INCORPORATED VILLAGE OF WESTHAMPTON DUNES
ZONING BOARD OF APPEALS

February 7, 2015
10:00 a.m.

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

APPEARANCES:
Harvey Gessin - Chairman
Barry Goldfeder - Member
Joseph Mizzi - Member
Eric Saretsky - Member
Joseph Prokop - Village Attorney
Aram Terchunian - Commissioner of Wildlife Protection
Laura Dalessandro - Zoning Clerk
(Whereupon, the meeting was called to order at 10:12 a.m.)

CHAIRMAN GESSIN: Okay. I would like to start with a Pledge of Allegiance.

(Whereupon, all stood for the Pledge of Allegiance.)

CHAIRMAN GESSIN: We'll call this meeting to order, the meeting of the Zoning Board of the Village of Westhampton Dunes.

The first application is Panayis, 782 Dune Road.

MR. HULME: Good morning. For the applicant, James N. Hulme, H-U-L-M-E, 323 Mill Road, Westhampton Beach, on behalf of the applicant, Greg Panayis.

I believe this is the third meeting we've had on this. And just to refresh everybody's recollection as to what we're doing here, my client owns a piece of property at 782 Dune Road, which we were seeking to subdivide into two lots.

We had made an initial submission, and then, at the request of this Board, the wetlands were -- on the property were mapped, and that resulted in a slight change in the location of the division line and the size of the bigger and
the smaller lots. We submitted that and
discussed that at the last meeting, and my
recollection, that it -- the matter was adjourned
to today for the purposes of resubmitting that
changed map to the Suffolk County Planning
Commission.

I believe the Suffolk County Planning
Commission, on January 5th, did respond and
characterized this as a decision for local
determination. So, I guess they were -- they
stepped out of the whole process, so that the
Board can go on -- move forward on its own
without recognizing any comments from them.

Also, subsequent to the last meeting, I
submitted a letter wherein I attempted to define
all of the variances that we needed in order to
accomplish this. We've talked about those
variances, I think, in detail. I'll be happy to
answer specific questions about those. But, in
general, I think that the division and the
variances that we're seeking here are comparable
to other variances of other properties that we've
submitted information about to the Board that
have been granted the same type of subdivision.

MR. PROKOP: Do you have a copy of the
agenda?

MR. HULME: I do. You do, too?

MR. PROKOP: Yeah, thanks. I just want to make sure that the agenda variances match up with yours, because we reviewed it separately. I had your letter when we were reviewing it.

MR. HULME: Okay.

MR. PROKOP: I just want to make that we're in the same place.

MR. HULME: That's the same, that's the same. I think you added one additional one in the agenda. So, I mean, if you believe it's necessary.

MR. PROKOP: Which one is that?

MR. HULME: Let's see. There's area, there's lot width, there's side yard, total side yard. You added another side yard variance, I believe.

MR. PROKOP: Okay. On Lot 1?

MR. HULME: Oh, no. Actually, I think we agree. I included both of those in one paragraph.

MR. PROKOP: Okay.

MR. HULME: I think you just separated them out.

MR. PROKOP: Okay.
MR. HULME: So I think we're in agreement.

MR. PROKOP: Yeah, just because it was pretty complicated with the two of them. I wanted to make sure --

MR. HULME: Absolutely.

MR. PROKOP: -- we're on the same thing.

MR. HULME: I believe that we are.

MR. PROKOP: So this is a -- you know, it's a subdivision. One of the lots is going to become a flag pole, is proposed to be a flag, what we call a flag lot. Excuse me, not a flag pole, flag lot. And we -- so it fits under a different -- that type of lot has different regulations that we have to cover, and those are covered in the Lot 2 variances. And the variances that we're going with, with this layout now, is there's an area variance on Lot 1 of 13,000 square feet, because the lot is -- it's a 40,000 minimum, and the lot is 26,000 and change square foot.

CHAIRMAN GESSIN: Twenty-three thousand.

MR. PROKOP: Yeah. And then the lot width, there's a lot width variance of 60 feet -- excuse me. A lot width variance is 60 feet, because the minimum lot width is 150, the things that are
listed on the agenda.

    MR. HULME: Harvey, are you looking at
    the --

    CHAIRMAN GESSIN: Do I not have the most
    current one?

    MR. HULME: It's last dated November 11th,
    2014, down in the --

    MS. DALESSANDRO: October 15th.

    CHAIRMAN GESSIN: Do I have another one?

    MR. HULME: You should have another one.

    CHAIRMAN GESSIN: Let me see it.

    MS. DALESSANDRO: Submitted at the last
    meeting.

    CHAIRMAN GESSIN: And October 15th.

    MEMBER SARETSKY: So, Harvey, maybe we
    should talk about lots that are similar, that
    have the same situation.

    CHAIRMAN GESSIN: Let's see what this one
    is. What's the date?

    MR. HULME: November 11th.

    CHAIRMAN GESSIN: No?

    MS. DALESSANDRO: And that's the date on
    this, Jim? That's the last one I have.

    MR. HULME: Here, I have more, but I do
    have a couple that are in the file. Here, this
is the one that we're -- here, there's a whole bunch. I believe that early on, we had submitted -- speaking to the issue about other similarly situated circumstances, I believe there are -- in the general vicinity of this property, there are three or four other lots that have been divided in this manner. In your file, you should have a spreadsheet that I submitted comparing and contrasting those other three or four properties to this property, and I think they're reflected on the area map.

CHAIRMAN GESSIN: Everybody, rip up all your maps, please, except the area map.

MEMBER SARETSKY: Okay.

CHAIRMAN GESSIN: Keep that one, but rip up every individual one.

MR. TERCHUNIAN: Give me all those, I'll take them.

CHAIRMAN GESSIN: Okay.

MR. TERCHUNIAN: I'll disappear those.

MR. PROKOP: Laura, are they dated? Do they go by dates?

MS. DALESSANDRO: Yeah. And I've been stamping them in, like you told me to. I don't have that one, all I have is 13, and I have
October 15, 2014, the most recent.

MR. HULME: Yeah, Harvey has a whole handful in his -- Mr. Gessin has a whole handful in his hands that are the current ones.

CHAIRMAN GESSIN: Keep this one and get rid of anything else. I'm not going to give anything out yet.

MR. TERCHUNIAN: Yeah, don't tear any up Harvey, you tore up a good one.

CHAIRMAN GESSIN: Okay. Ready? Everybody have one?

MEMBER SARETSKY: I'll share with you guys?

CHAIRMAN GESSIN: No, we have plenty. Jim, you could have the rest back. Jim.

MR. HULME: Oh, thank you. Specifically, this Board has granted comparable relief as we're seeking here at 748 Dune, 772 Dune, 774 Dune, and 776 Dune.

MR. PROKOP: What are -- what were those lots again?

MR. HULME: I'm sorry.

MR. PROKOP: What were those three again?

MR. HULME: There's four of them, actually, and it's 748, 772, 774 and 776. Okay. So 72, 74 and 76, I think those are -- they adjoin the
spit, right?

CHAIRMAN GESSIN: No.

MR. HULME: No?

CHAIRMAN GESSIN: Just 748.

MR. PROKOP: Just 748? Okay.

MR. TERCHUNIAN: Yeah.

CHAIRMAN GESSIN: 748 is a three-lot subdivision.

MR. TERCHUNIAN: It's a three lot.

CHAIRMAN GESSIN: Right.

MR. TERCHUNIAN: So that's right on the other side of Pike's Beach.

CHAIRMAN GESSIN: Correct.

MR. TERCHUNIAN: All the rest of them are on the west side of Pike's Beach.

MEMBER SARETSKY: So this is --

MR. TERCHUNIAN: No. It's these, one, two, three.

MEMBER SARETSKY: This is the proposed.

MR. TERCHUNIAN: And this is the proposed, yes.

MR. HULME: This might be --

CHAIRMAN GESSIN: No, they have it.

MR. HULME: They got it?

CHAIRMAN GESSIN: Yeah.

MR. HULME: Okay.
MEMBER GOLDFEDE: And I think we talked about this last time. The side access for both Lot 1 and to Lot 2 is enough for emergency access, emergency vehicles?

MR. HULME: Yeah, yes.

MEMBER GOLDFEDE: And there's a fire hydrant close enough to Lot 2?

MR. HULME: I don't know. It's not that much further away, wherever it is.

CHAIRMAN GESSIN: There's a fire hydrant in front of my house at 776.

MEMBER GOLDFEDE: Oh, okay.

MR. TERCHUNIAN: So that's a couple of hundred feet away.

CHAIRMAN GESSIN: Yeah, right by my driveway is a fire hydrant. It's actually right here, the fire hydrant.

MR. HULME: And as to the lot width variances, they're driven by the existing lot width. The lot, the current lot is only 90 feet wide. And the lot width of the street lot is narrower than that, so we can provide for the flag pole. But the effective lot width is still the 90 feet that actually exits; and the same, same issue with the side yard setbacks. So the
side yard -- the bigger side yard variance that we're seeking is for the street side lot on the flag pole side, and that's because the flag pole consumes the 15 feet that it consumes, but the effective side yard remains the same. You know, just have part of the side yard, we'll have a driveway in it, which we could have anyway.

So the only variance of any real, in my opinion, significance is the lot size of the smaller lot, and I think it's -- in the three or four other cases where the Zoning Board has granted this type of relief, I think that the targets seem to be in most cases 20,000 -- half an acre lot, for the most part, although I think there is one lot in one of the other subdivisions that's even smaller than that. But we certainly exceed the $20,000 -- 20,000 square foot standard by three or four thousand square feet. So it would not be an untypical lot, even after the division.

CHAIRMAN GESSIN: Right. Is there any reason why you're calling the west side 25.2 and the east side 16.8?

MR. HULME: The side -- the dimension?

CHAIRMAN GESSIN: Yeah, the side yard.
MR. HULME: Oh, I guess it should be 14.2 and 12.9.

CHAIRMAN GESSIN: Who said it?

MEMBER MIZZI: No, no. On this map.

MR. HULME: Right, the area map.

CHAIRMAN GESSIN: Yeah. Here, take this.

MR. HULME: I got one. Oh, that's a proposed building envelope, and I believe that the survey attempted to apply whatever setbacks were required. But you get three-tenths if it's centered, I think you get four-tenths relief if it's not centered.

MEMBER MIZZI: Right.

MR. HULME: And I believe that that is an attempt to show what the setbacks would be for four-tenths relief.

MR. TERCHUNIAN: Yeah. On these lots that are substandard as to width, there's an automatic variance, which is an administrative variance. So you get your total side yard to have to be four-tenths of the lot width, so four-tenths of 105, and then the smaller side yard has to be four-tenths of that. Those are the minimums, and so that's what's being identified in the building --
MEMBER SARETSKY: You're showing the worst case.

MR. TERCHUNIAN: Showing what they're allowed to do as of right on this flag lot.

MR. HULME: And we're not actually asking for a variance, if it's even needed, for those dimensions.

MR. TERCHUNIAN: Right.

MR. HULME: We're showing that building envelope, and, obviously, whoever would develop this lot would have to come in and comply with whatever the code provided at that time, or seek additional variances for that particular lot for their own particular construction.

CHAIRMAN GESSIN: Right.

MR. HULME: This is just exemplary.

CHAIRMAN GESSIN: Right. Because I know one of the concerns with all of the homeowners that are in the future going to be developing these lots is to widen up the -- every other side yard, so that the road lots have views down to the bay.

MR. HULME: Right.

CHAIRMAN GESSIN: And I don't know if this lot --
MR. HULME: Well, this envelope has been shifted to the east, so as not to block the house behind our house, and, also, it benefits the house to the west.

CHAIRMAN GESSIN: Yeah.

MR. HULME: I guess when the lot to our east comes in for some type of development or comparable relief, their building envelope could be shifted to the west.

CHAIRMAN GESSIN: Right. Whose lot -- whose house is the one to the east -- to the west, is that Fran, or is that -- whose house is this one?

MR. HULME: The house to the west or way over? The three lots over or --

CHAIRMAN GESSIN: No, the one next to Amayas' (phonetic) house.

MEMBER MIZZI: Herman and --

CHAIRMAN GESSIN: Oh, that's Herman.

That's Ames.

MR. HULME: That's Ames?

MEMBER MIZZI: Yeah.

MR. HULME: And they received notice, obviously, of this proceeding, because they're an adjacent -- I believe they received copies of
this map, but --

CHAIRMAN GESSIN: Oh, I didn't realize there was actually a separate lot.

MS. HEROLD: Could I ask a question of Aram, please?

CHAIRMAN GESSIN: Yeah.

MS. HEROLD: Aram, typically, when you do the four-tenths relief, it's required a single and separate. Does this Village require that? Because you need to be able to come back. I'm just asking Aram if the Village requires a single and separate variance search when you grant the four-tenths rule.

MR. TERCHUNIAN: On the four-tenths rule, if it's single and separate as of the date of the formation of the Village, it's eligible automatically for the four-tenths rule.

MS. HEROLD: Yes. But if we're making --

MR. TERCHUNIAN: But, in this case, if the Zoning Board is allowing a lot to be created, they --

MS. HEROLD: I'm just asking the Zoning Board, can you reduce that lot?

MR. TERCHUNIAN: I believe, Joe, it's probably a question better for you, that they can

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ascribe side yards that they believe appropriate.

    MR. PROKOP: I think it's applicable to a
    new lot. When I looked at the code when the
    application in, that's what I saw.

    MS. HEROLD: I just wanted to know for
    future use.

    MR. PROKOP: I mean, since you asked the
    question, I'll look at it again, but I think that
    that's the right -- it's the four-tenths. And
    it's not -- something Aram said before, the
    minimum, the small side yard is four-tenths of --
    the four-tenths; is that what you said?

    MR. TERCHUNIAN: Right.

    MR. PROKOP: But, actually, I think it's
    20. Twenty, I don't think it's four-tenths. But
    we're using 20 for this -- for these variances.
    Thank you.

    MS. HEROLD: But I just want to check that
    you're able to not need a single and separate --

    MR. PROKOP: Well, it can't be single and
    separate if it's a subdivided lot.

    MS. HEROLD: I know it can't, yes.

    MR. PROKOP: I think we decided, when the
    application came in, that it would be applicable
    for a new lot.
MS. HEROLD: Thank you.

MR. HULME: And we placed this, at the request of the Board, obviously, as exemplar. If the Board chooses to make a finding in whatever relief they grant that fixes the building envelope in this location, then, obviously, that's part of the relief. If they -- if you take no position then, obviously, we're subject to whatever the law may be at the time. So it would apply to -- which I think is kind of contrary to what you're hoping to do.

CHAIRMAN GESSIN: Right, right.

MR. HULME: I imagine you will make the finding and that will be fine.

CHAIRMAN GESSIN: Yeah. And I think we discussed at an earlier meeting that the previous Board, prior to us, imposed on some of the other lots a maximum footprint for the house. I don't recall what it was, but I'm sure you wouldn't have an issue with that.

MR. HULME: No, not at all.

CHAIRMAN GESSIN: Any other questions?

MEMBER GOLDFEDER: Part of Lot 2 was created from the backfill of sand from the bay?

CHAIRMAN GESSIN: It came from someplace.

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MEMBER GOLDFEDER: Is the water table the same for Lot 1 as it is for Lot 2?

MR. TERCHUNIAN: Yes, yeah.

MEMBER GOLDFEDER: So there's no environmental impact?

MR. TERCHUNIAN: No. You know, we took a hard look at the proposed lots, and my analysis is that the lot width and the lot area is comparable to what's in the neighborhood, and that there's sufficient room on each lot to install a standard Suffolk County approvable sanitary system with proper clearance to groundwater and sufficient area for leaching.

MEMBER GOLDFEDER: Okay. Thank you.

MR. PROKOP: So this whole discussion that we just had about four-tenths and four-tenths and four-tenths, I'm looking at what we did with the notice. I don't think that this -- somehow Aram and I more of -- when this came in, we didn't -- actually didn't apply the four-tenths, I don't think, we -- because the proposed lot width is 90 feet, and we imposed 60 feet, the total -- a total, minimum total side yard of 60 feet, and minimum individual side yards of 20 feet and --

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which isn't four-tenths. So I don't know -- I think that for purposes of this application, we didn't go to the four-tenths anyway, we used the standard in this district, which is more stringent.

MR. TERCHUNIAN: Than the four-tenths.

MR. PROKOP: Than the four-tenths, right.

If it was four-tenths, it actually would have been --

MR. TERCHUNIAN: The 16.8, right.

CHAIRMAN GESSIN: But the lot, the newly created lot is 105.

MR. TERCHUNIAN: Yeah, it's 105.

