

1 VILLAGE OF GREENPORT
 2 COUNTY OF SUFFOLK : STATE OF NEW YORK
 3 -----x
 4 ZONING BOARD OF APPEALS
 5 REGULAR SESSION
 6 -----x

7 Station One Firehouse
 8 3rd & South Streets
 9 Greenport, NY, 11944

10

11 February 17, 2026

12 6:00 p.m.

13

14 B E F O R E:

15 JOHN SALADINO - CHAIRMAN

16 DINNI GORDON - MEMBER

17 JACK REARDON - MEMBER

18 SETH KAUFMAN - MEMBER

19 DAVID NYCE - MEMBER

20 *****

21 ALSO IN ATTENDANCE:

22 MICHAEL NOONE - CLERK TO THE BOARD

23

24

25

1 CHAIRMAN SALADINO: Good evening,
2 folks. This is the Village of
3 Greenport Zoning Board of Appeals
4 regular meeting. It's approximately
5 6:00.

6 Item number one is a motion to
7 accept the minutes of January 20, 2026
8 Zoning Board of Appeals meeting. So
9 moved.

10 MEMBER REARDON: Second.

11 CHAIRMAN SALADINO: All in favor?
12 (Aye said in unison.)

13 CHAIRMAN SALADINO: And I'll vote
14 aye.

15 Item number two is a motion to
16 schedule the next Zoning Board of
17 Appeals meeting for March 17th, St.
18 Patty's day. How many people are going
19 to show up on that night? 6:00 p.m.
20 All right, we've got one absentee
21 already. At the Station One Firehouse,
22 Third and South Street, Greenport, New
23 York 11944. So moved.

24 MEMBER GORDON: Second.

25 CHAIRMAN SALADINO: All in favor?

1 (Aye said in unison.)

2 CHAIRMAN SALADINO: And I'll vote
3 aye.

4 Item number three is a public
5 hearing regarding the application of
6 Robert and Kristin Chute. The
7 applicants propose to add a one-story
8 rear addition to an existing single
9 family residence. This would increase
10 the total building lot coverage by 573
11 square feet, total lot coverage of 25.6
12 feet. This requires the following
13 variance: To permit a north side yard
14 setback of 5.5 feet where a minimum of
15 10 is required. This property is
16 located in the R-2 One and Two Family
17 Residential District and is not located
18 in the Historic District. The Suffolk
19 County Tax Map Number is 1001-6-5-18.

20 I'm going to ask the Clerk, this
21 was noticed in the newspaper?

22 CLERK NOONE: Yes.

23 CHAIRMAN SALADINO: We have the
24 mailings. If anyone from the public
25 would like, I'll read the mailings. If

1 not, the stenographer has them and
2 she'll enter them into the record. No?
3 Everybody is good. Thank you.

4 (Mailings: EJ Alvarez 2024 Rev
5 Trt, 416 Sixth Street, Greenport, New
6 York 11944; Diana Darling, 60 Lispenard
7 Street, New York, New York 10013;
8 Martha & Paul Jones, 505 E. Huron
9 Street, Apartment 605, Ann Arbor, MI
10 48104; Elizabeth Allen, 405 Fifth
11 Street, Greenport, New York 11944;
12 Donald Tonyes, 514 Flint Street,
13 Greenport, New York 11944; Joan
14 Olszewski, 414 Fifth Street, Greenport,
15 New York 11944; Charles Harvey, 410
16 Sixth Street, Greenport, New York
17 11944; Jeffrey and Laura Clark, 326
18 Fifth Street, Greenport, New York
19 11944.)

20 CHAIRMAN SALADINO: Is the
21 applicant here? Name and address for
22 the stenographer.

23 MR. MAZZAFERRO: Nicholas
24 Mazzaferro, Post Office Box 57,
25 Greenport, New York 11944. I'm the

1 engineer of record for the project. We
2 submitted plans to do a simple one
3 story addition on a crawl space. It
4 was designed to make sure that we do
5 not require any kind of rear lot
6 coverage variance, any lot coverage
7 variance, any height variance, or any
8 total side yard variance. The only
9 reason that -- excuse me -- this
10 variance is required is to make sure
11 the extension aligns with the existing
12 house. The house has been there
13 probably over a hundred years, and in
14 order to do a proper design, we just
15 wanted to continue the north wall in a
16 straight line towards the back. It's a
17 very straightforward project, it's been
18 done numerous times in Greenport. So
19 if there's any questions.

20 CHAIRMAN SALADINO: I'll ask the
21 Members, do the Members have any
22 questions for --

23 MEMBER GORDON: I don't.

24 MEMBER KAUFMAN: I don't.

25 CHAIRMAN SALADINO: Jack?

1 MEMBER REARDON: Is this an
2 extension of the existing
3 nonconformance?

4 MR. MAZZAFERRO: That's correct,
5 yes. The entire north wall is
6 nonconforming on the north side of the
7 property line. It was built that way
8 originally.

9 MEMBER REARDON: Is there any new
10 footprint? Does this project involve a
11 new footprint in the back of the house?

12 MR. MAZZAFERRO: It's a three
13 sided bump out to the rear only.

14 MEMBER REARDON: Thank you.

15 CHAIRMAN SALADINO: David?

16 MEMBER NYCE: I'm good.

17 CHAIRMAN SALADINO: Before I ask
18 -- thank you, Nick. Before I ask
19 anybody else from the public, just to
20 explain, the house is preexisting
21 nonconforming but because of the
22 extension it has to become code
23 compliant and that's the reason for the
24 relief.

25 Is there anyone else from the

1 public that would like to speak? No.

2 What's the pleasure of the Board?

3 Close the public hearing?

4 MEMBER NYCE: Yes.

5 MEMBER GORDON: Yes.

6 MEMBER KAUFMAN: Yes.

7 CHAIRMAN SALADINO: I'm going to
8 make a motion that we close this public
9 hearing. So moved.

10 MEMBER REARDON: Second.

11 CHAIRMAN SALADINO: All in favor?
12 (Aye said in unison.)

13 CHAIRMAN SALADINO: And I'll vote
14 aye.

15 I'm going to ask the members if we
16 want to address this now or -- we're
17 looking in the audience here, I'm sure
18 all these folks aren't here for this
19 application, so --

20 MR. MAZZAFERRO: It's her
21 birthday.

22 AUDIENCE MEMBER: Give me a good
23 birthday present.

24 CHAIRMAN SALADINO: Mazel tov.
25 Would we like to take this up now?

1 MEMBER NYCE: I don't have a
2 problem.

3 MEMBER GORDON: Taking it out of
4 order.

5 CHAIRMAN SALADINO: Take it up
6 now?

7 MEMBER GORDON: Yes, absolutely.

8 CHAIRMAN SALADINO: I'm going to
9 make a motion that we -- I don't have
10 to make a motion. We can discuss this
11 as it relates to the balancing test as
12 it relates to the five questions.

13 AUDIENCE MEMBER: Can you talk
14 louder?

15 CHAIRMAN SALADINO: Can I talk
16 louder? I probably can if I wasn't old
17 and infirmed. I apologize.

18 AUDIENCE MEMBER: That's okay.

19 CHAIRMAN SALADINO: So for the
20 sake of the public, we're going to take
21 this application out of order, out of
22 the agenda order, and discuss it now.
23 What are we thinking, folks? In my
24 opinion, it seems kind of
25 straightforward.

1 MEMBER GORDON: Yes.

2 MEMBER KAUFMAN: Straightforward.

3 CHAIRMAN SALADINO: Jack, what do
4 you think?

5 MEMBER REARDON: Been there, seen
6 it, know everything we need to know.
7 I'm ready to move on.

8 CHAIRMAN SALADINO: David?

9 MEMBER NYCE: Yeah, I'm good.

10 CHAIRMAN SALADINO: All right. We
11 can go through the five questions of
12 the balancing test. I don't see -- I'm
13 going to read them anyway, just so
14 there's not a problem down the road for
15 these folks. We'll keep it according
16 to Hoyle. We do a five question
17 balancing test. The Members are kind
18 of familiar with the property and
19 what's going to happen there.

20 The first question is whether an
21 undesirable change will be produced in
22 the character of the neighborhood or a
23 detriment to nearby properties will be
24 created by the granting of the area
25 variance. I think we all agree that

1 the answer is probably no.

2 MEMBER GORDON: Definitely.

3 MEMBER KAUFMAN: Yeah, there's no
4 real impact.

5 CHAIRMAN SALADINO: And also
6 whether the benefit sought by the
7 applicant can be achieved some method
8 feasible for the applicant to pursue,
9 other than an area variance?

10 I think this is probably the only
11 way to do this, so me personally I
12 would say no.

13 MEMBER GORDON: I agree.

14 MEMBER KAUFMAN: I agree.

15 MEMBER REARDON: Correct.

16 CHAIRMAN SALADINO: Whether
17 requested area variance is substantial?

18 I don't believe so. It's still
19 well under the lot coverage and it
20 conforms -- not that it conforms with
21 the preexisting nonconforming house but
22 it doesn't adversely impact -- well,
23 the neighbors are not here, so we can't
24 say that. I'm going to vote --

25 MEMBER GORDON: You're getting

1 quieter and quieter.

2 CHAIRMAN SALADINO: That's because
3 I'm getting older and older as we go
4 on.

5 MEMBER GORDON: I'm sure you're
6 the only one.

7 CHAIRMAN SALADINO: I apologize
8 again, folks.

9 I'm going answer no to this also.
10 Whether the proposed variance will
11 have an adverse effect or impact on the
12 physical or environmental conditions of
13 the neighborhood or district?

14 MEMBER GORDON: No.

15 MEMBER KAUFMAN: No.

16 CHAIRMAN SALADINO: None of us
17 believe that it will.

18 And whether the alleged difficulty
19 was self-created, which consideration
20 shall be relevant to the decision of
21 the Board of Appeals, but shall not
22 necessarily preclude the granting of an
23 area variance.

24 Obviously, yes, but not to the
25 point where we think it's that

1 detrimental. Can we agree on that?

2 MEMBER KAUFMAN: Yes.

3 MEMBER GORDON: Yes.

4 CHAIRMAN SALADINO: I'm going to
5 make a motion that the Zoning Board of
6 Appeals declares itself lead agency for
7 the purpose of SEQRA. So moved.

8 MEMBER GORDON: Second.

9 CHAIRMAN SALADINO: All in favor?
10 (Aye said in unison.)

11 CHAIRMAN SALADINO: And I'll vote
12 aye.

13 This is a Type II action, so no
14 further consideration is necessary.

15 I'm going to make a motion that
16 the Zoning Board of Appeals grant this
17 area variance. So moved.

18 MEMBER REARDON: Second.

19 CHAIRMAN SALADINO: All in favor?
20 (Aye said in unison.)

21 CHAIRMAN SALADINO: And I'll vote
22 aye.

23 AUDIENCE MEMBER: Thank you.

24 CHAIRMAN SALADINO: Easy peasy.

25 CLERK NOONE: We'll be in touch.

1 MEMBER NYCE: Not that it's
2 related, but happy birthday.

3 CHAIRMAN SALADINO: To the rest of
4 you folks, you see how easy it was if
5 you come on your birthday. Only if you
6 come on your birthday.

7 Item number four is a public
8 hearing regarding the application of
9 Lisa Gillooly and Tony Spiridakis, 178
10 Sterling Street, Greenport appealing
11 the Building Inspector's determination
12 dated November 7, 2025 regarding 174
13 Sterling Street. The applicant's
14 appeal contends that the determination
15 improperly omitted variances required
16 for front yard and aggregate side yard
17 setbacks, misapplied the 4/10 rule.
18 For the people that are wondering what
19 the 4/10 rule is, I believe it's
20 150-13E(1). I'm -- you can check me on
21 that. And applicant appeal contends
22 that the determination improperly
23 omitted variances required for front
24 yard, aggregate side yard, misapplied
25 the 4/10 rule under Village Code

1 150-13E -- I should have read -- and it
2 did not identify a wetlands, Chapter
3 142 permit requirement. The Suffolk
4 County Tax Map Number is 1001-2-3-16.

5 Again, with the previous
6 application, I have the mailings. I
7 have the mailings, if the public would
8 like, I'll read them. If not, the
9 stenographer has them and she'll enter
10 them into the record.

11 (Mailings: Mitchell Pickman and
12 Jane Curtin, 187 Sterling Street,
13 Greenport, New York 11944; Richard and
14 Linda Kohut, 172 Sterling Street,
15 Greenport, New York 11944; Michael
16 Iwachiw, 345 8th Avenue, Apartment 17F,
17 New York, New York 10001; Sterling 168
18 LLC c/o Anton Scholle, 475 Oxford
19 Street, Brooklyn, New York 11217;
20 Patricia Mundus, 182 Sterling Street,
21 Greenport, New York 11944; Karolina
22 Peterson & Vincent Catalano, 181
23 Sterling Street, Greenport, New York
24 11944; Cynthia & Donald Scholl, 6
25 Gayton Drive, Highland Mills, New York

1 10930.)

2 CHAIRMAN SALADINO: I'm going to
3 ask the Clerk, this was noticed?

4 CLERK NOONE: Noticed in the
5 newspaper.

6 CHAIRMAN SALADINO: Noticed in the
7 newspaper. And I just -- before we
8 open the public hearing, I would just
9 like to -- I'll ask, should I address
10 the Chapter 142 thing before we open
11 the public hearing?

12 ATTORNEY STOLAR: In whatever
13 order you would like.

14 CHAIRMAN SALADINO: For the
15 public, this Board has no authority in
16 Chapter 142. So we're not going to
17 make any comment about wetlands or the
18 floodplain. If we had the authority,
19 we would. But we don't. So we're not
20 going to make any comment about Chapter
21 142. If it was Chapter 68,
22 floodplains, and it was a construction
23 variance, that's the one time that the
24 Zoning Board does have authority in
25 something outside Chapter 150. So --

1 ATTORNEY STOLAR: Can I just add
2 to that? Chapter 142 involves an
3 application to the Board of Trustees,
4 which is filed with the Village Clerk.
5 It does not get processed or reviewed
6 by the Building Department.

7 CHAIRMAN SALADINO: Again, the
8 Village Clerk collects the application
9 for wetlands permits, and it's the
10 Village Board that decides yes or no
11 with wetlands permits. So any appeal
12 about a wetlands permit would have to
13 go to the Village Board. As much as we
14 don't like to shirk our duty here, but
15 we don't have the authority.

16 Is the applicant here?

17 MR. BIANCO: Yes. My name is
18 Christopher Bianco, from the Law Firm
19 of Egan and Golden. I represent the
20 owners of 178 Sterling Street and 172
21 Sterling Street. They are appealing
22 the Building Inspector's determination
23 referral letter dated November 7, 2025.
24 And that involves the application for
25 174 Sterling Street, which is also

1 going to be heard tonight.

2 It is not a common application
3 because we're appealing the Building
4 Inspector's determination, but under
5 the State Village Law, there's a
6 provision 7-712A(5) that basically says
7 any interested party can appeal the
8 Building Inspector's referral letter or
9 determination to this Board, and then
10 you as a board of appellate authority
11 can reverse that determination.

12 CHAIRMAN SALADINO: Interested or
13 aggrieved?

14 MR. BIANCO: Any aggrieved or
15 interested party, and, you know, since
16 these two parties here are adjoining
17 land owners of the application, they
18 would have standing to bring the
19 appeal.

20 So ultimately what's important
21 here is what was left out of that
22 November 7th letter because there was a
23 previous letter that was provided on
24 this application back in 2024, and it
25 included four variances. This new

1 letter only has been reduced to two
2 variances, and I think it was brought
3 to the attention of the Chairman and
4 the Board at the December meeting that
5 applicant's Counsel was arguing that
6 essentially the Board was without
7 jurisdiction to discuss perhaps those
8 other issues or other potential
9 variances that would be required. And
10 the point of this appeal is to make
11 sure that you're not limited in your
12 jurisdiction, that you can look at this
13 project holistically, and that you're
14 not robbed of your ability to look at
15 every aspect of this project. And I
16 think that's really the purpose of the
17 appeal, especially given what
18 applicant's Counsel for 174 Sterling
19 said at the last meeting.

20 I think it's important also that
21 applications when they come to this
22 Board that they're not sort of
23 predetermined by the referral letter
24 that came to you because the point of
25 the hearings here is that you have

1 public input, so you don't want an
2 application to be narrowed so much that
3 by the time it gets to you guys it's
4 very little to review and it looks like
5 it's an easy, you know, approval and
6 the public is essentially robbed of its
7 ability to offer input as to what the
8 project actually means for the
9 neighbors. So again, that's kind of
10 the reason for this appeal.

11 Looking at it, so the new referral
12 letter only refers to two side yard
13 variances on the east and west side.
14 They eliminated -- they claim that
15 there's no need now for combined side
16 yard variance, which was present in the
17 2024 letter. Your code, 150-12A
18 requires a 25 foot combined side yard
19 variance for residences in this
20 particular district, and the total side
21 yard requirements left off the Building
22 Inspector's letter this time is of the
23 argument that the new expansion here is
24 on a preexisting nonconforming
25 structure and therefore it's sort of

1 grandfathered in.

2 I think there's a couple of
3 problems with that, the first of which
4 is that the addition here is adding so
5 much bulk to the structure, it
6 essentially is practically a new
7 construction. They're sort of gaming
8 the system here by having an addition
9 that substantially goes further into
10 the rear yard and increases the side
11 yard nonconformity and then pointing to
12 the fact that the new expansion may be
13 a tenth of a foot smaller on each of
14 the side yards versus the new existing
15 structure. When you look at just the
16 numbers, you would say to yourself,
17 well, that's not a large variance, but
18 the reality is is that bulk of the
19 structure now is going much, much
20 further into the rear of the yard,
21 increasing the side yard nonconformity.
22 So you can't just look at the number at
23 the top, you have to look at the fact
24 that you're not just making a small
25 extension of a preexisting

1 nonconforming structure. You're
2 essentially changing the very essence
3 of the structure.

4 Your code addresses this issue
5 with regards to extending or altering
6 nonconforming structures, 150-21A.
7 Essentially it says that you cannot
8 increase -- any alteration or
9 enlargement of a nonconforming
10 structure cannot increase the degree of
11 or create any new noncompliance with
12 regards to the regulations pertaining
13 to such buildings. You can expand a
14 nonconforming building, but you can't
15 increase the degree of nonconformity or
16 create a new noncompliance.

17 Any reasonable interpretation of
18 that section would mean that the
19 proposed project here creates new
20 noncompliance with the code and would
21 require those other two variances that
22 were mentioned in the 2024 Building
23 Inspector's referral letter. That
24 includes the total side yard variance
25 required, and what's provided is 14.9

1 feet and what's required is 25 feet.
2 So it's a pretty substantial variance
3 there. It would also require the front
4 yard setback. Now, there's a
5 contention about whether this project
6 doesn't really affect the front yard
7 setback, and there could be a potential
8 question on that, but I would argue
9 that given the nature of this project
10 and the clear creation of additional
11 nonconformities with the increase in
12 the bulk of the size, moving the house
13 further into the rear yard, 150-21
14 requires that all the nonconformities
15 on this structure have to be addressed.
16 They have to be in the referral letter.
17 Now, whether the Board thinks that it's
18 not a major issue and the variance
19 could be granted at least as to that,
20 as to the front yard, that's a question
21 for the ZBA and it shouldn't be taken
22 away from you in the Building
23 Inspector's referral letter.

24 What occurs when you have an
25 expansion of this size is you lose the

1 benefit of a preexisting nonconforming
2 building. You have an enlargement that
3 is requiring additional variances,
4 substantially it's increasing the --
5 substantially increasing the nature of
6 the side yard nonconformity, and it has
7 to ultimately, as a result, comply with
8 all the code requirements. That is the
9 purpose of allowing these nonconforming
10 structures to exist is that you say
11 that at some point it had to be brought
12 into conformity with the code. If
13 they're going to expand and create
14 additional nonconformities or increase
15 the degree of it, as is done here, then
16 it should at the very least be in the
17 Building Inspector's letter so that you
18 guys can review it and make a decision
19 on whether it's an issue that fits
20 within the five factor test.

21 And this is how the vast majority
22 of villages and towns on Long Island
23 look at preexisting nonconformities.
24 You expand it and you create new
25 nonconformities that require new

1 variances, then you're going to lose
2 the right to all the other
3 nonconformities on that building. It's
4 going to have to be reviewed by the
5 Zoning Board. That doesn't necessarily
6 mean the application is going to be
7 denied, but it should be in the
8 Building Inspector's referral letter,
9 it should go to the Board, and it
10 should be addressed under the five
11 factor test.

12 There's case law supporting that
13 notion, I can add it into the record.
14 I know it's -- for the Board, it's kind
15 of esoteric, but an example would be
16 Albert v. Board Of Standards and
17 Appeals in the City of New York, 89
18 AD2d 960. And essentially, like I
19 said, that makes sense because a
20 preexisting structure ultimately the
21 idea is the zoning code is making that
22 structure, it has to eventually come
23 into conformance with the code. That's
24 the point of having your zoning code
25 requirements. And you're going to

1 allow that building to be altered, yes,
2 because you don't want the person to
3 lose the value of their investment, but
4 ultimately if they are increasing the
5 nonconformity, those nonconformities
6 have to come into play for ZBA review.

7 As to the 4/10 rule, I would
8 argue, again, and I think the Board
9 made the point at the December meeting
10 that it doesn't apply and it should
11 only apply to vacant properties.
12 There's one provision in that Section
13 150-13E that I think supports that
14 interpretation. The last phrase in
15 that section states that provided that
16 such lot shall be developed in
17 conformity with all district
18 regulations. To develop a vacant
19 lot -- it's the use of the word
20 developed in that section. You develop
21 a vacant lot. You don't develop an
22 existing house. You don't say I'm
23 going to develop my house when you're
24 going to renovate the second floor. I
25 think the term develop in that section

1 points to the intent of the code to
2 have that 4/10 rule only apply to the
3 development of a vacant lot that was
4 preexisted before the creation of a
5 zoning code so that the person can
6 develop that lot under the more relaxed
7 4/10 rule. So it should not apply to
8 the case here where there's already an
9 existing house.

10 As to the environmental review
11 issues, I understand what you said
12 earlier about Chapter 142. There is a
13 Chapter 139, which is waterfront
14 consistency review. And the Local
15 Waterfront Revitalization Program,
16 whether the applications comply with
17 that. I think at the very least, the
18 Building Inspector's letter should
19 address those issues, even if it
20 doesn't come before this Board because
21 ultimately the Building Department is
22 kind of the place where the application
23 goes and their referral letter should
24 tell the applicant all of the
25 requirements on all the boards that

1 they have to go before before they can
2 get permission. By leaving that out,
3 we're now kind of in no man's land
4 where we don't know, you know, the
5 applicant is going to argue that they
6 don't need any of the requirements and
7 none of these other items are going to
8 be subject to review.

9 So again, I think that in the end
10 this appeal is about allowing the
11 Village and this Board to have the
12 ability to review this project
13 holistically and not be completely
14 forced to review just a narrow segment
15 of the project, especially given a
16 project of this scope essentially
17 doubling the size of the house on a
18 waterfront, an important waterfront
19 area.

20 I think going forward we would ask
21 that if our appeal is granted that
22 ultimately a new notice be put out for
23 the additional variances that were in
24 that 2024 letter, essentially total
25 side yard required 25 feet and only

1 14.9 feet provided, and the
2 nonconforming front yard as well. So
3 it would be two additional variances in
4 addition to at least reference to
5 whether additional LWRP review is
6 needed under Chapter 139. That's total
7 basis of my appeal. Again, I cannot
8 emphasize enough how I think it's
9 better for everyone involved, including
10 the public and the Board, to have the
11 ability to review this application in a
12 complete and holistic manner, not to be
13 robbed of its jurisdiction by arguments
14 of Counsel.

15 Any questions?

16 CHAIRMAN SALADINO: Folks, you
17 have any questions for the attorney?

18 MEMBER KAUFMAN: With regard to
19 the 4/10 rule --

20 MEMBER GORDON: Go ahead.

21 MEMBER KAUFMAN: So you talk about
22 the word develop, and I actually can
23 see your point, but is there case law
24 that actually -- is there anything in
25 the case law that actually backs that

1 up? Because it is basically
2 interpreting one word.

3 MR. BIANCO: I mean, well, your
4 section is created -- there's been no
5 case law developed on that particular
6 section. There's no Court that's said
7 one way or the other.

8 MEMBER KAUFMAN: Okay. I'm just
9 asking, so it's really just your
10 reading of it?

11 MR. BIANCO: Right. So I would
12 say that the word develop does support
13 the notion that you're talking about
14 developing a particular lot that's
15 vacant. It would have said something
16 else if it were supposed to be.

17 CHAIRMAN SALADINO: Diana?

18 MEMBER GORDON: I'm still trying
19 to decide whether we need to separate
20 the wetlands review from the rest of
21 it. If we don't consider that, aren't
22 we still looking -- are we still
23 looking holistically at this issue?

24 MEMBER NYCE: In our purview.

25 CHAIRMAN SALADINO: Why would that

1 be a determining factor for you?

2 MEMBER GORDON: I'm just asking
3 because I think that was part of your
4 argument about a holistic review, and
5 yet I think it is -- it seems to be
6 correct that we do not have the
7 jurisdiction to make a decision about
8 the wetlands permit. So I'm just
9 trying to figure out whether leaving
10 that out still gives us that overall
11 holistic view that you think is the
12 basis of the appeal.

13 MR. BIANCO: So Chapter 139 is
14 different from Chapter 142. So Chapter
15 139 speaks to the Board issuing a
16 report that looks at the LWRP and
17 whether the projected plans comply with
18 the long term goals of the waterfront.
19 And it says that the reviewing board is
20 supposed to issue a report and look at
21 the project in that manner. I think
22 there's an arguable basis here that at
23 least that chapter should apply, even
24 if there's not a specific wetlands
25 permit that's required under 142. So

1 at the very least, I think this appeal
2 is about the Building Inspector's
3 letter, it should have referenced that
4 to say whether that's necessary or not
5 necessary. It should have been
6 mentioned in more detail.

7 CHAIRMAN SALADINO: My experience
8 is, having served on the CAC, the
9 Conservation Advisory Council for 18
10 years or so, that we had someone -- the
11 Village Administrator who was also a
12 member of the Conservation Advisory
13 Council, the clerk would collect the
14 application for a wetlands permit, and
15 it would be reviewed by the -- do you
16 remember his title? There was a title
17 under Chapter 68 of waterfront or
18 wetlands coordinator. He held that
19 title also, and he was also the head of
20 the Building Department. And as a
21 member of the CAC, I never gave it much
22 thought about where the permit goes
23 from here. You know, we made our --
24 the CAC made their recommendations.
25 They made them to the Village Board and

1 the Village Board was always the one
2 that either granted or denied the
3 wetlands permit. I just -- I don't
4 remember the Building Inspector ever
5 being involved in that process. I'm
6 going to ask my colleagues if they
7 remember. David used to be the mayor,
8 so he may have a better recollection
9 than I have, but I just don't remember.
10 I would love to see it. I would love
11 to see it being an environmentalist,
12 being part of the CAC for 18 years, I
13 just -- but again, I don't want this
14 Board to overstep its bounds that
15 somewhere down the road we make comment
16 or we make a recommendation that
17 someone out there takes exception to,
18 so.

19 MR. BIANCO: That would be the --
20 the Chapter 139 review, the LWRP would
21 be a little different than the wetlands
22 permit, so even if the wetlands permit
23 is not issued by ZBA, the Chapter 139
24 does say that the Boards have to look
25 at a project and ensure that it's

1 consistent with the LWRP. There's a
2 question about whether that's
3 applicable to this application, I think
4 normally you would have --

5 CHAIRMAN SALADINO: Well, in 139
6 and 68, the ZBA would only become
7 involved if there was an appeal towards
8 construction, not for the permit
9 process. Only -- that's the only
10 time --

11 ATTORNEY STOLAR: I'll address it.
12 Chapter 139 -- before I even get there,
13 this application, as I understand it,
14 is an expansion of a single family
15 dwelling. It requires setback
16 variances, both of which qualify as
17 Type II actions under SEQRA. If you
18 look at Chapter 139, Type II actions
19 are excluded from local waterfront
20 consistency review.

21 MR. BIANCO: I think the question
22 though is they submitted Type I -- I'm
23 sorry, not a Type I, part 1 EAF with
24 the application, and there's no
25 determination at this point that it's a

1 Type II action. That's the only reason
2 I ask. It's not really the Building
3 Inspector's determination as to whether
4 they think it's going to be a Type II
5 action, whether it's in the critical
6 environmental assessment area. All of
7 those questions, I mean, I'm just
8 arguing that they're not in the
9 Building Inspector's letter. I only
10 bring it up, I brought it up as my last
11 point is that the Building Inspector's
12 letter is silent as to all those
13 issues.

14 CHAIRMAN SALADINO: Okay. Thank
15 you.

16 MEMBER GORDON: As a practical
17 matter, does it -- as a practical
18 matter, is it significant that our LWRP
19 is under review and has not officially
20 been adopted? Maybe it doesn't matter.

21 CHAIRMAN SALADINO: But it has.
22 We have an LWRP that's in effect.

23 MEMBER GORDON: But it's under
24 revision.

25 CHAIRMAN SALADINO: The only --

1 (Whereupon, there was simultaneous
2 crosstalk.)

3 MEMBER GORDON: -- stays in
4 effect. Okay. That's what I wanted to
5 know.

6 CHAIRMAN SALADINO: Thank you. Is
7 there anyone else from the public that
8 would like to speak?

9 Name and address for the
10 stenographer, please.

11 MS. REICHERT: Good evening,
12 Mr. Chairman and Members of the Zoning
13 Board of Appeals, my name is Martha
14 Reichert, R-E-I-C-H-E-R-T. I am
15 Counsel for the property owners,
16 Cynthia and Donald Scholl, 174 Sterling
17 Street, from the Law Firm of Twomey,
18 Latham, Shea, Kelly, Dubin, and
19 Quartararo, 33 West Second Street,
20 Riverhead, New York.

21 Where to start on this. So first,
22 I want to thank the Board for holding
23 this appeal. When we were last before
24 the Board in December, we discussed
25 jurisdiction, and that was with respect

1 to the appeal of the applicants.
2 However, we did discuss about de novo
3 and different kinds of review, and so
4 when aggrieved parties bring a
5 challenge, yes, that changes the
6 Board's review, which was the same
7 point that I was making. In no way is
8 anyone being deprived of their
9 opportunity to provide comment because
10 both of these applications will have
11 public hearing, are having a public
12 hearing at which the public gets to
13 speak.

14 But I do want to go to back to the
15 LWRP issue in the sense that as Counsel
16 noted, and I understand that the
17 Building Inspector doesn't make the
18 SEQRA determination, that's the purview
19 of this Board as lead agency, however,
20 the Type II list is almost kind of an
21 immutable list, and so the granting of
22 area variances, as is the practice of
23 this Board for decades now, is when
24 it's an area variance for a single
25 family residence, that's a Type II

1 action, and therefore it's exempt from
2 LWRP review, which this Board can also
3 look at its prior practices, right,
4 when you've approved other waterfront
5 parcels that have been residences that
6 received variances. They were Type II
7 actions and you did not conduct an LWRP
8 review.

9 Secondly, I appreciate the idea
10 that Counsel presents to you that
11 somehow the notice of disapproval is
12 some sort of omnibus that's supposed to
13 present everything that an applicant
14 needs, but that's not how it works.
15 The notice of disapproval is what the
16 Building Inspector issues when he can't
17 issue a building permit because
18 variances are needed from the zoning
19 code, right? A notice of disapproval
20 doesn't say you have to go to the HPC
21 for a certificate of appropriateness
22 because that's not a zoning issue,
23 that's a different chapter of the code.
24 And, for example, with my clients, they
25 know that they're in the Historic

1 District and they will have to get a
2 certificate of appropriateness from the
3 HPC. So the notice of disapproval is
4 for a very specific thing. It's a
5 written determination by the Building
6 Inspector that triggers this Board's
7 appellate jurisdiction should the
8 applicant decide to seek those
9 variances. It's not some sort of
10 omnibus zoning checklist or Building
11 Department checklist for what you need
12 to get a building permit. It's
13 specific to the zoning code.

14 Second, you have a memorandum of
15 law that I have submitted as a joint
16 document. It is both in support of the
17 public hearing on the application,
18 which you'll hear later tonight, and
19 also in opposition to this particular
20 challenge. And with respect to the
21 4/10 rule, I have provided a table in
22 this document that shows all the times
23 that the 4/10 rule has been applied in
24 the past, I don't know, 10 to 15 years.
25 And in all of those instances, there's

1 only one time that this Board has ever
2 considered the 4/10 rule or
3 applications for variances where the
4 4/10 rule came into play for vacant
5 land for a new construction. That was
6 217 Monsell. And at that public
7 hearing, in fact, I believe it was
8 Member Gordon goes, oh, here's
9 something you don't see very often
10 because it's a rarity.

11 So again, there is precedent with
12 this Board as recently as December of
13 2024 in which the 4/10 rule was
14 applicable and this Board heard
15 variances based on that. Moreover, the
16 4/10 isn't something that the Zoning
17 Board applies, it's in the code. It's
18 something that is as of right for lots
19 that are of a narrow width or
20 undersized. It's a mathematical
21 computation, it's not complicates.
22 Town of East Hampton and Village of
23 Greenport's 4/10 rules are almost
24 verbatim. The Village of East Hampton
25 does a very complicated thing where you

1 have to take -- your surveyor has to do
2 it, they measure the average cords and
3 then determine what your reduced
4 setbacks are. And again, this isn't
5 something that requires a variance,
6 it's as of right. So what happens is,
7 again, the benefit of the 4/10 rule
8 really is the reduction in the combined
9 side yards. And all you have to do is
10 look at your code, right? You have
11 your individual side yard setbacks,
12 which are 10 feet in many jurisdictions
13 where there is no combined, right, it's
14 10 feet, 10 feet on each side. Here in
15 Greenport and in other places where you
16 have a combined yard requirement, what
17 you're looking at is the idea of the
18 combined yard requires at least one of
19 your other side yards to be more than
20 the minimum 10 feet, right? So in the
21 R-2 Zoning District, it's 10 feet for
22 your individual side yard and 25 for
23 your combined. What happens with the
24 4/10 rule is -- and that's the main
25 benefit, right? The first thing that's

1 listed in the statute where it talks
2 about the total side yard shall be
3 computed based on 4/10 of the lot's
4 existing width. It's an equitable,
5 practical, and common sense equation.
6 And so if everything is within whatever
7 that combined side yard is and the
8 individual setbacks because on some
9 lots you could end up with an
10 individual side yard that's actually
11 under 10 feet, but the code puts a
12 little bit of a constraining constant,
13 which says no matter what, your side
14 yards still need to be 10 feet on each
15 side. But when you have -- say, if you
16 take a 30 foot wide lot, you know, your
17 combined side yards based on the 4/10
18 rule end up being much less than
19 potentially the 10 feet. So again,
20 what happens with the combined side
21 yard under the 4/10 rule is that it
22 makes that -- it alleviates that so
23 it's no longer a number that is bigger
24 than each individual one, it brings it
25 back down to the same thing.

1 And when you have a lot that is 50
2 feet wide, something kind of curious
3 happens, right? 4/10 of 50 feet is 20
4 feet. So under the 4/10 rule, no
5 matter what, your individual side yard
6 still needs to be 10 feet, and this is
7 one of the rare times where the
8 individual and the combined side yard
9 become the exact same number. 10 plus
10 10 equals 20 as opposed to in other
11 jurisdictions where it might be 8 plus
12 8, 10, still 20, right?

13 So the Building Inspector isn't
14 here, and normally in these types
15 challenges the Building Inspector is
16 here so that the Board can ask him
17 questions about why he wrote the notice
18 of disapproval he wrote. I cannot
19 pretend to speak for the Building
20 Inspector, but if I was him, I would
21 have viewed this as it's a redundant
22 variance because the relief is exactly
23 the same, right? If you're granting
24 relief based on 10 foot side yards on
25 each side or 20 combined, the numerical

1 amount of relief is the same under both
2 variance schemes, whereas oftentimes
3 it's not. This Board knows that, they
4 see all the time individual side yards
5 are not always the same as the combined
6 side yard setback. So again, the
7 Building Inspector isn't here, but I
8 think it's reasonable for someone to
9 step into his shoes and say it would
10 have been redundant to require both
11 when mathematically they come out to
12 being exactly the same thing.

13 With respect to the front yard
14 setback that the opposing appellants
15 raise, there's a couple of different
16 things. First, there is good case law
17 about the fact that legally preexisting
18 nonconformities don't need legitimizing
19 or housekeeping variances. And I have
20 cited a case in this memorandum of law,
21 but more recently, in fact,
22 Mr. Saladino at the very last meeting,
23 the minutes of which you adopted today,
24 there was a question. I think it was
25 Member Reardon asked, wait, don't we

1 normally need variances for these
2 existing nonconformities? And as
3 Mr. Saladino explained that the Village
4 has adopted a policy where it is no
5 longer requiring these legitimizing
6 variances for legally preexisting
7 nonconforming setbacks, especially
8 where there's no alteration and they're
9 not being changed. So in the instant
10 matter, there is no difference, there's
11 no change to the front facade of the
12 house, there's no increase or decrease.
13 The front yard setback is what it is.
14 This house was built in 1905. In fact,
15 I've also included in the memorandum of
16 law back in 2021, I believe it may have
17 been Ms. Gordon and then attorney Rob
18 Connelly having a discussion about why
19 do we do this, why are we requiring
20 these variances to legitimize
21 preexisting nonconformities when
22 they're not being altered, and
23 Mr. Connelly said you don't need them.
24 So what I see the Village has done over
25 the last couple of years is they've

1 come in alignment with case law that
2 says these preexisting nonconforming
3 setbacks if they're not being altered
4 are legally protected, they're
5 constitutionally protected, and you
6 don't need a variance to legitimize
7 them because they are, in fact, already
8 legal under -- going back to sort of
9 one of the most important cases, right,
10 People v. Miller in New York State over
11 the constitutional protections for
12 preexisting -- legally preexisting
13 nonconformities.

14 So I would say that under recent
15 Village policy but also case law and
16 the standard practices in various other
17 municipalities, one of the reasons why
18 the front yard setback doesn't appear
19 on the revised notice of disapproval is
20 because it's not needed. Same thing
21 for the combined side yard for the
22 reasons that I discussed. As
23 Mr. Saladino has already noted, the
24 Zoning Board's jurisdiction and
25 authority, whether it's under the New

1 York Village Law or also under the
2 Village Code is limited to
3 interpretations regarding the zoning
4 chapter, Chapter 150. The wetlands
5 permitting chapter is outside of the
6 confines of Chapter 150, therefore your
7 jurisdiction to make those
8 determinations is -- you don't have
9 jurisdiction for it, as you said
10 earlier. And then just to back up, the
11 LWRP is not applicable to a Type II
12 action, and there would be no reason
13 for this particular application to be
14 deemed anything other than a Type II.
15 I know that at times people raise the
16 idea of, oh, well, it's in the Historic
17 District. Well, whether or not you're
18 within a Historic District when it's
19 residential application for area
20 variances doesn't change the nature of
21 the SEQRA designation. It's a Type II
22 all day long.

23 I don't know if the Board has any
24 questions, but that concludes my
25 presentation. And in addition, you

1 also have the memorandum of law that I
2 submitted.

3 CHAIRMAN SALADINO: I always have
4 a question.

5 MS. REICHERT: I know you do.

6 CHAIRMAN SALADINO: I have a
7 question. Is it your contention that
8 this application should be absolved
9 from bulk standards as far as combined
10 side yard setbacks? If a conforming
11 lot needs a 25 foot combined side yard
12 setback, and that's part of our bulk
13 standards, part of the code, and a lot
14 that's 50 feet wide we apply Chapter
15 150-13E(1) to, and the minimum side
16 yard setback is 10 feet on each side.

17 MS. REICHERT: Correct.

18 CHAIRMAN SALADINO: What if it's
19 less than that? Like, in this case,
20 it's 15 feet. Why shouldn't they need
21 relief?

22 MS. REICHERT: Well, it's not 15
23 in this case, it's 20 feet.

24 CHAIRMAN SALADINO: No, it's 15
25 feet.

1 MS. REICHERT: The combined side
2 yard?

3 MEMBER KAUFMAN: On the plans, the
4 actual side yard you have in your
5 plans, total of about 15 feet.

6 MS. REICHERT: Correct, correct.

7 MEMBER KAUFMAN: So it's less than
8 20, that's what he's trying to say.

9 MS. REICHERT: Yes, it's less than
10 20, but as I was saying earlier, the
11 amount of relief that's needed under
12 both the individual and the combined
13 side yards ends up being numerically
14 exactly the same, which isn't always
15 the case. This is just a quirk of when
16 you have a 50 foot wide lot.

17 CHAIRMAN SALADINO: Quirk?

18 MS. REICHERT: The Building
19 Inspector isn't here, so I can't answer
20 for him why he did not require a
21 combined side yard setback.

22 CHAIRMAN SALADINO: Isn't that
23 what we're going to do now?

24 MS. REICHERT: That's totally up
25 to you guys to make that determination,

1 but what I'm saying is normally because
2 this is a challenge of the Building
3 Inspector's determination, the Building
4 Inspector would be present to answer
5 questions for the Board.

6 CHAIRMAN SALADINO: I didn't know
7 we had the authority to mandate him
8 being here. I didn't -- you know, in
9 the past with previous building
10 inspectors, they were here. We have a
11 new Building Inspector, and for
12 everybody here, I think he's doing a
13 great job for the most part.

14 AUDIENCE MEMBER: He's not here.

15 CHAIRMAN SALADINO: I can't
16 explain why he's not here.

17 MS. REICHERT: Sure. I mean, you
18 as a Zoning Board, and your Counsel
19 confirmed this for you, you have the
20 right to call witnesses at a hearing.

21 CHAIRMAN SALADINO: We understand
22 that. We didn't know and we haven't in
23 the past with this Building Inspector,
24 we didn't know that we would need to.
25 We thought we could kind of square this

1 away.

2 MS. REICHERT: I will sort of,
3 again, we waited over a year for this
4 revised notice of disapproval. We were
5 in consultation with Counsel, with
6 Mr. Pfriendr when he had questions, we
7 provided an updated survey. The only
8 thing we asked for for our revised
9 notice of disapproval was for the 4/10
10 rule to be applied because, again, it
11 is something that applies as of right
12 to a lot that has a narrow width. Then
13 whether it needs still variances from
14 those reduced combined side yards and
15 everything else, that then goes to the
16 Zoning Board for a variance.

17 CHAIRMAN SALADINO: Why wouldn't
18 you need relief from the combined side
19 yard setback if it's less than 20 feet?

20 MS. REICHERT: I'm not the
21 Building Inspector, I can't answer why
22 he --

23 CHAIRMAN SALADINO: You're the
24 representative of the applicant. I'm
25 asking you.

1 MS. REICHERT: So what I told you
2 is the best reasonable explanation I
3 can provide for why he didn't put it on
4 the notice of disapproval is that
5 numerically it's absolutely the same
6 amount of relief as it would be under
7 if you were just doing the two
8 individual side yards or a combined one
9 because as a 50 foot wide lot the
10 individual side yards, the sum of them,
11 and the required combined side yards
12 are the same number.

13 CHAIRMAN SALADINO: But do you
14 think we have the authority to ignore
15 that portion of the bulk standards? I
16 don't think we can ignore the code or
17 he can ignore the code.

18 MS. REICHERT: He's the first
19 interpreter until your appellate
20 jurisdiction is triggered, and then you
21 have the authority to make that
22 interpretation.

23 CHAIRMAN SALADINO: Okay.

24 MS. REICHERT: What I can say
25 though is there was no combined side

1 yard relief on the prior application,
2 even though there was an extension of
3 an existing nonconformity.

4 CHAIRMAN SALADINO: I'm sorry.

5 MR. MAZZAFERRO: Whoa, whoa, whoa,
6 we made the side yard.

7 CHAIRMAN SALADINO: Please, I
8 apologize. I didn't understand.

9 MS. REICHERT: I was just looking
10 at the survey for the prior
11 application, right, and the extension
12 along the northerly line of the
13 addition follows and continues the line
14 of the building at a 5.5 foot setback.
15 On the southerly side of the building,
16 there is a, you know, a part of the
17 house that when you look at the new
18 construction and the preexisting side
19 yard on the other side, the addition
20 itself -- sorry. I'm just saying you
21 didn't look at the combined side yards
22 there. So I think, again, it's a
23 little bit of a judgment call. But in
24 this particular case, from sort of an
25 economy perspective, which, again, is

1 my best guess for why the Building
2 Inspector did what he did. I can't
3 answer for him, and he's not here to
4 answer to you why he did that.

5 CHAIRMAN SALADINO: Okay.

6 Any of the Members have a
7 question?

8 MS. REICHERT: If I could -- I'm
9 sorry.

10 CHAIRMAN SALADINO: Sure.

11 MS. REICHERT: How would it change
12 the Board's view of the relief in this
13 application when, again, numerically it
14 turns out to be exactly the same amount
15 of relief?

16 CHAIRMAN SALADINO: Because it's
17 an additional request for relief.

18 MS. REICHERT: I understand that.

19 CHAIRMAN SALADINO: I'm not going
20 to opine on how it's going to change
21 the Board's mind because we're not
22 dealing with that application now,
23 we're dealing with the Building
24 Inspector's --

25 MS. REICHERT: What I'm saying is

1 when you have a requirement, I'm just
2 -- again, logically because I can't
3 answer for what the Building Inspector
4 did, right on the westerly side we need
5 a variance of 3.1 feet, and on the
6 easterly side 2.8, so when you add
7 those together, it's the same number
8 that would be the combined side yard
9 setback relief.

10 CHAIRMAN SALADINO: But once --
11 but once again, there's a provision in
12 our code that mandates a combined side
13 yard setback. On a conforming lot,
14 it's 25 feet. On a smaller lot, we
15 revert to Chapter 150-13E(1). And if
16 the lot doesn't -- and the
17 construction, the building, the relief
18 required doesn't meet that standard,
19 it's an additional relief request that
20 should be on the notice of disapproval.
21 Is that illogical?

22 MS. REICHERT: I can see your
23 point as well, again, but the Building
24 Inspector isn't here to answer that
25 question, right? So all I can do is

1 present what I think are the reasonable
2 explanations for why it's not there.

3 But as opposed to the front yard
4 one, there's -- I mean, I don't think
5 -- that one is very easy to explain.

6 CHAIRMAN SALADINO: The front yard
7 setback, we understand that unless
8 there's increased nonconformity, this
9 Board understands that. Unless there's
10 increased nonconformity, it's
11 preexisting nonconforming unless you
12 increase the nonconformity. Again --

13 MEMBER GORDON: I have a process
14 question.

15 CHAIRMAN SALADINO: Maybe you
16 should ask our lawyer the process
17 question.

18 MEMBER GORDON: Well, okay, I'll
19 ask you both. Is there a presumption
20 of validity for the inspector in these
21 cases? I mean, we don't see these
22 cases, appeals.

23 MS. REICHERT: Sure. So I've
24 brought several of these in different
25 jurisdictions, so I'm familiar with how

1 it's handled in villages and towns in
2 both Nassau and Suffolk County. Most
3 of the time, Zoning Boards give a lot
4 of deference to their Building
5 Inspector because, again, you know, I
6 think that like anything with the law,
7 we want to make sure that when people
8 bring these challenges, they don't
9 become so commonplace that people start
10 to view the Zoning Board as a way to
11 thwart or frustrate applicant's
12 abilities to seek the variances they
13 want, right? It's a drain on the
14 Zoning Board's resources, so oftentimes
15 the Zoning Board accords great
16 deference to their Building Inspectors.
17 I was going to say, I've actually never
18 successfully seen a reversal of a
19 Building Inspector's determination.
20 It's very rare. But I have brought
21 several of those challenges over the
22 years, and again, normally the Building
23 Inspector is there so that he can
24 testify and explain his process to the
25 Board, but I would say that Boards

1 generally grant their Building
2 Inspector deference so that people
3 don't start forum shopping.

4 MEMBER GORDON: Thank you.

5 MS. REICHERT: You're welcome.

6 MEMBER NYCE: In your memorandum
7 of law in support, you list a whole
8 bunch of actions where the 4/10 rule
9 was applied, yet the only one you
10 reference with minutes, et cetera, is
11 the one, the new construction of a
12 single family on a vacant lot.
13 Obviously I haven't gone back through
14 all of these cases --

15 MS. REICHERT: Sure. I did the
16 minutes and pages where they all are.
17 I think the colloquy that took place
18 for 217 Monsell was very interesting,
19 but there are a couple of other ones.
20 In fact, there was one, I forget if it
21 was on Fifth Street or First Street in
22 which it was actually Chairman Saladino
23 goes, hey, wait, I don't know why
24 you're here for variances. There is
25 this thing called the 4/10 rule, it

1 could apply, and then I believe it
2 was --

3 MEMBER NYCE: Well, there could
4 have been one on Second Street, it was
5 a vacant lot.

6 MS. REICHERT: No, no, it wasn't a
7 vacant lot, it was an existing improved
8 one, and then the Village Administrator
9 goes, oh, no, no, it's 60 feet wide, it
10 doesn't apply. In fact, that is
11 probably, I think, the last one that's
12 referenced.

13 CHAIRMAN SALADINO: You're
14 referencing portions of the minutes
15 where I was, like, talking out of my
16 hat and I was --

17 (Whereupon, there was simultaneous
18 crosstalk.)

19 MS. REICHERT: Mr. Saladino, you
20 have actually spoken very eloquently on
21 the 4/10 rule several times. This was
22 in particular, this was the last one,
23 175 Fifth Street, which was in 2021,
24 and you stopped the applicant and said
25 you had a question for him. Why were

1 you applying for variances? There
2 might be relief for you. And then you
3 explained the 4/10, and then you were
4 corrected that on the survey it's
5 actually a 60 foot wide lot, which
6 means it wouldn't qualify for the 4/10
7 rule because in order to benefit from
8 the 4/10 rule, your lot width has to be
9 less than what is required under the
10 zoning code's dimensional regulations.

11 CHAIRMAN SALADINO: Could you
12 indulge me, just for the public, I have
13 brought up my own personal recollection
14 about an interpretation that the Zoning
15 Board of Appeals had made prior to any
16 one of us being on the Zoning Board. I
17 happened to be at that meeting, I
18 remember the determination. It was an
19 interpretation that they made about
20 150-13E(1), the 4/10 rule. And that
21 Zoning Board decided that that would
22 apply to unimproved properties only. I
23 wasn't a member of the Zoning Board.
24 Diana and I have the most seniority on
25 this Zoning Board and neither one of us

1 were members of that particular Zoning
2 Board. And I brought it up with this.
3 Unfortunately I'm not prepared to do
4 the research, I'm not going to go back
5 and do the research.

