

INCORPORATED VILLAGE OF WESTHAMPTON DUNES
ZONING BOARD OF APPEALS

September 9, 2017

10:00 a.m.

Meeting held at
906 Dune Road, Westhampton Dunes, New York

Application
Ray Weber; SCTM#0907-02-01-04; 846 Dune Road
West Hampton Dunes, New York

APPEARANCES:

Harvey Gessin - Chairman

James Cashin - Member

Joseph Mizzi - Member

Eric Saretsky - Member

Joseph Prokop - Village Attorney

Angela Sadeli - Village Clerk

Aram Terchunian - Commissioner of Wildlife
Protection

1 (The meeting was called to order at 10:26 a.m.)

2 CHAIRMAN GESSIN: Let's start with the Pledge
3 of Allegiance.

4 (All stood for the Pledge of Allegiance)

5 CHAIRMAN GESSIN: So this is a continuation
6 of the application of 484 --

7 MR. HULME: 846.

8 MS. SADELI: 846.

9 CHAIRMAN GESSIN: 846. I had the numbers
10 right, the wrong place. 846 Dune Road. I believe
11 we've now closed the hearing period; is that
12 correct, Joe?

13 MR. PROKOP: Yes, we closed the hearing. We
14 extended the time to -- for people to submit
15 written comments or submissions. Was there any?

16 MS. SADELI: No.

17 MR. HULME: Yes.

18 MR. PROKOP: Okay.

19 MR. HULME: Yes. I submitted the pyramid.

20 MR. PROKOP: All right. So we --

21 CHAIRMAN GESSIN: But that -- no, that was
22 prior to the closing of the --

23 MR. HULME: No, that was after.

24 MS. SADELI: That after, August 3rd.

25 CHAIRMAN GESSIN: Oh, it was?

1 MR. HULME: Yeah. And you had asked me to do
2 three things. You had asked me to assure you that
3 the DEC covenant was never recorded, and I gave you
4 a title report that showed that.

5 You asked me to define specifically for you
6 whether the water or the electric were separate or
7 together. In this particular case, what I reported
8 to you was that the electric was separate, the
9 water separately metered. There's only one water
10 meter, but, certainly, if this is approved, a
11 reasonable condition would be to separate those.

12 And the third thing was a pyramid analysis
13 based on the flagpole. And what was determined was
14 that there is no pyramid relief needed, even if the
15 subdivision is granted, and that was submitted as
16 well.

17 CHAIRMAN GESSIN: So, Joe, what are we --
18 since the -- since we've closed the hearing, how do
19 we discuss that? We just discuss it?

20 MR. PROKOP: We -- right. So the next thing
21 is to proceed to a decision, to start discussing
22 the elements of a decision.

23 I just wanted to mention that you weren't --
24 the applicant wasn't supposed to give us an
25 assurance about the electric utilities, he was

1 supposed to give us a copy of the water and
2 electric bills.

3 CHAIRMAN GESSIN: Yeah, which he did.

4 MS. SADELI: He did.

5 MR. PROKOP: He copied the bills, okay.

6 MR. HULME: Yes.

7 MR. PROKOP: All right. So now we're moving
8 into working towards a decision. The first part of
9 that, that I recommend -- I've circulated Section
10 7-12(B) of the New York State Village Law, which
11 has in Subsection 3 the considerations that have to
12 be made by you. We know what they are, they're the
13 five things that we look at, but this is the law
14 that they come from.

15 The first consideration, though, is we should
16 talk about SEQRA. We have determined that this was
17 a -- we looked at -- we viewed this, without taking
18 a vote on it, that it's an -- excuse me -- an
19 Unlisted Action. We -- an Unlisted Action. And so
20 that, at this point, what we would do is adopt Lead
21 Agency status, determine that it's an Unlisted
22 Action for purposes of SEQRA, and then go through
23 the criteria and decide whether we think there'll
24 be an impact from any one or all of the variances
25 on the environment.

1 CHAIRMAN GESSIN: Right. And do we discuss
2 Jim's letter prior to that or --

3 MR. PROKOP: I don't know. What's Jim's
4 letter?

5 CHAIRMAN GESSIN: What he just mentioned
6 about the water meter, the electric meter, the
7 Pyramid Code. And I believe there's a third thing
8 on there.

9 MR. SARETSKY: Title search letter.

10 MR. HULME: Covenant.

11 MR. SARETSKY: Utility and pyramid.

12 MS. SADELI: Harvey, right there.

13 CHAIRMAN GESSIN: Okay. I had it, I just
14 need to get my fingers on it now.

15 MR. SARETSKY: It's his letter dated -- it's
16 this one received August 3rd. You want to borrow
17 this one?

18 CHAIRMAN GESSIN: What?

19 MR. SARETSKY: This.

20 CHAIRMAN GESSIN: Thank you.

21 MR. PROKOP: So we have -- there's a letter
22 from Jim Hulme, dated -- with no date. It's --

23 MR. HULME: I noticed this morning I forgot
24 to put a date on the letter.

25 MR. PROKOP: It's received by us on August

1 3rd, 2017.

2 MR. HULME: What was the receipt date, Joe?

3 MR. PROKOP: August 3rd, 2017. And the first
4 is -- the first document that's attached to it is a
5 letter from Liberty Property Services, Inc. that
6 says that this company has done a title search and
7 that there's no -- there's no covenants and
8 restrictions. Well, actually, what it says is that
9 there's no covenants and restrictions recorded on
10 the property for 20 years, for the last 20 years.
11 So I don't know if that's --

12 CHAIRMAN GESSIN: Yeah, the DEC approval was
13 dated October 7 of 1998.

14 MR. PROKOP: Okay. There's a PSE&G bill for
15 846 Dune Road with an account ending 100, and then
16 there's another PSE&G bill with an account ending
17 in 200 for 840 -- they're both for 846 Dune Road,
18 but there's two PSE&G accounts. And then the last
19 thing is the pyramid analysis.

20 CHAIRMAN GESSIN: Right. Now who did this
21 drawing?

22 MR. HULME: (Pointing).

23 CHAIRMAN GESSIN: Oh, Chris?

24 MR. HULME: Andrew Baird did that drawing.

25 CHAIRMAN GESSIN: Say that again.

1 MR. HULME: Andrew Baird.

2 CHAIRMAN GESSIN: And who's he?

3 MR. HULME: He's an employee of a company
4 known as First Coastal.

5 CHAIRMAN GESSIN: Okay.

6 MR. HULME: If you would prefer, I can -- I
7 didn't have this in time, but I can substitute a
8 surveyor certified copy of the same thing.

9 CHAIRMAN GESSIN: Okay.

10 MR. HULME: If you'd like that for the
11 record. It's exactly the same as what was
12 submitted.

13 CHAIRMAN GESSIN: Okay. That's just a copy
14 of this.

15 MR. HULME: Huh?

16 CHAIRMAN GESSIN: That's a copy of this?

17 MR. HULME: Well, no. These were done
18 independent of each other, but this one is
19 certified by the surveyor, but they're exactly the
20 same.

21 CHAIRMAN GESSIN: But, Jim, that drawing and
22 this house are not the same, they can't be.

23 MR. HULME: Well, this is what the surveyor
24 provided. This is at -- well, the pyramid starts
25 at the --

1 CHAIRMAN GESSIN: At the first floor.

2 MR. HULME: At the first floor, 14.

3 CHAIRMAN GESSIN: Right, right.

4 MR. HULME: That's a one-story building.

5 CHAIRMAN GESSIN: And what exactly is the
6 height on the inside of the first floor? I assume
7 it's 8 feet.

8 MR. HULME: Yup.

9 CHAIRMAN GESSIN: Okay. So if you look at
10 this picture here, and I actually walked up on this
11 deck, that siding measures 8 feet.