MR. PROKOP: But we're going by 90.

MR. TERCHUNIAN: Ninety is on Lot 1.

CHAIRMAN GESSIN: Ninety is Lot 1.

MR. PROKOP: I'm talking about Lot 1.

MR. TERCHUNIAN: That's for the existing development, though, on Lot 1, and this is for --

MR. PROKOP: Right.

MR. TERCHUNIAN: -- the proposed development on Lot 2. And we actually didn't give side yards on Lot 2. We didn't --

MR. PROKOP: We didn't, because we're not doing the building envelope on Lot 2, we're doing
the building envelope -- unless I'm wrong.

MR. TERCHUNIAN: The other way around, yeah. We're doing the envelope on Lot 2, not on Lot 1, because Lot 1 has a fixed building on it.

MR. HULME: But since we're not proposing an actual house on Lot #2, we are not seeking an actual variance for that structure. I think what the Board is contemplating doing is imposing a restriction on the building envelope and its location as a condition of the approval of the variances that we've actually sought.

MR. TERCHUNIAN: Correct

MR. PROKOP: But on Lot 2, we also used the 20-foot --

MR. TERCHUNIAN: That's for the rear yard. That's for the flag pole width.

MR. PROKOP: Okay. So when I started talking, anyway, I was talking about that one.

CHAIRMAN GESSIN: All right. If anyone on the Board wants to see a newly created -- a newly cut 15-foot driveway, 826 is a new 15-foot driveway. So you can see that it's adequate to get a fire truck down there. They can't make a turn around, they'll have to back out, but they can get down there.
MR. HULME: Anybody with enough skill to drive one of those trucks should be able to back up, I would think.

MEMBER GOLDFEDER: Well, the concern is, obviously, after the Cupsogue incident.

MR. TERCHUNIAN: Yeah, right.

MEMBER GOLDFEDER: We want make sure there's --

MR. TERCHUNIAN: Water.

MEMBER GOLDFEDER: -- water.

MR. TERCHUNIAN: Since they were running tanker trucks instead of hoses. Yikes.

CHAIRMAN GESSIN: Anything else from the Board?

(No Response)

CHAIRMAN GESSIN: So, Joe, at this point, do we close the hearing?

MR. PROKOP: Close the hearing, and we move on to the consideration of the five criteria after the hearing is closed. I mean, we go into a meeting. We could have the meeting after we complete the hearing on all the applications, or we can have the meeting on this application right after we close the hearing, it's up to you. I would probably just go right into the meeting on
this application.

CHAIRMAN GESSIN: You mean today?

MR. PROKOP: Yes. So we'll close the public hearing on this, and you have a choice, as the Chairperson, to make a decision -- to review the application for decision after all three of the public hearings, or you could go right into it after you close the public hearing. All Boards do it different ways. How do you feel about that? Do have any -- do you see what I mean?

MR. TERCHUNIAN: It's probably fair to everybody if you heard all the public hearings and then went into deliberations after that.

CHAIRMAN GESSIN: Yeah, I think that would be best, yeah.

MR. PROKOP: Okay.

CHAIRMAN GESSIN: Okay. So we'd like to close the public hearing, and we can let you go about your day.

MR. HULME: Thank you very much. Thank you all. Good to see you.

MR. PROKOP: That's a motion.

CHAIRMAN GESSIN: Motion to close the public hearing. Would someone like to second?
MEMBER SARETSKY: Sure.

MR. TERCHUNIAN: By Saretsky. Do we have a second? Mr. Golfeder, are you in?

MEMBER GOLDFEDER: I second.

MR. HULME: Thank you for your attention.

I'll talk to you all soon.

CHAIRMAN GESSIN: Okay. Next application, Diane, 836 Dune Road.

MS. HEROLD: Diane Herold, H-E-R-O-L-D, 38 South Country Road, Westhampton. I'm here for the applicant. Good morning.

CHAIRMAN GESSIN: Good morning.

MS. HEROLD: Just to get started, I want to make sure everyone has the correct site plan, since Jim had some problems. It's composed January 13th, 2015, and it was submitted after our last meeting. We made some revisions to the application, as well as to the survey. So, if you could just confirm, it's at the upper right-hand corner on the survey. We're good?

MEMBER SARETSKY: Good.

MS. HEROLD: Okay. The agenda is quite accurate in our changes. I'll only review the changes that we made, because there are so many.

Number one is the most important, where we
changed the lot coverage drastically, and we now have 24.9%. This was requested by the Board, that you wanted us to reduce from the 30% that we came in with before. We did that by removing the west walk, which eliminates the variance for that walk. We made the surround around the swimming pool one foot instead of three feet. And we also reduced the size of the east walk to 4.5 feet. So that gave us enough square footage to give our clients the deck that they wanted the addition and the swimming pool.

MEMBER GOLDFEDE: What's the depth of the swimming pool?

MS. HEROLD: The depth of the pool is probably like three-to-six, three-to-seven. It will be on pilings, it has to be. They have small children, so I think it's going to be a standard pool.

So the rear yard variance has changed also, because we made the walk around the swimming pool a little bit smaller, so that has been changed to 39.9 feet. As you can see, we're using the three-tenths rule, because we did give you a single and separate. Those two are the ones on the first page.
On the second page, I mentioned #3, that we're reviewing -- removing the west walk, so we don't need that variance.

And then Number 5, the Board did ask us to request a variance to the proposed second floor, which is a variance of 19.1 feet, for a setback of 40-feet-nine -- 40.9 feet.

The other variances were for the front, and that was reviewed last time when we had our meeting.

I probably should point out that we're already at 23.9, so we're adding only 1%. That should be important for the Board. For everything that we're getting, it's just a 1% increase.

MR. TERCHUNIAN: Diane, a question. On the -- in the front, on the proposed second floor deck, you're indicating that's over an existing deck?

MS. HEROLD: Yes, it is.

MR. TERCHUNIAN: And then landward of that, you have a red line that is not identified as to what that is.

MS. HEROLD: The 24.4, is that where you're looking at?
MR. TERCHUNIAN: Yeah.

MS. HEROLD: That's the existing deck

MR. TERCHUNIAN: 29.4.

MS. HEROLD: That's the existing deck

MR. TERCHUNIAN: That's an existing deck?

MS. HEROLD: Yes.

MR. TERCHUNIAN: Okay. But it's in red, not in black?

MS. HEROLD: That's true.

MR. TERCHUNIAN: Okay.

MEMBER GOLDFEDE: Is there a right-of-way easement on the east side of the property or --

MS. HEROLD: Yes, there is. You can see that it's marked there, but it's 10 feet. Each of the properties have a 10-foot right-of-way, yes. It's actually for access, supposedly to the back, you know, B and C.

MEMBER SARETSKY: I think all six of those houses yielded that.

MR. TERCHUNIAN: Yeah. And so the second-floor addition is only going over part of the existing building?

MS. HEROLD: Yes, on the right, at least to the southeast corner. They want to keep the cathedral ceiling in the living room, so we're
not doing an entire second floor.

MR. TERCHUNIAN: So all of the additions outside of the footprint are on the rear of the house on the north side of the building?

MS. HEROLD: No. Say that again.

MR. TERCHUNIAN: All of the additions that are outside the existing building envelope --

MS. HEROLD: Oh, yes, correct.

MR. TERCHUNIAN: -- are on the north side of the building?

MS. HEROLD: Yes, yes. I'm sorry. Yes, because the second floor is being built over the existing house on the south side.

MR. TERCHUNIAN: So there's no -- there's no reduction in any of the front yards?

MS. HEROLD: No. They're all being maintained. You basically asked for that, because you wanted to make sure that we were clear when we were finished with this project that we had validated the setbacks that were preexisting.

MEMBER GOLDFEDER: And the entrance to the house stays the same, in the same spot?

MS. HEROLD: Actually, the steps move over, because we're reducing the size of the east walk,
so they'll move over 4.5 feet also.

MEMBER GOLDFEDER: Did we ask, Harvey, last
meeting for a rendering, an as-built on this?

MS. HEROLD: No, you did not.

MEMBER GOLDFEDER: We did not?

MS. HEROLD: I would have provided you one.

CHAIRMAN GESSIN: No, we didn't. Diane,
what is this dotted line?

MEMBER GOLDFEDER: I know we did get those
in the past.

MS. HEROLD: The dotted line is the
right-of-way, the black dotted line.

CHAIRMAN GESSIN: No, no, no. No, this
other one.

MEMBER SARETSKY: It's a box.

CHAIRMAN GESSIN: The one I just
highlighted.

MS. HEROLD: Oh, that's the driveway.

CHAIRMAN GESSIN: Oh, that's the driveway.

Okay. I couldn't tell what that was.

MS. HEROLD: No. I don't he labeled it.

Did he label it?

CHAIRMAN GESSIN: No, it's not labeled.

MS. HEROLD: Oh.

CHAIRMAN GESSIN: It didn't say what it is.
It says gravel driveway here, but I can't tell what this other thing is.

MS. HEROLD: No, it's -- that exact dotted line that you see, you can actually park in front of the steps, and then you also have parking on the east side.

MEMBER MIZZI: What's being changed that -- what's being removed that would -- that would make this only a 1% addition? Because there's a good bit of new area.

MS. HEROLD: If you have the old survey, I can -- if you have an old survey, I'll --

MR. PROKOP: I'm sorry.

MEMBER MIZZI: I said, like -- she said there's only 1% being added, but looking at it, it seems like it would be more than 1%, unless something was removed.

MR. PROKOP: Well, you know that's --

MEMBER MIZZI: So I was just trying to be clear what was being removed.

MR. PROKOP: The relative percentage is not 1%. You're talking about the lot coverage?

MEMBER MIZZI: Yeah.

MR. PROKOP: Yeah. The relative -- the mathematical amount is 1%, but the relative
amount is not 1%, the relative amount is like 5 or 10, 5% or something.

MS. HEROLD: 4.9.

MEMBER MIZZI: 4.9 it says.

MS. HEROLD: But just --

MEMBER MIZZI: I guess I was looking at it, saying like if it's -- it's only changing lot coverage by 1%.

MS. HEROLD: No. I just want to point out to you, this is what's there existing.

MEMBER MIZZI: Yeah.

MS. HEROLD: So we're eliminating this whole length here.

MEMBER MIZZI: That was my question.

MS. HEROLD: And then we're eliminating 4.5 all through here. And once we eliminate all those walks --

MEMBER MIZZI: Got it.

MS. HEROLD: -- we make up the difference.

So this is what was there before. So you can see, here's the existing. The scale is different.

MEMBER MIZZI: What's going to be here?

It's not just --

MS. HEROLD: Nothing. We're taking -- in fact, thank goodness we're taking it down,
because it's a cantilever anyway. So we're eliminating from here all the way back to here all of this square footage, and from here to here, which is an extensive amount, as you can see. So by the time we took off all -- previously, the owner wanted to keep everything and we came in with 30%. We persuaded them to cut down on the walks that are not necessary. If they wanted their pool and they wanted their back deck, they had to give up the walkways, and that's what we persuaded them to do.

MR. TERCHUNIAN: Diane, what are you going to do about the sanitary system?

MS. HEROLD: Nothing. I don't have to, I'm keeping the same number of bedrooms.

MR. TERCHUNIAN: Okay.

MEMBER GOLDFEDER: The same number of bedrooms? The second floor along -- the addition that's going up top?

MS. HEROLD: We're eliminating a bedroom downstairs and putting the bedroom upstairs, yes. They want a master bedroom looking at the ocean, so that's why we have that second floor on the south side.

MEMBER GOLDFEDER: So there'll be three
bedrooms total or --

MS. HEROLD: That's four.

MEMBER GOLDFEDER: Four bedrooms total?

MS. HEROLD: Yes.

MEMBER GOLDFEDER: And how big is the parking area after --

MS. HEROLD: Well, it's what is there, it was the dotted line. Maybe this will be a little bit easier.

MEMBER GOLDFEDER: Will it support four cars?

MS. HEROLD: Well, yes, one, two, three, four.

MEMBER GOLDFEDER: Okay.

MS. HEROLD: Yes. Yes, it would.

MEMBER GOLDFEDER: With the setback.

MEMBER MIZZI: It's getting wider, right?

MS. HEROLD: The driveway? No. We just -- we don't have to --

MEMBER GOLDFEDER: Just deeper.

MS. HEROLD: We don't have to widen it.

It's not even that deep. It's just we're getting --

MEMBER MIZZI: I thought you were moving the stair over to the west.
MS. HEROLD: Oh, yes. Okay, I'm sorry. But I don't know if they'll make that driveway or not, but you're right, they probably will, yes.

MEMBER MIZZI: Okay.

MR. PROKOP: So I just wanted to ask you a question. You mentioned the existing setbacks before. So if an existing setback encroaches on the first floor, I just want -- and I haven't looked at these plans, I'm not the plans person. But if an existing encroachment exists on the first floor, that doesn't mean that you can get that -- you can get that encroachment on the second floor.

MS. HEROLD: That's why last --

MR. PROKOP: I just want to make sure we're clear about that. The second floor still has to comply.

MS. HEROLD: For the last meeting, you asked -- excuse me. At the last meeting, you asked me to add that to my list of variances.

MR. PROKOP: Okay.

MS. HEROLD: And Aram, as I said before, asked us to ask for all of -- you know, to the existing deck, to the existing first floor, to the existing roof over the deck.
MR. PROKOP: Okay.

MS. HEROLD: He asked us to clarify all of that, so that somewhere down the line, the Board has approved all of those nonconforming front yard setbacks.

MR. PROKOP: Okay, good. So if you have -- if you have an encroachment of an existing structure on the first floor, on the ground level, that doesn't give you the right to go straight up.

MR. TERCHUNIAN: Yeah, without coming to this Board.

MR. PROKOP: Without coming to the Board.

CHAIRMAN GESSIN: But you're still not increasing your coverage. You have to come to --

MR. PROKOP: That's a different -- I'm just talking about the setbacks, not the coverage.

CHAIRMAN GESSIN: Okay.

MR. PROKOP: Right, the coverage is -- if you have -- if the first floor goes to here, if this line is the setback line, the required setback line, and the first floor existing is to here, that doesn't give you the right to go up with the second floor. You would have to apply for a vary variance for this.
CHAIRMAN GESSIN: Right.

MR. PROKOP: So I just wanted to make sure we're clear.

MS. HEROLD: So that was added since our last meeting. The Board asked us to include that with our setbacks to the south property line.

MR. PROKOP: Okay, good. The Health Code, in a discussion with Aram, apparently, what the Health Department says in a memo -- and apparently there's a Health Department memo on this. We should probably get this as part of our file in this.

MS. HEROLD: I can provide that to you.

MR. PROKOP: Yeah. If you're not --

MS. HEROLD: I'll leave it with Laura.

MR. PROKOP: If you're not increasing bedrooms, as long as it's not a total rebuild of the house, which in this case it is not --

CHAIRMAN GESSIN: Not, uh-huh.

MR. PROKOP: -- then you're okay, you don't have to come back for a recertification. But we should get that as part of the file, so we have that for future use.

MS. HEROLD: I'll bring it in Monday, and you can make copies for the Board. I'll make a

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note of that, because it is an important memo.

    CHAIRMAN GESSIN: Okay. Board, do we have any other questions?

    MR. PROKOP: I would ask on these hearings, just as a formality, just ask if there's anybody else that would like to be heard.

    CHAIRMAN GESSIN: Is there anybody else in this room that would like to be heard?

    (No Response)

    CHAIRMAN GESSIN: No? Anything else you'd like to add, Diane?

    MS. HEROLD: No. I thank the Board for their time again. And I appreciate your review of this again. So may I request that -- they're going to review it after this meeting; is that correct?

    MR. PROKOP: Right. I think there's going to be a motion to close the public hearing, and then we'll have the meeting after this.

    MS. HEROLD: Okay. Thank you.

    CHAIRMAN GESSIN: Would someone like to make a motion to close this hearing?

    MEMBER SARETSKY: I move to close.

    MEMBER GOLDFEDER: I will second.

    CHAIRMAN GESSIN: Okay. This hearing is
Okay. Next application. Thank you, Diane.

MS. HEROLD: You're welcome.

CHAIRMAN GESSIN: The next one up is 9 Dune Lane, but, apparently, the notifications never went out.

MR. PROKOP: The notifications did not go out?

CHAIRMAN GESSIN: To the neighbors, yeah.

MR. PROKOP: I'm sorry. So then we could discuss it, but we can't have the public hearing, we have to adjourn the public hearing.

CHAIRMAN GESSIN: Do you want to talk about it or --

MR. BATCHELLER: Yeah, sure. And then -- yeah.

