building permit for a deck and a fence  
21 which have already been constructed.  
22 The deck is 9.5 feet from the south  
23 property line requiring a 20.5 foot  
24 front yard area variance. There is  
25 also Section 150-13B(2) of the Village

1 of Greenport code requires that on a  
2 corner lot, front yards are required  
3 on both street frontages. One yard  
4 other than the front yard shall be  
5 deemed to be a rear yard and the other  
6 or others to be side yards. The  
7 330 square foot deck increases the  
8 total lot covers to 35.20% requiring a  
9 lot coverage variance of 5.20%,  
10 336 square feet. The existing lot  
11 coverage is 30.25%, which includes the  
12 existing house and garage. Section  
13 150-12A of the Village of Greenport  
14 code requires that one family homes in  
15 the R2 District have a maximum  
16 permitted lot coverage of 30%. The  
17 existing 6 foot height in fence is  
18 located within the required front yard  
19 setback along the south and west  
20 property lines. Section 150-B(2) of  
21 the Village of Greenport Code requires  
22 that on a corner lot, front yards are  
23 required on both street frontages.

24 I have briefly looked over the  
25 application. It seems to have all of

1 the required materials. Has the  
2 Board also reviewed this to determine  
3 that proper materials are present for  
4 this variance application? Any  
5 comments from the Board? We do have a  
6 signed authorization. We do have the  
7 variance request, which is signed by  
8 the representative. It is notarized  
9 with date including the year. And I  
10 believe everything else is here.  
11 Would the Board be prepared to accept  
12 the document for consideration?

13 MEMBER NEFF: I have one  
14 question. Quickly in looking at this,  
15 does this -- we don't know when this  
16 fence was constructed; is that right?

17 MS. WINGATE: It's not more  
18 than five years old. It says the six  
19 foot fence has been in existence for a  
20 very long time. So you're saying --

21 MS. WINGATE: It's not.

22 MEMBER NEFF: I didn't think  
23 so.

24 CHAIRMAN MOORE: Without the  
25 benefit of the building permit, it

1 makes the determination up to local  
2 observation.

3 MS. WINGATE: There is very  
4 little information that was submitted.

5 CHAIRMAN MOORE: I just want to  
6 be sure that there is no other drawing  
7 or document missing that would allow  
8 us to properly examine this. So this  
9 has a street on three sides. One  
10 thing we will have to be sure of, we  
11 have to understand which are the side  
12 and front and rear yards if it can be  
13 determined. One of the considerations  
14 if variances are granted is that the  
15 designation of the yard is fixed for  
16 future issues on the property.

17 MEMBER CORWIN: So does that  
18 mean it has three front yards?

19 CHAIRMAN MOORE: No, I think  
20 the code defines which are the front  
21 yards and then one becomes a side yard  
22 and one becomes a rear yard. We will  
23 have to examine the drawing because  
24 we sort of have front yards and the  
25 rear --

1                   MEMBER SALADINO: I don't see a  
2 rear yard.

3                   CHAIRMAN MOORE: There is a  
4 side yard to one side and we might  
5 have to consider -- there is three  
6 front yards designated apparently. So  
7 we will have to get an update on that  
8 before we go into discussions. I  
9 don't know if it will effect any of  
10 the determinations because clearly the  
11 front yard is designated down the  
12 side. That is best left for  
13 discussions following the public  
14 hearing.

15                   MEMBER NEFF: Doug, I didn't  
16 understand what you just said.

17                   CHAIRMAN MOORE: Okay.

18                   MEMBER NEFF: The front yard is  
19 Fifth Street; right?

20                   CHAIRMAN MOORE: Yes.

21                   MEMBER NEFF: And this has been  
22 here since the 40's. Somewhere from  
23 the lot of the beach park is --

24                   CHAIRMAN MOORE: Okay.

25                   MEMBER NEFF: Do we know that?

1 MS. WINGATE: No. I have very  
2 little.

3 MR. SWISKEY: All my life.  
4 Sixty something years.

5 MEMBER NEFF: Then definitely  
6 the front yard is Fifth Street.

7 CHAIRMAN MOORE: Well, we will  
8 clarify that. We want to --

9 MR. PROKOP: If we are going to  
10 accept this -- my recommendation  
11 would be that we straighten it out  
12 tonight.

13 CHAIRMAN MOORE: Yes. In the  
14 interim before we bring it up is what  
15 you're saying?

16 MR. PROKOP: No, it has to be  
17 corrected before we accept it. There  
18 is a couple of things in the  
19 application that we seem to be in  
20 disagreement about.

21 CHAIRMAN MOORE: Okay. Well,  
22 since this is going to change. I  
23 would say let's just not accept it  
24 tonight and ask for some  
25 determination of where these yards



1 are. That someone has to -- the owner  
2 has the discretion, I believe to  
3 declare the yards.

4 MR. PROKOP: Well, not the  
5 front yards. The front yards are the  
6 two street frontages --

7 MS. WINGATE: There are three  
8 street frontages.

9 MR. PROKOP: Yes.

10 MS. WINGATE: So I made it all  
11 front yards. The way the code reads,  
12 it says you get two front yards and  
13 you get to chose your back and your  
14 side, but I don't think that this  
15 works for this property.

16 MR. PROKOP: It doesn't. There  
17 are three front yards.

18 CHAIRMAN MOORE: You would have  
19 to deal with the property owner  
20 because there is an issue about the  
21 property corner as to whether that  
22 establishes a corner or not. In the  
23 code, a corner is defined by a certain  
24 degree of intersection of the streets.  
25 So the issue of the corner lot in the

1 back may be a moot point and it may  
2 require them to say that is the  
3 backyard and be done with it.  
4 Obviously this isn't delaying and  
5 construction. So I think we can  
6 answer the owners to come back next  
7 month and have corrected drawings.

8 MS. WINGATE: Can do.

9 CHAIRMAN MOORE: And I don't  
10 think that we need to vote on that.  
11 Does the Board agree with all that?

12 MEMBER CORWIN: I was willing  
13 to accept this and have it corrected  
14 before the next meeting.

15 CHAIRMAN MOORE: Okay.  
16 Mr. Corwin has suggested that we could  
17 go ahead and accept it with the  
18 provision that they correct that issue  
19 prior to the public hearing?

20 MEMBER SALADINO: No, the  
21 application has to be complete and  
22 correct and it's not correct.

23 MS. WINGATE: As far as what  
24 Doug said about a corner doesn't  
25 necessarily hold water in this

1 application because it's not a corner.  
2 It's a road that happens to meander.  
3 So the road --

4 CHAIRMAN MOORE: Well, why  
5 don't we just sit on this and let you  
6 figure that out and not be confused  
7 when the hearing suddenly comes up and  
8 we still don't know. Okay. Agreed  
9 with the Board? Thank you for the  
10 suggestion, Mr. Corwin, but I think we  
11 will let the Building Inspector  
12 resolve that before the hearing is  
13 set. Okay. Is it clear what we want?

14 MS. WINGATE: No, not really.  
15 I will talk to you.

16 CHAIRMAN MOORE: We will talk  
17 about it.

18 MEMBER GORDON: I live around  
19 the corner and I don't see how -- but  
20 I live around a real corner, I don't  
21 really see how a corner could be  
22 designated in any non-artificial  
23 way. It seems to me that it would be  
24 quite artificial to describe this  
25 curve as a corner. On the other hand

1           it might be varies part of the  
2           boundary here which is clearly on the  
3           -- on what is considered to be the  
4           second front yard.

5                     CHAIRMAN MOORE: I am saying  
6           that it probably doesn't affect our  
7           business.

8                     MEMBER GORDON: I just don't  
9           know what the correction is likely to  
10          be.

11                    CHAIRMAN MOORE: The only issue  
12          will be that front yards do establish  
13          fence sites as the Board has  
14          previously discussed and that may have  
15          bearing on the results.

16                    MR. PROKOP: I am not sure what  
17          is going to happen next because we  
18          have a turn down -- I think there is  
19          probably a couple of more variances  
20          that could be done.

21                    CHAIRMAN MOORE: We're  
22          discussing the fence.

23                    MR. PROKOP: I don't know if  
24          you want to tie up the meeting.

25                    CHAIRMAN MOORE: We have time.

1 We're waiting for one item. So Mr.  
2 Prokop inquired about the number of  
3 variances required and I am just  
4 looking at the document here. We're  
5 looking at a lot coverage. That is an  
6 obvious one. We're looking at a  
7 setback of the preexisting deck from  
8 the front yard. And we're also  
9 looking at some issues on fences --

10 MS. WINGATE: That's correct.

11 CHAIRMAN MOORE: On the front  
12 versus the rear yard. Is there  
13 anything else?

14 MS. WINGATE: No.

15 CHAIRMAN MOORE: Okay. So we  
16 will just ask for that clarification  
17 before we move forward. Okay.

18 MEMBER CORWIN: When was the  
19 garage built? If the garage was built  
20 after '47 or '48 then you should have  
21 a variance; right?

22 CHAIRMAN MOORE: I assume. In  
23 a perfect world. Well, we will have  
24 to find out. You can review the  
25 permit file to see what is there.

1 MS. WINGATE: There is very  
2 little. This house has been in the  
3 same family for long time. There is  
4 very little information.

5 CHAIRMAN MOORE: Well, right  
6 now the garage is not in our review, I  
7 guess, other than contributing to the  
8 lot coverage. Now, should we move to  
9 Item No. 1, the Holy Trinity people  
10 are all present? Yes?