6 (Whereupon, there was simultaneous
7 crosstalk.)

8 CHAIRMAN SALADINO: Just let me
9 finish and then you can go. I'm not
10 going to do the research. The Village
11 chose -- the Building Department chose
12 not to do the research. The previous
13 clerk that we had, not this clerk, the
14 previous clerk that we had, there's
15 supposed to be by Village law a book
16 that enters all interpretations. We
17 don't have that book, so I'm not
18 prepared to press this issue. But
19 that's my recollection. Whether
20 somebody with a longer memory than me
21 or is prepared to go through 15 years
22 ago's minutes, I'm not prepared to do
23 that.

24 MS. REICHERT: Well, I went
25 through every single Zoning Board

1 minute that was available on the
2 website starting with 2014.

3 MR. MURRAY: That was fun.

4 MS. REICHERT: It was. So I can
5 tell you, and I can represent with
6 personal knowledge that everything that
7 I have here is from 2014 on, and there
8 are notices of disapproval that
9 specifically reference 150E(1), again,
10 from 2024. In fact, ones that were
11 after I had raised the fact that we
12 desired to get a revised notice of
13 disapproval.

14 Now, I never got to speak with
15 Alex Bolanos because on my way to meet
16 with him right after that July 2024
17 meeting, I got a phone call en route
18 from Village Hall saying he had fallen
19 ill and they didn't know when he would
20 be back. I never got to talk to him
21 about whether or not it was just an
22 inadvertent mistake that he forgot to
23 take into account the 4/10 rule, but I
24 don't know when your decision happens,
25 but I went through every single minute.

1 CHAIRMAN SALADINO: So if it was
2 from 2013, we wouldn't know.

3 MS. REICHERT: We wouldn't know,
4 but the Board's precedent since then
5 have shown that you've applied it
6 several times. Only once was it a
7 vacant parcel, every other time it's
8 been --

9 CHAIRMAN SALADINO: You had
10 mentioned one application where we did.
11 I believe it was 320 Carpenter Street.
12 Maybe the Members can refresh my
13 memory, I thought that was for an
14 accessory building?

15 MEMBER KAUFMAN: It was a carport.

16 MS. REICHERT: Yeah, actually you
17 applied the 4/10 rule and it's only
18 meant to apply to principal structures.
19 That one always struck me a little by
20 funny because you applied --

21 CHAIRMAN SALADINO: I don't
22 believe we did.

23 MEMBER KAUFMAN: We've never -- as
24 I recall, it never came into play. It
25 was a very minor project.

1 MS. REICHERT: It's cited on the
2 notice of disapproval.

3 MEMBER KAUFMAN: Oh, no, no, it
4 might be the disapproval. What I'm
5 saying is it never even factored into
6 our decision, as far as I can recall.
7 I do remember that one quite well.

8 MS. REICHERT: I understand that.
9 There was a tremendous amount of
10 discussion --

11 MEMBER KAUFMAN: Well, you can
12 strike that one off the list. You
13 still have many others.

14 MS. REICHERT: I'm just saying,
15 there are times when this Board in this
16 century, right, and in the last five
17 years has discussed it -- but also
18 within this decade and within the last
19 five years where this Board has
20 discussed it in depth and applied it to
21 residentially approved properties in
22 the Historic District because, again,
23 where it really comes down to
24 benefitting property owners is
25 recognizing that the Village of

1 Greenport was developed historically
2 with very narrow lots. Zoning was not
3 adopted by the Village until 1971.

4 CHAIRMAN SALADINO: 1949.

5 MS. REICHERT: 1971.

6 CHAIRMAN SALADINO: 1949.

7 MS. REICHERT: No.

8 CHAIRMAN SALADINO: Yes.

9 MS. REICHERT: That's why all of
10 the preexisting COs issued mention
11 1971.

12 CHAIRMAN SALADINO: I have it in
13 my bag that I could show it to you. We
14 won't take up these people's time.

15 MS. REICHERT: That's fine, but
16 I'm looking at the very first --

17 CHAIRMAN SALADINO: I have the
18 code from 1949. Again, we won't take
19 up these people's time, but if you're
20 interested later, I will show it to
21 you.

22 MS. REICHERT: Sure. But, again,
23 if you look at your zoning code, it
24 references an October 1971 date.

25 CHAIRMAN SALADINO: And a revision

1 in 1975, I'm aware of that. But I also
2 have the code, the first code -- the
3 zoning code in the Village of Greenport
4 was 1949.

5 MS. REICHERT: All right. But --

6 CHAIRMAN SALADINO: It doesn't
7 mean anything here right now.

8 MS. REICHERT: No, it's relevant
9 for this parcel because the first time
10 it received a certificate of occupancy
11 was in the 1990s and it specifically
12 states that the structures were built
13 before 1971, which is what you would
14 put.

15 CHAIRMAN SALADINO: Are you going
16 to make me get it?

17 MS. REICHERT: No. Either way,
18 this house was built before then. It
19 was built in 1905.

20 CHAIRMAN SALADINO: Okay. Anybody
21 else, question, before we open it up to
22 the public?

23 MEMBER REARDON: No, I do not.

24 CHAIRMAN SALADINO: Thank you.

25 MS. REICHERT: I have a procedural

1 question for the Board, which is in the
2 last application you deliberated after
3 closing the public hearing. Because
4 this public hearing or this application
5 has direct bearing on the next public
6 hearing, do you plan on deliberating
7 once you close this public hearing?
8 Because it may or may not necessitate
9 an adjournment of the hearing.

10 CHAIRMAN SALADINO: Actually
11 myself, and I'll ask the Members, I
12 thought for myself I thought that would
13 be the best path to take, but I'll
14 defer to our attorney, but I think that
15 would be the best path to take.

16 ATTORNEY STOLAR: I would concur.
17 It may change the nature of the next
18 application. It may make it so that
19 you don't have to hear that tonight.
20 It depends on where you go with it, so
21 procedurally, it would be the better
22 course to make that decision before the
23 hearing.

24 CHAIRMAN SALADINO: We all agree?

25 MEMBER NYCE: I agree.

1 MEMBER KAUFMAN: Yes.

2 MS. REICHERT: Thank you.

3 CHAIRMAN SALADINO: Is there
4 anyone else from the public that would
5 like to speak on this application?
6 Mr. Mazzaferro.

7 MR. MAZZAFERRO: Nick Mazzaferro,
8 Post Office Box 57, Greenport, New
9 York. I'm not speaking specific to the
10 application, but the Counsel actually
11 referenced the variance application
12 that I was up here for earlier tonight.
13 Just a couple of quick points and I'll
14 get out of here. Number one, the house
15 does have a preexisting pre-1971
16 certificate of compliance or whatever
17 it's being called these days. The new
18 extension on the house does comply with
19 the combined setback yardage
20 requirement for the side yards. You
21 cannot add a front yard bow window from
22 the front of the house, there's a new
23 extension to the back of the house.
24 The entire new front of the house is
25 remaining untouched. It does not come

1 into the issue of the variance, so I
2 just wanted to clarify that.

3 CHAIRMAN SALADINO: Thank you.

4 MR. BIANCO: Can I come back up
5 just to add a few words?

6 Just wanted briefly to hit on some
7 of the points opposing Counsel
8 mentioned. Your review here is de
9 novo, it's an appeal. That's hence
10 what the meaning is, brand new. So you
11 don't have to defer to the Building
12 Inspector's determination here. And I
13 would add that the letter itself
14 doesn't really provide an explanation
15 for anything, so there's not much to
16 defer to, so I think it's a clean slate
17 for you guys to really look at it. And
18 that's no disrespect to your Building
19 Inspector. These are all difficult
20 questions, but given that there's no
21 justification for why something was
22 left off or not, I think it's up to you
23 guys to make that determination.

24 As you mentioned, the combined
25 side yard, whether the 4/10 rule

1 applies or not, if it doesn't apply,
2 it's 25 feet required; if it does, it's
3 20 feet. I think, as you said, it's
4 another variance, and any time you have
5 additional variance requirements for an
6 application, it makes the application
7 that much more intensive for the
8 particular property. So it's
9 definitely a major consideration.

10 I think we're talking past each
11 other with opposing Counsel regarding
12 legitimizing variances not needed. It
13 depends on what the code says. So if
14 you have a code provision like yours
15 that speaks to nonconforming structures
16 with conforming uses in that they can
17 be enlarged or altered, but that the
18 degree of nonconformity cannot be
19 increased or new nonconformities not be
20 introduced, if you have a provision
21 like that, Courts have interpreted such
22 provisions as requiring the applicant
23 to then apply for variances for all the
24 nonconformities of the structure, if
25 they're introducing a new

1 nonconformity. Because essentially
2 what you're doing is you're losing --
3 by introducing these new
4 nonconformities, you're losing the
5 prior preexisting grandfathered status
6 of the property. That is firm case
7 law. Now, if your code said something
8 different, opposing Counsel is correct,
9 if it had a less stringent treatment of
10 nonconforming -- preexisting
11 nonconforming structures, it's true
12 that the applicant wouldn't necessarily
13 have to obtain variances for
14 preexisting nonconformities. That's
15 not what your code says. Ultimately it
16 is a very stringent provision that
17 essentially requires the applicant to
18 then meet all the requirements of the
19 current code once they're introducing
20 new nonconformities.

21 And there's a lot of mention of
22 precedent with regards to the 4/10 rule
23 and with regards to whether the, you
24 know, the front yard and the other
25 nonconformities have to be brought to

1 the current code. When it comes to
2 precedent, it's possible that prior
3 Boards got it wrong. These are all
4 difficult questions. You can depart
5 from precedent as long as you explain
6 why you did so. The Courts are very
7 clear on that. You're not bound,
8 handcuffed by precedents that you made
9 a couple of bad decisions or you didn't
10 interpret a provision of the code
11 correctly, that doesn't mean you have
12 to continue interpreting that provision
13 incorrectly. And I think when it comes
14 to the 4/10 rule provision, that
15 language in there where it says
16 developed, I don't see how you get
17 around that. No one develops -- no one
18 says I'm going to renovate my --
19 instead of saying renovate my house,
20 I'm going to develop my house. It
21 doesn't make any sense. Every word in
22 every statute has to mean something.
23 In the end, you have to be able to
24 interpret it to mean in this case that
25 they're talking about vacant lots.

1 Whether the Board got that wrong in the
2 past doesn't necessarily mean that they
3 have to continue it as a precedent.

4 CHAIRMAN SALADINO: Thank you. Is
5 there anyone else from the public that
6 would like to speak?

7 AUDIENCE MEMBER: Do we speak
8 about the -- because we're neighbors of
9 the proposal. Do we speak or no?

10 CHAIRMAN SALADINO: One second.
11 We would ask that you speak to this
12 particular public hearing, not the
13 merits of the next agenda item, not to
14 the merits of -- only if you have
15 something to say about this public
16 hearing, we would be glad to hear it.

17 AUDIENCE MEMBER: No, I'm not
18 going to go up there yet until the
19 next.

20 CHAIRMAN SALADINO: You guys need
21 a minute to argue this out?

22 AUDIENCE MEMBER: We need to
23 understand. It's a good question.

24 AUDIENCE MEMBER: I think the next
25 agenda --

1 CHAIRMAN SALADINO: I think if you
2 have something to say, you should say
3 it. Identify yourself and say it at
4 the podium.

5 AUDIENCE MEMBER: Sorry.

6 CHAIRMAN SALADINO: Not a problem.

7 MS. REICHERT: Mr. Chairman, may I
8 speak?

9 CHAIRMAN SALADINO: Name and
10 address for the stenographer.

11 MS. REICHERT: Well, I just --
12 because you guys asked, I have --

13 CHAIRMAN SALADINO: We asked?

14 MS. REICHERT: -- public hearing
15 notices for several of the 4/10 rule
16 applications that I've referenced in
17 that table, and if you'd like, I can
18 submit them into the record or give you
19 a brief synopsis of them.

20 CHAIRMAN SALADINO: It's your time
21 at the podium. If you want to do that,
22 you certainly can, but if you want to
23 submit them. And I'm going to have to
24 ask you, do you want us to take the
25 time to consider this?

1 MS. REICHERT: Yeah, I would.
2 Again, why don't we wait until we get
3 to the next hearing? I mean, I think
4 that what's in that -- I mean, it's a
5 dual purpose memorandum because it's
6 also submitted in opposition to this
7 particular challenge, but I've covered
8 the points there, and, of course, I
9 would love for the Board to consider
10 it, it's been submitted into the
11 record.

12 CHAIRMAN SALADINO: Do you want us
13 to adjourn this so we have the time?
14 You know, we got this at 6:00 this
15 evening. Do you want us to adjourn
16 this?

17 MS. REICHERT: I tried to submit
18 it earlier.

19 CLERK NOONE: You tried to submit
20 it at 2:00 and it's impossible to give
21 that paperwork --

22 MS. REICHERT: I understand.

23 CLERK NOONE: It was actually
24 after 2:00.

25 MS. REICHERT: I e-mailed it

1 before I left.

2 CLERK NOONE: 200 pages of
3 material.

4 MS. REICHERT: Mostly exhibits.
5 The memorandum itself is -- again, has
6 charts, tables, and a lot of pictures
7 to illustrate the various different
8 points. I would say that the Board can
9 close the public hearing tonight on
10 this particular application, although I
11 would request for the next public
12 hearing, depending on how this one
13 goes, that, you know, I think that I
14 put in a sizable submission, and it
15 would only be fair to probably provide
16 opposing Counsel with time if he wants
17 to put in a written response or rebut.
18 I mean, I understand it was a late
19 submission, but I'm not asking for the
20 public to not have a chance to comment
21 on it and for the Board to take it into
22 consideration. I clearly put a lot of
23 time and effort into it, so --

24 CHAIRMAN SALADINO: We don't want
25 to diminish that. But also, I'm just

1 not seeing a path -- if we choose to
2 take the time for us to consider this,
3 and for opposing Counsel to look at it,
4 and for the clerk to put it on the
5 website and for the public to look at
6 it, I don't see how we can go forward
7 with this public hearing closing.

8 MS. REICHERT: I mean, listen, you
9 can close the public hearing record and
10 leave it open for a 10 day written
11 comment period and then deliberate.

12 CHAIRMAN SALADINO: I don't
13 understand how we can hold the next
14 public hearing while this public
15 hearing is still open.

16 MS. REICHERT: That's fine.

17 I mean, listen, I don't feel like
18 the next public hearing can proceed
19 until I have a decision on this.

20 CHAIRMAN SALADINO: I'm looking at
21 the attorney and I get this
22 (indicating).

23 ATTORNEY STOLAR: I assumed their
24 request was going to be to try to
25 deliberate and finalize so you can move

1 forward tonight, but it's different
2 than that.

3 CHAIRMAN SALADINO: I thought that
4 would be the best course to take just
5 because everybody wants an answer, kind
6 of wants an answer, but now we have a
7 200 page document that this guy is
8 entitled to read, and the public is
9 entitled to read, and the Members
10 certainly are entitled to read.

11 MS. REICHERT: Absolutely. I have
12 no problem with, again, like I said,
13 close the hearing -- there are
14 pictures. I will hand this in, which
15 actually Counsel has seen before.
16 These are just the public hearing
17 notices. I only have one copy. I
18 don't want to over inundate --

19 CHAIRMAN SALADINO: I think we
20 should give it to the clerk so he can
21 make copies for the Board.

22 MS. REICHERT: What was available
23 on the website, these are notices of
24 public hearing and notices of
25 disapproval for some of those

1 applications.

2 CHAIRMAN SALADINO: Folks, because
3 this is an important application, it's
4 important that she gets everything
5 down, so maybe we can, like, stop
6 talking in her ear. You know, if it
7 was something that a lot of people
8 weren't interested in, she would muddle
9 through, but we want to keep it
10 according to Hoyle.

11 MS. REICHERT: So at any rate, I
12 defer to the Board's pleasure on how
13 they want to handle this. It's a lot
14 of information. Again, I think it's
15 only fair to give the appellants who
16 brought this appeal the chance to rebut
17 or supplement their application. It
18 was only a paragraph long in terms of
19 what they were, you know, to justify
20 their opposition to the Building
21 Inspector and perhaps even continue the
22 hearing and have an opportunity to
23 question Mr. Pfriendr, the Building
24 Inspector, as is usually the normal
25 course in these types of proceedings.

1 So I have no problem with adjourning
2 this to another date or closing the
3 public hearing and leaving it open for
4 a written comment period. It is the
5 Board's choice.

6 CHAIRMAN SALADINO: I don't think
7 it's reasonable to close the public
8 hearing while all of that is up in the
9 air.

10 MS. REICHERT: I mean, if the
11 Board wants to hear from Mr. Pfriendr,
12 right, or otherwise you close the
13 public hearing --

14 CHAIRMAN SALADINO: We didn't say
15 we wanted to hear from Mr. Pfriendr.
16 That might be an option for the Board,
17 and we'll discuss that, but, again, if
18 we're all to be expected -- you did a
19 lot of work.

20 MS. REICHERT: I did.

21 CHAIRMAN SALADINO: If you expect
22 us to read it --

23 MS. REICHERT: Which I would love.

24 CHAIRMAN SALADINO: We would like
25 to give you a fair shake and read it.

1 We would also like to give the
2 applicant a fair shake and let him read
3 it. And also the public. You know,
4 I'm sure the clerk, as unhappy as he
5 looks over there, might be willing to
6 put it on the website so the public can
7 read it.

8 MEMBER GORDON: On the other hand,
9 it seems to me we have some pretty
10 clear issues with respect to how we
11 interpret this -- these provisions that
12 are before us that were taken into
13 effect or not -- taken into
14 consideration or not by the Building
15 Inspector, and I'm not totally happy
16 with putting it all off once again when
17 we have those considerations.

18 For instance, if this appeal was
19 sustained tonight, do we have to stop
20 and wait for a new notice of
21 disapproval?

22 CHAIRMAN SALADINO: Yes.

23 MEMBER GORDON: I sort of think
24 the answer is yes, but then we have in
25 the past sometimes made -- we've found

1 a way to provide conditions on the new
2 notice of disapproval so we could move
3 ahead. So it's another process
4 question.

5 CHAIRMAN SALADINO: If the -- and
6 again, I don't want to talk out of my
7 hat, but this is what I believe, and
8 I'm sure Brian will correct me if I'm
9 wrong or one of the other Members will
10 correct me if I'm wrong, if we decide
11 this has to go back to the Building
12 Inspector to add the additional relief,
13 a new notice of disapproval would have
14 to be generated, a new public notice
15 would have to be generated.

16 MEMBER GORDON: And it would take
17 another --

18 CHAIRMAN SALADINO: Nobody
19 seems --

20 MS. REICHERT: No, I know my
21 clients very much, they've been doing
22 this for years. What I would say is
23 because you are acting in the shoes --
24 standing in the shoes of the Building
25 Inspector, and this is a de novo

1 review, you know, again, most Zoning
2 Board notices of public hearings will
3 state the variances that are being
4 sought and then say and such other
5 relief as the Board may deem necessary.
6 Usually that means conditions that you
7 imply, but here, I mean, I think the
8 only real question for this Board in
9 terms of changes to the notice of
10 disapproval would be the combined side
11 yard setback.

12 CHAIRMAN SALADINO: An additional
13 variance.

14 MS. REICHERT: An additional
15 variance, but as I have said, the one
16 that amounts to the same exact relief,
17 so we are prepared to continue with the
18 application. Clearly the room is full,
19 right? So it's not like people have no
20 notice of that additional variance. In
21 fact, they brought the challenge for
22 it. You know, in the interest of
23 moving this along, I don't see why --

24 CHAIRMAN SALADINO: Well, because
25 I think that's the process. I think if

1 we had -- if we decide --

2 MS. REICHERT: The notice --

3 CHAIRMAN SALADINO: Excuse me. If
4 this Board decides that an additional
5 variance has to be added to the notice
6 of disapproval, I don't think the fact
7 that there's 12 people in the audience
8 that that says, well, that's okay,
9 everybody knows. There would have to
10 be a new public notice. There would
11 have to be a new notice of disapproval
12 issued.

13 ATTORNEY STOLAR: I would suggest
14 that you do it that path with a new
15 notice of disapproval and a new
16 hearing. The fact that you referred to
17 12 people, whatever the number is here
18 would not object, we don't know that
19 somebody not sitting in the room
20 tonight would object to the potential
21 jurisdictional issue, so the better
22 course would be to --

23 CHAIRMAN SALADINO: We are on
24 television.

25 MEMBER NYCE: A question referring

1 to what Dinni had asked. I recall a
2 while ago we did, I believe, schedule
3 the public hearing pending a new notice
4 of disapproval and the notifications
5 being done timely; is that a
6 possibility?

7 MEMBER GORDON: With the language
8 provided.

9 ATTORNEY STOLAR: So a couple of
10 things can happen here. If, in fact,
11 you are not going to make a decision,
12 you just want to hold off to next
13 month, there's definitely that
14 possibility of delay. If during the
15 interim, the Building Inspector reviews
16 the application, reviews the hearing
17 tonight, reviews the transcript, and
18 determines that he feels there are
19 other variances that are necessary,
20 that could shorten that process. In
21 that case, a new notice of disapproval
22 may issue, an amended notice of
23 disapproval, which the applicant can
24 pursue relief and that can be put on
25 the calendar for next month so that you

1 don't continually lose month after
2 month trying to move this forward. I
3 know the applicant, while she did
4 submit the information for you to
5 review today and understands that that
6 may necessitate some additional time,
7 in the past I know she's also tried to
8 pursue this and move it forward more
9 quickly. So if that's the path, it
10 could go either way where we could have
11 a new notice if, in fact, that's the
12 case during the interim that the
13 Building Inspector upon re-review
14 considers an amended notice, or just
15 put it off to next month, no new notice
16 comes out, and then this gets put off
17 again. If the Board concurs with any
18 of the elements or any of the appeal
19 items, this will, again, get put over,
20 the hearing on the variance will get
21 put over to the April date.

22 CHAIRMAN SALADINO: I understand
23 that. I'm just confused. I'm getting
24 mixed signals here, I'm getting mixed
25 messages here. In one statement, we're

1 more than willing to postpone this so
2 everyone has the ability to become
3 familiar with what was submitted this
4 evening. But then in the next breath,
5 we hear that someone is in a hurry.
6 I'm just kind of getting mixed messages
7 here. You know, if it's okay to put
8 this proceeding off while we read this
9 and submit it to the applicant's
10 attorney, and then in the next breath
11 we talk about, well, perhaps we have to
12 get a new notice of disapproval,
13 somehow that becomes unreasonable to
14 the applicant, to your client.

15 MS. REICHERT: Well, I didn't say
16 it was unreasonable, I'm just looking
17 in terms of minimizing delays where
18 possible, but naturally I'm fine with
19 the Board wanting more time to review
20 the material that's been submitted into
21 the record and providing the --

22 CHAIRMAN SALADINO: We're just
23 looking to give you a fair shake.

24 MS. REICHERT: Listen, I'm okay
25 with that.

1 MEMBER KAUFMAN: Just as a
2 practical matter, if you want this to
3 be considered, it's not going to
4 happen. I can't read this during this
5 meeting, so it's going to have to be
6 next month. That's basically --

7 CLERK NOONE: Question. And this
8 isn't going to be entered into the
9 record for Mr. Bianco's appeal, it's
10 going to wait until your public
11 hearing, correct?

12 MS. REICHERT: No, it's part of
13 the record for both, that's why it's
14 submitted in support of the Scholl
15 application and in opposition to the
16 Gillooly.

17 CLERK NOONE: Do you have another
18 copy of this for the stenographer?

19 MS. REICHERT: Yeah, absolutely.
20 I just didn't think the Board Members
21 wanted two copies of the same document.

22 MEMBER KAUFMAN: I don't wish to
23 delay anything, but I'm just saying, I
24 know there's a lot of back and forth,
25 but what it comes down to is for this

1 matter right now, the appeal, if you --
2 there's a lot in here, and I do want to
3 read it, it's not going to happen
4 tonight and that's it.

5 MEMBER GORDON: I have a question
6 for the lawyer. If the appeal is not
7 sustained, are we --

8 ATTORNEY STOLAR: You can move
9 forward with the variance application.

10 MEMBER GORDON: Yes, but are we
11 legally -- I'm thinking if the appeal
12 is not sustained and we haven't read
13 all this material, is there any legal
14 liability in that?

15 ATTORNEY STOLAR: So if the
16 objectant submitted the information and
17 wants you to read it, of course, if you
18 reach a different decision and you
19 haven't read everything and you're not
20 considering everything in the record,
21 your decision can be challenged by the
22 applicant. I'm not going to say it
23 will be successful, but it's certainly
24 a ground that they will raise in their
25 appeal to challenge your determination

1 if, in fact, they do challenge the
2 determination.

3 MS. REICHERT: To piggyback --

4 MEMBER GORDON: I think we just
5 made it a little more complicated.

6 MS. REICHERT: -- what your
7 Counsel just said, this public hearing
8 right now is for the application appeal
9 that was brought by Lisa Gillooly and
10 Tony Spiridakis, the burden is upon
11 them to prosecute it fully and
12 demonstrate to you why the Building
13 Inspector erred. My submission to you
14 is rebutting that, but I don't have the
15 same burden that they have. They have
16 a burden to prove to you that the
17 Building Inspector erred. I'm
18 providing material in opposition to it,
19 but this isn't my application, it's
20 theirs.

21 MEMBER NYCE: If you're playing a
22 game of chess, and you want reasonable
23 deniability down the road to bring a
24 challenge against this Board for not
25 having considered all the information,

1 if we make a decision based --

2 (Whereupon, there was simultaneous
3 crosstalk.)

4 MEMBER NYCE: Let me finish. Just
5 only on what their thing was, and we
6 get this last minute, don't consider
7 it, a decision doesn't go your way, you
8 challenge the Board and its decision,
9 take it to court and say they never
10 considered my rebuttal.

11 CHAIRMAN SALADINO: A lawyer would
12 never do that, David.

13 MEMBER NYCE: True, sorry.

14 You know, there's a level of --

15 MS. REICHERT: Again, I'm the one
16 who suggested that if you would like
17 time to review this, we would welcome
18 that. Again, this isn't my
19 application, it's theirs. So perhaps
20 it's better that Mr. Bianco answers the
21 question of whether or not he wants the
22 hearing record to close tonight.

23 MR. BIANCO: I would prefer that
24 it's not closed. I just want to be
25 able to respond to this and that way, I

1 think, if we have a decision, a
2 determination based on everything
3 that's there before the Board, we can
4 have a final determination letter from
5 the Building Inspector instead of
6 having, you know, him maybe -- close
7 the hearing, he issues the letter
8 before I can respond. I don't want to
9 have to appeal again. I'd rather have
10 just the final determination that way
11 we can move forward with the
12 application with a final determination
13 letter so we know what variances we
14 have, what we're challenging, so
15 there's clarity. I think if we handle
16 it that way, it would be best.

17 CHAIRMAN SALADINO: Me personally,
18 you know, for me personally in my mind
19 the path for me this evening is kind of
20 clear. Again, I see -- for the folks
21 that know me, I'm a hard liner, for me
22 the code is black and white. What it
23 says in 150-13E, in my mind, would say
24 that an additional variance would be
25 required. I don't know if I'm in

1 trouble for pre-deciding, you know, but
2 I'm telling you what I think. So I
3 would have no problem moving forward
4 with this public hearing, closing it,
5 and taking a vote. I can't speak for
6 my colleagues. When I do I get in
7 trouble when I speak for my colleagues.

8 MEMBER KAUFMAN: I'm sorry, I just
9 can't get past that you spent all this
10 time doing this for a reason, and I
11 don't think that in a hearing we should
12 ignore that, and I don't know how you
13 process this during this meeting.
14 Therefore I think it needs to go to
15 next month.

16 CHAIRMAN SALADINO: Well, because
17 -- and I'm okay with that too. I'm
18 certainly okay with that too.

19 MEMBER KAUFMAN: I'm not saying
20 I'm going to agree with this, I'm
21 simply saying I should read it. I'm
22 not going to pretend like I read it
23 because I didn't. I skimmed through.

24 CHAIRMAN SALADINO: I also believe
25 -- and Ms. Reichert is here, she could

1 answer yes or no, that the majority of
2 what's in here applies more to the next
3 public hearing than to this one.

4 MS. REICHERT: I'd say it's a
5 pretty good split. The very last
6 section is actually the addendum in
7 support of the application where I go
8 through the variance standards, which
9 is what you would normally be
10 considering. But because the issues
11 kind of spill over, you know, there's
12 an overlap, but a good portion of that
13 memorandum is devoted to dealing with
14 the issues raised in the appellant's
15 appeal.

16 CHAIRMAN SALADINO: Well, not
17 having read it, I can't say yes or no.

18 MS. REICHERT: That's fine. I'm
19 just saying it covers both in depth.

20 CHAIRMAN SALADINO: Are we in
21 agreement that we can't hold the second
22 public hearing? Seth?

23 MEMBER KAUFMAN: You can't hold
24 it, yeah.

25 MS. REICHERT: I think that what

1 you can do is you could open it and
2 adjourn it.

3 CHAIRMAN SALADINO: I would rather
4 not do that. I would rather not do
5 that.

6 ATTORNEY STOLAR: You don't need
7 to formally open it, you can just
8 adjourn it, unless you want to hear
9 anything tonight. But if you're not
10 making a decision on the appeal, I
11 would recommend just carry them both.

12 CHAIRMAN SALADINO: I don't want
13 to open it and adjourn it. There's
14 many members of the public here that
15 submitted letters that we can't enter
16 into the record until we open that
17 public hearing and allow them to either
18 speak their mind or enter those letters
19 and stuff. If we don't open it, if we
20 don't open it and we just adjourn that
21 public hearing until --

22 MS. REICHERT: Well, if you don't
23 open it, are you going to require that
24 the applicant re-notice everyone?

25 CHAIRMAN SALADINO: I don't think

1 we have to do that.

2 ATTORNEY STOLAR: No. If we
3 adjourn it to a date and time certain
4 and in the interim there are no
5 additional variances that are required,
6 there's no need --

7 CHAIRMAN SALADINO: Would you ask
8 for that?

9 MS. REICHERT: I would open it and
10 adjourn it just for that purpose.

11 CHAIRMAN SALADINO: I'm not going
12 to do that. I'm not prepared to do
13 that. I'm not sure why we would have
14 to re-notify the neighbors.

15 MS. REICHERT: All right. That
16 was just procedurally my question for
17 the Board and its Counsel.

18 ATTORNEY STOLAR: There's no need
19 to formally open it. You can just
20 adjourn it. You'll reach the same
21 result.

22 CHAIRMAN SALADINO: This meeting
23 and that meeting?

24 ATTORNEY STOLAR: Correct.

25 CLERK NOONE: If I could just,

1 I'll enter this into the record. If
2 you want to enter these supporting
3 documents into the record, you have to
4 give copies, I'll need additional
5 copies of these for all the Board
6 Members.

7 MS. REICHERT: Do you want to give
8 it back to me? This record remains
9 open and I'll get hard copies for you.

10 CLERK NOONE: Absolutely. But
11 this won't be in the record for
12 tonight's meeting. (Handing).

13 Thank you.

14 CHAIRMAN SALADINO: What just
15 happened?

16 CLERK NOONE: She had some
17 supporting documents.

18 ATTORNEY STOLAR: Those are the
19 notices of the public hearing that were
20 referenced previously.

21 CHAIRMAN SALADINO: And we
22 couldn't put them in the record until
23 we get copies?

24 ATTORNEY STOLAR: The point being,
25 if you were to continue the hearing

1 tonight, the only way to get them into
2 the record is to hand deliver them, but
3 since you're not making a decision
4 tonight, she's going to do it in the
5 normal course, give it to the clerk,
6 give it to Mr. Noone, he'll post it and
7 that will be fine, that will serve the
8 same purpose.

9 MS. REICHERT: I can e-mail a copy
10 to opposing Counsel as well.

11 CLERK NOONE: In other words,
12 you'll all want copies, right?

13 CHAIRMAN SALADINO: At some point
14 --

15 CLERK NOONE: The onus is on the
16 applicant to provide --

17 CHAIRMAN SALADINO: I thought we
18 came to the conclusion that we were
19 going to adjourn this public --

20 CLERK NOONE: But she wants to put
21 that in the record for this hearing,
22 correct?

23 MS. REICHERT: Correct, for this
24 hearing. I can do it tomorrow. The
25 record remains open if you're

1 adjourning it, so I can get it to
2 Mr. Noone tomorrow with the physical
3 hard copies and everything that he'll
4 need to put it online and also send a
5 digital copy to opposing Counsel.

6 CHAIRMAN SALADINO: I don't have a
7 problem with that.

8 CLERK NOONE: So essentially --

9 MS. REICHERT: You'll get a copy
10 of this tomorrow.

11 CLERK NOONE: Since the hearing
12 will still be open, the stenographer
13 will get it at the next -- that at the
14 next meeting, those documents. In the
15 interim, you'll all get copies of those
16 documents.

17 CHAIRMAN SALADINO: Just so
18 everybody, it's not us that's requiring
19 that that document be entered into the
20 public record tonight, it's the
21 attorney's request.

22 CLERK NOONE: Well, theoretically
23 it's the same record, correct? Because
24 it's the same public hearing.

25 MS. REICHERT: I mean, if you want

1 to hold onto this copy, I have more of
2 it.

3 CLERK NOONE: You have to
4 provide --

5 MS. REICHERT: I have to provide
6 copies for everybody, so tomorrow my
7 office will drop off six copies of this
8 and also e-mail.

9 CLERK NOONE: I have to give it to
10 the stenographer at some point, if
11 you'd like. I didn't know whether you
12 had copies.

13 MS. REICHERT: I just didn't bring
14 multiple copies to the meeting, but I
15 can bring them.

16 ATTORNEY STOLAR: Since we do have
17 them now, I'm just going to identify
18 the addresses for those notices from
19 what was submitted by Ms. Reichert.
20 It's 151 Central, 320 Carpenter, 148
21 Bay, 412 to 414 Carpenter, 137
22 Sterling, and 217 Monsell.

23 CHAIRMAN SALADINO: Wait.

24 ATTORNEY STOLAR: The documents
25 that were just submitted by Ms.

1 Reichert, which will be posted to the
2 website but have formally been filed
3 tonight, I just wanted to identify the
4 addresses that are shown on those
5 documents.

6 CHAIRMAN SALADINO: These?

7 ATTORNEY STOLAR: No, nothing to
8 do with the -- this is the notices with
9 respect to previous determinations.

10 MEMBER GORDON: The other cases.

11 CHAIRMAN SALADINO: Okay. That's
12 okay. I lost my place here. I
13 apologize, folks.

14 ATTORNEY STOLAR: Why don't we
15 move to a motion to adjourn numbers 4
16 and 5?

17 MS. REICHERT: I'm sorry, I
18 believe Cindy Scholl would like to
19 speak.

20 MS. SCHOLL: Cindy Scholl, 174
21 Sterling Street. You know, yes, a lot
22 of documents got submitted to you, but
23 I thought they got --

24 MEMBER GORDON: Can you speak a
25 little louder?

1 MS. SCHOLL: I thought they got
2 very distilled down, and when your
3 attorney read off all of the notices of
4 disapproval that cited the use of the
5 4/10 rule as it applied to --

6 CHAIRMAN SALADINO: We didn't get
7 that.

8 MS. SCHOLL: No, I know, but he
9 just read off the -- I understand, you
10 didn't get it where you could read it,
11 it's in that packet. But I have two
12 questions for you because someone --
13 I'm sorry, I was kind of listening and
14 not seeing who was speaking, but
15 somebody said minutes were only
16 referenced for a few of the notices of
17 disapproval that had the 4/10 rule
18 applied and those 4/10 rule applied
19 properties that he just read out are
20 already improved lots. They already
21 have homes on them. And a number of
22 them have new additions that were put
23 on, and that 4/10 rule is applied to
24 those properties to determine their
25 side yard setbacks. 4/10 rule and

1 typically what I saw was 10 foot
2 setbacks on either side. So somebody
3 said that there were no notes
4 referenced, no minutes referenced for
5 some of the properties that you were
6 looking at when you looked at that
7 spreadsheet, and I'm just wondering if
8 you could just reiterate what minutes
9 you're looking for.

10 MEMBER NYCE: That was me and it's
11 also, as Seth pointed out, I was just
12 flipping through, and what followed her
13 list was that one. That's the only one
14 that I saw. I intend to go through
15 this and those and follow through.

16 MS. SCHOLL: It concerns me
17 because I too have read through all of
18 the minutes and found it just
19 concerning that all of the properties
20 that were mentioned here and then a
21 number of properties that weren't
22 included all reference and use the 4/10
23 rule as of late, one as recent as 2024,
24 151 Central Avenue, in determining side
25 yard setbacks. And I -- I just want to

1 make sure that you know that we put a
2 lot -- Martha put a lot of time into
3 this and that the minutes really
4 reflect Mr. Saladino reading out the
5 4/10 rule as it applied to each side
6 yard and those are very, very recent
7 applications. You know, not 10, 15
8 years ago. And I really do hope you go
9 back into the minutes and read through
10 everybody, you know, discussing.
11 That's what I'm hoping that you will
12 pay attention to because the record
13 speaks for itself, and I think that
14 that's the case. I'm sorry that you
15 need to review all that and you're
16 having to extend this, it was not our
17 intent really to cause more problems,
18 but, you know, we have a very important
19 project and it's incredibly important
20 to us as a family, and we want to be
21 able to make sure that you're making
22 the right decision as it applies to us.

23 CHAIRMAN SALADINO: Just to
24 respond to that, when I had brought up
25 a previous interpretation by the Zoning

1 Board, that was my recollection, and I
2 conceded that you haven't researched
3 it, we haven't researched it, the
4 Building Department hasn't researched
5 it, the book where interpretations
6 normally get entered somehow went the
7 way of the buffalo and is not around
8 anymore. I don't know the reason for
9 that. So as I said in the beginning,
10 I'm not going to press it. But, again,
11 there's always a but, the 4/10 rule
12 when it's applied doesn't eliminate the
13 need in the code for a combined side
14 yard setback. You can argue, like,
15 well, it's the same, it's 10 feet, it's
16 this. It's not. So for me, that's one
17 of the things that I have to consider.

18 MS. SCHOLL: I think -- not to
19 interrupt you, but in looking through
20 all of those particular properties,
21 side yards, combined or not, were not
22 discussed. They were flat out plain
23 and simple.

24 CHAIRMAN SALADINO: We're not
25 talking about a decision. We're not

1 talking about if the decision went in
2 favor of the applicant. We're not
3 talking about if it was relevant or
4 not. It was mentioned on the notice of
5 disapproval.

6 MS. SCHOLL: I think the notice of
7 disapprovals do speak for themselves in
8 that the determinations --

9 CHAIRMAN SALADINO: We're not
10 talking about the determinations, we're
11 talking about the process. We're
12 talking about the code, if it, in fact,
13 should be included on their notice of
14 disapproval. Whether this Board grants
15 the relief or not, we're not going to
16 pre-decide an application, but it
17 should be part of the process. The
18 code doesn't say, well, you have the
19 right to leave that portion of the code
20 off. You know, there is a portion of
21 the code that says you need this, and
22 there is another portion of the code
23 that says, well, you can kind of be
24 relieved of it a little bit. But the
25 bottom line is it should be there,

1 especially for a property that needs
2 relief from that portion of the code.

3 MS. SCHOLL: Right. Okay. I
4 think I just felt the need to point out
5 those things and put a fine point on it
6 and some emphasis. That's all.

7 CHAIRMAN SALADINO: Thank you. Is
8 there anyone else that would like to
9 speak?

10 MR. BIANCO: Just a final note,
11 just on the scheduling. Many of the
12 neighbors are going to be traveling
13 next month, if the underlying
14 application could be moved to April. I
15 don't know, if you sustain my appeal or
16 not, if it could go to April anyway.
17 And then my appeal can go to March.
18 It's a just a request because
19 ultimately I think you're leaning
20 towards sustaining it at least to some
21 degree and adding something, so we
22 would hopefully have the appeal in
23 April when neighbors can come and speak
24 to the underlying application, which is
25 really what they're here for tonight

1 because they weren't sure if you were
2 going to address that.

3 CHAIRMAN SALADINO: The first
4 thing I would mention is that you
5 should learn, we don't know each other,
6 we've never seen each other at a Zoning
7 Board for Greenport, the first thing
8 that you should kind of learn with this
9 Zoning Board, don't read the room
10 because a lot of times we don't know
11 what's going to happen. Number one.

12 Number two, for us to -- we
13 understand people have lives and they
14 want to be involved in the process that
15 effects them and stuff, but, you know,
16 it would have to be -- everyone would
17 have to kind of, like, agree to that.
18 We'll do you in March and we'll do them
19 in April, or you in April and them
20 in --

21 MR. BIANCO: I understand. I also
22 think logistically it would make sense.
23 You'll make a decision on my appeal
24 next month hopefully, and then you'll
25 have potentially a new letter, and then

1 there would be notices, and then April
2 we would be able to dive into that
3 underlying application. So I thought
4 logistically that would make sense.

5 CHAIRMAN SALADINO: I think that
6 kind of is probably right but --

7 MEMBER KAUFMAN: I think you're
8 assuming too much. It's going to
9 happen when it happens, which may well
10 be next month. I don't know, none of
11 us know what the decision is going to
12 be, and if I don't think it would be
13 right to delay it if it's possible next
14 month because there are other interests
15 involved. So you might get what you
16 want or maybe not.

17 MS. GILLOOLY: Hello, everyone.
18 Lisa Gillooly, 178 Sterling Street. I
19 just would like to point out that the
20 January meeting was postponed at the
21 request of the applicant because she
22 was traveling. We had members --
23 concerned neighbors fly in today for
24 this meeting, and we have other
25 members, so we would like the same

1 consideration for travel as was given
2 to the applicant. That's all. Thanks.

3 CHAIRMAN SALADINO: Lisa, just if
4 I could ask you, what would be a
5 reasonable date?

6 MS. GILLOOLY: Well, I like the
7 idea of not postponing the decision on
8 what's before you right now, which is
9 the notice of disapproval. So that
10 could come March, make a decision. And
11 just don't put both agenda items on
12 next month because we don't know what's
13 happening with the notice of
14 disapproval. If you say -- if you
15 agree that it should be changed, that
16 may change testimony and so on that
17 people are prepared to give. They
18 should have a little time to do that
19 anyway. And if you dismiss the notice
20 of disapproval and move forward with
21 just two side yard setbacks, then that,
22 you know, that would be collateral
23 damage, I guess, to everybody's travel
24 schedule. But it seems to me that the
25 best approach anyway is to wait for the

1 decision of the Zoning Board on the
2 letter of disapproval.

3 CHAIRMAN SALADINO: What do we
4 think? I think that's where we were
5 traveling anyway.

6 MEMBER KAUFMAN: I think we should
7 move expeditiously, whatever that ends
8 up meaning, just as a general
9 principle. Whatever is fairest. I
10 mean, people have financial interest in
11 this.

12 MR. KOHUT: Hi, I'm Rick Kohut,
13 and I live on the other side of Lisa
14 from the applicant.

15 So what you've said that you want
16 to act expeditiously, it's unreasonable
17 because in January the Scholls had to
18 travel and they couldn't be here, so
19 and then I flew up from Florida just
20 for this meeting tonight to speak to
21 you, and yet, okay, so I'm not speaking
22 tonight.

23 So next month is very difficult
24 for not only Lisa and Tony to be here,
25 but also myself. So it's only

1 reasonable, given that we've postponed
2 and you did more than willingly for the
3 Scholls in January that we're just
4 asking for to postpone it until April.
5 That's my --

6 CHAIRMAN SALADINO: I'm going to
7 get yelled at here by the attorney.

8 MS. MUNDUS: Hi, Pat Mundus, 182
9 Sterling Street, the next house over.
10 And I just wondered, we also flew --
11 cut our vacation short and came back
12 for this meeting because it was already
13 postponed for two months, and we're not
14 going to be here in April, and if the
15 Scholls have submitted 200 pages of
16 something for the next public hearing
17 that's coming up scheduled for today, I
18 wonder should all of us submit the
19 materials that we have worked and
20 produced for this next coming public
21 hearing? Should we give you our stuff
22 also since you have two hundred pages
23 from them? Or should we just sit on it
24 and wait two more months? It's getting
25 a little convoluted here, and I wonder

1 if there isn't possibly a way that you
2 could, as the Village lawyer suggested,
3 allow the public hearing to go forward
4 for the real application pending the
5 decision based on this one because then
6 we're all here, we're already
7 assembled. We all would like to speak.
8 We all have very important things to
9 say. And I'm just wondering, should we
10 submit our materials as they did?

11 CHAIRMAN SALADINO: Pat, I can
12 understand the problem. The reason
13 this Board is not obligated but is kind
14 of expected to consider this, you know,
15 there's always a case of judicial
16 review. And the less pokers you take
17 out of the fire that might cause that,
18 the easier things happen later on down
19 the road. For us to consider this
20 submitted this evening is -- could it
21 have been submitted sooner, especially
22 since the public hearing was postponed
23 for a month, maybe, probably.

24 MS. MUNDUS: It was postponed for
25 two months. We were mere in January --

1 in December, so we didn't meet in
2 January, and now here we are.

3 CHAIRMAN SALADINO: So it was
4 postponed for the month of January.
5 And again, I'm one vote. I got the big
6 title, it's not on here, Chairman, but
7 it's still only one vote. If the
8 Members -- I don't have a problem, I
9 honestly don't have a problem
10 addressing this application this
11 evening. The Members may have a
12 different view. We'll discuss it and
13 ask. If the appeal is sustained and
14 it's sent back to the Building
15 Inspector, next month would be -- March
16 would be -- no, it would be April would
17 be the new public hearing.

18 MS. MUNDUS: Right. That's a
19 third of a year delay in discussing.

20 CHAIRMAN SALADINO: I don't know
21 how it can move faster forward.

22 MS. MUNDUS: Our packages also
23 have photographs, and we would like to
24 present our materials to rebut the 200
25 page document that you just received

1 from them. That's all I'm asking.

2 CHAIRMAN SALADINO: We want to
3 give the applicant for the appeal --
4 they hired an attorney and they offered
5 an appeal. For us to just dismiss that
6 because what happens with their appeal
7 effects the next public hearing.

8 MS. MUNDUS: But you could --
9 pardon me, I'm sorry to interrupt.

10 CHAIRMAN SALADINO: If we sustain
11 the appeal, a new notice of disapproval
12 has to be generated, a new public
13 notice has to be generated, and a new
14 public hearing set. I'm not sure --
15 it's almost like the appeal is at odds
16 with the neighbor's needs. I'm not
17 understanding.

18 MS. MUNDUS: No, it's a conflict
19 of the amount of information that
20 you're receiving for a public hearing
21 that we haven't even had yet. She just
22 submitted everything for this
23 application.

24 CHAIRMAN SALADINO: You're going
25 to be able to submit everything that

1 you ever wanted to submit.

2 MS. MUNDUS: Except I won't be
3 here to explain it. So thank you very
4 much.

5 MS. REICHERT: If I might, two
6 quick points. Back in December, we
7 requested at the scheduling of the
8 public hearing when you accepted the
9 application the February date. This
10 particular public hearing, right, the
11 appeal brought by Ms. Gillooly and Mr.
12 Spiridakis was filed on January 6th,
13 the very last day that it was eligible
14 to be filed. So, I mean, to make it
15 sound like there's been a delay of two
16 months for both these hearings I feel
17 is unfair for the Scholls.

18 And then finally --

19 CHAIRMAN SALADINO: We made that
20 contention?

21 MS. REICHERT: No, I agree. I
22 just want to go through and explain
23 that pages 1 through 33 out of a 43
24 page memorandum are actually dedicated
25 to this particular appeal taken by the

1 opposing neighbors. So only ten pages
2 is about the variance standards that
3 would be in support of the variance
4 application. So again, I didn't know
5 that we wouldn't have both hearings
6 tonight when I prepared this. I did
7 something that I thought was beneficial
8 for the Board by condensing it down
9 into one memorandum. But this document
10 -- and if the appellants have materials
11 that they want to submit into the
12 record on this appeal, then by all
13 means they should do that. But I don't
14 think -- I just find it a little bit
15 disingenuous to be disparaging of the
16 fact that any member of the public who
17 gets to put things into the record when
18 they're not the appellant, we are not
19 the appellant in this appeal, I don't
20 understand why it should be criticized
21 for what we put in. I mean, we put in
22 information just like in the other
23 appeal they submitted letters today to
24 the Village Clerk. I mean, and they
25 get to do that because they are not,

1 you know, in that matter, they are the
2 public. In this matter, we are the
3 public. That's the final point I
4 wanted to make.

5 CHAIRMAN SALADINO: Jack, we
6 haven't heard from you.

7 MEMBER REARDON: You don't want
8 to.

9 CHAIRMAN SALADINO: I do. I do
10 want to.

11 MEMBER REARDON: I'd be wiping
12 half this off the table and let's get
13 to business on the other thing. There
14 has to be a procedure, we have to
15 follow the procedure. I'm certainly
16 willing to do that. Looking down the
17 road and trying to expedite as well.
18 You've heard my opinion. We do have to
19 go down the road, we have to address
20 this particular item, so let's do it.

21 CHAIRMAN SALADINO: Do it this
22 evening? I'm putting pressure on you.
23 Sorry.

24 MEMBER REARDON: I'm here to
25 serve, whatever your desire.

1 CHAIRMAN SALADINO: Dinni, what do
2 you think?

3 MEMBER GORDON: I'm very
4 conflicted. I have an opinion about
5 the appeal itself and I -- but, you
6 know, the consequences of one person's
7 vote is not the issue here, it's all of
8 us.

9 CHAIRMAN SALADINO: No, I'm kind
10 of asking you how we should go forward,
11 what's your opinion about going
12 forward? Should we deal with this
13 appeal this evening or should we --

14 MEMBER GORDON: Well, I want to
15 get to the question about the variance,
16 the questions about the variances, and
17 I'm undecided about whether there would
18 need to be yet another variance given
19 this language. So but I also think
20 it's complicated, and I'm concerned
21 about liability if we don't take every
22 appropriate procedural step. But I
23 think people have waited for a long
24 time for this, you know, both sides are
25 eager to get it done and I am

1 influenced by that.