CHAIRMAN GESSIN: Okay. Go ahead.

MR. BATCHELLER: All right. So my name is Ed Batcheller, 7 Jagger Lane, Westhampton, and I am the agent for the applicant, whose name is Sandra Kronberg, at 9 Dune Lane in the Village. She has a house upon a 5,000 square foot lot. And if you look at the survey, you'll see there are existing decks on the first floor and the second floor in the front, in the front of the
house, and they don't comply with the code --
with the setbacks.

And what the client wants to do is on the
second floor deck, extend it towards the road,
towards Dune Lane by about six feet. And the
purpose of that is to -- she feels that the
amount of space that's there now is not
comfortably safe. It's not structurally unsafe,
but just feels that there's not enough depth to
put -- to have people up there, and that's where
people tend to gather.

So she'd like to add -- so she'd like to
get some relief from the front yard setback from
36.84 existing to 33.14. And adding the deck,
because the lot is so small, also increases the
lot coverage by 10%. So we would be going from
20 to 30% lot coverage.

So that's essentially -- you know, that's
the application in a nutshell.

MEMBER SARETSKY: This is just for the
deck?

MR. BATCHELLER: Just for the second floor
deck. The gray on the survey, you see the gray
there?

MEMBER SARETSKY: Yeah, I'm looking at it.
MR. BATCHELLER: Yeah, that's the extension of the existing deck, the existing second floor deck. So it goes over to the existing side yard setback in line with the first floor wood deck, and projects back a little over six feet toward the front property line.

MR. PROKOP: Is that section, block -- Laura, did I get the section, block and lot right, the district on the agenda?

MR. TERCHUNIAN: Yeah, it's 1-1 -- well, it says on the survey.

MR. PROKOP: But it's not 909, right, it's 907?

CHAIRMAN GESSIN: 907-01-01.

MS. DALESSANDRO: That's right.

MR. PROKOP: So it's not 11, it's 1-1-50?

MS. DALESSANDRO: It's 1-1-50.

MR. PROKOP: Yeah, okay.

MR. TERCHUNIAN: And have you looked at the other lots in the area and what their coverage is and setbacks are?

MR. BATCHELLER: I'm not so sure about with the coverage, but I do know that the house to the -- I guess it would be to the west, immediate west, adjacent property, John Liere, or whatever,
they seem to have -- they have a deck that seems
to project forward, as actually -- probably about
as far forward as this deck, this new deck would be.

MR. TERCHUNIAN: It probably would be
useful for the Board for them to know what the
other -- what the other lots in the neighborhood
have in the way of coverage and setbacks.

MR. BATCHELLER: Yeah, we can -- I can
easily get that information.

CHAIRMAN GESSIN: Yeah, I was over there
before and it appears that that other house is
over five feet forward, and just their deck, than
this house.

MR. BATCHELLER: The one to the west, yeah.

MEMBER GOLDFEDER: Would this be on
pilings, the new deck, or --

MR. BATCHELLER: Yes. It will be on
footings and -- concrete footings and columns,
all engineered.

CHAIRMAN GESSIN: And here's a picture,
too. I mean, I couldn't take it from the side
because it was so snowy, but it is actually -- I
didn't feel like it. But it is more forward, the
two decks.

MEMBER SARETSKY: This one's more forward.
CHAIRMAN GESSIN: The one to the right is more forward than the one to the left. The one to the left is the one she wants to move forward.

MEMBER SARETSKY: I see.

CHAIRMAN GESSIN: And they'll probably just about line up there.

MEMBER SARETSKY: It would be nice to see the other side.

MEMBER GOLDFEDER: Yeah. Which is the house that's directly behind it?

MR. TERCHUNIAN: What do you mean?

MEMBER GOLDFEDER: Is that 880, or which --

MR. TERCHUNIAN: Oh, Burns and Harte.

MEMBER GOLDFEDER: I know we extended relief to one of the houses behind it.

MR. TERCHUNIAN: Oh, that's right, but it wasn't -- that's not one of these. Behind it is Maloney, Harte, and Vaczy. I don't remember those as being --

MR. BATCHELLER: Oh, Vaczy?

MR. TERCHUNIAN: Because we just -- while we have -- I think one is Goldstein, and the other is Autorino.

MEMBER GOLDFEDER: Yes. My concern, obviously, was density.
MR. BATCHELLER: I'm sorry?
MEMBER GOLDFEDER: My concern was density.
MR. BATCHELLER: Oh. It's a tightly packed little neighborhood.
MEMBER GOLDFEDER: Yes, yes.
MR. BATCHELLER: The lots are very small.
You know, if you sneeze, you need a variance over there.
CHAIRMAN GESSIN: Yeah.
MEMBER MIZZI: I have one comment, which the calculation for the second floor deck --
MR. BATCHELLER: Yes.
MEMBER MIZZI: -- it seems to include the area over an existing stair, the wood stair.
MR. BATCHELLER: Yes.
MEMBER MIZZI: And, therefore, if that's already part of your lot coverage, your application might be less if you were to consider that.
MR. TERCHUNIAN: Typically, the wood access stairs are not considered in lot coverage.
MEMBER MIZZI: Okay.
MR. PROKOP: Isn't that unless it's more than three stairs, four stairs --
MEMBER SARETSKY: It is more.
MR. PROKOP: There's a rule for that. We did us that for Trimarchi.

CHAIRMAN GESSIN: Okay.

MR. PROKOP: For 693.

CHAIRMAN GESSIN: Right.

MEMBER MIZZI: And again, it wouldn't increase the application, it would reduce it, the step.

MR. PROKOP: Does anybody remember what the rule is we applied to 693, because there was a rule that we --

MEMBER MIZZI: Well, I guess my question was that in the -- if it's included in the 1228, it might be being double-counted. If it's not in 1228, then it wouldn't be double-counted.

MR. PROKOP: Okay.

MEMBER MIZZI: So just to know that.

MR. TERCHUNIAN: So you should clarify that, then.

MR. BATCHELLER: About the stairs?

MR. TERCHUNIAN: Yeah.

MEMBER MIZZI: Because, if it's in your 1228, you might be able to be asking for less than 270 square feet.

MR. BATCHELLER: Okay. Yeah, that -- yeah,
I understand.

MEMBER MIZZI: Okay.

MR. BATCHELLER: Yeah.

CHAIRMAN GESSIN: And check the corner house, because I think that one projects forward also.

MR. BATCHELLER: Yeah, lot coverage.

MR. TERCHUNIAN: It probably would be very useful if you just went through and FOILed the surveys on all the lots in this neighborhood and just did a spread sheet.

MR. BATCHELLER: Yeah, okay, of front yard setbacks, etcetera?

MR. TERCHUNIAN: Right.

MR. PROKOP: And lot coverage.

MR. BATCHELLER: Lot coverage?

MR. TERCHUNIAN: Yeah.

MR. BATCHELLER: Okay. FOIL from the Town?

MR. TERCHUNIAN: From the Village.

MR. BATCHELLER: The Village.

MR. TERCHUNIAN: Yeah.

CHAIRMAN GESSIN: Anybody else have any other questions?

MEMBER SARETSKY: No, straightforward.

CHAIRMAN GESSIN: Okay. So let's get the
notice out.

MR. BATCHELLER: We're going to adjourn, so I'll get the notices back, and bring in this other information, and then -- okay. Do we know when the next meeting is going to be?

CHAIRMAN GESSIN: No, we have to schedule it.

MR. PROKOP: So I think the motion on this one would be motion to table.

CHAIRMAN GESSIN: Yeah.

MR. PROKOP: So if somebody could, please, make that motion.

CHAIRMAN GESSIN: Well, I don't think this was actually an official --

MR. TERCHUNIAN: Actually, we're not taking an action.

MR. PROKOP: Okay.

CHAIRMAN GESSIN: Right.

MR. PROKOP: All right. So, as the Chairman, you'll just table it.

MR. BATCHELLER: Okay. We'll just be on the next calendar.

CHAIRMAN GESSIN: Just get ready and we'll be ready to go next time.

MR. BATCHELLER: All right.

CHAIRMAN GESSIN: Who sends the notices out?
MR. BATCHELLER: I have a list. Thank you.

CHAIRMAN GESSIN: Okay. So what do we have next? We have --

MR. PROKOP: Okay. So there were two decisions that were made, that we made, and we did --

MEMBER MIZZI: Could I ask for some clarification?

MR. PROKOP: I'm sorry.

MEMBER MIZZI: Are we voting on this today, the ones that we heard?

MR. TERCHUNIAN: You don't have to.

MEMBER MIZZI: I'm just curious.

MR. TERCHUNIAN: That's really up to the Chairman and you guys.

MR. PROKOP: You have to make a decision within 60 days of today. The hearing closed today.

MEMBER MIZZI: Okay.

MR. PROKOP: Then you have to make a law -- excuse me. The law is that you have to make a decision within 60 days of today.

MEMBER MIZZI: Okay.

MR. PROKOP: So it's up to you. You can decide one, or not decide.
MEMBER MIZZI: Do we talk about it or we can't talk about it?

MR. PROKOP: Talk about it, yes.

MEMBER GOLDFEDER: On the record?

MR. PROKOP: Yeah, really everything is on the record.

MEMBER SARETSKY: But first, you want to go through these other two, right?

MR. PROKOP: Yes.

MEMBER MIZZI: No, I didn't mean to interrupt, I was just trying to get a bearing.

MR. PROKOP: So I didn't have the chance to say this when I came it. I'm sorry I was a few minutes late, but the -- what we decided then was to use a reporter from now on, just so we have a record.

You know, I was literally -- by the time I got out of here after our meeting, because people were fighting, people that were not at the meeting were fighting with me over what was said at the meeting. So I just -- I thought, to help everybody else out, and more particularly, you could see what's going on today with the documents, it's like overwhelming for us just to get the right documents here. You know, that's
like a job for two people. So, to just
consolidate everything, I recommended we have a
reporter. And also, whatever her fee will be
will be split among the people that were here
today. So --

MEMBER MIZZI: I thought you found a
surplus in the budget. I saw new signs and a
court reporter.

(Laughter)

MR. PROKOP: No. The last time, poor Laura
was like, you know, she was trying to write down
what we were saying, so that's it.

MEMBER GOLDFEDER: And I think it's
appropriate.

MR. PROKOP: You know, we'll just organize
this.

MEMBER MIZZI: Good idea.

MR. PROKOP: And then we can go back, you
know, and see, you know, this is how we handled
things. So the other thing is --

CHAIRMAN GESSIN: Right. And this is what
we said, right.

MR. PROKOP: You know, all the members of
the Board are great, you know, we're lucky to
have everyone, and everything you say is
important. So, you know, if you say it out loud, then she'll get it down.

CHAIRMAN GESSIN: All right.

MR. PROKOP: Yes. And then we can go back and see, you know, Joe said this, and Joe Mizzi said this, and whatever.

MS. DALESSANDRO: And that becomes the minutes, correct, Lucia does the minutes?

MR. PROKOP: This will be the minutes, yes, these are the minutes. And we can even put this on the website, you know, because this will come to us in PDF and we put it right on the website.

CHAIRMAN GESSIN: Great.

MR. PROKOP: So you can take an action today on one of them, none of them, you cannot take an action.

CHAIRMAN GESSIN: Well, on the last application, I just want to -- I'd like to table that until our next meeting, because I'd like to have all the other subdivisions we approved together at one time, so we can review them all at one time, so that we're in synch that they all end up the same.

MR. PROKOP: Yes.

CHAIRMAN GESSIN: So we don't have a battle
down the road when these houses start going in, that one Board did one thing, one Board did another thing, and discriminate against me, and then you did this to the other one, and then this one did this to the this one, because that's the way this Village goes down anyhow, if you know what I mean.

MR. PROKOP: Yes.

CHAIRMAN GESSIN: So I think we should try to get them all locked in pretty much the same.

MR. PROKOP: Okay.

CHAIRMAN GESSIN: Okay. As far as Diane's application, if you guys want to vote on this one today, I'm okay with that, unless you want to further look at it.

MEMBER SARETSKY: The only question, I guess, I had about Diane's application was --

CHAIRMAN GESSIN: It's confusing.

MEMBER SARETSKY: It's confusing. That's one part. But the second part is, right now, there's a brand new house going up to the east of it, Yale and Sandy, and that house has no variance, right, as far as I know.

MR. TERCHUNIAN: At the present time, no.

MEMBER MIZZI: They've requested a
variance, right.

MEMBER SARETSKY: And they're building a substantial house, right, it's not -- I mean, I know that it's a renovation, because it's on partial -- on part of the old.

MR. TERCHUNIAN: Correct, correct.

MEMBER SARETSKY: I guess what I -- and I thought you guys did this last time, I'm not sure if I was at the last meeting, but it just seems if you could accomplish their goals with not having a variance, in other words --

MR. TERCHUNIAN: I think that --

MEMBER SARETSKY: Maybe I'm not saying --

MR. TERCHUNIAN: Better to issue a variance on this project, if that's the Board's determination. I don't think there's a way not to issue a variance. I don't think there's a way for them to build this without a variance.

MEMBER GOLDFEDER: I agree. It's almost a 35% density increase.

MR. TERCHUNIAN: Well, that's not really the issue. And if you want to talk about the Yale stuff, we'll do that later.

MEMBER SARETSKY: I'm only saying --

MR. TERCHUNIAN: But here, the issue is
this: It's not that they're building within the footprint, or not building within the footprint, it's that the second story is new construction, and the new construction itself can't be built that close to Dune Road, despite the fact that there's a first floor. It's the second story construction that triggers the first set of variances.

MEMBER SARETSKY: Okay.

MR. TERCHUNIAN: And it's the extension in the rear that triggers the second set of variances.

MEMBER GOLDFEDER: That's my concern with the density. And also, I think at the last meeting, we asked them for a rendering to see how it's going to fit into the neighborhood of what it's going to look like post.

MR. TERCHUNIAN: It's going to look very similar to what Yale is building. It's about the same percentage, it's about the same coverages, about the same width.

MEMBER MIZZI: What's confusing to me is that even though she described the lot coverage only going up from 23.9 to 24.9, the house went up significantly, and the deck went down.

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significantly. And it's very hard to understand what she's building there.

MR. TERCHUNIAN: Well, yeah. Well, I think, quite frankly, this request is much more reasonable than the first request. And the first request was silly, because they were keeping all this very odd deck space, which was killing them on lot coverage, that they're never, ever going to use.

MEMBER SARETSKY: Right, it's the side deck.

MR. TERCHUNIAN: That side deck on the west side, which was of a variable width, really didn't serve any real function, it just took up space. And it seems to me they've gotten a lot smarter in the sense of they've gotten rid of that, trimmed off the west side, which is hurting them on coverage. So that's why the deck space is very -- is only a much smaller increase. And, essentially, they're creating an entirely new second story on top of an existing first story, which is basically doubling their habitable space.

MEMBER GOLDFEDER: Oh, and adding the roof deck, yeah.
MEMBER MIZZI: But that shouldn't increase -- that shouldn't -- that's not the reason for increasing --

MEMBER SARETSKY: Lot coverage.

MEMBER MIZZI: -- lot coverage of the house.

MR. TERCHUNIAN: Right. The lot coverage is decreased because of removing the decks.

MEMBER MIZZI: Right, but they --

MEMBER SARETSKY: But their increase --

MEMBER MIZZI: Where's the house -- like it went from 961 square feet for the house to 1300 square feet for the house lot coverage. The deck lot coverage went from 1584 to 1250, and it wasn't apparent to me from the materials she presented how that was happening.

MR. TERCHUNIAN: Can I take a look at the survey?

MEMBER SARETSKY: Well, I think part of it is the pool. In other words, you're building --

MEMBER MIZZI: That would make the deck space greater, not less.

MEMBER GOLDFEDER: And the pool.

MEMBER SARETSKY: But I think what Aram is saying is they're chopping off decks on side.
MR. TERCHUNIAN: Yes.

MEMBER SARETSKY: And that's just helping with the mass.

MEMBER GOLDFEDER: To the get the numbers.

MEMBER SARETSKY: To the get the numbers.

MEMBER MIZZI: Yeah.

MEMBER GOLDFEDER: Also with that, just, Aram, you're familiar, obviously, with the back. There is some wetland growth back there.

MR. TERCHUNIAN: The wetland is far, far away.

MEMBER SARETSKY: Because you have another house.

MEMBER GOLDFEDER: Yeah, behind, but it still fills back in there.

MEMBER SARETSKY: Yeah.

MEMBER MIZZI: So I guess this is the area that's not the house currently that's adding to that.

MR. TERCHUNIAN: Yes, yes.