11 MEMBER GORDON: I think so.

12 CHAIRMAN MOORE: I think we  
13 should do that next.

14 I would like to review  
15 Item No. 1, which to remind everybody  
16 that it's a discussion and possible  
17 action on the appeal for a use  
18 variance for Lydia Wells, warden of  
19 Holy Trinity Church, 718 Main Street,  
20 SCTM No. 1001-2-3-5. The applicant  
21 proposes to construct a second  
22 residential unit in an existing one  
23 family house in the R1 District.  
24 Section 150-7A(1) does not permit any  
25 building to be used in whole or part,

1 for any use except one family detached  
2 dwelling , not to exceed one dwelling  
3 on each lot. There was a ZBA site  
4 inspection at 718 Main Street at 4:30  
5 p.m. on August 19th. I think we  
6 should spend a few minutes reviewing  
7 the progress so far. I should mention  
8 that this variance appeal is based on  
9 a change in direction on the church's  
10 plans. Originally, a variance had  
11 been approved for a second residential  
12 unit, July 17, 2015 or earlier --  
13 2013, I am sorry. And that was based  
14 on the plan use that church staff  
15 would occupy the two apartments to be  
16 built in the single family dwelling.  
17 And it was stipulated in the variance  
18 that it was for use of Holy Trinity  
19 church employees only. And there was  
20 also a stipulation that the variance  
21 would be terminated and the second  
22 dwelling would have to be eliminated  
23 if the parcel property was ever  
24 separated from the church or sold for  
25 private use. So that's where we

1 stand. I was not present last month.  
2 I understand that the public hearing  
3 was closed, if Ms. Neff can confirm  
4 some of my comments, if I am not  
5 remembering. The other thing is that  
6 coordinated review that was required  
7 because this was an unlisted action  
8 elevated to a Type I because of the  
9 Historic District. That was  
10 concluded?

11 MEMBER NEFF: Uh-huh.

12 CHAIRMAN MOORE: Yes. And I  
13 guess there was some discussions  
14 revolving around the use of the  
15 property. I guess some discussions  
16 whether it was church use, religious  
17 activity or not. I don't know if you  
18 came to any conclusions on that.

19 MR. PROKOP: No.

20 CHAIRMAN MOORE: One thing  
21 that came up in our 2013  
22 determination, which I was present  
23 for, was the federal code for  
24 religious land use and  
25 institutionalized persons act. I am



1 not sure if that acronym is  
2 pronounced as a word but it's RLUIPA.  
3 Mr. Prokop had advised me by e-mail  
4 that this act protects religious  
5 activities and specifically addresses  
6 land use and zoning law restrictions  
7 on property use that religious  
8 institutions do not share the same  
9 burden as private properties do  
10 regarding zoning code. The  
11 complication and the discussion is  
12 that this activity is -- I guess  
13 considered -- would you say a -- what  
14 RLUIPA rental activity not associated  
15 with a church/religious activities?  
16 Mr. Prokop if you could elaborate a  
17 little bit?

18 MR. PROKOP: What RLUIPA does  
19 is it precludes and prohibits land use  
20 regulations from restricting religious  
21 expression or freedom. And those  
22 limitations are directly aimed at any  
23 limitations on religious freedom or  
24 expression or practice of a religion.  
25 It's generally not associated --

1 extended to income generated  
2 activities.

3 CHAIRMAN MOORE: Okay.

4 MR. PROKOP: In general.

5 CHAIRMAN MOORE: Perhaps I can  
6 ask one of the church representatives  
7 a question.

8 MS. MILLER: I am Lorraine  
9 Miller. I am a Co-Warden.

10 CHAIRMAN MOORE: Okay.

11 MS. MILLER: There was some  
12 recollection or discussion about the  
13 property tax issues of the church.  
14 Are you exempt from property tax?

15 MS. MILLER: No, we are not.  
16 We are being taxed right now.

17 CHAIRMAN MOORE: For the full  
18 property?

19 MS. MILLER: No, because --  
20 it's in an unlivable state. I  
21 don't know how you would call that,  
22 but we do pay property tax.

23 CHAIRMAN MOORE: Would that  
24 relate to the residential part?

25 MS. MILLER: Of the rectory,

1 yes. Not of the church itself.

2 CHAIRMAN MOORE: Now, was that  
3 fixed in stone and permanent?

4 MS. MILLER: Well, see there  
5 was an article in the Suffolk  
6 Times a while back about the people  
7 that were living there. That was the  
8 sexton and they were wearing face  
9 masks and saying how unhealthy --

10 CHAIRMAN MOORE: Yes, I  
11 recall.

12 MS. MILLER: And I know Bob  
13 Scott from the Assessor's Office and  
14 he called me up and says, "Lorraine,  
15 is this true?" and I said, well,  
16 yeah, I thought that was allowed. And  
17 he said it was not allowed. The only  
18 time it could be tax free is if you  
19 have a rector or a priest.

20 CHAIRMAN MOORE: That is what I  
21 was assuming.

22 MS. MILLER: And so we became  
23 on the tax roll. It's only a lesser  
24 amount because it's a lesser amount  
25 because when they came inside and

1 looked at it, it's not liveable.  
2 It wasn't like it was in a livable  
3 status. So they reduced the tax.

4 CHAIRMAN MOORE: I was just  
5 curious. That is my understanding  
6 from some of the discussions that I  
7 have heard. And the point is, I  
8 guess, if the minister or the rector  
9 church returned and occupied, you  
10 would then have a change in tax  
11 status?

12 MS. MILLER: We will have a  
13 priest come January, except he has a  
14 family home in Greenport. There is no  
15 need for him to live in there because  
16 he has his own home.

17 CHAIRMAN MOORE: The rental of  
18 that property and I guess the rental  
19 of that property to non-connected to  
20 the church residents would keep it in  
21 the taxable --

22 MS. MILLER: Correct. No  
23 doubt. And it would be up to value  
24 too.

25 CHAIRMAN MOORE: I am just

1           stating that as a basis for some of  
2           our considerations because you know,  
3           that has to be some discretion for  
4           religious activities but then it gets  
5           kind of complicated as to whether this  
6           is directly related to religious  
7           expression or not, and whether the law  
8           would apply. So any discussion from  
9           the Board or questions? Basically, I  
10          think we have gone through most of the  
11          discussions of factual basis and what  
12          the intentions of the church are. We  
13          have heard from the public and the  
14          concerns. Does anyone have further  
15          questions at this point?

16                   MEMBER CORWIN: Just to note  
17                   that some of the neighbors did  
18                   object.

19                   CHAIRMAN MOORE: Yes.

20                   MEMBER CORWIN: You were not  
21                   here last month and some came back and  
22                   objected.

23                   CHAIRMAN MOORE: During the  
24                   public hearing commercial?

25                   MEMBER CORWIN: Yes.

1                   MEMBER NEFF: The Building  
2                   Inspector presented a sketch of all  
3                   the properties in the vicinity of that  
4                   area that showed various uses to  
5                   two-family, multiple, commercial,  
6                   hospital, etc. But yes, there were  
7                   certainly some members of the public  
8                   who have objected on that ground.

9                   CHAIRMAN MOORE: Okay.

10                  MR. PROKOP: May I say  
11                  something?

12                  CHAIRMAN MOORE: Absolutely.

13                  MR. PROKOP: It's hard for me  
14                  to talk to the Board when I am sitting  
15                  at the end. So at the last meeting,  
16                  at the end of the meeting, it was  
17                  suggested that a couple of the Board  
18                  members could meet with the Village if  
19                  they wanted to just discuss Zoning  
20                  or --

21                  CHAIRMAN MOORE: The Church  
22                  Board members.

23                  MR. PROKOP: Church Board  
24                  members, I apologize. They had  
25                  process questions because they just

1           seemed not certain about the  
2           process but nothing else. I just  
3           wanted to mention that we did have two  
4           of the representatives of the church  
5           who did come to the Village Hall. I  
6           was asked to attend. I attended it  
7           with Mr. Pallas. And during the  
8           meeting, we basically just showed them  
9           the code section that they have to --  
10          is the burden for them. The only  
11          other -- one thing that was mentioned  
12          at the meeting from them, there was  
13          additional financial material shown to  
14          us but I don't -- I said it has to be  
15          shown to the Board, if you want -- it  
16          is not really relevant for us. So I  
17          don't know if they have it or it has  
18          already been submitted. But the  
19          only other thing that was mentioned  
20          at the meeting that I wanted to bring  
21          to the Board's attention was -- we had  
22          a diagram of the other two-family  
23          properties in the vicinity. Whether  
24          they are legal or not legal, I have no  
25          idea. The other properties have two

1 families on them. But one thing came  
2 out which was relayed to us is that  
3 this property, I think is fairly  
4 proximate to the boundary of the  
5 R1-R2 districts, if I am not mistaken.  
6 I have not independently verified that  
7 but it was mentioned to me. I am not  
8 sure if that is correct or not. Then  
9 at the end of the meeting, I did  
10 mention to them because it's  
11 definitely something that is on the  
12 table for us to consider is this  
13 RLUIPA discussion. You know, we have  
14 to at least be aware that that is  
15 around. Whether it applies in this  
16 circumstance, we have to decide. We  
17 had to at least be aware that it's  
18 around.

19 CHAIRMAN MOORE: I think that's  
20 an issue. It's not clear cut in this  
21 case. But it has to have the  
22 assumption that income generated on  
23 the church's property benefits the  
24 existence and the continuation of the  
25 church. As such, it's not a direct



1 religious expression but it's a  
2 support. The income was said not to  
3 go elsewhere. It's going directly to  
4 the church. Coffers, if I  
5 understand.