12 MR. HULME: Okay.

13 CHAIRMAN GESSIN: So that means that the roof
14 is higher than this drawing.

15 MR. HULME: But the roof is not higher than
16 -- this is the height of the building at that
17 point.

18 CHAIRMAN GESSIN: It's actually not.

19 MR. HULME: It's 8 feet above the first --
20 finished first floor.

21 CHAIRMAN GESSIN: I know, but it's not.

22 MR. HULME: It's not 8 feet above that?

23 CHAIRMAN GESSIN: No, no. This is 8 feet --

24 MR. HULME: Yes.

25 CHAIRMAN GESSIN: -- but you're missing this

1 piece hear. What does this look like? This
2 actually looks like this. You're missing this
3 piece.

4 MR. HULME: Okay. But as you've drawn it,
5 it's still outside the pyramid.

6 CHAIRMAN GESSIN: I didn't measure it.

7 MR. HULME: Which -- all right. Well, this
8 is -- I asked the surveyor to do it, this is what
9 he did. If we need to redo it, yeah, I just --

10 MR. MIZZI: What I think he's saying is that
11 the roof line drawn here has no resemblance to the
12 existing conditions.

13 MR. HULME: Yeah. But even if the roof peak
14 is up here, this point --

15 CHAIRMAN GESSIN: But we only care about that
16 point.

17 MR. HULME: This point is still here.

18 CHAIRMAN GESSIN: No, you're measuring to the
19 roof.

20 MR. HULME: Whoops. What did I do?

21 CHAIRMAN GESSIN: I'll find it. Here.

22 MR. HULME: This is --

23 CHAIRMAN GESSIN: In other words, it's 8 feet
24 from here to here.

25 MR. HULME: To here, correct.

1 CHAIRMAN GESSIN: And then I have this.

2 MR. HULME: Yeah, but that moves away from
3 this point, that even if it goes at that angle,
4 it's still not -- it's still not -- that roof is
5 not 60 degrees. The roof itself is not 60 degrees.
6 So even if it were as much as 60 degrees, it would
7 run parallel to the 60 degree line, because this
8 line starts at the height of the first floor.

9 CHAIRMAN GESSIN: That's correct.

10 MR. HULME: So at 8 -- at 6.7 feet in from
11 that property line, it's -- it's more than -- it's
12 almost 10 feet, 10 feet high.

13 CHAIRMAN GESSIN: I don't know what it is.

14 MR. HULME: That line. Well --

15 CHAIRMAN GESSIN: I can't tell you what it is.

16 MR. HULME: Okay. Well, we could do the
17 math, if we had a calculator, because we have a 60
18 degree angle. And, you know, the -- we can do
19 Pythagorean theorem. But this point, this point is
20 this point right here, right?

21 CHAIRMAN GESSIN: Yeah.

22 MR. HULME: Okay. And so maybe there's an
23 eave that's a foot or so and the roof goes up here.
24 But the roof is not at 60 degrees, so --

25 MR. PROKOP: Could I suggest something? The

1 house that's in the diagram has no resemblance to
2 the house that's in the --

3 CHAIRMAN GESSIN: Picture.

4 MR. PROKOP: -- photograph. Could I ask the
5 Board why we're discussing this?

6 CHAIRMAN GESSIN: Well, it's -- we're trying
7 to determine whether -- we have to vote on that
8 side yard setback, which is too tight to begin
9 with, and we requested at an earlier meeting to do
10 a drawing of the sky exposure plane, the Pyramid
11 Code they call it in this Village, but which would
12 be affected by the -- by the house being closer to
13 the property line.

14 MR. PROKOP: So we're at like day 50 from
15 when we requested it and we don't have it. So
16 what -- excuse me, I'm sorry. I can only give you
17 recommendations.

18 CHAIRMAN GESSIN: Yeah, just --

19 MR. PROKOP: I recommend that you don't try
20 to reconstruct the clearly defective pyramid
21 diagram.

22 CHAIRMAN GESSIN: Okay, okay, okay.

23 MR. PROKOP: I don't see what the point of
24 that would -- I would just caution you that that
25 may result in an error.

1 CHAIRMAN GESSIN: Okay.

2 MR. PROKOP: Unless you disagree. I'm not --
3 you're --

4 CHAIRMAN GESSIN: Okay. We could leave it
5 alone and let the vote be what it may be.

6 MR. HULME: Well, I mean --

7 MR. PROKOP: Unless you want to give -- well,
8 the hearing's closed.

9 MR. HULME: I can't, I'm not the surveyor
10 here.

11 CHAIRMAN GESSIN: I didn't say you were.

12 MR. HULME: So I can't, I can't provide any
13 testimony. I guess the only thing I could ask at
14 this point is that we reopen for the purpose of my
15 getting this corrected. If this -- if this is
16 going to bear on your decision, I think that you
17 need it accurately portrayed. And if there's a
18 doubt as to whether or not this is accurately
19 portrayed or not, then you can't -- we don't know
20 whether a variance -- we don't know whether it's in
21 violation or not.

22 CHAIRMAN GESSIN: Right. Well, I mean, we
23 closed the hearing, and I think the Board is
24 prepared to vote, I mean, unless you want us not to
25 vote.

1 MR. HULME: Right. I guess that raises a
2 question. I don't think it's the case, but if it
3 turns out that this is -- this needs a variance and
4 you haven't granted it as part of this proceeding,
5 I guess I'm coming back.

6 MR. PROKOP: Do you think that this is the
7 height of the house on the front? From a front
8 view of the house, do you think that this --

9 CHAIRMAN GESSIN: Well, the ridge doesn't
10 seem to be the issue.

11 MR. PROKOP: Well, it is if you draw a
12 straight line. The house has a straight ridge line
13 to it.

14 CHAIRMAN GESSIN: Well, this is all about
15 shadow on the neighboring property, so it would
16 really be this point right here.

17 MR. HULME: Yeah. Well, this is an argument
18 for the variance, not an argument to correct this.

19 CHAIRMAN GESSIN: Right.

20 MR. HULME: But, you know, the effective
21 setback is still the same as before or after the
22 subdivision, because we have our 6.7 feet --

23 CHAIRMAN GESSIN: No, right, you're 100%
24 right.

25 MR. HULME: Yeah.

1 CHAIRMAN GESSIN: That's why I'm saying it's
2 your call if you wanted this to go forward or --

3 MR. HULME: Right, okay. Can I consult with
4 my client for a second?

5 CHAIRMAN GESSIN: Sure.

6 MR. PROKOP: Can I talk to you for a second?

7 CHAIRMAN GESSIN: Yeah. We'll be back after
8 a quick break.

9 (The meeting was recessed at 10:39 a.m. and
10 resumed at 10:41 a.m.)

11 MR. HULME: I consulted with my client and
12 he's willing to go forward at this point and have
13 you render a decision --

14 CHAIRMAN GESSIN: Okay.

15 MR. HULME: -- on the application.

16 CHAIRMAN GESSIN: No problem. Okay. Again,
17 as far as the other items on that list, clearly,
18 the house has two electric meters, so that -- so it
19 won't require a second meter. But it does not
20 have, as Jim pointed out, two water meters, even
21 though we originally thought it did.

22 MR. CASHIN: Harvey, on Item 1 of that
23 letter, does it matter that it's only the last 20
24 years?

25 CHAIRMAN GESSIN: Well, the 20 years is prior

1 to the DEC approval that required covenant.

2 MR. CASHIN: Is it?

3 CHAIRMAN GESSIN: Yeah, I just -- I checked
4 the date.

5 MR. HULME: The DEC permit was 1998. So if
6 there was going to be a covenant recorded --

7 CHAIRMAN GESSIN: Twenty years would be '97.

8 MR. HULME: -- it would have had to have been
9 recorded after 1998, and that's less than 20 years
10 ago.

11 MR. PROKOP: The way that the County keeps
12 records changed 20 -- there's a standard in the
13 title industry in Suffolk County that when they do
14 searches for deeds or covenants and restrictions,
15 anything that has to do with the title, they go
16 back 20 years, unless you make a special request
17 that they go back farther. I believe that it has
18 to do with the way -- with the change in the way
19 that they kept the records 20 years -- started
20 keeping the records 20 years ago.