MEMBER SARETSKY: I mean, I guess.

MEMBER MIZZI: And there's a deck here that's being removed.

MR. TERCHUNIAN: Correct.

MEMBER MIZZI: And a deck and a pool that
is being added here.

MR. TERCHUNIAN: Right. There's deck on this side that's being trimmed.

MEMBER MIZZI: Right.

MR. TERCHUNIAN: Deck on this side, on the west side removed, east side trimmed. Second -- you know, three-quarters of the existing first floor is getting a second story, and then you're doing a first floor addition on the north side of the building, which is, you know, 12-by-29. So 12-by-29 is where you're picking up all of this existing residence increase.

MEMBER SARETSKY: It's like 350 feet?

MR. TERCHUNIAN: Yeah, exactly, it's 348 feet. So of -- when you go from this 961 to the 1303, 350 feet of that is the addition on the north side of the building.

MEMBER SARETSKY: So let's go by the premise of what you're saying, that it's not -- it's nothing, whatever, it's not up --

MR. TERCHUNIAN: Yeah, that's it, that's all of it.

MEMBER SARETSKY: So the only issue, then, is the setback in the back, because you're putting in --
MR. TERCHUNIAN: Right.

MEMBER SARETSKY: -- an addition, the addition and a pool.

MR. TERCHUNIAN: Right.

MEMBER SARETSKY: And how does that adversely effect or not anybody in the back area?

MR. TERCHUNIAN: Quite frankly, the pool is an accessory structure.

MEMBER SARETSKY: Okay.

MR. TERCHUNIAN: That's a 20-foot setback to the rear yard.

MEMBER SARETSKY: Okay.

MR. TERCHUNIAN: I mean, the deck -- I mean, you have a building, and a deck attached to it, and then a pool attached to that. The building is a building that definitely is a primary structure setback. The deck being attached to the building, yeah, you could consider that to be an -- to be part of the primary structure. And then you have another structure removed from that, being the deck. Yes, it's attached to the other two, and, therefore, it's -- you know, technically, you can consider it part of the primary structure, and, therefore, subject to the 30 -- the three-tenths...
rule. But the point of fact is if they just made
the pool by itself, they can put it 20 feet from
the line. So, if the pool and the deck weren't
attached to the house, they could go to 20 feet,
and it just doesn't make any sense for them to do
that now.

MEMBER GOLDFEDER: Well, they have to leave
it intact, because there's no way to service it.

MR. TERCHUNIAN: Exactly. I mean, so if
you're looking at it with or without, okay, we'll
comply with the code, we'll build a pool and deck
totally separate from the house 20 feet from the
rear lot line. That's pretty silly. Okay. So,
if we attach it to the house, now we get it 40
feet away. That sounds a lot better.

MEMBER GOLDFEDER: So they're going to
cantilever off the pool side for decking on the
back end?

MR. TERCHUNIAN: I guess.

MEMBER GOLDFEDER: Four feet?

MR. TERCHUNIAN: That one-foot walk-around?

MEMBER GOLDFEDER: They have to?

MEMBER SARETSKY: Yeah, one foot. They'll
definitely cantilever it out.

MR. TERCHUNIAN: Yeah.
MEMBER SARETSKY: Or they'll cantilever with an arm or something.

MR. TERCHUNIAN: Yes.

MEMBER GOLDFEDER: You have to -- and where are they going to put the pool with a filter?

MR. TERCHUNIAN: Well, they haven't given us a spot for that, but it's all got to be above flood plain.

MEMBER SARETSKY: So how does the -- how does us approving this adversely affect -- so there's a house behind it, Aram, Jane's house. So she now sells her house, builds a new house, or does a similar renovation. Do we set any precedent by doing this that's -- because you have these --

MR. TERCHUNIAN: Yeah, but this is a flag lot.

MEMBER GOLDFEDER: This is a big variance.

MEMBER SARETSKY: That's the problem that I see here. There's six flag lots, and you don't want to sort of upset the apple cart in that does -- in other words, Yale's house is now sort of the new frontier, right? In other words, it's a big new house. It's built -- you know, I live far enough away from this that it's really not an issue to me, but I know to Pat, who lives on the
water, and to Ed Sisk, this will now affect view.
But, I mean, look, maybe that's their --
MR. PROKOP: Well, Yale's house, just to
let you know, Yale will be before this Board.
MR. TERCHUNIAN: Probably.
MEMBER SARETSKY: Okay.
MR. PROKOP: So he's -- Yale is going to be
told, if he hasn't been told already, that he
needs to come to the ZBA.
MEMBER SARETSKY: Okay.
MR. PROKOP: So that wasn't an as-of-right.
MEMBER SARETSKY: So maybe I shouldn't use
that as an example.
MR. TERCHUNIAN: But I think you're on a
good point. So let me follow up what you're
saying.
MEMBER SARETSKY: That's what I'm toying
with, Aram.
MR. TERCHUNIAN: Yeah. Well, you know, if
we look at this, what we'll realize is these two
are the smallest lots here. These two are much
more substantial lots. So --
MEMBER SARETSKY: And they also don't
suffer from the setback from Dune Road.
MR. TERCHUNIAN: Right. So when you look
at the relative size of these buildings compared
to what's going to be allowed on these two lots,
these are still much smaller.

MEMBER SARETSKY: When you say these two
lots, it's this lot and then this lot, right?
MR. TERCHUNIAN: Okay. Well -- but this
particular lot is a very large lot.
MEMBER SARETSKY: Oh, I didn't realize
there's another lot here before you get to --
MR. TERCHUNIAN: Yeah.
MEMBER SARETSKY: Okay, so it's two lots.
MEMBER MIZZI: It's a triple flag. It's a
triple flag lot.
MR. TERCHUNIAN: Yeah.
MEMBER SARETSKY: Okay.
MR. TERCHUNIAN: So these lots are much
larger. They're going to support substantially
larger homes than this and still comply.
MEMBER SARETSKY: Okay.
MEMBER MIZZI: There's a monster house
going up over here. Just kidding.
MR. TERCHUNIAN: So I think you're point is
well taken, and I think the explanation puts it
into context. I think the thing that I'd like to
focus the Board's attention on is that you're
looking at a 24-point-something percent lot
coverage.

MEMBER MIZZI: And has how does that fair?

MR. TERCHUNIAN: Well, you're going to see
a whole bunch of them, then.

MEMBER GOLDFEDER: Yeah, that's my concern.

MEMBER MIZZI: Honestly, I had less of a
concern about the rear setback. I was just
looking at -- if you do the calculations, for
them to make this work without increasing from
23.9 to 24.9, they really have to find 110 or
less square feet.

MR. TERCHUNIAN: Right.

MEMBER MIZZI: And to have this, what looks
to be -- it's very hard to understand, but some
sort of existing deck in the front, they're
coming out with another deck over the top, which
is not lot area, but they're moving this, they're
taking this off. You know, I think in other
cases we've -- you know, where somebody's
supposed to be 20, they're existing at 23.9,
they're making some moves, which I think to your
point are beneficial to their property and
probably to the neighborhood. But it would be
nice to ask them just to find a way just to make
this work at 23.9 and talk about setbacks, personally.

MR. TERCHUNIAN: Well, I --

MEMBER MIZZI: For 100 square feet, like, you know --

MEMBER SARETSKY: And, Aram, to Joe's point, if you're building a pool in the back, do you really need -- I understand the deck in the front allows you to see the water, but you could have some porch, or whatever, some component in the front that doesn't really use lot coverage, and then you achieve both.

MEMBER MIZZI: Yeah. And I'm just saying, is like if you're -- it's one thing if you have -- if you're just adding a little deck on, but you're taking a deck off, you're taking a stair that's already over here, you're moving in here, you're shuffling this around, you're building a deck in the back. There's probably a way the architect could find 100 square feet.

MEMBER SARETSKY: To chiclet that.

MEMBER GOLDFEDER: So, yeah, my concern is the proximity to the road. Otherwise, I think it's --

MR. TERCHUNIAN: The proximity to the road
is not changing.

MEMBER GOLDFEDER: That's the concern, yeah.

MR. TERCHUNIAN: And -- well, that's because the building is not moving. They're going straight up over an existing.

MEMBER GOLDFEDER: Well, maybe they should -- it should move. Maybe it should go back.

MR. TERCHUNIAN: I think that's a big lift with -- I mean, what do you mean by it should go back? I mean, are you talking about they should recess the second floor, or are you talking about moving the whole building?

MEMBER GOLDFEDER: Moving the whole building to go to that size, potentially.

MEMBER MIZZI: Or just make your -- I mean, it would be helpful -- does she have a drawing of the house?

MEMBER GOLDFEDER: There's -- you can fit maybe another two cars.

MEMBER MIZZI: No, there's no drawing of the house.

MEMBER GOLDFEDER: Yeah.

MEMBER MIZZI: Because I'm just saying, if
you looked at the -- I don't know -- I don't know
how you get into house, where you come in.

    MEMBER SARETSKY: You go up a stair on the
far side here, right?

    MEMBER MIZZI: Right.

    MEMBER GOLDFEDER: Yeah.

    MEMBER SARETSKY: And then the door is
around by the corner.

    MEMBER MIZZI: Where is the front door?

    MEMBER SARETSKY: I think it' on the corner
or --

    MEMBER GOLDFEDER: Yeah, it is. It's to
the left on the road.

    MEMBER MIZZI: The front door is not
changing? If you could slide over to the -- that
house.

    MEMBER SARETSKY: That's it. That's it.

    CHAIRMAN GESSIN: I took a bad shot of it.

    MEMBER SARETSKY: I guess what I just keep
coming back to is that there's a lot that's going
to happen in this spot because of all these lots.

    MR. TERCHUNIAN: Well, it's not just this
spot.

    MEMBER SARETSKY: No. But I'm saying not
just this one, but I'm saying you have these --
it's eight lots, not six. I'm saying it wrong, right?

MR. TERCHUNIAN: No, no. These are all singles. These are single houses.

MEMBER SARETSKY: You have one, two, three, and back here is one. You have one, two and three, then you have four on the other side, right? Then you have Yale, and whatever you have.

MR. TERCHUNIAN: No, no, no. Yale's right here.

MEMBER SARETSKY: Right. So I'm saying you have a pair here.

MR. TERCHUNIAN: And these are singles, these aren't pairs. There's no pairs.

MEMBER SARETSKY: Oh, okay. So behind them are singles?

MR. TERCHUNIAN: Yes, singles.

MEMBER SARETSKY: So two, four, five.

MR. TERCHUNIAN: Five, yeah, yeah.

MEMBER SARETSKY: So I'm only thinking about, for the benefit of the neighborhood, you're going to set a precedent of what's going to -- you know, what's going to happen to these houses that are unimproved, which is this one
that's proposed, Jane's house, and then the house
behind it, which is a vacant lot.

MR. TERCHUNIAN: I don't think you're
right.

CHAIRMAN GESSIN: Can I ask you a question?

MR. TERCHUNIAN: I don't think you're
right.

CHAIRMAN GESSIN: Is Yale's lot the same
size as this lot?

MR. TERCHUNIAN: Yes.

CHAIRMAN GESSIN: What's the apparent issue
with his house?

MR. TERCHUNIAN: He has an existing
footprint that's about 24-point-something
percent, and he's basically adding a second story
to that without expanding the footprint.

CHAIRMAN GESSIN: So then he's still at 24%?

MR. TERCHUNIAN: Yeah. But he's got --
he's got the same issue that these guys do, is
the second story requires a variance.

MEMBER GOLDFEDER: So how did he get as far?

MR. TERCHUNIAN: This is not a conversation
I would have.

MEMBER GOLDFEDER: Right, right.

MR. TERCHUNIAN: Okay?
MEMBER SARETSKY: So the only -- I guess, well, we can come back to that. But it's like you want to be reasonable, but you don't want to set a bad precedent.

MEMBER GOLDFEDE: Well, can we, as a Board, look at a density plan for this neighborhood and decide on a -- on equality for each one?

MR. PROKOP: Sure.

MR. TERCHUNIAN: I think you're overthinking. I think you're overthinking it. Let me try to simplify it.

First of all, Eric, to your point, if you took this size building here and you placed it here, it would be well within their as-of-right building area.

CHAIRMAN GESSIN: Because it doesn't front --

MR. TERCHUNIAN: Because it's much larger lot. This lot is --

MEMBER SARETSKY: Okay.

MR. TERCHUNIAN: -- more than twice the size.

MEMBER SARETSKY: But let me ask you this question: So --
MR. TERCHUNIAN: Okay.

MEMBER SARETSKY: So let me -- stay with me. Stay on your thought for a second. So, Aram, you buy this lot and now you build to the max and want a variance in proportion to what you have here.

MR. TERCHUNIAN: All right. Perfect question. Here's the answer: What we're looking at here are very small lots.

MEMBER SARETSKY: Okay.

MR. TERCHUNIAN: Okay? For instance, the one on Dune Lane is 5,000 square feet. This lot here, what's the total lot area on this?

MEMBER MIZZI: Ten thousand six hundred.

MR. TERCHUNIAN: This is a 10,000 square foot lot. All right. When we're dealing with very small lots, what we're trying to do is define a habitable space that's reasonable for people to live in, which means lot coverage as a percentage of the lot is usually higher. When you move to a lot that's now 20 or 25,000 square feet, more than double the size, and you go to your 20% allowable lot area, so now your lot is 20,000 square feet, not 10.

MEMBER SARETSKY: Okay.
MR. TERCHUNIAN: You go to 20% lot coverage, you're at 4,000 square feet of coverage. That's a lot of building in deck and pool. You have could have --

MEMBER SARETSKY: Okay.

MR. TERCHUNIAN: -- you could literally have 3,000 square feet times two stories, is 6,000 square feet of habitable area, and 1,000 square-foot pool and deck.

MEMBER SARETSKY: All right. That's a great point. So now the question, though, is how do we look at the very small houses that are in the Village and what's been granted before, and what's fair and reasonable in this situation?

MR. TERCHUNIAN: So --

MEMBER SARETSKY: That's not reasonable?

MR. PROKOP: Well, just remember, when we grant these variances, we say that -- we normally say that there's unique circumstances, right? So it's not -- there's like -- there's not a rule that, you know -- we don't have like a 23% rule where everybody gets 23%, every lot is evaluated differently. So --

MR. TERCHUNIAN: And every consultant, and attorney, and architect is going to come in here
and say, "You granted this variance and this variance and that variance."

MEMBER GOLDFEDER: That's the concern.

MEMBER SARETSKY: That's what I'm concerned with.

MR. PROKOP: But that's not automatic to this one.

MR. TERCHUNIAN: It's not automatic, it just puts a burden on you. It means that you have to look individually at each parcel and say, "What makes sense on this lot based upon the specific circumstances?"

For example, if you came to me, Barry, and you said, "Well, your existing house is close to Dune Road, if you want a second story, why don't you move the whole thing back 10 feet," I would balk, I would say that's unreasonable. As the owner of the house, I would say, "Listen, I won't go any closer, but I should be able to go up." In some jurisdictions, it's an automatic. As long as you don't increase your nonconformity, you get to keep it and, in essence, expand it. All right?

On the other hand, if I'm at -- I'm already over lot coverage and I want to increase lot
coverage, then the question becomes, okay, why do
you need that increase, and how does that
increase affect the rest of the neighborhood?

MEMBER MIZZI: But, Aram, that's my
question.

MEMBER SARETSKY: And that's exactly it,
because what you're really saying is you have
23.9, you want 24.9. I've yet to understand why
you can't make 23.9 work. In other words, you
can have a pool, you can have the deck spaces you
sort of need.

MEMBER GOLDFEDER: Yeah, you can't come
up to --

MEMBER MIZZI: We can allow you to -- we
can allow you to, you know, make sensible
decisions to your point about not having to have
an accessory pool separate from your house, but I
just feel like if you're going to take off a side
deck, you're going to remove a stair, you're
going to shift it over, you're going to add a
deck in the back, you're going to cover part of
the area that's deck now with a house, you're
going to add a second floor --

MEMBER GOLDFEDER: You're rebuilding a
house.
MEMBER MIZZI: -- can't you find 100 square feet in your deck? So you're asking for certain variances, and not asking to take something that should be 20%, which is now 23.9%, and make it 24.9%. That's what I --

MR. TERCHUNIAN: That's why you guys get paid the big bucks.

MEMBER SARETSKY: But that's not what we're asking you. Doesn't that sound reasonable?

MR. TERCHUNIAN: No, that's very reasonable. You're not telling them they have to reduce it from 23.9 to 20.

MEMBER GOLDFEDER: Right.