2 CHAIRMAN SALADINO: Well, I'm
3 going to point out that, like, when
4 this application, you know, not that --
5 I'm going to say it. When this
6 application came in front of us in
7 2024, it wasn't us that put a pin in
8 it, it was the applicant that put a pin
9 in it. At that time, as unreasonable
10 as that minor variance might seem to
11 some people, combined side yard
12 setback, that's what held up the
13 application. The applicant chose to
14 challenge that and however it got --
15 I'm not quite sure how a new notice of
16 disapproval was generated by that, you
17 know, negotiations from a consultant
18 that the Village hired to act as a
19 Building Inspector, a new Building
20 Inspector. That just boggles my mind,
21 that whole process, that whole
22 paradigm. But it wasn't this Board
23 that held this application up for a
24 year and a half. I want that for the
25 record. It wasn't us. It was the

1 applicant's attorney that took
2 exception to one thing or two things on
3 a notice of disapproval, entered into
4 negotiations with the Village, and then
5 in December this came back in front of
6 us. So if you're going to --

7 MEMBER NYCE: Before she goes, I
8 would like to ask some questions when
9 you're done.

10 CHAIRMAN SALADINO: I'm done. I
11 shouldn't have started. I'm done.

12 MEMBER NYCE: I would like to ask
13 the Village Attorney, based on this
14 discussion, prior notice of
15 disapproval, how confident are you if
16 we move forward with a decision on this
17 tonight in regards to some sort of
18 judicial proceeding in the future?

19 MEMBER GORDON: Yeah, what's the
20 dimension of the risk?

21 ATTORNEY STOLAR: So that's not a
22 question I usually answer in a public
23 setting. I would answer that
24 separately.

25 MEMBER NYCE: I'll ask the stupid

1 questions at an inappropriate time.

2 ATTORNEY STOLAR: I'll say this:
3 I think you're okay with moving
4 forward, if that's what you want to do.

5 MEMBER NYCE: Okay.

6 ATTORNEY STOLAR: But I also think
7 that if you want to consider starting
8 the public hearing on the variance
9 application and then subsequently deem
10 any testimony to be part of a future
11 hearing to accommodate people who are
12 here tonight and can't be here on other
13 dates, that's something you can
14 consider as well.

15 MEMBER GORDON: So in that
16 situation, we would just leave -- we
17 would have a hearing on the merits, and
18 then we would leave it open; is that
19 what you're saying?

20 ATTORNEY STOLAR: Correct. And
21 then whether you make that
22 determination on the appeal or not, you
23 can make it subsequent to the -- after
24 reviewing all the documents, you can
25 make it on a subsequent date, leave

1 both of them open.

2 MEMBER GORDON: We have a parallel
3 track sort of.

4 ATTORNEY STOLAR: Correct.

5 CHAIRMAN SALADINO: How would that
6 -- if the Zoning Board of Appeals
7 decided that additional variances had
8 to be considered by the Building
9 Inspector, doesn't that muddy the
10 waters for the second public hearing?
11 I just don't get it.

12 ATTORNEY STOLAR: As long as at
13 that hearing you indicate that the
14 testimony that was provided at
15 tonight's hearing is to be deemed part
16 of that application and part of the
17 administrative record, that's fine. It
18 may be somewhat out of order, but
19 you're accommodating -- you're
20 providing for an accommodation to the
21 people who are looking for that
22 accommodation.

23 MEMBER NYCE: I have to clear my
24 head because it's been a long day,
25 there's a lot of saw dust trapped

1 inside. We make a determination on
2 this, hold the public hearing, open the
3 public hearing on the variances with
4 the understanding that those variances
5 needed may change based on our
6 decision. We take that for the record.
7 And then anyone who wants to speak
8 later towards the new notice of
9 disapproval can do that at that time.

10 ATTORNEY STOLAR: That is correct.

11 CHAIRMAN SALADINO: I guess, I'm
12 just not getting it. To me, that's
13 like two plus two equals a sack of
14 potatoes. I don't get it.

15 MEMBER KAUFMAN: It's doing things
16 out of order. No potatoes. It's doing
17 things out of order and some of that
18 testimony may become irrelevant if the
19 variances change, but no potatoes
20 involved.

21 MEMBER REARDON: I have something
22 I'd like to say. And now that we're
23 sliding all over the place, I have yet
24 another option. And this --

25 CHAIRMAN SALADINO: That's what we

1 need, another option.

2 MEMBER REARDON: This involves
3 everybody in this room to get together
4 and just say, hey, do you want to do it
5 60 days from now? Everybody has to
6 just agree, and then we can be heading
7 in that direction. That's just another
8 idea.

9 CHAIRMAN SALADINO: Sell it to
10 them. Sell it to her and sell it to
11 them. You don't have to sell it to me.

12 MEMBER REARDON: We have two
13 representatives from two different
14 sides. My suggestion would be, and I
15 have no authority to make this
16 suggestion, you just talk to your
17 constituents, see if you can meet
18 together in the back of the room for a
19 few minutes and then we'll all listen
20 to you.

21 CHAIRMAN SALADINO: Can we adjourn
22 for five minutes a give the
23 stenographer a break?

24 I'm going to make a motion we
25 adjourn for seven minutes to give the

1 stenographer a chance to rest her
2 fingers.

3 (A recess was taken.)

4 CHAIRMAN SALADINO: It was pointed
5 out to me by one of my members that
6 it's a very long seven minutes, so I
7 apologize.

8 We're still in the process of the
9 public hearing. I'm going to ask if
10 there's anybody else from the public
11 that wishes to speak. If not, I'm
12 going to ask the Members, me
13 personally, I think we should
14 adjudicate, we should handle the first
15 appeal first and let the chips fall
16 where they may. The Members might feel
17 different, I don't know.

18 MEMBER NYCE: I agree.

19 MEMBER KAUFMAN: I agree.

20 CHAIRMAN SALADINO: So we handle
21 Mr. Spiridakis, Mrs. Gillooly's appeal,
22 and that will decide if we hold the
23 second public hearing.

24 MEMBER KAUFMAN: I think it needs
25 to be handled before the second

1 hearing. I think also whether we do it
2 tonight or next month is an open
3 question.

4 CHAIRMAN SALADINO: I'm kind of in
5 agreement with you. I'm not going on
6 vacation, folks. I got no place to go,
7 so I'm going to be here next month, God
8 willing. I don't have a problem doing
9 it that way, addressing the first
10 public hearing before we take up the
11 second public hearing. Whether we do
12 it tonight, we can do that, or if we do
13 it next month, I'm okay with that too.
14 What do you guys think?

15 MEMBER REARDON: May I ask what
16 the two parties think? I mean, we took
17 a break for them to --

18 CHAIRMAN SALADINO: I took a break
19 for the stenographer.

20 MR. BIANCO: We have no issue with
21 the underlying application being pushed
22 to April, 60 day adjournment.

23 MEMBER REARDON: So there's no
24 agreement in the two parties. Thank
25 you very much. I appreciate you taking

1 the time to do it.

2 MS. SCHOLL: We would like to
3 resolve it.

4 MEMBER REARDON: Okay. So you
5 don't want to wait, you just want to --

6 MR. KOHUT: They were okay to
7 wait --

8 MS. SCHOLL: People flew and they
9 have things to say, and they want to
10 submit their papers, let them.

11 MS. GILLOOLY: Lisa Gillooly, 178
12 Sterling Street. My understanding of
13 the issue before you right now is that
14 you were given a packet, a hundred page
15 packet at the beginning of the meeting
16 and that you need time to read it. And
17 therefore, you can't hear or vote on
18 our application tonight. So we had
19 requested that that give you 30 days to
20 take care of that part of this. Once
21 that decision is made, whether to get a
22 new notice or to stay with the notice
23 we have, we can then all come back
24 together in 60 days and hear the second
25 agenda item tonight. So it doesn't

1 seem like we can -- we would all love
2 to hear the second agenda item tonight,
3 but it seems like it's fraught with
4 issues since you have this packet that
5 you haven't read and you can't make a
6 determination on what we have before
7 you.

8 MS. REICHERT: I will state that
9 it is the property owner, the applicant
10 of 174 Sterling Street's desire to move
11 this as expeditiously as possible, and
12 we're happy and prepared to proceed on
13 the second hearing tonight. Again, we
14 leave it to the Board's discretion, but
15 we would prefer not to string this out
16 any longer than it has to be.

17 CHAIRMAN SALADINO: So the public
18 understands, there's two possibilities
19 that could happen tonight. Two
20 reasonable possibilities that could
21 happen tonight. One is that the Board
22 here sustains the appeal and sends it
23 back to the Building Inspector to add
24 the additional relief to the notice of
25 disapproval. That would generate a new

1 notice of disapproval, a new public
2 notice, and a new public hearing. That
3 would take us --

4 CLERK NOONE: And a new
5 application though, right?

6 CHAIRMAN SALADINO: Don't add
7 stuff. It's hard enough getting this
8 out. That would mean that we would
9 hear the application in April.

10 The other possibility is we close
11 this public hearing for the appeal.
12 The Board decides that it doesn't send
13 it back to the Building Inspector for
14 the additional relief, and we hear the
15 second application tonight.

16 I don't have a problem with that.
17 I just don't -- those are our options.
18 Our attorney has proposed a couple of
19 other options that -- I'm a blue collar
20 guy -- in my mind, those don't make
21 sense to me. But we're five free
22 thinkers here, we can, I'm sure if we
23 put our minds to it, come to a
24 decision. We can handle it now, we can
25 handle the appeal here and now, or we

1 can throw the dice and hope there's no
2 judicial review and take our time to
3 read this memorandum of law submitted
4 by the applicant, which would -- if we
5 send it back to the Building Inspector,
6 we would have two months to digest this
7 information.

8 MR. SPIRIDAKIS: Tony Spiridakis,
9 178 Sterling. I swore I wouldn't do
10 this, but I just think to answer your
11 question because you were very nice to
12 put it in those terms, the appeal could
13 be decided -- just so I understand,
14 John, the appeal could be decided
15 tonight, yes, right? That's one of the
16 options. I think that we are okay with
17 that, our -- Rick, me and Lisa, and me
18 and Lisa are okay with that. So the
19 answer to that is yes. If you wait,
20 you asked if would we do 60 days, the
21 answer is yes. So in both cases --

22 CHAIRMAN SALADINO: So in both
23 cases, the answer is yes.

24 MR. SPIRIDAKIS: Yes.

25 CHAIRMAN SALADINO: Tony votes

1 yes.

2 MR. SPIRIDAKIS: So it's up to you
3 to decide.

4 CHAIRMAN SALADINO: We know. I'm
5 inclined to go forward tonight. I know
6 to me the answer is clear in my mind.
7 I'm not saying I pre-decided this case
8 prior to this evening, but from what
9 we've heard, what I've read, the
10 mathematical equation that I used to
11 come to that conclusion, I'm prepared
12 to go forward. If the Members are,
13 we'll close the public hearing, we'll
14 have a discussion and we'll vote. Can
15 we do that?

16 ATTORNEY STOLAR: Tonight? Yes.

17 CHAIRMAN SALADINO: What do we
18 think, do you want to do that, or we
19 want to consider this and put it off
20 until next month.

21 MEMBER NYCE: I'm okay with
22 deciding tonight.

23 MEMBER GORDON: Tonight.

24 MEMBER KAUFMAN: Whatever you guys
25 want. I already said, I think it

1 should be read. But if four Members
2 want to do it, I'll do it.

3 CHAIRMAN SALADINO: I agree with
4 you. She did a lot of work and she put
5 a lot of effort into it and it should
6 be read.

7 MEMBER KAUFMAN: I don't think we
8 could litigate this. I'm sorry to cut
9 you off, if four Members want to do it,
10 then I will go along with it. It's
11 fine. But I do think that these things
12 are written to be read, not to be, you
13 know, burnt, which is what I'm going to
14 do with it at some point for heat but
15 not right now. What? It's paper,
16 you've got to burn it at some point.

17 My point is, it was written for a
18 purpose and I'm not going to pretend
19 like I read it. I didn't read it. I
20 could not have read it factually at
21 this point. That is my hang up on
22 this. So if everyone is okay with not
23 reading this document and coming to a
24 decision, then let's do that.

25 MEMBER GORDON: It's going to be

1 an elaboration of arguments she has
2 already made. Probably very good ones
3 because she's very articulate, but it
4 is not going to give you brand new
5 analysis, I think.

6 MEMBER KAUFMAN: Okay. You agree
7 with that?

8 MS. REICHERT: Listen, it's the
9 receipts, as the kids say. But I
10 will --

11 MEMBER KAUFMAN: I don't know
12 what's in it. Again, I haven't read
13 it, but if you say it's okay, then it's
14 okay.

15 CHAIRMAN SALADINO: Again, we can
16 boil it down to --

17 MR. MAZZAFERRO: Can I make a
18 comment? I need something clear.

19 Nick Mazzaferro, P.O. Box 57,
20 Greenport, New York. I really don't
21 have anything to do with this design or
22 issue or anything else. One thing,
23 after sitting here for all this time, I
24 think the clear path is that you're not
25 deciding on what's in that document,

1 you're not deciding on the distance,
2 you're not deciding on any mathematics,
3 you are simply deciding on whether or
4 not a combined setback is pertinent to
5 this case, I guess, in particular or in
6 general to all applications. You are
7 just trying to decide whether or not a
8 combined setback distance is a
9 requirement for a variance, period.
10 Regardless of whether it's 4/10, 5/10,
11 100 foot lot, 60 foot lot, 70 foot lot,
12 it doesn't matter. That's the only
13 decision you're making. If you decide
14 that a combined setback is part of the
15 process, then this is over, this is
16 done, period.

17 CHAIRMAN SALADINO: I agree. I
18 agree.

19 MEMBER KAUFMAN: Okay.

20 AUDIENCE MEMBER: Go by the code.

21 CHAIRMAN SALADINO: I'm going to
22 make a motion that we close this public
23 hearing.

24 MEMBER NYCE: Second.

25 CHAIRMAN SALADINO: That was fast.

1 All in favor?

2 (Aye said in unison.)

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

5 Here is the discussion. I don't
6 see how a combined side yard setback,
7 according to our code, can't be
8 included on the notice of disapproval.
9 I just don't understand. The property
10 is 50 feet wide, 50.35 feet wide.
11 Combined side yard setback is 20.14
12 feet. They have 15 feet, 15.2 feet. I
13 mean, we could say, well, it doesn't
14 really mean it because it means the
15 same, but it's a separate portion of
16 our code. Separate portion of our bulk
17 standard says you need a combined side
18 yard setback. For a conforming lot,
19 it's 25 feet. For a less than
20 conforming lot, it's 4/10 of the width
21 of the lot. 4/10 of the width of this
22 lot is 20.1 feet. One side is 8.3
23 feet, the other side is 6.9 feet, 15.2
24 feet. They need 4.8 feet of relief.
25 It should have been included on the

1 notice of disapproval.

2 So we discussed Chapter 142, I
3 would rather not bring that up.
4 There's enough going on here right now.

5 As far as the other items on the
6 previous notice of disapproval, front
7 yard setback, since my opinion is that
8 we have a portion of our code, Chapter
9 150-21 that says preexisting
10 nonconforming is there, is allowed
11 unless you add to the nonconformity, I
12 don't see anything happening in the
13 front of that building that adds to the
14 nonconformity. So I would say I
15 personally don't think that that would
16 have to be addressed on a new notice of
17 disapproval.

18 The combined side yard, yes.
19 Chapter 150-21, no. That's --

20 MEMBER KAUFMAN: I agree with all
21 of that exactly. That's exactly my --
22 taking this as it is, that's how I see
23 it as well.

24 MEMBER NYCE: Two questions for
25 you. Since I'm fairly new on this

1 Board, the idea of nonconformity being
2 increased, that is happening with this
3 property. Shouldn't that trigger any
4 other variances to be listed in the
5 notice of disapproval? I understand
6 what you're saying about the front
7 yard.

8 CHAIRMAN SALADINO: Only the ones
9 that affect that new construction.
10 West side side yard, east side side
11 yard, combined side yard. Rear yard
12 doesn't come into effect, height
13 doesn't come into effect, according to
14 the plans, according to what I read on
15 the plans or what the Building
16 Inspector had on the plans. Am I
17 getting that right?

18 MEMBER KAUFMAN: Yes.

19 MEMBER NYCE: Second question.
20 Again, my understanding of the 4/10
21 rule was, in general, applied to
22 unimproved substandard lots through the
23 Village. And if you look at our code
24 and then you look at building lots or,
25 I'm sorry, existing lots in the

1 Village, our code says 60 foot
2 frontage, almost every lot in the
3 Village is 50 feet. So that means that
4 a 4/10 rule is being applied to every
5 lot in the Village. Something is --
6 something should be -- that should be
7 addressed in some way, shape, or form.

8 CHAIRMAN SALADINO: I'm going to
9 tell you what I tell the majority of
10 the applicants that come here. We
11 don't legislate.

12 MEMBER NYCE: I understand.

13 CHAIRMAN SALADINO: Thursday
14 nights. You should know that.
15 Thursday nights.

16 MEMBER NYCE: I do. So those are
17 my two questions/comments. I agree
18 with what you said prior as far as the
19 combined side yard setback.

20 CHAIRMAN SALADINO: I absolutely
21 think that what was policy -- again,
22 you would know better than me when Paul
23 Pallas became the Village
24 Administrator, it had to be 15, 20
25 years ago, I don't know.

1 MEMBER NYCE: We don't look that
2 old, do we?

3 CHAIRMAN SALADINO: I don't look
4 that old.

5 That was the policy of the
6 Village. Again, I don't expect anybody
7 to accept my word or my recollection of
8 what I saw at a Zoning Board meeting.
9 I'm certainly not going to do the work
10 and go through 20 years worth of
11 minutes like the applicant's attorney
12 did, 15 years worth of minutes. Should
13 that be addressed down the road?
14 Absolutely. Should it be addressed
15 here now tonight? No.

16 Jack?

17 MEMBER REARDON: I tend to agree
18 with what you said, believe it or not.

19 CHAIRMAN SALADINO: I must be
20 doing something right.

21 MEMBER GORDON: Yeah, I agree too.
22 I actually think that, I mean, it's not
23 going to be addressed in any final way
24 tonight, but I also think that the
25 language, I'm not sure you really have

1 to look to the policy, it seems to me
2 the language is sort of clear. This is
3 a lot. It's described as a lot with an
4 anticipated development. Shall be
5 developed. So it sounds to me like a
6 vacant lot.

7 CHAIRMAN SALADINO: That was the
8 opinion of the previous Zoning Board,
9 but since we have no proof of that
10 except my fall through memory, we'll
11 just go by what's currently here now.

12 The Zoning Board of Appeals has,
13 if we feel that strongly about it, this
14 is one of the few municipalities where
15 the Zoning Board can ask for its own
16 interpretation. It's in our code that
17 we can ask for interpretations,
18 ourselves we can ask for it. I don't
19 know if this rises to that, you know,
20 it happened with multifamily dwellings
21 downtown. We asked for an
22 interpretation. But maybe we should
23 just handle this right now.

24 So our lawyer advised me that we
25 have to do SEQRA for this, right?

1 ATTORNEY STOLAR: It is an action.

2 CHAIRMAN SALADINO: That's okay.

3 We can do that. I'm going to make a
4 motion that the Zoning Board of Appeals
5 declares itself lead agency for the
6 purposes of SEQRA. So moved.

7 MEMBER NYCE: Second.

8 CHAIRMAN SALADINO: All in favor?

9 (Aye said in unison.)

10 CHAIRMAN SALADINO: And Brian,
11 this is unlisted?

12 ATTORNEY STOLAR: It is an
13 unlisted, it's not a Type II, correct.
14 It's a determination, an
15 interpretation.

16 CHAIRMAN SALADINO: Unlisted
17 action, do we have to --

18 ATTORNEY STOLAR: There's no
19 environmental impact here, it's just an
20 interpretation of a --

21 CHAIRMAN SALADINO: So no
22 coordinated review.

23 ATTORNEY STOLAR: Correct.

24 CHAIRMAN SALADINO: Okay. So on
25 the advice of our attorney, we're going

1 to make a statement that this is --
2 there's no environmental impact with
3 this.

4 ATTORNEY STOLAR: It should be by
5 motion though. Basically you already
6 determined that you're the lead agency,
7 you should have a motion determining
8 that it's an unlisted action under
9 SEQRA and that you have considered the
10 environmental factors of which there
11 are none that would apply, so that
12 there is no likelihood of significant
13 adverse environmental impact.

14 CHAIRMAN SALADINO: So moved.

15 MEMBER NYCE: Second.

16 CHAIRMAN SALADINO: All in favor?

17 (Aye said in unison.)

18 CHAIRMAN SALADINO: And I'll vote
19 aye.

20 The next question is I'm going to
21 make a motion that we sustain the
22 appeal, part of the appeal, partially
23 sustain the appeal and send back to the
24 Building Inspector the required relief
25 of combined side yard setback. Does

1 that sound right?

2 MEMBER GORDON: Yes.

3 ATTORNEY STOLAR: And deny the
4 other appeal -- portions of the appeal?

5 CHAIRMAN SALADINO: Deny is, like,
6 a strong way -- is there just not
7 address, deny?

8 ATTORNEY STOLAR: You have to make
9 a determination one way or another.

10 CHAIRMAN SALADINO: All right. So
11 we'll deny the portion of the appeal
12 that addresses Chapter 141.

13 ATTORNEY STOLAR: 142.

14 CHAIRMAN SALADINO: 142, I
15 apologize. Chapter 142. And the
16 requirement --

17 ATTORNEY STOLAR: The requirement
18 for the 4/10 rule and the front yard
19 setback variance.

20 CHAIRMAN SALADINO: The
21 requirement for the front yard setback
22 and deny the 4/10 rule?

23 ATTORNEY STOLAR: Deny the appeal
24 on the 4/10 rule.

25 CHAIRMAN SALADINO: They're saying

1 that --

2 ATTORNEY STOLAR: The 4/10 rule
3 shouldn't apply.

4 CHAIRMAN SALADINO: It could
5 apply. It should apply except just
6 determines the amount of relief that
7 they need. Instead of needing 10 feet,
8 they'll need 4.8 feet for combined side
9 yard setback.

10 ATTORNEY STOLAR: I think the way
11 the code reads, this is an R-2, so it's
12 10 and 10 no matter what, the
13 difference is the aggregate being 20
14 versus 25, or 20.2 or whatever that
15 number was.

16 CHAIRMAN SALADINO: The aggregate
17 being 20.1 feet under the 4/10 rule,
18 the code for conforming lot says 25
19 feet. Under the 4/10 rule, the code
20 for this piece of property would be
21 20.1 feet. They have 15.2. They would
22 need 4.8 feet of relief.

23 ATTORNEY STOLAR: Right. The
24 magnitude of the variance is what is
25 being challenged with respect to the

1 4/10 rule. So the appellant is seeking
2 a determination that you should be
3 reading it as 25 rather than 20 or
4 20.1. So if your view is that it's
5 20.1, you're denying that part of the
6 appeal.

7 CHAIRMAN SALADINO: I apologize,
8 I'm not trying to be obtuse, I'm just
9 not getting it. If we've decided that
10 the previous interpretation doesn't
11 exist, that this isn't supposed to be
12 applied to unimproved properties only,
13 and we've decided that we're going to
14 apply the 4/10 rule to this property, a
15 20.1 foot combined side yard setback
16 would make them code compliant. A 15.2
17 foot combined side yard setback would
18 make them not compliant and they would
19 need 4.8 feet of relief.

20 ATTORNEY STOLAR: Correct.

21 CHAIRMAN SALADINO: Right? I'm
22 going with all these folks, they're
23 saying yes. So isn't that what I said,
24 isn't that what I proposed?

25 MEMBER NYCE: My question is why

1 are we applying the 4/10 rule?

2 ATTORNEY STOLAR: The appeal was
3 that it should be based on the 150-12,
4 not based on 150-13E. That's the
5 language of the appeal.

6 CHAIRMAN SALADINO: No, the appeal
7 said it misapplied the 4/10 rule, and
8 it was my understanding that by saying
9 they misapplied it, it was just the
10 dimensions, that they disputed the
11 dimensions.

12 ATTORNEY STOLAR: So your
13 determination would be to deny their
14 application that it was misapplied.

15 CHAIRMAN SALADINO: When it goes
16 back to the Building Inspector, if the
17 Members all vote yes and it goes back
18 to the Building Inspector, we can't ask
19 the Building Inspector because he's not
20 here. My question would be, if I was
21 the Building Inspector, my question to
22 me would be how are you going to apply
23 this? Are you going to ask for a 25
24 foot combined side yard setback? If I
25 was the Building Inspector, I would say

1 no, I would say no, I'm going to apply
2 this 4/10 rule, you got 20, you need
3 21.1, you have 15, that's how I would
4 apply it.

5 ATTORNEY STOLAR: One second. I
6 just want to see how it reads in the
7 applicant's submission. In the
8 appellants's submission.

9 MR. BIANCO: I know the hearing is
10 closed but --

11 CHAIRMAN SALADINO: So we're
12 debating whether it should be 4.8 feet
13 or 10 feet?

14 ATTORNEY STOLAR: So
15 interestingly, as I'm looking at the
16 application documents, it just says
17 misapplied, it doesn't -- and I think
18 that's the disconnect you and I are
19 having. I viewed their misapplied as
20 reading one way and you view their
21 misapplied as reading another way
22 because they didn't specify.

23 CHAIRMAN SALADINO: Who is right?

24 ATTORNEY STOLAR: Nobody is right.
25 It's not clear. The application is not

1 clear with respect to how it was
2 misapplied, whether it was misapplied
3 with respect to determining it was 20.1
4 or some other number, or whether it was
5 misapplied by saying it should have
6 been 25 feet.

7 CHAIRMAN SALADINO: So do we have
8 the latitude to apply it the way we
9 want?

10 ATTORNEY STOLAR: Yes.

11 MEMBER NYCE: All right. I would
12 be inclined that they should not be
13 using the 4/10 rule. It' an
14 improvement. It's a property with a
15 house on it.

16 CHAIRMAN SALADINO: Okay. So
17 we're going to send it back. Are we in
18 agreement to that?

19 MEMBER GORDON: Yes.

20 CHAIRMAN SALADINO: So we're going
21 to send it back to the Building
22 Inspector and he's going to decide.

23 MEMBER GORDON: We're asking for
24 clarity.

25 CHAIRMAN SALADINO: No, we're

1 asking for him to apply the code as
2 it's written. What's kind of, like,
3 ambiguous is is it -- does he apply the
4 bulk standard as it's written for
5 conforming lot, or does he have the
6 latitude to apply the bulk standard
7 using 150-13E(1). Either way, he's
8 going to have to put a number down for
9 the relief required, whether it's 4.8
10 feet or 10 feet. I just don't know how
11 to convey that message to him.

12 MEMBER NYCE: Wouldn't that be by
13 sustaining the appeal to the effect of
14 the both side yard setback being
15 corrected using whichever one and that
16 the 4/10 rule was misapplied.

17 ATTORNEY STOLAR: But the problem
18 is you're stepping in -- because of the
19 appeal, you're essentially stepping
20 into the shoes of the Building
21 Inspector to interpret the code as it
22 relates to this particular application.
23 So if you're referring it back to him,
24 he's starting that process over rather
25 than the de novo determination that you

1 are capable of making tonight based on
2 this appeal.

3 CHAIRMAN SALADINO: So we're
4 writing the notice of disapproval.

5 ATTORNEY STOLAR: In effect,
6 you're making the determination.
7 That's the ultimate result, but yes,
8 it's not how I would term it, but
9 that's where you're getting.

10 CHAIRMAN SALADINO: What do you
11 think, guys? 10 feet, 4.8 feet?

12 MEMBER NYCE: 10 feet. I don't
13 think the 4/10 rule should be applied
14 to a lot that has a house on it
15 already.

16 MEMBER GORDON: Yes.

17 CHAIRMAN SALADINO: Jack?

18 MEMBER REARDON: I can see
19 legitimacy in interpreting it both
20 ways. You know, either way, it has the
21 same impact on the next application,
22 the numbers are just different. But in
23 the real world, it makes no difference.
24 It's the same problem.

25 MEMBER NYCE: It doesn't say we

1 wouldn't necessarily grant the
2 variance.

3 MEMBER REARDON: How to phrase
4 that to the Building Inspector or the
5 Building Department.

6 MEMBER GORDON: Do you have to do
7 that in your decision? How do you have
8 to do that in your decision? Can't you
9 say you're denying in part in some way
10 to be determined or to be resolved
11 within the --

12 CHAIRMAN SALADINO: We can affirm
13 the appeal in whole, partly, or
14 conditionally. I mean, we have that
15 right to do that. So we can't just
16 say, well, we're sending it back to the
17 Building Inspector. We've got to kind
18 of be a little definitive. We say
19 Chapter 142, we're not going to
20 consider that. Front yard setback,
21 we're not going to consider that. How
22 the 4/10 rule was applied, we can
23 certainly say --

24 MR. MAZZAFERRO: You don't have to
25 say anything. Just to move this along

1 because the front yard setback, you can
2 determine --

3 MEMBER KAUFMAN: You're out of
4 order, sir.

5 MR. MAZZAFERRO: I'm a
6 professional engineer, I'm allowed to
7 do this.

8 The front yard setback, that lines
9 up. The side yard setback, if you
10 determine, because it stands alone, the
11 aggregate side yard setback is not
12 adequately done, then you can send it
13 back to the Building Inspector. He's
14 got to redo that, and it's his job to
15 decide whether or not the 4/10 rule
16 applies as part of that side yard
17 setback. That's it. And he will have
18 to do some research, and he will have
19 to make that determination.

20 ATTORNEY STOLAR: And the result
21 of that is a second appeal.

22 CHAIRMAN SALADINO: You're missing
23 the part where the attorney said that
24 you start that process all over again
25 or we act as the Building Inspector

1 with a new look at it.

2 MR. MAZZAFERRO: But like Paul
3 said, you're not supposed to act as the
4 Building Inspector, it's his job.

5 CHAIRMAN SALADINO: No, we are.

6 MEMBER KAUFMAN: We are. That's
7 what's going on here is that we are now
8 the Building Inspector. That's what
9 our lawyer said, I'm not a lawyer.

10 MR. MAZZAFERRO: You are being the
11 Building Inspector.

12 MEMBER KAUFMAN: In this matter,
13 yes, that's what was just said.

14 MR. MAZZAFERRO: You guys better
15 do a lot of research, about 15 years
16 worth.

17 CHAIRMAN SALADINO: How about we
18 just say we're sending back and you
19 have to consider a combined side yard
20 setback that's code conforming. If
21 not --

22 AUDIENCE MEMBER: I'm for that
23 one.

24 MEMBER KAUFMAN: What are we
25 deciding, we're deciding that front

1 yard setback is not applicable.

2 CHAIRMAN SALADINO: We're not
3 going to address it.

4 MEMBER KAUFMAN: Exactly. Side
5 yard, 4/10 rule does not apply. So
6 therefore the setbacks are what they
7 are. I'm not going to say numbers.

8 CHAIRMAN SALADINO: I'm willing to
9 say that.

10 MEMBER KAUFMAN: That's what I
11 mean. That's what it is. If we're
12 acting as the Building Inspector, then
13 we're supposed to just put down what
14 those numbers are. We're amending this
15 notice of disapproval or we're writing
16 it; is that correct?

17 ATTORNEY STOLAR: Essentially,
18 yes.

19 MEMBER KAUFMAN: So that's -- so
20 saying nothing is not really an option.

21 CHAIRMAN SALADINO: I'm kind of
22 uncomfortable saying that because --
23 only because if that portion of the
24 code is, in fact, in effect, if
25 150-13E(1) is in effect without an

1 interpretation and we're not being
2 asked for an interpretation on that
3 portion of the code, we're not being
4 asked does that apply to vacant lots
5 only, we're asked --

6 ATTORNEY STOLAR: Can I make a
7 suggestion?

8 CHAIRMAN SALADINO: Sure.

9 ATTORNEY STOLAR: There is nothing
10 in the determination that references
11 the 4/10 rule. The way that 250-13E(1)
12 reads is no side yard dimension shall
13 be less than 10 feet. The Building
14 Inspector determined, and that's the 10
15 feet is the same whether it's the 4/10
16 rule applied or not on this. So
17 there's no way of knowing if the
18 Building Inspector interpreted this
19 using the 4/10 rule with respect to the
20 individual setbacks. We would know if
21 he made a determination with respect to
22 the aggregate side yard setback because
23 the difference would be 25 or 20 feet.
24 But because he didn't make that
25 determination, there's nothing to tell

1 us whether it was applied, misapplied,
2 considered.

3 CHAIRMAN SALADINO: Yeah, but we
4 do know. We do know because there was
5 a previous notice of disapproval where
6 the combined side yard setback was on
7 the notice of disapproval. Somehow
8 negotiations happened and all of a
9 sudden it disappeared, but the 10 foot
10 side yard setback remained. The only
11 way you can get a 10 foot side yard
12 setback is applying the 4/10 rule.

13 ATTORNEY STOLAR: No, it's the
14 same. It's an R-1 or R-2?

15 CLERK NOONE: I believe it's R-2.

16 ATTORNEY STOLAR: R-2, it's a 10
17 foot individual side yard setback.

18 CHAIRMAN SALADINO: No.

19 MEMBER REARDON: Minimum one side,
20 aggregate is 25.

21 CHAIRMAN SALADINO: We can't look
22 at one portion of the code and say,
23 well, it's 10 foot, and then ignore the
24 next portion of the code that says,
25 well, it's got to be combined. 25

1 combined, if you apply this rule.

2 ATTORNEY STOLAR: The only way --
3 what I'm saying is the only way to know
4 how he applied it is if he, in fact,
5 addressed the aggregate side yard
6 setback. If he addressed it as 25,
7 then he said 4/10 doesn't apply. If he
8 said 20, and he said 20.1, then he said
9 the 4/10 does apply, but he didn't
10 address aggregate side yard setback.
11 So minimum individual side yard setback
12 is 10 and 10 no matter what, either
13 way. So what I'm saying is you don't
14 have to get there because there's
15 nothing that tells you whether he
16 applied it or not, so there's, in
17 effect, nothing to appeal.

18 CHAIRMAN SALADINO: Well, how do
19 we get the relief that's required with
20 a combined side yard setback on the
21 notice of disapproval?

22 ATTORNEY STOLAR: The Building
23 Inspector now has to review it to
24 determine whether that aggregate is 25
25 or 20.

1 CHAIRMAN SALADINO: So we're going
2 to -- okay, okay. All right. I'm
3 going to make a motion that we uphold
4 the appeal when it comes to eliminating
5 Chapter 142 and front yard setback.
6 We're going to uphold the appeal. Do
7 we have to say more than that?

8 ATTORNEY STOLAR: Just to be
9 clear, I'll say what you said before,
10 which is sustain the appeal with
11 respect to aggregate side yard setback
12 required relief that is code compliant,
13 deny the Chapter 142 appeal as not
14 being within the Board's jurisdiction,
15 and deny the appeal with respect to the
16 front yard setback.

17 CHAIRMAN SALADINO: So moved.

18 MEMBER GORDON: Second.

19 CHAIRMAN SALADINO: All in favor?

20 (Aye said in unison.)

21 CHAIRMAN SALADINO: And I'll vote
22 aye. Just for the count, it was 5-0.

23 MEMBER GORDON: I think so, yes.

24 CHAIRMAN SALADINO: 5-0.

25 Okay. Now, because of that --

1 MEMBER GORDON: We can still move
2 on.

3 CHAIRMAN SALADINO: I'm not seeing
4 how we can move on. A new notice of
5 disapproval has to be generated and a
6 new public notice.

7 MEMBER KAUFMAN: That's it.

8 CHAIRMAN SALADINO: So we're going
9 to adjourn item number 5, Brian?

10 ATTORNEY STOLAR: That's fine.

11 AUDIENCE MEMBER: When are you
12 adjourning it to?

13 CHAIRMAN SALADINO: Let's just --

14 MS. REICHERT: You're required
15 under law to state the next meeting
16 date.

17 CHAIRMAN SALADINO: Can I just get
18 through the part where we actually say
19 we're going to adjourn it? And then
20 we'll do the date. You know, all
21 right, I'm going to make a motion that
22 we adjourn item number 5 and we'll set
23 a hearing date for March 17th at 6:00
24 p.m.

25 MEMBER GORDON: St. Patty's Day.

1 MEMBER NYCE: Are we setting a
2 hearing, or do we need a notice of
3 disapproval first?

4 ATTORNEY STOLAR: As a predicate,
5 there's going to have to be a notice of
6 disapproval and a timely notice
7 publicized and sent and circulated to
8 the neighbors.

9 CHAIRMAN SALADINO: Well, then
10 we're not setting the public hearing
11 for March 17th. No, we're not setting
12 the public hearing for March 17th.
13 We're going to get a notice of
14 disapproval, we're going to notice the
15 meeting, we're going to notice -- we're
16 going to get a new notice of
17 disapproval, set a date for a public
18 hearing, which will probably be in
19 April, it will be April, and a new
20 public notice will be generated.

21 ATTORNEY STOLAR: If you want,
22 given that you've already seen this
23 application, you've been to the
24 premises, you can set the hearing
25 tonight on the condition that the

1 notice of approval be timely prepared
2 by the Building Inspector and proper
3 notice be given in advance of the next
4 meeting date.

5 CHAIRMAN SALADINO: So we're not
6 adjourning this public hearing, we're
7 setting a new public hearing.

8 ATTORNEY STOLAR: It's going to be
9 based on a new notice, so it's going to
10 have to be --

11 CLERK NOONE: A new public
12 hearing.

13 CHAIRMAN SALADINO: So how could
14 we set a new public hearing without a
15 notice of disapproval?

16 ATTORNEY STOLAR: You know one is
17 coming, and if it doesn't -- if you
18 don't have -- you can do it
19 conditionally. The notice of
20 disapproval be issued and the notice of
21 the hearing be timely noticed in the
22 paper and timely provided to the
23 neighbors.

24 CHAIRMAN SALADINO: Okay.

25 CLERK NOONE: This will be a

1 revised notice of disapproval because
2 the application isn't going to change,
3 correct?

4 CHAIRMAN SALADINO: Yes.

5 All right. So item number 5,
6 we're going to adjourn item number 5.
7 There's going to be on the condition
8 that we get a new notice of
9 disapproval, new public hearing for
10 March 17th.

11 MEMBER NYCE: They wanted to do it
12 in April.

13 AUDIENCE MEMBER: Let's do it in
14 April.

15 CHAIRMAN SALADINO: Folks, we want
16 to be accommodating. Everybody here is
17 aggrieved. Everybody here is,
18 especially the guy who is last up on
19 the agenda.

20 MR. MURRAY: That would be me.

21 CHAIRMAN SALADINO: Everybody here
22 is aggrieved. As hard as it is for you
23 to believe, we want to be fair. The
24 applicant, you know, while it's true
25 was accommodated for travel or for

1 whatever, the Zoning Board, we would
2 like this off our plate too. Is March
3 unreasonable?

4 MEMBER GORDON: No.

5 MEMBER KAUFMAN: Being the next
6 meeting, no, it's not unreasonable.

7 MEMBER GORDON: Somebody will
8 suffer whether it's March or April.

9 MEMBER KAUFMAN: I think the most
10 logical thing is the next meeting.

11 CHAIRMAN SALADINO: We'll make the
12 public hearing for the next meeting,
13 6:00 p.m. at the firehouse at this
14 location. The neighbors don't have to
15 be re-notified.

16 ATTORNEY STOLAR: Because you need
17 an additional variance, there's going
18 to have to be notice given to the
19 neighbors. You have to post, publish,
20 and mail.

21 CHAIRMAN SALADINO: So placard,
22 mailings.

23 ATTORNEY STOLAR: Everything,
24 yeah. You need the aggregate side yard
25 setback now.

1 CHAIRMAN SALADINO: You're going
2 to handle that?

3 CLERK NOONE: Yeah. And this is
4 contingent upon getting a new notice of
5 disapproval. It's the Building
6 Department, I have to -- it's the
7 Building Inspector's purview. If I
8 can't get it in time to notice it in
9 the paper and have a placard, in other
10 words, once I get a new notice of
11 disapproval, I have to generate a new
12 placard, generate a new public hearing
13 notice. I have to make sure that the
14 applicant gets the mailing ahead of
15 time, the names for the mailing ahead
16 of time with the public notice. As
17 long as I get it within a reasonable
18 amount of time, it shouldn't be a
19 problem.

20 CHAIRMAN SALADINO: You got the
21 weight of the world on your shoulders.

22 All right. I think we kind of
23 covered that. The consensus of the
24 Board is that we do it at our next
25 meeting, and I think that's what we

1 decided. So the meeting will be here
2 on March 17th at 6:00 p.m. We schedule
3 them all at 6:00 p.m. I'm going to
4 make a motion that we adjourn item
5 number 5, schedule a new public hearing
6 for March 17th to be held at the
7 firehouse.

8 MEMBER KAUFMAN: Second.

9 CHAIRMAN SALADINO: All in favor?

10 (Aye said in unison.)

11 CHAIRMAN SALADINO: Moving on.

12 Item number 6 is 625 First Street,
13 Dave Murray on behalf of Beth and David
14 Dahle. Applicant proposes construction
15 of an accessory structure. This
16 requires the following variance: Lot
17 coverage of 30 percent required.
18 Applicant is proposing 34.9 percent,
19 therefore a variance of 4.9 percent is
20 required. Rear yard lot coverage is 30
21 percent required, applicant proposes 31
22 percent, therefore a variance of 1
23 percent is required. The property is
24 located in the R-2 One and Two Family
25 Residential District. Also located in

1 the Historic District. And the Suffolk
2 County Tax Map Number 100-2-6-35.

3 Is the applicant here?

4 MR. MURRAY: Yes.

5 CHAIRMAN SALADINO: Name and
6 address for the stenographer.

7 MR. MURRAY: David Murray, I'm
8 representing Dave and Beth Dahle at 625
9 First Street. I live at 332 Fifth
10 Avenue in Greenport. And this
11 application is the lot coverage. We're
12 looking for a variance of 3.9, and the
13 Building Inspector came up with a math
14 equation for the rear yard. We
15 designed the building so that we would
16 not need a rear yard setback, and he
17 came up that we needed a one percent.
18 We can't figure out his math, but the
19 only part that I thought is does an
20 outdoor shower count, the fence around
21 an outdoor shower, does that count?

22 CHAIRMAN SALADINO: An outdoor
23 shower is considered an accessory
24 structure, especially if it's connected
25 to the building and it has cement.

1 MR. MURRAY: So it would then.

2 Okay.

3 MEMBER NYCE: We got a conditional
4 notice of disapproval. The one I have
5 only has the 30 percent lot coverage
6 required.

7 CHAIRMAN SALADINO: Mike, didn't
8 you have a revised --

9 MR. MURRAY: Yeah, there's a
10 revised one, Dave.

11 MEMBER NYCE: I didn't get it.

12 CHAIRMAN SALADINO: There's a
13 revised notice of disapproval.

14 MEMBER NYCE: I trust the agenda.
15 That's fine.

16 MEMBER REARDON: That states 3.9
17 instead of 4.9?

18 CHAIRMAN SALADINO: No, it says
19 34.9 percent, a variance of 4.9 percent
20 is required, and a 1 percent -- 30
21 percent required rear yard and proposed
22 31 percent, 1 percent is the -- do any
23 of the Members have any questions for
24 David while we're here? No? Seth?

25 MEMBER KAUFMAN: No.

1 CHAIRMAN SALADINO: Diana?

2 MEMBER GORDON: No.

3 MEMBER NYCE: No.

4 MEMBER GORDON: I think I've seen
5 this address before.

6 CHAIRMAN SALADINO: Once or twice.

7 MR. MURRAY: Once or twice.

8 CHAIRMAN SALADINO: I'm going to
9 make a motion that we accept this
10 application. So moved.

11 MEMBER KAUFMAN: Second.

12 CHAIRMAN SALADINO: All in favor?

13 (Aye said in unison.)

14 CHAIRMAN SALADINO: And I'll vote
15 aye.

16 Is March 17th okay with you?

17 MR. MAZZAFERRO: I'm going to be
18 out of town.

19 CHAIRMAN SALADINO: We don't care.
20 We don't care.

21 MR. MURRAY: I'll be here.

22 CHAIRMAN SALADINO: We're going to
23 schedule this public hearing for March
24 17th, 6:00. We set them all at 6:00.
25 It will be here at the firehouse. And

1 David, you know the drill. Do we need
2 a site visit? Do we need a site visit?

3 MEMBER GORDON: This is somewhat
4 different from our previous
5 acquaintance with this address.

6 CHAIRMAN SALADINO: We'll do a
7 site visit. Maybe just stake out
8 what's going to happen, and we'll be
9 there at -- what time does it get dark?

10 MEMBER KAUFMAN: 5:00.

11 CHAIRMAN SALADINO: We'll be there
12 March 17th at 5:00.

13 Bring Nick with you and bring
14 coffee.

15 (Whereupon, there was simultaneous
16 crosstalk.)

17 CHAIRMAN SALADINO: The whole
18 mission here was to entertain you.

19 Item number 7 is any other Zoning
20 Board of Appeals business that may
21 properly come before this Board.
22 Anybody? Thank God, no questions.

23 Item number 8 is a motion to
24 adjourn. So moved.

25 MEMBER NYCE: Second.

1 CHAIRMAN SALADINO: All in favor?
2 (Aye said in unison.)
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C E R T I F I C A T E

I, AMY THOMAS, a Court Reporter and Notary Public, for and within the State of New York, do hereby certify:

THAT the above and foregoing contains a true and correct transcription of the proceedings held on February 17, 2026, and were reported by me.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of FEBRUARY, 2026.

Amy Thomas

AMY THOMAS

INCORPORATED VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

In the Matter of

CYNTHIA SCHOLL and DONALD SCHOLL,
174 Sterling Street, Greenport
(SCTM No. 1001-002.00-03.00-016.000)

Applicants.