6 MR. PROKOP: In a situation  
7 that I have come across before, as far  
8 as income, the situation where a  
9 religious place will build a hall and  
10 in the consideration of approval of a  
11 construction of a hall, there is a  
12 question about use. And then the  
13 possible use for catering of income  
14 events. It's my understanding that  
15 generally that discussion goes  
16 towards, you know, members. It's okay  
17 to generate income from members having  
18 parties, events but then to -- when  
19 you reach the point when a hall  
20 transitions into a commercial  
21 facility, that becomes a problem.  
22 That is really not a religious use or  
23 expression.

24 CHAIRMAN MOORE: That generated  
25 a lot of questions.

1                   MEMBER CORWIN: It came up at  
2                   the last meeting that the Greenport  
3                   Episcopal Church, Holy Trinity didn't  
4                   own that property the Diocese did.

5                   MEMBER NEFF: Diocese.

6                   MEMBER CORWIN: Diocese. Is  
7                   there any information about that?

8                   MR. PROKOP: I didn't review  
9                   any documentation about that, no. I  
10                  think that they would be considered  
11                  to be applying as an agent of the  
12                  church.

13                  CHAIRMAN MOORE: And basically  
14                  that doesn't really change the  
15                  situation.

16                  MR. PROKOP: I don't think so.

17                  CHAIRMAN MOORE: Let's have  
18                  questions first. Go ahead.

19                  MEMBER GORDON: I wanted to  
20                  know from members of the church are  
21                  they planning to advertise, if this  
22                  variance were granted, would they be  
23                  advertising these rental properties  
24                  on the open market? On the regular  
25                  real estate?

1                   MR. PROKOP: I think they're  
2 going to do whatever they need to do  
3 to rent it out.

4                   MEMBER GORDON: So it seems to  
5 be that that suggest it's a commercial  
6 enterprise.

7                   MR. PROKOP: You would have to  
8 ask them, I am sorry. I don't know if  
9 they have friends involved.

10                  MS. MILLER: At this point, we  
11 are just hoping to get the variance.  
12 It would be at least a year if --

13                  MEMBER GORDON: But it wouldn't  
14 be necessarily members of the church  
15 who would be renting the space?

16                  MS. MILLER: I can't speak for  
17 what the future holds. I'm sorry.  
18 Eastern Long Island Hospital has  
19 approached us and heard that we were  
20 applying for a variance, and they were  
21 very interested because they had  
22 employees that were looking to move  
23 closer.

24                  CHAIRMAN MOORE: Almost kind of  
25 raises the question that you can kind

1 of induce the residents-- future  
2 residents of the apartment to be  
3 church members and make a difference.  
4 That is just a joke on my part.

5 MEMBER SALADINO: I am having a  
6 problem -- by the applicant's  
7 admission that they're going to put it  
8 on the open market, I believe that was  
9 some place in this statement. I am  
10 having a hard time relating that to  
11 expression of religious freedom. I  
12 don't know how the two --

13 MR. PROKOP: I think that is  
14 correct.

15 CHAIRMAN MOORE: I think that  
16 allows us to step back a bit from the  
17 RLUIPA actual -- not that it doesn't  
18 apply.

19 MEMBER SALADINO: The other  
20 question that I would have for the  
21 attorney, does the proximity to  
22 another zone carry any weight?

23 MR. PROKOP: Well, it's not  
24 controlling. You have to go through  
25 the balancing of the different

1 factors.

2 MEMBER SALADINO: Another  
3 question that I have is, can you give  
4 us a ballpark definition of financial  
5 hardship or what's the other term --  
6 reasonable return when it comes to  
7 commercial real estate? When it comes  
8 to residential rental?

9 MR. PROKOP: That is one of the  
10 threshold problems with this  
11 application because generally you are  
12 supposed to take -- you are not  
13 supposed to buy residential property  
14 and then claim that you can't get a  
15 proper return. It's either  
16 residential or it's commercial.  
17 Normally -- general rule is that you  
18 can't make that with a residential  
19 property. You can only make it with  
20 commercial. Commercial is basically  
21 the viability of the property. So in  
22 other words, the example that comes up  
23 all the time -- you bought a gas  
24 station and you're trying to get a  
25 variance to open a convenience store.

1 As a gas station you are losing  
2 money. If you get the variance to  
3 turn part of it into a market, then  
4 you will get a viable return. A few  
5 percent in this market. A few percent  
6 after your carrying costs.

7 CHAIRMAN MOORE: Understand  
8 that the way the code is written  
9 realizing reasonable return for all  
10 permitted uses at the property. And  
11 as residential property, that is  
12 very limited. And so it really  
13 boils down to the return for  
14 residential use and the way that I  
15 see it is, as a single or two family  
16 house that a two family requiring the  
17 use variance. In the financial, it  
18 just occurred to me, I think there was  
19 about a \$12,000.00 difference between  
20 the one family versus a two family --  
21 something like that.

22 MEMBER NEFF: That is roughly  
23 correct.

24 CHAIRMAN MOORE: Was there any  
25 change in tax levy that was factored

1 in that keeps you as the \$12,000.00  
2 margin --

3 MS. MILLER: Yes.

4 CHAIRMAN MOORE: Yes.

5 MS. MILLER: It goes to a full  
6 value. I don't know if it becomes two  
7 apartments but I know the tax -- he  
8 had said and I don't remember exactly,  
9 whether it was for one whole living --  
10 you know.

11 CHAIRMAN MOORE: Okay.

12 Mr. Saladino was pointing out line  
13 items that were representing that.

14 MS. MILLER: I don't remember  
15 if Mr. Scott said it was for the two  
16 family or a one family home. We are  
17 not paying \$8,000.00 presently but  
18 perhaps it would go up to that or  
19 somewhere in that ballpark.

20 MEMBER SALADINO: I have the  
21 annual increase would be \$5800.00 over  
22 and above. \$5815.00 over and above.

23 MS. MILLER: We are paying  
24 \$2200.00 now. So over and above, it  
25 makes it that \$8,000.00. It's

1           \$2200.00 something now.

2                         CHAIRMAN MOORE: I see.

3           Monthly and annually. Okay. So any  
4           other comments from the Board?

5                         MEMBER NEFF: I think that we  
6           all do have the financial's. That  
7           all the numbers represent estimates.  
8           And that in the big picture, what  
9           we're talking about is a difference  
10          between it being used as a single  
11          family house and it's use as a two  
12          unit. And that is the use requested.  
13          We granted this when we were  
14          considering it back in 2013 if they  
15          were church employees. And stated in  
16          our findings and determinations is  
17          that use is rescinded if it's no  
18          longer used by the church. So the  
19          issue is, can this more flexible way  
20          of possibly taking a very  
21          substantial and usable building in the  
22          middle of its renovation and that the  
23          Diocese is requesting some certainty  
24          about it? Not just wanting to go  
25          ahead without a variance. So that is



1           our issue. Exact numbers are not  
2           the issue, I don't think.

3                   CHAIRMAN MOORE: As Ms. Neff  
4           indicated, that property having been  
5           granted a variance was considered not  
6           an unreasonable increase in activity.  
7           In other words, giving a use  
8           variance. The property is diagonally  
9           essentially across Main Street from  
10          the beginning of the R2 District.  
11          It's at the corner of the R1 District.  
12          So again, that factor might have  
13          influence. Additionally, the  
14          improvements to the building are all  
15          internal. Doesn't change the  
16          building. And they're not apparent  
17          whether it's a one family or a two  
18          family besides increase parking, which  
19          has been the case, it's available on  
20          site.

21                   MEMBER CORWIN: So what are you  
22          saying because it's on Main Street,  
23          it's okay --

24                   CHAIRMAN MOORE: No, I am  
25          saying that one influencing factor is

1 not afar from the R2 District, which  
2 doesn't automatically allow it but we  
3 have indicated there is some  
4 additional two family homes -- I  
5 forget what is the proximity of the  
6 other properties --

7 MEMBER SALADINO: More than 200  
8 feet.

9 CHAIRMAN MOORE: Not any  
10 immediate but a few doors down and a  
11 few doors up. As well as a B&B.

12 MEMBER SALADINO: I am having a  
13 problem. The questions for a use  
14 variance are specific and there is no  
15 latitude. There is flexibility in  
16 them. They're either yes or no  
17 answers. And there is no gray area.  
18 The State doesn't allow for  
19 flexibility. And for me, one of the  
20 questions about realizing a financial  
21 hardship -- I have another question  
22 but that one especially, having bought  
23 investment property or being a  
24 landlord at times of my life. If I  
25 could buy a piece of property or own a

1 piece of property and the income from  
2 that property -- the rent from that  
3 property, paid my mortgage. Paid my  
4 construction loan. Paid my taxes,  
5 paid my utilities. Paid my heat.  
6 Paid my insurance and at the end of  
7 the year, there was revenue neutral,  
8 it was zero out of my pocket, I can't  
9 see that as a financial hardship.

10 MS. MILLER: Well, we have  
11 less than \$60,000.00 in a balance  
12 fund. That is all we have left. I  
13 know you're saying it's not a  
14 financial hardship, people are --  
15 people are leaving Greenport left and  
16 right. We're a dying parish. So we  
17 can't --

18 MEMBER SALADINO: I can't think  
19 about the trials and tribulations of  
20 organized religion when it comes to  
21 those five questions.

22 MS. MILLER: I mean, I didn't  
23 buy the rectory and say that we're  
24 going to make money on it. This is  
25 what it has been.