MEMBER SARETSKY: Well, then to keep the lot coverage --

MR. TERCHUNIAN: You're saying -- so the real question, in my opinion, Joe, and please opine, the question that you want to ask yourself, because the way that the law is structured in the State of New York is nobody has a burden to prove that they need it, they only have to want it.

MEMBER SARETSKY: To file.

MR. TERCHUNIAN: That's it.

MEMBER SARETSKY: To apply.
MR. TERCHUNIAN: All they have to do is want it, they don't have to need it. There's no practical difficulty in that.

MEMBER MIZZI: We have our criteria.

MR. TERCHUNIAN: But the criteria is, is it reasonable? Is what they're asking for reasonable? Are they -- will they have sufficient interior room for a modern family to live in a resort community? Will they have sufficient exterior room to safely access the building and to provide reasonable accessory uses that are normal and customary to this type of resort development?

MEMBER GOLDFEDER: But we still have to look at the neighborhood as a whole.

CHAIRMAN GESSIN: That's only their opinion, there's not ours.

MR. TERCHUNIAN: And so the purpose of the entire discussion is what's reasonable? What's reasonable from their point of view, and what's reasonable from your point of view? And so if your point of the view is that 23.9% -- if your point of view is that 23.9% gives them a reasonable opportunity to do that --

MEMBER SARETSKY: Well, I don't know that
until they give me something that shows that they can't trim something. In other words, to your point, Joe, it seems like taking 100 foot off, 110 feet off of this is very easy.

MR. PROKOP: The criteria of the law -- and that's a good point. So the criteria of the law is that whether or not they're saying -- whether or not this is going to have an impact on the community or -- excuse me. Number one is whether or not it will negatively impact surrounding properties, basically.

MEMBER GOLDFEDER: Yeah.

MR. PROKOP: Okay. Then number two is, and this isn't -- I'm sorry, this isn't necessarily in the right order. Number two is whether or not the benefit to the applicant outweighs the negatives, you know, negative to the community, right? Or number three is whether or not the variance is substantial, and that's like a --

MEMBER MIZZI: Can I ask one question while you're explaining these things? We've been saying from 23.9 to 24.9, but the variance is a 4.9% variance

MR. PROKOP: Right.

MEMBER MIZZI: So, you know, because the
way it's being presented, it's supposed --

MR. TERCHUNIAN: Let Joe finish the five
points, because that's how everything is decided.

MEMBER MIZZI: But I just want to make sure
I understand, because it's important for me to
evaluate the points. We're being asked to
evaluate whether 4.9 is not --

MR. TERCHUNIAN: No, you're not.

MEMBER MIZZI: Well, according to this, we are.

MR. PROKOP: It is.

MR. TERCHUNIAN: I don't think so. You're
being asked to increase by 1% a pre-existing --

MEMBER SARETSKY: A majority exceeds --

MEMBER MIZZI: We're voting on a variance
of -- like, if I'm approving a variance to say
that we're approving 4.9% to be added to this
house, in a sense, we're voting that whether 4.9%
is reasonable. Somebody could represent
something and have me consider whether 3.9 is
reasonable.

MEMBER SARETSKY: But what Aram's saying is
the existing --

MEMBER MIZZI: I understand. I understand.

MEMBER SARETSKY: It's the existing math

now.
MEMBER MIZZI: But I'm saying, as you're reviewing this, because, at the end of the day, we have to review this to what we're comfortable with.

MR. TERCHUNIAN: Well, you have to review this against five criteria, and Joe is on number three. So let him give get to the other two. Because what you should do, in my opinion, what you should do is take criteria number one. Is it in the characteristics of the neighborhood?

MEMBER GOLDFEDER: Yes.

MR. TERCHUNIAN: Yes or no?

MEMBER GOLDFEDER: And that's why I think we should have a density plan for the neighborhood, so we can address one always --

MR. TERCHUNIAN: You have a problem here, because these two lots are the only two 10,000 square foot lots within 1,000 feet.

CHAIRMAN GESSIN: You got to remember, we're only talking about 1%. A 10,000 square foot lot, we're only talking about 100 feet. We're not talking about anything --

MR. TERCHUNIAN: So is it within the characteristic of the neighborhood?

CHAIRMAN GESSIN: It's a very small lot.
MR. TERCHUNIAN: Number two, is it substantial? Is a hundred -- you're saying 100 square feet is not much, you can get rid of it easily. If I'm the guy on the other side, my answer is, "Yeah, it's not that much, why are you giving me such a hard time?"

CHAIRMAN GESSIN: But I need 100 feet.

MR. PROKOP: But what they're asking is, they're asking for the 4.9. But the 3.9 of it they're justifying because it's -- if I'm not mistaken, it's allowable under the stip, is that what it is?

MR. TERCHUNIAN: Yeah, it's protected. It's not allowable, it's protected under the consent judgment.

MR. PROKOP: And this thing that we're doing is not all or nothing, it's not yes or no, it's -- you could grant a lesser amount than the amount that's required.

MR. TERCHUNIAN: Right, requested.

MR. PROKOP: Requested.

CHAIRMAN GESSIN: Aram, they had that footprint prior to --

MR. TERCHUNIAN: Yeah.

CHAIRMAN GESSIN: But they didn't have a
MR. TERCHUNIAN: Well, I don't even know when this was built, but they had -- you know, this is a valid structure.
MEMBER GOLDFEDER: They had a CO.
MEMBER SARETSKY: It was identical to the house next to it.
CHAIRMAN GESSIN: Aram, it was preexisting without a variance?
MR. TERCHUNIAN: Yeah.
MR. PROKOP: Who's house is this -- was this, Smith?
MEMBER SARETSKY: Smith.
MEMBER GOLDFEDER: The other runner, Bill.
MR. PROKOP: Pardon me?
MEMBER GOLDFEDER: What was his name?
MS. DALESSANDRO: It was Smith.
MR. PROKOP: Smith was there for many years.
MR. TERCHUNIAN: The guy with the hearing aid.
CHAIRMAN GESSIN: So it was preexisting without a variance, not that it had a variance.
MR. TERCHUNIAN: Well, we don't know what he went through with the Town, but --
CHAIRMAN GESSIN: It was there.
MR. TERCHUNIAN: It was there when we came. When we showed up, it was there. So go through the five. Is it characteristic? Is it substantial? Is the benefit to the applicant, you know, outweighed by the negative to the community? Is there a significant environmental impact? And is it self-created?

MEMBER GOLDFEDER: And what's the benefit to the Town? What's the tax on it?

MR. TERCHUNIAN: Well, it's not the benefit to the Town. Is the benefit to the applicant outweighed by the negative to the community?

MEMBER SARETSKY: To the Village.

MR. TERCHUNIAN: So, you know, you're balancing, this is a seesaw.

MEMBER SARETSKY: But I could make an argument both ways for all of it.

MR. TERCHUNIAN: Absolutely, that's the whole point.

MEMBER SARETSKY: That's the whole part of it.

MR. TERCHUNIAN: I could say that I think they could make it work with what's existing, which is already over the limit.

MR. TERCHUNIAN: Correct.
MEMBER SARETSKY: But, at the same time, I could say that it is within the characteristics of the neighborhood, or I could say a little house like this with a pool and all these other things seems like a lot, because there's plenty of big homes that don't have that. You know, this is sort of a -- it's a challenging argument.

MR. TERCHUNIAN: But, I mean, at the end of the day, they have a house with a 1300, or almost what, 1300 square foot footprint, and total interior habitable space of probably about, you know, 2200 square feet. That's not a big house. They've got a pool. They've got a deck on the landward side that's, what, 26-by-17, or something like that. That's not a big -- what's the size of this room? And then they've got a small pool. So the question is, you know, is that reasonable for people to live in?

MEMBER GOLDFEDER: It's reasonable now. People have been living in there for years.

MR. TERCHUNIAN: I live in a much smaller house, but that's not the point.

MEMBER GOLDFEDER: We're really only picking up 108 square feet on a tax bases.

MR. TERCHUNIAN: Yeah. No, you're picking
up a lot more than that.

MEMBER GOLDFEDER: No.

MEMBER MIZZI: You're picking up more on
tax bases over there, because the residence is
going to be priced higher.

MEMBER GOLDFEDER: On the residence, like 400.

MEMBER MIZZI: But looked at another way, though --

MEMBER GOLDFEDER: But on total.

MEMBER MIZZI: Yeah. Looking another way, they're asking for relief to put the second floor
deck, which would bring -- you know, add something closer to the road visually. They're asking for relief in the back. I mean, it's not unreasonable to ask them to make this work within the 23.9% footprint.

MR. TERCHUNIAN: It's not unreasonable for the Board to require them to go 23.9, you certainly could do that.

MEMBER SARETSKY: But show me that 23.9 doesn't work.

MR. TERCHUNIAN: Well, I wouldn't even say that. But here's the point --

MEMBER MIZZI: We know it works.
MEMBER SARETSKY: What I'm saying -- but, Aram, what I'm saying is if you showed me that master bedroom, that you're going to have --

MR. TERCHUNIAN: But didn't you guys have this identical conversation with Autorino three separate meetings, and at the end you granted him a variance?

MEMBER MIZZI: Who's Autorino?

MS. DALESSANDRO: 880.

MEMBER MIZZI: 880?

MEMBER SARETSKY: 880.

MR. TERCHUNIAN: Yeah. So let me ask you, is this a reasonable approximation of the impact of the neighborhood? I'm walking down the street, it's a beautiful sunny day, and as I'm walking down the street, I see that this is a very nice two-story house, and it's well built, and it's new, and it's got a couple of cars in the driveway. And I look at the house and I go, "Oh, my, that's a very attractive house." Can I tell right then that I'm being negatively impacted because there's more or less than 100 square feet on the back of that deck?

MEMBER GOLDFEDER: No, but what you're going to put on the face now is totally different
MEMBER SARETSKY: I guess what I'm saying is I'm less concerned of what's in the back as I am to the other parts of, you know, the front.

MR. TERCHUNIAN: That's the only place they're adding on.

MEMBER SARETSKY: But I'm sort of willing to say --

CHAIRMAN GESSIN: Well, Aram, that's not what Joe's saying.

MEMBER MIZZI: And I'm feeling like, you know, you said it once to somebody, like I think when somebody's asking for a variance and you're willing to grant something, it's an opportunity to ask them to do the right thing. And I'm just wondering is, if we're willing to let them do everything that they're asking, but we're also asking them to find 100 square feet, which, truthfully, I'm an architect, I'm a builder, these people aren't, I imagine that if they live in the two houses, they couldn't -- they probably would never even know the difference between 100 square feet, you know.

MR. TERCHUNIAN: If the Board wants to limit them to 23.9%, I don't think you have a
problem.

    MEMBER GOLDFEDER: Yeah. I think we went through a similar exercise with the Riese property, and they were successful in reducing the footprint.

    MR. TERCHUNIAN: We did. We did.

    MEMBER GOLDFEDER: And it went well.

    MEMBER MIZZI: Yes.

    MEMBER SARETSKY: It's easy for me to say I'm going to rigid on 23.9 versus 24 if I saw it didn't work. In other words, if I saw -- like if the bedroom is so small that it's unusable, and that's -- I don't know if that makes sense, but --

    MEMBER MIZZI: And I'm sure it's going to be a nice house, but, you know, we haven't been -- you know, I don't know like how Diane designed these houses, but we haven't been provided with what the house looks like.

    MR. TERCHUNIAN: So the Zoning Board -- and that's not really an issue for the Zoning Board.

    MEMBER MIZZI: No. I was responding to your -- I'm responding to go your comment that if I'm walking down the street, I'm going see something that's a beautifully built house. I
don't know that, I haven't seen it. I'm hoping so.

MR. TERCHUNIAN: You know, we got to limit
ourselves to what's in our authority that we
control.

MEMBER MIZZI: I'm not saying that we can
control it, but I'm not feeling that right now.

MR. PROKOP: Would you like her to come
back to the next meeting with a plan that shows
100 square feet less?

MEMBER MIZZI: Well, is there -- and I was
going to say this: Is there a way to approve it
by saying, "Look, we're going to approve it,
provided that you" --

MR. PROKOP: Sure.

MR. TERCHUNIAN: Yes, absolutely. You can
grant all the variances except for the variance
to 24-point whatever, and you could deny that
one. These are individual stips.

MEMBER MIZZI: Yeah. And she could tell
her client, "Look, I've got good news and bad
news. The good news is it's approved and we're
ready to build. The bad news is here's a
slightly different plan that gives you 100 square
feet less.

MEMBER SARETSKY: I mean, Harvey, do you
think it's unfair?

CHAIRMAN GESSIN: I don't have a problem with 100 feet.

MEMBER SARETSKY: You can give them the variance at 1% more.

MEMBER GOLDFEDER: Yeah.

MEMBER SARETSKY: Even though --

CHAIRMAN GESSIN: But I think what Joe's problem is more -- is the front yard. Is that what you're saying?

MEMBER MIZZI: I guess what I'm saying is given that we're -- given that they are feeling the need to add a second floor deck in the front yard, and given the fact that they're making all these moves, if I -- you know, if that's important to them to have it --

CHAIRMAN GESSIN: How many feet is actually pushing into the front yard?

MR. TERCHUNIAN: They're staying over the existing deck.

MEMBER MIZZI: They're adding this.

CHAIRMAN GESSIN: Is it this little piece here?

MEMBER SARETSKY: So does that count as twice, the deck in front on the first and second
floor?

MR. TERCHUNIAN: It's about five, maybe six feet.

MEMBER SARETSKY: I mean, I guess the other thing I'd like to understand is how often do we give relief to people who have -- are already over it? What do you give them on a regular -- I mean, is there any trend to that or pattern?

MR. PROKOP: No.

MEMBER SARETSKY: No?

MR. PROKOP: Are they building an addition over the deck? This roof over the deck, is that a roof, or is that -- the second floor is going over the deck? It says --

MR. TERCHUNIAN: It says roof over deck as existing.

MR. PROKOP: The applicant requests a -- to maintain an existing front yard -- to an existing deck.

MR. TERCHUNIAN: Right. The existing deck is at 29.4, and then they have a roof over the deck on part of it that's at 32.7, and they want to propose a second floor deck at 34.9.

MEMBER MIZZI: Yeah, Item 7, Joe.

MR. PROKOP: Okay.
MEMBER MIZZI: Proposed second floor deck.

MR. PROKOP: So that roof is now going to become a second floor deck.

MR. TERCHUNIAN: No, no.

MR. PROKOP: Different second floor. I'm sorry.

MR. TERCHUNIAN: Here, Joe, take a look at this. Here's the existing line over here to there. Existing roof over part of that deck. They're adding a second story deck adjacent to it here.

MR. PROKOP: Okay. The second floor deck in the front is -- I know that some people have them, but that's sort of like new ground. I don't know how this came to be in the Village, because that's sort of new ground. It's not just a setback, it's not just a front yard setback, it's a -- front yard decks, front yard second story decks are new -- you know, a significant thing.

CHAIRMAN GESSIN: A new invention, right.

MR. PROKOP: A significant thing. And I know I said that a couple -- a year or two ago, and I was --

MEMBER MIZZI: It fell on deaf ears.
MR. PROKOP: It was pointed out to me that several people have them. It's definitely new ground. Many locations will not allow a second floor deck, front deck.

MEMBER MIZZI: No. I think the explanation would be it's probably a way they can see the ocean from there.

MR. TERCHUNIAN: It's on the master bedroom, they want an ocean view, absolutely.

MEMBER MIZZI: Right. But again, it's like how many things do we give them? You know, they have the second floor deck, they want more. They want relief in the back, they want more square footage. Like, you know, that's what I'm saying.

MR. PROKOP: Yeah, sort of 20 pounds going in a 10-pound bag.

MEMBER MIZZI: Yeah. And then each one in itself is probably not a big deal, but is there a way to say, you know --

MR. TERCHUNIAN: Well, this Board is considering each of these variances independent of each other. They can grant some, none, or all.

MR. PROKOP: Because this is going to be a standard.

MEMBER GOLDFEDER: Yes.
MR. PROKOP: I mean, what you do here is going to set the --

MEMBER MIZZI: No. I'm also thinking like, you know, it's a -- to Eric's point, like other people are going to be coming in the general area and this one is going to be looked at.

MEMBER GOLDFEDER: Which may be a good thing.

CHAIRMAN GESSIN: Well, then let's just go down the list, then. Let's take them one at a time.

MEMBER SARETSKY: Also, the first one --

CHAIRMAN GESSIN: Let me read my list.

MEMBER SARETSKY: Number one, instead of 4.9, you can stay at 3.9.

MEMBER MIZZI: Let's let the Chairman.