21 We did not limit our request to 20 years.
22 However, the covenants -- the DEC approval was 18
23 or 19 years ago, so the covenant would have been
24 filed about that time. So I think if they went
25 back 20 years, it's my -- with regard to that

1 condition, I think it's sufficient, the response
2 that they made.

3 MR. CASHIN: Thank you.

4 CHAIRMAN GESSIN: Okay. Does the Board have
5 -- anyone on the Board have any other questions?
6 I'm sure, Joe, you're loaded with them because you
7 missed a couple of meetings.

8 MR. MIZZI: Yeah. I can't say I have
9 specific questions, but I have -- I need to listen
10 and determine if I'm able to make a vote.

11 CHAIRMAN GESSIN: Okay. Anything you want to
12 add at this current time?

13 MR. SARETSKY: No.

14 MR. CASHIN: Not right now.

15 CHAIRMAN GESSIN: All done? Okay. So do you
16 want -- so how do we get -- how do we proceed, Joe,
17 with this?

18 MR. PROKOP: The first thing we're going to
19 do is adopt SEQRA. And I have to pull up something
20 on my phone. Just a second.

21 CHAIRMAN GESSIN: Okay.

22 MR. PROKOP: Okay. So the first thing is for
23 the Board to adopt Lead Agency status for purposes
24 of SEQRA. So there would be a motion that the
25 Board adopt Lead Agency status.

1 CHAIRMAN GESSIN: Would someone like to make
2 a motion on the Board?

3 MR. CASHIN: I'll move so.

4 CHAIRMAN GESSIN: And a second?

5 MR. SARETSKY: (Raised hand). Joe, you
6 recommend that that's what we should do?

7 MR. PROKOP: That we adopt Lead Agency status
8 for purposes of SEQRA, yes.

9 MR. SARETSKY: Okay.

10 CHAIRMAN GESSIN: Next, Joe.

11 MR. PROKOP: The second action with regard to
12 SEQRA is that the Board determine that the review
13 and consideration of the variances is an Unlisted
14 Action for purposes of SEQRA.

15 Now, I would -- I just want to point out that
16 normally a variance granted to a single-family
17 residence is a Type II Action, but in this case,
18 the actual action that you're doing is related to a
19 subdivision, not a -- not the construction or
20 development of a single-family residence. So I
21 think for that reason it's an Unlisted Action.

22 The grant -- these approvals are related to
23 an application for a subdivision, and that,
24 therefore, it's an Unlisted Action rather than a
25 Type II Action.

1 CHAIRMAN GESSIN: Okay. Would somebody like
2 to make a motion?

3 MR. CASHIN: Sure.

4 MR. SARETSKY: Joe, you think it's the right
5 thing, right?

6 MR. PROKOP: Yes.

7 MR. SARETSKY: Okay. I'll second it, on
8 advice of Counsel.

9 MR. PROKOP: Okay. Now, the next thing for
10 you to do is to -- you can determine at this time
11 whether or not the granting of the application
12 would have -- granting of any of the variances
13 would have a significant negative impact on the
14 environment. You could do it separately for each
15 of the variances, or you could do it as a group.
16 My recommendation is that you do it globally.
17 Basically, you consider the whole package for
18 purposes of the potential for impacts on the
19 environment.

20 However, if you think that there's any one
21 particular variance that may have an impact, then
22 you could mention it as part of -- you know, and
23 the others, the other variances do not have a
24 potential for impact on the environment, you could
25 mention that.

1 So the other thing is that you don't have to
2 -- as with the variances, today's a public meeting
3 for you to discuss the application. You don't have
4 to determine SEQRA definitively today, you could
5 discuss it, and then approve it with a written
6 document later on, or approve it at a subsequent
7 meeting. But the only thing is that if you don't
8 conclude SEQRA today, you can't vote on the -- you
9 could discuss the variances, but you can't take
10 action on them until you've concluded SEQRA.

11 CHAIRMAN GESSIN: Okay. And why would we not
12 conclude it?

13 MR. PROKOP: I just want to let you know.

14 MR. SARETSKY: So that we could then review
15 it, is what you're saying.

16 MR. PROKOP: If you wanted to, right. Or you
17 could -- or you could conclude it.

18 So the criteria for determining significance
19 are set forth in the New York State Code, and it's
20 Section 6-6NYCRR 617.7, and these are the criteria
21 for whether or not there's a significant impact on
22 the environment.

23 The first is whether or not the granting of
24 the -- granting of the relief will create a
25 substantial adverse change in existing air quality,

1 ground or surface water quality, or a substantial
2 increase in solid waste production, or the
3 potential for erosion, flooding or drainage --
4 leaching or drainage problems. Okay. So,
5 basically, it's air or water quality, or, as I
6 said, substantial impact -- increases in solid
7 waste production, or the potential for erosion,
8 flooding, leaching or drainage problems. So does
9 anybody have a --

10 CHAIRMAN GESSIN: Concern?

11 MR. CASHIN: I don't think that's a concern.

12 MR. SARETSKY: I don't think so. Aram, do
13 you think there's any concern with those?

14 MR. TERCHUNIAN: No, I don't believe there's
15 a concern really with regard to that.

16 MR. PROKOP: Okay. So moving ahead, then,
17 the next -- you don't have to vote on these, you
18 can just discuss them, and then we can take a vote
19 at the end.

20 The next one is whether the -- whether the
21 approval of the variances will result in the
22 removal or destruction of large quantities of
23 vegetation or fauna, or substantial interference
24 with the migratory fish or wildlife species, or
25 impacts on the significant -- excuse me --

1 significant habitat area, or substantial impacts on
2 threatened or endangered species or any other
3 natural resources.

4 CHAIRMAN GESSIN: Yeah, I don't believe it
5 does.

6 MR. SARETSKY: I don't think it does.

7 MR. CASHIN: Just talking strictly
8 subdivision, it does not.

9 MR. SARETSKY: Right. Or, you know, what you
10 have is what you have.

11 MR. CASHIN: Right.

12 MR. PROKOP: Whether the granting of the
13 variances will impair the environmental
14 characteristics of a critical environmental area
15 as designated.

16 MR. TERCHUNIAN: Right. There is no critical
17 environmental area --

18 MR. PROKOP: Yeah.

19 MR. TERCHUNIAN: -- as designated by the
20 State.

21 MR. PROKOP: Whether the granting of the
22 variances will have -- will result in the creation
23 of a material conflict with the community's current
24 plans or goals as officially approved and adopted.
25 So whether the granting of the variances will be

1 contrary to any goals of the Village as adopted,
2 like a master plan. We don't have -- I don't
3 believe the Village has a master plan.

4 CHAIRMAN GESSIN: I don't think so.

5 MR. PROKOP: Or, if we do, it would include
6 these houses as they are.

7 MR. TERCHUNIAN: Yeah. It's a residential
8 use, so that would be consistent with it.

9 MR. PROKOP: Whether the granting of the
10 variances would result in the impairment of the
11 character or quality of important historical,
12 archaeological, architectural or aesthetic
13 resources or of an existing community or
14 neighborhood character. So whether the granting of
15 the variances would have an impact on
16 archaeological, historical, architectural
17 aesthetics, or the resources -- aesthetic resources
18 of an existing community or neighborhood character.

19 CHAIRMAN GESSIN: I don't think so.

20 MR. SARETSKY: I don't.

21 MR. PROKOP: Whether the granting of the
22 variances would result in a major change in the use
23 of either the quality or type of energy -- I'm
24 sorry, the quantity or type of energy.

25 CHAIRMAN GESSIN: No.

25 CHAIRMAN GESSIN: Again, you're the one

1 getting the phone calls.