1                   MEMBER SALADINO: You are  
2                   trying to pose -- and I come from a  
3                   very religious family. So this is  
4                   hard for me. You are trying to pose  
5                   moral issues over legal issues. And I  
6                   am having a hard time.

7                   CHAIRMAN MOORE: Can I question  
8                   to Mr. Prokop? In the case that we  
9                   are more familiar with, area  
10                  variances, that the questions,  
11                  especially the last one which was a  
12                  self created one, Number 5 on area  
13                  variances. Overall the basis of the  
14                  final decision to approve or  
15                  disapprove is based on an overall  
16                  consensus based on the questions. And  
17                  is that the case on a use variance as  
18                  well? That the questions drive a  
19                  final decision but not necessarily  
20                  enumerated mathematically?

21                  MR. PROKOP: Not mathematically  
22                  I just wanted to mention that the  
23                  thing that we have to keep in mind is  
24                  that the considerations for a use  
25                  variance are different. There are

1 four different considerations.

2 CHAIRMAN MOORE: Right. One of  
3 them being the reasonable return.

4 MR. PROKOP: Right. First is  
5 reasonable return. Second is that the  
6 hardship is unique and does not apply  
7 to a substantial portion of the  
8 neighborhood.

9 CHAIRMAN MOORE: That's  
10 correct.

11 MR. PROKOP: The third is that  
12 the requested use variance if granted  
13 will not alter the character of the  
14 neighborhood. And then fourth,  
15 whether the alleged hardship was self  
16 created.

17 CHAIRMAN MOORE: Yes.

18 MR. PROKOP: One of the things  
19 that I would like to mention is that  
20 we did some findings in the 2013  
21 decision. And there are findings on  
22 this.

23 CHAIRMAN MOORE: Yes, and I  
24 mentioned them earlier. And one of  
25 the considerations and I am not trying

1 to push this through is, the nature of  
2 the rental can also be controlled as  
3 to being a long term rental with  
4 little turnover. You know, basically  
5 a leased base. And again, the same  
6 provisions with subdivisions and  
7 change of management of the property  
8 could also prevent. But that would  
9 only come in the time of a motion. So  
10 would the Board be prepared to run the  
11 questions in the absence of any more  
12 discussion and make a determination?

13 MEMBER SALADINO: I only have  
14 one more question for the attorney as  
15 -- are the answers cumulative like an  
16 area variance or the way that I read  
17 the code -- the way that I read use  
18 variance if there is one no answer --

19 MR. PROKOP: I think that is  
20 right. No use variance shall be  
21 granted without showing the applicable  
22 zoning regulations created an  
23 unnecessary hardship and --

24 CHAIRMAN MOORE: I think it  
25 goes through each and every --

1                   MR. PROKOP: Right. For each  
2                   and every permitted use zoning  
3                   regulations for where the property is  
4                   located. So it's more of -- stricter.

5                   MEMBER SALADINO: And you also  
6                   -- I am only asking these questions  
7                   because I am having a hard time with  
8                   this application. Moral/legal. You  
9                   said there was additional financial  
10                  information?

11                  MR. PROKOP: Apparently there  
12                  was.

13                  MEMBER NEFF: We have this --

14                  MEMBER SALADINO: I have that.  
15                  I thought the attorney said there was  
16                  additional information.

17                  MR. POLLEO: Yes. The October  
18                  updates and the cash flow and all the  
19                  pledges, it continues to show that we  
20                  are suffering losses. The church  
21                  currently has a stewardship and trying  
22                  to increase a number of pledges units.  
23                  Basically we are on track to lose the  
24                  same amount of money that was lost  
25                  last year, even though the church has

1 reduced expenses by 30%. So at this  
2 point in time, there are no variable  
3 costs left. We have reduced personnel  
4 costs. We have reduced the secretary  
5 to part-time job. We have reduced the  
6 sexton to a part-time job. Again, we  
7 have reduced the costs to about a  
8 third and are continuing to lose as  
9 much money as we have lost last year.

10 MEMBER SALADINO: But no new  
11 additional financial information as  
12 far as the financial statements  
13 concerning the building? The  
14 construction costs?

15 MR. POLLEO: No. Just with  
16 respect to the church as a whole.

17 MR. PROKOP: To the extent that  
18 there is any increase shown in these  
19 documents that they have given us and  
20 it's really slim. A very narrow  
21 margin, but that narrow margin towards  
22 flips positive -- it could be used  
23 right now for a rental property.  
24 Right now it could be used as rentals.  
25 The question is how many units?



1                   CHAIRMAN MOORE: Yes.

2                   MR. PROKOP: And then there is  
3 if it goes to two units, that flips it  
4 positive.

5                   CHAIRMAN MOORE: Okay. What is  
6 the pleasure of the Board at this  
7 point? Do you want to proceed with  
8 the formal determination and  
9 questions?

10                  MEMBER NEFF: Yes.

11                  CHAIRMAN MOORE: I know it's an  
12 agonizing decision but we have to move  
13 forward on this.

14                  MEMBER SALADINO: I am prepared  
15 to move forward. I am not sure that  
16 anybody is going to like my answers.

17                  CHAIRMAN MOORE: That's fine.

18                  MEMBER CORWIN: We should get  
19 this over with.

20                  CHAIRMAN MOORE: Okay. The  
21 questions, the first one, for a use  
22 variance, is that the applicant cannot  
23 realize a reasonable return provided  
24 that lack of return was substantial  
25 and demonstrated by competent

1 financial evidence. And I will poll  
2 the Board and that is Mr. Corwin?

3 MEMBER CORWIN: First of all,  
4 it's difficult to answer yes or no to  
5 some of these questions. I really  
6 don't understand them. I will say  
7 here, yes.

8 (Whereupon, the alarm sounded.)

9 CHAIRMAN MOORE: Just to  
10 clarify, a yes answer means that you  
11 agree that the applicant cannot  
12 realize --

13 MEMBER CORWIN: No. I want to  
14 tell you what my thinking is. The  
15 applicant cannot realize a reasonable  
16 return. All right. So my answer  
17 would be no, the applicant can realize  
18 a reasonable return as a one family  
19 house. This is a residential property  
20 and renting out a one family house can  
21 realize a reasonable return.

22 CHAIRMAN MOORE: Okay. So  
23 relative to the question as stated in  
24 full under No. 1 are you answering yes  
25 or are you answering no?

1                   MEMBER CORWIN: Like I said, I  
2                   can't understand the question. The  
3                   applicant cannot realize a reasonable  
4                   return. I am saying yes, the  
5                   applicant can realize a reasonable  
6                   return on a one family house.

7                   CHAIRMAN MOORE: And that is  
8                   among the permitted uses. I don't  
9                   want to change your vote --

10                  MEMBER NEFF: Can I just point  
11                  out that the applicant is requesting  
12                  two unit use. That is what their  
13                  request is.

14                  MR. PROKOP: Let's straighten  
15                  this out.

16                  CHAIRMAN MOORE: I think we're  
17                  going over semantics here because --

18                  MR. PROKOP: The first question  
19                  is, the applicant cannot realize a  
20                  reasonable return provided that lack  
21                  of return is substantial and  
22                  demonstrated by competent financial  
23                  evidence. So the applicant cannot  
24                  realize a reasonable return.

25                  CHAIRMAN MOORE: And just

1           above, it says that the applicant  
2           shall demonstrate to the Board of  
3           Appeals that for each and every  
4           permitted use under the zoning  
5           regulations for the particular  
6           district where the property is located  
7           that. So we're making a determination  
8           that they cannot realize a reasonable  
9           return within the permitted use. Yes?

10           MR. PROKOP: So Mr. Corwin  
11           said, if I am not mistaken, that No,  
12           they cannot realize a reasonable  
13           return?

14           MEMBER CORWIN: My answer to  
15           the question is no. I stated that  
16           they can realize a reasonable return  
17           as a one family house.

18           CHAIRMAN MOORE: I understand  
19           your statement. So then your answer  
20           is no.

21           MR. PROKOP: Okay.

22           CHAIRMAN MOORE: Ms. Neff?

23           MEMBER NEFF: Yes.

24           CHAIRMAN MOORE: Ms. Gordon?

25           MEMBER GORDON: Yes.

1 CHAIRMAN MOORE: Mr. Saladino?

2 MEMBER SALADINO: I am going to  
3 vote no.

4 CHAIRMAN MOORE: I am voting  
5 yes.

6 That the alleged hardship  
7 relating to the property in question  
8 is unique and does not apply to a  
9 substantial portion of the district or  
10 neighborhood?

11 Mr. Corwin?

12 MEMBER CORWIN: No, it's not  
13 unique and it applies to all the other  
14 structures in the neighborhood.

15 CHAIRMAN MOORE: Ms. Neff?

16 MEMBER NEFF: Yes.

17 CHAIRMAN MOORE: Ms. Gordon?

18 MEMBER GORDON: Yes.

19 CHAIRMAN MOORE: Mr. Saladino?

20 MEMBER SALADINO: I am going to  
21 vote no, again.

22 CHAIRMAN MOORE: And I am  
23 going to vote yes, based on the fact  
24 that the property is unique and it's  
25 different then the rest of the R1

1 residential structures, which don't  
2 come under the same.

3 No. 3, That the requested use  
4 variance if granted will not alter the  
5 essential character of the  
6 neighborhood? Mr. Corwin?

7 MEMBER CORWIN: My answer to  
8 that, is yes, it will alter the  
9 essential character of the  
10 neighborhood. And we have heard from  
11 several people in the neighborhood  
12 express concerns about overcrowding  
13 and that is a busy road right now.