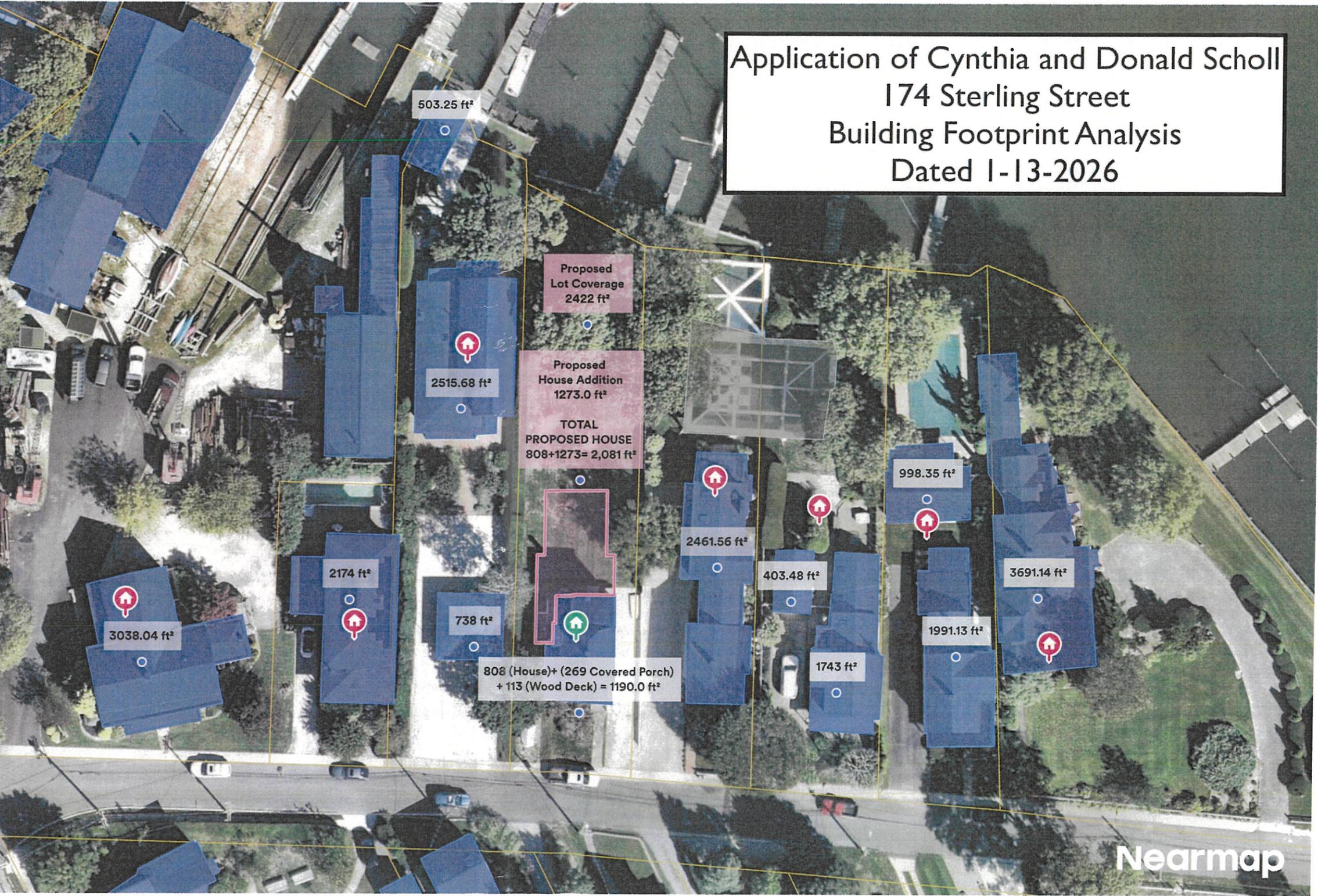
PUBLIC HEARING HANDOUT

Submitted February 17, 2026

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Application of Cynthia and Donald Scholl
 174 Sterling Street
 Building Footprint Analysis
 Dated 1-13-2026

- 🏠 190 Sterling Street
Total Building Footprint: 3038.04 ft²
- 🏠 182 Sterling Street (Mundus)
Total Building Footprint: 2174 ft²
- 🏠 178 Sterling Street (Gillooly & Spi)
Main Residence Footprint: 2515.68 ft²
Cottage Footprint: 503.25 ft²
Garage Footprint: 738 ft²
Total Building Footprint: 3756 ft²
- 🏠 174 Sterling Street (Scholl)
Total Building Footprint: 1190 ft²
Proposed Building Footprint: 2081 ft²
Proposed Lot Coverage: 2422 ft²
- 🏠 172 Sterling Street (Kohut)
Total Building Footprint: 2461.56 ft²
- 🏠 168 Sterling Street
Total Building Footprint: 2146 ft²
Main Residence Footprint: 1743 ft²
Garage Footprint: 403.48 ft²
- 🏠 162 Sterling Street
Total Building Footprint: 2989 ft²
Main Residence Footprint: 1991.13 ft²
Garage Footprint: 998.35 ft²
- 🏠 160 Sterling Street
Total Building Footprint: 3691.14 ft²





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Seaward Line of Accessory Residences

Seaward Line of Principal Residences

Seaward Line of Applicants Residential Addition

Front Yard Setbacks

500.00 ft

500.00 ft

500.00 ft

500.00 ft

Sterling St

Sterling St

Nearmap

House Width and Depth Analysis

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174 Sterling Street - Oblique Aerial

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EXISTING
808 (House)+ (269 Covered Porch)
+ 113 (Wood Deck) = 1190.0 ft²

Proposed House Addition
1273.0 ft²

TOTAL PROPOSED HOUSE
808+1273= 2,081 ft²

Proposed Lot Coverage
2422 ft²

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🏠 178 Sterling Street (Gillooly & Spi)

Main Residence Footprint: 2515.68 ft²

Cottage Footprint: 503.25 ft²

Garage Footprint: 738 ft²

Total Building Footprint: 3756 ft²

🏠 174 Sterling Street (Scholl)

Total Building Footprint: 1190 ft²

Proposed Building Footprint: 2081 ft²

Proposed Lot Coverage: 2422 ft²

🏠 172 Sterling Street (Kohut)

Total Building Footprint: 2461.56 ft²

🏠 168 Sterling Street

Total Building Footprint: 2146 ft²

Main Residence Footprint: 1743 ft²

Garage Footprint: 403.48 ft²

🏠 162 Sterling Street

Total Building Footprint: 2989 ft²

Main Residence Footprint: 1991.13 ft²

Garage Footprint: 998.35 ft²

🏠 160 Sterling Street

Total Building Footprint: 3691.14 ft²

EXISTING
808 (House)+ (269 Covered Porch)
+ 113 (Wood Deck) = 1190.0 ft²

Proposed House Addition
1273.0 ft²

TOTAL PROPOSED HOUSE
808+1273= 2,081 ft²

Proposed Lot Coverage
2422 ft²

3038.04 ft²

2174 ft²

738 ft²

2515.68 ft²

503.25 ft²

2461 ft²

403.48 ft²

1743 ft²

998.35 ft²

1991.13 ft²

3691.14 ft²

- 🏠 190 Sterling Street
Total Building Footprint: 3038.04 ft²
- 🏠 182 Sterling Street (Mundus)
Total Building Footprint: 2174 ft²
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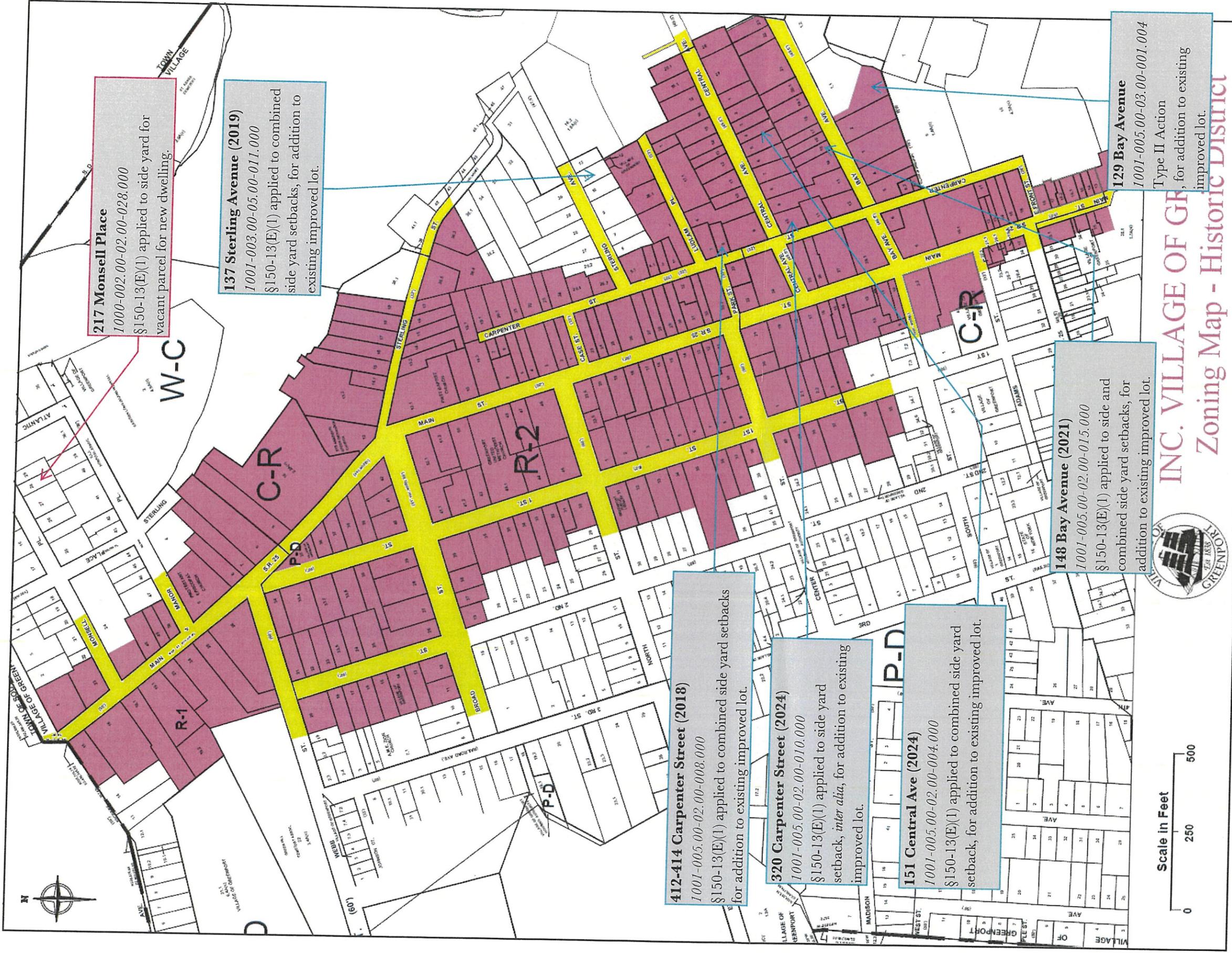
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Nearmap



217 Monsell Place
 1000-002.00-02.00-028.000
 §150-13(E)(1) applied to side yard for vacant parcel for new dwelling.

137 Sterling Avenue (2019)
 1001-003.00-05.00-011.000
 §150-13(E)(1) applied to combined side yard setbacks, for addition to existing improved lot.

412-414 Carpenter Street (2018)
 1001-005.00-02.00-008.000
 §150-13(E)(1) applied to combined side yard setbacks for addition to existing improved lot.

320 Carpenter Street (2024)
 1001-005.00-02.00-010.000
 §150-13(E)(1) applied to side yard setback, *inter alia*, for addition to existing improved lot.

151 Central Ave (2024)
 1001-005.00-02.00-004.000
 §150-13(E)(1) applied to combined side yard setback, for addition to existing improved lot.

148 Bay Avenue (2021)
 1001-005.00-02.00-015.000
 §150-13(E)(1) applied to side and combined side yard setbacks, for addition to existing improved lot.

129 Bay Avenue
 1001-005.00-03.00-001.004
 Type II Action, for addition to existing improved lot.



INC. VILLAGE OF GREENPORT, INC.
Zoning Map - Historic District



The Greenport Village Historic District consists of a dense concentration of (primarily wood frame) residential and commercial structures radiating out in a fan shape from the village's Main Street waterfront business district (on the south). This large district comprises Greenport's historic eighteenth-century core and surrounding areas of nineteenth and early twentieth century development. The Greenport Village Historic District includes all of Main Street and Carpenter Street, most of First Street, the 600 block of Second Street, and structures on east-west streets that intersect with Main and Carpenter. The Greenport Village Historic District is defined on the east and south by Greenport Harbor and on the north and west by adjacent residential and commercial areas comprised of altered historic or modern structures. The Greenport Village Historic District represents the largest, most intact concentration of historic resources in the village.

In addition to the properties located within the District shown on the map above, all properties listed in the State/National Historic Registry are also under the jurisdiction of the Historic Preservation Commission.

INCORPORATED VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

In the Matter of

CYNTHIA SCHOLL and DONALD SCHOLL,
174 Sterling Street, Greenport
(SCTM No. 1001-002.00-03.00-016.000)

Applicants.

**APPLICANTS' MEMORANDUM OF LAW IN SUPPORT OF THE APPLICATION
AND
IN OPPOSITION TO THE APPEAL OF LGTS PROPERTY TRUST CHALLENGING
THE DETERMINATION OF THE BUILDING INSPECTOR**

Submitted February 17, 2026

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List of Exhibits:

- Exhibit A – Notice of Disapproval, dated November 7, 2025
- Exhibit B – 1977 Building-Structure Inventory Form for 174 Sterling Street
- Exhibit C – Certificate of Occupancy, dated May 4, 1994 with Survey dated April 8, 1995 prepared by Anthony W. Lewandowski
- Exhibit D – Certificate of Occupancy, dated June 11, 2015 and Building Permit #02483
- Exhibit E – Letter from Division of Historic Preservation of the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP), [date]
- Exhibit F – NYSDEC Letter of No Jurisdiction
- Exhibit G – Notice of Disapproval, dated April 9, 2024
- Exhibit H – ZBA Transcript, July 16, 2024
- Exhibit I – ZBA Transcript, December 16, 2025
- Exhibit J – Annotated Map of the Greenport Historic District
- Exhibit K – FIRM Panel Number 361004-001-C
- Exhibit L – Survey of 174 Sterling Street by Young Associates, last revised September 19, 2025
- Exhibit M – 172 Sterling Street Documents
- Exhibit N – 230 Fourth Street Documents
- Exhibit O – Near Map Aerial with house footprint analysis
- Exhibit P – 178 Sterling Street Documents

NATURE OF THE APPLICATION

Pursuant to Village Law §7-712-a(5)(b), this variance application of Cynthia and Donald Scholl (“Applicants”) to the Village of Greenport (“Village”) Zoning Board of Appeals (“ZBA”) is taken from the written determination of the Building Inspector, George Pfriendr (“Building Inspector”), in a “Notice of Disapproval,” dated November 7, 2025. The Building Inspector reviewed the Applicants’ survey and building permit plans (“Proposed Project”) to construct a new two-story addition to the existing single-family residence located at 174 Sterling Street, Greenport, which is identified on the Suffolk County Tax Map as No. 1001-002.00-03.00-016.000 (“Premises”).

Upon his review of the Proposed Project, the Building Inspector denied the Applicants’ building permit application and determined that the following variance relief is required: (1) a side yard variance of 1.7 feet from the easterly lot line where 10 feet is required; and (2) a side yard variance of 3.1 feet where 10 feet is required. A copy of the Notice of Disapproval is attached as *Exhibit A*.

This Memorandum of Law is submitted in support of the Applicants’ application for the variances identified on the November 7, 2025 Notice of Disapproval and in opposition to the appeal, dated January 6, 2026, taken by opposing neighbors, LGTS Property Trust, the owners of 178 Sterling Street, to challenge the Building Inspector’s determination.

STATEMENT OF FACTS

A. *Current Site Conditions*

The premises at 174 Sterling Street is an improved single-family residential parcel fronting on the north side Sterling Street in the R-2 zoning district and the Greenport Village Historic District. It has a lot area of 11,675 sq. ft. and is improved with a contributing historic single-family

residence, a bulkhead along its entire northerly waterfront property line, and a residential dock that extends into the state waters of Sterling Basin.

The footprint of the existing residence has an area of 808 sq. ft. with a covered front porch (269 sq. ft.) and a wood deck on the westerly side of the residence (113 sq. ft.), for a total building area footprint of 1,190 sq. ft. As shown in *Figure 1* below, the existing residence is smaller than the other nearby residences, many of which benefit from multiple additions and new construction utilizing the footprint of prior preexisting nonconforming structures and their setbacks.



Figure 1 - April 9, 2025 NearMap Aerial showing 174 Sterling Street with proposed addition outlined in pink and a list of footprint area of structures on neighboring properties. Source: NearMap for footprint area data.

With respect to the subject Premises, the existing westerly side yard setback is 6.7 feet, and on the easterly side, the existing side yard setback is 12.0 feet. Existing lot coverage is 1,261.5 sq. ft. or 10.7% of lot area.

B. Property History

1. The Contributing Historic Dwelling

According to the 1977 Building-Structure Inventory Form prepared by the New York State Office of Parks and Recreation, Division of Historic Preservation (*Exhibit B*), the residence at 174 Sterling Street was constructed by Ernest Rogers circa 1905. Porches and a bathroom were added circa 1910, and the kitchen was remodeled in 1965. *Id.* The residence is listed as a contributing structure to the Greenport Historic District, further corroborating its legally preexisting nonconforming status.

The dwelling first appears on the 1909 Sandborn Map (*Figure 2*) as part of a larger parcel. However, by the publication of the 1917 Sandborn Map (*Figure 3*), 174 Sterling Street had become its own parcel, appearing much as it does today. These historic documents and maps show that

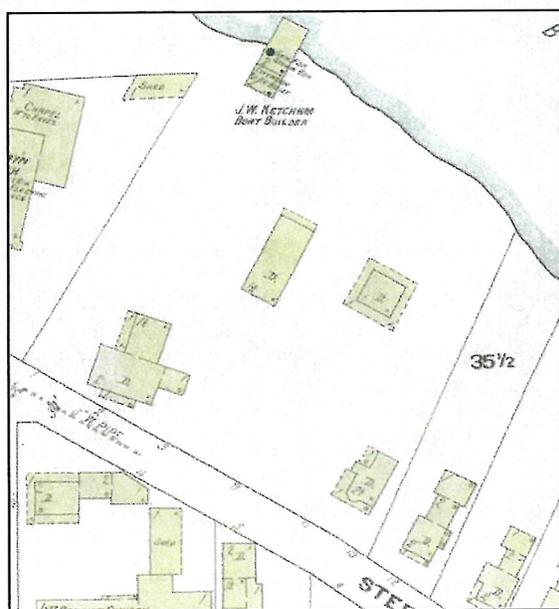


Figure 2 - 1909 Sandborn Map



Figure 3 - 1917 Sandborn Map

the residence and its existing side and front yard setbacks are legally preexisting and were constructed before the enactment of the Village zoning ordinance in October 1971.

On May 4, 1994, a Certificate of Occupancy was issued for the existing “2 story frame single family residence with front and side porch.” (*Exhibit C*). A survey dated April 8, 1995 prepared by Anthony W. Lewandowski confirms that the legally preexisting front yard setback is 23.3 feet. *Id.* On June 11, 2015, a Certificate of Occupancy was issued to close out Building Permit #02483, issued on November 4, 2014, to “[r]ebuild existing porch deck and handrails, to include replacement porch header and columns, repair and replace as required.” (*Exhibit D*). According to the Building Department records, no variances were required for this repair and reconstruction.

C. *ZBA History*

No prior applications have been made to the ZBA for any variance relief for this property.

D. *The Proposed Project*

The Applicants propose to construct a 1,273 sq. ft., two-story addition at the rear or seaward side of the existing dwelling, as shown on the floor plans and elevations by Robert I. Brown Architect, P.C. dated last revised September 24, 2025, and the survey by Young Associates, last revised September 19, 2025. The total footprint of the proposed residence will be 2,081 sq. ft (808 sq. ft. (existing) + 1,273 sq. ft. (addition)). Taking into account the footprint of the 269 sq. ft. existing front porch (where no alterations are being proposed), the resulting dwelling will have a total footprint of 2,350 sq. ft. Proposed lot coverage will increase to 2,422 sq. ft. or 20.6% where 30% is the maximum permitted in the R-2 district. As such, the size of the proposed dwelling is well within what is permitted under the Village’s zoning code.

1. Other Agency Approvals

The Division of Historic Preservation of the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) found that the project design for the addition is appropriate and will have

no adverse impact on the historic house. (*Exhibit E*). The NYS Department of Environmental Conservation (NYSDEC) has issued a Letter of No Jurisdiction pursuant to the Tidal Wetlands Act for the for all activities landward of the bulkhead. (*Exhibit F*). The proposed addition is entirely within FEMA Zone X, which is to say that no part of the residence or the addition is not within in the 100 year floodplain.

Remaining approvals include a Certificate of Appropriateness from the Village's Historic Preservation Commission pursuant to Village Code Chapter 76.

2. SEQRA

The granting of area variances for a single-family residence is a Type II action under SEQRA (see 6 NYCRR 617.5(c)(17)). The Village has adopted the NYSDEC's Type I and Type II actions lists promulgated in 6 NYCRR Part 617. *See* Village Code §61-3. Pursuant to 6 NYCRR §617.4(a)(2) [former §617.12(a)(2)], no agency may designate as a Type I, any action which NYSDEC has specifically classified as Type II in 6 NYCRR §617.5 [former §617.13]. As such, variances for a single family residence remain a Type II action even when located within or adjacent to a state or national register eligible historic district. This accords with the ZBA's practice and is consistent with the advice of current Village Attorney and his predecessors.

Finally, contrary to the position of opposing appellants and other opposing neighbors that the Proposed Project is inconsistent the Village's Local Waterfront Consistency Review, the Village is clear that all type II actions are exempt from Local Waterfront Consistency Review. *See* Village Code §§139-4, 139-6 ("Actions identified as Type II, excluded or exempt as those terms are defined in 6 NYCRR Section 617.2 of the same Environmental Quality Review Law as are hereby deemed consistent and do not require any further deliberation."). Accordingly, such contentions are not relevant in the consideration of whether to grant the requested area variances and are beyond the scope of the ZBA's review in the instant matter.

NOTICE OF DISAPPROVAL

A. *Original Notice of Disapproval, Dated April 9, 2024*

The Applicants received their first Notice of Disapproval (“NOD”), dated April 9, 2024, which was issued by the former Building Inspector Alex Bolanos. (*Exhibit G*) The NOD listed the following four (4) variances:

<u>Front Yard Setback Requirements.</u>	<u>150-12 Schedule Regulations</u> R-2 District: Minimum Front Yard Requirement: 30 feet. The plans show the front yard setback of 23’3” This would require an area variance of 6’7”
<u>Side Yard Setback Requirements</u>	<u>150-12 Schedule Regulations</u> R-2 District: Minimum Side Yard Requirement: 10’ The plans show the side yard setback of 7’4” This would require an area variance of 2’8”
<u>Side Yard Setback Requirements.</u>	<u>150-12 Schedule Regulations</u> R-2 District: Minimum Side Yard Requirement: 10 feet. The plans show the side yard setback of 7’6” This would require an area variance of 2’6”
<u>Combined Side-Yard Setback Requirements.</u>	<u>150-12 District Regulations</u> R-2 District: Minimum Combined Side-Yard Setback: 25 feet. The plans show a combined side yard-setback of 14’10” This would require an area variance of 10’2”

Based upon this April 9, 2024 NOD, the Application was placed on the ZBA’s July 16, 2024 agenda for the purpose of accepting the application, scheduling the public hearing, and scheduling a site visit. At the meeting, Counsel for the Applicants requested that the ZBA hold off from scheduling the public hearing because Counsel believed the building inspector had inadvertently failed to apply Village Code §150-13(E)(1), known as the “Four-tenths rule,” which reduces, as of right, the required combined side yard requirements and individual side yards setbacks for narrow lots. This relief provision is based on applying mathematical computation rather than applying the dimensional regulations in Village Code §150-12.

However, at this meeting, the ZBA Chairman questioned the applicability of the four-tenths rule to the Application, and indicated that as a matter of ZBA policy, the four-tenths rule only applies to new construction on vacant parcels. *See Exhibit H, ZBA Transcript, July 16, 2026* at 26:12-27:21.

The ZBA agreed to table scheduling the public hearing until the Applicants' counsel could consult with Building Inspector. Bolanos. However, on July 30, 2024, the day Counsel was to meet with him, she was informed that Mr. Bolanos taken ill, and his return date was unknown.

B. *Current Notice of Disapproval, dated November 7, 2025*

A new Notice of Disapproval was not issued until November 7, 2025 by the new Building Inspector, Mr. George Pfriender. The instant appeal is taken from this later NOD, which differs from the original April 9, 2024 NOD in two ways:

- First, Mr. Pfriender applied the four-tenths rule pursuant to Village Code §150-13(E)(1) because the Applicants' Property has a lot width of 50-feet where 60-feet is the minimum required in the R-2 zone.
- Second, Mr. Pfriender no longer required a front yard variance to "legitimize" the legally preexisting front yard setback since it is not being changed, altered, or modified by the proposed addition, and because the Village has adopted a new policy no longer requiring "legitimizing" or "housekeeping" variances for preexisting nonconformities.

On December 16, 2025, the Application appeared on the ZBA's agenda to the schedule the public hearing and the site visit for February 17, 2026. At the meeting, the ZBA Chairman questioned whether the number of variances was correct and again disputed the applicability of the four-tenths rule. *See Exhibit I, ZBA Transcript, December 16, 2025* at 47-92

APPEAL OF LGTS PROPERTY TRUST
CHALLENGING THE NOVEMBER 7, NOTICE OF DISAPPROVAL

On January 6, 2026, opposing neighbors LGTS Property Trust filed an appeal pursuant to Village Code §150-26(A) and Village Law §7-712-a(4) to challenge the Building Inspector's determinations in the November 7, 2025 NOD on the following grounds:

- 1) The November 7, 2025 NOD fails to mention the additional variances required in the April 9, 2024 NOD for a front yard setback variance and a combined side-yard setback variance under Village Code §150-12(A).
- 2) Pursuant to Village Code §150-21, the proposed project increases the property's degree of existing non-conformity, thus requiring the additional variances.
- 3) The NOD does not require a Wetlands Permit under Chapter 142 of the Village Code.
- 4) The Building Inspector misapplied the "four-tenths rule" under Village Code §150-13(E) to the Proposed Project.
- 5) The Proposed Project does not fall within the exceptions set forth in Village Code §150-13(D).¹

For the reasons discussed in the Argument Section of this Memorandum, the Applicants oppose this challenge and submit that the November 7, 2025 Notice of Disapproval and the Building Inspector's determination contained therein should be upheld in all respects.

¹ To the extent that the opposing appellants' application narrative in support of its appeal consists of nothing more than bald, conclusory statements, Applicants cannot address this claim without more information, since no exception was claimed by them pursuant to Village Code §150D-13(D). Furthermore, the Applicants' are unaware that the Building Inspector's November 7, 2025 NOD is based on such section of the Village Code.

ARGUMENT

POINT I THE BUILDING INSPECTOR PROPERLY APPLIED THE FOUR-TENTHS RULE TO THE APPLICANTS' PROPERTY

A. *The Four-tenths Rule in Village Code §150-13(E)(1)*

Village Code §150-13(E)(1), known as the “four-tenths rule,” provides in pertinent part:

(E) **Existing small lots.** A lot, owned individually and separately and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than prescribed in this chapter may be used for a one-family dwelling, provided that such lot shall be developed in conformity with all applicable district regulations.

(1) The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths of the lot width; however, no side yard dimension shall be less than four-tenths of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.

Essentially, the four-tenths rule allows a preexisting small or narrow residentially-zoned lot to be developed using a mathematical computation calculated as four-tenths (0.4) of the lot's width to determine the combined side yard setbacks individual side yard setbacks that should apply to the lot instead of the dimensional requirements of Village Code §150-12A. This relief provision or some variation of it, which recognizes the challenges faced by developing a legally preexisting nonconforming narrow lot, can be found in other the local zoning ordinances.² Greenport Village's zoning ordinance has long contained the four-tenths rule, and even retained it as part of the Village's comprehensive amendment of its zoning ordinance in its entirety in 2023.

² *E.g.*, The Town of East Hampton has a four-tenths rule in its [Town Code §255-1-43](#) (Non-conforming Lots); [East Hampton Village Code §278-3A\(6\)](#) provides a more complicated formula for lots which are nonconforming: each side yard setback shall be reduced to 20% of the average lot width. The calculation shall be the average of two chords measured at the required front lot width and the required rear lot width.

The rationale behind this relief provision is common sense, flexibility, equity, and judicial economy. It alleviates property owners from the burden caused by narrow lots by permitting a degree of development as of right that would otherwise trigger the need for variances. It also alleviates strain on the ZBA's resources. This is especially important in older neighborhoods and historic districts and throughout the Village of Greenport, where many lots were created and developed, like the Applicants', prior to the enactment of zoning in 1971, which are generally nonconforming with respect to modern setbacks and dimensional requirements.

B. *The Building Inspector Did Not Err Because the "Four-Tenths" Rule is a Non-Discretionary Provision that Applies as of Right to Narrow, Single-Family Residential Lots*

The necessary elements for a lot to qualify for the four-tenths rule are set forth in Village Code §150-13(E)(1):

- (1) Is the lot in single and separate ownership; and
- (2) Does the lot have a width "less than prescribed in this chapter"; and
- (3) Is the lot used for a single-family residence?

If the answer to those three questions is yes, then the four-tenths rule applies. In the case of 174 Sterling Street, the subject Premises meets all three elements and therefore qualifies because:

- (1) It has been held in single and separate ownership in Cynthia Scholl's family for over 100 years; and
- (2) The lot has a width of 50 feet where 60 feet in the R-2 District; and
- (3) The lot is used as single family residence; and

The formula provided in Village Code §150-13(E)(1) changes the computation of the combined side yard setbacks for a principal building as follows:

<u>Village Code §150-13(E)(1):</u>	<u>Applicants' Property</u>
Combined side yard = (0.4 × lot width)	0.4 x 50' = 20'
Each Side Yard must be: <ul style="list-style-type: none"> • At least 10 feet; • “no side yard dimension shall be less than four-tenths of the total dimensions of both side yards computed as aforesaid” 	≥ 10'

C. *The ZBA Cannot Deny the Applicants Their Right to Use the Four-Tenths Rule Based on Arbitrary “Policies”*

The plain language of Village Code §150-13(E)(1) is unambiguous. Determining whether four-tenths rule applies is a product meeting the objective threshold elements of §150-13(E)(1) and applying a simple math equation. There is no need for the Building Inspector’s discretion or specialized knowledge to determine whether the four-tenths provision applies. Opposing appellant LGTS Property Trust alleges that the four-tenths rule was improperly applied to the Applicants’ Property without any further explanation.

Both the Building Inspector and the ZBA are tasked with applying the Village Code uniformly to all properties in a particular zoning district. The ZBA has no legislative authority to change the uniform application of the Village Code (in derogation of Village Law §7-702) by supplying limiting or qualifying language not found in the plain language of Village Code §150-13(E)(1) so that it only applies to new construction on vacant parcels only, as suggested by the Chairman on July 16, 2024.

It is a settled principle that a ZBA cannot impose standards or criteria that are not explicitly stated in the zoning ordinance. In the *Matter of Boni Enters., LLC v Zoning Bd. of Appeals of the Town of Clifton Park*, 124 AD3d 1052 [3d Dept 2015], the court found that the ZBA erred in deferring to its own interpretation of the zoning ordinance because the plain language of the ordinance, strictly construed, did not support the ZBA's position. *Id.* 124 A.D.3d at 1053. Similarly, in *Matter of Winterton Props., LLC*, the court reiterated that:

In interpreting a zoning law, a zoning board of appeals “may not insert conditions or criteria into a zoning ordinance governing allowable uses in a zoned district that are not contained in the statutory language adopted” (*Matter of Saratoga County Economic Opportunity Council, Inc. v Village of Ballston Spa Zoning Bd. of Appeals*, 112 AD3d 1035, 1037, 977 NYS2d 419 [2013]). Moreover, respondents' proposed definition would, even if accepted, merely evidence an “ambiguity in the language employed [that] must be resolved in favor of the property owner” (*Matter of Subdivisions, Inc. v Town of Sullivan*, 92 AD3d 1184, 1185, 938 NYS2d 682 [2012] [internal quotation marks and citation omitted], *lv denied* 19 NY3d 811, 976 NE2d 250, 951 NYS2d 721 [2012]; *see Matter of Albany Basketball & Sports Corp. v City of Albany*, 116 AD3d at 1137; *Matter of Atkinson v Wilt*, 94 AD3d 1218, 1220, 941 NYS2d 798 [2012]).

Matter of Winterton Props., LLC v Town of Mamakating Zoning Bd. of Appeals, 132 AD3d 1141, 1143 [3d Dept 2015] (emphasis added).

When a ZBA's interpretation of a zoning ordinance runs counter to the clear wording of the provision, such interpretation lacks a rational basis, and courts give little weight to the ZBA's determination. *See Matter of Fox v Town of Geneva Zoning Bd. of Appeals*, 176 AD3d 1576, 1577-78 [4th Dept 2019].

In fact, a review of the ZBA's past applications reveals that the four-tenths rule has been applied to multiple applications involving existing developed lots:

<u>Address</u>	<u>Zoning</u>	<u>Historic District</u>	<u>4/10's Rule Applied</u>	<u>SEQRA</u>	<u>Outcome</u>	<u>ZBA Minutes</u>	<u>Project Description</u>
320 Carpenter Street	R-2	YES	Yes	Type II	Approved	<u>ZBA 12/17/2024:</u> p. 49: SEQRA Designation; p. 53: Approval	§150-13(E) cited in NOD Proposed car port in front yard of corner lot
412-414 Carpenter Street	R-2	Yes	Yes	Type II	Approved	<u>ZBA 1/15/19:</u> p. 28-68, accept application and discuss 4/10 th rule. <u>ZBA 2/19/19:</u> p. 40-41: discussion & SEQRA & approval	§150-13(E) cited in NOD Addition to preexisting nonconforming residence
151 Central Avenue	R-2	Yes	Yes	Type II	Approved	<u>ZBA 11/19/2024</u> p.3-27. Accept application <u>ZBA 12/17/2024</u> - p. 60: Type II Designation. Approval	Demolition of non-historic one-story kitchen at rear of house, rear deck, and non-historic garage at rear of house. Construction of new deck in approximate footprint of existing.
148 Bay Avenue	R-2	Yes	Yes	Type II	Approved	<u>ZBA 12/21/21:</u> p. 32: SEQRA p : whether legitimizing variances are needed. p.37-39: 4/10's Rule Discussion <u>ZBA 1/22/22:</u> p.3-10: Accept findings	§150-13(E) cited in NOD Proposed renovation to existing house, convert porch to habitable space; extend rear of house by 32 sq ft on the first floor and by 269 sq ft on the second floor, create one uniform back wall to the house to add 498 sq ft addition to house; and create a habitable third floor.
129 Bay Ave	R-2	Yes	Yes	Type II		<u>ZBA 9/20/2016:</u> p.168 - Discussion p.172 - SEQRA Type II Designation p. 182-183 - 4/10's Rule Discussion	Proposed Pool
137 Sterling Ave	R-2	No	Yes	Type II		<u>ZBA 3/19/19:</u> p.14-20 p.81-85	§150-13(E) cited in NOD Additions to existing single family dwelling
217 Monsell Place	R1	No	Yes	Type II	Approved	<u>ZBA 7/19/16:</u> p. 33-34 accept application p. 34-35 (§150-13(E) - four-tenths discussion) <u>ZBA 9/20/16:</u> p. 16-18 public hearing; p.16-17 4/10's Rule Discussion <u>ZBA 11/15/16,</u> p. 7-8 (findings adopted)	New construction of single-family residence on vacant lot.

<u>Address</u>	<u>Zoning</u>	<u>Historic District</u>	<u>4/10's Rule Applied</u>	<u>SEQRA</u>	<u>Outcome</u>	<u>ZBA Minutes</u>	<u>Project Description</u>
432 Front Street	R-2	Yes	---	Type II	Approved	<u>ZBA 5/20/25</u> , p. 1-4 (Paragas & Epperson - 432 First St.) p104. SEQRA Designation p.109 Approved <u>ZBA 6/17/2025</u> p.3 Approved findings	<i>Restoration/renovation of an existing one and a half story wood framed accessory structure.</i>
175 Fifth Street	R-2	No	Yes	Type II	Approved	<u>ZBA 5/18/21</u> , p.6-7 Saladino discusses whether 4/10 th rule might apply. <u>ZBA 6/15/21</u> , Public Hearing p.11 SEQRA p.14 Approval	Finish basement and build required egressed at existing residence

In fact, since 2014, 217 Monsell Place has been the only application to build a new residence on a vacant parcel that benefitted from the four-tenths rule. At the meeting to accept the application, Chairwoman Gordon remarked, “This is new construction, something we don't see all that often.” ZBA Transcript, July 19, 2016 at 34:14-15. Member Saladino had the following exchange with the applicant discussing the applicability of the four-tenths rule:

MR. SALADINO: I understand, but I have a couple of questions for the applicant. Mr. Nicholson, from reading your application, you can build this house without a variance.

MR. NICHOLSON: Okay.

MR. SALADINO: Am I correct?

MR. NICHOLSON: According to the code, I believe that the building envelope on the lot wouldn't allow for it. If you're saying it does, then it does.

MR. SALADINO: If it is four-tenths of the width, it comes out to 16 feet and a few inches and from looking at your plan, you have ten feet on either side, so I'm kind of curious as to why you would ask for a variance when you don't need one.

ZBA Transcript, July 19, 2016 at 34:23 – 35:19 (emphasis added).

Mr. Saladino continued, while deferring to the Building Inspector:

MR. SALADINO: Well, it's my understanding with the Village Code on an undersized lot, you do four-tenths and that's the combined, so this would be 16.8 feet, but the Building Inspector is here, you can ask her, but I'm reasonably certain I'm correct.

ZBA Transcript, July 19, 2016 at 44:4-10.

At the public hearing for 217 Monsell Place on September 20, 2016, the following pertaining to the four-tenths rule, which was read into the record:

The applicant seeks a side yard setback variance to construct a new single family dwelling with a footprint of approximately 979 square feet, including a covered entry porch, Section 150-13E. Existing small lots. A lot owned individually and separately and separated in ownership from any adjoining tracts of land, which has the total lot area or lot width less than prescribed in this chapter may be used for a one family residence provided that such lot shall be developed in conformity with all applicable district regulations. The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths the lot width; however no single side yard dimension shall be less than four-tenths of that total dimensions of both side yards computed as aforesaid. Everybody understand that? And no side yard dimension shall be less than ten feet. That's the key. The proposed house setback is five feet from the east property line, requiring a side yard setback variance of 5.0 feet.

ZBA Transcript, September 20, 2016 at 16:16-17:18 (emphasis added).

As shown in the table above, all other applications where the four-tenths rule has been invoked and applied dealt with additions and alterations to existing dwellings on developed lots, many of which are legally preexisting nonconforming, and located within the R-2 zone and the Historic District. *Exhibit J*, contains an annotated map of the Historic District that shows several of the applications where the four-tenths applied and variance relief was granted from the four-tenths setbacks.

As New York’s highest court, the Court of Appeals, has held, it is axiomatic that a Zoning Board of Appeals decision is “arbitrary and capricious” if it neither adheres to its own prior precedent, nor provides a reason for reaching a different result on essentially the same facts. E.g., *Knight v. Amelkin*, 68 NY2d 975 [1986]; *see also Matter of Campo Grandchildren Trust v. Colson*, 39 AD3d 746 [2d Dep’t 2007]; *Matter of Margulies v. Town of Ramapo*, 226 A.D.3d 783 [2d Dep’t 2024].

Accordingly, the Building Inspector did not err when he applied the four-tenths rule to the Premises to prepare the November 7, 2025 Notice of Disapproval.

D. *A Combined Side Yard Variance is Redundant Relief in this Application, and the Building Inspector Did Not Err by Leaving It Off of the Notice of Disapproval*

Below is table that shows how four-tenths rule is applied across varying lot widths. The computed combined side yard total decreases as lot width decreases. However, the 10’ minimum side yard language in Village Code §150-13(E)(1) becomes a controlling constraint, so the minimum individual side yard actually stays 10’ in every case.

Lot width W (ft)	Computed combined side yards C = 0.4W	40% of combined S_{40%} = 0.4C	10’ minimum applies?	Governing minimum individual side yard S(min)
50’	20.0 ft (20’-0’)	8.0 ft (8’-0’)	Yes	10.0 ft (10’-0’)
45’	18.0 ft (18’-0’)	7.2 ft (7’-2.4’)	Yes	10.0 ft (10’-0’)
40’	16.0 ft (16’-0’)	6.4 ft (6’-4.8’)	Yes	10.0 ft (10’-0’)
35’	14.0 ft (14’-0’)	5.6 ft (5’-7.2’)	Yes	10.0 ft (10’-0’)
30’	12.0 ft (12’-0’)	4.8 ft (4’-9.6’)	Yes	10.0 ft (10’-0’)

This means that one effectively lands at 10’ + 10’ = 20’ combined side yard, even though 0.4 of lot width is smaller on lots with a width of less than 50 feet. As such, when dealing with a 50-foot wide lot, the true benefit of the four-tenths provision is the reduction in the combined setback requirement of 25 feet to 20 feet, although it still requires 10 foot individual side yards.

Although normally, combined side yards reflect an amount greater than the sum of the individual side yard setback, that is not the case here. With a 50-foot wide lot, such as the Applicants, the combined side yard of 20 feet ends up being the same as the sum of the individual side yard setbacks – 10 feet on each side for a combined side yard requirement of 20 feet. The table below demonstrates that the amount side yard relief listed by the Building Inspector in the November 7, 2025 NOD **results in the same amount of relief** as a combined side yard variance and individual side yard variances were required.

	<u>Required Side Yard Setback</u>	<u>Proposed setback</u>	<u>Variance Relief Required</u>
<i>Westerly Side Yard</i>	10	6.9	3.1
<i>Easterly Side Yard</i>	10	8.2	1.8
<i>Combined Side Yard</i>	20	15.1	4.9

While the Applicant cannot speak for the Building Inspector, the fact that there is no difference between the sum of two 10' side yard setbacks and a 20' combined side yard is why the Applicants maintain that the Building Inspector did not error by leaving off a separate combined side yard setback. Simply put, a combined side yard variance is redundant in this case.

POINT II

NO FRONT YARD SETBACK IS REQUIRED FOR A LEGALLY PREEXISTING STRUCTURE

Opposing appellant LGTS Property Trust asks the ZBA to find that a front yard variance should be required for a legally preexisting nonconforming dwelling *even* though the Proposed Project does not involve any change or alteration of the preexisting front yard setback. The application of 148 Bay Avenue, which was discussed at the ZBA's December 21, 2021 meeting is germane to this issue. At that meeting, member Gordon questioned the Village's policy at that time, which required "legitimizing" or "housekeeping" variances for an existing dwelling's nonconforming setbacks in the R-2 zone and the Historic District. As former Village Attorney

Robert Connelly noted, these kinds of variances are not necessary because by law preexisting nonconformities are in fact legal. *See People v Miller*, 304 NY 105, 107 [1952].

16 MS. GORDON: It seems to me
17 that a couple of these requests for
18 variances are based on preexisting
19 nonconforming situations which have not
20 changed, and I'm wondering why -- this
21 is really for the Building Department,
22 I guess. **Why do we have to deal, for**
23 **instance, with a front yard setback?**
24 **The front yard is not changing and it**
25 **was -- it is clearly nonconforming.**
1 Everybody on the block is
2 nonconforming.

3 ATTORNEY CONNELLY: **I agree. It's**
4 **a preexisting nonconforming property.**

5 MS. GORDON: Right. **So why do we**
6 **have to have this front yard setback**
7 **variance?**

* * *

12 ATTORNEY CONNELLY: I mean, for
13 the alteration to the property I would
14 agree that the variances are needed,
15 but for what is currently there it's a
16 preexisting nonconforming.

17 MS. GORDON: **So you don't think we**
18 **need to be ruling on those matters that**
19 **are preexisting nonconforming and are**
20 **not going to change.**

21 ATTORNEY CONNELLY: **I don't, no.**

22 MS. GORDON: Good. Less work for
23 us.

* * *

23 CHAIRMAN SALADINO: I always
24 thought -- if I could, I always thought
25 that by doing this, since the Building
1 Department had adopted this policy, by
2 doing it we were just legitimizing
3 these nonconformities.

4 MS. GORDON: Does that make them
5 any less nonconforming?

6 CHAIRMAN SALADINO: No, not in the
7 least, but it makes them legal.

8 ATTORNEY CONNELLY: Well, the fact
9 that they're preexisting nonconforming
10 makes them legal too.

11 MS. GORDON: They're already
12 legal.

ZBA Transcript, December 21, 2021 at 12:14-15:12 (emphasis added).

This exchange accords with the Second Department's determination in *Matter of Hannett v Scheyer*, 37 AD3d 603, 604 [2d Dept 2007], in which the court determined that petitioners in were not required to obtain front yard and side yard setback variances where the new construction did not alter the existing footprint of a preexisting nonconforming building. In that matter, as is the case here, the court found that "the original dwelling was not required to conform with the setback requirements of the current zoning ordinance." *Id.*

The protection afforded to legally preexisting, nonconforming structures is one of the cornerstones of zoning and land use law. "[N]onconforming uses or structures in existence when a zoning ordinance is enacted, are, as a general rule, constitutionally protected and will be permitted to continue, notwithstanding the contrary provisions of the ordinance." *People v. Miller*, 304 NY 105, 107; *see also* 15 Warren's Weed New York Real Property §160.01; *City of New York v. Bilynn Realty Corp.*, 118 AD2d 511 [1st Dept 1986].

In the instant application, Applicants take no issue with the Building Inspector's determination that side yard relief is required for the new construction that extends *but does not increase* the existing nonconforming setback of the existing residence. *See Matter of Frisenda v*

Zoning Bd. of Appeals of Town of Islip, 215 AD2d 479, 480 [2d Dept 1995]; *Matter of Rembar v Board of Appeals of Vil. of E. Hampton*, 148 AD2d 619, 620 [2d Dept 1989].

It is conceivable that opposing appellants may not be aware of recent changes to the Village's policy on these unnecessary "legitimizing" or "housekeeping" variance. the Village has, on the advice of its counsel, has adjusted its policies to be more in keeping with the court's determination in *Hannett v Scheyer, supra*. In the application of 229 Sixth Street, which involved a 50 foot wide lot with an existing residence that has side yard setbacks of 5.9 feet and 7.9 feet. Where the proposed addition continued the nonconforming line of the 7.9 side yard setback, the Building Inspector deemed that the only variance needed was for the new addition in the amount of 2.1 feet. No "legitimizing" variances were required for the preexisting 5.9 setback on the southerly side of the property.

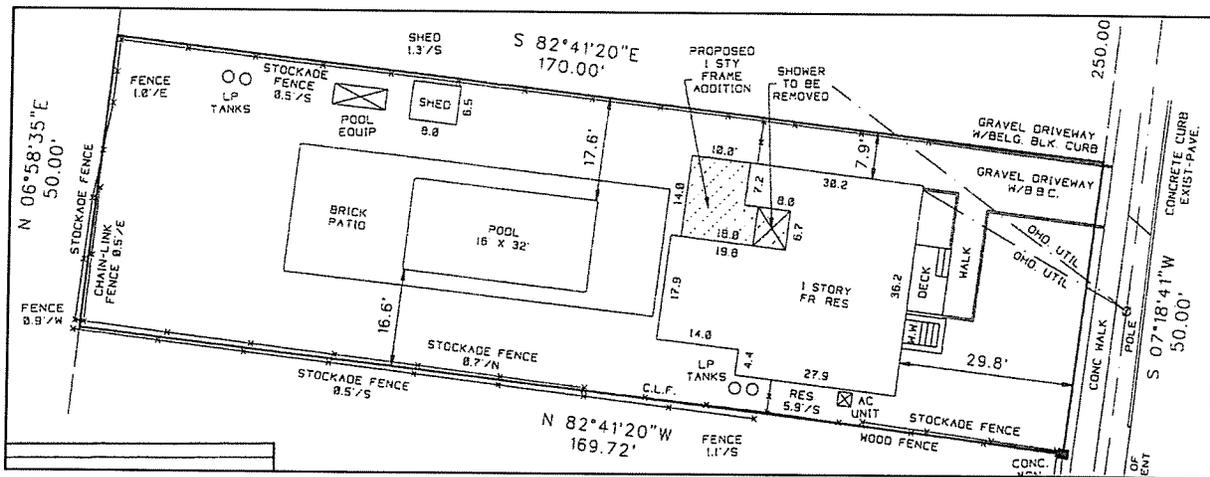


Figure 4 - Detail from Survey of 266 Sixth Street.

As Chairman Saladino explained when another board member asked him why the ZBA was not being asked to grant a variance for the residence's preexisting southerly side yard setback, the Chairman explained:

MEMBER REARDON: Right. But we have always taken on the variances for the existing nonconformities.

CHAIRMAN SALADINO: I think there's been -- I can't speak with any authority because I don't have any authority, but I think what our attorney decided at -- the guy that usually sits there -- he decided at a previous or a couple of previous ago meetings that the new policy, although we don't have that, but the new policy will be that anything preexisting and nonconforming that's there, the only thing that will be addressed is the new nonconformity.

MEMBER REARDON: Makes perfect sense. Thank you. So no, I have no questions.

ZBA Transcript, January 20, 2026 at 9:22 – 10:15 (emphasis added).

Accordingly, there is no basis for LGTS Property Trust's frivolous claim that a front yard setback is needed where no changes are being proposed to the residence's legally preexisting nonconforming front yard setback. The proposed addition is located at the rear of the dwelling, and like the application of 229 Sixth Street, it extends the line of existing deck on the residence's westerly side and of the dwelling on the easterly side. On the easterly side, the new addition to the residence maintains a conforming 11.6-foot side yard setback, and side yard relief on the easterly side is only needed for stairs and a Bilco cellar entrance.

For the foregoing reasons, the Building Inspector's determination should be upheld.

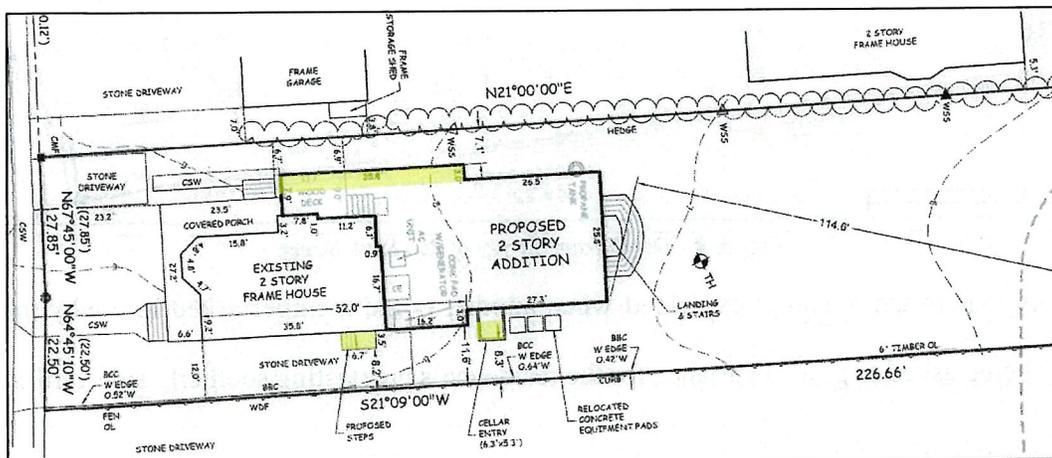


Figure 5 – Application of 174 Street. Detail from Young Associates Surve, dated last revised September 19, 2025. Highlighted areas are the portions of the addition that are nonconforming.

POINT III

THERE IS NO WETLANDS PERMIT JURISDICTION FOR THE APPLICANTS' PROJECT

The Proposed Project is not located within a regulated wetland, adjacent area, or coastal floodplain as defined under Village Code Chapter 142, and no wetlands permit is required for work on a fully bulkheaded parcel located entirely in FEMA Zone X. The opposing appellant's contention that a wetlands permit is required is unsupported by federal flood regulations, state tidal wetlands regulations, and the Greenport Village Code.

A. *Zone X Is Outside the FEMA defined Special Flood Hazard Area and the Floodplain as Incorporated into the Village's Wetlands Law in Chapter 142.*

Under federal regulations a "Special Flood Hazard Area" ("SFHA") is defined as "the land area subject to a one percent or greater chance of flooding in any given year." 44 C.F.R. §59.1 (Definition of "area of special flood hazard"). Areas within the SFHA are designated on FEMA Flood Insurance Rate Maps ("FIRMs") as Zones AE, VE, A, AO, AH, and similar classifications. *Id.* Zone X, by contrast, is expressly outside the 1% annual chance floodplain. *See* 42 U.S.C. §4012a(a) (no flood insurance required for Zone X); *see also* 44 C.F.R. §60.3.

Chapter 142 of the Village Code contains the Village's wetlands regulations and defines the "coastal floodplain" as:

all tidal waters and marshes and contiguous uplands which are inundated regularly or intermittently from normal tidal cycles and/or peak lunar and storm tides. The upland limit of peak storm tide and, hence, limit of the coastal floodplain shall be established as more fully set forth the Flood Insurance Rate Map for the Village of Greenport as prepared by the National Flood Insurance Program, Federal Emergency Management Agency, such map bearing Community Panel Number 361004-001-C, as revised.

Village of Greenport Code §142-3.

Attached as *Exhibit K*, is a copy of FIRM Panel Number 361004-001-C. Because the Village Code ties the coastal floodplain boundary to the FEMA FIRM depiction of the upland limit of peak storm tide — i.e., the 1% annual chance coastal flood boundary – a proposed project located entirely within Zone X is by definition outside the “coastal floodplain.” See Village Code §142-3.

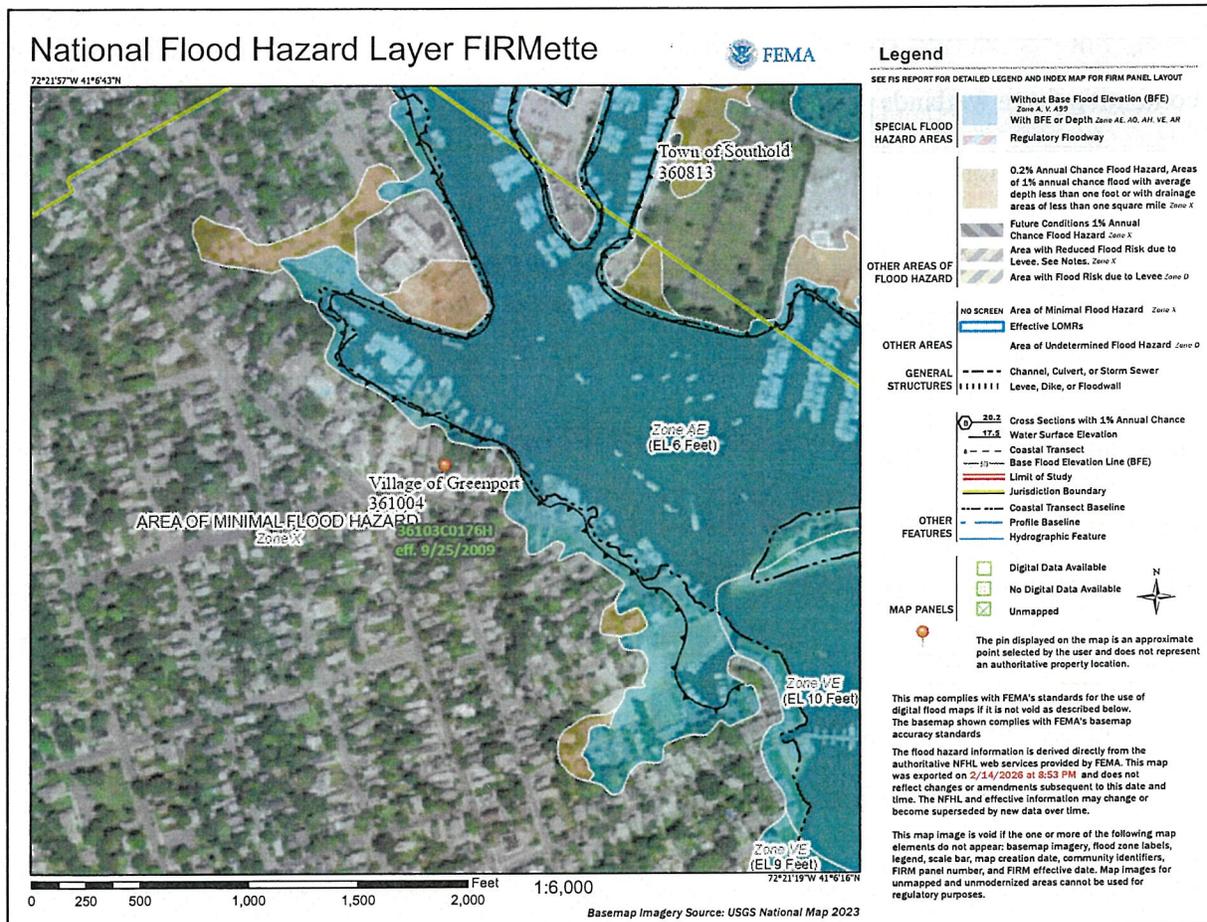


Figure 6 - FEMA FIRMette. Source: FEMA National Flood Hazard Layer (NFHL) Viewer.