2 (Laughter)

3 MR. SARETSKY: It would appear maybe.

4 MR. PROKOP: Okay. Whether the --

5 MR. CASHIN: Joe, let me interrupt. What if
6 the answer is yes to some of these, what's the step
7 after that?

8 MR. PROKOP: It -- so your review of these
9 could -- your decision on these could -- is
10 cumulative of the entire impact, right. So if
11 there's one or two of them that you believe that
12 has -- is going to have an impact, if it's
13 significant, then you should have a finding that it
14 will have -- excuse me. There is the potential for
15 a significant negative impact.

16 MR. CASHIN: But you could weigh that against
17 how you feel about the other criteria and then
18 vote?

19 MR. PROKOP: Yeah.

20 MR. CASHING: Okay.

21 MR. PROKOP: Yeah. But, right, how you feel
22 about the -- whether you think that that -- in
23 balancing, whether you think that that one item
24 will have a significant negative impact will be
25 sufficient for you to determine that the project

1 will have a significant negative impact. If it
2 is -- if there is one thing and it is significant,
3 like a significant change in the utility use or the
4 -- or if it was going to impact a species or a
5 habitat, then you need to make a finding that it
6 will -- that the action will have a significant
7 negative impact.

8 But the other thing about this is that you
9 can address this by imposing a condition on the
10 approval -- on an approval, if you were going to
11 approve it, so you could -- you could ameliorate
12 the impact by a condition. So, as an example, if
13 you're concerned that there might be a large number
14 of people that are going to be on the property
15 because of the subdivision, then one of the things
16 that you might look at is parking, you know, as an
17 example. You might make a condition as to parking
18 or future development, you know, things like that,
19 that that would be one way of conditioning an
20 approval.

21 Whether or not the application would -- the
22 granting of the application would create a material
23 demand for other actions that would result in any
24 of the above consequences.

25 MR. SARETSKY: So is that other setting

1 precedent, is that what that means?

2 MR. PROKOP: It could be, it could be setting
3 precedent, right, or it could be also expanding the
4 development of this property, as an example, future
5 development of this property, and that's what I
6 meant by a condition.

7 Whether there will be changes in two or more
8 of the elements of the environment, no one of which
9 has -- so if your answer to these was no, but that
10 there may be changes to two or more of them, which
11 independently are not significant, but that
12 together they might be significant, then that's a
13 significant impact. You answered no for pretty
14 much every one of them, except for this one about
15 the increase in potential number of people and
16 potential use. So I don't know that that's
17 relevant.

18 And I think that that's it, other than a
19 general discussion about potential impacts on light
20 and -- light, noise, anything else that you think
21 might be relevant for consideration for an impact
22 on the environment or a condition.

23 Aram, can you think of anything else that you
24 want?

25 MR. TERCHUNIAN: No. I think you covered it.

1 Well, just one point about the next step after --
2 when you adopt -- after you adopt Lead Agency
3 status is to determine significance, so you have to
4 make a finding of significance. And so your choice
5 is to make a -- you can either say it has a
6 positive potential impact, and, therefore, you make
7 a positive decision, which may require further
8 environmental analysis. You can make a negative
9 decision, that there's a negative potential for
10 environmental impact, and, therefore, you can move
11 straight to a decision. Or you can do what's
12 called a conditional negative declaration, which
13 says we think it's okay, but only if the following
14 conditions are complied with.

15 Now there's one aspect of this that's kind of
16 important when you make a conditional neg dec, and
17 that is that the -- that if the conditions you're
18 applying are the existing zoning and other Village
19 setbacks, for example, they're asking for a side
20 yard setback of "X" and you don't like that and you
21 want "Y", that particular type of decision doesn't
22 require a conditional neg dec. It's only when you
23 go beyond what is the Village's statutory authority
24 that you have to make a conditional neg dec. So if
25 you want them to do something that's not

1 specifically in the code already, you would make a
2 conditional neg dec, and that would give you the
3 authority to go beyond what the Village Code
4 subscribes. So it's a subtle but important
5 difference.

6 MR. SARETSKY: Okay.

7 MR. PROKOP: Right. So a positive dec --
8 that's right, Aram's right. So a positive dec -- a
9 positive declaration -- you know, it's backwards,
10 unfortunately, but a positive declaration means
11 that there will not -- that there will be a
12 significant negative impact. So positive means you
13 tested positive, basically, that there will be a
14 significant negative impact.

15 A negative declaration means that there will
16 not be a negative impact. And then you can have a
17 conditioned negative declaration, which means that
18 there will not be a -- there will not be a negative
19 impact on the environment, provided certain
20 conditions are met or fulfilled. And the
21 conditions might be, you know, changes in these --
22 you know, limitations of the variances, you know,
23 variances granted and are approved, or limitations
24 on further development, you know, things like --
25 things like that, just to give you examples. And

1 that's not -- that's not a recommendation, it's
2 just an example.

3 MR. SARETSKY: Aram, is there any issues for
4 the -- you know, you have two houses now on one
5 lot. I don't know if we ever talked about this,
6 but the septic system, you're really having double
7 on the same size piece of property than a house on
8 either side would have. That's under
9 consideration, in a sense, that it's built to code
10 and --

11 MR. TERCHUNIAN: Right. Well, that's
12 actually an excellent question, because that would
13 be the difference between a negative declaration
14 and a conditional negative declaration, the
15 sanitary system. So the sanitary system, that
16 authority is controlled by Suffolk County, not by
17 the Village.

18 MR. SARETSKY: Right.

19 MR. TERCHUNIAN: So if the Village, if this
20 Board, representing the Village, were to make some
21 determination with reference to the sanitary
22 system, it would be incumbent on them to make a
23 conditional neg declaration at this point.

24 MR. SARETSKY: So what about the concept that
25 like if the house in the rear required to lift the

1 sanitary, like we do now --

2 MR. TERCHUNIAN: Right.

3 MR. SARETSKY: -- there could be an effect
4 from it, right. In other words, I should say an
5 impact.

6 MR. TERCHUNIAN: Well, there could be --
7 let's look at three scenarios. No change, all
8 right, the sanitary system is what it is. Number
9 two, it gets built to the current standard, which
10 is to elevate it, separate it from groundwater.
11 That may have a potential beneficial effect. Your
12 third option is now these innovative low nitrogen
13 systems.

14 MR. SARETSKY: I was thinking of it more from
15 does it have it -- if it had a negative effect to
16 the houses on either side in the rear, because
17 normally it would be up front, right closer to the
18 -- the way I normally see it in the Village, their --

19 MR. TERCHUNIAN: Right.

20 MR. SARETSKY: -- septic system. Again,
21 that's how I was looking at it, is does that --
22 does that have --

23 CHAIRMAN GESSIN: The way I see it, I believe
24 after they're done with this, assuming that they're
25 moving forward with the subdivision, I believe, and

1 correct me if I'm wrong, Aram, that they still have
2 to -- they have to -- when they do their
3 subdivision, they have to go through the Health
4 Department.

5 MR. TERCHUNIAN: Yes.

6 MR. SARETSKY: Okay.

7 CHAIRMAN GESSIN: Which means that those
8 systems will be reviewed.

9 MR. TERCHUNIAN: Right.

10 CHAIRMAN GESSIN: Separate and apart from our
11 Board.

12 MR. TERCHUNIAN: But there's a fine point,
13 but it's very important. If this Board wants to
14 impose a condition that is beyond the zoning powers
15 of the Village, they have to adopt a conditional
16 neg dec.