14 MEMBER GORDON: Could you read  
15 it again, then I would then think he  
16 would be voting no.

17 MEMBER NEFF: I would too.

18 CHAIRMAN MOORE: Yes, I think  
19 it will not alter. It's funny the way  
20 that these are worded. You answer no  
21 by disagreeing it will not. So it's  
22 like a double negative. I think that  
23 represents a no vote. In other words  
24 a fail vote.

25 Ms. Neff?

1 MEMBER NEFF: Yes.

2 CHAIRMAN MOORE: Ms. Gordon?

3 MEMBER GORDON: Yes.

4 CHAIRMAN MOORE: Mr. Saladino?

5 MEMBER SALADINO: Again, I am  
6 confused. I had written yes here,  
7 but what you just said contradicts  
8 that. I think it will alter the  
9 character of the neighborhood.

10 CHAIRMAN MOORE: So that is a  
11 no. It's kind of a double negative.  
12 I would answer, yes, that it will not  
13 alter.

14 That the alleged hardship has  
15 not been self-created? Mr. Corwin?

16 MEMBER CORWIN: I would answer,  
17 yes, the alleged hardship has been  
18 self-created.

19 CHAIRMAN MOORE: That ends up  
20 being a no. The ways that these are  
21 written they come out being reverse.  
22 So if you agree that it is  
23 self-created, then it is a no.

24 MEMBER CORWIN: All right, so  
25 you want me to answer no, because this

1 is a self created hardship?

2 CHAIRMAN MOORE: Yes.

3 Ms. Neff?

4 MEMBER NEFF: Now you got me  
5 thinking.

6 CHAIRMAN MOORE: You're  
7 answering if it has not been self  
8 created?

9 MEMBER NEFF: Yes.

10 CHAIRMAN MOORE: Ms. Gordon?

11 MEMBER GORDON: I vote yes, and  
12 I would just like to say since other  
13 people are commenting on their votes,  
14 that I think we're talking about  
15 something that has been created by the  
16 declining congregation. And that  
17 seems to me totally out of the control  
18 of the applicants.

19 CHAIRMAN MOORE: Yes.

20 Mr. Saladino?

21 MEMBER SALADINO: I am going to  
22 vote, no. Just as a question, Dinni,  
23 what did you say?

24 MEMBER GORDON: That's a good  
25 question. I said that, I would have



1 to vote, yes, because the applicants  
2 are not the cause of the problem.  
3 The cause of the problem is the  
4 decline of the congregation, which is  
5 happening to other congregations  
6 also. We are in the middle of a shift  
7 in the position of churches in small  
8 towns and in particular this church,  
9 in this building. It's a rectory  
10 and the rectory no longer serves such  
11 as sizable congregation. I don't  
12 think that is the fault of the  
13 applicant.

14 CHAIRMAN MOORE: Okay. And I  
15 would answer, yes, on that. Now, I  
16 would like to review the voting  
17 because it is confusing. For the  
18 reasonable return, the votes were  
19 Yes-3 and 2-No. Meaning that passes.  
20 That they cannot realize a return.  
21 The voting is not totally  
22 consistent.

23 MEMBER SALADINO: Can I  
24 just --

25 CHAIRMAN MOORE: Yes.

1                   MEMBER SALADINO: Are the first  
2                   two double negatives also?

3                   CHAIRMAN MOORE: They appear to  
4                   be. You're agreeing that they cannot  
5                   realize a reasonable return by voting  
6                   yes, and you voted no. Meaning they  
7                   could.

8                   MEMBER SALADINO: Okay.

9                   CHAIRMAN MOORE: That was  
10                  clear. We had 3-Yes's --

11                  MS. WINGATE: Doug?

12                  CHAIRMAN MOORE: Yes?

13                  MS. WINGATE: Doug just asked  
14                  that you not vote on the last piece  
15                  until he gets back.

16                  CHAIRMAN MOORE: Yes. I had  
17                  considered myself whether I should  
18                  vote or not and I had been through  
19                  most of these proceedings and felt  
20                  that I have an accurate understanding  
21                  of last month. So we're just  
22                  reviewing the vote again. We covered  
23                  the alleged hardship and that was a  
24                  pass 3-2. The variance will not alter  
25                  the character, that was again a pass,

1 3-2.

2 And lastly, the alleged  
3 difficulty was not self created and we  
4 agreed 3-2, that it was not  
5 self-created.

6 Mr. Prokop, I just reviewed the  
7 votes to clarify where we are. The  
8 different questions were passes, 3-2  
9 across the board.

10 MR. PROKOP: Okay.

11 CHAIRMAN MOORE: Now we are  
12 required to raise a motion --

13 MR. PROKOP: You need to do  
14 SEQRA.

15 CHAIRMAN MOORE: I believe I  
16 can review that. That was handled  
17 last month due to the coordinated  
18 review. To review the results, it was  
19 a Type I question in the district and  
20 the voting was in agreement that it  
21 had no significant effect on the  
22 environment 4-0. So that the process  
23 could proceed. So let's see if I can  
24 put together a motion, which then  
25 comes under the consideration of the

1 Board members whether to approve and  
2 that is a motion to approve the  
3 requested variance for rental of a --  
4 conversion to a two family unit or  
5 rental to customers on the open market  
6 on the church property. I would  
7 recommend that the considerations of  
8 stipulations -- first of all be the  
9 same as the original variance that was  
10 granted in 2013. That the property,  
11 if it were ever separated from the  
12 church, the residential portion or  
13 sold for private use, that the  
14 variance be rescinded. That we are  
15 not restricting in the new resolution  
16 restriction of church employees only  
17 and I would also include in the motion  
18 and stipulations, that the rental  
19 would have to be on a long term basis.  
20 Namely more than 30 days and on a  
21 lease. Month to month continuing  
22 basis for tenants or residents.

23 MEMBER SALADINO: I am not sure  
24 that the ZBA is allowed to make that  
25 condition. I thought the variance --

1                   MEMBER GORDON: We do it all  
2                   the time.

3                   MEMBER SALADINO: I thought the  
4                   variance went with the land?

5                   CHAIRMAN MOORE: Generally they  
6                   do, but in this case, we would have a  
7                   conversion of church property to  
8                   private property and I am assuming  
9                   that would be an allowable restriction  
10                  for variance.

11                  MR. PROKOP: You are allowed to  
12                  impose any reasonable conditions.

13                  MEMBER SALADINO: Land use?

14                  MR. PROKOP: Yes. Right.

15                  CHAIRMAN MOORE: Restrictions  
16                  or conditions on use --

17                  MR. PROKOP: So the question as  
18                  to the rental, yes, you could limit it  
19                  to a long term.

20                  MEMBER CORWIN: That wasn't the  
21                  question.

22                  MEMBER NEFF: Or we could -- if  
23                  it becomes sold, as the church decides  
24                  to sell, then it is a single family  
25                  house.

1                   MR. PROKOP: And also if the  
2                   property as a whole is transferred.  
3                   It can only be -- the income from the  
4                   rental has to go to the church only.

5                   CHAIRMAN MOORE: Okay. Let me  
6                   write these down.

7                   MEMBER CORWIN: I have to note  
8                   that the property is already divided  
9                   from the church.

10                  MEMBER NEFF: It's what?

11                  MEMBER CORWIN: The question is  
12                  the ownership of the property.

13                  MEMBER NEFF: Did you say that  
14                  it was or was not?

15                  MEMBER CORWIN: The property is  
16                  already divided from the church.  
17                  There is two parcels.

18                  MEMBER NEFF: No.

19                  CHAIRMAN MOORE: That would be  
20                  new information.

21                  MS. MILLER: Only the rectory  
22                  because that was taxed.

23                  MEMBER CORWIN: Please let me  
24                  talk. There is two parcels. There is  
25                  a church parcel and then there is a

1           rectory parcel. They're divided. The  
2           ownership is questioned. If the  
3           ownership of the rectory changes, that  
4           is, if and when the church -- I don't  
5           want to use the word fail, but if and  
6           when the church can no longer support  
7           itself and they decide to sell the  
8           rectory on a private market, then the  
9           ownership changes.

10                   CHAIRMAN MOORE: I understand  
11           what you're saying but I am thinking  
12           you are referring to the property as  
13           divided in a -- more of a descriptive.  
14           Are there two tax numbers for that  
15           property?

16                   MS. MILLER: I don't believe  
17           so.

18                   CHAIRMAN MOORE: I believe not.

19                   MEMBER CORWIN: Then we have to  
20           start all over again because in the  
21           beginning my understanding and I asked  
22           that question in the beginning. If  
23           they were two separate parcels.

24                   CHAIRMAN MOORE: I believe the  
25           discussions were consistent

1           throughout. I am just looking for a  
2           plot diagram. It has been published  
3           through our discussions as a single  
4           tax number, which doesn't mean that --

5                     MEMBER CORWIN: We don't have a  
6           survey.

7                     CHAIRMAN MOORE: We need --

8                     MR. TASKER: If I may, if  
9           someone has a computer, the Southold  
10          Tax Map is accessible online at the  
11          Southold Town website. It will have  
12          each and every parcel whether it's  
13          separate or not. So if someone has a  
14          computer turn it on.

15                    CHAIRMAN MOORE: I am looking  
16          at the Village Zoning Map for the  
17          Greenport and it's shown as a single  
18          parcel.

19                    MEMBER CORWIN: But what you  
20          have to look at is the assessment roll  
21          for 2015 for the Town of Southold.