MEMBER SARETSKY: Sorry. I'm very jumpy today. My apologies.

CHAIRMAN GESSIN: I guess we want to start here, right, Joe?

MEMBER MIZZI: Yeah.

CHAIRMAN GESSIN: This is where we want to start, right? "The applicant requests a variance of 40.6 feet to maintain an existing front yard setback of 29.4 feet to an existing deck and a
variance of 37.3 feet to maintain an existing
front yard setback of 32.7 feet to an existing --
to an existing roof over the deck when the
minimum front yard setback to an accessory
structure is required by the Zoning Code."

MR. PROKOP: So with this, they're
legalizing the deck and roof.

MR. TERCHUNIAN: Well, I wouldn't use that
word, Joe. That deck and roof, all that exists
and is legal now. You're not legalizing it,
they're just saying they want to maintain it.

MR. PROKOP: Well, under our Zoning Code.

MEMBER MIZZI: But that's the first floor
deck, is what you're describing?

MR. TERCHUNIAN: Yes, and the roof over the
first floor deck.

MEMBER GOLDFEDER: There was a sale
attached to it.

MEMBER MIZZI: Okay. Which is going to be --

MR. TERCHUNIAN: Yeah.

MEMBER MIZZI: Okay.

CHAIRMAN GESSIN: So they have the first
floor and they want the build the second floor?

MR. TERCHUNIAN: Well, number six that you
just read, the operative word there is
"maintain". Everything you described in there exists and they're just maintaining it the way it is, nothing new.

MR. PROKOP: So, in your decision on this, you want to mention that it was part of the footprint under the stip, under the RAPF stip; R-A-P-F, RAPF stip.

MR. TERCHUNIAN: How do you want to proceed, Harvey? You want to just -- do you want to vote on each one of these?

CHAIRMAN GESSIN: You want to vote on each one, each one independently, and see where we end up?

MEMBER SARETSKY: Well, we can just go through all them, right, and then --

CHAIRMAN GESSIN: Discuss them.

MEMBER SARETSKY: Discuss them.

MEMBER MIZZI: As I understand number 6 --

MR. TERCHUNIAN: All right. Is everybody good on 6?

MEMBER SARETSKY: Which is basically keeping what you got.

MR. TERCHUNIAN: Right.

MEMBER SARETSKY: Got it.

CHAIRMAN GESSIN: Okay, 7.

MR. TERCHUNIAN: Seven is where we break
new ground.

CHAIRMAN GESSIN: Okay. "The applicant requests a variance of 35.1 feet to allow a front yard setback of 34.9 feet to a proposed second floor deck when 70 feet minimum front yard setback to an accessory structure is required by the Zoning Code."

MEMBER MIZZI: And accessory structure is the deck itself?

MR. TERCHUNIAN: Correct.

MEMBER SARETSKY: It's two-tenths of a foot, right?

MR. TERCHUNIAN: No, no, no.

MEMBER SARETSKY: No?

MR. TERCHUNIAN: No. The variance --

MEMBER GOLDFEDER: It's double.

MR. TERCHUNIAN: The standard is 70.

MEMBER SARETSKY: Right.

MR. TERCHUNIAN: And they want to go to 34.9, so they need a 35.1-foot variance, it's more than 50%.

MEMBER GOLDFEDER: Considerable.

MEMBER MIZZI: And there is -- you know, we could all judge it for ourselves, but, you know, going down Dune Road, for a house that's close to
Dune Road, adding a second story deck that's not
there, on top of adding a second floor, does
have -- has an environmental impact.

MEMBER GOLDFEDER: And roof deck.

MR. TERCHUNIAN: Well, just -- yes. Just
look at -- you've got another application that
you didn't open the hearing on today on Dune Lane
and what's exactly the same thing.

MEMBER MIZZI: No, it's on Dune Road, it's
on the back.

MR. TERCHUNIAN: But it's still on a road,
it's still a front yard setback.

MEMBER MIZZI: But, to me, I live across --
I live across from Dune Lane. The number of
times I -- you know, I watch traffic patterns.
Nobody goes back there. You know, this is Dune
Road going down, the only road in and out of the
Village. To me, it's a different area. And I
didn't say I'd approve that either.

MR. TERCHUNIAN: No. I'm just bringing it up.

MEMBER MIZZI: I would say, if that was on
the -- if that was on the other side of, you
know, the houses that back up on to Dune Lane,
but are on Dune Road, it might be a --

CHAIRMAN GESSIN: How do I know what she
has existing here?

MR. PROKOP: Yeah, that's a good question. That's what you're trying to figure out.

MEMBER MIZZI: We didn't know that was existing, but she said it was proposed, and we made her show it as proposed, so -- and ask for a variance for it, so.

CHAIRMAN GESSIN: The thing is, the red is existing, right?

MEMBER MIZZI: No. No, but she's carved this area out as what is called a proposed roof over the deck. This is clearly new construction and this looks to be existing. That's the --

CHAIRMAN GESSIN: The roof over the deck.

MEMBER MIZZI: The roof over the deck.

CHAIRMAN GESSIN: So she -- her existing is really 32.7; is that correct?

MEMBER MIZZI: I can't see the number.

CHAIRMAN GESSIN: She told you before that this was existing.

MEMBER MIZZI: Existing deck. This red line was actually existing, but not second floor deck, just the first floor deck. That's the 32.7 you just described in Item 6. This red, that's the first --
CHAIRMAN GESSIN: Yeah, but that says 29.4.

MR. TERCHUNIAN: Yeah, 29.4 is existing.

MEMBER MIZZI: Oh, you're right.

CHAIRMAN GESSIN: That is the existing?

MR. TERCHUNIAN: Yeah. And 34.9 is to the proposed, right there. See, that 34.9 points to that new proposed second floor deck.

MEMBER MIZZI: This I'm told, based on the question that was asked and answered, is that's existing on the first floor.

MR. TERCHUNIAN: And it's on the old survey, too. They just miscolored the line.

MEMBER GOLDFEDER: So the existing stairs that are going to be relocated to the side from the front --

MEMBER SARETSKY: They're pushing east, looks like it, is what she said.

MEMBER GOLDFEDER: Which would butt right up against the easement. So then, basically, there will be no room for any -- any vegetation.

MEMBER MIZZI: In her defense, she's moving that stair to the west.

MEMBER GOLDFEDER: To the west, okay.

MEMBER MIZZI: So it's creating more space, not less space.
MEMBER SARETSKY: Right. Because if you
look at it here, you have the width of the
driver, which is greater.

CHAIRMAN GESSIN: So she's going back.

MR. TERCHUNIAN: The existing deck stays at
29.4 on the first floor.

CHAIRMAN GESSIN: That's not what this
says.

MR. TERCHUNIAN: And then a new deck on the
second floor will be at 34.9.

CHAIRMAN GESSIN: I got it.

MEMBER GOLDFEDER: Now, I hate to throw
this elephant into the room.

CHAIRMAN GESSIN: Go ahead.

MEMBER GOLDFEDER: But we know there's
going to be a forthcoming variance for the
property next door, which could have an impact on
this Board's decision regarding this current
variance.

MR. TERCHUNIAN: Yes.

MEMBER GOLDFEDER: So I suggest potentially
tabling this until we understand what's happening
in the rest of the neighborhood as a
consideration.

MR. TERCHUNIAN: Why don't we go through
all these points, get everybody's flavor on it, and then do that?

MEMBER GOLDFEDER: Okay.

MR. TERCHUNIAN: Because you have 60 days to make a decision, 62, actually.

MEMBER SARETSKY: But I think in what Barry is saying, there's not that many parts of this that I'm really -- you know, that I'm really --

MR. TERCHUNIAN: So let's focus in on the ones that are -- I mean, Joe, your issue is with the second floor deck in the front yard, that's your primary issue?

MEMBER MIZZI: (Nodded yes.)

MR. TERCHUNIAN: And, Barry, that's your primary issue?

MEMBER GOLDFEDER: Yes.

MR. TERCHUNIAN: Okay.

MEMBER SARETSKY: Okay. Well, then that's fine with me, I mean.

MR. TERCHUNIAN: And is there any other one of these seven requests that are a major issue?

MEMBER SARETSKY: It's more the 23.9 to 24.9, or whatever.

MEMBER GOLDFEDER: Yeah. The setbacks are a concern, because right now I know they're
challenged with parking. You go to the four bedroom mark and you increase it, whether they live there or they sell.

MR. TERCHUNIAN: Well, they've got a lot of room in the back. I mean, they can run a -- they can run a driveway right to the back and put in five cars.

MEMBER SARETSKY: Are you saying you can go to the back of the lot?

MR. TERCHUNIAN: Oh, yeah. You could park right up to the line.

MEMBER GOLDFEDER: Okay.

MR. PROKOP: They're allowed one car per bedroom.

MEMBER GOLDFEDER: Yeah, that's --

MR. TERCHUNIAN: Yeah, okay.

MR. PROKOP: Bedroom, so they can't put in five cars.

MR. TERCHUNIAN: Well, they got four -- well, whatever. My point is they have plenty of room for parking.

MEMBER MIZZI: And my only other point, cumulatively, is in the past, you know, when people are asking for a bunch of different things, each in itself may be -- might be
reasonable, but at some point, you know, you have
to decide what's most important to you. So, to
me, the two things I was really focusing on were,
you know, the front, the front deck I think has
the biggest impact to me visually, as opposed to
if there was an extra square foot -- or extra
about 100 square feet somewhere in the back,
particularly when they're taking stuff off the
side. But if they're going to be insistent
upon -- you know, Diane's pretty -- the
Architect, she's pretty assertive and insistent
on -- they're going to be insistent on that and
insistent on that, I think at some point, well,
then make all that work within -- without asking
for an area variance. But first --

MR. PROKOP: What if you gave them a --
MEMBER MIZZI: No, go ahead.

MR. PROKOP: What you gave them -- excuse
me, I'm sorry. What if you gave them a second
floor balcony instead of a second floor deck?
MEMBER MIZZI: What's the difference?

MR. PROKOP: A balcony is, you know, four
feet. You could set up -- a balcony is four feet
or less. It's enough to put a chair, basically.
MEMBER MIZZI: Got it.
MR. PROKOP: Well, a lot of municipalities that I represent, that -- second story decks are out, but they will give you a balcony, so then you --

MR. TERCHUNIAN: You're giving them nothing. Nobody's ever using a four -- nobody's ever using a four-foot deck.

MEMBER GOLDFEDER: Well, if you go down to the bay side, you don't see --

MR. TERCHUNIAN: And the person who's coming in --

MEMBER SARETSKY: But I could make the argument that how many people use -- how many people use a deck that's going through your master bedroom, right? In other words, so you're bringing all your entertaining --

MR. TERCHUNIAN: No. No, it's not -- it's not a high use area.

MEMBER SARETSKY: Right, so -- but, I mean, I guess that's --

MR. TERCHUNIAN: Now we're getting into the design of the house --

MEMBER SARETSKY: I agree.

MR. TERCHUNIAN: -- and how they use it.

You know, if the Board wants what Barry has

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suggested, which is, all right, tell me what the
rest of the neighborhood looks like, and the
burden is on the applicant to show that they meet
that, then ask them for that. We've done it
before.

MR. PROKOP: Then try to mitigate the
impact of the requested construction and give
them some relief, so the relief would be to allow
them -- I mean, this is just a suggestion.

MR. TERCHUNIAN: Yeah, it is. But just for
the Board's edification, there's a cute little
part of our Village Code that it doesn't apply
here, but the concept applies, and this applies
on the ocean side, so on the ocean and on the bay
side, and it's a balcony, which is not a
distance, a balcony is just unroofed. A balcony
means it's unroofed, that's all it means. If
it's roofed, it's something different.

On the ocean side, which has a 25-foot
setback from Dune Road, you are permitted under
the code to have an eight-foot-deep balcony, an
eight-foot-deep unroofed second story balcony
that is -- starts at the building, which is 25
feet from Dune Road on the ocean side, that is
permitted by code.
Now, in this particular instance, where you have a front yard setback that they're meeting, the --

MEMBER MIZZI: They're meeting?

MR. TERCHUNIAN: I mean, that's required. They could have into that setback an eight-foot-deep balcony. Now that doesn't --

MR. PROKOP: Where do you get that from?

MR. TERCHUNIAN: It's right in the code.

MR. PROKOP: You just said the ocean.

MEMBER MIZZI: Got it, got it.

MR. TERCHUNIAN: But, as I said, it doesn't necessarily apply on this lot, because they're so deep into the front yard now.

MEMBER MIZZI: Right.

MR. TERCHUNIAN: But on the ocean side, in other words, the guy across the street whose building is 25 feet from Dune Road gets an eight-foot-deep balcony into that 25-foot setback.

MR. PROKOP: What does that have to do with this house?

MR. TERCHUNIAN: I think it's --

CHAIRMAN GESSIN: He's saying you can get nice in the winter and -- is that what you're
basing this on?

MR. TERCHUNIAN: No, no. What I'm saying is they're asking for a six-foot-deep second story deck.

CHAIRMAN GESSIN: Covered?

MR. TERCHUNIAN: Not covered. This is a deck, it's not covered. This is a second story deck on top of an existing deck. That's what they're asking for. It's about seven or eight feet deep. It doesn't extend any farther into the front yard. It's half the depth of the existing deck. It's not going all the way out to the existing, it's half the depth of the existing deck. And the guy across the street as-of-right can build eight feet into a 25-foot. So, if you're looking for aesthetics --

MEMBER SARETSKY: So if you're --

MR. PROKOP: But that's because -- I'm sorry, but that's -- first off, if they wanted that, they could have bought that house. Second off, that's because the guy across the street gave up 350 feet of his property. These people aren't giving up anything.

MR. TERCHUNIAN: But we're not talking -- the issue here is are the second story decks --
MR. PROKOP: I'm sorry.

MEMBER SARETSKY: That's okay.

MR. TERCHUNIAN: -- somehow creating a visual impairment as people proceed down Dune Road? That appears to be what I'm hearing, that second story -- that the second story decks are somehow providing -- are somehow a visual detriment in the Village as you proceed down Dune Road.

MEMBER MIZZI: I would say -- I would say that these houses, this house and the house that's been -- is being renovated, but before it was renovated, those houses are very close to the road. They do stand out when you drive down Dune Road. And anything you do to them to bring them closer to the road or to add a second floor house deck, anything, affects it, in my opinion.

I think the designer has options. I think they could -- they could pull back this 29.4 foot first floor deck. I don't know what it's doing, because I don't know where you enter the house, but you're walking down the front of the second floor of the master bedroom. I don't know.

MEMBER GOLDFEDER: I agree with that, that changes the aesthetics.
MEMBER GOLDFEDE: Considerably.

MEMBER MIZZI: I'm just saying, you can't have everything, you know.

MR. TERCHUNIAN: And I'm not suggesting that they can. All I'm suggesting is that whatever decision that this Board reaches has to be grounded in the facts of this case and defensible by your Attorney.

MEMBER MIZZI: I agree.

MR. PROKOP: Oh, I absolutely am. I mean, I -- and I've said that several times. Second floor deck -- I mean, there's cases on this. The second floor deck isn't --

MEMBER MIZZI: And, look, if they want to spend their time and money suing us because they think it was unfair, let them do it, you know.

MR. TERCHUNIAN: Well, that's never been the way that this Board has operated, that -- we always try to find a reasonable way to accommodate what people want that doesn't have -- that adds to the community, not takes away from it.

MEMBER GOLDFEDE: I think we're not going outside the parameters.

MEMBER MIZZI: I'm not going to change my opinion because somebody's threatening to sue me.
MEMBER GOLDFEDE: And I think that, to
Joe's point, I don't think we're going outside --
to both Joes' points -- outside of the parameters
of the five criteria.

MEMBER MIZZI: And I think the Board has in
the past been very reasonable to say, "Look,
you're asking for a lot of different things,
we're willing to be -- accommodate you in a lot
of different ways. We're not saying it's this,
we're not saying -- but you got to -- you got to
find something that satisfies the Board."

MR. TERCHUNIAN: And I don't -- I don't
suggest otherwise.

MEMBER MIZZI: And I think like, you know,
for me, there's a couple of ways to address this
activity in the front. You can pull back the
existing deck, you cannot build the second floor
deck. You can --

MEMBER SARETSKY: What's the deck?
MR. TERCHUNIAN: It's about eight feet
deep, that second story deck.

MEMBER SARETSKY: The first floor, though.
MR. TERCHUNIAN: The first floor has got --
the first floor deck is about 16 feet deep.

CHAIRMAN GESSIN: This is not a new house,
right?

    MR. TERCHUNIAN: No.