17 MR. SARETSKY: Okay.

18 MR. TERCHUNIAN: Okay? If they -- if the
19 conditions --

20 MR. SARETSKY: I'm really asking.

21 MR. TERCHUNIAN: -- that you're
22 contemplating are within the zoning powers.

23 MR. SARETSKY: I'm just asking. I'm asking
24 about it, I'm not sure.

25 MR. TERCHUNIAN: Okay. It's just -- I know,

1 it's a very fine point, but it's important,
2 because --

3 CHAIRMAN GESSIN: Okay. So what does that
4 mean, Aram.

5 MR. TERCHUNIAN: Well, if you --

6 CHAIRMAN GESSIN: Let's say we do that, what
7 happens?

8 MR. TERCHUNIAN: Well, if you said, "Well, we
9 really think that the sanitary system is
10 potentially impactful, so we want you to build an
11 innovative low nitrogen system," the Village has no
12 authority to regulate that.

13 CHAIRMAN GESSIN: Right.

14 MR. TERCHUNIAN: So they would have to do a
15 conditional neg dec and say that's an important
16 part of what we want in this decision. But it --
17 and if -- but if that's not part of the decision,
18 if the sanitary system is not part of the decision,
19 and all you're concerned about are setbacks, and
20 sky plane, and the regular zoning and coverage, and
21 things like that, those don't need a conditional
22 neg dec, that can be done just as a negative
23 declaration. It's a fine point, but it's critical,
24 because if you decide the sanitary or some other
25 aspect, which is beyond the Village's regulatory

1 authority, is important to your decision, you must
2 have a conditional neg dec.

3 MR. SARETSKY: I guess the reason why I was
4 bringing it up, again, to say if you have to build
5 a retaining wall in the rear of the property up
6 close to someone else's house, I'm just trying to
7 think of how that does or doesn't affect them.

8 CHAIRMAN GESSIN: You mean, on the rear lot.

9 MR. SARETSKY: On the rear lot.

10 CHAIRMAN GESSIN: The front yard of the rear lot.

11 MR. SARETSKY: Right. Again, you know, look,
12 I understand, we go through Suffolk County, the
13 approvals and stuff, and that's fine, we should
14 know our business. It's more of how does it affect
15 or doesn't affect people in the Village, in this
16 case, the people on either side.

17 MR. TERCHUNIAN: Well, in that scenario, I
18 think you'd ask yourself a "what if". If the
19 variance is approved and they go to the Health
20 Department, they're going to be required to build a
21 conforming system.

22 MR. SARETSKY: Okay.

23 MR. TERCHUNIAN: Okay? And that's a decision
24 -- that requirement is a requirement of the
25 Department of Health. If they don't get a

1 subdivision and they rebuild this house, they have
2 to go to the Suffolk County Department of Health
3 and they have to get a -- and they have to build a
4 conforming system.

5 MR. SARETSKY: Okay.

6 MR. TERCHUNIAN: In either scenario, they're
7 going to have to build a retaining wall. In this
8 particular case, I don't think it would be that
9 high, because the grade here is around seven or
10 eight, and you only need to be around plus 10. So
11 it wouldn't be imposing, I don't think.

12 MR. SARETSKY: Okay.

13 CHAIRMAN GESSIN: So then what -- back to
14 what we were discussing earlier. They have to go
15 to the Health Department no matter what after
16 they -- after continue with the subdivision.

17 MR. TERCHUNIAN: Yeah.

18 CHAIRMAN GESSIN: And I guess they have on
19 that lot I guess a parking issue, too, because the
20 septic system is taking up a major portion of that
21 undersized front yard.

22 MR. TERCHUNIAN: Okay. So if parking is an
23 issue to you, that's not something that's typically
24 controlled on a Zoning Code. So unless there's a
25 Village regulation that controls parking and you

1 want to impose a parking condition, you need a
2 conditional negative declaration.

3 MR. CASHIN: There is a Village parking code.

4 MS. SADELI: One car to each bedroom.

5 MR. TERCHUNIAN: Yeah, but it's not location.

6 MR. PROKOP: So that would come up in the
7 site plan. What's going to happen is the -- if
8 this -- if this application makes it through the
9 ZBA, then, next, it has to get approved by the
10 Board of Trustees, because it's a subdivision.
11 They're going to actually be looking at the
12 subdivision. The parking would be a condition.
13 The parking is one thing that they can look at in
14 terms of the subdivision, but you could impose that
15 condition. My opinion would be that you could --
16 you could, you know, locate parking as part of --
17 as a condition of anything you do.

18 CHAIRMAN GESSIN: Right. Let me ask you
19 another question, Joe, that's sort of bothering me.
20 On Lot 2, the minimum lot area, according to this,
21 is 23,391, and they have 16,609. Okay. So they're
22 asking for a variance.

23 MR. PROKOP: Lot 2 is --

24 CHAIRMAN GESSIN: I'm sorry. They're asking
25 for a variance of 16,609.

1 MR. PROKOP: Right.

2 CHAIRMAN GESSIN: But if you look at --

3 MR. PROKOP: No, it's the other way around.

4 They're asking for a variance of 23.

5 CHAIRMAN GESSIN: Oh, correct, sorry, sorry.

6 MR. PROKOP: Yeah, because 16,609 is --

7 MR. CASHIN: But what my question is, is that
8 on the survey, which was never really surveyed, it
9 was just updated -- redated, I believe, and if you
10 look at the DEC approval back from '08 -- '98, it
11 shows a wetland line not at the property line,
12 which means the upland area is less than -- the
13 variance they need is greater than what they're
14 requesting. So if we grant this, what happens down
15 the road, granted the way it actually states
16 currently, the request?

17 MR. PROKOP: You can't. You can't take --
18 you can't take action on something that's not --
19 because it's here as a subdivision application, so
20 you'd be granting something that not -- that can't
21 be approved, basically.

22 CHAIRMAN GESSIN: By, let's say, the DEC or
23 somebody else, because it wouldn't be the Village.

24 MR. PROKOP: No, by the Village Board,
25 because you'd be -- if you grant a -- but the 40 --

1 the one acre -- the 40,000 square feet is not just
2 upland property, it's zoned property, right, Aram?
3 It's the title property, it's not the upland
4 property. It's not the -- it's not the non -- it's
5 not the non-wetland property.

6 MR. TERCHUNIAN: I don't know the answer to
7 that question, but I can tell you that I visited
8 the site two days ago and the high water line is
9 the wetlands line. So I can't tell you if the high
10 water line is in the same place today as it was in
11 1999, but I can tell you that the wetlands line is
12 coincident with the present high water line.

13 CHAIRMAN GESSIN: You just don't know where
14 the line is?

15 MR. TERCHUNIAN: I don't know where the line is.

16 MR. PROKOP: Oh, so we're -- I see what your
17 point is. So we're determining a lot size based on
18 a line from 20 years ago that for sure isn't --

19 CHAIRMAN GESSIN: Right, because they never
20 updated the lines.

21 MR. PROKOP: Yeah.

22 CHAIRMAN GESSIN: Since you have to look at
23 that and maybe look at this one. Where is it? At
24 this time, they clearly weren't the same. And this
25 is calling out an old date a year or two after

1 this, almost 20 years ago.

2 MR. MIZZI: Right.

3 MR. PROKOP: I think the applicant needs to
4 get us a survey that has the correct dimensions of
5 the lot. I don't think you can act without the
6 correct dimensions of the lot, if that's what your
7 question is.

8 CHAIRMAN GESSIN: Yeah, because we may be
9 doing an approval that's no good.

10 MR. PROKOP: Yeah, that's hypothetical and
11 ends up not being correct.

12 CHAIRMAN GESSIN: Jim, what do you think you
13 want to do?

14 MR. HULME: Well, I'm trying to figure out
15 what you're looking at, because --

16 CHAIRMAN GESSIN: Come over here. Come over
17 here a second.

18 MR. HULME: What I have is a survey --

19 CHAIRMAN GESSIN: Yeah, just come over here.
20 It's all right here.

21 MR. HULME: I mean, I'll do whatever you'd
22 like.

23 CHAIRMAN GESSIN: No, no. We want to know
24 how you want us to do it. If you want us to keep
25 going, we'll keep going. See, this is the line

1 back here.