22                    CHAIRMAN MOORE: I understand  
23          what you're saying and that's a proper  
24          point but the question is -- it's  
25          being clouded by the fact that the



1 parcel has been, you know, not  
2 subdivided but a portion of the parcel  
3 has been put on the tax roll map as a  
4 percentage of the property. The  
5 question is, there is no official  
6 subdivision that I am aware of. So  
7 that it's not officially divided and  
8 we need to confirm that.

9 MEMBER CORWIN: My  
10 understanding from the first meeting  
11 was that it was and I was under the  
12 assumption that it was two separate  
13 parcels.

14 MEMBER NEFF: In the findings  
15 and determinations from July, 2013, it  
16 doesn't say that.

17 MEMBER CORWIN: Well, do we  
18 have a survey? I am asking the  
19 question, do we have a survey?

20 CHAIRMAN MOORE: I would ask  
21 Mr. Prokop whether that's a  
22 significant issue in a determination?  
23 I mean, it could effect the control  
24 that a variance has over a  
25 property.

1                   MR. PROKOP: I think it's very  
2                   important.

3                   CHAIRMAN MOORE: Do you  
4                   recommend we simply table the final  
5                   motion pending review of the tax map?

6                   MEMBER SALADINO: How is it  
7                   assessed?

8                   MR. PROKOP: It's one tax  
9                   parcel. I think we have the tax map.

10                  MS. WINGATE: I have plenty of  
11                  tax maps. It's one parcel.

12                  MEMBER NEFF: And it's also a  
13                  place that we made a site visit. We  
14                  have a diagram of the proposed floor 1  
15                  and floor 2 and egress, parking.

16                  CHAIRMAN MOORE: But we don't  
17                  have a survey of the parcel.

18                  MEMBER NEFF: Right, but we  
19                  never had one. We were there and we  
20                  knew exactly what we were dealing  
21                  with.

22                  MEMBER SALADINO: I was just  
23                  asking how they assessed you.

24                  MS. MILLER: He said they were  
25                  assessing the rectory. They were

1 going to assess that piece of property  
2 because it came out in the paper that  
3 there were people living in there that  
4 weren't priests. Clergy.

5 CHAIRMAN MOORE: I think we  
6 need to consider that this is a  
7 technical issue on how a determination  
8 and a stipulations of conditions might  
9 be affected by the question of whether  
10 it's a separate parcel or not and I  
11 think it would be proper to determine  
12 that and then be able to put a motion  
13 together when we know that. I agree  
14 with Mr. Prokop that that is a  
15 critical question.

16 MEMBER NEFF: What is the  
17 critical question? I'm sorry.

18 CHAIRMAN MOORE: As to wether  
19 the conditions that we might apply to  
20 a variance with the assumption that  
21 it's a single parcel, that in fact, if  
22 it were two parcels, it might change  
23 the control of that.

24 MEMBER NEFF: The only  
25 statement that we had if they were two

1 parcels -- there is no confirmation of  
2 that.

3 MEMBER SALADINO: We have the  
4 Building Inspector saying --

5 MEMBER NEFF: It's one parcel.

6 MEMBER SALADINO: She has a tax  
7 map.

8 MEMBER NEFF: I have a tax map.  
9 We have had it from the beginning.

10 MEMBER SALADINO: You have a  
11 tax map?

12 MEMBER NEFF: Yes.

13 CHAIRMAN MOORE: That is the  
14 zoning map of the Village.

15 MEMBER NEFF: I'm sorry, it's  
16 both. Do you see those lines?

17 CHAIRMAN MOORE: Yes.

18 MEMBER NEFF: And the numbers.

19 CHAIRMAN MOORE: It's a single  
20 parcel.

21 MEMBER SALADINO: I believe the  
22 Building Inspector that it's one  
23 parcel.

24 CHAIRMAN MOORE: Then I  
25 think --

1                   MR. PROKOP: I don't know if  
2                   that is going to affect Mr. Corwin's  
3                   vote. He has to raise that as a  
4                   question. If there was a  
5                   misunderstanding that he has to raise  
6                   that as an issue?

7                   CHAIRMAN MOORE: I don't think  
8                   -- over -- I don't know how many  
9                   months, has there ever been an issue  
10                  that this was two parcels. It has  
11                  never been discussed openly and no one  
12                  has ever indicated that question. I  
13                  don't doubt your concerns --

14                  MEMBER CORWIN: I specifically  
15                  asked Ms. Well's when she was here  
16                  because I was surprised. She said it  
17                  was two parcels.

18                  MS. MILLER: Well, we can't ask  
19                  Ms. Wells. She's on a cruise ship.  
20                  So I can't access her in any way to  
21                  find out if this is what she stated.

22                  CHAIRMAN MOORE: We can  
23                  certainly find out and your tax bills,  
24                  you can present those.

25                  MS. MILLER: I will get a

1 letter from Bob Scott saying that.

2 Will that suffice?

3 CHAIRMAN MOORE: Mr. Prokop,  
4 do you think that is sufficient to  
5 delay a determination to clarify that  
6 issue?

7 MR. PROKOP: I think what is  
8 going to -- we are going to have to  
9 adopt a written decision anyway. And  
10 I think that there is enough of this  
11 going back and forth that we should --  
12 we should probably considering voting  
13 on it and adopting a resolution on the  
14 same night.

15 CHAIRMAN MOORE: Okay.

16 MR. PROKOP: It's not going  
17 to go into effect until a decision  
18 is --

19 CHAIRMAN MOORE: Is signed.

20 MR. PROKOP: I think what we  
21 should all do tonight since it's fresh  
22 in our minds, is agree to the  
23 conditions.

24 CHAIRMAN MOORE: Yes. What I  
25 would do is take those discussions

1 from the Board to put together at  
2 least the stipulations for a positive  
3 determination. Following a  
4 determination if positive. And I  
5 think that would be the rental income  
6 -- we are agreeing that it would be  
7 rented in a motion. That the rental  
8 income would be directly applied to  
9 the church coffers.

10 MEMBER NEFF: Why does that  
11 have to be part of our motion?

12 CHAIRMAN MOORE: The point of  
13 it is that it's going into the church  
14 finances.

15 MEMBER NEFF: Why would it be  
16 any other understanding that that is  
17 the case?

18 CHAIRMAN MOORE: Just clarifies  
19 it. We would also stipulate, I  
20 believe, that the rentals would be on  
21 a long term basis as defined by more  
22 than 30 days, which is defined by the  
23 code. That the -- any separate of the  
24 property though subdivision or  
25 converted through private use would

1 rescind the two family variance.

2 MR. PROKOP: So that includes  
3 any ownership change in either  
4 property --

5 CHAIRMAN MOORE: Either  
6 portion. The change of ownership, I  
7 would assume if it was changed from  
8 the church wouldn't effect the  
9 viability of the variance. But if the  
10 property was sold for private use --

11 MR. PROKOP: No, I think of any  
12 use. You could have any church come  
13 in financial circumstance --

14 CHAIRMAN MOORE: What would  
15 that change anything?

16 MR. PROKOP: Yes, because it's  
17 a hardship.

18 CHAIRMAN MOORE: Okay. I don't  
19 quite see that.

20 MR. PROKOP: Now we have  
21 legalized the use. What about changes  
22 in the size of the building?

23 CHAIRMAN MOORE: If the  
24 building in the future had alterations  
25 they would require area variances, I



1           assume.  If the structure were  
2           changed, that would totally be a  
3           different issue.  It wouldn't affect  
4           the two family.

5                         CHAIRMAN MOORE:  You mean as  
6           far as an addition?

7                         MR. PROKOP:  Right.  Expanding.

8                         CHAIRMAN MOORE:  I think what  
9           we have to do is I have to try and  
10          hash out the stipulations and  
11          circulate them to the Board because  
12          the Board has to agree to them.  It's  
13          really up to us to decide on what they  
14          are.

15                        MEMBER SALADINO:  I have to be  
16          honest, it won't affect anything.  I  
17          was under the impression from the  
18          discussion and from the financial's,  
19          that it was a separate parcel.

20                        MS. MILLER:  It's always been  
21          one.  She might have misunderstood  
22          that there was two buildings.

23                        MEMBER SALADINO:  For me it  
24          was more that one parcel was being  
25          taxed and one was not.  As soon as I

1 heard one building was being taxed  
2 and the church building itself  
3 wasn't --

4 MS. MILLER: I can get a letter  
5 from Bob Scott from my knowledge, we  
6 would have to do everything to get the  
7 subdivided. We didn't do anything.  
8 We didn't do any of that. The  
9 Town can't go and subdivide your  
10 property without doing it.

11 CHAIRMAN MOORE: That would go  
12 through the Village process.

13 MS. MILLER: Unless we were  
14 notified and we never got anything.

15 CHAIRMAN MOORE: The Town  
16 controls the taxes. That is beyond  
17 the Village's determination but the  
18 Village controls the use, the  
19 occupancy.

20 MS. MILLER: I understand what  
21 you're saying. I am under the  
22 impression that it's one parcel.

23 CHAIRMAN MOORE: We will find  
24 out. Southold Town unlike  
25 Greenport, has a rule that if it's

1 under the same ownership that it  
2 becomes one. But this isn't the case  
3 of the Village and this isn't the  
4 question that is being asked. So is  
5 this agreeable to the Board?

6 MEMBER NEFF: My question is.  
7 Approximately how long have you had a  
8 tax bill from the Town of Southold for  
9 the rectory?