Furthermore, the definition of the upland limit of the coastal floodplain as “The upland limit of peak storm tide and, hence, limit of the coastal floodplain” indicates that the upland limit of the coastal floodplain is not the landward limit of the SFHA of the AE6 zone, but is actually the

Line of Moderate Wave Action (LiMWA),³ which is located at the bulkhead showing that even during moderate storm events, no part of the Project Area experiences any type of tidal inundation. Therefore, the Proposed Project is not in an area regulated by the Village Wetlands Law.

Finally, as shown on the FEMA FIRMette” Map, above in *Figure 6*, if Zone X were considered part of the “coastal floodplain” regulated by Chapter 142, then virtually every property located in the Village would require a wetlands permit.

B. *The Property Does Not Meet the Definition of a Regulated Wetland Under Village Code Chapter 142*

Village Code Chapter 142 requires a wetlands permit where activities are proposed *within* regulated wetlands and their associated areas. Pursuant to Village Code §142-4(A)(1), it is prohibited to do the following without obtaining a wetlands permit:

Place or deposit, or permit to be placed or deposited, debris, fill or any materials, including structures, *into, within or upon* any tidal waters or other watercourses, coastal wetlands, tidal marshes, floodplain lands, freshwater wetlands, watersheds, water recharge areas or any natural drainage system.

Village Code §142-4(A)(1) (emphasis added).

The use of the prepositions “into, within, or upon” is unambiguous that the requirement for a wetlands permit under the Village Code requires the regulated activity to be taking place within one of the specified areas where a wetlands permit is required. To wit:

1. The Proposed Project is not taking place in “Tidal Waters”

The Proposed Project area is clearly not taking place in Tidal Waters as defined in the Village Code §142-3:

[A]ll waters bordering on or within the Village boundaries subject to fluctuations in depth from storm, peak lunar or normal tidal

³ The “Limit of Moderate Wave Action” (“LiMWA”) is the inland limit of the area subject to wave heights between 1.5 and 3 feet during the base flood (1% annual chance flood). See 44 C.F.R. § 59.1 (definition of “base flood”); FEMA, *Coastal Construction Manual*, FEMA P-55 (4th ed.).

action, and shall include but is not limited to all brackish and salt waters of streams, ponds, creeks, estuaries, bays, sounds, inlets and the ocean, and may include certain freshwaters.

2. The Proposed Project is not taking place in a “Watercourse”

The Proposed Project area is clearly not taking place in a “Watercourse” as defined in the Village Code §142-3 as “All water bodies other than tidal waters, including freshwater streams, marshes, swamps, bogs, vernal ponds, ponds and lakes.”

3. The Proposed Project is not taking place in a “Coastal Wetland”

The Proposed Project area is clearly not taking place in a “Coastal Wetland” as defined in the Village Code §142-3 as:

[A]ll lands and submerged lands bordering on or within the Village boundaries which are covered by tidal waters, permanently or intermittently, from normal or peak lunar tides.

The Survey of the property (*Exhibit L*) confirms that mean high water (MHW) is located at the property’s bulkhead, and no part of the property’s upland is inundated by tidal action. This is the case even in most storms events where FEMA’s FIRM map shows that the Line of Moderate Wave Action (LiMWA) is located at the bulkhead meaning, no part of the Proposed Project area experiences any type of tidal inundation and cannot be considered a wetland.

The Applicants’ property is fully bulkheaded, and there is no marsh vegetation, there are no hydric soils, and no tidal exchange occurs upland of the bulkhead. This is why the NYSDEC issued its letter of nonjurisdiction indicating that no tidal wetlands permit is required from NYSDEC for any regulatory activities taking place landward of the bulkhead.

4. The Proposed Project is not taking place in a “Tidal Marsh”

The Proposed Project area is clearly not taking place in a “Tidal Marsh” as defined in the Village Code §142-3 as:

[T]hose coastal wetlands inundated by tidal waters from normal tidal action, and/or peak lunar tides, exhibiting salt marsh peat at their undisturbed surface and upon which grow some or all of the following indigenous vegetation: salt-meadow grass (*Spartina patens*), spike-grass (*Distichlie spicata*), black grass (*Juncus gerardi*), cordgrass (*Spartina alterniflora*), saltworts (*Salicornia* spp.), sea lavender (*Limonium carolinanus*), salt-marsh bulrushes (*Scirpus robustus* and *Scirpus poludosus* var. *atlanticus*), sand spurry (*Spergularia marina*), tall cordgrass (*Spartina pectinata*), high tide bush (*Iva frutescens* and *Iva buccarus*), cattails (*Typha augustifolia* and *Typha latifolia*), spike rush (*Eleocharis rostellata*), chairmaker's rush (*Scirpus americanus*), bent grass (*Argostis polustria*) and sweet grass (*Hierochloe odorata*).

As established above, the Subject Property contains no “coastal wetlands,” which means it cannot contain any tidal marsh. Furthermore, none of the obligate tidal wetlands plant species identified in the tidal wetlands definition are located on the Applicants’ Property.

5. The Proposed Project is not taking place in “Floodplain Land”

The Proposed Project area is clearly not taking place in “floodplain lands,” *which is an undefined term* in the Village Code. However, as established above, the entire project is taking place in Zone X, which is by its very nature outside of the 100 year floodplain and special flood hazard areas. Furthermore, under the Village’s Floodplain Management regulations in Chapter 62, which require a permit for work occurring *within* the floodplain, no floodplain permit is required for a project located within Zone X.

6. The Proposed Project is not taking place in “Watersheds, Water Recharge Areas or any Natural Drainage System”

No part of the Proposed Project is taking place in any area that fall under the definitions in Village Code 142-3:

NATURAL DRAINAGE SYSTEM

Those uplands, floodplain lands and watercourses, including coastal wetlands, designated on the Official Map of Greenport Village. Such lands and waters may include but not be limited to *all uplands exhibiting fifteen-percent or greater slopes*; all fresh, salt or

brackish water; swamps; bogs; marshes; streams; vernal ponds; ponds; lakes and all lands within the coastal floodplain, whether intermittently or permanently saturated or covered by ground-, surface or tidal waters.

WATER RECHARGE AREAS

All land surface areas which by nature of their surface and/or subsurface soil characteristics are determined to contribute to the replenishment of subsurface water supplies.

WATERSHED LANDS

All land surface areas bounded peripherally by a water parting and draining ultimately to a particular watercourse. Such lands shall include all surface water catchment areas or drainage basins from which the watercourses are drawn via surface drainage.

The Premises is not part of a natural drainage system or watershed lands because the property is relatively flat. There are no slopes in excess of 15%, and no part of the Project Area is regularly inundated or saturated. In fact, the soil boring, which was taken at the most seaward location of the Proposed Project area confirms that there are no hydric soils and that there is no ground saturation. *See Exhibit L*, Survey of 174 Sterling Street.

The test hole subsurface investigation performed on Shawn Barron, M.S. on August 7, 2024 demonstrates a soil profile consisting of loamy sand (SM) overlying coarse sand with gravel (SP), with groundwater encountered at approximately 6.8 feet below grade. The profile contains no clay, silt lenses, or confining strata and is characteristic of the permeable glacial outwash soils common throughout the North Fork.

If such soils alone were sufficient to constitute a regulated “Water Recharge Area,” without any other criteria or standards pursuant to Chapter 142, then virtually all land within the Village would fall within that category. “Since zoning and [land use regulations] are in derogation of the common law, they must be strictly construed against the municipality which has enacted and seeks to enforce them.” *Matter of Allen v Adami*, 39 NY2d 275, 277 [1976]; *see also Incorporated Vil. of*

Saltire v Feustel, 40 AD3d 586, 587 [2d Dept 2007]). Therefore, any ambiguity in the language must be resolved in favor of the defendants as the property owners. *See Matter of Allen v Adami*, 39 NY2d at 277). The Applicants' property thus cannot be said to constitute a "Water Recharge Area" absent clear standards and definitions in the Village Code.

In sum, Village Code Chapter 142 contemplates regulation of activities located within wetlands or the "coastal floodplain," and no portion of the Applicants' Proposed Project area is located within these areas or the other areas mentioned are requiring a wetlands permit in Chapter 142.

C. *The Opposing Neighbor's Request that the ZBA Determine Whether a Wetlands Permit is Required is Inappropriate and Outside of the ZBA's*

Under New York law, the jurisdiction of a zoning board of appeals is generally limited to matters arising under the zoning ordinance, unless otherwise provided by local legislation. The ZBA's authority is primarily appellate in nature, allowing it to hear and decide appeals from decisions, orders, or determinations made by administrative officials charged with enforcing the zoning ordinance. *See* Village Law §§7-712; §7-712-a; 7-712-b(1).

The ZBA may interpret provisions of the zoning ordinance, when such interpretation is necessary to resolve an appeal or application properly before it. For example, the ZBA has the authority to interpret whether a proposed use is permitted under the zoning ordinance, either on appeal from an administrative official's determination or upon referral by another official or board, if local law so provides. *See Matter of Smith v. Town of Thompson Planning Bd.*, 233 AD3d 1107, 1109 [3d Dept 2024]. However, the ZBA does not have the authority to issue interpretations of sections of a town or village code that fall outside the zoning ordinance unless explicitly authorized by local legislation. Village Law §7-712-a(4) provides:

Unless otherwise provided by local law, the jurisdiction of the board of appeals shall be appellate only and shall be limited to hearing and

deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of **any local law adopted pursuant to this article**. (emphasis added).

New York courts have consistently held that the ZBA's jurisdiction is confined to the scope of the zoning ordinance unless expanded by local law. For instance, in *Matter of Smith v. Town of Thompson Planning Bd.*, *supra*, 233 A.D.3d at 1109-10, the court emphasized that the ZBA's jurisdiction is appellate **unless** local legislation grants it original jurisdiction to interpret zoning code provisions. Similarly, in *Gaylord Disposal Service, Inc. v. Zoning Bd. of Appeals*, 175 AD2d 543 [3d Dept 1991], the court noted that the ZBA's powers are limited to those specifically conferred by statute or local ordinance.

Here, the Greenport zoning ordinance is codified in Village Code Chapter 150. Village Code §150-26, sets forth the scope of the ZBA's jurisdiction.

§ 150-26 Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by §§ 7-712-a and 7-712-b of the Village Law ***and by this chapter***, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

A. Interpretation. On appeal from an order, requirement, decision, interpretation or determination made by an administrative official, or on request by any official, board or agency of the Village, to decide any of the following questions:

(1) Determination of the meaning of any portion of the ***text of this chapter*** or of any condition or requirement specified or made ***under the provisions of this chapter***. (emphasis added).

Accordingly, there is nothing in the Village Code that confers jurisdiction upon the Village of Greenport ZBA to determine whether a wetlands permit is required for the instant project or any other matter outside of Chapter 150 unless expressly authorized to do so. The only authorization that the

ZBA has been granted with respect to wetlands under Chapter 142 is found at Village Code §142-5(E), which grants to **both** the Planning Board and the ZBA, the authority to whether any portion of a lot of subdivision in a “coastal floodplain, watershed, recharge lands, tidal marsh or freshwater wetland or natural drainage system may be used in calculating the area and yard requirements for the zoning district in which the remainder of the lot or subdivision is situated.” Village Code §142-5(E).

As discussed above under the definition of the “coastal floodplain” the upland limit should be the LiMWA and not the landward limit of a SFHA. However, the Applicants provide the following analysis, assuming *arguendo*, that the coastal floodplain is synonymous with the landward extent of the AE6 SFHA. The portion of the Applicants’ property located within the AE6 zone is 1,740 sq. ft. Should the ZBA determine this area, which is landward of the LiMWA line, a functional bulkhead, and contains no wetlands vegetation, must be deducted from the lot’s total area, such deduction does not result in the need for a wetlands permit **or** any additional variances from the dimensional regulations.

<u>174 Sterling Street Lot Analysis</u>		
Total Lot Area	11,765 sq. ft.	
Less AE6 Zone	-1,748 sq. ft.	
<i>Net Lot Area</i>	10,017 sq. ft.	
Minimum Lot Area in R-2 Zone	7,500 sq. ft.	<i>No Lot Size Variance Required</i>
Maximum Lot Coverage based on Lot Area less AE6 Zone (30%)	10,017 x 0.3= 3,005 sq. ft.	
Total Proposed Lot Coverage	2,422 sq. ft.	<i>No Lot Coverage Variance Required</i>

This analysis illustrates that even where the ZBA’s has some role regarding wetlands regulation, it is limited to solely to determining a purely zoning issue, and the Code provides the Planning Board the same authority as the ZBA to when that board has matters before it, such as a site plan or subdivision. Accordingly, unlike other matters where the appellate authority to interpret the

zoning code is exclusive to the ZBA, here Village Code §142-5(E) grants two boards this same authority during the course of their respective duties.

However, since neither the Building Inspector nor the opposing neighbor have raised this question of whether a lot coverage variance or a lot area variance is required, the Zoning Board has no authority to reduce the Applicants' lot area. *See Capetola v. Town of Riverhead*, 192 AD3d 789, 792 [2d Dep't 2021] (“[I]n the absence of an administrative determination to review, a zoning board of appeals is without power to grant a variance or render a de novo determination with respect to an issue not determined by an administrative official.”).

Furthermore, deducting the AE6 zone from the Premises Lot Area plainly conflicts with the definition of “Lot Area” under Village Code §150-2, which provides:

LOT AREA

The total horizontal area contained within and enclosed by the outer boundary lines of any lot; provided, however, that for any purpose for which it must be calculated under the provisions of this chapter, “lot area” shall not include the following:

(1) That portion of a lot which is seaward of the mean high water mark;

(2) Any area within a public street, road or right-of-way;

(3) That portion of a lot which *is wetland or watercourse.*
(emphasis added)

First no portion of the Applicants' parcel is seaward of the mean high water line. *See Exhibit L.* Second no portion of the lot is a “wetland” or a “watercourse.” See Village Code 142-3 (Definition of “Coastal Wetlands,” “Freshwater Wetlands,” and “Watercourse”).

Furthermore, the ZBA cannot issue advisory opinions or interpret provisions of municipal law or the New York State Building Code unless there is a specific statutory or local authorization to do so. This limitation ensures that the ZBA's role remains focused on zoning matters and does not extend to broader municipal code interpretation.

In conclusion, the ZBA cannot issue interpretations of sections of a town or village code that are outside the zoning ordinance unless local legislation explicitly grants such authority, which the Greenport Village Code does not. The ZBA's jurisdiction is otherwise confined to zoning-related matters contained with Chapter 150.

D. *The Village's Precedent Shows that No Wetlands Permit is Required Here*

There are several examples that support Applicants' position that no wetlands permit is required for the instant Project because the seaward extend of the Proposed Project is located more than 100 feet from the bulkhead. *See Exhibit L.*

1. 178 Sterling Street (1995)

In 1994-1995, the owners of 178 Sterling Street (now owned by Gillooly and Spiradakis) received permission from the HPC to demolish a contributing single story residence to the Historic District and build within the footprint of the existing residence's footprint including porches, a larger 2-story residence with only a 5.3 feet setback from the Applicants' property. Furthermore, this new construction did not require any variances from the ZBA, a wetlands permit., which has been in effect since 1982. *See Exhibit P.*

2. 172 Sterling Street (1987)

In June 1987, the owner of 172 Sterling Street (now owned by Kohut) received variances from the ZBA to build a two-story seaward addition to an existing dwelling that doubled the size of the existing residence. The new addition continued the 5-foot setback of the legally preexisting nonconforming dwelling from the easterly property line. The Villages records show that a public hearing was held in 1987 for a wetlands permit, but that after the hearing was held, no action was taken and a building permit issued. There, a NYSDEC letter of no jurisdiction was submitted into the record that no NYSDEC Tidal Wetlands permit was required landward of the bulkhead. *See*

Exhibit M. In fact the chronology in the Village's records contains the following notation regarding the public hearing on the wetlands:

11/23/87 Wetlands hearing (no decision made, thus in effect approving the wetlands application closed). **Actually we had no grounds on the wetlands to deny the application**) Village Bd minutes)

See Exhibit M (emphasis added)

3. **230 Fourth Street (2014)**

At 230 Fourth Street, the owner proposed to construct an approximately 2,600 sq. ft. addition to the seaward side of an existing residence and a swimming pool located 75 feet from the property's bulkhead. A portion of the proposed pool was entirely located within the VE9 zone, however, the colloquy at the public hearing held on November 14, 2024 between Mayor Nyce (presently a member of the instant ZBA) and then Village Attorney Joseph Prokop, Esq. demonstrates that the property owner was permitted to proceed to obtain demolition and building permits from the Village for the residence **prior** to the issuance of the wetlands permit because the wetlands permit was only required for construction measured 100 feet from the bulkhead regardless of the fact that the VE9 zone was located on the upland portions of the property. *See Figure 7* below.



Figure 7 – 230 Fourth Street showing swimming pool build in VE9 flood zone and was only structure that required wetlands permit measured 75 feet from the bulkhead.

Specifically at the public hearing November 14, 2014 the following was discussed:

MAYOR NYCE: So if you could do that, and then we would approve the wetlands permit [for the pool], which is the only thing we're going to approve anyhow. All of the other building permit stuff you can do as of right through the Building Department, and wouldn't -- yeah, you wouldn't need further authorization from us for the building permit?

MAYOR NYCE: Yes.

MR. PROKOP: Is the building going to be within the wetlands buffer, the wetlands area or buffer?

MS. MARTIN: No.

MR. PROKOP: The building that you're talking about?

MR. BROWN: No.

MR. PROKOP: No?

TRUSTEE ROBINS: It's existing.

MR. PROKOP: Then it's okay.

TRUSTEE ROBINS: It's a pre-existing building.

MS. MARTIN: Well over 100. The building itself is over 100 feet from the wetlands.

MAYOR NYCE: Right.

MR. PROKOP: That's fine. So *you just can't have any activity within the wetlands area until* --

MS. MARTIN: The pool is 75 feet.

MAYOR NYCE: Right. The pool is 75, so the pool would fall within the 100 feet. So you'd have to wait a week on starting the pool, but you could certainly start on the house, if that's --does that seem a reasonable resolution?

TRUSTEE MURRAY: (Nodded yes.)

TRUSTEE HUBBARD: Yes.

Village Board of Trustees Minutes November 17, 2014 at 15:24-16:5, 16:11-17:12 (emphasis added).

What is clear is that the Village Board of Trustees' uncodified policy of requiring a wetlands permit within 100 feet of the wetlands boundary is measured from the bulkhead and not from the landward limit of the VE9 zone. If that were the case, then no permits should have issued for the demolition and construction of the residential addition ahead of the issuance of the wetlands permit.

**VARIANCE STANDARDS UNDER VILLAGE CODE §150-26 (B)(2) AND
NEW YORK VILLAGE LAW 7-712-B(3)(b)**

The following five statutory standards are used by the Zoning Board of Appeals to determine the balancing test of whether the benefit to the Applicant is outweighed by any potential detriment to the community.

1. Describe whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance:

Granting the requested side yard variances of 1.7 feet on easterly lot line and 3.1 feet on westerly lot line, where 10 feet is required for each side and 20 feet is the total required for both sides pursuant to Village Code §150-13(E)(1), will not create any undesirable change to the character of the neighborhood or cause any detriment to nearby properties.

Westerly Side Yard

The existing side yard setback on the westerly side of the Premises is 6.7 feet where 10 feet is required. The proposed addition, however, which is being built in the footprint of the existing legally preexisting deck will have a setback is 6.9 feet. Therefore, the relief requested to permit a 6.9-foot setback is less than the existing 6.7-foot setback, meaning that there is no increase to the nonconformity on the westerly side. There is also no detriment to the adjacent property to the west at 178

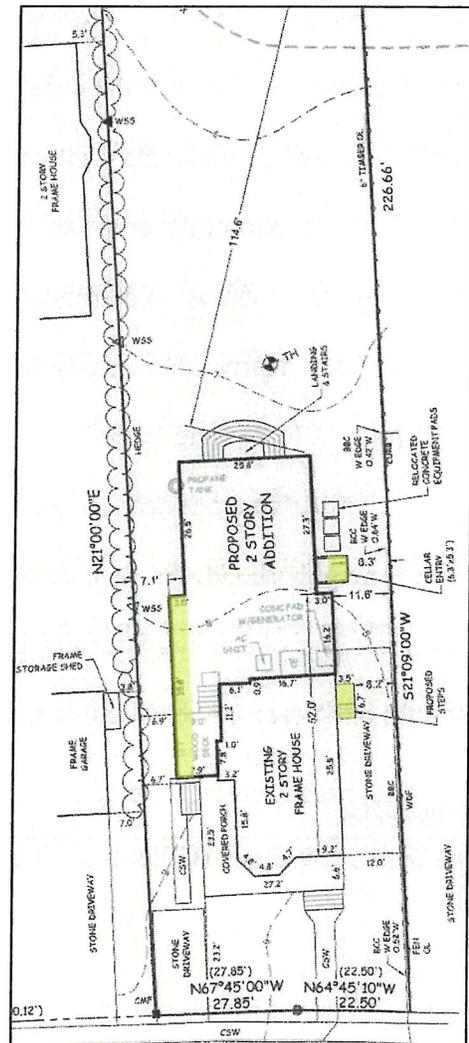


Figure 8 - Detail from Young Associates Survey dated last revised September 19, 2025.

Sterling Street, whose principal residence is located further to the north. Furthermore, there is no overlap between the two residences, and 178 Sterling Street will not be deprived of light or air. The area of the proposed addition that requires variance relief is adjacent to the preexisting, nonconforming garage and shed on 178 Sterling Street, which structures have of 7 feet and 3.8 feet, respectively.

Easterly Side Yard

The easterly side yard setback of the proposed addition is a conforming 11.6 feet pursuant to Town Code §150-13(E)(1). Variance relief on the easterly side of the Premises is minimal at 1.7 feet, and is requested to permit the construction of uncovered stairs measuring 3.5’ x 6.7’ (23.45 sq ft.). The stairs will provide entry into the residence adjacent to the main parking area of the existing driveway. No part of the proposed residential addition requires side yard relief on the easterly side of the Premises. There is no detriment to the adjoining property to the east, as the location of proposed stair will not deprive the easterly neighbor of light or air. *See Figure 8* above; *see also Exhibit L*, “Survey of 174 Sterling Street”).

Third, the requested side yard relief for the residential addition is in keeping with the character of the neighborhood. As seen in the aerial in *Figure 1*, above, the majority of properties on the northerly side of Sterling Street have nonconforming side yard setbacks and have similarly narrow lot widths of 50 feet where 60 feet is required in the R-2 District. *See Village Code §150-12(A)*.

Property	Side Yard Setbacks
178 Sterling Street (Gillooly & Spiradakis)	Residence: ⁴ 5.3’ (east side) 8.3 (west side) Garage: 7.9’(east side) Frame Shed: 3.8’(east side) Cottage: 0’ (west side) 0.7(south side – from bulkhead)

⁴ Village records show that the contributing historic home at 178 Sterling Street was demolished and a new larger residence was built in the footprint of the demolished dwelling and the footprint of the porches - all without requiring any variances. *See Exhibit P*.

Property	Side Yard Setbacks
182 Sterling Street (Mundus)	Residence: 1.8' (east side)
172 Sterling Street (Kohut)	Residence: 5.0' (east)

While no variances are needed for lot coverage, neighbors in opposition have claimed that the proposed addition is too large and out of character with the neighborhood. This is not so. The aerial in *Figure 1*, above, and the additional aerials in *Exhibit O*, show that the proposed 2,350 sq. ft. footprint of the residence is in keeping with the size of residences on either side of the Premises and along the northerly side of Sterling Street.

Furthermore, the length of the proposed dwelling at approximately 86 feet is average for the northside of Sterling Street:

<u>House Length</u>	<u>in feet</u>
160 Sterling	131
162 Sterling	80
168 Sterling	72
172 Sterling	102
174 Sterling (proposed)	87
178 Sterling	66
182 Sterling	67
AVERAGE HOUSE LENGTH	86.43

This objective data demonstrates that the proposed addition will not change character of the community. The addition falls well within the neighborhood average, noting that at least 3 properties (#178, 172, and 160) have residences and cottages extending farther seaward than the Applicants' addition. See *Figure 9*, below.

Furthermore, the ZBA should note, as did the court and the ZBA in *Matter of Scalfani v Rodgers*, Index No. 15-11661 [Sup Ct, Suffolk County 2018], affd 161 AD3d 1084 [2d Dept 2018], "there is no provision in the Village Code which guarantees a property owner's view or, for

that matter, his privacy.” *Id.* at 2. In that matter, noted that “the applicants are entitled to build a home (“as-of right”) that would have a much greater impact on the objectants’ view across the applicants’ property” *Id.* The same is the case here, however, the Scholls desire to build an addition to their family home.

Additionally in *Scalfani*, the ZBA and the court noted that “we have permitted encroachments into currently required side yard set-backs, but typically only to the extent the existing dwelling encroaches.” *Id.* This is line of reasoning is in keeping with the Greenport ZBA’s precedent of granting variances from the set-back requirements to the extent of permitting a dwelling to be constructed within the same minimum side yards presently existing. *See Id.*



Figure 9 – Aerial showing residential average front yard; seaward line of proposed residential addition, most seaward line of principal residences in neighborhood, and most seaward line of accessory residential units.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance:

No, the benefit cannot be achieved by some method other than the requested variances. Due to the narrow nature of the lot and the historic preexisting nonconforming residence, it is not possible to meet the Applicants' needs to expand the existing residence without obtaining a variance. The portion of the westerly side of the addition that requires variance relief is needed to create a first floor bedroom of a sufficient size allow the Scholls to "age in place". This addition has been designed in keeping with Mrs. Scholl's background as a nurse and personal experience with caring for her mother towards the end of her life in their family residence.

3. Whether the requested area variance is substantial:

Although there is no hard and fast standard for determining whether a variance is substantial, "[t]he substantiality of the requested variance must be considered in light of the overall variance requested." 15 Warren's Weed New York Real Property §161.10 [2025]. For the reasons discussed in Section 1 regarding the lack of any change to the character of the community or detriment to nearby properties, the Applicant submits that the requested variance is not substantial. Numerically, the requested variance represents relief of 26%, although this percentage itself does not tell the whole story. See *Matter of Davydov v. Mammina*, 2010 NY Slip Op 33146(U), 2010 N.Y. Misc. LEXIS 5427, *5 [Sup Ct, Nassau County 2010], *affd* 97 AD3d 678 [2d Dept 2012], *citing* Rice, *Supplementary Practice Commentaries McKinney's Cons. Laws of NY* Book 61 ("[I]n assessing the substantiality of a variance, the overall effect of granting the relief and not the percentage deviation from the mandated requirements of a zoning regulation, is the relevant inquiry").

In the instant matter, the overall effect of granting the requested relief will be setbacks that are no less than the existing setbacks. In other words, there is no increase to the degree of existing

non-conformity because the Applicants are not intensifying the encroachment into the side yard. The addition maintains the same side-yard setback as the existing dwelling and does not move any closer to the lot line. Accordingly, the proposed addition does not increase the degree of nonconformity. *See* Village Code §150-21; *see also Sposato v Zoning Bd. of Appeals*, 287 AD2d 639, 640 [2d Dept 2001] (where new construction maintains the same dimensional relationship to the lot line, the nonconformity is not worsened); *Matter of Petrocelli v Zoning Bd. of Appeals*, 281 AD2d 423 [2d Dept 2001].

Similar to the instant application, in *Martens v Zoning Bd. of Appeals*, 195 AD2d 974 [4th Dept 1993], adjoining property owners challenged the ZBA's approval for the addition of a second story to a nonconforming structure. There, the court sustained a board determination that an alteration did not increase setback nonconformity there was not expansion closer to the lot line.

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

As a Type II action under SEQRA (*see* 6 NYCRR 617.5(c)(17)), area variances for a single family residence are generally not presumed to have any adverse impacts on environmental conditions. The NYS OPRHP has already determined that the proposed addition will not have any negative impact on the historic home or the historic district.

The proposed addition will not have a negative impact on environmental resources. It has received a letter of non-jurisdiction from the NYSDEC, and no part of the addition is located in special flood hazard area. Furthermore, even with the addition, the Premises will remain one of the most landward residences and the Property preserves more permeable surface area than a majority of neighboring properties, especially 178 Sterling Street, which has no meaningful permeable or unimproved areas. *See Figure 7* above.

5. Whether the alleged difficulty was self-created:

No, to the extent that existing home is legally preexisting nonconforming with regard to side yard setbacks and the Premises is considered a small lot because of its narrow width, the hardship is not self-created. The Premises has been in Cynthia Scholl's family for over 100 years. The Applicants have Designed an appropriate addition that is in keeping with the ZBA's precedent to approve similar expansions and additions the immediate neighborhood and within the R-2 zoning district and the historic district. Accordingly, the extent to which this application may be a self-created, Village Law §7-712-b(3)(b)(5) provides that even where an alleged difficulty is self-created, such self-created hardship "shall not necessarily preclude the granting of the area variance." As such, we submit that whether or not the alleged difficulties are self-created, the benefit to the Applicant outweighs any potential detriment to community.

CONCLUSION

For the reasons set forth herein, it is respectfully submitted that the Applicants have met the standards of Village Law §7-712-b(3)(b), and the Zoning Board should grant the requested variance relief identified in the November 7, 2025 Notice of Disapproval, and that the Building Inspector's determination contained therein should be upheld in all respect

Dated: Riverhead, New York
February 17, 2026

Respectfully submitted,

TWOMEY, LATHAM, SHEA, KELLEY,
DUBIN & QUARTARARO, LLP

By: _____



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INCORPORATED VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

In the Matter of

CYNTHIA SCHOLL and DONALD SCHOLL,
174 Sterling Street, Greenport
(SCTM No. 1001-002.00-03.00-016.000)

Applicants.

EXHIBITS

APPLICANTS' MEMORANDUM OF LAW IN SUPPORT OF THE APPLICATION
AND
IN OPPOSITION TO THE APPEAL OF LGTS PROPERTY TRUST CHALLENGING
THE DETERMINATION OF THE BUILDING INSPECTOR

Submitted February 17, 2026

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List of Exhibits:

- Exhibit A – Notice of Disapproval, dated November 7, 2025
- Exhibit B – 1977 Building-Structure Inventory Form for 174 Sterling Street
- Exhibit C – Certificate of Occupancy, dated May 4, 1994 with Survey dated April 8, 1995 prepared by Anthony W. Lewandowski
- Exhibit D – Certificate of Occupancy, dated June 11, 2015 and Building Permit #02483
- Exhibit E – Letter from Division of Historic Preservation of the NYS Office of Parks, Recreation, and Historic Preservation (OPRHP), [date]
- Exhibit F – NYSDEC Letter of No Jurisdiction
- Exhibit G – Notice of Disapproval, dated April 9, 2024
- Exhibit H – ZBA Transcript, July 16, 2024
- Exhibit I – ZBA Transcript, December 16, 2025
- Exhibit J – Annotated Map of the Greenport Historic District
- Exhibit K – FIRM Panel Number 361004-001-C
- Exhibit L – Survey of 174 Sterling Street by Young Associates, last revised September 19, 2025
- Exhibit M – 172 Sterling Street Documents
- Exhibit N – 230 Fourth Street Documents
- Exhibit O – Near Map Aerial with house footprint analysis
- Exhibit P – 178 Sterling Street Documents

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit A

Notice of Disapproval, dated November 7, 2025



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villageofgreenport.org

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PATRICK BRENNAN
DEPUTY MAYOR
LILY DOUGHERTY-JOHNSON

JULIA ROBINS
MARY BESS PHILLIPS

TREASURER
ADAM BRAUTIGAM
EXT. 217

VILLAGE CLERK
CANDACE HALL
EXT 214

ZONING BOARD OF APPEALS NOTICE OF DISAPPROVAL

FROM: VILLIAGE OF GREENPORT BUILDING DEPARTMENT

APPLICANT: DONALD AND CYNTHIA SCHOLL

ADDRESS: 174 STERLING STREET
GREENPORT, NY 11944

SCTM: 1001-002-003-016

DATE: NOVEMBER 7, 2025

BUILDING FILE #25-012

The building permit application for **ADDITIONS AND RENOVATIONS TO EXISTING HOME** at the above-mentioned premises has been denied for the following reasons:

- EAST LOT LINE OF 10' IS REQUIRED. YOU HAVE .8.3' THEREFORE A VARIANCE OF 1.7' IS REQUIRED
- WEST LOT LINE OF 10' IS REQUIRED. YOU HAVE 6.9' THEREFORE A VARIANCE OF 3.1' IS REQUIRED



George Pfriendr
Building Inspector

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit B

1977 Building-Structure Inventory Form
for 174 Sterling Street

15

BUILDING-STRUCTURE INVENTORY FORM

DIVISION FOR HISTORIC PRESERVATION
NEW YORK STATE PARKS AND RECREATION
ALBANY, NEW YORK (518) 474-0479

FOR OFFICE USE ONLY	
UNIQUE SITE NO.	<u>03-13-0830</u>
QUAD	_____
SERIES	_____
NEG. NO.	_____

202

✓
L

YOUR NAME: Kelemen DATE: August 1977

YOUR ADDRESS: 18 South St. TELEPHONE: 477 1121

ORGANIZATION (if any): Cultural Resource Center

2-3-15

IDENTIFICATION

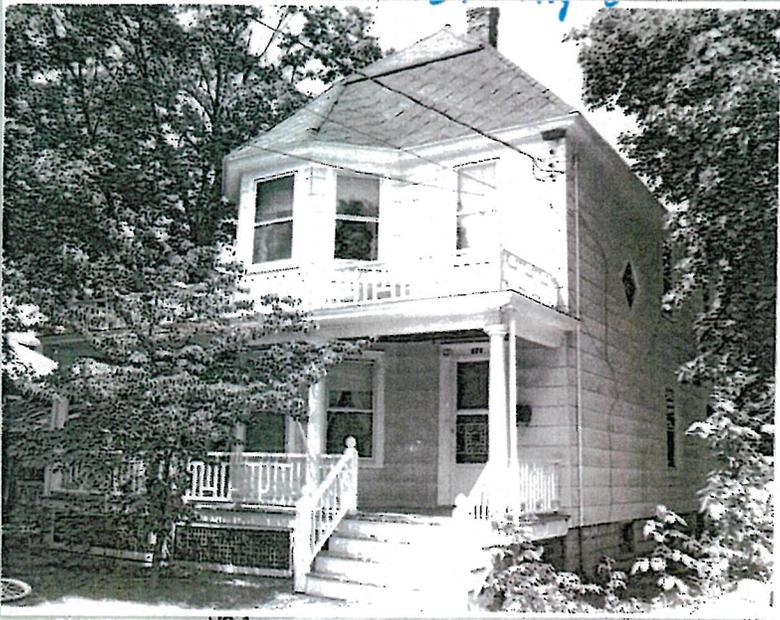
- BUILDING NAME(S): _____
- COUNTY: Suffolk TOWN/CITY: Southold VILLAGE: Greenport
- STREET LOCATION: 174 Sterling St.
- OWNERSHIP: a. public b. private
- PRESENT OWNER: Ruth & Jean Rodenberg ADDRESS: same
- USE: Original: 2 family residence Present: same
- ACCESSIBILITY TO PUBLIC: Exterior visible from public road: Yes No
Interior accessible: Explain with permission

DESCRIPTION

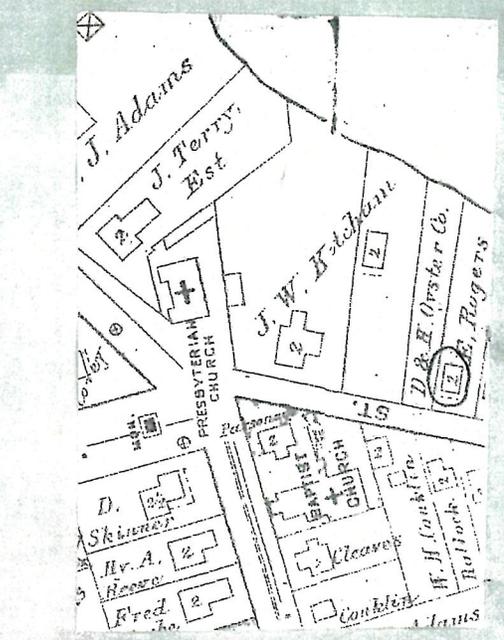
- BUILDING MATERIAL: a. clapboard b. stone c. brick d. board and batten
e. cobblestone f. shingles g. stucco other: _____
- STRUCTURAL SYSTEM: a. wood frame with interlocking joints
b. wood frame with light members
c. masonry load bearing walls
d. metal (explain) _____
e. other: f. cb
- CONDITION: a. excellent b. good c. fair d. deteriorated
- INTEGRITY: a. original site b. moved if so, when? _____
c. list major alterations and dates (if known):
porches added in 1910; bathroom added in 1910;
kitchen remodeled 1965

12. PHOTO: Roll 1 Frame 11

13. MAP: 1909 S.F.C. Atlas



HP-1



14. THREATS TO BUILDING: a. none known b. zoning c. roads
d. developers e. deterioration
f. other: _____

15. RELATED OUTBUILDINGS AND PROPERTY:
a. barn b. carriage house c. garage
d. privy e. shed f. greenhouse
g. shop h. gardens
i. landscape features: _____
j. other: _____

16. SURROUNDINGS OF THE BUILDING (check more than one if necessary):
a. open land b. woodland
c. scattered buildings
d. densely built-up e. commercial
f. industrial g. residential
h. other: _____

17. INTERRELATIONSHIP OF BUILDING AND SURROUNDINGS:
(Indicate if building or structure is in an historic district)
rear yard abuts bay; yard bulkheaded; dock built in 1930.
structure in historic district on tree lined street with
houses of similar size.

18. OTHER NOTABLE FEATURES OF BUILDING AND SITE (including interior features if known):
gambrel roof - first and second story bay windows

SIGNIFICANCE

19. DATE OF INITIAL CONSTRUCTION: 1905

ARCHITECT: Ernest Rogers

BUILDER: Ernest Rogers

20. HISTORICAL AND ARCHITECTURAL IMPORTANCE:

21. SOURCES: occupant and previous owner

1909 Sanborn map

22. THEME:

Exhibit C

Certificate of Occupancy, dated May 4, 1994
with Survey dated April 8, 1995
prepared by Anthony W. Lewandowski

Officers

MAYOR
GEORGE W. HUBBARD

TRUSTEES
WILLIAM D. ALLIN
STEPHEN L. CLARKE
DAVID S. CORWIN
GAIL E. HORTON

Village of Greenport

INCORPORATED 1828
NEW INCORPORATION APRIL 7, 1848
RE-INCORPORATION UNDER GENERAL LAW MAY 28, 1894



236 THIRD STREET • P.O. BOX 411
GREENPORT, NEW YORK 11944

TELEPHONE
(516) 477-2385

CLERK
LORNA M. CATUS

TREASURER
MARY E. THORNHILL

May 4, 1994

Date

TO WHOM IT MAY CONCERN:

RE: ISSUANCE OF CERTIFICATES OF OCCUPANCY

TAX MAP #: 1001

SECTION: 2 BLOCK: 3 LOT: 16

The Village of Greenport established the authority for issuance of a Certificate of Occupancy in October 1971. Therefore, any building or use established or built on or after October 1971, is required to make application for a Certificate of Occupancy. Prior to the above date, no Certificate of Occupancy was required.

The following: 174 Sterling Street - 2 story frame single family residence with front and side porch.

was built prior to 1971, therefore no Certificate of Occupancy is required.

Very truly yours,

Richard L. Caggiano
Village Administrator/CD Director

Filing fee \$ 50.00

Receipt # 30443



STERLING CREEK

552°52'40"E
WOOD BULLHEAD
52.96'

239.32'

226.89'

LANG. SLAB

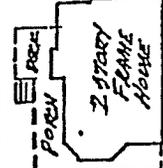
FORMERLY MAUFF
DE PAOLO

KRIEGER
BELZ

FORMERLY SHIPLEY

ARTHUR
FORMERLY

N21°05'E



23.2' 27.85' 22.50'

1/4" 527'09"W

N67°45'W N64°45'10"W

STERLING STREET



SURVEY FOR: AGNES ABRAMAKI
LOCATION: GREENPORT, TOWN OF SOUTHOLD, N.Y.
GUARANTEED TO: AGNES ABRAMAKI; CENTERBANK MORTGAGE
CO. & T.R.W. TITLE INSURANCE CO.

ANTHONY W. LEWANDOWSKI
LAND SURVEYOR
BOX 448
SOUTHOLD, N.Y. 11971

SCALE: 1"=40'
DATE: APRIL 18, 1994
SUTHERLAND CO. TAX MAP NO 1001-02-03-16

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit D

Certificate of Occupancy, dated June 11, 2015 and
Building Permit #02483



BUILDING DEPARTMENT
Village of Greenport Building Department
236 Third Street, Greenport, NY 11944
Phone 631.477.2385 ext. 210
Fax 631.477.1877

6/11/2015

CERTIFICATE OF OCCUPANCY

Building Permit No: 02483

Date Permit Issued: 11/7/2014

Building Work:

Rebuild existing porch deck and handrails, to include replacement porch header and columns, repair and replace as required.

All construction to conform with all Federal, state and Local rules and regulations.

Suffolk County District 1001 **Section-Block-Lot** 2-3-16

Street Address: 174 Sterling St

Land Use Zone: R-2

Use and Occupancy: Single Family Residential

THIS CERTIFIES that the building authorized by the Building Permit described above has been substantially completed in accordance with the approved plans and specification, and relevant provisions of the New York Fire Prevention and Building Code.

Comments: Property located within the Historic District.

Village Administrator/Building Inspector:

Date:

6/11/2015

Note: The issue of a Certificate of Occupancy does not guarantee strict compliance with all laws, regulations, codes and standards. The responsibility for such compliance remains with the owner of the premises and the person carrying out the building work thereon. Nor does a Certificate of Occupancy indicate the achievement of a particular standard of workmanship or compliance with any contractual arrangement between owner and contractor. It is recommended that the owner seek appropriate professional advice on contractual matters.



Building Department
VILLAGE OF GREENPORT

236 Third Street, Greenport, LI, NY 11944
(631) 477-1217 or 477-2385

BUILDING PERMIT

This Permit Must Be Kept on the Premises With One Set of Approved Plans and Specifications until Full Completion of the Work Authorized.

Permit #: 02483

Date: 11/7/2014

Permission is hereby granted to:

Ovisinak, Susette & Scholl, Cynthia
C/O Agnes Abramski
174 Sterling St
Greenport, NY 11944

To:

Rebuild existing porch deck and handrails, to include replacement porch header and columns, repair and replace as required.

All construction to conform with all Federal, state and Local rules and regulations.

At premises located at:

174 Sterling St, GREENPORT, NY
SCTM # 1001-2.-3-16

Pursuant to application dated 10/16/2014, and plans and specifications approved by the Village Administrator/Building Inspector.

Fee Type: \$75.00
Receipt #: 31248

Fee Type: \$150.00
Receipt #: 31036

Village Administrator / Building Inspector

BUILDING PERMIT

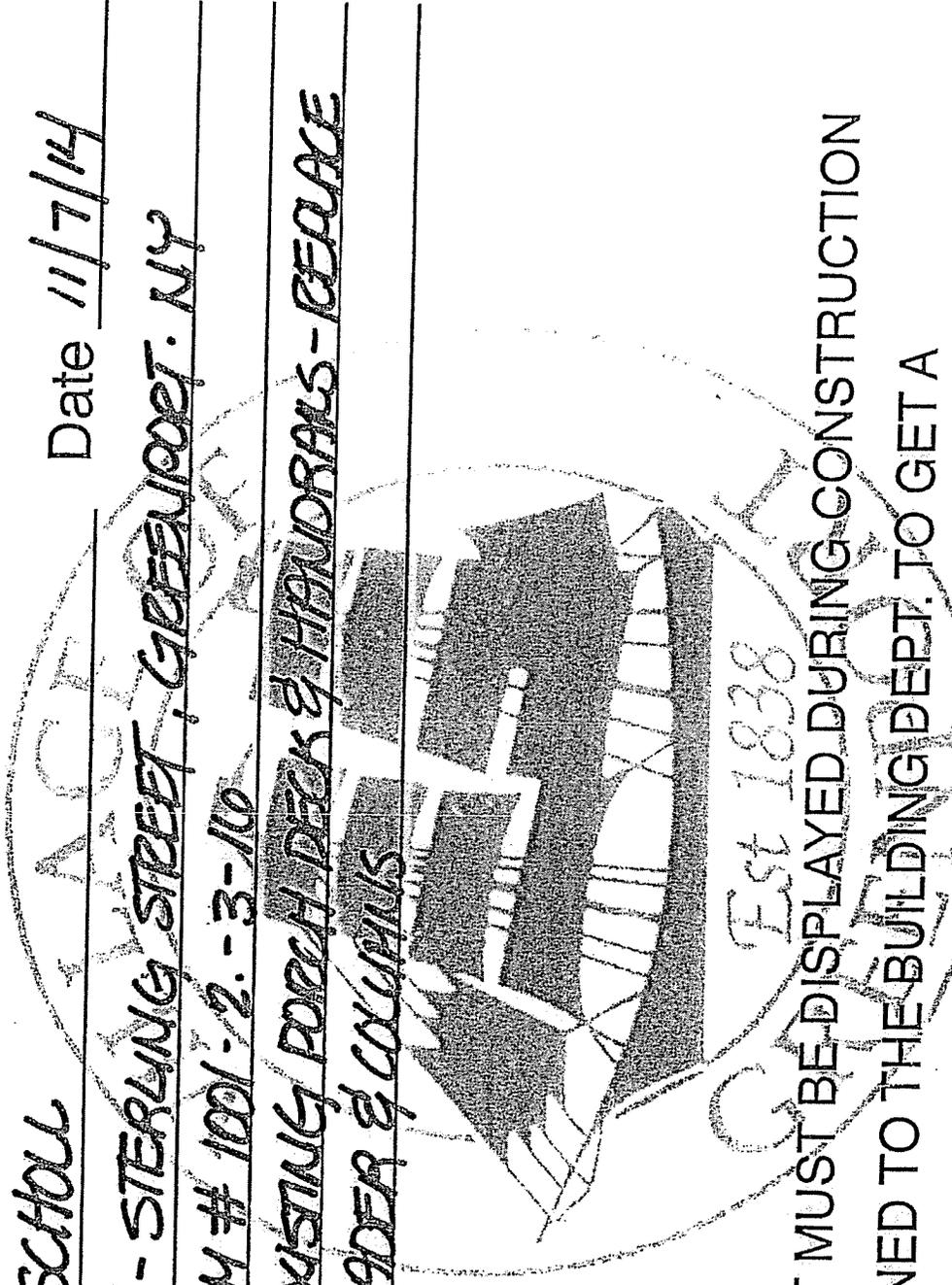
Issued to C. SCHOLL

Date 11/7/14

Address 174 - STERLING STREET, GREENBROOK, NY

SCH # 1001-2.-3-10

To REBUILD EXISTING PORCH DECK & HANDRAILS - REPAIR
PORCH HEADER & COLUMNS



THIS PERMIT MUST BE DISPLAYED DURING CONSTRUCTION
AND RETURNED TO THE BUILDING DEPT. TO GET A
CERTIFICATE OF OCCUPANCY UPON COMPLETION OF WORK.

Signed *C. Scholl*

No. 2483

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit E

Letter from Division of Historic Preservation of the NYS
Office of Parks, Recreation, and Historic
Preservation (OPRHP), [date]



**New York State
Parks, Recreation and
Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

November 20, 2023

Robert Brown
Robert I Brown Architect PC
205 Bay Ave
Greenport, NY 11944

Re: DEC
Scholl Residence Addition
174 Sterling St, Greenport, Suffolk Co.
23PR07794

Dear Robert Brown:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the submitted materials in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation and Historic Preservation Law).

The house contributes to the National Register listed Greenport Village Historic District. Because of this we have reviewed the project.

The design is appropriate. Therefore, it is the opinion of OPRHP that the project will have No Adverse Impact on the historic house.

If you have any questions, I can be reached at sloane.bullough@parks.ny.gov or 518-268-2158.

Sincerely,

Sloane Bullough
Historic Sites Restoration Coordinator via email only

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit F

NYSDEC Letter of No Jurisdiction

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 1
SUNY @ Stony Brook, 50 Circle Road, Stony Brook, NY 11790
P: (631) 444-0365 | F: (631) 444-0360
www.dec.ny.gov

LETTER OF NO JURISDICTION
TIDAL WETLANDS ACT

December 12, 2023

Donald & Cynthia Scholl
6 Gayton Dr
Highland Mills, NY 10930

Re: Application # 1-4738-01801/00005
Facility: 21174 Sterling St, Greenport
SCTM# 1001-02-03-16

Dear Applicant,

Based on the information you submitted, the Department of Environmental Conservation has determined that the above referenced property landward of the functional bulkhead greater than 100 feet in length, including adjacent properties, as shown on the survey prepared by Howard W. Young, last revised 9/14/2019, which was constructed prior to 8/20/1977, as evidenced by the 4/7/1969 historic aerial by GdB Geospatial, is beyond the jurisdiction of the Article 25 Tidal Wetlands Act. Therefore, in accordance with the current Tidal Wetlands Land Use Regulations (6NYCRR Part 661), no permit is required to conduct regulated activities landward of that bulkhead.