2 MR. HULME: Oh, I see what you're saying.

3 CHAIRMAN GESSIN: That date.

4 MR. HULME: Okay.

5 CHAIRMAN GESSIN: This is previous to this,
6 and the two aren't the same, but this dimension and
7 this dimension are the same. Where is this
8 dimension?

9 MR. TERCHUNIAN: The 88 is the same.

10 CHAIRMAN GESSIN: Why don't I see it?

11 MR. TERCHUNIAN: The 88 is the same.

12 CHAIRMAN GESSIN: Oh, it's right there.

13 These are the same. But the wetland line --

14 MR. HULME: Yeah.

15 CHAIRMAN GESSIN: -- a year or two --

16 MR. HULME: Well, I think -- I think you and
17 I both want to see accurate information.

18 CHAIRMAN GESSIN: Yeah, but I want to get you
19 done, too.

20 MR. HULME: Yeah, so -- well, but we don't
21 want to be done negatively.

22 CHAIRMAN GESSIN: Oh, okay.

23 MR. HULME: I want to make it as hard as
24 possible for you to say no.

25 (Laughter)

1 MR. PROKOP: Show me what's going on.

2 CHAIRMAN GESSIN: Say again.

3 MR. PROKOP: Show me what's going on.

4 CHAIRMAN GESSIN: Okay. So this is 88 --
5 this is in '99, not current, okay?

6 MR. PROKOP: Right.

7 CHAIRMAN GESSIN: It's 88 feet. This is a
8 little bit before that, it was 88 feet, but the
9 wetland line was only -- it was at 80 feet. So if
10 we use that for the -- for the area variance, I
11 think it may not be correct.

12 MR. PROKOP: Okay. So we need -- what do you
13 -- I mean, my comment be would be we need an
14 updated survey with the --

15 MR. TERCHUNIAN: An updated survey.

16 MR. HULME: I think I agree.

17 CHAIRMAN GESSIN: Okay. So you --

18 MR. HULME: Because I don't want you to
19 approve --

20 CHAIRMAN GESSIN: No, no, no, no.

21 MR. HULME: If you're going to approve it,
22 I don't want you to approve --

23 CHAIRMAN GESSIN: Right.

24 MR. HULME: -- this number and then come back
25 and find out it's 1,000 feet less or 1,000 more.

1 CHAIRMAN GESSIN: Or more.

2 MR. HULME: Or if it's more --

3 CHAIRMAN GESSIN: Well, it doesn't matter.

4 MR. HULME: -- I might be even happier, yeah.
5 So okay.

6 CHAIRMAN GESSIN: All right. So what are we
7 doing? Are we adjourning now, I guess?

8 MR. PROKOP: You just adjourn. So we need --

9 CHAIRMAN GESSIN: Why don't you continue
10 through and then let's get to the end of yours.

11 MR. HULME: We can probably finish SEQRA
12 today.

13 MR. TERCHUNIAN: Yeah, you could probably
14 finish SEQRA today, because you're going to have to
15 file to reopen.

16 MR. HULME: Okay.

17 MR. TERCHUNIAN: Right, Joe?

18 MR. PROKOP: Yeah. Then we don't -- we
19 shouldn't do SEQRA.

20 MR. TERCHUNIAN: Then we shouldn't do SEQRA.

21 MR. PROKOP: It's a new application.

22 CHAIRMAN GESSIN: Okay. While Jim is
23 standing here, is there anything else we need for
24 him to go hustle up for us?

25 MR. CASHIN: You were going to check on this,

1 right?

2 MR. HULME: Yes, I'll check on that that as
3 well.

4 MR. PROKOP: Could I just ask a question? So
5 we -- that's the house. When we get done beating
6 that up, and I'm sorry for that, this -- what we
7 asked him for was -- is one house sideways or are
8 they both facing --

9 CHAIRMAN GESSIN: No, they're both the same.

10 MR. PROKOP: Oh, so they're not -- it's
11 obviously not correct. Okay.

12 MR. HULME: Is that -- that's -- the picture
13 you had is this house, right?

14 CHAIRMAN GESSIN: Yes.

15 MR. HULME: Not this house.

16 CHAIRMAN GESSIN: The front house.

17 MR. HULME: Because it looks longer to my
18 eye, the picture, than it is on the survey. But
19 we'll get it.

20 CHAIRMAN GESSIN: Okay.

21 MR. HULME: We'll get it.

22 MR. PROKOP: And they both face the street,
23 or they both --

24 CHAIRMAN GESSIN: Yeah.

25 MR. HULME: Yup, both face the street.

1 MR. PROKOP: Oh, okay.

2 MR. HULME: I guess my question of Counsel
3 would be can't we just reopen it for the purposes
4 of submitting technical information, so I don't
5 have to --

6 MR. TERCHUNIAN: Readvertise?

7 MR. HULME: Readvertise. I mean, I don't
8 mind readvertising this, so --

9 CHAIRMAN GESSIN: It's just time.

10 MR. HULME: Huh?

11 CHAIRMAN GESSIN: It's time.

12 MR. HULME: Time, yeah.

13 MR. PROKOP: If it's less, if the variance
14 that you need is less, then we don't need to
15 readvertise.

16 MR. HULME: Okay.

17 MR. CASHIN: But we don't know if it's less.

18 MR. HULME: But we don't, we won't know.

19 MR. PROKOP: We won't know until some --

20 MR. TERCHUNIAN: Based on the amount of time
21 it's going to take you to get a --

22 CHAIRMAN GESSIN: We have to do the survey no
23 matter what.

24 MR. HULME: Yes. So why don't I do the
25 survey and we'll --

1 CHAIRMAN GESSIN: And you'll let us know.

2 MR. HULME: Then I'll let you know.

3 MR. TERCHUNIAN: And just readvertise.

4 MR. HULME: Why don't we just readvertise?

5 Well, no, we can't.

6 MR. TERCHUNIAN: No, you can't, because
7 you're going to --

8 MR. HULME: What are we readvertising for?

9 MR. TERCHUNIAN: Yeah.

10 MR. PROKOP: When you close -- okay, that's
11 fine.

12 MR. TERCHUNIAN: Yeah.

13 MR. PROKOP: Okay.

14 MR. TERCHUNIAN: You got to wait until you
15 have the survey so you know what it is you're
16 asking for.

17 MR. HULME: Okay. I'll get the survey
18 information corrected, and then we'll see what that
19 results in.

20 MR. PROKOP: Is there any other loose ends
21 that we want to determine today?

22 CHAIRMAN GESSIN: Guys, help me. I'm doing
23 all the work.

24 MR. PROKOP: So we have to --

25 MR. TERCHUNIAN: Your doing a great job.

1 MR. SARETSKY: You're doing a great job,
2 right.

3 MR. MIZZI: You're the Chairman.

4 CHAIRMAN GESSIN: Oh, okay, okay.

5 (Laughter)

6 MR. SARETSKY: I'm just giving the paperwork.

7 CHAIRMAN GESSIN: Okay. So getting back to
8 this whole parking area, do we need him to do -- do
9 we need Jim to do anything about --

10 MR. SARETSKY: Well, the survey --

11 CHAIRMAN GESSIN: -- showing parking or not?

12 MR. PROKOP: I think he should -- I think he
13 should --

14 MR. SARETSKY: Show that on the survey.

15 MR. PROKOP: Yeah, I think he should show the
16 proposed parking.

17 MR. HULME: All right. Well, we have a
18 parking area here, and we have code compliant
19 parking here. And if the Planning Board doesn't
20 like that proposal -- so we're not looking for a
21 variance from the code.

22 CHAIRMAN GESSIN: You know, have him state
23 how many cars it is.

24 MR. HULME: Okay.

25 CHAIRMAN GESSIN: So how many of the -- what

1 the house is and what the cars are.