10 MS. MILLER: A year.

11 MEMBER NEFF: One year. Any my  
12 subsequent question, this is the first  
13 time at this meeting and I have  
14 actually been at all and I have read  
15 minutes, and I can't tell you how  
16 important --

17 MEMBER GORDON: They are very  
18 well done.

19 MEMBER NEFF: Any discussion  
20 whatsoever of it being two parcels. I  
21 am sorry.

22 MEMBER SALADINO: It's okay.

23 MEMBER NEFF: Having read them.  
24 My third point, that we table this to  
25 continue discussions at this meeting

1 to not to have a delay upon delay upon  
2 delay and to try and get all our ducks  
3 lined up. So we can proceed. Now we  
4 have raised some new issues. Let's be  
5 very clear in what they are. And do  
6 we really -- are they substantial and  
7 do they prevent us from voting on the  
8 use variance. That is my question.

9 MR. PROKOP: We don't know what  
10 the conditions are.

11 MEMBER NEFF: We don't want the  
12 applicant to be in the dark as to what  
13 they are either.

14 CHAIRMAN MOORE: Well, one  
15 thing I need to ask too is, is it  
16 permissible -- if we agree to wait  
17 till next month to finalize and sign a  
18 document that day, is it permissible  
19 for me to circulate among the Board  
20 members the differ net conditions and  
21 get their feedback?

22 MR. PROKOP: Individually, yes.  
23 But you can't vote on it.

24 CHAIRMAN MOORE: No voting.  
25 Just recommendations for stipulations

1 and changes to it, is that  
2 permissible without public eye?  
3 Because it would come up then as a  
4 proposal at the next meeting or the  
5 final discussion.

6 MR. PROKOP: It's my  
7 understanding that that is acceptable.  
8 If I find out differently, I will let  
9 you know right away.

10 CHAIRMAN MOORE: We are not  
11 just going to go cold and come back  
12 next month with a new set of  
13 discussions.

14 MR. PROKOP: I just want to  
15 finish one point and to me this is  
16 very critical. What is happening in  
17 other churches and not any particular  
18 church, is that the churches are  
19 dividing their time. I am saying  
20 church, not to categorize any  
21 religion, but places of worship are  
22 dividing their time and basically  
23 subletting their time. So if you go  
24 there at 8:00 and 10:00, it will be  
25 one religion. If you go there at

1           2:00 it will be another religion or  
2           Monday's and Wednesday's. Whatever  
3           division is the sublease. And my  
4           concern is, you analyze this and gave  
5           relief based on an application of a  
6           particular circumstances in that other  
7           building. If there is any change in  
8           that --

9                         MEMBER NEFF: Are you talking  
10           about the building as the church  
11           itself?

12                        MR. PROKOP: Right. That I  
13           think that has to either end the  
14           variance or revisit the variance. If  
15           we end up with some other religion in  
16           the other buildings, they have a  
17           completely different set of financial  
18           circumstances and the whole thing has  
19           to be revisited.

20                        CHAIRMAN MOORE: We would have  
21           to revisit it, I would think.  
22           Certainly --

23                        MEMBER NEFF: Excuse me, you're  
24           suggesting or what you are talking  
25           about is that the Diocese or whatever

1 words I should use to describe this  
2 church is no longer of the owner of  
3 the church or that they lease out the  
4 church, but if they are still the  
5 owner -- I mean, right now the church  
6 is used by many organizations but not  
7 as far as I know, different forms of  
8 worship; is that right? I mean, I  
9 don't see how that has a bearing. As  
10 long as they own it and you are  
11 talking about their use of what was  
12 formally their rectory --

13 MR. PROKOP: That is the next  
14 thing that I was going to mention and  
15 another concern of mine is basically  
16 the ownership -- I don't think it's  
17 relevant because they can turn the  
18 entire site into an investment  
19 property.

20 MEMBER NEFF: I don't  
21 understand.

22 CHAIRMAN MOORE: I think  
23 Mr. Prokop was referring to a change  
24 of use of the church property to  
25 nonreligious activities. That they

1 dissolve --

2 MR. PROKOP: Or a different  
3 church.

4 MEMBER NEFF: We are talking  
5 about this application and this  
6 building. We are talking about a use  
7 variance for this building. Now the  
8 church as a whole; correct?

9 CHAIRMAN MOORE: Well, it's for  
10 a portion of the property.

11 MEMBER NEFF: It's for a  
12 building. Not two buildings or three.

13 MEMBER SALADINO: The  
14 discussion is that this particular  
15 church is experienced -- at this  
16 particular moment in time is  
17 experiencing a hardship and some of us  
18 are basing our yes or no answers on  
19 that particular situation. If a  
20 different organization, I think -- if  
21 a different organization came in,  
22 perhaps in better shape financially,  
23 would we still consider this property  
24 the same circumstances --

25 CHAIRMAN MOORE: I agree with



1           that.

2                   MEMBER NEFF:   Excuse me.   We're  
3           still talking about a particular  
4           building, which we have seen plans for  
5           that building, in which we have seen.

6                   MEMBER SALADINO:   We're moving  
7           on from that.   We're expanding --

8                   MEMBER NEFF:   We're talking  
9           about anything could happen.   And yes,  
10          but -- that is what you're basically  
11          saying.   Anything could happen.

12                   MEMBER SALADINO:   Well, I --

13                   MEMBER NEFF:   Excuse me, John.  
14          We're talking about this structure --

15                   MEMBER SALADINO:   Absolutely.  
16          And the way that you prevent problems  
17          from occurring down the line is that  
18          you address all repercussions.   All  
19          the situations that can happen --

20                   MEMBER NEFF:   About this  
21          building.

22                   MEMBER SALADINO:   About  
23          everything.   And if you address them  
24          now and if it ever happens, of it  
25          happens, you have an answer for it.

1 You have recourse.

2 MEMBER NEFF: For each  
3 variance, you have to come in and make  
4 your case based on something -- a  
5 concrete proposal. Anything could not  
6 happen as long as there is Zoning  
7 Board of Appeal and some place where  
8 determinations are made.

9 MEMBER SALADINO: I just think  
10 it's better to be proactive than  
11 reactive.

12 MEMBER GORDON: Can a condition  
13 be written that it specifically names  
14 this church? Maybe even this  
15 particular church with a couple of  
16 these --

17 MS. MILLER: You keep talking  
18 about what might happen in the future.  
19 This property is owned by the Diocese.  
20 It might be deeded to us to run it.  
21 Whether we run it properly or run it  
22 into the ground because there is  
23 nobody to come to church anymore to  
24 support it, but it's owned by the  
25 Diocese. So it's not like, okay,

1 another church is going to come in  
2 here. Like the Roman Catholic Church  
3 is going to come in --

4 CHAIRMAN MOORE: I think it's a  
5 valid point from what Mr. Prokop is  
6 saying. That if there was a change of  
7 operations, a new church, a new  
8 ownership, I don't think there should  
9 be any restrictions to say that only  
10 this church can inherit. That there  
11 would be a need to revisit the  
12 hardship question because that is a  
13 significant part. I think the  
14 question if it's one religion or  
15 another, it would void the basis for  
16 the variance.

17 MS. MILLER: The variance is  
18 for Holy Trinity Church. If that  
19 church is no longer here, that  
20 variance is no longer needed. If  
21 that's how you need to word it. It's  
22 our variance. We're the one who is  
23 asking for it.

24 CHAIRMAN MOORE: And if the  
25 church created a bingo hall or

1 recreational hall or wedding reception  
2 center, that again would be the basis  
3 for loss of the variance.

4 MS. MILLER: Right.

5 CHAIRMAN MOORE: Let me ask the  
6 Board if we can agree that we will  
7 table this proceeding for final  
8 determination document that will be  
9 available next month for a vote. We  
10 have done most of the process but the  
11 final vote. Is that agreeable to  
12 everybody?

13 MEMBER NEFF: So you're saying  
14 that we will have a final vote and  
15 adopt a statement that will --

16 CHAIRMAN MOORE: The  
17 determination will be prepared by next  
18 month. I will reach out to the  
19 members individually for comments, but  
20 not votes. And I will work with Mr.  
21 Prokop to have a document on-hand that  
22 can be decided up or down. Is that  
23 agreeable to everybody?

24 (Non-Verbal Response.)

25 CHAIRMAN MOORE: And I

1 apologize.

2 MS. MILLER: What do you need  
3 from me?

4 CHAIRMAN MOORE: We have to be  
5 in agreement that this covers all the  
6 basis. I would hope that we wouldn't  
7 have any more discussion.

8 MS. MILLER: What do you need  
9 from Holy Trinity next month so that  
10 there is no questions that can be  
11 raised whether this is one parcel, two  
12 parcels or six parcels? What do you  
13 need?

14 MEMBER SALADINO: Just to lock  
15 it up, perhaps that letter.

16 MS. MILLER: I will contact the  
17 Diocese. They were supposed to send  
18 one. I don't know if you received it  
19 or not.

20 CHAIRMAN MOORE: And perhaps,  
21 Mr. Scott, could reaffirm that manner  
22 for which the tax levy has been done?

23 MS. MILLER: I will give him a  
24 call.

25 CHAIRMAN MOORE: We will resume

1 next month. Do we need to vote on the  
2 table? I guess we should. I will  
3 make a motion to table the final  
4 decision pending preparation of the  
5 final determination document as we  
6 have discussed. I will ask for a  
7 second?

8 MEMBER SALADINO: Second.

9 CHAIRMAN MOORE: Any  
10 discussion?

11 (No Response.)