    MEMBER SARETSKY: I guess I just keep on coming back to I'm okay with the 23.9. Show me that this deck is like going -- in other words, show me that you have to have this. In other words, show me that --

    MR. TERCHUNIAN: Don't do that.

    MEMBER SARETSKY: Wait a second.

    MR. TERCHUNIAN: That's not the right words.

    MEMBER SARETSKY: Let me rephrase it. Show me that the space you're going to have around your pool and the other places you're going to have -- whatever it is, that you're not going to be able to see the ocean, show me that this is -- I'd like to understand that, I guess.

    MR. TERCHUNIAN: But that's not the criteria upon which your decision can be based.

    MEMBER GOLDFEDER: I still think we should ask for a rendering of what it's going to look post.

    MR. PROKOP: I agree 100%, because one of the --

    MEMBER GOLDFEDER: And it doesn't show the

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roof deck.

MR. TERCHUNIAN: Well, it's not a roof
deck, it's a second story deck.

MEMBER GOLDFEDER: No, no, they say in
their documentation that there'll be a roof deck
as well.

MR. TERCHUNIAN: Where?

MEMBER GOLDFEDER: Decks immediately

further -- due to the building variance proposed, second floor -- adjacent, da, da, da.

MEMBER MIZZI: I think they're saying roof
over the deck.

MEMBER GOLDFEDER: No. I remember seeing a
roof deck.

MEMBER MIZZI: I think they mean this roof
over deck.

MR. PROKOP: I don't see how you can

consider this application without an elevation.
I don't see -- I mean, that's like the standard.

MR. TERCHUNIAN: Yeah, so they're saying
it's six feet deep.

MR. PROKOP: To be honest with you.

MEMBER MIZZI: That's what we're looking --
you know, that deck would be on -- would be
coming out in that section, right, that that
would be coming out here. I don't know where the entrance to the house is, but --

    MEMBER SARETSKY: I think the entrance is right here.

    MEMBER MIZZI: Yeah. That what I'm saying, is like if the second floor is so important, you can propose cutting this off.

    MEMBER SARETSKY: Move the front door somewhere.

    MEMBER MIZZI: I'm saying you don't even need it. What are you going to do, walk down and --

    MEMBER SARETSKY: I don't know.

    MR. PROKOP: I mean, right now, the setback for decks, second story decks on the bay side is 70 feet, right? This approval brings it up to whatever it is, 34.9; is that what it is?

    MR. TERCHUNIAN: Yeah, 50%.

    MR. PROKOP: So anybody on -- that to the bay side of Dune Road can now come out to 35 feet.

    MR. TERCHUNIAN: Nah, that's not right, Joe.

    MEMBER SARETSKY: Don't you think that's a good argument?

    MR. PROKOP: We'll have a line of people
lined out the door.

MEMBER MIZZI: You know, we do have people saying that, you know, based upon what's been approved, this is what we'd like to do, whether we're going to taking something that's 35 feet long --

MR. TERCHUNIAN: I'm sorry. I'm sorry, go ahead.

MEMBER MIZZI: Go ahead. Go ahead.

MR. TERCHUNIAN: No. To go to Barry's point, there aren't 12 lots in the Village where they have an existing -- a preexisting, protected by the RAPF settlement building that's this close to Dune Road, okay? So you're not -- the fact that you have a preexisting building, it is protected -- that 24-foot setback to Dune Road is protected by a Federal Court order.

MEMBER SARETSKY: But no one's saying that they can't have what they have.

MR. TERCHUNIAN: No. All I'm saying, Joe's saying that there's going to be a line out the door if you go to 34.9 feet. No. Everybody who's in this identical situation, who has a RAPF protected building footprint that's 24.9 feet from Dune Road, and a building that's the same
distance, yeah, they're going to be coming in
asking for this. How many of them are there?

MEMBER GOLDFEDER: And they also have to
have the DEC --

MR. TERCHUNIAN: Yeah.

MEMBER MIZZI: Although the
counter-argument to that is if somebody is by
right close to the road and we allow them to add
accessory structures to that condition, to add
more construction close to the road, if I was
further back, I would say somebody that's 29 feet
from the road or 30 some-odd feet from the road,
you let them build a deck, I'm 70 feet back, why
can't I build a deck? It certainly wouldn't have
the same impact.

MR. TERCHUNIAN: What's -- I mean, that's
-- I don't understand the problem. If they're 80
feet back and they want to build a deck, so they
get to build a deck.

MEMBER MIZZI: If somebody's 70 feet
back --

MR. TERCHUNIAN: Right.

MEMBER MIZZI: -- and they want a variance
to build a deck forward to Dune Road, they could
make an argument that here's somebody who is 35
feet back --

MR. TERCHUNIAN: Right.

MEMBER MIZZI: -- and you let them build a second-story deck closer to Dune Road, you can't say to the next person, "By the way, there's a visual problem, it's too close to Dune Road, it's supposed to be 70 feet back." They're going say you approved something --

MR. TERCHUNIAN: I disagree with your reasoning, and it's because you're ignoring the predicate underneath the application.

First of all, under the RAPF settlement, this person has an as-of-right to rebuild and build new within the -- a similar existing footprint.

MEMBER SARETSKY: So we keep coming back to, okay, stay with the 23.9, then.

MR. TERCHUNIAN: Well, then fine. Then fine. I'm not suggesting that they don't do that.

MEMBER SARETSKY: No, no, I'm saying -- and I don't really care if it's on the back of the space, in other words, that you had the space. Like it's more just that it seems --

MR. TERCHUNIAN: I think you're a lot more
dangerous telling them they can't have a second
story deck within their preexisting RAPF
protected footprint than you are telling them,
"Live within your 23.9."

MR. PROKOP: I think we need to let the
Board discuss it. You and I need to let the
Board discuss it.

MR. TERCHUNIAN: Okay.

MR. PROKOP: We're being -- at this point,
we're going over the line a little bit, both of us.

MR. TERCHUNIAN: That's fine.

CHAIRMAN GESSIN: I think Joe's right. I
think we should ask Diane to send us in a
rendering or a plan, or something like that.

Table this until the next Board meeting and --

MEMBER SARETSKY: At least that will allows
us time to line up with the other property, too.

CHAIRMAN GESSIN: I don't know if that will
be timely.

MEMBER SARETSKY: Okay. Well, you know,
maybe there's a chance.

CHAIRMAN GESSIN: Give us a shot to --

MEMBER SARETSKY: Understand it.

CHAIRMAN GESSIN: -- make us all
comfortable.
MEMBER MIZZI: I think we -- yeah. We understand the issues. I guess we just need to, you know, get our heads around it.

MR. PROKOP: Four elevations, you want four elevations, basically, I think, if that's what it's called, four sides?

MR. TERCHUNIAN: No, not the four. You just -- you need -- your primarily concerned about what it looks like from the road, which would be the north elevation.

MEMBER SARETSKY: And the other way, one on the east --

MR. TERCHUNIAN: North and east, it probably will suffice.

MEMBER MIZZI: North and east would be fair.

MEMBER SARETSKY: That would be helpful.

CHAIRMAN GESSIN: So are we okay with that?

MEMBER SARETSKY: Uh-huh. Who's drawing is this, Joe, is this yours?

CHAIRMAN GESSIN: That's mine.

MEMBER GOLDFEDER: So are they asking for the walk in this new -- as well? In the previous submission, they were looking for a swimming pool and a walk.
MR. TERCHUNIAN: The walk -- is the walk around the pool?

CHAIRMAN GESSIN: Do we all understand what --

MR. TERCHUNIAN: Because he reduced it from four feet to one foot or two feet.

CHAIRMAN GESSIN: Do we all understand what the existing and the proposed footprint is, or do we need something better on that? I'll let Aram finish.

MEMBER MIZZI: I think I understand. It's not clear to me, but I think I understand.

MEMBER GOLDFEDER: So that's the four foot they're going to cantilever off the --

MEMBER MIZZI: No. They're sending an elevation. I'm happy to take a look, you know, in person at the house.

CHAIRMAN GESSIN: Okay. So what else did we not do today?

MEMBER SARETSKY: Do we go back now and talk about the Panayis one?

CHAIRMAN GESSIN: No. We're going to table that until next time.

MEMBER SARETSKY: Okay, gotcha.

MR. PROKOP: So Kronberg is adjourned,
Panayis is adjourned, and now we're on -- Herson is adjourned.

The last thing we need to do is we have two decisions that we reached at prior meetings, Autorino and 693, and I have written copies of the decisions.

MEMBER SARETSKY: Are they color-coded?

CHAIRMAN GESSIN: They didn't start out that way, but that's actually how I pulled them out of the bin, actually.

MR. TERCHUNIAN: Those are two separates, take one of each.

MS. DALESSANDRO: Are there extra copies here?

MR. PROKOP: There should be extra copies.

MS. DALESSANDRO: Okay.

MR. PROKOP: So this was meant to be the approvals that were reached on Autorino, and also on the other one, 693, and we just need to vote to approve them.

CHAIRMAN GESSIN: So, basically, has everybody read this --

MEMBER GOLDFEDER: Yes.

CHAIRMAN GESSIN: -- determination? We actually voted on this already.
MR. PROKOP: This is what we voted. It's meant to be what we voted on.

CHAIRMAN GESSIN: Yes.

MR. PROKOP: If there's an error -- I mean, I don't think there is an error, but if there is, it doesn't change anything.

CHAIRMAN GESSIN: Does it have to be read?

MR. PROKOP: No. Oh, she's -- excuse me. Lucia is going to read it into the record.

CHAIRMAN GESSIN: Okay.

MR. PROKOP: Make it part of the record.

MS. BRAATEN: I could scan it and then attach it.

MR. PROKOP: Yes.

MEMBER GOLDFEDER: For the record, I agree with the language.

CHAIRMAN GESSIN: Basically, we've basically read -- we basically voted on all the terms of this determination. Everyone on the Board has just read this and we all agree, I believe.

MR. PROKOP: Which one are we looking at? I'm sorry.

CHAIRMAN GESSIN: This is 693 Dune Road.

MR. PROKOP: Okay, 693, good.
CHAIRMAN GESSIN: And do we have to vote?
MR. PROKOP: Yes. Somebody should make a
motion to vote -- to adopt this as our decision.
CHAIRMAN GESSIN: Okay. Would somebody
like to make the motion to adopt this --
MEMBER GOLDFEDER: I'll make a motion?
CHAIRMAN GESSIN: -- to adopt this as our
determination.
MEMBER GOLDFEDER: -- to adopt this.
CHAIRMAN GESSIN: Would somebody like to
second it?
MEMBER SARETSKY: (Raised hand).
MEMBER MIZZI: (Raised hand.)
CHAIRMAN GESSIN: Okay. We've now passed
this. All in favor, say aye?
(All Said Aye.)
CHAIRMAN GESSIN: Okay. And I guess I
might as well sign it.
Okay. The next one is Autorino. Now, I
read this and I -- on the back of this, on Page
5 --
MR. PROKOP: Does it say Village of
Greenport or something?
CHAIRMAN GESSIN: Say it again.
MR. PROKOP: Does it say Village of
CHAIRMAN GESSIN: No, no, no, no. On the bottom of Page 5, when we got into the sanitary system, I saw -- and maybe I'm incorrect with this, because we had so many issues with this application. I was under the impression the only involvement this Board had with the sanitary system was if he had to come back to the Board for -- if he had to do an installation of a --

MR. TERCHUNIAN: Of a wall?

CHAIRMAN GESSIN: -- sanitary wall. I didn't know we were actually directing him to do anything, and that was purely under the -- would only be under the direction of the Building Inspector.

MR. PROKOP: I thought we said that as a condition, but it doesn't --

MEMBER SARETSKY: I thought the condition was that it complied.

MR. TERCHUNIAN: Yeah, and it was -- yeah. How did we do that?

MEMBER SARETSKY: I thought you said that it was conditional on --

MR. TERCHUNIAN: Well, I said that --

CHAIRMAN GESSIN: As a condition of this
Board.

MR. TERCHUNIAN: -- under the condition that you decided it.

MEMBER SARETSKY: Not of us, but it was up to him to go to the Health Department.

MEMBER MIZZI: Yeah. I don't know if we're saying it complies, or we're saying that he needs to obtain approval, you know, or satisfy the --

MR. TERCHUNIAN: I think that -- my recollection is that what we said was that the Board wasn't going to rule on anything involving the sanitary system, but the applicant had to understand that when he went to the Building Inspector, that he was going to have to submit certification from the Department of Health that he complied with their standards. Otherwise, he wasn't getting the building permit.

MR. PROKOP: That's what this says. That's exactly right, that what this says.

MEMBER GOLDFEDER: Yes.

MR. TERCHUNIAN: But I don't know that we were conditioning our -- this Board --

MEMBER MIZZI: Maybe number two is right. Number one doesn't need to be there, is that what you're saying?
MEMBER GOLDFEDER: Yes.
MEMBER SARETSKY: Right. Maybe one is not necessary, because we're not saying it does comply.
MR. PROKOP: I'm sorry. I got it, you're right, okay, 100% right.
CHAIRMAN GESSIN: So the only condition was that if he needed to put a wall in, if one was required, he'd have to come back with a landscape -- to this Board for a landscape plan.
MR. TERCHUNIAN: I don't think he needs to come back for a wall. We don't regulate sanitary walls.
MEMBER GOLDFEDER: Right, Suffolk County, yeah.
CHAIRMAN GESSIN: We're not fixing the wall, we had nothing to do with it.
MR. TERCHUNIAN: We had nothing to do with the wall. And if he -- and if the Health Department requires him to build a wall, it's not within our jurisdiction.
MEMBER GOLDFEDER: The wall is -- we've had issues with the wall.
MR. TERCHUNIAN: We've had issues with them, we don't like them.
MEMBER GOLDFEDER: We still have issues with the wall.

MR. TERCHUNIAN: But the only time that we've dealt with the wall and conditions for the plantings on the wall was when the applicant offered that as part of the mitigation for their variance.

MEMBER GOLDFEDER: And now that you've opened that door, the wall is -- shouldn't just be a summer consideration. The plant, and vegetation, and coverage of that wall should be a year-round consideration, because people do live here in the Village during the winter months and they have to look at that wall that is uncovered by that vegetation. So that's something I think we should consider next time around.

CHAIRMAN GESSIN: Well, that's why when -- you know, when we went through that whole landscape plan, we wanted that wall totally --

MEMBER GOLDFEDER: Yes.

CHAIRMAN GESSIN: -- landscaped.

MEMBER GOLDFEDER: Yes.

MR. PROKOP: So the way that this should read is the above variances are conditionally granted subject to the condition that the
applicants submit a septic certification from the Suffolk County Department of Health Services for a new single-family residence prior to the issuance of a building permit by the Building Inspector.

CHAIRMAN GESSIN: Do we even need to say that?

MEMBER GOLDFEDER: It can't hurt, but he still has to comply. It's implied, but it can't hurt to say that, because that's what it is.

CHAIRMAN GESSIN: It's up to whatever the Building Inspector wants him to do.

MEMBER MIZZI: But the only thing is, since we talked about it, and staying silent on it, I wouldn't want it to be that we deemed ourselves --

MR. TERCHUNIAN: All right. So let me play the devil's advocate for a moment. This Board has no jurisdiction whatsoever over sanitary systems, period, end of sentence. They do not have -- that jurisdiction stems from the State of New York and is delegated exclusively to Suffolk County. And so what this -- what has happened in the past is that this -- the applicants in some cases have offered, "We will
do X, Y and Z with the sanitary system if you
give us a variance," as mitigation for a variance
that they were requesting. And when that offer
was made and that nexus was created by the
applicant, this Board has ruled. But, if you go
to every other jurisdiction around here, when it
comes to the elements of the sanitary system
itself, other than on a wetlands code, where you
have to be a distance away from a wetland, there
is no other form of local jurisdiction other than
the County of Suffolk.

So I don't think the Board has the ability
-- I don't think it's within their jurisdiction
to tell the applicant what they have to do or
don't have to do with their sanitary system.
That's a burden that rests with the applicant,
and it's a requirement by the Building Inspector.
When the person comes in and says, "I'm building
a new building," they say, "Where's your Health
Department approval?" And so if the applicant
says, "Well, I have a preexisting system," then
the Building Inspector says, "That's wonderful,
give me the certification approved by the Health
Department," and the pre-existing system
satisfies.
MEMBER MIZZI: I think the reason it's relevant is because we asked for the location of the existing septic system, and the variance we granted, we had questions about how the relief that we provided would be affected -- would interact with a septic system, and it was represented to us that they weren't -- they didn't need to change the septic system. And we just don't want someone saying, "Well, you asked where the septic system was, you took that into consideration, you gave us approval, and we deem that to be, you know, an indication that you understood the extent of our septic system.