Be advised, no construction, sedimentation, or disturbance of any kind may take place seaward of the tidal wetlands jurisdictional boundary, as indicated above, without a permit. It is your responsibility to ensure that all precautions are taken to prevent any sedimentation or disturbance within Article 25 Jurisdiction which may result from your project. Such precautions may include maintaining adequate work area between the jurisdictional boundary and your project (i.e. a 15' wide construction area) or erecting a temporary fence, barrier, or hay bale berm.

This letter shall remain valid unless site conditions change.

Please note that this letter does not relieve you of the responsibility of obtaining any necessary permits or approvals from other agencies or local municipalities.

Sincerely,



Mary MacKinnon
Permit Administrator

Cc: Robert I. Brown, BMHP, File

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit G

Notice of Disapproval, dated April 9, 2024



Village of Greenport Building Department

236 Third Street, Greenport, New York 11944

OFFICE: 631.477.0248 / FAX: 631.477.1877

NOTICE OF DISAPPROVAL

April 9, 2024

To: Robert Brown
205 Bay Ave
Greenport New York 11944

PLEASE TAKE NOTICE that your application dated January 11, 2024 and plans dated June 5, 2023 proposed addition and renovations at existing property located at 174 Sterling Street, Greenport NY 11944 in the R2 Historic District, is returned herewith and disapproved on the following grounds:

2 Front Yard Setback Requirements.

150-12 Schedule Regulations

R-2 District: Minimum Front Yard Requirement: 30 feet.

The plans show the front yard setback of 23'3"

This would require an area variance of 6'7"

3 Side Yard Setback Requirements.

150-12 Schedule Regulations

R-2 District: Minimum Side Yard Requirement: 10'

The plans show the side yard setback of 7'4"

This would require an area variance of 2'8"

4 Side Yard Setback Requirements.

150-12 Schedule Regulations

R-2 District: Minimum Side Yard Requirement: 10 feet.

The plans show the side yard setback of 7'6"

This would require an area variance of 2'6"

5 Combined Side-Yard Setback Requirements.

150-12 District Regulations

R-2 District: Minimum Combined Side-Yard Setback: 25 feet.

The plans show a combined side yard-setback of 14'10"

This would require an area variance of 10'2"

This application is therefore denied, requiring the above-mentioned area variances.

The premise to which this application applies to is located at 174 Sterling Street, Greenport NY 11944 in the R2 Historic District.

Map: 1001 Section: 2 Block: 3 Lot: 16



.....
Alex Bolanos

Date : 04/9/2024

Code Enforcement Official

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit H

ZBA Transcript, July 16, 2024

1 VILLAGE OF GREENPORT
 2 COUNTY OF SUFFOLK : STATE OF NEW YORK
 3 -----x
 4 ZONING BOARD OF APPEALS
 5 REGULAR SESSION
 6 -----x

7 Station One Firehouse
 8 Third & South Streets
 9 Greenport, New York 11944
 10 July 16, 2024
 11 6:00 p.m.

12
 13 B E F O R E:
 14 JOHN SALADINO - CHAIRMAN
 15 DINNI GORDON - MEMBER
 16 DAVID NYCE - MEMBER
 17 JACK REARDON - MEMBER
 18 SETH KAUFMAN - MEMBER (Absent)

19 *****

20 ALSO IN ATTENDANCE:
 21 BRIAN STOLAR - VILLAGE ATTORNEY

22
 23
 24
 25

1 (The Meeting was Called to Order at 6:03 p.m.)

2 CHAIRMAN SALADINO: Good evening, folks.

3 This is the Zoning Board of -- it's 6:03. This is
4 the Village of Greenport Zoning Board of Appeals
5 Regular Meeting.

6 *Item No. 1 is, is a motion to accept the*
7 *minutes of the June 18th, 2024 Zoning Board of*
8 *Appeals meeting. So moved.*

9 MEMBER REARDON: Second.

10 MEMBER GORDON: Second.

11 CHAIRMAN SALADINO: All in favor?

12 MEMBER REARDON: Aye.

13 MEMBER NYCE: Aye.

14 MEMBER GORDON: Aye.

15 CHAIRMAN SALADINO: And I'll vote aye.

16 Just as an explanation to the public, we have
17 one member out, he has COVID, so we told him he
18 couldn't come.

19 (Laughter)

20 CHAIRMAN SALADINO: *Item No. 2 is a motion to*
21 *schedule the next Zoning Board of Appeals meeting*
22 *for August 20th, 2024, at 6 p.m., at Station One*
23 *Firehouse, Third and South Streets, Greenport,*
24 *New York 11944. So moved.*

25 MEMBER GORDON: Second.

*Pages 3-23 Intentionally Deleted
as they do not pertain to 174 Sterling Street*

1 *regarding the application of Robert I. Brown, RA,*
2 *on behalf of Donald and Cynthia Schroll? Scholl?*

3 ATTORNEY STOLAR: Scholl.

4 CHAIRMAN SALADINO: *Applicant proposes an*
5 *addition to an existing two-story, wood frame,*
6 *single family residence. This is a proposed*
7 *increase in building coverage of 1,386 square feet*
8 *for each floor, and it would require the following*
9 *variances.*

10 The variances are listed on the agenda. For
11 someone that doesn't have an agenda, there's an
12 extra one here. I'm not going to read them. Is
13 the applicant here?

14 MS. REICHERT: Yes.

15 CHAIRMAN SALADINO: Name and address for the
16 Stenographer, please.

17 MS. REICHERT: Good afternoon, Chairman and
18 Members of the Zoning Board. My name is Martha
19 Reichert. I'm an Attorney, I'm a partner at
20 Twomey, Latham, Shea, Kelley, Dubin & Quartararo,
21 33 West Second Street, Riverhead, New York, for the
22 applicant, Cynthia Scholl. I'm also joined by
23 Cynthia today, and the Architect, Robert Brown.

24 There are a couple of things that I want to
25 bring before the Board, I briefly spoke to Counsel

1 about them, and one of them is that in reviewing
2 the Notice of a Disapproval, in conjunction with
3 the newly adopted Chapter 150, I believe that there
4 may be reason to revise the Notice of Disapproval.
5 It would not result in additional variances or
6 greater variances, but there are a couple of
7 sections of the new code, and specifically 150-13,
8 that may actually reduce the amount of relief
9 that's being sought.

10 So rather than, you know, not raise this at
11 this moment, I'd like to take that opportunity to
12 say that I would like to move forward with
13 scheduling of the Public Hearing, but I also
14 intend to consult with the Building Inspector to
15 see whether or not those particular sections of the
16 newly adopted code -- I mean, I guess it's almost
17 been -- it's been several months, right, if that
18 would affect it, only because it may not have been
19 taken into consideration, and those are specifically --
20 so it's 150-13, which is exceptions to the yard
21 requirements, and there is a section for existing
22 lots.

23 And then there is also E(1), which is
24 commonly known in most municipalities as the
25 Four-Tenths Rule. It didn't exist before in the

1 code, but it does now, and that actually computes
2 the side yard relief you need on an undersized or
3 under-width lot, the four-tenths of the actual lot,
4 which would result in a total combined side yard
5 area requirement of 20, as opposed to 25, which,
6 again, would change the magnitude of the variances
7 that are being sought.

8 So I did want to bring that to the Board's
9 attention, because I think it's an important thing
10 to raise with the Building Inspector, just to make
11 sure he considered it.

12 CHAIRMAN SALADINO: We always -- okay. We
13 always, and I could perhaps understand the Building
14 Inspector, we've always applied that portion of the
15 code to new construction, so --

16 MS. REICHERT: Which we do have, based --
17 especially in terms of what you were just saying in
18 the last --

19 CHAIRMAN SALADINO: No. When we say new
20 construction, we meant like an unoccupied lot.

21 MEMBER NYCE: Unoccupied lot.

22 CHAIRMAN SALADINO: I'm pretty --

23 MS. REICHERT: No, I appreciate that.
24 Although, looking at it, it says new proposed one
25 or two-family dwelling, right? So -- and that's

1 fine with respect to -- oh, sorry, I'm in the wrong
2 section. So it says existing small lot, right? So
3 it has to be an existing lot in order to not have
4 merged, right, to have it necessarily approved. So
5 I'm looking at 150-13(E), Existing Small Lots, and
6 I don't see anything that would expressly require
7 that for a brand new residence.

8 CHAIRMAN SALADINO: Again, just, just as an
9 explanation, in the past, the policy has been,
10 especially with the old code, the policy has
11 been that the Building Inspector considered
12 undersized lots, existing small lots, and to use
13 the Four-Tenths -- am I getting that right,
14 Four-Tenths?

15 MS. REICHERT: Yes, the Four-Tenths Rule.

16 CHAIRMAN SALADINO: Four-Tenths for new
17 construction. So we're going to have to -- if a
18 revised Notice of Disapproval is -- but just, just
19 as a question, just as a question, in looking at
20 the relief sought, it also says that the minimum is
21 10 feet.

22 MS. REICHERT: Well, it says the minimum of
23 10 feet, but what the Four-Tenths Rule does is it
24 changes what the combined total side yard is,
25 right? So in the R-2 Zoning District, the combined

1 total side yard is 25.

2 CHAIRMAN SALADINO: Twenty-five.

3 MS. REICHERT: Right? But under the
4 Four-Tenths Rule, the calculation on a 50-foot-wide
5 lot would be 20 feet --

6 CHAIRMAN SALADINO: So your contention is
7 that --

8 MS. REICHERT: -- again, which just reduced
9 the magnitude of the variance.

10 CHAIRMAN SALADINO: I understand what you're
11 saying. So your contention is, is that the
12 combined, the combined side yard setback, instead
13 of being 25 feet, should be 20 feet, and the relief
14 sought would be --

15 MS. REICHERT: Well, it would be reduced by
16 5 feet.

17 CHAIRMAN SALADINO: By 5 feet. But the side
18 yards would still require relief.

19 MS. REICHERT: Yes, they would still require
20 relief. But, as you all know, that goes towards
21 one of the --

22 MEMBER GORDON: Well --

23 MS. REICHERT: -- the balancing test factors.

24 MEMBER GORDON: It says, and presumably you
25 would argue, that there would be virtually no need

1 for relief, because 5 -- we have two side yards,
2 and you divide the 5 by -- in half, and it's 2.5?

3 CHAIRMAN SALADINO: No, no, no, no.

4 MS. REICHERT: No, no, no.

5 MEMBER GORDON: It doesn't work?

6 MS. REICHERT: At a minimum, it would still
7 have to be 10 feet on each side. It just changes
8 that combined total yard requirement from 25 to 20
9 under the Four-Tenths Rule.

10 MEMBER GORDON: Yeah, okay. Yeah, I see.

11 MS. REICHERT: And then I also wanted to,
12 you know, consult with the Building Inspector
13 regarding -- hold on one second, because this is in
14 the way. But it's also in 150-13, and that is
15 Subsection D(3), which is Existing Setback. And I
16 would have to have our architect calculate that,
17 but I think that's also a relevant section that was
18 not considered in the Notice of Disapproval.

19 CHAIRMAN SALADINO: Well, again, we talk a
20 lot about policy here that's not like written down,
21 but the policy currently in the Village is that any
22 preexisting nonconforming building, which this house
23 is right now --

24 MS. REICHERT: Sure.

25 CHAIRMAN SALADINO: -- we list, we list in

1 our -- we list the requirements that would normally
2 be required, and the term the Village uses is it
3 comes to the Zoning Board and we legitimize them,
4 you know, the front yard.

5 MS. REICHERT: Sure.

6 CHAIRMAN SALADINO: Any side yard that's --

7 MS. REICHERT: We often call them sort of
8 housekeeping variances. Like an instance, if this
9 property where the nonconforming front yard setback
10 is existing, right, and this is a historic home
11 that was clearly built prior to the implementation
12 of mapping and zoning.

13 CHAIRMAN SALADINO: But, but, there's always
14 a but, but with the proposed addition that's new
15 construction, and those existing setbacks --

16 MS. REICHERT: Uh-huh.

17 CHAIRMAN SALADINO: -- the new construction
18 would have to apply, would have to conform to code.

19 MS. REICHERT: Absolutely.

20 CHAIRMAN SALADINO: So that's the reason --

21 MS. REICHERT: But this, but this section is
22 about proposed dwellings.

23 CHAIRMAN SALADINO: I didn't hear you,
24 I'm sorry.

25 MS. REICHERT: I'm sorry. So Village Code

1 150-13(D), Subsection 3, says, "No proposed one-
2 or two-family dwelling need have a setback greater
3 than the average setback of the two existing
4 dwellings with the greatest setbacks within
5 200 feet on each side of said proposed dwelling, on
6 the same side of the street and within the same
7 block and the same district."

8 CHAIRMAN SALADINO: For front yard setback.

9 MS. REICHERT: No, it doesn't say for front
10 yard.

11 CHAIRMAN SALADINO: Then it's wrong. Hard to
12 believe. No, that's only -- that was always
13 applied for a front yard setbacks. I understand
14 what it says in the code now. I understand what
15 it's been for the last -- since 1971. This came
16 into effect --

17 MS. REICHERT: In October of 2023, and it
18 went into effect immediately.

19 CHAIRMAN SALADINO: Local Law 3. And I
20 apologize for not having it committed to memory.

21 MS. REICHERT: No, that's okay, that's okay.
22 Trust me, it's new for everyone.

23 CHAIRMAN SALADINO: But, again, the policy
24 and the code in the past was always that applied to
25 front yard setbacks.

1 MS. REICHERT: Right, but it doesn't say that
2 in the code, which is why I'm happy to consult with
3 the Building Inspector, because, ultimately, he is
4 the interpreter, right? And this Board is an
5 Appellate Board, so if he chooses to revise the
6 Notice of Disapproval, then that's fine. It
7 doesn't change, right?

8 So in terms of the relief that this Board is
9 now being asked to grant, if the Building Inspector
10 agrees that these provisions apply, then we're not
11 being -- we're not requesting greater relief than
12 what's already currently in the current Notice of
13 Disapproval, it would just be a revised one. But
14 that's why I wanted to bring it to this Board
15 before we were noticed and before we proceeded
16 towards moving towards a Public Hearing.

17 CHAIRMAN SALADINO: So would it be -- just,
18 just you don't have to answer, but just for my own
19 information, if the Building Inspector decides that
20 this is how he wants to apply the code, or apply
21 contrary to what it says here, you would be asking
22 for an interpretation or a variance?

23 MS. REICHERT: No, no. I would be asking for
24 him to review -- personally, I would probably
25 initiate a conversation with the Building Inspector

1 and just ask him whether or not he considered these
2 provisions when he drafted the Notice of Disapproval.

3 CHAIRMAN SALADINO: And if the answer was
4 a firm yes?

5 MS. REICHERT: If he says yes, well, then,
6 you know, we would have to take our next steps from
7 there. But, at this point, what we have is an
8 application which is based on a Notice of
9 Disapproval, and so we just want to confirm, it's
10 been revised before, that it accurately reflects an
11 application of the new zoning code as its been
12 adopted.

13 ATTORNEY STOLAR: So the applicant's
14 representative is essentially asking to protect her
15 client, rather than --

16 CHAIRMAN SALADINO: As she should, right?

17 ATTORNEY STOLAR: Rather than just move
18 forward and getting, you know, an approval or
19 denial based on what is before the Board.

20 CHAIRMAN SALADINO: So --

21 ATTORNEY STOLAR: So it's reasonable, it's a
22 reasonable request, and I think it's something the
23 Board should consider in a positive way.

24 CHAIRMAN SALADINO: So all we're expecting
25 Alex to do is to come up with a revised --

1 either --

2 MEMBER NYCE: Either revised or not.

3 CHAIRMAN SALADINO: Stick to his guns or
4 revise the Notice of Disapproval.

5 MEMBER NYCE: Right.

6 ATTORNEY STOLAR: Correct.

7 MS. REICHERT: Correct.

8 CHAIRMAN SALADINO: And that doesn't affect
9 anything we're going to do here tonight.

10 ATTORNEY STOLAR: No, she's -- Counsel is
11 asking that you hold off taking any action tonight
12 while it's being reviewed, well, it will subsequently
13 be reviewed by the Building Inspector.

14 MS. REICHERT: Well --

15 CHAIRMAN SALADINO: Is that what you're
16 asking, that you don't want us to accept this
17 application tonight?

18 MS. REICHERT: No, no, no, no. I mean, I
19 would prefer not to hold off from scheduling the
20 Public Hearing, but I also know that it's a very
21 busy time of year, and that the Chief Building
22 Inspector might not be able to accommodate or
23 review this prior to the publication and noticing
24 deadlines, once we set forth the public hearing.
25 And I don't know what the publication deadline

1 would be based on the next -- you know, when we're
2 being calendared for.

3 But I suppose one of the things this Board
4 could do is they could set the Public Hearing, not
5 for the closest, soonest meeting, but perhaps the
6 one afterwards. That way that would give us
7 adequate time to review with the Building
8 Inspector. And that way when this is noticed in
9 terms of the newspaper and publishing and mailings,
10 that we have a potentially revised mailing list.

11 But the reason why I would think that this
12 would be okay, and, obviously, you have to defer to
13 your Counsel, is that any revised Notice of
14 Disapproval will not be greater in magnitude in
15 terms of, right, we're not submitting revised
16 plans, it's just how it's written in terms of the
17 relief that's being granted. And, of course, by
18 the time, you know, notice and posting and
19 everything goes out, the involved neighbors will
20 all be receiving a copy of the current Notice of
21 Disapproval, or the same one, if there's no change
22 required, and the application.

23 CHAIRMAN SALADINO: Well, why wouldn't -- why
24 wouldn't this Board tabling this application this
25 evening?

1 MS. REICHERT: That's also suitable. If you
2 want to table it, that's fine.

3 CHAIRMAN SALADINO: Well, we would do it at
4 your request.

5 MS. REICHERT: Okay.

6 ATTORNEY STOLAR: If you table it, you can
7 discuss it again in August, at the August meeting,
8 and then schedule it possibly for September.

9 CHAIRMAN SALADINO: Well, that's kind of like
10 what she's asking.

11 MS. REICHERT: At that point you may know.

12 MS. REICHERT: Yeah. No, we have no
13 objections to the Board proceeding that way. And,
14 in fact, you know, I don't think it would be
15 appropriate to submit it right now. But as the
16 architect and I were reviewing something, we saw a
17 printing error where one of the west elevation --
18 right, you saw that the east --

19 MEMBER NYCE: There's two east elevations.

20 MS. REICHERT: The east elevation appeared
21 twice. So we'll be submitting revised plans, so
22 that they could be uploaded and reviewed properly.
23 So, you know, I think that if you want to table
24 this to the August meeting, then we can also have
25 time to consult with the Building Inspector.

1 CHAIRMAN SALADINO: Well, that makes it easy
2 for us.

3 MS. REICHERT: Yeah.

4 CHAIRMAN SALADINO: Thank you. So, while I
5 have you, just so you are prepared, just some stuff
6 that I kind of saw, easy stuff on the -- or I could
7 address it next month.

8 MS. REICHERT: No, that's fine, because this,
9 I think, will give us the opportunity to make -- to
10 address it, so that by the time it does get
11 scheduled for a hearing, we're dealing with sort of
12 the final application, right? That's the purpose
13 of this.

14 CHAIRMAN SALADINO: You know, one or two
15 things on the application that I'll certainly --
16 I'm positive we'll ask you about at the Public
17 Hearing, but just before we get to the Public
18 Hearing, looking at the EAF, a couple of questions
19 on the EAF that perhaps you can address before,
20 before the next time.

21 MS. REICHERT: Absolutely.

22 CHAIRMAN SALADINO: It would be -- one of
23 them would be question No. 7, "Is the site of the
24 proposed action located in, or does it adjoin, a
25 State listed Critical Environmental Area", and you

1 put no, and, you know, we were kind of unsure
2 about that.

3 "Does the site contain a structure that's
4 listed" -- I don't know why I'm on that. I'm sorry.
5 Oh. "Is the proposed action located in an
6 archeological sensitive area?" I can't -- I'm not
7 sure about that.

8 "Would the proposed action physically alter
9 or encroach into any wetlands or by" -- I'm of the
10 opinion it does, but you have a Letter from -- of
11 Nonjurisdiction from the DEC --

12 MS. REICHERT: Absolutely. Well, you know,
13 and --

14 CHAIRMAN SALADINO: Which I kind of dispute,
15 but --

16 MS. REICHERT: Well, but, you know, just I
17 know a thing or two about wetlands. I used to be
18 the Southampton Town Conservation Board Counsel,
19 which grants wetlands permits, you know, and the
20 Village of Greenport, their wetlands code is a
21 different chapter from the zoning code, is a
22 vegetation-based code, right? So what it look at
23 is you have two different sort of wetland
24 boundaries, artificial ones, like a bulkhead,
25 right? So in the instance of this property, it was

1 eligible for a Letter of Nonjurisdiction because of
2 the bulkheaded.

3 On an unbulkheaded property, what you look at
4 in terms of determining your wetlands boundary is
5 where the wetlands vegetation no longer has a
6 competitive edge over the upland species.

7 So I understand in terms of discussing
8 wetlands, but we do have the Letter of
9 Nonjurisdiction from the DEC. We are also not
10 within any tidal waters in terms of the work that's
11 being done. There's no freshwater wetland
12 vegetation to suggest that we're working within a
13 freshwater wetland. The wetlands code, which,
14 again, is not part of the Zoning Code --

15 CHAIRMAN SALADINO: No. But Chapter, Chapter
16 130 -- 134, Waterfront Consistency Act is
17 adjudicated by the Zoning Board.

18 MS. REICHERT: Sure.

19 CHAIRMAN SALADINO: So that -- but just, just
20 again, just as a policy question.

21 MS. REICHERT: No, I understand that.

22 CHAIRMAN SALADINO: Just as a policy
23 response.

24 MS. REICHERT: What we can do is review the
25 EAF, and, you know, any of those questions,

1 you know, we'll go over them with a fine tooth
2 comb.

3 I did not prepare the EAF myself. I was
4 retained after the application was submitted, but
5 we can look at it and address anything in terms of
6 CEAs. And, you know, in some of the neighbors'
7 letters, they had a question about, you know,
8 surface water runoff, and drainage, and point
9 sources, so, you know, we can address all of that.
10 And if anything needs to be revised, then we'll
11 submit a revised EAF.

12 CHAIRMAN SALADINO: Just, again, and just to
13 get it on the record, because, again, I think it's
14 important, we talk a lot about policy in Greenport.
15 Greenport is the last permitting agency when it
16 comes to a permit. And even though you have a
17 Letter of Nonjurisdiction from, from the DEC, the
18 DEC -- I believe, the bulkhead is 95 feet from the,
19 from the, from the accessory structure. The DEC
20 code for tidal wetlands says 300 feet is an
21 adjacent area. Southold Town says 100 feet. The
22 Village of Greenport uses 100 feet. And the linear
23 distance is not measured from the fixed bulkhead,
24 it's measured from the tidal zone, and the tidal
25 zone AE intrudes onto the property 50 or 60

1 additional feet past the bulkhead.

2 So I understand you have that Letter of
3 Nonjurisdiction, but, again, the Village of
4 Greenport is the last permitting agency for the --
5 and for the members of the public that don't know,
6 I'm a member of the Conservation Advisory Council,
7 and for the last 16 years that's how we applied
8 that policy, from the tidal zone, not from the
9 fixed bulkhead. So that will be stuff that I'm
10 going to, that I'm going to raise, just so --

11 MS. REICHERT: Sure.

12 CHAIRMAN SALADINO: -- you could respond.

13 MS. REICHERT: And, just for the record, the
14 proposed porch is shown as 96 feet from the
15 bulkhead, but the principal dwelling is about
16 180 feet deep.

17 CHAIRMAN SALADINO: But it's fixed. I don't
18 want to debate it with you here.

19 MS. REICHERT: No, no, it's fine, you know.

20 CHAIRMAN SALADINO: I don't want to debate it
21 with you here. It's a fixed construction, it's
22 masonry construction, there's a wall around it.
23 The Village of Greenport considers that an
24 accessory structure, it's -- and you're -- the DEC
25 says 100 feet. Well, the DEC says 300 feet. The

1 Town of Southold and Village of Greenport says 100
2 feet. If we look at the map, it's 95 feet from the
3 bulkhead. So even with those dimensions, it would
4 require a wetland permit. That's something you
5 could talk to the Village about, the Village
6 Attorney, the Village Building Inspector. Right
7 now it's not the time to talk about that, because
8 I'm going horse, and I apologize.

9 MS. REICHERT: That's fine.

10 CHAIRMAN SALADINO: So we're going to take
11 your advice and we're going to table this until our
12 August meeting, which is -- I have it here in front
13 of me.

14 MS. REICHERT: You just had a motion on it,
15 actually.

16 CHAIRMAN SALADINO: I'm sorry?

17 MS. REICHERT: You just had a motion on that.

18 MEMBER NYCE: August 20th.

19 CHAIRMAN SALADINO: We had a motion to table it?

20 MS. REICHERT: No, no, no. I said you had a
21 motion to set the date of your next meeting at the
22 beginning of this meeting.

23 ATTORNEY STOLAR: She's referring to the
24 earlier motion that you set for August 20th.

25 CHAIRMAN SALADINO: I understand that, and I

1 apologize to the public, I apologize to the
2 Attorney. I'm an old coot and sometimes I forget.

3 MS. REICHERT: Don't worry.

4 CHAIRMAN SALADINO: You know, that's why I
5 have the agenda in front of me, to refer to it.

6 So we're going to set the -- we're going to
7 table this application until our August 20th
8 meeting, 6 p.m., at this firehouse. How's that?

9 MS. REICHERT: Thank you very much.

10 CHAIRMAN SALADINO: Thank you. You're good,
11 we're good?

12 MEMBER NYCE: Do that as a motion?

13 CHAIRMAN SALADINO: Okay. I'm not sure if we
14 need that.

15 ATTORNEY STOLAR: You don't need it as a
16 motion.

17 MEMBER NYCE: Oh.

18 ATTORNEY STOLAR: Your practice is not --
19 it's better practice to do so, but you don't --
20 it's not required.

21 MEMBER NYCE: Fantastic. I'm good.

22 CHAIRMAN SALADINO: I thought I screwed up
23 again.

24 MEMBER NYCE: No.

25 CHAIRMAN SALADINO: All right. Item No. 4,

1 Item -- whatever the item number is, because we're
2 out of order, I apologize.

3 MEMBER NYCE: Next item.

4 CHAIRMAN SALADINO: Next item is 181 Fifth
5 Street. This is a motion to accept the
6 application --

7 MR. KOHUT: Thank you. We're all leaving now
8 after 174 Sterling Street.

9 MEMBER NYCE: Was it something we said?

10 CHAIRMAN SALADINO: Yes.

11 (Laughter)

12 CHAIRMAN SALADINO: *181 Fifth Street. This*
13 *is a motion to accept the application, schedule a*
14 *Public Hearing, and arrange a site visit regarding*
15 *the application of 181 Fifth Street LLC. The*
16 *Applicant proposes a 612 square foot, two-story*
17 *addition with basement. This requires the*
18 *following additional variance:*

19 *A Side Yard Setback Requirement.*

20 *Minimum Side Yard Requirement is 10 feet.*

21 *The plan shows a side yard setback of 8.7 feet.*

22 *This would require an area variance of 1.3 feet.*

23 *The property is located in the R-2 One and*

24 *Two-Family District and is not located in the*

25 *Historic District.*

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit I

ZBA Transcript, December 16, 2025

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VILLAGE OF GREENPORT
COUNTY OF SUFFOLK : STATE OF NEW YORK

VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS
REGULAR SESSION

-----x

Greenport Firehouse
December 16, 2025
6:00 p.m.

B E F O R E:

- JOHN SALADINO ~ CHAIRMAN
- DINNI GORDON ~ MEMBER
- SETH KAUFMAN ~ MEMBER
- DAVID NYCE ~ MEMBER
- JACK REARDON ~ MEMBER

- BRIAN STOLAR, ESQ. ~ ZONING BOARD ATTORNEY
- MICHAEL NOONE ~ CLERK TO THE BOARD

- All other interested parties

2 CHAIRPERSON SALADINO: It's
3 approximately 6:05. This is the
4 Village of Greenport Zoning Board of
5 Appeals Regular Meeting.

6 Item number 1 is a motion to accept
7 the minutes of the November 18, 2025,
8 Zoning Board of Appeals Meeting. So
9 moved.

10 MEMBER NYCE: Second.

11 CHAIRPERSON SALADINO: All in
12 favor?

13 MEMBER REARDON: Aye.

14 MEMBER NYCE: Aye.

15 MEMBER GORDON: Aye.

16 MEMBER KAUFMAN: Aye.

17 CHAIRPERSON SALADINO: And I'll
18 vote aye.

19 Item Number 2 is a motion to
20 schedule the next Zoning Board of
21 Appeals meeting for January 20, 2026
22 at 6:00 p.m. at Station One Firehouse,
23 Third and South Street, Greenport, New
24 York 11944. So moved.

25 MEMBER GORDON: Second.

*Pages 3-46 Intentionally Deleted
as they do not pertain to 174 Sterling Street*

2 CLERK NOONE: No.

3 CHAIRPERSON SALADINO: Whenever --

4 CLERK NOONE: The potential next
5 meeting would be January 12th, the
6 Planning Board.

7 CHAIRPERSON SALADINO: So they
8 did -- they have no comment about this
9 application. Like I said, they'll
10 address whatever issues they have at
11 their meeting for site plan review.
12 Is that what their meet would be?

13 BOARD COUNSEL STOLAR: Correct.

14 CHAIRPERSON SALADINO: I'm sorry.
15 Thank you, folks.

16 Item number --

17 MEMBER GORDON: Five.

18 CHAIRPERSON SALADINO: Number 5 is
19 174 Sterling Street. This is a motion
20 to accept the application, schedule a
21 public hearing and arrange a site
22 visit regarding the application of
23 Martha F. Reichert, Esquire on behalf
24 of Cynthia and Donald is Scholl. Am I
25 getting that right?

2 Applicant proposes an
3 addition/renovation to an existing
4 two-story, wood-frame, single family
5 residence and porch. This is a
6 proposed increase in building coverage
7 of 1,273 square feet, 20.6 percent
8 total lot coverage and the variance is
9 listed on the agenda. If anybody
10 wants, that doesn't have an agenda, I
11 would read it, but if it's okay...

12 This property is located in the R-2,
13 One- and Two-Family Residential
14 District. It's also located in the
15 Historic District. The Suffolk County
16 Tax Map Number is 1001-2-3-16. Is the
17 applicant here?

18 MS. REICHERT: Good afternoon,
19 Mr. Chairman, Members of the Board of
20 the Zoning Board of Appeals for the
21 Village of Greenport. My name is
22 Martha F. Reichert. I'm a partner at
23 Twomey, Latham, Shea, Kelley, Dubin
24 and Quartararo; 33 West Second Street,
25 Riverhead, New York for the property

2 owners, Cynthia and Donald Scholl.

3 CHAIRPERSON SALADINO: Okay.

4 MS. REICHERT: Do you have any
5 questions for me?

6 CHAIRPERSON SALADINO: I do. As
7 strange as that may sound, I do have
8 one or two questions. We have -- I'm
9 not sure if you were the attorney that
10 appeared the last time this
11 application came in front --

12 MS. REICHERT: I was.

13 CHAIRPERSON SALADINO: At that
14 time there was a question about the
15 notice of disapproval. There were
16 three requests for relief on that
17 notice of disapproval, two of them for
18 east side, west side and side yard
19 variance, and total and combined side
20 yard setback.

21 MS. REICHERT: Correct.

22 CHAIRPERSON SALADINO: And if I
23 recall, you, as the attorney, chose to
24 put a pin in that proceeding to --

25 MS. REICHERT: Correct. Well, if

2 you'd like, I can recite the history
3 of what happened. So approximately
4 two years ago we had a notice of
5 disapproval. We were at this exact
6 stage that we're at right now, which
7 is the application had been deemed
8 complete. The Board, as an agenda
9 item, was going to accept the
10 application and schedule public
11 hearing.

12 Just as I am standing here before
13 you right now, I asked the Board to
14 respectfully to not schedule the
15 public hearing because there were
16 errors in the notice of disapproval.
17 That, of course, had the unfortunate
18 timing of the building inspector's
19 departure, so it took quite a while
20 for us to get a revised notice of
21 disapproval that was in compliance
22 with the Village code.

23 And so we obtained a new notice of
24 disapproval, revised to comport with
25 the Village code, including what's

2 known as four-tenths rule, which
3 applies. I didn't know I was going to
4 have to speak to it today, but I think
5 it's -- what is it, Section 13 of the
6 Zoning Code, which applies to this lot
7 as found by the chief building
8 inspector. And so it changes the size
9 of the variances requested as
10 permitted under the code in compliance
11 with the code.

12 So the notice of disapproval you
13 have before you now is the correct one
14 upon which this application has been
15 made to the Zoning Board.

16 CHAIRPERSON SALADINO: At that
17 time -- at that time I had expressed
18 to you that it was -- it's been my
19 experience that -- and my knowledge,
20 that prior to my service on the Zoning
21 Board of Appeals -- and I'm thinking --

22 MEMBER GORDON: Prior to mine
23 also.

24 CHAIRPERSON SALADINO: Diana's
25 also, there was an interpretation

2 that -- and I think I expressed that
3 at that time -- that undersized
4 lots -- the interpretation interpreted
5 that undersized lots came under the
6 four-tenths rule only for unimproved
7 properties.

8 MS. REICHERT: And if you'll
9 recall, what I had told you was that
10 the Village had just readopted a new
11 zoning code and that's not in the old
12 code and it's also not in the new
13 code. So you had said it was a
14 policy.

15 CHAIRPERSON SALADINO: What I said
16 was there was an interpretation --

17 MS. REICHERT: An interpretation
18 by who?

19 CHAIRPERSON SALADINO: By the
20 Zoning Board of Appeals prior to this
21 Zoning Board of Appeals. I can't give
22 you the date.

23 MS. REICHERT: No, that's fine,
24 but what I can tell you is that if
25 this is still a live question for the

2 Board, again, because it sounds like
3 the Board wants to challenge the
4 building inspector's determination,
5 which is, again, procedurally odd and
6 you can have your attorney speak to
7 that. But this is, it's in the code.
8 There is no differentiation about
9 improved, unimproved, but I can
10 certainly --

11 CHAIRPERSON SALADINO: But the
12 interpretation you --

13 MS. REICHERT: Hold on just a
14 moment, Mr. Chairman, because can I
15 put in probably about seven to ten
16 examples where this Zoning Board has
17 heard appeals based on notices of
18 disapproval prepared by whoever was
19 the chief building inspector at the
20 time, which employed the four-tenths
21 rule, not to vacant lots, but to
22 improved lots, to existing lots that
23 were doing additions.

24 So I understand that you're talking
25 about an interpretation, but I

2 certainly can show a precedent from
3 the Board as recent as, you know, a
4 year or two ago, all the way through
5 the early 2000's where the four-tenths
6 rule was employed exactly as it's been
7 employed right now by the chief
8 building inspector.

9 There is no change to the new zoning
10 code as opposed to prior version to
11 this particular section, and there are
12 no qualifications of how it applies or
13 doesn't apply. The sole criteria for
14 the application of the four-tenths
15 rule is the size of the lot and the
16 zoning code -- the zoning district
17 that it is located in, all of which
18 this particular property qualifies
19 for.

20 CHAIRPERSON SALADINO: Can I
21 respond now?

22 MS. REICHERT: Sure.

23 CHAIRPERSON SALADINO: The
24 interpretation by the Zoning Board was
25 that that four-tenths rule would apply

2 only to unimproved properties at that
3 time. The policy in the Village for
4 the last, in my recollection, 20 years
5 has been that that would apply only to
6 unimproved properties.

7 MS. REICHERT: I may I ask a
8 question?

9 CHAIRPERSON SALADINO: My turn.
10 My turn. You say that this Board has
11 misinterpreted that -- and we know
12 that interpretations carry the weight
13 of president and I don't recall -- in
14 my experience, yeah, I don't recall us
15 applying that rule as short as a year
16 ago to a property.

17 MS. REICHERT: Not a year ago
18 because it would have to be prior to
19 when we were first before --

20 CHAIRPERSON SALADINO: Didn't you
21 just say a year ago?

22 MS. REICHERT: No, I said as far
23 as a couple years ago. So perhaps I
24 misspoke. At least two years ago from
25 when the first time we were here.

2 But I just -- let's be clear about
3 what we're here for. This is
4 basically like a work session almost.
5 This is not the public hearing. The
6 Board does not have jurisdiction to
7 hear this application until notice has
8 been given to neighbors, right, posted
9 in accordance with the Village law of
10 New York. So what we're --

11 CHAIRPERSON SALADINO: We do have
12 the right to either accept or not
13 accept this application unless it's
14 complete or correct.

15 MS. REICHERT: Well, I guess that
16 is up for you to make that
17 determination. I mean, really it's --
18 actually, no, I'm sorry, it's not.
19 It's up for the chief building
20 inspector, right?

21 He is the interpreter of the code
22 under the Village law, under the
23 Village code as well. We have
24 received a notice of disapproval from
25 him that says the variances that are

2 required and that is what this Board
3 has appellate jurisdiction to hear.

4 This Board doesn't have jurisdiction
5 to change what needs to be applied for
6 a variance. I mean, the Second
7 Department and all the courts of this
8 state have upheld that several times.
9 Riverhead v -- Capetola v Town of
10 Riverhead is probably one of the best
11 examples of that.

12 So we're either proceeding to the
13 public hearing, which I am up here to
14 say we are ready to proceed to the
15 public hearing. That it why it's on
16 the agenda. Or the Board can make
17 whatever determination it wants to
18 make at this point, at which point
19 will be a final determination and we
20 will, you know, respectfully --

21 CHAIRPERSON SALADINO: We're here
22 now --

23 MS. REICHERT: -- advance our
24 rights.

25 CHAIRPERSON SALADINO: We're here

2 now to accept application or not, not
3 to proceed to a public hearing. We're
4 here to accept this application or
5 not. Sometimes --

6 MS. REICHERT: What does that
7 mean? I mean, it was accepted, the
8 fee was paid. Are you --

9 CHAIRPERSON SALADINO: What?

10 MS. REICHERT: Are you deeming the
11 application incomplete? I don't --
12 you know, the application has been
13 accepted. It's either going to be
14 scheduled for a public hearing in
15 accordance with the law or you're
16 refusing to schedule a public hearing.

17 CHAIRPERSON SALADINO: I'm not
18 saying we're looking to overstep our
19 bounds here.

20 MS. REICHERT: Well, I think you
21 are.

22 CHAIRPERSON SALADINO: I'm sorry?

23 MS. REICHERT: You are
24 overstepping your bounds. You either
25 schedule a public hearing, you've

2 accepted the application. It has
3 been --

4 CHAIRPERSON SALADINO: We haven't
5 accepted the application.

6 MS. REICHERT: The submission of
7 the application was accepted. It has
8 advanced tot agenda item for this
9 Board to determine if it's going to
10 schedule the public hearing. But that
11 is this Board's purview, at this
12 point, is to schedule a public
13 hearing. And until then, the Board's
14 jurisdiction is not triggered until
15 the public hearing is opened.

16 CHAIRPERSON SALADINO: In this
17 municipality --

18 MS. REICHERT: Which follows the
19 Village law of the State of New York.

20 CHAIRPERSON SALADINO: In this
21 municipality, this Board has the right
22 to either accept an application or
23 not. That's how it is. If the
24 application is complete and correct,
25 we would gladly accept it.

2 MS. REICHERT: And on what grounds
3 would you not be accepting the
4 application?

5 CHAIRPERSON SALADINO: I didn't
6 say we would or wouldn't.

7 MS. REICHERT: Well, I just -- I
8 mean, I've been doing this for 20
9 years. This is all I do is zoning and
10 land use and I've never had a
11 Zoning Board tell me --

12 CHAIRPERSON SALADINO: All we hear
13 from people, all we hear from experts
14 is, I've been doing for 20 years, I've
15 been doing this for 25 years, I've
16 been doing this for 100 years, but
17 right now what we have in front of us
18 is a Village law --

19 MS. REICHERT: Village code.

20 CHAIRPERSON SALADINO: An
21 interpretation is Village law.

22 MS. REICHERT: You do not have
23 legislative authority. The Zoning
24 Board can grant variances as part of
25 its jurisdiction. It can issue

2 interpretations upon request of the
3 building inspector or upon --

4 CHAIRPERSON SALADINO: Does that
5 interpretation become Village law?

6 MS. REICHERT: No, it does not.
7 You're not a legislative body, so it
8 has -- whatever you're --

9 CHAIRPERSON SALADINO: Does that
10 interpret the code as it should be
11 read?

12 MS. REICHERT: The chief building
13 inspector interprets the code. You
14 grant variances from it.

15 CHAIRPERSON SALADINO: And nobody
16 has authority over him?

17 MS. REICHERT: If it falls within
18 your appellate jurisdiction, then you
19 have authority. But, again, the
20 court's upheld that when a building
21 inspector says, this is what needs a
22 variance, that is what you are limited
23 to. You cannot invent additional
24 variances.

25 CHAIRPERSON SALADINO: Doesn't the

2 Zoning Board have the right to review
3 that as if it was a new application?

4 MS. REICHERT: No. It depends on
5 -- de novo review is limited to the
6 instances of the Village code where it
7 is appropriate where I say, I was
8 challenging the building inspector's
9 interpretation. I'm not challenging
10 the building inspector's
11 interpretation.

12 I am appealing the notice of
13 disapproval to this Board for an
14 exception from the side yard
15 variances. They are two very
16 different things and, again, your
17 counsel can instruct you and advise
18 you how the law views that, but you do
19 not get de novo review on a straight
20 up area variance appeal. That is not
21 part of your area variance appeal
22 under the Village law. I'm making a
23 distinction between Village law and
24 Village code.

25 CHAIRPERSON SALADINO: So you're

2 saying there is no recourse for this
3 Board if we see something that's
4 contrary to the code that the building
5 inspector perhaps missed. We should
6 just accept it?

7 MS. REICHERT: Why don't you
8 review Capetola v Riverhead?

9 CHAIRPERSON SALADINO: I'm sorry?

10 MS. REICHERT: Why don't you
11 review Capetola v Riverhead? That is
12 exactly what the Second Department
13 said.

14 CHAIRPERSON SALADINO: Okay, so
15 you're suggesting we adjourn this
16 meeting now so we can review that?

17 MS. REICHERT: I am suggesting
18 that you --

19 AUDIENCE MEMBER: Come on.

20 MS. REICHERT: -- schedule us for
21 a public hearing in accordance with
22 the law.

23 CHAIRPERSON SALADINO: But if the
24 application is incomplete and
25 incorrect we don't have -- we

2 shouldn't accept it.

3 MS. REICHERT: That's really not
4 within your jurisdiction to determine.
5 The building inspector has advanced it
6 to you.

7 CHAIRPERSON SALADINO: Well, in my
8 experience, unlike your 20-year
9 experience in zoning, in my
10 experience, this Board has the right
11 to either accept or reject an
12 application. You can certainly
13 challenge that.

14 MS. REICHERT: If you want to make
15 a final determination, please, go
16 ahead and make a final determination.

17 CHAIRPERSON SALADINO: I don't
18 know why this has become adversarial.
19 I'm just asking you like why are we
20 going through this process?

21 MS. REICHERT: I'll also say that
22 this is the only Board that I have
23 ever appeared before that does this,
24 which is why you end up with neighbors
25 feeling like they weren't properly

2 noticed, but this is not the public
3 hearing.

4 CHAIRPERSON SALADINO: We have a
5 neighbor here that wasn't properly
6 noticed?

7 MS. REICHERT: No, they haven't
8 been noticed because this isn't the
9 public hearing. This is your agenda
10 item to schedule the hearing.

11 CHAIRPERSON SALADINO: Why are you
12 saying you have neighbors here that --

13 MS. REICHERT: Because there's a
14 letter that was sent to -- into the
15 record, which doesn't actually exist
16 yet at this point, stating they didn't
17 receive notice.

18 CHAIRPERSON SALADINO: I'm not
19 following. What are you talking
20 about?

21 MS. REICHERT: Mr. Noone --

22 CHAIRPERSON SALADINO: We have a
23 letter that was entered into the
24 record?

25 CLERK NOONE: Nothing has been

2 entered into the public record.

3 MS. REICHERT: Because the record
4 doesn't exist yet until the hearing is
5 open.

6 CLERK NOONE: I shared --

7 MEMBER GORDON: But we should know
8 if there has been a neighbor who has
9 complained or --

10 CLERK NOONE: Any letters that I
11 received were given to the entire
12 Board and to the attorney.

13 CHAIRPERSON SALADINO: But we
14 can't read those letters --

15 CLERK NOONE: Correct.

16 CHAIRPERSON SALADINO: -- until
17 the public hearing is open.

18 CLERK NOONE: But in the interest
19 of transparency, everybody got them.
20 They asked to be shared ahead of this
21 meeting, but nothing has been entered
22 into the public record.

23 CHAIRPERSON SALADINO: Okay. So
24 I'm not sure what your point is.

25 MS. REICHERT: My point is, this

2 is not the public hearing. We are
3 substantively discussing the
4 application. You do not have --

5 CHAIRPERSON SALADINO: I thought
6 that's what we were doing.

7 MS. REICHERT: You do not have
8 jurisdiction to discuss this
9 application until the public hearing
10 record is opened, until the public has
11 been properly noticed, until the
12 property has been posted. This is
13 what the law requires. This is an
14 unusual procedure that is unique to
15 the Village of Greenport --

16 CHAIRPERSON SALADINO: I'm sorry.

17 MS. REICHERT: -- where this
18 Board, as an agenda item, places the
19 scheduling of the public hearing on
20 the agenda. And what it does is it
21 often creates confusion. But we're
22 here now and either you're going to
23 schedule the public hearing or you're
24 going to make a motion to not schedule
25 the public hearing. But your grounds

2 for saying that the application is
3 incomplete, are not supported by the
4 Village official who is charged with
5 interpreting the code, and that is the
6 building inspector.

7 He has issued a notice of
8 disapproval. It is here the
9 application is based upon it. I have
10 not been told that I am missing any
11 information. So at this point, I
12 respectfully request that this Board
13 schedule a public hearing.

14 CHAIRPERSON SALADINO: All I did
15 was ask you and let you know what I
16 know about this, that there was an
17 interpretation about one of the items
18 that was on the original notice of
19 disapproval that was to be discussed
20 later on between you and, I'm guessing
21 someone else. And now we have a new
22 notice of disapproval that doesn't
23 show that.

24 MS. REICHERT: Doesn't show what?

25 CHAIRPERSON SALADINO: Combined

2 side yard setback.

3 MS. REICHERT: Because, again, if
4 you read --

5 CHAIRPERSON SALADINO: No, no.

6 MS. REICHERT: If you read your
7 code and the four-tenths rule, the
8 combined required side yard setback
9 really kind of goes out by the wayside
10 because the side yard then just
11 becomes ten feet on each side. Again,
12 this is --

13 CHAIRPERSON SALADINO: Again,
14 again --

15 MS. REICHERT: -- your building
16 inspector who --

17 CHAIRPERSON SALADINO: Again --

18 MS. REICHERT: -- who knew,
19 because it took two years to get this
20 revised notice of disapproval --

21 CHAIRPERSON SALADINO: Again.

22 MS. REICHERT: -- because of
23 changeover with building inspectors.
24 Again, your attorney can speak to if
25 you want to challenge the building

2 inspectors interpretation of the code
3 and the building inspectors notice of
4 disapproval, but this is completely
5 inappropriate and not in accordance
6 with the law.

7 CHAIRPERSON SALADINO: Again, in
8 your experience, in your stated
9 20-year experience --

10 MS. REICHERT: Nearly 20 years.

11 CHAIRPERSON SALADINO: How many?

12 MS. REICHERT: Nearly 20 years.

13 CHAIRPERSON SALADINO: In your
14 close to 20 years experience in doing
15 this, when a Zoning Board of Appeals
16 is asked for an interpretation --

17 MS. REICHERT: I'm not asking for
18 an interpretation.

19 CHAIRPERSON SALADINO: I'm not
20 saying you did.

21 MS. REICHERT: And that's the only
22 time you get de novo review. You do
23 not have de novo review powers.

24 CHAIRPERSON SALADINO: I stated a
25 previous Zoning Board of Appeals in

2 the Incorporated Village of Greenport
3 was asked for an interpretation about
4 this exact situation and they decided
5 that that portion of the code -- let
6 me finish -- that portion of the code
7 applied to unimproved properties.

8 MS. REICHERT: Can you cite to
9 this decision?

10 CHAIRPERSON SALADINO: To the day?

11 MS. REICHERT: No, I mean you're
12 talking about something you want to
13 bind every single property in the
14 Village of Greenport. Now this Board
15 issues decisions based upon specific
16 applications. It is not a legislative
17 Board. So an interpretation is
18 limited to the application that was
19 before it. You don't get to make
20 blanket interpretations and then not
21 have the legislative body, which is
22 the Board of Trustees, follow it up
23 with an amendment to your code. And
24 again --

25 CHAIRPERSON SALADINO: But the --

2 MS. REICHERT: -- your zoning code
3 was redone. It went through multiple
4 hearings. It went through the full
5 adoption vetting process and the text
6 of the code was not changed. It is
7 not in accordance with the plain text
8 reading of the Village code and the
9 four-tenths rule.

10 So I know that you're citing to
11 something, but you can't even tell me
12 what it is. You can't cite the
13 decision. We need to see this in
14 writing and see what the context was
15 if it even exists, but the Zoning
16 Board does not get to legislate. They
17 get to examine --

18 CHAIRPERSON SALADINO: I'm not
19 suggesting --

20 MS. REICHERT: -- specific
21 applications before the --

22 CHAIRPERSON SALADINO: I'm not
23 suggesting --

24 MS. REICHERT: No, you are because
25 you're saying that what's in the code

2 doesn't apply unless you modify it by,
3 again, an un-cited interpretation that
4 you say was made, but you don't have
5 in front of me, in front of any sort
6 of place where it can be publicly
7 read. The law is the law. You get to
8 grant variances from the zoning code.

9 CHAIRPERSON SALADINO: Are you --

10 MS. REICHERT: And the zoning code
11 says that any lot that has a narrow
12 width is entitled to the four-tenths
13 rule. This rule exists in almost
14 every single municipality.

15 CHAIRPERSON SALADINO: Almost
16 every?

17 MS. REICHERT: I don't know every
18 single's municipality's code, but I
19 can tell you that every one that I
20 practice is has the four-tenths rule,
21 which is why I knew when I saw the
22 notice of disapproval that it was in
23 error.