2 MR. HULME: Okay.

3 CHAIRMAN GESSIN: Okay. And you might as
4 well give us --

5 MR. HULME: Number of bedrooms.

6 CHAIRMAN GESSIN: While he's surveying, you
7 might as well pick up the -- I guess the elevation
8 on this house.

9 MR. HULME: Yes.

10 CHAIRMAN GESSIN: You might as well pick it
11 up on --

12 MR. PROKOP: So parking is in our code? You
13 made the -- you raised the point before that
14 parking is -- parking is in our code. There's a
15 limit on parking. Unless I'm incorrect, we don't
16 have a minimum parking. Like if you build a house,
17 you don't have to provide parking for a minimum
18 number of cars.

19 CHAIRMAN GESSIN: Yes.

20 MR. PROKOP: You do?

21 CHAIRMAN GESSIN: Per -- what is it?

22 MS. SADELI: One, it's one car per bedroom.

23 CHAIRMAN GESSIN: No, that's the max.

24 MS. SADELI: It's not minimum.

25 MR. CASHIN: That's max.

1 MS. SADELI: Yeah.

2 CHAIRMAN GESSIN: I thought it was one per
3 bedroom plus one.

4 MS. SADELI: Plus one.

5 MR. TERCHUNIAN: Max.

6 MR. PROKOP: That's the maximum.

7 MR. TERCHUNIAN: Max.

8 MR. MIZZI: We say it's not an obligation,
9 it's --

10 MR. TERCHUNIAN: Max?

11 MR. MIZZI: It's the maximum.

12 MR. TERCHUNIAN: You can't park more than one
13 per bedroom, plus one for the house.

14 MS. SADELI: Right.

15 CHAIRMAN GESSIN: So, in other words, you
16 don't have to provide one per -- so there's no
17 parking requirement?

18 MR. TERCHUNIAN: I don't believe so.

19 MR. PROKOP: No. But you can't -- on the
20 other hand, we don't want to create a situation
21 where we have two rental houses and -- one or two
22 rental houses and all summer long there's cars all
23 over the property. We'd rather you -- the
24 applicant provides for whatever --

25 MR. HULME: Remember, we're not creating a

1 situation where we will have. We have a situation
2 where we do have.

3 MR. PROKOP: I think you need to provide --
4 excuse me --

5 MR. SARETSKY: Show what you have.

6 CHAIRMAN GESSIN: Well, no, because for this
7 house, they can park all over here now, right?

8 MR. HULME: Okay. So if you want me to show
9 a little parking area --

10 CHAIRMAN GESSIN: Yeah, just show that.

11 MR. HULME: -- I'll do that.

12 MR. SARETSKY: So you want to show the max
13 that you have on both, right?

14 CHAIRMAN GESSIN: Well, they --

15 MR. HULME: And I'll identify the number of
16 bedrooms and the first floor elevations.

17 CHAIRMAN GESSIN: Correct.

18 MR. SARETSKY: That's all you care, that you
19 want -- I mean, the minimum doesn't matter, it's
20 the max you want to see, right? Did I say that
21 right?

22 MR. TERCHUNIAN: I guess.

23 CHAIRMAN GESSIN: No. The minimum should be
24 the bedroom count plus one.

25 MR. FOGLIA: No, that's --

1 MR. HULME: Could we swear him in?

2 CHAIRMAN GESSIN: Yes, please.

3 (Laughter)

4 MR. HULME: Or do we just want to swear at
5 him?

6 CHAIRMAN GESSIN: All right.

7 MR. TERCHUNIAN: You should show parking for
8 the maximum amount permissible by law.

9 MR. HULME: Which is one plus the number of
10 bedrooms.

11 MR. TERCHUNIAN: Right.

12 MR. HULME: Okay.

13 MR. TERCHUNIAN: The other thing is if the
14 surveyor is going out there, he should pick up some
15 contours, one-foot contours, so we'll know -- be
16 able to answer Eric's question about the wall.

17 MR. PROKOP: What do we need to show, the
18 wetlands line, wetlands boundary and --

19 MR. TERCHUNIAN: Wetlands boundary.

20 CHAIRMAN GESSIN: And the property line.

21 MR. HULME: And we know from Mr. Terchunian
22 that the wetlands boundary is coincident with the
23 mean high water mark.

24 MR. TERCHUNIAN: So you can just mark it as
25 such.

1 MR. HULME: But we don't know from the survey
2 is what the mean high water mark is, because the
3 surveyor apparently didn't resurvey the property.

4 CHAIRMAN GESSIN: Right.

5 MR. PROKOP: Were you holding that one? Did
6 you know about that?

7 CHAIRMAN GESSIN: Did I know about what?

8 MR. PROKOP: You just picked that up?

9 CHAIRMAN GESSIN: This morning, yeah.

10 MR. PROKOP: That's a good find. I'm sorry
11 that I didn't pick that up. I'm sorry.

12 MR. HULME: Me, too, I'm sorry I didn't pick
13 it up. Okay. So let me get all that. I'll submit it.

14 CHAIRMAN GESSIN: And we'll reschedule.

15 MR. HULME: And then we'll see if we need to
16 readvertise or not based on that.

17 CHAIRMAN GESSIN: We'll have another meeting.

18 MR. HULME: And then we'll go from there.
19 Okay?

20 CHAIRMAN GESSIN: Okay. Anything else, guys?

21 MR. SARETSKY: There's no setback issues in
22 the front for him to show, it's on the survey,
23 right?

24 CHAIRMAN GESSIN: Well, it's -- issue or
25 dimension?

1 MR. SARETSKY: Dimension.

2 MR. TERCHUNIAN: Dimensions are on there.

3 MR. SARETSKY: Okay.

4 CHAIRMAN GESSIN: No, he's got it, he's got it.

5 MR. SARETSKY: Good. While he's doing it, I
6 want to make sure we get everything.

7 MR. HULME: Oh, yeah. If there's something
8 else you need to see --

9 CHAIRMAN GESSIN: You know what, guys, let
10 him do deck and house, because he's got into the
11 decks, because the variance is really to the house,
12 right?

13 MR. TERCHUNIAN: (Shook head no.)

14 CHAIRMAN GESSIN: To the deck?

15 MR. TERCHUNIAN: Yup.

16 MR. PROKOP: Do you have something you were
17 going to ask? Were you going to ask me something?

18 MR. CASHIN: No.

19 MR. SARETSKY: As far as the relationship to
20 houses on either side, you can just do that from
21 the aerial.

22 MR. TERCHUNIAN: If you want that, you should
23 ask for it.

24 MR. PROKOP: Yeah.

25 MR. SARETSKY: I mean, is it something we

1 want to ask for?

2 MR. PROKOP: Normally, we ask for that.

3 MR. SARETSKY: Okay

4 CHAIRMAN GESSIN: I mean, he's going out
5 there.

6 MR. TERCHUNIAN: If it goes to your question,
7 you should have the information.

8 MR. SARETSKY: Yeah. No, no, I'm just
9 thinking. I want to be able to try to --

10 CHAIRMAN GESSIN: May as well add that on,
11 too, Jim.

12 MR. SARETSKY: I don't want it to be
13 something else --

14 MR. HULME: You want it -- you want it on the
15 survey, the location of the --

16 CHAIRMAN GESSIN: Yeah, let him just show the
17 location of the other houses.

18 MR. HULME: Location of the adjacent houses.

19 MR. SARETSKY: Front and back, whatever.

20 CHAIRMAN GESSIN: Where is this? This one I
21 know is all the way back here someplace.

22 MR. HULME: There is an aerial photograph in
23 the record that can give you an idea.

24 CHAIRMAN GESSIN: I never really actually --
25 that one's back here, too?

1 MR. SARETSKY: I think we have a photo.

2 MR. MIZZI: I saw Eric had it earlier in the
3 packet.

4 MR. SARETSKY: On this?

5 MS. SADELI: In the original application?

6 MR. MIZZI: I saw it, yeah.

7 MR. SARETSKY: Oh, there it is.

8 CHAIRMAN GESSIN: Yeah, I see it.

9 MR. CASHIN: They're both back pretty much
10 line.

11 MR. HULME: So, if you want the actual
12 dimensions, we can provide that.

13 MR. SARETSKY: I think just its relationship
14 is really the issue I have.

15 MR. HULME: Well, we can show them.

16 MR. SARETSKY: I just want to be able to
17 address the issue.

18 CHAIRMAN GESSIN: Yeah, I mean, this shows
19 differently than this, I assume.

20 MR. CASHIN: That's a third.

21 CHAIRMAN GESSIN: This is, I guess, the '81
22 tax map, I assume.

23 MR. HULME: Yes, that's what that would be, I
24 think. No, that's the current tax map, is what
25 that -- whatever the --

1 MR. CASHIN: January 7th.

2 MR. HULME: Whatever the current tax map is.

3 MR. CASHIN: January 17th.

4 MR. HULME: That came off the GIS, so that
5 would be whatever the current -- whatever the
6 modern tax map is, that's -- those are reflected by
7 those lines.