12 CHAIRMAN MOORE: All in favor?

13 MEMBER CORWIN: Aye.

14 MEMBER SALADINO: Aye.

15 MEMBER GORDON: Aye.

16 MEMBER NEFF: Aye.

17 CHAIRMAN MOORE: Aye.

18 That motion carries

19 MR. TASKER: (In Audible)

20 members, the questions and responses,  
21 will they be available for the public  
22 in advance of the next Zoning --

23 CHAIRMAN MOORE: Yes. I will  
24 print any emails back and forth and  
25 it's basically to be sure that we have

1 added the appropriate restrictions  
2 that we have discussed at this  
3 meeting.

4 MR. PROKOP: I just want to  
5 state for the record, that I am going  
6 to review the guidelines from the New  
7 York State Office of Committee and  
8 Open Government regarding the process  
9 that we discussed. Just to make sure  
10 that they have a written decision that  
11 would prohibit that. There are some  
12 limitations that would -- I think it's  
13 okay to circulate a document and to  
14 have comments back for the next  
15 meeting -- to be applied for the next  
16 meeting but I will give you the  
17 guidelines --

18 CHAIRMAN MOORE: You have to be  
19 very careful with that, that it's all  
20 in view of the public and that no  
21 decisions are made. All right. I  
22 think we have moved on from No. 1 and  
23 we have moved on to No. 5.

24 This is an item that comes up.  
25 The ZBA has been included in the

1 distribution concerning SEQRA  
2 Review/Coordinated review for wetlands  
3 permit submitted by John Costello, as  
4 agent for Greenport Shipyard. Located  
5 at 201 Carpenter's Street. The basis  
6 for this discussion is that the ZBA  
7 could be an interested agent and we  
8 have the option of making any comments  
9 chose to make regarding the  
10 application, we would have to make a  
11 decision tonight if that is the case  
12 because I think the hearing is coming  
13 up in a matter of weeks before our  
14 next meeting.

15 MEMBER SALADINO: Really?

16 CHAIRMAN MOORE: When is the  
17 discussion of the hearing for the  
18 wetlands application coming up for the  
19 SEQRA Review?

20 MEMBER SALADINO: I thought --

21 MEMBER CORWIN: They have not  
22 scheduled anything. This is the first  
23 time we are hearing of it.

24 CHAIRMAN MOORE: Okay. We are  
25 not compelled to participate as



1           involved parties but we are listed as  
2           an interested party.

3                   MEMBER CORWIN:  Doesn't mean  
4           that we can't discuss it this evening  
5           but I don't think they have scheduled  
6           a hearing.

7                   CHAIRMAN MOORE:  I thought it  
8           was imminent.  My recommendation is  
9           that we already have two members of  
10          the Zoning Board of Appeals on the  
11          Coastal Advisory Committee --

12                   MEMBER CORWIN:  Conservation  
13          Advisory Council.

14                   CHAIRMAN MOORE:  Sorry.  
15          Conservation Advisory Council.  And  
16          there, I believe have made  
17          recommendations and there, we might  
18          reaffirm the recommendations that they  
19          have made.

20                   MEMBER CORWIN:  We have not  
21          even gotten any paperwork for that  
22          yet.  We are just learning about it  
23          tonight.

24                   CHAIRMAN MOORE:  I assumed that  
25          that process was underway.  Perhaps we

1 will wait for that process to occur.  
2 My suggestion is that the CAC be  
3 involved in the direct discussion  
4 during the SEQRA review and  
5 coordinated review and that we would  
6 chose to affirm their recommendations  
7 or not chose to make comments.

8 MEMBER SALADINO: I have made  
9 numerus comments about this  
10 application for the record. And it  
11 was my understanding that anything  
12 that would be granted is on condition  
13 of certain testing and certain  
14 information. I don't think anybody  
15 should make any comments about  
16 anything until the results of those  
17 tests are made available to whatever  
18 statutory Board interested -- and what  
19 is it?

20 CHAIRMAN MOORE: Involved?

21 MEMBER SALADINO: Involved.

22 MR. PROKOP: Involved means  
23 that you are involved in the  
24 application. Interested means you are  
25 a citizen.

1                   MEMBER SALADINO: So in this  
2                   particular application, it would be  
3                   the Board of Trustees and the CAC?

4                   MR. PROKOP: Those are the  
5                   involved parties.

6                   MEMBER NEFF: Have they  
7                   actually asked us?

8                   MR. PROKOP: Yes.

9                   CHAIRMAN MOORE: That is why I  
10                  am bringing it up. And the CAC is  
11                  advisory to the Board of Trustees.  
12                  Perhaps I am jumping the gun. Perhaps  
13                  we should wait till we see some new  
14                  information.

15                  MEMBER SALADINO: It's my  
16                  understanding that the Board would  
17                  vote when it came before them. We  
18                  have a trustee here --

19                  TRUSTEE PHILLIPS: I am not  
20                  going to comment.

21                  MEMBER SALADINO: It was my  
22                  understanding -- well, I don't want to  
23                  say it wrong for the record. My  
24                  understanding is that the Board would  
25                  consider the application and grant the

1 permit conditionally when they got the  
2 results of certain testing? As a  
3 member of the CAC, I am not in  
4 favor --

5 MEMBER CORWIN: That was Steve  
6 Clarke's right?

7 MEMBER SALADINO: John  
8 Costello.

9 MEMBER CORWIN: Wait a minute.  
10 What are we talking about?

11 CHAIRMAN MOORE: This concerns  
12 the Phase II, I believe?

13 MEMBER SALADINO: No.

14 CHAIRMAN MOORE: I thought the  
15 new --

16 MEMBER SALADINO: There is  
17 no --

18 TRUSTEE PHILLIPS: In all  
19 honesty, I don't really understand why  
20 it's on your agenda. Okay.

21 CHAIRMAN MOORE: Okay. The  
22 reason is, I was not able to print the  
23 documents when I was reading them. So  
24 I transcribed with what I thought I  
25 understood. At some point, we have

1           been notified as an interested party.

2           As the other agencies have been.

3                     MR. PROKOP: That's right.

4                     CHAIRMAN MOORE: Does it

5           reference the Phase II of the

6           project?

7                     MR. PROKOP: I don't know.

8                     MEMBER SALADINO: There is no

9           application for Phase II.

10                    CHAIRMAN MOORE: Well, it

11           references some phase --

12                    MEMBER SALADINO: Phase I.

13                    CHAIRMAN MOORE: Perhaps we

14           will just find out more information

15           and find out at a later date if we may

16           or may not wish to comment. Is that

17           agreeable to the Board?

18                    MEMBER NEFF: I have a comment.

19           I am assuming that this is some rather

20           large file and a bunch of things to

21           look at, if this is a big project on

22           the waterfront? Rather than in

23           putting it in all our boxes, we could

24           review it before a meeting.

25                    CHAIRMAN MOORE: Apparently,

1           there is no meeting scheduled.

2                         MEMBER SALADINO: You would be  
3 shocked at the lack of information  
4 with this application.

5                         MEMBER CORWIN: I thought it  
6 was Hance Boatyard but John pointed  
7 out it was for Steve Clarke's  
8 shipyard.

9                         CHAIRMAN MOORE: I believe it  
10 was an e-mail distributed to us with  
11 very little information in it. I will  
12 copy it to the Board members. Perhaps  
13 we're jumping the gun. That item can  
14 just rest. So then we have a few  
15 administrative items.

16                         Item No. 6 is a motion to  
17 accept the ZBA Minutes for  
18 October 21, 2015. I will make that  
19 motion. May I have a second?

20                         MEMBER SALADINO: Second.

21                         MEMBER GORDON: There is a very  
22 small change. At the risk of being  
23 semantic, on the Page 20 it says  
24 \$138.00 instead of \$138,000.00.  
25 Things like that. There is two of

1 those.

2 CHAIRMAN MOORE: We can just  
3 request a correction for that. Prior  
4 to accepting it next month, we can get  
5 that correction.

6 (Whereupon, the court reporter  
7 spoke.)

8 CHAIRMAN MOORE: Okay. So we  
9 will ask for that to be clarified and  
10 it may represent exactly what was  
11 said, is what you're saying. Okay.  
12 Very well.

13 We have a second, and if there  
14 is no further discussion,

15 All in favor?

16 MEMBER CORWIN: Aye.

17 MEMBER SALADINO: Aye.

18 MEMBER GORDON: Aye.

19 MEMBER NEFF: Aye.

20 CHAIRMAN MOORE: Aye.

21 That motion carries.

22 Motion to approve the ZBA  
23 Minutes from September 16, 2015. So  
24 moved. Second, please?

25 MEMBER GORDON: Second.

1 CHAIRMAN MOORE: All in favor?

2 MEMBER SALADINO: Aye.

3 MEMBER GORDON: Aye.

4 MEMBER NEFF: Aye.

5 CHAIRMAN MOORE: Aye.

6 Opposed?

7 Abstained?

8 MEMBER CORWIN: I abstain.

9 CHAIRMAN MOORE: Mr. Corwin  
10 abstains.

11 Motion to schedule the next  
12 meeting for December 16, 2015. And  
13 that would include, not yet a site  
14 visit because we are clarifying those  
15 plans. Is that agreeable for  
16 everybody? So I would make that  
17 motion and ask for a second?

18 MEMBER GORDON: Second.

19 CHAIRMAN MOORE: All in favor?

20 MEMBER CORWIN: Aye.

21 MEMBER SALADINO: Aye.

22 MEMBER GORDON: Aye.

23 MEMBER NEFF: Aye.

24 CHAIRMAN MOORE: Aye.

25 That motion carries.





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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,  
December 1, 2015.

*Jessica DiLallo*

(Jessica DiLallo)

\* \* \*