24 CHAIRPERSON SALADINO: Is the
25 Zoning Board obligated -- this is

2 turning into a debate, but is the
3 Zoning Board obligated to follow
4 interpretations issued by previous
5 Zoning Boards?

6 MS. REICHERT: I can't speak to
7 this interpretation because I haven't
8 read it.

9 CHAIRPERSON SALADINO: That's not
10 the question I'm asking you.

11 MS. REICHERT: No. I mean, again,
12 interpretations are not the same as
13 the force of a precedent of a
14 decision. So I don't know what this
15 is.

16 CHAIRPERSON SALADINO: Is it --

17 MS. REICHERT: No.
18 Interpretations and decisions on
19 variances are different.

20 CHAIRPERSON SALADINO: Don't
21 interpretation carry the weight of
22 precedence?

23 MS. REICHERT: It's all
24 contextual.

25 CHAIRPERSON SALADINO: Yes --

2 MS. REICHERT: No. No, no, no.

3 It's contextual and it depends on how
4 it came to this Board. You are an
5 Appellate Board, unless you are
6 hearing something like special
7 permit --

8 CHAIRPERSON SALADINO: I'm not --
9 I'm not saying --

10 MS. REICHERT: No. Sir, you're
11 fundamentally misunderstanding the
12 charge of your Board.

13 CHAIRPERSON SALADINO: I'm not
14 saying we have the right to overturn
15 anything. I'm not saying you don't
16 have the rights in front of this
17 Board.

18 MS. REICHERT: You do have the
19 right to change your precedent. You
20 can look back at a decision and say,
21 you know what, upon studied review, we
22 are changing the prior precedent of
23 this Board.

24 CHAIRPERSON SALADINO: Are you
25 asking for an interpretation?

2 MS. REICHERT: No, I am not asking
3 for an interpretation.

4 CHAIRPERSON SALADINO: That's the
5 only way we would have the right to do
6 that, if someone asked for an
7 interpretation.

8 MS. REICHERT: The code is what
9 the code says, sir.

10 CHAIRPERSON SALADINO: I'm just
11 telling you the interpretation --

12 MS. REICHERT: The building
13 inspector has issued a notice of
14 disapproval. You are limited to
15 granting the variances under that
16 notice of disapproval.

17 If you want to Article 78 your own
18 decision afterwards, by all means, it
19 would be they very interesting to see.
20 But you are limited to what is on that
21 notice of disapproval. You do not
22 have authority to say, this variance
23 isn't needed or an additional variance
24 is needed or this rule doesn't apply
25 because there's no support --

2 CHAIRPERSON SALADINO: We do that
3 all the time.

4 MS. REICHERT: -- in the four
5 corners or your Village Code to
6 support that interpretation that
7 you're taking right now.

8 CHAIRPERSON SALADINO: We do it
9 all the time.

10 MS. REICHERT: That doesn't mean
11 it's right. That doesn't mean it
12 complies with the law.

13 CHAIRPERSON SALADINO: The fact
14 that you're suggesting that this Board
15 doesn't have the right to follow
16 previous interpretations, I'm just not
17 understanding.

18 MS. REICHERT: Well, perhaps you
19 can present the interpretation so that
20 we all know what it is.

21 CHAIRPERSON SALADINO: Well, we
22 can certainly --

23 MS. REICHERT: That would be
24 wonderful. I mean, if you really
25 think there is some sort of written

2 determination of this Board that has
3 current, binding effect to change the
4 plain language implementation of the
5 Village Code, including one that was
6 just adopted within the last two
7 years. By all means, let's see what
8 is says, but right now you're talking
9 about something that you have no proof
10 of that the building inspector
11 certainly isn't following because it's
12 not binding upon him. So present it
13 if you feel the need to present it.

14 CHAIRPERSON SALADINO: By your own
15 statement that the building inspector
16 was new to the job, wasn't fully up to
17 speed on certain things, the fact that
18 this interpretation was issued
19 15 years ago or 12 years ago, and the
20 policy in the Village for the last
21 20 years has been to interpret the
22 code --

23 MS. REICHERT: Sir, I'm talking
24 about law. I'm talking about the code
25 that you are charged with enforcing.

2 And you are not enforcing the code
3 that is before you. The plain
4 language of this code.

5 CHAIRPERSON SALADINO: Only
6 because you say the interpretation
7 doesn't exist.

8 MS. REICHERT: I don't know.

9 CHAIRPERSON SALADINO: Produce --

10 MS. REICHERT: Produce it, but,
11 again, I don't know if it's binding
12 because your code was newly adopted.
13 And, again, it's never been changed.
14 You are not a legislative Board. You
15 are is judicial board. You are a
16 quasi-judicial board --

17 CHAIRPERSON SALADINO: We don't
18 claim to be.

19 MS. REICHERT: Well, what you're
20 claiming is legislative in nature,
21 that you're changing how the code is
22 to be read.

23 CHAIRPERSON SALADINO: No. What
24 I'm claiming is that there's an
25 interpretation in --

2 MS. REICHERT: There is no
3 vagueness in the Village zoning code
4 where it talks about under-width lots.
5 There is no vagueness that requires an
6 interpretation. The language is
7 plain. The language is clear. You
8 are supplying language from an unknown
9 source.

10 So, again, if you can show it and
11 have your counsel review it and he can
12 call me and let me know. But at this
13 point, and I would love to hear from
14 the Village attorney, the code is the
15 code. The code is the code. It is
16 not an ambiguous provision.

17 I believe it's 150-13, I don't have
18 it in front of me. It's not
19 ambiguous. It is very clear. It does
20 not have any sort of qualification
21 about what time of parcel benefits
22 from it other than what its lot width
23 is.

24 CHAIRPERSON SALADINO: Well, I'm
25 willing to ask our attorney.

2 BOARD COUNSEL STOLAR: Not here
3 you're not.

4 CHAIRPERSON SALADINO: I'm sorry?

5 BOARD COUNSEL STOLAR: Not here.
6 If you want legal advise, I'll give it
7 to you, but not in a public forum.

8 CHAIRPERSON SALADINO: No, I
9 totally agree with that. If we can --

10 MS. REICHERT: I'm happy to clear
11 the room so you can go into Executive
12 Session.

13 CHAIRPERSON SALADINO: No, you
14 don't have to. It's cold outside.
15 We'll go.

16 MEMBER GORDON: John, it seems to
17 me that maybe we need to, as a Board,
18 decide on whether we're going to
19 accept the notice of disapproval and
20 that we could vote on that. Because
21 at the core of this is your sense that
22 the notice of disapproval is wrong
23 still.

24 CHAIRPERSON SALADINO: No. My
25 sense is that there was a notice of

2 disapproval issued and it included
3 something that was a part of Village
4 code -- not part of Village code, an
5 interpretation by a previous Zoning
6 Board that allowed that to be included
7 on the previous notice of disapproval.

8 Now, because of someone not having
9 access to that interpretation or
10 someone not believing that
11 interpretation, would make this
12 application with this notice of
13 disapproval incorrect.

14 MEMBER GORDON: You have said --

15 CHAIRPERSON SALADINO: But, but,
16 but if we want to accept it, and we
17 can hear from Brian. We can take a
18 minute or two and hear from Brian. If
19 not, we'll accept it.

20 MEMBER KAUFMAN: I feel like we're
21 going in circles here. So there's
22 this notice of disapproval and they're
23 contending that this is the notice of
24 disapproval and you're contending that
25 there's additional variances that are

2 required that are no longer there?

3 BOARD COUNSEL STOLAR: Why don't
4 we -- I think we can resolve involve
5 it if we go into Executive Session for
6 legal advise.

7 MEMBER KAUFMAN: Okay.

8 CHAIRPERSON SALADINO: Okay. Not
9 to belabor it and stuff --

10 MS. REICHERT: I --

11 CHAIRPERSON SALADINO: Wait. Just
12 let me finish.

13 MS. REICHERT: Sure.

14 CHAIRPERSON SALADINO: Do we
15 really have to, as opposed to just
16 accept this and bring this up at the
17 public hearing?

18 BOARD COUNSEL STOLAR: That's
19 fine. You can do it that way too.

20 MEMBER KAUFMAN: It seems to me
21 that we're in agreement there are
22 variances that need to be examined.
23 So whether it's this or something
24 else, why don't we just accept it
25 because there's something to be

2 adjudicated, and then figure it out
3 instead of casting people into the
4 cold.

5 CHAIRPERSON SALADINO: Oh, I
6 wasn't going to send them outside. We
7 were the ones --

8 MEMBER KAUFMAN: I was trying to
9 make it traumatic.

10 MS. REICHERT: Well, so I just --
11 I want to give you an example of where
12 four-tenths rule has been applied in
13 recent time by your current building
14 inspector on a property that was
15 improved.

16 So we have the notice of disapproval
17 for 320 Carpenter issued in June of
18 2024, which acknowledges under, again,
19 150-12e, which is where you have the
20 existing small lots. Again, existing
21 small lots. And it says, site plane
22 notes, existing two-story framed
23 residence within the required side
24 yard. This would require a variance
25 for the side yard of 5.7. So this was

2 applied to an existing structure.

3 Again, you know, this is just one
4 example, but --

5 CHAIRPERSON SALADINO: Again, like
6 you, we don't have that information in
7 front of us right now.

8 MS. REICHERT: Well, I just gave
9 it to you literally, 320 Carpenter,
10 but what I can do is --

11 CHAIRPERSON SALADINO: Well, we
12 don't have the application in front of
13 us. We don't know how it applies to
14 this. So don't be a sore winner.
15 Please don't be a sore winner. Our
16 attorney told us we can kind of
17 resolve this and bring it up at the
18 public hearing if that's kind of okay
19 with you or if not --

20 MS. REICHERT: I mean --

21 CHAIRPERSON SALADINO: We can --

22 MS. REICHERT: I am not
23 entertaining an area variance
24 application at its public hearing,
25 something that wades in the territory

2 of this Board pretending it has the
3 authority to engage --

4 CHAIRPERSON SALADINO: We're not
5 pretending anything.

6 MS. REICHERT: Yes, you are.

7 CHAIRPERSON SALADINO: No, we're
8 not.

9 MS. REICHERT: Fine. Charading
10 around pretending that you get to
11 conduct de novo review and that's what
12 you're trying to do. You're trying to
13 shoe-in to a public hearing on an area
14 variance -- you are, sir, what is an
15 improper standard review for this
16 Board.

17 CHAIRPERSON SALADINO: No, you're
18 wrong, we're not. We're telling you
19 of a previous interpretation by this
20 Board how this application affects a
21 small lot.. That's what we're telling
22 you.

23 MS. REICHERT: If you want to
24 raise this at the public hearing, then
25 it's going to be very clear where the

2 limits of your de novo review, which
3 is nonexistent --

4 CHAIRPERSON SALADINO: Why are you
5 projecting for next month? We're
6 talking about here and now.

7 MS. REICHERT: Because this is not
8 public hearing. It is inappropriate
9 to be engaging in this level of
10 discussion of an application. You do
11 not have jurisdiction yet to discuss
12 it.

13 BOARD COUNSEL STOLAR: If I might,
14 we haven't discussed anything. You're
15 just going back and forth talking
16 about a disagreement. So --

17 CHAIRPERSON SALADINO: None of
18 this is on the -- as far as this
19 application, none of it -- there's no
20 public hearing and none of it is on
21 the public record as far as that
22 hearing.

23 So what are you saying? We have the
24 right to ask any question we want at
25 any time, whether you agree with that

2 or not in your almost 20 years.

3 MS. REICHERT: You can ask the
4 questions you want, but your --

5 CHAIRPERSON SALADINO: I did.

6 MS. REICHERT: -- your authority
7 and your standard of review are
8 different depending on the matter that
9 is before you.

10 CHAIRPERSON SALADINO: We're not
11 here for you to lecture us on our
12 duties and responsibilities.

13 MEMBER KAUFMAN: Can I just make a
14 suggestion that we accept this
15 application and then we can --

16 CHAIRPERSON SALADINO: I thought
17 that's what we were going to do.

18 MEMBER KAUFMAN: -- open this up
19 and then we can discuss it.

20 MS. REICHERT: I'd be happy to do
21 it in a public hearing.

22 BOARD COUNSEL STOLAR: Somebody
23 just make a motion.

24 MEMBER KAUFMAN: I'm making a
25 motion right now.

2 BOARD COUNSEL STOLAR: And
3 schedule it for public hearing in
4 January.

5 MEMBER KAUFMAN: I'm make a motion
6 that we accept this application.

7 MEMBER GORDON: And schedule a
8 public hearing.

9 MEMBER KAUFMAN: And schedule a
10 public, I'm sorry. I'm not very good
11 at this.

12 CHAIRPERSON SALADINO: I second
13 that.

14 MEMBER KAUFMAN: All right, all in
15 favor?

16 MS. REICHERT: Well, what are you
17 schedule the public hearing for?

18 CHAIRPERSON SALADINO: We're going
19 to tell you in a second. We're going
20 to schedule a public hearing -- we're
21 going to schedule a public hearing
22 for --

23 CLERK NOONE: January 20th.

24 MEMBER KAUFMAN: January 20th.

25 CHAIRPERSON SALADINO: --

2 January 20th at 6:00 p.m.

3 CLERK NOONE: Site visit.

4 CHAIRPERSON SALADINO: Well, let's
5 decide on the public hearing first and
6 then we'll decide if we need a site
7 visit or not.

8 This is yours, David. I'm sorry.
9 I don't have my agenda in front of me.

10 MEMBER NYCE: No, that's good.

11 CHAIRPERSON SALADINO: Were going
12 to schedule a public hearing for
13 January 20th at 6:00 p.m. at this
14 location. Do we need a site visit?

15 MEMBER KAUFMAN: Yes, very much
16 so, and I'll cut it off and say 4:00.

17 CHAIRPERSON SALADINO: So we're
18 going to schedule a public hearing for
19 January -- what's the date?

20 MEMBER KAUFMAN: 20th.

21 DEFENSE ATTY one: January 20th at
22 6:00 p.m.

23 MS. REICHERT: So my --

24 CHAIRPERSON SALADINO: We're going
25 to schedule it here at 6:00 p.m. and

2 we're going to do a site visit at --

3 MEMBER KAUFMAN: Four.

4 CHAIRPERSON SALADINO: 4:00 p.m.

5 MS. REICHERT: Chairman Saladino,
6 my client just informed me that she
7 will not be here during January.

8 CHAIRPERSON SALADINO: Can you be
9 here?

10 MS. REICHERT: I can be here, but
11 I feel that given the Scholl's
12 connection to this property that it
13 would be appropriate to have the
14 property owner there, especially if
15 you want to be able to ask questions
16 pursuant to the --

17 CHAIRPERSON SALADINO: Can you
18 suggest a date that's convenient to
19 your property owner?

20 BOARD COUNSEL STOLAR: We usually
21 meet the third Tuesday of the month.

22 MS. SCHOLL: Yes. February?

23 MEMBER REARDON: February 17th.

24 CLERK NOONE: It would be
25 February 17th.

2 MS. REICHERT: The February
3 meeting, please.

4 CHAIRPERSON SALADINO: Okay.

5 BOARD COUNSEL STOLAR: So the
6 motion is amended to the February 17th
7 public hearing at 6:00 p.m. with a
8 site visit at 4:00 p.m.?

9 MEMBER KAUFMAN: 4:00 p.m.

10 DEFENSE ATTY one: So that's the
11 motion. You have a second.

12 CHAIRPERSON SALADINO: All in
13 favor?

14 MEMBER REARDON: Aye.

15 MEMBER NYCE: Aye.

16 MEMBER GORDON: Aye.

17 MEMBER KAUFMAN: Aye.

18 CHAIRPERSON SALADINO: And I'll
19 vote aye.

20 MS. REICHERT: Thank you.

21 CHAIRPERSON SALADINO: Before we
22 move on, we don't usually -- we
23 don't -- this is -- we scheduled the
24 public hearing. We scheduled the site
25 visit. We usually give the public a

2 chance to respond only about accepting
3 this application. Since we've already
4 done it, it's kind of moot. But...

5 BOARD COUNSEL STOLAR: On to
6 Number 6 then.

7 CHAIRPERSON SALADINO: Item Number
8 6 is -- do I have to get up again?

9 BOARD COUNSEL STOLAR: You're here
10 on Item 6. Item 7 you recused
11 yourself.

12 MEMBER KAUFMAN: 229 Sixth Street
13 is this one.

14 BOARD COUNSEL STOLAR: 229 Sixth
15 Street. That's the infamous mudroom.

16 MEMBER GORDON: It's 229 --

17 CHAIRPERSON SALADINO: Item Number
18 6 is 229 Sixth Street. This is a
19 discussion and possible motion on an
20 area variance applied for by Jessica
21 Zarychi and Scott D. Buschman for
22 property located at 229 Sixth Street,
23 Greenport, New York 11944. This is
24 Suffolk County Tax Map Number remains
25 the same at 1001-7-1-5. What are we

*Remaining Pages Intentionally Deleted
as they do not pertain to 174 Sterling Street*

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

I, REBECCA WOOD, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

THAT the above and foregoing contains a true and correct transcription of the proceedings.

I further certify that I am not related, either by blood or marriage, to any of the parties in 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 26th day of December, 2025.

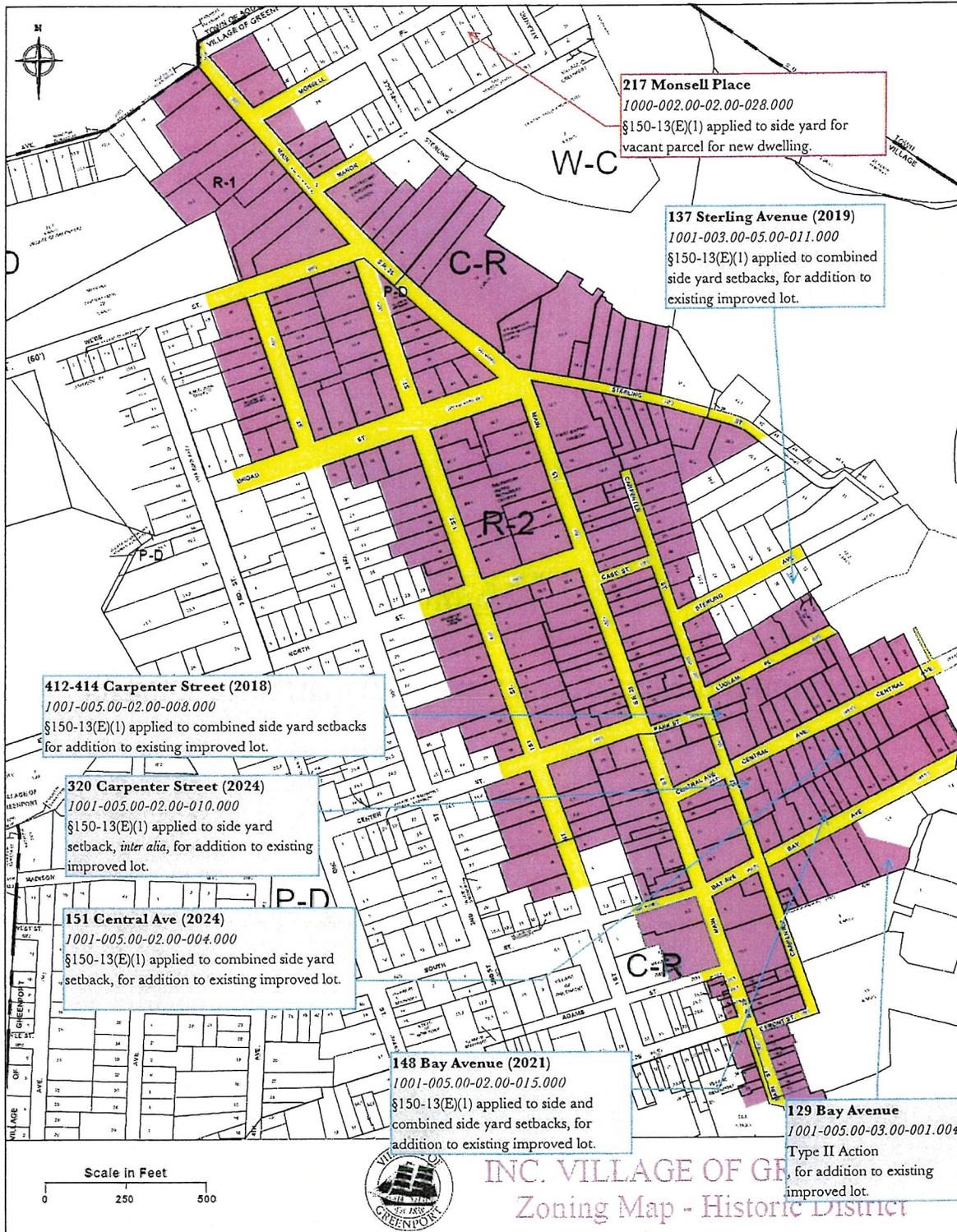


REBECCA WOOD

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit J

Annotated Map of the Greenport Historic District



The Greenport Village Historic District consists of a dense concentration of (primarily wood frame) residential and commercial structures radiating out in a fan shape from the village's Main Street waterfront business district (on the south). This large district comprises Greenport's historic eighteenth-century core and surrounding areas of nineteenth and early twentieth century development. The Greenport Village Historic District includes all of Main Street and Carpenter Street, most of First Street, the 600 block of Second Street, and structures on east-west streets that intersect with Main and Carpenter. The Greenport Village Historic District is defined on the east and south by Greenport Harbor and on the north and west by adjacent residential and commercial areas comprised of altered historic or modern structures. The Greenport Village Historic District represents the largest, most intact concentration of historic resources in the village.

In addition to the properties located within the District shown on the map above, all properties listed in the State/National Historic Registry are also under the jurisdiction of the Historic Preservation Commission.

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit K

FIRM Panel Number 361004-001-C

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit L

Survey of 174 Sterling Street by Young Associates, last
revised September 19, 2025

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit M

172 Sterling Street Documents

Officers

MAYOR
GEORGE W. HUBBARD

TRUSTEES
STEPHEN L. CLARKE
JEANNE-M. COOPER
DAVID S. CORWIN
GAIL F. HORTON

Village of Greenport

INCORPORATED 1939
NEW INCORPORATION APRIL 7, 1988
RE-INCORPORATION UNDER GENERAL LAW MAY 29, 1994



236 THIRD STREET
P.O. BOX 4H
GREENPORT, SUFFOLK COUNTY
NEW YORK 11944

TELEPHONE
(516) 477-2385

CLERK
NANCY W. COOK

TREASURER
MARY E. THORNHILL

June 25, 1987

MEMO

To: Village Attorney John Munzel
From: Village Clerk Nancy Cook
Re: Board of Appeals Resolution on
Krieger action

As per your instructions, I am returning herewith a certified copy of the resolution adopted by the Board of Appeals on June 24, 1987 with regard to the Krieger matter.

I am also forwarding a certified copy to Building Inspector David Abatelli for his file.

cc: Bldg. Inspec.
Board of Appeals
Village Attorney

VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

Date Adopted: June 24, 1987
Re: Arthur Krieger

At a meeting of the Village of Greenport Zoning Board of Appeals held on June 24, 1987 at the Village Hall, 236 Third Street, Greenport, N. Y., a motion was made by Douglas Schumejda and seconded by Victoria Heaney to adopt the following resolution:

RESOLUTION

BE IT RESOLVED, that the Village Attorney is authorized to settle the action entitled ARTHUR KRIEGER AND ANNELIESE KRIEGER v. INCORPORATED VILLAGE OF GREENPORT, NANCY W. COOK, WARREN OLSEN, CHARLES BRIGHAM, WINGATE MULLEN, DOUGLAS SCHUMEJDA, HALSEY STAPLES, presently pending in the United States District Court for the Eastern District of New York, with the following stipulation:

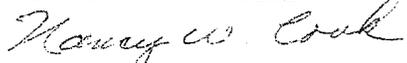
1. That premises are deemed to be a non-conforming three-family premises:
2. That the applicant may build an addition to his facility provided that he does not further encroach on any area, sideyard, or rear-yard non-conformity than allowed under the present zoning code.

The question of the adoption of the foregoing resolution was put to a vote which resulted as follows:

Charles Brigham, Chair -	Aye
Victoria Heaney -	Aye
Gary Charters -	Abstained
Douglas Schumejda -	Aye
Wingate Mullen -	Absent

This resolution was thereupon declared duly adopted:

BY ORDER OF THE
ZONING BOARD OF APPEALS


Nancy W. Cook, Village Clerk

Board of Appeals Action of 6/24/87
Re: Arthur Krieger, Sterling St.

CERTIFICATION OF RESOLUTION

I, Nancy W. Cook, Village Clerk of the Village of Greenport of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such Zoning Board of Appeals, at a legally convened meeting held on the 24th day of June, 1987 on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original. I further certify that the full Zoning Board of Appeals consists of five (5) members, and that four (4) of such members were present at such meeting and that three (3) of such members voted in favor of the above resolution with one abstaining.

IN WITNESS WHEREOF, I have hereunto
set my hand and the seal of the
Village of Greenport
on this 25th day of June, 1987

Nancy W. Cook
Nancy W. Cook, Village Clerk

SEAL

G-Kreiger KRIEGER LITIGATION CHRONOLOGY

- 12/ /81 Abatelli begins working for Village
2/ /81 Nancy begins working as Village Clerk and prior thereto she was account clerk for utilities department and secretary to Planning Board and ZBA, and she continued in the last two jobs and also payroll clerk for Village and a bit of the account clerk work (Nancy Testimony)
- 9/23/82 Dave Abatelli basically took over as building inspector and when he issued his first building permit (Dave's testimony)
- 1/ /83 Guidaman (former building inspector terminates employment and Dave Abatelli became responsible for issuing CO's; (there is no written procedure for handling this type of thing); Abatelli was building inspector for a short time only (about a year or so) Nancy testimony)(Abatelli testimony)
- 2/ /83 Plaintiff claims to have made inquiry as to purchase of property (para 6 complaint)
- 3/ /83 tel from Kapell as to inspection (Abatelli testimony)
- 3/17/83 Village elections at which Dave Kapell was elected trustee to take office on 4/1/83 and would be Abatelli's boss (as he had been when he was community development supervisor
- 3/29/83 (about) Dave Abatelli did inspection; house was empty two straight forward apartments in main house addition in back (inside room about 1 minute) and it had a kitchen type unit up against the south wall, a small bathroom on southwest wall (bathroom had toilet, shower (possibly a sink) -- nothing stands out in his memory; with him was Dave Kapell who told him it was used as a three family house and the inference was that it was used only during the summer (a cottage feeling about the place -- a summer use if anything); if there was furniture it was every little; (Abatelli testimony) Abatelli's log says nothing about it (Abatelli's testimony)
- 3/31/83 letter from Abatelli as to 172 Sterling being a 3 family residence; based on inspection, affidavit (short one by Isele stating that "the house consisted of three apartments with three kitchens. and representations by Kapell was basis for letter) (Nancy file, abatelli testimony)
- 4/1/83 Kapell takes office as village trustee
- 6/20/83 Survey by Van Tuyl dated on the property (village records)
- 7/7/83 Krieger takes title to property from Isele (para 8 complaint)
- 9/12/83 Abatelli issues last building permit before Olsen started; (Abatelli's tesimony)

..... Olsen began as building inspector

1/1/84 Krieger, through Environment East submits second application for building permit (para 8 ans)

1/24/84 Letter to Warren Olsen from Krieger re plans to expand (para 9 answer)

1/24/84 Letter from Krieger to Abatelli enclosing copy of survey (village records)

2/2/84 Letter from Olsen to Krieger re insufficient side yards on east side and advising to see Village Code 85-11 (para 10 ans)(village records)

2/6/84 Krieger applies for building permit through Environment East, inc to enlarge rear apartment from 300 sq feet to 1000 square feet (para 11 ans)

2/6/84 Receipt issued for \$115 to Environment east for building permit

2/8/84 Notice of disapproval from Olsen to Krieger on grounds of multi-family dwelling and citing 85-17,85-18, 18-19, 85-20, 85-22 and 85-23 of Village Code (para 12 of ans)

2/13/84 Krieger, through Environment East applies for variance before ZBA (para 13)

2/21/84 Appeal form from decision of building inspector received by Village (originally dated 2/13/84) (village records) (Exhibit 4 pl's deposition)

2/22/84 Letter from Environment East sending check for appeal;

2/22/84 Form letter from Environment East Inc stating that the property is not within 300 feet of wetlands(village records)

2/22/84 EIS form prepared on behalf of Kreiger (village records)

2/24/84 Letter from Nancy to Environment East Inc re receipt of application and placing on agenda of ZBA for 3/28/84 (village records)

3/6/84 Letter from Krieger to Cook advising of the meeting held on 2/29 and scheduled public hearing for 3/28/84 (village records)

3/8/84 Affidavit of notice of hearing

3/15/84 Notices of application sent to neighbors

3/19/84 Letter from Nancy to Planning Board enclosing copies of ZBA referral (village records)

3/20/84 Letter from nancy to Kreiger advising of hearing scheduled for 3/28/84 (village records)

3/23/84 Letter from Olsen to Environment East enclosing copies of Village Code showing flood plain section (date of letter

3/24/84 Letter from Warren Olsen as to flood plain requirements

3/27/84 Letter from Nancy to ZBA advising that the Planning Board was in process of considering site plan (why? did the Planning Board have it?) Code says that any ZBA applications goes to Plan Bd for recommendation (Nancy's tesitmony)

3/27/84 Letter from Nancy to Suf Cty Plan with all papers (village records)

3/28/84 Public Hearing by ZBA on expansion of back apartment to

a fuller 3 family unit for the house; (Paul Gulliano noted that he had lived next door for 10 years and the place had only been rented once; Betty Kalin was recording secretary) para 14 of ans) NOTE: Peter Stoutenberg was at the meeting representing Kreiger -- (Nancy's testimony) (Village minutes)

3/29/84 Letter from Kreiger to Nancy advising he could not get to meeting of 3/28/84 because of storm. He claims building is legal 3 family house, conversion predating the zoning code, also applauding "... the efforts of the Village Fathers to upgrade the Greenport waterfront." (village records)

4/4/84 Resolution of ZBA denying variance to expand non-conforming use

4/9/84 letter from Suffolk Department of Planning re application "appears inappropriate a sufficient information has not been submitted to demonstrate compliance with applicable variance criteria. A self imposed hardship appears evident" (village records)

4/17/84 Letter from Zovko and Hilbrand re opposition to 3 family unit and erroneous CO (village records)

4/29/84 letter from Krieger to Cook and ZBA re application and claim that it is a legal three family (Nancy files)

5/11/84 Resolution of ZBA denying the application to expand nonconforming use (para 15 ans)

5/11/84 Filing of resolution of 4/4/84 with Nancy (village records) NOTE: this is at variance with the note above of para 15 of the ans

5/11/84 letter from Nancy to Krieger advising of denial of application and actions that he can take (village records)

6/1/84 Application for building permit dated and received from Environment East Inc (village records)

6/4/84 Notice of Disapproval from Olsen to Environment East Inc identical to prior notice except inclusion of 82-10 (WETLANDS requirement) is added (para 18 of ans) (village records)

6/4/84 Covering letter from Olsen enclosing notice of disapproval; (village records)

6/4/84 Application for variance from Environment East Inc (village records)

6/4/84 Receipt for \$20 issued to Environment East Inc by Nancy for ZBA application (village records)

6/12/84 Letter from Environment East Inc withdrawing application submitted 6/4/84 (Nancy files)

6/21/84 Letter from Nancy to Environment East Inc acknowledging receipt of withdrawal of application and mentioned that she sent letter s to Krieger and adjoining owners that application as been withdrawn (village records)

6/22/84 Letter from Environmental East thanking Nancy for her prompt attention to the application. (Nancy files)

6/27/84 Notice of public hearing states that the application of Krieger was on for this date (village records)

3/4/85 another application for variance based on erroneous determination by building inspector that this was a non-conforming use and that the side yards were too small. They claimed that it was not a non-conforming use but a non-complying (too small a unit) for the building (para 19 of ans) (village records)

3/6/85 Check for \$20 from Krieger to Village (village records)

5/9/85 affidavit of publishing of notice of hearing scheduled for 5/22 by Suffolk Times (village records)

5/14/85 letter from Nancy to Krieger advising of hearing (Nancy files)

5/14/85 Notices sent to neighbors (village records)

5/14/85 receipt from Nancy to Kreiger for \$20 (village records)

5/22/85 ZBA held hearing; Krieger represented by Bill Price and stenographic notes taken (ans para 20) (Krieger further claims not to have received any decision or resolution by ZBA (ans para 21), William Price, stenographer, minutes from stenographer, Nancy files) (Nancy's handwritten notes) (Exhibit 5 pl's deposition) -- resolution determining

7/26/85 Letter from nancy to Suf Cty Plann enclosing documents for their review. (village records)

7/29/85 letter from Suffolk Planning saying that it appears inappropriate, and a self imposed hardship (village records)

8/28/85 Meeting of ZBA denies application (too late according to 7-712 of Village Law) (this was the first meeting after the letter from Suffolk Planning) (village records)
NOTE: ZBA meets once a month at the end of the month -- thus the letter from Suf Cty Plan did not reach them in time for the 7/85 meeting and they could not pass anything without hearing from Suf Cty Plann first (CHECK LAW ON THIS)

11/13/85 Letter from Price to Nancy requesting copy of decision. (para 22 ans) (Nancy Files)
NOTE: Bill and Nancy had been in a number of telephone conversastions after this as to status of action (nancy's testimmony)

1/30/86 letter #2 from Price as to decision. (Nancy had no one to assist her as deputy clerk worked downstairs and recording secretary was also unavailable.) (Nancy Files and Nancy testimony)

8/2/86 Federal action begun?

10/7/86 Notice enclosing summons and complaint CV 86-3307 (village records)

1/16/87 conference between counsel and Judge Bramwell in which it was agreed that Krieger would submit new and different application that would not require any variance from the side yard requirements and we

would issue a building permit (ans para 24)
 3/5/87 Letter from nancy to Kreiger enclosing copies of
 building permit applications and brief
 instructions as to what to do (village records)
 5/6/87 Authorization from Kreiger to allow Garrett Strang to
 act on his behalf in making application to NYSDEC
 for project (village records)
 5/29/87 Application for wetlands permit mentioned in letter
 from Strang of 1/4/88 (Nancy's testimony is that
 the same application is used for both the building
 permit and the wetlands application (see below
 6/2/87) (Letter from Strang dated 1/4/88) Nancy's
 testimony)
 6/2/87 application for building permit filed by
 Strang (actually an application for a wetlands
 permit)(village records)
 6/22/87 Letter from DEC to Strang saying no jurisdiction
 (village records)
 6/24/87 resolution by ZBA authorizing Munzel to settle that
 premises be deemed a non-conforming use that the
 applicant be allowed to expand the third
 apartment. (This was based on the strength of the
 affidavits as to continuous use) (village records)
 6/25/87 Letter from Nancy to jjm enclosing copy of resolution
 (village records)
 7/21/87 Note from Strang to Nancy enclosing DEC letters of no
 jurisdiction from DEC (village records)
 11/23/87 Wetlands hearing (no decision made, thus in effect
 approving the wetlands application). Actually we
 had no grounds on the wetlands to deny the
 application) Village Bd Minutes)
 11/23/87 Village Board of Trustees authorizes investigation of
 building permits on grounds of possible fraud in
 affidavits (Bd Minutes?)
 11/23/87 Freedom of Information form filed by Guillano on
 Kreiger application (village records)
 NOTE: Nancy was slow in responding despite a number of
 requests from Guillano as to status (Nancy's
 testimony)
 11/23/87 Bd of Trustees public hearing on Wetlands (village
 records)
 1/4/88 letter from Strang to mayor re action to be taken on
 wetlands permit. (village records)
 3/31/88 Krieger application for Freedom of information on
 Gulliano was filed (there is note that he will
 have to wait until nancy returns from vacation on
 4/4/88 (village records)
 4/4/88 Nancy returns from vacation (Nancy's testimony)
 4/7/88 Krieger picked up files on Gulliano from Village
 (Nancy)
 7/19/88 Letter from Strang to mayor as to status of decision
 (this letter is copy of letter of 1/4/88-- this
 was done at Nancy's suggestion)(Nancy's testimony)
 (village records)

NOTE: Nancy had talked on the phone with Bill Price and had given him the information verbally and it was a confirmation of what had happened on 8/10/85 Nancy's directive was to take care of the Board of Trustee's business first. (Nancy testimony) (possibly Bill Price testimony)

NOTE 2 -- Practice at that time was to notify persons orally and not to send them notices (Nancy testimony)

NOTE 3 -- To send out a resolution, Nancy has to listen to the tape, make up the minutes (type them) and then double check them before she sends them out. this takes quite a bit of time. (Nancy Testimony and Abatelli testimony)

THOUGHT -- Nancy pointed out that this action is against the ZBA who in fact gave Krieger what he wanted, and the case should be dismissed.

Actually the action is against the Village of Greenport and the ZBA members so the best I could do is to get the ZBA out of the case;

TO BE CHECKED:

8/10/85 who was present when the ZBA denied the application;

RECEIVED
OCT 24 1985
Lmc

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

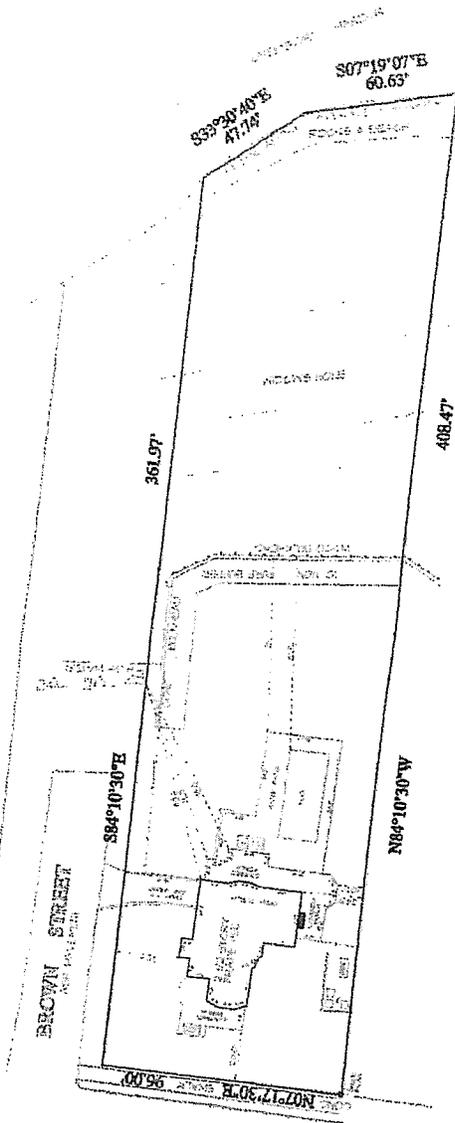
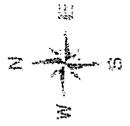
Exhibit N

230 Fourth Street Documents

SURVEY OF PROPERTY
SITUATE: VILLAGE OF GREENPORT
TOWN: SOUTHWOLD
SUFFOLK COUNTY, NY

RECORDED APRIL 29, 2014
 10:41 AM
 FILE NO. 2014-0014
 RECORDED JULY 20, 2014
 10:41 AM
 FILE NO. 2014-0014

CONVEYED TO:
 NATHANIEL EWING
 SULLY COUNTY, ILLINOIS
 BY JOHN C. EHLERS, SURVEYOR
 15 THIS AGENCY OF PUBLIC



Useless or fragment of
 being collected



JOHN C. EHLERS LAND SURVEYOR
 6 EAST MAIN STREET
 RIVERHEAD, N.Y. 11981
 REC: CUSERS\JohnC\ehlers\116\update 07-20-2013.pps

THIS SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND I AM A LICENSED SURVEYOR IN THE STATE OF NEW YORK. I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

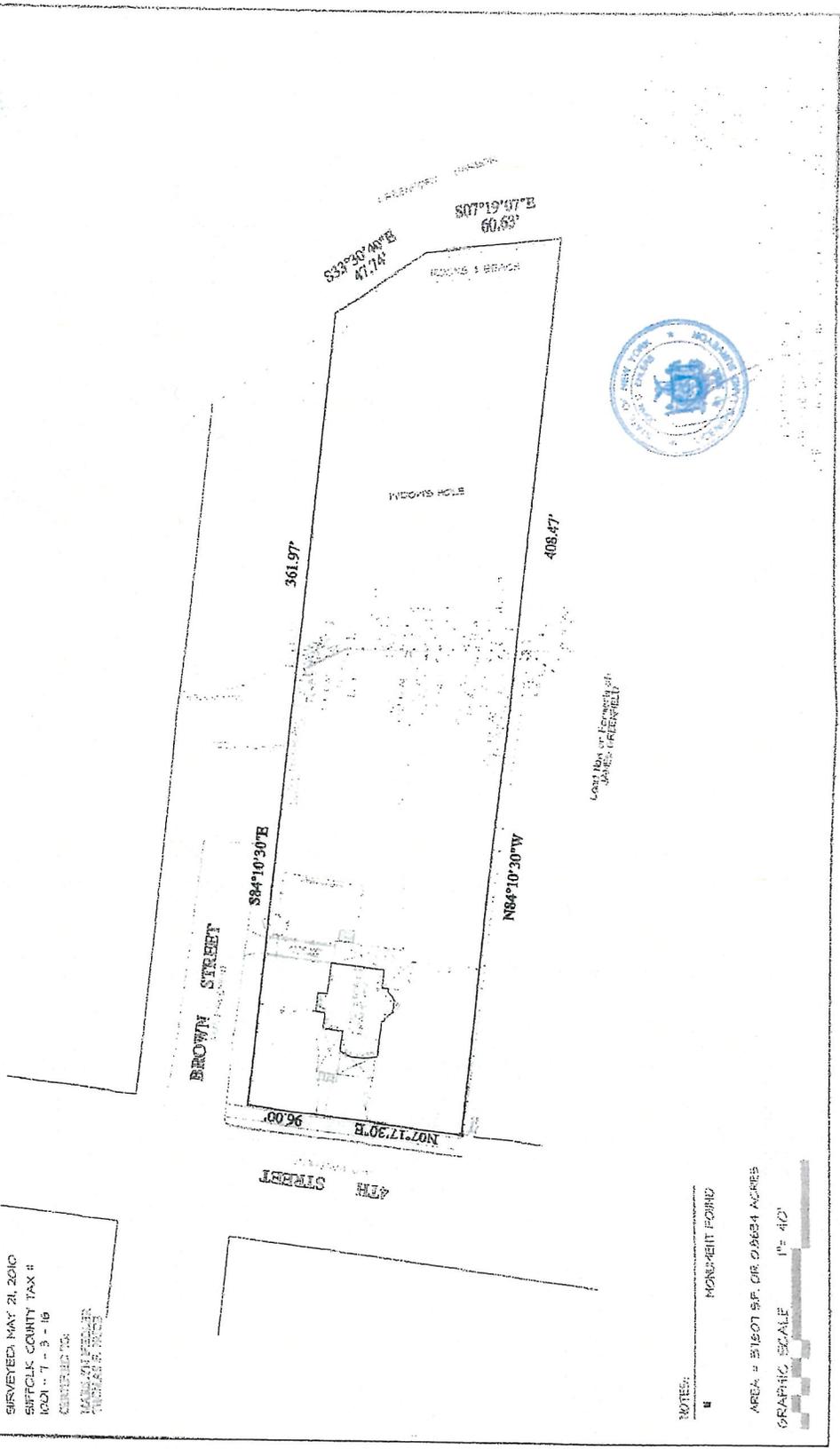
NOTES:
 MEASUREMENT POINTS

AREA = 57,607 SF. OR 0.2624 ACRES
 GRAPHIC SCALE 1" = 40'

SURVEY FOR THOMAS F. PRICE & MARILYN FIEDLER
SITUA TE: VILLAGE OF GREENPORT
TOWNSHIP: SOUTHWOLD
SUFFOLK COUNTY, NY

SURVEYED MAY 21, 2010
 SUFFOLK COUNTY TAX #
 K021 - 1 - 3 - 16

CONVEYED TO:
 THOMAS F. PRICE
 MARILYN FIEDLER

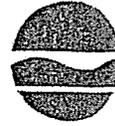


Lost by the Easement of
 JAMES GREENFIELD

NOTES:
 MONUMENT FOUND

AREA = 51,807 S.F. OR 0.9684 ACRES
 GRAPHIC SCALE 1" = 40'

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 1
SUNY @ Stony Brook
50 Circle Road, Stony Brook, NY 11790-3409
Phone: (631) 444-0365 • Fax: (631) 444-0360
Website: www.dec.ny.gov



Joe Martens
Commissioner

TIDAL WETLANDS LETTER OF NO-JURISDICTION

September 17, 2014

Mr. Nathaniel M. Ewing
56 7th Avenue Apt. 20B
New York NY 10011

Re: Application ID 1-4738-03988/00004
230 Fourth Street
Greenport
SCTM # 1001-7-3-16
ARNO-DEP

Dear Mr. Ewing:

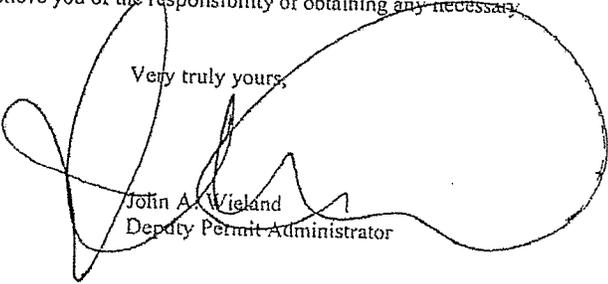
Based on the information your agent submitted and additional New York State Department of Environmental Conservation (DEC) information, DEC has made the following determination.

The portion of the referenced property that is landward of the existing bulkhead and adjacent bulkheads having a combined total length greater than 100 linear feet and were constructed prior to 8/20/77 (TW Map 720-552; 1960 aerial photograph), is beyond the jurisdiction of Article 25 Tidal Wetlands.

Therefore, in accordance with the current Tidal Wetlands Land Use Regulations (6 NYCRR Part 661), no permit is required under the Tidal Wetlands Act for work occurring landward of the bulkhead. Please be advised, however, that no construction, sedimentation, discharge, or disturbance of any kind may take place within Article 25 Tidal Wetlands jurisdiction without a permit. It is your responsibility to ensure that all necessary precautions are taken to prevent any sedimentation or other alteration or disturbance to the ground surface or vegetation within Tidal Wetlands jurisdiction which may result from your project. Such precautions may include maintaining adequate work area between the tidal wetland jurisdictional boundary and your project (i.e. a 15' to 20' wide construction area) or erecting a temporary fence, barrier, or hay bale berm.

Please be further advised that this letter does not relieve you of the responsibility of obtaining any necessary permits or approvals from other agencies.

Very truly yours,


John A. Wieland
Deputy Permit Administrator

CC: En-Consultants
BOH - TW
File

1 VILLAGE OF GREENPORT
2 COUNTY OF SUFFOLK STATE OF NEW YORK
-----X

3 BOARD OF TRUSTEES
4 WORK SESSION
5 -----X

6
7 Third Street Firehouse
8 Greenport, New York

9
10 November 17, 2014
11 6:00 P.M.

12 B E F O R E:

- 13 DAVID NYCE - MAYOR
14 GEORGE HUBBARD, JR. - TRUSTEE
15 DAVID MURRAY - TRUSTEE
16 MARY BESS PHILLIPS - TRUSTEE
17 JULIA ROBINS - TRUSTEE
18
19 JOSEPH PROKOP - VILLAGE ATTORNEY
20 SYLVIA LAZZARI PIRILLO - VILLAGE CLERK
21 PAUL PALLAS - VILLAGE ADMINISTRATOR

22
23
24
25

ROBERT BRANDT - VILLAGE TREASURER

2

1 (Whereupon, the meeting was called to order
2 at 6:00 p.m.)

3 MAYOR NYCE: We'll call this meeting to
4 order. Please rise and join me for the Pledge of
5 Allegiance.

6 (Whereupon, all stood for the Pledge of
7 Allegiance.)

8 MAYOR NYCE: Thanks. You may be seated.
9 This is the November work session of the Board of
10 Trustees. We have an unusual -- we have a public
11 hearing that we scheduled for a Wetlands Permit
12 Application. We don't normally do these on work
13 sessions. The applicant is anxious to move
14 forward with the project before the weather gets
15 too horrible. So what I'd like to do --
16 actually, the Fire Department is not here, so if
17 nobody minds, maybe we'll take the Wetlands

18 Permit Application first.

19 So I will note that this public hearing was
20 properly noticed; that anybody wishing to comment
21 on this application can do so at this time.
22 Their comments will be taken down for the record.
23 I will ask that the applicant, or the
24 representative of the applicant, introduce the
25 project and we'll go from there.

3

1 MS. MARTIN: Good evening. Amy Martin of
2 Fairweather and Brown, 205 --

3 MR. MURRAY: Hold on, Amy.

4 MAYOR NYCE: Sorry. I had turned off this
5 microphone. We don't have this going.

6 MS. MARTIN: Amy Martin, Fairweather and
7 Brown, 205 Bay Avenue in Greenport, representing
8 Emily and Nathaniel "Nat" Ewing. They are the
9 new owners of the Price property at 230 Fourth
10 Street here in Greenport.

11 We have a very straightforward application,
12 we feel, for an addition to the home and a
13 swimming pool to be added to the property. And,

14 hopefully, we have addressed the concerns that
15 the CAC had, that the 10-foot non-turf buffer
16 that the previously owners had asked about should
17 have been in place when the bulkhead was
18 refurbished. It will be addressed when the
19 project landscaping is done. And the landscape
20 plan we submitted to you should show that that is
21 on both the seaward side and the Town landing
22 side. There will be a 10-foot non-turf buffer
23 installed and maintained.

24 We have also addressed basic landscaping
25 concerns for the purpose of this hearing, but --

4

1 and that's addressed on that plan, but the Ewings
2 reserve the right to hire a landscape contractor
3 later to do a more interesting plan when the pool
4 is in place, and whatever. But the basics are
5 there, and they will maintain whatever the permit
6 regulates them to do.

7 The closest section of the pool is proposed
8 at 75 feet from the bulkhead, and there --
9 basically, there is no Village Code requiring

10 that, but that is the code that is adhered to in
11 other surrounding townships, so we use that as
12 our maximum to make sure that we're protecting
13 the bay.

14 All the additions to the home are
15 as-of-right and within the building envelope, and
16 no variance is needed for any of them or sought.

17 And all the drainage from the house will be
18 conveyed by leaders and gutters, two dry wells
19 that will be installed on the property.

20 The owners, with the help of Rob Brown as
21 Architect, have addressed the changes to the home
22 to keep in character with the neighborhood, and
23 to -- as this is a well-known landmark, they are
24 not really changing, other than making the house
25 larger. They're trying to stay very appropriate

5

1 to the neighborhood.