8 CHAIRMAN GESSIN: Okay. Anything else?

9 MR. HULME: That's enough.

10 (Laughter)

11 CHAIRMAN GESSIN: All right. So I guess we
12 have to make a motion to I guess close the -- not
13 close.

14 MR. PROKOP: It's just adjourn the meeting.

15 CHAIRMAN GESSIN: Adjourn the meeting and --

16 MR. PROKOP: Pending receipt of requested
17 documents.

18 CHAIRMAN GESSIN: Okay. Would someone like
19 to make a motion

20 MR. SARETSKY: I'll make a motion.

21 MR. HAEFELI: Can I ask a question?

22 CHAIRMAN GESSIN: Yes.

23 MR. HAEFELI: Is it open for -- is it going
24 to be open, so that when he submits that, there can
25 be more discussion on it, or is he just submitting

1 the map? I just want to know. The meeting has
2 been closed or open?

3 MR. PROKOP: It's a public meeting. I think
4 that since we're going to be accepting new --

5 CHAIRMAN GESSIN: Information

6 MR. PROKOP: -- information, we should -- the
7 Board should allow public comment within --

8 MR. HULME: On the new information.

9 MR. PROKOP: On the new information.

10 MR. HAEFELI: So you're going to open it at
11 the next meeting?

12 MR. PROKOP: We don't know if we're going to
13 open the public hearing or not.

14 MR. HAEFELI: You're not.

15 MR. PROKOP: We don't know yet. It depends.
16 If he doesn't -- if he needs the same or smaller
17 variance, then we're not going to.

18 MR. HAEFELI: If it's smaller, I agree with you.

19 MR. PROKOP: Yeah. But you can submit new
20 comments based on the new documents, in relation to
21 the new documents.

22 MR. HAEFELI: Oh, okay, okay.

23 MR. CASHIN: Regardless of whether it's
24 smaller or larger.

25 MR. PROKOP: Yeah, regardless, right.

1 MR. HAEFELI: And when do you expect to have
2 the new survey, so I can get a copy of it, do you
3 have any idea?

4 MR. HULME: Depends on how quickly
5 Mr. Gallagher gets that.

6 MR. HAEFELI: I just want to know what to do
7 procedurally.

8 CHAIRMAN GESSIN: And, hopefully, there won't
9 be a hurricane up here, so we'll still be around.

10 (Laughter)

11 MR. PROKOP: I'd say you just jinxed us.

12 CHAIRMAN GESSIN: Okay. So would someone
13 like to make a motion to close this session?

14 MR. SARETSKY: Sure.

15 CHAIRMAN GESSIN: Okay. Second?

16 MR. CASHIN: Sure.

17 CHAIRMAN GESSIN: Okay. Thank you.

18 MR. HULME: Thanks.

19 MR. HAEFELI: And you'll determine in the
20 future when the next day is?

21 CHAIRMAN GESSIN: Once he let's us know where
22 he is.

23 MR. HAEFELI: Thank you very much.

24 CHAIRMAN GESSIN: Thank you.

25 (The meeting was adjourned at 11:21 a.m.)

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

2

3 STATE OF NEW YORK)

4 SS:

5 COUNTY OF SUFFOLK)

6

7 I, LUCIA BRAATEN, a Court Reporter and Notary
8 Public for and within the State of New York, do
9 hereby certify:

10 THAT, the above and foregoing contains a true
11 and correct transcription of the proceedings taken
12 on September 9, 2017.

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

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand this 23rd day of September, 2017.

19

20

21 Lucia Braaten
22 Lucia Braaten

23

24

25

	4	12:18 acre [1] - 37:1 act [1] - 38:5 action [6] - 17:11, 17:18, 19:10, 25:6, 36:18, 57:14 Action [8] - 4:19, 4:22, 17:14, 17:17, 17:21, 17:24, 17:25 actions [1] - 25:23 actual [2] - 17:18, 53:11 add [2] - 16:12, 52:10 address [2] - 25:9, 53:17 adjacent [1] - 52:18 adjourn [3] - 41:8, 54:14, 54:15 adjourned [1] - 56:25 adjourning [1] - 41:7 adopt [8] - 4:20, 16:19, 16:23, 16:25, 17:7, 27:2, 31:15 adopted [2] - 21:24, 22:1 adverse [1] - 19:25 advice [1] - 18:8 aerial [2] - 51:21, 52:22 aesthetic [2] - 22:12, 22:17 aesthetics [1] - 22:17 affect [3] - 33:7, 33:14, 33:15 affected [1] - 11:12 Agency [5] - 4:21, 16:23, 16:25, 17:7, 27:2 ago [6] - 15:10, 15:20, 15:23, 37:8, 37:18, 38:1 agree [2] - 40:16, 55:18 agricultural [1] - 23:14 ahead [1] - 20:16 air [2] - 19:25, 20:5 Allegiance [2] - 2:3, 2:4 allow [1] - 55:7 almost [2] - 10:12, 38:1 alone [1] - 12:5	ameliorate [1] - 25:11 amount [2] - 43:20, 49:8 analysis [3] - 3:12, 6:19, 27:8 Andrew [2] - 6:24, 7:1 Angela [1] - 1:21 angle [2] - 10:3, 10:18 answer [5] - 23:23, 24:6, 26:9, 37:6, 49:16 answered [1] - 26:13 apart [1] - 31:10 APPEALS [1] - 1:2 appear [1] - 24:3 APPEARANCES [1] - 1:14 applicant [3] - 3:24, 38:3, 47:24 Application [1] - 1:10 application [11] - 2:6, 14:15, 17:23, 18:11, 19:3, 25:21, 25:22, 35:8, 36:19, 41:21, 53:5 applying [1] - 27:18 approval [10] - 6:12, 15:1, 15:22, 20:21, 23:20, 25:10, 25:20, 36:10, 38:9 approvals [2] - 17:22, 33:13 approve [6] - 19:5, 19:6, 25:11, 40:19, 40:21, 40:22 approved [6] - 3:10, 21:24, 28:23, 33:19, 35:9, 36:21 Aram [7] - 1:22, 20:12, 26:23, 29:3, 31:1, 32:4, 37:2 Aram's [1] - 28:8 archaeological [2] - 22:12, 22:16 architectural [2] - 22:12, 22:16 area [9] - 21:1, 21:14, 21:17, 35:20, 36:12, 40:10, 45:8, 45:18, 48:9 argument [2] - 13:17, 13:18 aspect [2] - 27:15, 32:25	32:25 assume [3] - 8:6, 53:19, 53:22 assuming [1] - 30:24 assurance [1] - 3:25 assure [1] - 3:2 attached [1] - 6:4 Attorney [1] - 1:20 attract [1] - 23:21 August [4] - 2:24, 5:16, 5:25, 6:3 authority [5] - 27:23, 28:3, 29:16, 32:12, 33:1
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