MR. TERCHUNIAN: Well, maybe, perhaps the way to do it is to incorporate that exact statement into the decision. The applicant was questioned about the sanitary system, they represented to the Board that the sanitary system met the Suffolk County Department of Health Services Code, was in an adequate condition and location to satisfy that code.

MR. PROKOP: The thing is you weren't at the meeting.

MR. TERCHUNIAN: I most certainly was.

MR. PROKOP: Not in November, I don't
think, were you, in November?

MR. TERCHUNIAN: It was very cold in that room.

CHAIRMAN GESSIN: Yes, it was a cold meeting.

MR. TERCHUNIAN: I've already been reprimanded for that.

MR. PROKOP: So there was public there and there was public comment and -- like I'm not trying to rewrite this.

MR. TERCHUNIAN: Never mind.

MR. PROKOP: We had -- I mean, we could vote to change something, that's okay, but the intention was to pick up what was said at the meeting, and I had a note exactly what was said, not that I -- you know, I mean, if you want to change it, you could change it.

MR. TERCHUNIAN: I'm not intending to change it. But Joe brings up a very valid point, and that is, hey, we had a discussion about this.

CHAIRMAN GESSIN: We did.

MR. TERCHUNIAN: And it's not necessarily -- and I don't recall it being a condition of approval. Even though I would really like it to be, I don't recall it being a condition of
approval. But, I mean, Joe's point is the applicant made representations to the Board that they complied, and the Board relied on those representations to proceed forward with an approval.

MR. PROKOP: You just gave us before an A and a B. A is where the applicant makes it a nexus to the discussion and the approval, and in this case there was public there, too, that commented, and B was where we don't have jurisdiction, right. But in this case, it is A, where we --

MR. TERCHUNIAN: No, it's not A, because he didn't offer it. We asked for it and he said, "I'm not interested in giving you that." Just because we bring it up doesn't create the nexus. The nexus comes from the fact that the applicant says, "You know what, I'm willing to negotiate this thing that's not within your jurisdiction, because I want this other thing that is." This applicant refused to do that.

MR. PROKOP: But if we say at a meeting that these are the conditions, I don't want to come -- you know, it's two-and-a-half months later. I don't want to come two-and-a-half
months later and say, well -- then we need to figure out what exactly was said. I don't want to come two-and-a-half months later and say, "Well, we didn't have the jurisdiction," because this was already all discussed at the meeting extensively.

    MR. TERCHUNIAN: Yeah.

    CHAIRMAN GESSIN: Well, I mean, I thought that the only concern was that he would get an approval, and that somewhere down the pike that he would have to replace the sanitary system, and that I wanted the ability for him to have to come back to the Board, because he'd have to put the wall up. That's all, that's all I was looking for.

    MR. PROKOP: Okay. Well, you got -- you four collectively have to remember what happened, because we don't -- you were the Clerk, you know, responsible for this to some extent, so you're not going by my memory or Aram's memory.

    MR. TERCHUNIAN: Murky memory.

    MR. PROKOP: It's really collectively what you people decide, you know, as a Board. So whatever you tell me --

    MEMBER GOLDFEDER: I think they stated that
there was no change to the existing septic system, and, as such, we granted approval on the package and that was inclusive. So, if anything changes, then I would assume, based on that language, he would have to come back.

MR. PROKOP: But there was a change. This is a new house, that's what --

MEMBER GOLDFEDER: It's an addition.

MR. TERCHUNIAN: No, it's a new house.

MR. PROKOP: That's the whole thing. That's why we're having --

MR. TERCHUNIAN: That's why they changed -- it was an addition, and that's what this Board approved way back when.

MEMBER MIZZI: Right.

MR. TERCHUNIAN: Then he came back in and said, "Oh, by the way, I really want a new house."

MEMBER MIZZI: Right.

MR. TERCHUNIAN: So this Board approved a new building.

MR. PROKOP: Yeah, that's why we're having this discussion and we didn't have papers --

MEMBER MIZZI: And the placement of the -- I'm sorry. Go ahead, I'm sorry.
MR. PROKOP: No. That's all I'm saying.

MEMBER MIZZI: The placement of the piles was what -- and because it was a new building is what made us question whether they could really situate this building on an existing septic system, which led to the discussion about whether the existing septic system would be approved by Suffolk County. And we were led to believe that the system was not going to need to be changed.

MEMBER SARETSKY: Right. That's what I understand.

MR. TERCHUNIAN: That's what they represented to us, that they didn't have to change, they complied.

MEMBER SARETSKY: That it was okay, yeah.

MR. TERCHUNIAN: But that's not --

MR. PROKOP: Can we go into Executive Session? Could somebody make a motion to go into Executive Session to get advice of Counsel?

CHAIRMAN GESSIN: Yeah. I'd like to make a motion to go into Executive Session.

MEMBER GOLDFEDER: I'll second that.

(Whereupon, the Board went into Executive Session.)

CHAIRMAN GESSIN: I'd like to make a motion
to end the Executive Session.

MEMBER GOLDFEDER: I'll second.

CHAIRMAN GESSIN: So how do we want to fix up these two paragraphs?

MEMBER MIZZI: I like removing number one and leaving number two as stated, personally, or modifying it in some way that meets the --

CHAIRMAN GESSIN: You want to leave number two in as written?

MEMBER MIZZI: I'm comfortable. I'm comfortable with that.

MEMBER GOLDFEDER: Yes.

MEMBER SARETSKY: That's good. It seems to cover it.

MEMBER MIZZI: I mean, it was your recollection of what it was. It was our recollection when we read. Until we started to discussing it, I thought -- you don't have any issue on number two?

MEMBER GOLDFEDER: No.

CHAIRMAN GESSIN: I guess I'm okay with two. Okay. So we'll strike one? I'll just cross it out and sign this?

MR. PROKOP: Yes.

CHAIRMAN GESSIN: Okay.
MR. PROKOP: We just need a vote to approve this.

CHAIRMAN GESSIN: I would like to make a motion to approve the determination on 880 Dune Road.

MEMBER GOLDFEDER: I'll second.

MEMBER MIZZI: Second the motion.

CHAIRMAN GESSIN: Everybody? All in favor?

(Whereupon, all said aye.)

CHAIRMAN GESSIN: Okay what's next?

MR. TERCHUNIAN: I think we're done.

MR. PROKOP: The next meeting date, and then the motion to adjourn.

CHAIRMAN GESSIN: We'll do it on March 7th.

MEMBER MIZZI: I'm good on March 7th.

MR. PROKOP: 3/7.

MEMBER GOLDFEDER: Okay. March 7th, 10 a.m.

CHAIRMAN GESSIN: Would someone like to make a motion to adjourn this meeting?

MEMBER GOLDFEDER: A motion to adjourn.

MEMBER SARETSKY: Second.

CHAIRMAN GESSIN: Okay. This meeting is closed. Thank you.

(Whereupon, the meeting was adjourned at 12:37 p.m.)
CERTIFICATION

STATE OF NEW YORK  )
                        ) SS:
COUNTY OF SUFFOLK  )

I, LUCIA BRAATEN, 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
taken on February 7, 2015.

I further certify that I am not
related to any of the parties to this action by
blood or 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 20th day of February, 2015.

                                      Lucia Braaten
VILLAGE OF WEST HAMPTON DUNES
ZONING BOARD OF APPEALS

Application of
693 Dune Road LLC
For Variance Approval
693 Dune Road
SCTM No. 907-3-2-lots 36.1 and 37.1
and SCTM No. 907-4-2-1.1

The matter of the application of 693 Dune Road LLC, ("applicant") to the Zoning Board of Appeals of the Village of West Hampton Dunes (the "Board") for relief as follows:

A variance of Section 330-11 of the West Hampton Dunes Village Code, maximum lot coverage, of 2.8%, where the applicant proposes lot coverage of 22.8% and Section 330-11 provides that lot coverage can not exceed 20%; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum combined side yard setback, of 2.8 feet, where the applicant proposes a combined side yard setback of 57.2 feet and Section 330-11 requires a minimum total side yard setback of 60 feet.

The Zoning Board of Appeals conducted a public hearing on the application on September 13, 2014. Present at the September 13, 2014 public hearing and public meeting were Chairman Harvey Gessin, and members Barry Goldfeder, James Cashin and Joseph Mizzi, Village Clerk Laura Dalessandro and Village Attorney Joseph W. Prokop, Esq.

The applicant was represented in the application and at the public hearing by James Hulme, Esq., who made a presentation on behalf of the application and the applicant at the public hearing and who was questioned by the members of the Zoning Board of Appeals during the discussion at the public meeting on the application.

The members of the Board duly reviewed and considered the testimony of the applicants' representative, the applicants and the members of the public, the application and the materials
submitted in support of the application, and the files and records of the Village with respect to the premises, and the Board does hereby find, determine and decide as follows:

FINDINGS

The subject premises is located in the R40 zoning district.
The subject premises is improved by a single family residence.
The applicant is the owners of the premises.
The Zoning Board of Appeals is the proper agency to adopt lead agency status for purposes of SEQRA review in this matter and that the requested action on the application for an approval of the requested variances is a type II action for purposes of SEQRA and no further SEQRA review is required.

The application was sent to the Suffolk County Planning Department as required by Section 239m of the New York State General Municipal Law and the Suffolk Count Planning Department responded with notification to the Zoning Board of Appeals that the application was a matter for local determination.

The plan that is under consideration is a modified plan from the plan that was originally submitted to the Zoning Board of Appeals, the 2nd story of the house has been reduced and portions have been converted into deck space.

The new addition to the house is behind the coastal erosion hazard line therefore no coastal erosion hazard variance is required.

The 2nd floor area on the westerly side of the house indicated as decking on the plans appears to be a walkway and therefore a total side yard variance is not required. The applicant is instructed to amend the plans so that the 2nd floor area on the westerly side of the house is indicated as a walkway and not as a deck.
The existing lot coverage of the buildings on the property is 22.7%.

**Determinations**

The Zoning Board of Appeals of the Village of West Hampton Dunes hereby determines after due deliberation and discussion about the application, the presentation of the applicant’s representative, the materials provided by the applicant’s representative, and the files and records of the Village of West Hampton Dunes as follows:

Motion by Chairman Gessin, seconded by Joseph Mizzi as follows:

Motion to approve the abandonment of the application for 2.8% lot coverage variance and to grant a lot coverage variance in the amount of 2.1% (total lot coverage of 22.1%), subject to the building inspector approving the setback requirements for the accessory structures for the stairs and ramps.

In favor: Chairman Gessin, Jim Cashin, Barry Goldfeder, and Joseph Mizzi.

Against: None

Dated: September 13, 2014

________________________________________
Harvey Gessin, Chairman
Zoning Board of Appeals
Village of West Hampton Dunes
Suffolk County, New York
VILLAGE OF WEST HAMPTON DUNES
ZONING BOARD OF APPEALS

Application of
Thomas and Pamela Autorino
For Variance Approval
880 Dune Road
SCTM No. 907-
and SCTM No. 907-4-2-1.1

The matter of the application of Thomas and Pamela Autorino, (“applicants”) to the Zoning Board of Appeals of the Village of West Hampton Dunes (the “Board”) for relief as follows:

A variance of Section 330-11 of the West Hampton Dunes Village Code, maximum lot coverage, of 2.7%, where the applicants propose new structures with lot coverage of 22.7% and Section 330-11 provides that lot coverage can not exceed 20%; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum front yard setback requirement for a primary structure, of 26 feet, where the applicants propose a new primary structure with a front yard setback of 34 feet and the required minimum front yard setback requirement for a primary structure is 60 feet; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum front yard setback requirement for an accessory structure, of 37 feet, where the applicants propose a new accessory structure, a deck, with a front yard setback of 33 feet and the required minimum front yard setback requirement for an accessory structure is 70 feet; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum rear yard setback requirement, of 9 feet, where the applicants propose a new structure with a rear yard setback of 29.1 feet and the required minimum rear yard setback is 30 feet.

The Zoning Board of Appeals conducted a public hearing on the application on September 13, 2014.
The application was modified with an additional variance requested and a public hearing on the modified application was conducted on November 15, 2014. Present at the November 15, 2014 public hearing were Chairman Harvey Gessin, Zoning Board Members Joseph Mizzi, Eric Saretsky, Garry Goldfeder and Jim Cashin, Village Clerk Laura Dalessandro and Village Attorney Joseph W. Prokop, Esq, and several Village of West Hampton Dunes residents.

The applicants were requested at the September 13, 2014 public hearing to present a modified application requesting an additional variance, which was done by the applicants, and to present a site plan of the surrounding properties and the lot coverage of the improvements on those properties, which was also done by the applicants. The applicants were also requested at the September 13, 2014 public hearing to provide the Board with a survey of the subject premises reflecting the location of the existing septic system, and the applicants did not provide the requested survey.

The applicants made a presentation at the public hearing and were questioned by the members of the Zoning Board of Appeals during the discussion at the public meeting on the application, and there was public comment that was accepted.

The members of the Board duly reviewed and considered the testimony of the applicants, the application, and the materials submitted in support of the application, and the files and records of the Village with respect to the subject premises, and the Board does hereby find, determine and decide as follows:

**FINDINGS**

The subject premises is located in the R40 zoning district.

The subject premises is improved by a single family residence which will be removed and a new single family residence will be constructed.
The applicants are the owners of the premises.

The public notice of the application was properly published and mailed to the adjoining property owners.

The Zoning Board of Appeals is the proper agency to adopt lead agency status for purposes of SEQRA in this matter and that the requested action on the application for an approval of the requested variances is a type II action for purposes of SEQRA and no further SEQRA review is required.

The application was sent to the Suffolk County Planning Department as required by Section 239m of the New York State General Municipal Law and the Suffolk County Planning Department responded with notification to the Zoning Board of Appeals that the application was a matter for local determination.

**Determinations**

The Zoning Board of Appeals of the Village of West Hampton Dunes hereby determines after due deliberation and discussion about the application, the testimony of the applicants, the materials submitted by the applicants, and the files and records of the Village of West Hampton Dunes as follows:

The applicants have made a showing to the Zoning Board of Appeals that the construction of the new single family residence and accessory structures in a manner which is in conformance with the West Hampton Dunes Village Zoning Code is impossible, and could not be achieved, and further that;

A. The granting of the requested variances will not produce an undesirable change in
the character of the neighborhood or a detriment to nearby properties provided certain conditions regarding the Suffolk County Department of Health Services are included in an approval and are met by the applicants; and

B. The benefit sought by the applicant could not be achieved by some method, feasible for the applicant to pursue, other than the requested variances; and

C. The required variances are substantial but are mitigated by the conditions of the subject premises and the surrounding properties; and

D. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district provided certain conditions regarding the requirements of the Suffolk County Department of Health Services are included in an approval and are met by the applicants; and

E. The alleged difficulty was self-created but this is not a controlling factor in the Board’s consideration of the application; and

That based on the findings and determinations of the Zoning Board of Appeals with respect to this application, the Zoning Board of Appeals hereby conditionally grants the requested variances of Section 330-11 of the West Hampton Dunes Village Zoning Code in separate motions by the Board as follows:

A variance of Section 330-11 of the West Hampton Dunes Village Code, maximum lot coverage, of 2.7%; Motion to approve made by James Cashin, Seconded by James Mizzi, in favor Gessin, Mizzi, Goldfeder, Saretsky and Cashin; against; none; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum front yard setback requirement for a primary structure, of 26 feet; Motion to approve made by Eric
Saretsky, Seconded by Joseph Mizzi; in favor Gessin, Mizzi, Goldfeder, Saretsky and Cashin; against, none; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum front yard setback requirement for an accessory structure, of 37 feet; Motion to approve by Barry Goldfeder, Seconded by James Cashin, in favor Gessin, Mizzi, Goldfeder, Saretsky and Cashin; against, none; and

A variance of Section 330-11 of the West Hampton Dunes Village Code, minimum rear yard setback requirement, of 9 feet; Motion to approve by Barry Goldfeder, Seconded by James Cashin; in favor Gessin, Mizzi, Goldfeder, Saretsky and Cashin; against, none; and

The above variances are conditionally granted subject to the following conditions being met:

1. The construction complies with Suffolk County Department of Health Services regulations.

2. The approvals are conditioned on the applicants submitting a septic certification from the Suffolk County Department of Health Services for the new single family residence prior to the issuance of a building permit by the Building Inspector.

Dated: November 15, 2014

Harvey Gessin, Chairman
Zoning Board of Appeals
Village of West Hampton Dunes
Suffolk County, New York