2 And I think that's about all I, you know,
3 have to say. I think we're asking for -- we
4 have -- the DEC permit is a nonjurisdiction, as
5 this had a 100-foot bulkhead that predated the

6 jurisdiction of the DEC. It's probably been
7 there for at least 100 years. And I believe even
8 what we are proposing would have been easily
9 granted a permit by the DEC, if it was required.
10 So, if you have any questions.

11 MAYOR NYCE: I think what I'd like to do is
12 open it up, if anyone from the public has
13 comment. But like if there are questions --

14 TRUSTEE MURRAY: Actually, could I, since
15 she's up at the podium, ask one of them?

16 MAYOR NYCE: Yes.

17 TRUSTEE MURRAY: One of the -- one of the
18 things that was brought back on the report was a
19 dry well for the pool discharge.

20 MS. MARTIN: Yes.

21 TRUSTEE MURRAY: Has that been figured into
22 this plan?

23 MS. MARTIN: I think we showed that on the
24 landscape plan, an approximate location. It's up
25 to the pool contractor to make sure.

6

1 TRUSTEE MURRAY: That's going to be a dry

2 well for the pool?

3 MS. MARTIN: There will be a dry well for
4 backwashing the pool.

5 TRUSTEE MURRAY: Okay.

6 MS. MARTIN: And that will be away from the
7 property line, so --

8 TRUSTEE MURRAY: I don't remember. No, I
9 don't remember seeing that.

10 MR. PALLAS: It's supposed to be to the
11 sanitary sewer, not dry well.

12 TRUSTEE MURRAY: Or sanitary sewer, okay.

13 MR. PALLAS: It's supposed to go to a sewer
14 system.

15 TRUSTEE ROBINS: Okay. So it goes into the
16 sewer, not into the dry well.

17 TRUSTEE PHILLIPS: I'm sorry. Could you
18 say that loud enough, because I couldn't quite
19 hear.

20 MR. PALLAS: I'm sorry. One of the CAC
21 recommendations was for the pool discharge water
22 to discharge into the sanitary sewer, as opposed
23 to the dry wells onsite.

24 TRUSTEE MURRAY: As opposed to the dry
25 well, okay.

1 MAYOR NYCE: Which is why it's not on the
2 plan.

3 TRUSTEE PHILLIPS: Right.

4 MS. MARTIN: We'll be glad to --

5 TRUSTEE MURRAY: Thank you.

6 MS. MARTIN: -- adhere to that.

7 MAYOR NYCE: Terrific. Thanks, Amy. Is
8 there anyone from the public who wishes to
9 address the Board on this?

10 MR. CORWIN: (Raised hand.)

11 MAYOR NYCE: If not --

12 TRUSTEE HUBBARD: There's Dave.

13 MAYOR NYCE: I'm sorry?

14 TRUSTEE ROBINS: In the back.

15 MAYOR NYCE: Please, in the back.

16 MR. CORWIN: My name is David Corwin. The
17 landscape plan for this project shows a lawn,
18 just lawn. It doesn't say what kind of turf it's
19 going to be. So I make the assumption it's going
20 to be Kentucky bluegrass, which I think is a fair
21 assumption. And, of course, Kentucky bluegrass
22 requires an irrigation system, which is not shown

23 on the plan, and it requires chemicals,
24 fertilizer, pesticides.

25 And there's a policy in the LWRP, the Local

8

1 Waterfront Revitalization Program, that addresses
2 that particular issue. And I'm sorry, I didn't
3 realize you're having a public hearing this
4 evening, or I would have -- I would quote the
5 policy. But one thing it says is the Village is
6 supposed to have an educational program for
7 contaminants from lawns going into the water,
8 which the Village doesn't have.

9 And I have to submit to you that when the
10 owner puts fertilizer down on the lawn, it's
11 going to infiltrate right into the sand, the
12 sandy soil there, and then it's just going to run
13 into the groundwater out into Widow's Hole,
14 eventually to Peconic Bay.

15 Part of the fertilizer, of course, is
16 nitrogen, and there's a big problem with the
17 nitrogen added into the bay. If you go on the
18 Sound and the bays way to the west on Long

19 Island, they have a problem with hypoxia, I don't
20 know if I said that right, with all the oxygen
21 being used up in the water, and then, of course,
22 the fish die. You usually read -- you didn't
23 read so much this year, but you usually read in
24 Newsday about these inlets on the Sound where all
25 the fish die, and what they attribute that to is

9

1 the fertilizer, the nitrogen, and the salt water.
2 The nitrogen is the governing factor, and the
3 fresh water, the phosphorous is the governing
4 factor. So the nitrogen goes into the water,
5 acts as fertilizer in the bay water and creek
6 water, and it encourages these algae blooms. So,
7 when the homeowner puts fertilizer down in the
8 water, again, it's going to infiltrate, it's
9 going to go right out into Widow's Hole.
10 "That little bit of fertilizer, how much is
11 that going to hurt," the homeowner says. And I
12 say you add up the condominiums near Sixth
13 Street, and Fifth Street, the lawns on Fourth
14 Street, the park -- I don't know if the park is

15 using fertilizer or not. I had asked when it was
16 originally built that they use a grass that
17 didn't need so much fertilizer. Of course, that
18 wouldn't happen.

19 I question this application because it's
20 turf grass, Kentucky bluegrass, and it's going to
21 put contaminants into Widow's Hole, into the bay.
22 Right out there, we have a -- or a gentleman has
23 an oyster growing operation. It seems to be
24 working very well, God bless him. I think it's a
25 wonderful thing. But as each one of these homes

10

1 gets improved, and they plant Kentucky bluegrass,
2 it's more nitrogen into the water. And I'm just
3 totally opposed to planting Kentucky bluegrass on
4 these parcels right next to the water. I think
5 it's wrong, and I think the Village should make
6 arrangements with the applicant that they use
7 some kind of grass besides Kentucky bluegrass.
8 Thank you.

9 MAYOR NYCE: Thank you. Anyone else that
10 wishes to address the Board before you address

11 that?

12 TRUSTEE PHILLIPS: I just have a question.

13 MAYOR NYCE: All right. Then, Amy, go
14 ahead, if you want.

15 MS. MARTIN: As I mentioned, the plan is
16 basic. We addressed the issue we were told that
17 was an earlier concern. I've just been told that
18 the homeowner does not want to have lawn all the
19 way out there, that he will be reducing the
20 amount of lawn. And we will definitely adhere to
21 whatever the Board requires of us.

22 MAYOR NYCE: Okay.

23 MS. MARTIN: And we are very sensitive.
24 You know, I mean, I know all the properties along
25 there have grass to the bulkheads. Very few of

11

1 them have any other, you know, constraints,
2 because they were done before everything was in
3 place. But the homeowner does not want to create
4 any problems.

5 MAYOR NYCE: Understood. Is there anyone
6 else from the public that wishes to address the

7 Board on this?
8 (No response.)
9 MAYOR NYCE: Any questions? Trustee
10 Phillips, you had question?
11 TRUSTEE PHILLIPS: You answered it, because
12 I thought I was missing paperwork out of here.
13 MAYOR NYCE: Okay. If that's the case,
14 then close the public hearing?
15 TRUSTEE ROBINS: Yes.
16 MAYOR NYCE: Someone make that motion.
17 TRUSTEE HUBBARD: I make a motion we close
18 the public hearing.
19 MAYOR NYCE: Is there a second?
20 TRUSTEE MURRAY: Second.
21 MAYOR NYCE: All those in favor?
22 TRUSTEE HUBBARD: Aye.
23 TRUSTEE MURRAY: Aye.
24 TRUSTEE PHILLIPS: Aye.
25 TRUSTEE ROBINS: Aye.

12

1 MAYOR NYCE: Aye.
2 Any opposed or abstentions?

3 (No response.)

4 MAYOR NYCE: The motion carries.

5 Understanding that the applicant has
6 stipulated to -- oh, I'm sorry. I do also want
7 to read in that the Conservation Advisory Council
8 from the Village of Greenport did review the
9 project. They had three notes. One was that the
10 applicant must provide facilities to discharge
11 the pool water into the sanitary sewer, which
12 you've heard from Mr. Pallas they have arranged
13 to do. The second is the applicant is encouraged
14 to provide landscaping that does not require the
15 use of pesticides or fertilizer, as you heard Mr.
16 Corwin speak to. And note number three, the
17 applicant must provide a 10-foot no-turf buffer
18 at rear of property, as required in prior
19 wetlands permit, as you've heard from Ms. Martin
20 they've already acquiesced to.

21 I agree in almost all of -- with almost all
22 of what Mr. Corwin said. The difficulty with a
23 lot of the stuff is that, as a municipality, you
24 can't require -- to have requirements for every
25 plant that's planted gets a little cumbersome.

1 It has been the Village's policy to not use
2 fertilizers on our properties, and we've
3 encouraged property owners not to use fertilizers
4 as well. Also, as part of the MS4 Program, that
5 for now we are participating in, there's a large
6 move to eliminate fertilizers on properties that
7 are adjacent to the water.

8 As to the type of grass, I don't know that
9 we're going to be able to stipulate what type of
10 grass they plant. And while I appreciate
11 Mr. Corwin's comments and what the implications
12 are, I don't know that we would be in a very -- I
13 don't know if we would be in a position to -- a
14 defensible position, if we started requiring them
15 to plant a specific type of grass. That's a
16 stated question for the Village Attorney.

17 TRUSTEE PHILLIPS: Unless Suffolk County
18 tells us to.

19 MR. PROKOP: Once it comes through the --
20 well, we have to do a SEQRA -- we will do a SEQRA
21 consideration at the meeting. It may become part
22 of that. But, generally, that's not a condition.

23 MAYOR NYCE: Okay.

24 MR. PROKOP: It's not the type of grass
25 that you would tell them to do, but you may

14

1 restrict use -- you know, activities on the
2 grass.

3 MAYOR NYCE: Right, that's what I thought.

4 TRUSTEE PHILLIPS: I think that's most of
5 what the Peconic Bay Estuary is doing, is that
6 they're suggesting that certain types of
7 non-fertilizer, or was looking for --

8 MAYOR NYCE: Right.

9 TRUSTEE PHILLIPS: -- as I said, product or
10 vegetation. But it's an interesting -- it's an
11 interesting discussion that's going to be coming
12 up in the future, considering we're on the
13 waterway a lot.

14 MAYOR NYCE: Absolutely. And the other
15 thing that I had asked them, if we have this on
16 here tonight, they are anxious to move forward.
17 The Village Attorney has reminded me that we have
18 to do a SEQRA resolution.

19 MR. PROKOP: We could do that at the

20 meeting if --

21 MAYOR NYCE: Yeah. I was just going to
22 suggest that we give them the authorization to
23 move forward.

24 MR. PROKOP: Oh.

25 MAYOR NYCE: Which we can't do at this

15

1 meeting. Does the Board have a problem with
2 having them starting all of the other work, and
3 that as of Monday, then we could give them
4 authorization to start?

5 TRUSTEE PHILLIPS: Never really done that
6 before.

7 TRUSTEE ROBINS: The regular building
8 permit. You're referring to the regular building
9 permit that they can commence, just not the work
10 on the pool?

11 MAYOR NYCE: Yeah. Do you guys -- is
12 that a --

13 MS. MARTIN: They would like to do
14 demolition and things inside the house, and start
15 with those things, not --

minutes

Trustee Work Session

11/17/2014

16 MAYOR NYCE: The Wetland Permit Application
17 would not preclude you from getting a demo
18 permit, so that's what -- if there are other
19 things that you could to get started, I guess the
20 general feeling of the Board is positive to
21 the -- to this application, so --

22 MR. PROKOP: That would be fine. It's only
23 the wetlands --

24 MAYOR NYCE: So if you could do that, and
25 then we would approve the wetlands permit, which

16

1 is the only thing we're going to approve anyhow.
2 All of the other building permit stuff you can do
3 as of right through the Building Department, and
4 wouldn't -- yeah, you wouldn't need further
5 authorization from us.

6 MR. BROWN: When will the Board resolve all
7 of the issues?

8 MAYOR NYCE: A week from tonight. That
9 would be a week from tonight.

10 TRUSTEE HUBBARD: The 24th.

11 MR. BROWN: In the meantime, we could file

12 for the building permit?

13 MAYOR NYCE: Yes.

14 MR. PROKOP: Is the building going to be
15 within the wetlands buffer, the wetlands area or
16 buffer?

17 MS. MARTIN: No.

18 MR. PROKOP: The building that you're
19 talking about?

20 MR. BROWN: No.

21 MR. PROKOP: No?

22 TRUSTEE ROBINS: It's existing.

23 MR. PROKOP: Then it's okay.

24 TRUSTEE ROBINS: It's a pre-existing
25 building.

17

1 MS. MARTIN: Well over 100. The building
2 itself is over 100 feet from the wetlands.

3 MAYOR NYCE: Right.

4 MR. PROKOP: That's fine. So you just
5 can't have any activity within the wetlands area
6 until --

7 MS. MARTIN: The pool is 75 feet.

8 MAYOR NYCE: Right. The pool is 75, so the
9 pool would fall within the 100 feet. So you'd
10 have to wait a week on starting the pool, but you
11 could certainly start on the house, if that's --
12 does that seem a reasonable resolution?
13 TRUSTEE MURRAY: (Nodded yes.)
14 TRUSTEE HUBBARD: Yes.
15 MAYOR NYCE: Fantastic. All right. So we
16 will put it on the -- if you could have the SEQRA
17 resolution.
18 MR. PROKOP: Yes.
19 MAYOR NYCE: And put it on the agenda for
20 Monday for approval. Thank you all very much.
21 MR. BROWN: Thank you very much. Thank you
22 all for your consideration.
23 MAYOR NYCE: Absolutely.
24
25

18

1 Next would be the monthly report from the
2 Fire Department. The Chief is still not here.
3 They had nothing that they needed from us, except

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit O

Near Map Aerial with house footprint analysis

**Application of Cynthia and Donald Scholl
174 Sterling Street
Building Footprint Analysis
Dated 1-13-2026**



Nearmap

<p>📍 190 Sterling Street Total Building Footprint: 4038.04 ft²</p>
<p>📍 182 Sterling Street (Mundus) Total Building Footprint: 2724 ft²</p>
<p>📍 178 Sterling Street (Gillooly & Spi) Main Building Footprint: 2516.08 ft² Garage Footprint: 503.25 ft² Carpenter Footprint: 503.25 ft² Carpenter Footprint: 238 ft² Total Building Footprint: 3756 ft²</p>
<p>📍 174 Sterling Street (Scholl) Total Building Footprint: 1190 ft² Proposed Building Footprint: 2081 ft² Proposed Lot Coverage: 2422 ft²</p>
<p>📍 172 Sterling Street (Kohut) Total Building Footprint: 2461.56 ft²</p>
<p>📍 168 Sterling Street Total Building Footprint: 2146 ft² Main Residence Footprint: 1213 ft² Garage Footprint: 403.48 ft²</p>
<p>📍 162 Sterling Street Total Building Footprint: 2516 ft² Main Residence Footprint: 1991.13 ft² Garage Footprint: 998.35 ft²</p>
<p>📍 160 Sterling Street Total Building Footprint: 369114 ft²</p>

Exhibits to Memorandum of Law in Support of the Application of Cynthia and Donald Scholl (174 Sterling Street)

Exhibit P

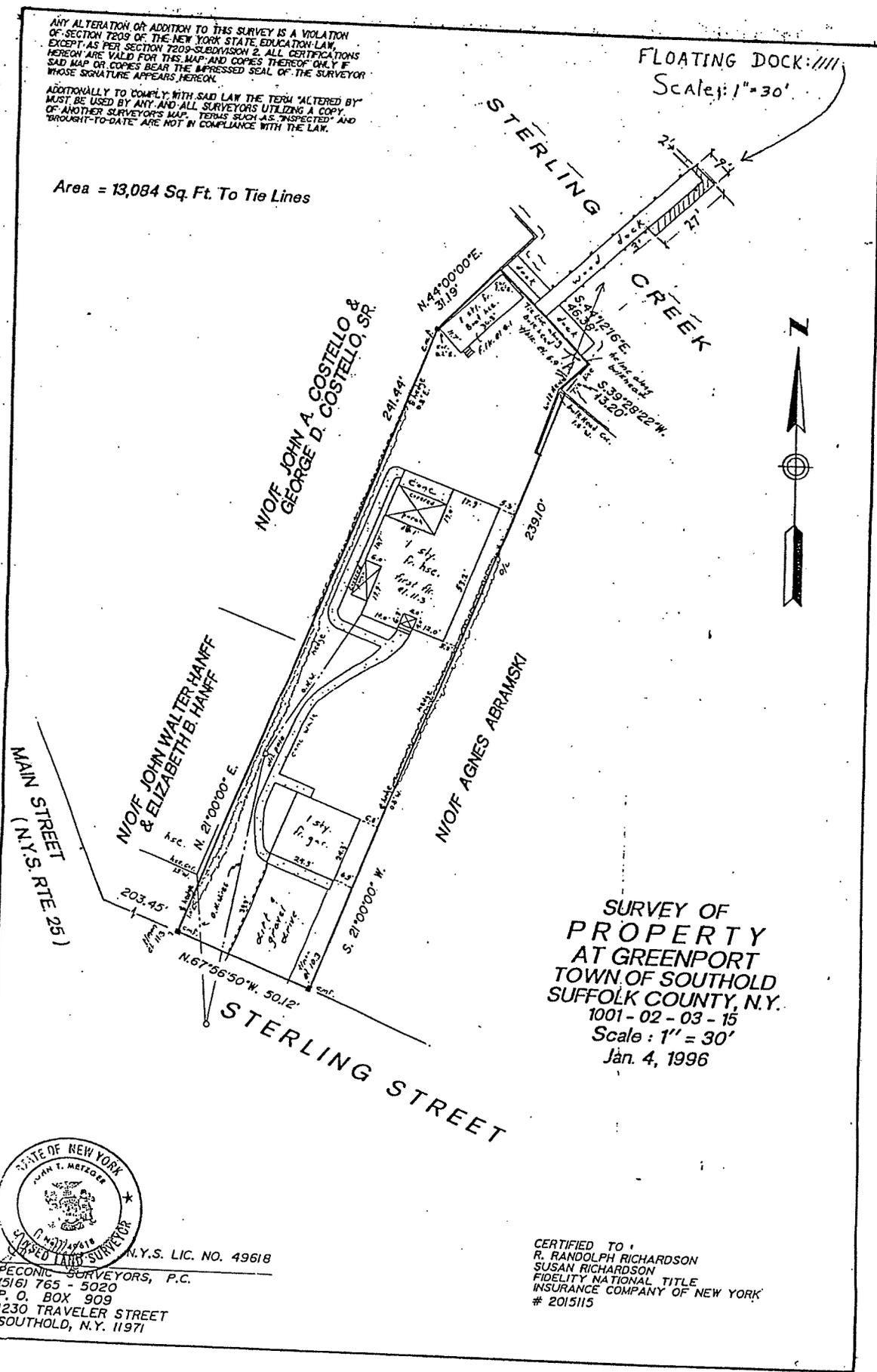
178 Sterling Street Documents

ANY ALTERATION OR ADDITION TO THIS SURVEY IS A VIOLATION OF SECTION 7209 OF THE NEW YORK STATE EDUCATION LAW, EXCEPT AS PER SECTION 7209-SUBDIVISION 2. ALL CERTIFICATIONS HEREON ARE VALID FOR THIS MAP AND COPIES THEREOF ONLY IF SAID MAP OR COPIES BEAR THE IMPRESSED SEAL OF THE SURVEYOR WHOSE SIGNATURE APPEARS HEREON.

ADDITIONALLY TO COMPLY WITH SAID LAW THE TERM "ALTERED BY" MUST BE USED BY ANY AND ALL SURVEYORS UTILIZING A COPY OF ANOTHER SURVEYOR'S MAP. TERMS SUCH AS "INSPECTED" AND "BROUGHT-TO-DATE" ARE NOT IN COMPLIANCE WITH THE LAW.

Area = 13,084 Sq. Ft. To Tie Lines

FLOATING DOCK://///
Scale: 1" = 30'



SURVEY OF
PROPERTY
AT GREENPORT
TOWN OF SOUTHOLD
SUFFOLK COUNTY, N.Y.
1001-02-03-15
Scale: 1" = 30'
Jan. 4, 1996



N.Y.S. LIC. NO. 49618
PECONIC SURVEYORS, P.C.
(516) 765-5020
P.O. BOX 909
1230 TRAVELER STREET
SOUTHOLD, N.Y. 11971

CERTIFIED TO:
R. RANDOLPH RICHARDSON
SUSAN RICHARDSON
FIDELITY NATIONAL TITLE
INSURANCE COMPANY OF NEW YORK
2015115

Filing Fee: \$50.00
Paid: _____
Receipt No. _____

VILLAGE OF GREENPORT
APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

PURSUANT TO THE PROVISIONS OF CHAPTER 48
HISTORIC PRESERVATION LAW OF THE VILLAGE OF GREENPORT

LOCATION OF PROPERTY 178 STERLING STREET, GREENPORT, N.Y. 11944
SUFFOLK COUNTY TAX MAP NO. Dist.1001 Section 2 Block 3 Lot 15
PROPERTY OWNER (TENANT) Shirley De Paolo to Randolph & Susan Richardson
ADDRESS & PHONE NO. R.Richardson, 50 E 89th St. NYC (212) 987-2530
ARCHITECT/DESIGNER Robert L. Rotner Arch.
ADDRESS & PHONE NO. 310 E. 45th St. NYC 10017 (212) 949-0011
BUILDER/CONTRACTOR To Be Selected
ADDRESS & PHONE NO. NA

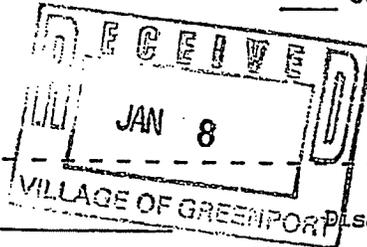
TYPE OF PROPOSED WORK

SITE WORK
 Fence or well
 Driveway, walk, patio, other pavement
 Major excavation or regrading, berm
 Swimming pool, tennis court
 Other structural landscape element

LANDSCAPE PLANTING
 Hedge along street boundary
 Plantings intended to screen other work described in this application

BUILDINGS
 New construction
 Addition
 Demolition
 Removal

BUILDING ALTERATIONS
 Wall materials
 Roof
 Chimneys
 Foundation material
 Doorways (including storm/ screen doors)
 Windows (including storm/ screen sash)
 Porches and steps
 Trim
 Gutters and leaders
 Paint and stain
 Other See Architect's Drawings



Approved: Date _____ Disapproved: Date _____

Conditions: _____

Provide a general description of the proposed work (use additional sheets
If necessary, refer to the accompanying exhibits)

See Architect's Drawings For Detailed Descriptions of construction; photos of existing
street scene.

Existing House (one story) , partial basement with crawl spaces, to be completely
renovated into new one story house with partial second story bedrooms and complete
new basement and porches.

Guest Cottage (one story) to have interior finishes completed, with exterior colors
to match new house colors. No changes to exterior.

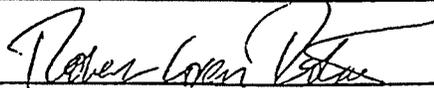
Garage to be repaired with new interior finishes; exterior to be repaired to match
new house materials and colors. No changes in size; new windows and doors to match
house.

List all exhibits submitted with this application (refer to the instructions
for the required submissions)

Architect's drawings : Site Plan (s)
~~PAINT/STAIN COLORS~~
Building Elevations (Paint/Stain colors)
Photos of Existing Street and Houses

Other approvals required _____

Signature of owner or authorized agent



DATE:

JAN 12, 1996

Robert Loren Rotner, Architect Jan 12, 1996



A NEIGHBOR
ACROSS STREET



STREET-FRONT
GARAGE...

DEKUEZER'S HOME.



BOATYARD BLDG
NEIGHBOR

EXIST'G HOUSE



5 (P10)
SC00

Building Department
VILLAGE OF GREENPORT
236 Third Street, Greenport, L.I., NY 11944
(516) 477-2385

BUILDING PERMIT

This Permit Must Be Kept on the Premises With One Set of Approved Plans and Specifications until Full Completion of the Work Authorized.

No. **1481**

Date April 12, 1996

Permission is hereby granted to:

Randolf & Susan Richardson

178 Sterling Street, Greenport, NY

SCTM No.: 2-3-15

to demolish existing and replace with new dwelling

at premises located at 178 Sterling Street, Greenport

SCTM # 2-3-15

pursuant to application dated April 11, 1996, and plans and specifications approved by the Village Administrator.

Cost of Construction \$

Fee \$ 890.00

Receipt # 32258

Victor Lissard
Village Administrator

MEMORANDUM FOR THE BOARD OF DIRECTORS

DATE: 11/15/2001

BY: [Name]

ATTACHMENT

This report is prepared for the Board of Directors and is intended to provide information regarding the proposed project.

The project is currently in the planning phase and is expected to be completed by the end of the year.

1/15

11/15/01

11/15/01

[Faint, mostly illegible text in the main body of the document, possibly containing a list of items or detailed project information.]

11/15/01

11/15/01

11/15/01

11/15/01

BUILDING PERMIT

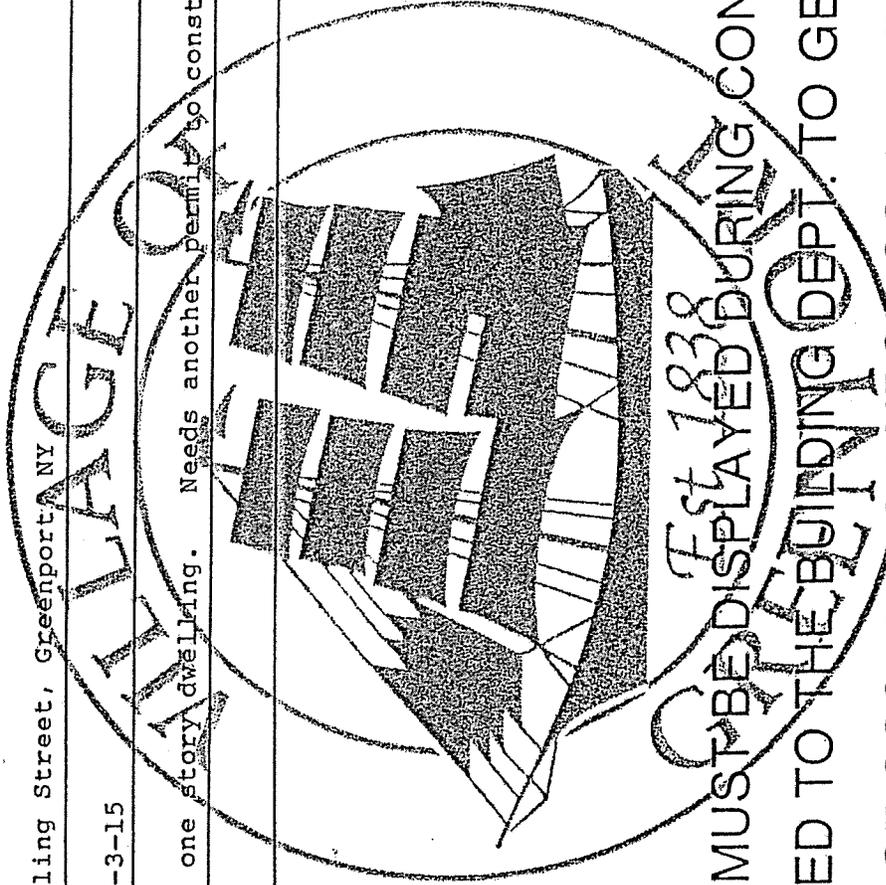
Issued to Randolf & Susan Richardson

Date April 11, 1996

Address 178 Sterling Street, Greenport, NY

SCTM # 2-3-15

TO Demolish existing one story dwelling. Needs another permit to construct.



THIS PERMIT MUST BE DISPLAYED DURING CONSTRUCTION
AND RETURNED TO THE BUILDING DEPT. TO GET A
CERTIFICATE OF OCCUPANCY UPON COMPLETION OF WORK.

Signed Victor Seaward
Superintendent of Buildings

No. 1467

Addition to Existing Residence

NOTICE OF PUBLIC HEARING VILLAGE OF GREENPORT ZONING BOARD OF APPEALS

NOTICE IS HEREBY GIVEN that pursuant to Chapter 150, Zoning Article X, Section 150-27A of the Greenport Village Code, the Zoning Board of Appeals will conduct a Public Hearing at the Station One Firehouse, located at Third and South Streets, Greenport, N.Y. 11944 on **December 17, 2024,** **commencing at 6:00 p.m.** regarding the application of:

Jake LaChapelle
on behalf of Idanes Sanchez
151 Central Avenue
Greenport, NY 11944
SCTM: 1001 -5 -2 -4

Applicant proposes renovation of existing two-story house. Work includes demolition of non-historic one-story kitchen addition at rear of house, rear deck, and non-historic garage at rear of house. Construction of new deck in approximate footprint of existing. Finished work will decrease building coverage by 118 SF to 1,455 SF. This requires the following variances:

1. Front Yard Setback Requirements

§150-12 Schedule Regulations

R-2 District: minimum front yard requirement: 30 feet.

§150-13(D)(3) Residence District Regulations

Average of two greatest setbacks: 27.3 feet.

The plans show an existing front yard setback of 10.5 feet.

This would require an area variance of 16.8 feet.

2. Side Yard Setback Requirements

§150-12 Schedule Regulations

R-2 District: minimum side yard requirement: 10 feet.

The plans show an existing side yard setback of 0.5 feet.

This would require an area variance of 9.5 feet.

3. Side Yard Setback Requirements

§150-12 Schedule Regulations

R-2 District: minimum side yard requirement: 10 feet.

The plans show a proposed side yard setback of 8.1 feet.

This would require an area variance of 1.9 feet.

4. Combined Side Yard Setback Requirements

§150-12 Schedule Regulations

R-2 District: minimum combined side yard requirement: 25 feet.

§150-13(E)(1) Residence District Regulations

Four tenths of the lot width: 14.2 feet.

The plans show a proposed combined side yard setback of 8.6 feet.

This would require an area variance of 5.6 feet.

5. 150-12 Schedule of regulations

R-2 District: Maximum permitted lot coverage: 30% / 1,377 square feet. The plans show a proposed total lot coverage of 31.7% / 1455 square feet. This would require an area variance of 1.7% / 78 square feet.

At the said time and place, all interested persons may be heard with respect to the foregoing matters.

The Board has not yet made any determinations under the State Environmental Quality Review Act.

Any Persons having disability which would inhibit attendance in the hearing should notify the Village Clerk at least three business days prior to the hearing, so that reasonable efforts may be made to facilitate such attendance and participation.

All relevant documents may be inspected at the office of the Village Clerk, 236 Third Street, Greenport, New York, during regular business hours.

**BY ORDER OF THE VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS
John Saladino, Chairperson**

Housekeeping variance
applying 4/10th rule to pre-existing non-conforming
SFD

**NOTICE OF PUBLIC HEARING
VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS**

NOTICE IS HEREBY GIVEN that pursuant to Chapter 150, Zoning Article X, Section 150-27A of the Greenport Village Code, the Zoning Board of Appeals will conduct a Public Hearing at the Station One Firehouse, located at Third and South Streets, Greenport, N.Y. 11944 on **December 17, 2024,** **commencing at 6:00 p.m.** regarding the application of:

Ruth Weisshahn (Shank)
~~320 Carpenter Street~~
Greenport, NY 11944
SCTM: 1001 -5 -2 -10

Applicant proposes to build a 10' x 14' carport in the front yard. This requires the following variances:

1. Accessory Building Setback

§150-13 Residence District Regulations

A. Accessory Building

(1) An accessory building may be located in any required rear yard, provided that:

(b) Such building shall be set back 5 feet from any lot line and shall not be located less than 10 feet from the principal building.

The Site Plan notes a proposed Carport and an Existing Shed in the Front Yard on Central Avenue as well as an existing shed in the rear yard

This would require an area variance to allow the Carport and Shed within the required Front Yard as well as a variance of 5 Feet from the existing shed to the rear lot line.

2. Front Yard Setback Requirements.

§150-12 Schedule Regulations

R2 District: Front Yard Setback 30 Feet

§150-13 Residence District Regulations

B. Corner Lots

(2) Corner Lots Rear and Side Yards

R2 District: Front yards are required on both street frontages.

The Site Plan notes an existing 2 story frame residence within the required front yard setbacks on both street frontages.

This would require an area variance for the new noncompliance at both street frontages:

Central Ave: 4.9 Feet Front Yard Variance

Carpenter Street: 14.9 Feet Front Yard Variance

3. Side Yard Setback Requirements.

§150-12 & 13E Schedule Regulations & Existing Small Lots

R2 District: Side Yard Setback 10 Feet.

The Site Plan notes an existing 2 story frame residence within the required Side Yard.

This would require an area variance for the side yard of 5.7.

At the said time and place, all interested persons may be heard with respect to the foregoing matters.

The Board has not yet made any determinations under the State Environmental Quality Review Act.

Any Persons having disability which would inhibit attendance in the hearing should notify the Village Clerk at least three business days prior to the hearing, so that reasonable efforts may be made to facilitate such attendance and participation.

All relevant documents may be inspected at the office of the Village Clerk, 236 Third Street, Greenport, New York, during regular business hours.

**BY ORDER OF THE VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS
John Saladino, Chairperson**

320 Carpenter

Addition to SFD



4/10th
Applied as

Building Department
Notice of Disapproval

To: Ruth Shank
320 Carpenter Street
Greenport, NY 11944

"House keeping" Variance
for Pre-existing SFD

PLEASE TAKE NOTICE that your application dated June 25th, 2024 and Plans dated May 22nd, 2024 for the proposed Carport Residential Building located at 320 Carpenter Street, Greenport, NY 11944 in the R2 Historic District, is returned herewith and disapproved on the following grounds:

1. Accessory Building Setback

§150-13 Residence District Regulations

A. Accessory Building

- (1) An accessory building may be located in any required rear yard, provided that:
 - (b) Such building shall be set back 5 feet from any lot line and shall not be located less than 10 feet from the principal building.

The Site Plan notes a proposed Carport and an Existing Shed in the Front Yard on Central Avenue as well as an existing shed in the rear yard

This would require an area variance to allow the Carport and Shed within the required Front Yard as well as a variance of 5 Feet from the existing shed to the rear lot line.

2. Front Yard Setback Requirements.

§150-12 Schedule Regulations

R2 District: Front Yard Setback 30 Feet

§150-13 Residence District Regulations

B. Corner Lots

(2) Corner Lots Rear and Side Yards

R2 District: Front yards are required on both street frontages.

The Site Plan notes an existing 2 story frame residence within the required front yard setbacks on both street frontages.

This would require an area variance for the new noncompliance at both street frontages:

Central Ave: 4.9 Feet Front Yard Variance

Carpenter Street: 14.9 Feet Front Yard Variance

3. Side Yard Setback Requirements.

§150-12 & 13E Schedule Regulations & Existing Small Lots

R2 District: Side Yard Setback 10 Feet

The Site Plan notes an existing 2 story frame residence within the required Side Yard.

This would require an area variance for the side yard of 5.7.

This application is therefore denied, requiring the above-mentioned variances. The premises to which this application applies are located at 320 Carpenter Street, Greenport, NY 11944 in the R2 Historic District,

Map: 1001 Section: 5 Block: 2 Lot: 10

George Pfriendr
NY State Certified Building Inspector

148 BAY AVE

1 of 2

Addition to Existing SFD

NOTICE OF PUBLIC HEARING VILLAGE OF GREENPORT ZONING BOARD OF APPEALS

NOTICE IS HEREBY GIVEN that pursuant to Chapter 150, Zoning Article V, Section 150-27A of the Greenport Village Code, the Zoning Board of Appeals will conduct a public hearing at the Station One Firehouse located at Third and South Streets, Greenport, N.Y. 11944 on Tuesday, December 21, 2021, commencing at 6:00 p.m. regarding the following application or matter:

Bridget and Eric Elkin
148 Bay Avenue
Greenport, NY 11944
SCTM # 1001-5.-2-15

The applicants propose to make substantial renovations and expansions to an existing single-family residence. The proposed renovation would add a 62 sq ft extension to the northwest side of the house while converting the existing 135 sq ft northwestern side porch into year-round habitable space. The proposed renovation would extend a portion of the back of the house by 32 sq ft on the first floor and by 269 sq ft on the second floor, to create one uniform back wall to the house. These first and second floor alternations would add 498 sq ft of additional square footage to the house. The proposed renovation will also create a habitable third floor, creating two additional bedrooms, and a bathroom. A fire sprinkler system is proposed for the third floor and its pathway of egress. (The existing third floor is 500 sq ft and the renovation of the third-floor space does not expand the footprint in any way and does not in any way impact the existing roof, height, or envelope of the single-family residence.)

As part of the porch conversion and the back wall of the house, new windows and doors would be added to these areas of the single-family residence. No other windows or doors would be changed.

Overall, the existing 1446 sq ft footprint of the house would be enlarged by 94 sq ft to a 1540 sq ft footprint and the existing lot coverage of 33.6% would increase to 35.7%.

This property is located in the R-2 (One and Two-Family) District and is located in the Historic District. This proposed renovation requires area variances as follows:

- One-Family dwelling: Maximum lot coverage: 30%
 - The specifications show the proposed lot coverage is 1,540 SF (35.7%). The allowable lot coverage is 1,292 SF (30%). This would require an area variance of 248 SF (5.7%) lot coverage increase.
- One-Family dwelling: Front Yard Setback: 30-feet
 - The plans show front yard setback of 14.7 feet. This would require an area variance of 15.3 feet.
- The total dimensions of both side yards for a principal building shall be computed based on four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.
 - The plans show a west-side yard setback of 5.7 feet. This would require an area variance of 4.3 feet.
- The total dimensions of both side yards for a principal building shall be computed based on four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.
 - The plans show an east-side yard setback of 1.5 feet. This would require an area variance of 8.5 feet.

148 ban

Zof Z

- ~~The total dimensions of both side yards for a principal building shall be computed based on four-tenths (0.4) of the lot width, however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.~~
 - The calculated combined side-yard setback is 13.08 feet. (0.4 x 32.71) The plans show a proposed combined setback of 7.2 feet. This would require an area variance of 5.88 feet.
- One-Family dwelling number of stories permitted: 2 ½
 - The plans show the conversion of the attic to livable space. This would require a variance for the proposed third story.
- One-Family dwelling: Off Street Parking.
 - The plans show no off-street parking to be provided. This would require a variance for 2 off-street parking spaces.

The application is on file with the Village Clerk, where it is available for review and inspection.

BY ORDER OF THE VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS
John Saladino, Chairperson

4#hs applied

Zoning Board MKG-3

11/16/21

12/21/21

Documents from "Agendas" on Grpt Village website

148 Bay Ave

Office of Greenport Building Department
236 Third Street, Greenport, New York 11944
OFFICE 631.477.0248 / FAX 631.477.1877

NOTICE OF DISAPPROVAL

Date: November 1, 2021

To: Bridget & Eric Eikin



PLEASE TAKE NOTICE that your application dated October 15, 2021 - to make alterations to a 3-story building at 148 Bay Avenue - is returned herewith and disapproved on the following grounds:

1. Lot Coverage Requirements.

150-12 District Regulations

One-Family dwelling: Max. lot coverage: 30% (R-2)

The specifications show the proposed lot coverage is 1,540 SF (35.7%). The allowable lot coverage is 1,292 SF (30%). This would require an area variance of 248 SF (5.7%) lot coverage increase.

2. Front Yard Setback Requirements.

150-12 District Regulations

One-Family dwelling: Front Yard Setback: 30-feet. (R-2)

The plans show the front yard setback of 14.7 feet. This would require an area variance of 15.3 feet.

3. Side Yard Setback Requirements.

150-13 E(1) Residence District Regulations

Existing small lots. A lot, owned individually and separately and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than, prescribed in this chapter may be used for a one-family residence, provided that such lot shall be developed in conformity with all applicable district regulations.



- (1) The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yards dimension shall be less than 10 feet.

The plans show a West yard setback of 5.7 feet. This would require an area variance of 4.3 feet.

4. Side Yard Setback Requirements.



150-13 E (1) Residence District Regulations

Existing small lots. A lot, owned individually and separately and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than, prescribed in this chapter may be used for a one-family residence, provided that such lot shall be developed in conformity with all applicable district regulations.

- (2) The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yards dimension shall be less than 10 feet.

The plans show an East side yard setback of 1.5 feet. This would require an area variance of 8.5 feet.

5. Combined Yard Set Back Requirements.



150-13 E (1) Residence District Regulations

Existing small lots. A lot, owned individually and separately and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than, prescribed in this chapter may be used for a one-family residence, provided that such lot shall be developed in conformity with all applicable district regulations.

- (3) The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.

The calculated combined side yard set back is 13.1 feet. (0.4 x 32.71) The plans show proposed combined setback of 7.2 feet. This would require an area variance of 5.8 feet.

6. 150-12 District Regulations

One-Family dwelling number of stories permitted 2 1/2.

The plans show the Conversion of the attic to livable space. This would require a variance for 3rd story.

7. Off Street Parking Requirements.

150-12 District Regulations

148 bay ave

3

One-Family dwelling: Off Street Parking. (R-2)

The plans show no off-street parking to be provided. This would require a variance for 2 off street parking

This application is therefore denied, requiring the above-mentioned area variances.

Additionally, this project will have to obtain a Certificate of Appropriateness from the Historic Preservation Commission prior the issuance of Building Permit.

The premise to which this application applies to is located at:
148 Bay Avenue, Greenport, New York 11944.

This property is located in the R-2 District. This Property is located in the Historic District.

Map: 1001 Section: 5 Block: 2 Lot(s): 15

.....
Alex Bolanos- NYS Code Enforcement Official

10/3/2021
.....
Date

Addition to Existing SFD

NOTICE OF PUBLIC HEARING
VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

NOTICE IS HEREBY GIVEN that pursuant to Chapter 150, Zoning Article V, Section 150-27A of the Code of the Village of Greenport, a Public Hearing will be held by the Zoning Board of Appeals at the Third Street Firehouse, Third Street, Greenport, N.Y., 11944 on Tuesday, February 19, 2018, commencing at 6:00 p.m. regarding the following application or matter:

Megan Strecker & Cameron Dowe
412-414 Carpenter Street
Greenport, NY 11944
SCTM # 1001-5-1-8

The applicant proposes to construct an addition on the premises located at 412-414 Carpenter Street, Greenport, N.Y., 11944. The property is located in the R-2 (One and Two Family Residential) District. The property is also located in the Village of Greenport Historic District.

1. The proposed addition would increase the degree of non-conformity, requiring a zoning variance.

- Section 150-21 A. states that nothing in this article shall be deemed to prevent normal maintenance and repair, structural alterations, moving, reconstruction or enlargement of a non-conforming building, provided that such action does not increase the degree of, or create any new non-compliance with regards to the regulations pertaining to such buildings.

2. The proposed addition requires an area variance of 6 feet, 8 inches for the combined side yard setback.

- Section 150-13 E. (1) states that the total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths of the lot width; however, no side yard dimension shall be less than four-tenths of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.

A copy of the request is on file with the Village Clerk where it is available for review and inspection.

BY ORDER OF THE VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS
John Saladino, Chairperson

1T 02/07/2019

Addition to Existing SPD

Minutes PG 5 - 14 - 20
PG 5 - 81 - 85

NOTICE OF PUBLIC HEARING VILLAGE OF GREENPORT ZONING BOARD OF APPEALS

NOTICE IS HEREBY GIVEN that pursuant to Chapter 150, Zoning Article V, Section 150-27A of the Code of the Village of Greenport, a Public Hearing will be held by the Zoning Board of Appeals at the Old School House, Front and First Streets, Greenport, N.Y., 11944 on
* Tuesday, March 19, 2019, commencing at 6:00 p.m. regarding the following application or matter:

Jim Getches

137 Sterling Avenue
Greenport, NY 11944
SCTM # 1001-3.-5-11

137 Sterling Avenue, Greenport, N.Y., 11944. The property is located in the R-2 (One and Two Family Residential) District. The property is not located in the Village of Greenport Historic District.

NOT
account
SEORA
Type II action
* PG 81, 82

- Section 150-12 A. of the Code of the Village of Greenport allows for a maximum of 35% lot coverage for a two-family dwelling in the R-2 (One and Two-Family) District.

1. The proposed additions would exceed the 35% maximum lot coverage. The lot area is 5,377 square feet, the maximum lot coverage at 35% would be 1,882 square feet. The lot coverage with the proposed additions is 1,981 square feet, requiring an area variance of 99 square feet.

Section 150-13 E. (1) of the Code of the Village of Greenport states that the total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths of the lot width; however, no side yard dimension shall be less than four-tenths of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.

2. The proposed additions show an 18-foot setback on the east, and a 5-foot 6-inch setback on the west. The required combined side yard setback is 21-foot 2.4-inches, the proposed combined side yard setback is 20-foot 6-inches, requiring a variance of 8.4 inches.
 3. The proposed addition on the west side of the property shows a 2-foot 6-inch setback on the west side of the property, requiring an area variance of 7-foot 6-inches for a side yard setback.
- Section 150-12 A. of the Code of the Village of Greenport requires a minimum front yard setback of 30 feet.
 - 4. The proposed plans show a front yard setback of 4 feet, requiring an area variance of 26 feet.

A copy of the request is on file with the Village Clerk where it is available for review and inspection.

BY ORDER OF THE VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS
John Saladino, Chairperson

1T 03/07/2019

4/10/16

New Construction

2016

1 of 2



VILLAGE OF GREENPORT - ZONING BOARD OF APPEALS
PUBLIC HEARINGS AND REGULAR MEETING
September 20, 2016 - 6:00 PM
Third Street Firehouse Conference Room

* * * *

PUBLIC HEARINGS

Item # 1. Renewed Public Hearing regarding area variances sought by Walter and Diane Foote, 126 Center St., SCTM # 1001-4-2-25. The property is located in the R-2 District and is not located in the Historic District.

The applicants seek area variances to obtain a building permit to construct an addition to the existing nonconforming dwelling. Setbacks for the project have been revised by the applicant.

Section 150-13 B (2). of the Greenport Village Code specifies that on a corner lot, front yards are required on both street frontages. One yard other than the front yard shall be deemed to be a rear yard and the other or others to be side yards.

Center Street: The proposed front yard setback for the new construction is 1.0 ft. requiring a 15 ft. front yard setback variance for the addition of a front porch.

Second Street: The proposed front yard setback for the new construction is 4.2 ft. requiring a 2.1 ft. front yard setback variance for the addition of a front porch.

The setback calculations are based on Section 150-13D of the Greenport Village code, which reduces the required 30 ft. front yard setback on Center Street to 16 ft. and reduces the required setback on Second Street to 6.3 ft., based on the average setback of the two existing dwellings with the greatest setbacks within 200 ft. on each side of said proposed dwelling, on the same side of the street and within the same block and same district.

Section 150-12A. of the Greenport Village Code limits lot coverage to 30% of the lot area in the R-2 District.

The existing building coverage is 31.87% (1,260 sq. ft.) with the proposed porch being an increase of 2.81% (111 sq. ft.), for a total proposed lot coverage of 34.68% (1,371 sq. ft.); requiring a maximum lot coverage variance of 4.68% (185 sq. ft.). The site is 3,954 sq. ft.

Item # 2. Public Hearing regarding area variances sought by Bryan Nicholson, for a lot East of 217 Monsell Place, SCTM # 1001-2-2-29. The property is located in the R-1 District. The property is not located in the Historic District.

The applicant seeks a side yard setback variance to construct a new single family dwelling with a footprint of approximately 979 sq. ft., including a covered entry porch.

236 THIRD STREET
GREENPORT NY 11944

Tel: (631) 477-0248
Fax: (631) 477-1877

MAYOR
GEORGE W. HUBBARD, JR.
Ext. 215

TRUSTEES
JACK MANTILLOTTA
DEPUTY MAYOR
MARY BESS PHILLIPS
DOUGLAS W. ROBERTS
JULIA ROBINS

VILLAGE ADMINISTRATOR
PAUL J. PALLAS, P.E.
Ext. 219

CLERK
SYLVIA PIRILLO, RMC
Ext. 205

TREASURER
ROBERT BRANDT
Ext. 217



PG 16 -



236 THIRD STREET
GREENPORT NY 11944

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Fax: (631) 477-1877

MAYOR
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CLERK
SYLVIA PIRILLO, RMC
Ext. 206

TREASURER
ROBERT BRANDT
Ext. 217

Section 150-13E. Existing small lots. A lot, owned individually and separately and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than, prescribed in this chapter may be used for a one-family residence, provided that such lot shall be developed in conformity with all applicable district regulations.

(1) The total dimensions of both side yards for a principal building shall be computed on the basis of four-tenths (0.4) of the lot width; however, no side yard dimension shall be less than four-tenths (0.4) of the total dimensions of both side yards computed as aforesaid, and no side yard dimension shall be less than 10 feet.

The proposed house is setback 5.0 ft. from the east property line, requiring a side yard setback variance of 5.0 ft.

Item # 3. Continuation of a Public Hearing regarding area variances sought by James Olinkiewicz, 221 Fifth Avenue, SCTM 1001-4.-4-29. This Property is not located within the Historic District.

The applicant requests several area variances required to subdivide an existing lot and construct a conforming house. This subdivision will create two new substandard lots requiring area variances, as follows:

Lot 1:

- The proposed subdivision creates lot 1 which is 6,587 sq. ft. where Section 150-12 (A) of the Greenport Village Code requires a minimum lot size of 7,500 sq. ft., requiring a minimum lot size variance of 913 sq. ft.
- The proposed lot width of lot 1 is 47.82 ft. where Section 150-12 (A) of the Greenport Village Code requires a minimum lot width of 60 ft., requiring a minimum lot width variance of 12.18 ft.

Lot 2:

- The proposed lot width of lot 2 is 52.35 ft. where Section 150-12(A) of the Greenport Village Code requires a minimum lot width of 60 ft., requiring a minimum lot width variance of 7.65 ft.
- The proposed combined side yard setbacks of lot 2 is 17.9 ft. where section 150-12(A) of the Greenport Village Code requires a combined yard setback of 25', requiring a combined side yard setback variance of 7.10 feet.
- The proposed subdivision creates a 5 ft. side yard setback on the north property line, where Section 150-12(A) of the Greenport Village Code requires a side yard setback of 10', requiring a side yard setback variance on the north property line of 7.10 feet.

Item # 4. Continuation of a Public Hearing regarding area variances sought by James Olinkiewicz, officer of 238 Fifth Ave Greenport Inc., 238 Fifth Avenue, SCTM 1001-4.-8-3. This property is not located within the Historic District.

The applicant requests several area variances required to subdivide an existing lot and construct a non-conforming house.

This subdivision will create two new substandard lots requiring area variances as follows: