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INCORPORATED VILLAGE OF WESTHAMPTON DUNES
ZONING BOARD OF APPEALS

March 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

1 (Whereupon, the meeting was called to order at
2 10:25 a.m.)

3 CHAIRMAN GESSIN: I will call this meeting of the
4 Zoning Board to order with a Pledge of Allegiance, the
5 American Flag that's way out there.

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

7 MR. SERGEANT: Harvey, if I could speak for a
8 minute.

9 CHAIRMAN GESSIN: Yes.

10 SERGEANT HENNIG: So this is a public hearing.
11 Everybody here is going to be afforded an opportunity to
12 speak. When the Board tells them that's the appropriate
13 time to speak, if you have questions, you could wait until
14 that time. If anyone's disruptive, I'm going to ask you
15 to leave the meeting, plain and simple. If anyone has any
16 problems with that, leave now. Thank you, Harvey, you can
17 start.

18 CHAIRMAN GESSIN: No problem. Okay. The first
19 thing we're going to do is clean up some old business from
20 the last meeting, which is two cases that we closed the
21 hearings on, which is Gregory Panayis, which is 782 Dune
22 Road, would be the first one, and Michelle and Perry
23 Herson, which is 836A Dune Road, which we closed the
24 hearing on that also.

25 Does anybody have any questions on the 782 Dune Road

1 subdivision before we take that to a vote?

2 MEMBER GOLDFEDER: No, I don't.

3 MR. PROKOP: I just have a comment. In the --
4 before the Chairperson gets into it.

5 So the question -- the comment is that there have
6 been approvals in the area of this subdivision in the past
7 by this Board, and in those prior approvals, we had
8 covenants and restrictions that were required as a
9 condition.

10 CHAIRMAN GESSIN: Yes.

11 MR. PROKOP: And my recommendation would be that we
12 carry over the same covenants and restrictions that we had
13 on those two prior properties.

14 CHAIRMAN GESSIN: I think that's appropriate, yes.

15 MR. PROKOP: And the other comment was I just wanted
16 to make sure we went through the conditions at the prior
17 meeting, the five conditions. I'm not -- I think that we
18 did, but I'm not 100% sure.

19 CHAIRMAN GESSIN: We did.

20 MR. PROKOP: We did. Oh, okay.

21 CHAIRMAN GESSIN: We did.

22 MR. PROKOP: As long as we're okay -- as long as we
23 did them, we're okay.

24 MEMBER GOLDFEDER: Yes.

25 MR. PROKOP: That's fine.

1 CHAIRMAN GESSIN: Okay. Would anybody like to make
2 a motion for a vote here?

3 MEMBER SARETSKY: Motion to approve.

4 MEMBER GOLDFEDER: Second the motion.

5 CHAIRMAN GESSIN: Everybody ready to vote? In
6 favor?

7 (All Said Aye)

8 CHAIRMAN GESSIN: Approve, Joe?

9 MEMBER MIZZI: Yes, approve.

10 MR. PROKOP: That's it. We voted as a group to
11 approve and with those conditions.

12 CHAIRMAN GESSIN: Yes.

13 MR. PROKOP: The same conditions that we had in
14 the --

15 CHAIRMAN GESSIN: Yes.

16 MR. TERCHUNIAN: Joe, do you want to pass a SEQRA
17 resolution?

18 MR. PROKOP: Yeah. I think -- okay. We covered --
19 let the record show that the Board voted to adopt Lead
20 Agency status for purposes of SEQRA. Because these are
21 area variances, it's a Type II -- it's a Type II -- a Type
22 II Action for purposes of SEQRA. So can we just have a
23 vote on that also, please? That's the motion. So would
24 you make a motion?

25 MEMBER GOLDFEDER: Motion.

1 MR. PROKOP: This is a motion to adopt Lead Agency
2 status and determine that this is a Type II Action for
3 purposes of SEQRA. Thank you. So we have a motion. We
4 need a second on the vote.

5 MEMBER MIZZI: Second.

6 MEMBER SARETSKY: Second and third.

7 CHAIRMAN GESSIN: Goldfeder and Mizzi.

8 (All Said Aye.)

9 MR. PROKOP: Thank you.

10 CHAIRMAN GESSIN: Okay. We're on to 836A. We have
11 five -- we have seven variances that are being requested.
12 I know we have issue with at least one of them, and I
13 think we should group them together. Do you think that's
14 appropriate?

15 MEMBER MIZZI: (Nodded yes.)

16 CHAIRMAN GESSIN: Well, let's group the first one,
17 because this will be the one -- seems to be the one that
18 the Board seems to be sticking on first.

19 The applicant requests a variance of 4.9% to allow a
20 proposed lot coverage of 24.9, with a lot coverage allowed
21 by the Zoning Board -- by the Zoning Code as 20%. Would
22 someone like to make a motion on that?

23 MEMBER GOLDFEDER: I'll make a motion.

24 CHAIRMAN GESSIN: Would anybody like to vote in
25 favor of that?

1 MR. TERCHUNIAN: Well, what's the motion for?

2 CHAIRMAN GESSIN: The motion is to approve that one
3 for that variance or deny that variance.

4 MR. TERCHUNIAN: All right. So it's got to be one
5 or the other. Is the motion to approve it or deny it?

6 CHAIRMAN GESSIN: The motion is to deny that vote.

7 MR. PROKOP: No. It's a motion to what?

8 MEMBER GOLDFEDER: To deny the 4.9%.

9 MR. PROKOP: Okay. So the -- and the reasons for
10 that is -- no. It has to be -- the reasons have to be
11 stated in the motion. It's a benefit to the applicant if
12 the variance is granted as weighted against the detriment
13 to the health, safety and welfare of the neighborhood;
14 whether it will create an undesirable change in the
15 character of the neighborhood; whether the benefit sought
16 by the applicant can be achieved by some other method;
17 whether the requested variance is substantial; whether the
18 proposed variance will have an adverse effect or impact on
19 the physical conditions of the neighborhood, and whether
20 the alleged difficulty was self-created.

21 So the motion should state one of those, one or two
22 of those. If it's a motion to a deny, it really should
23 state a couple of those reasons in the motion, if you feel
24 that it's going to have a negative impact.

25 CHAIRMAN GESSIN: Well, it actually -- I actually

1 think it should state all of those.

2 MR. PROKOP: Okay. So the motion would be, if I'm
3 correct, that the motion to -- the motion is to deny the
4 request for a variance. This is number one, which is at
5 4.9%?

6 CHAIRMAN GESSIN: Yes.

7 MR. PROKOP: I got that right?

8 CHAIRMAN GESSIN: Correct.

9 MR. PROKOP: Lot coverage. And because the benefit
10 to the applicant, when weighed to the -- I guess the
11 detriment, because of the -- there's not significant
12 benefit to the applicant weighed against the detriment to
13 the health, safety and welfare of the Village, the
14 neighborhood, there isn't -- and it may create an
15 undesirable change in the character of the neighborhood.
16 The benefit sought by the applicant can be achieved by
17 some other method. The requested area variance is
18 substantial. The proposed variance will have an adverse
19 impact on the -- or effect on the neighborhood. And the
20 proposed variance is self-created. So that that's the
21 motion.

22 CHAIRMAN GESSIN: Correct. Would someone like to
23 make a motion?

24 MEMBER GOLDFEDER: Yeah, I make a motion.

25 MR. TERCHUNIAN: Do you have a second. That's

1 Goldfeder. Do you have a second?

2 MEMBER MIZZI: What's the motion?

3 MR. PROKOP: To deny.

4 MEMBER GOLDFEDER: To deny the 4.9% coverage based
5 on the above criteria.

6 MEMBER SARETSKY: Yeah. Are you good, Joe?

7 MEMBER MIZZI: Yeah.

8 MEMBER SARETSKY: Okay. I'm good, too. Second.

9 CHAIRMAN GESSIN: Me, too.

10 MEMBER MIZZI: (Raised hand).

11 CHAIRMAN GESSIN: So basically, they're
12 grandfathered at 23.9; is that correct?

13 MR. PROKOP: They're grandfathered at 23.9, right.
14 Their existing --

15 CHAIRMAN GESSIN: They have what they have.

16 MR. PROKOP: Yeah. Their existing footprint is
17 23.9. So they don't -- in other words, they can build out
18 -- so they have the right to come in with a building
19 permit to go to 23.9. They don't have to come back to us
20 for --

21 CHAIRMAN GESSIN: Correct.

22 MR. PROKOP: For that 3.9. They can go to 3.9.

23 CHAIRMAN GESSIN: They can go to 23.9.

24 MR. PROKOP: Right. They just can't go to -- no,
25 they can't got to 4.9.

1 CHAIRMAN GESSIN: Right.

2 MR. PROKOP: Okay.

3 CHAIRMAN GESSIN: Okay. Now the balances of
4 Variances 2 through 7, I think we can vote on them as a
5 group, okay? And I think we're of the mind set to see if
6 we can vote to approve those. Would somebody like to make
7 a motion to vote on Variances 2 through 7?

8 MEMBER SARETSKY: Move to approve.

9 CHAIRMAN GESSIN: Would anyone like to make a
10 second?

11 MEMBER GOLDFEDER: I'll second 2 through 7.

12 MR. PROKOP: Okay. So I just want to say that the
13 resolution -- the motion to approve will be a resolution
14 to approve the variances. The Board, in their resolution,
15 will adopt Lead Agency status, and determine that it's a
16 Type II Action for purposes of SEQRA. The Board is
17 determining that these variances have -- excuse me.

18 The motion is to approve and determine that the
19 approval will not create an undesirable change in the
20 character of the neighborhood, that the benefit sought by
21 the applicant cannot be achieved by some other method, the
22 requested area variances are not substantial, the proposed
23 variances will not have an adverse effect or impact on the
24 conditions of the neighborhood, and the requested
25 variances are self-created, but that is not relevant to

1 the decision of the Board of Appeals. And it's a motion
2 to grant with -- based on what I just read.

3 CHAIRMAN GESSIN: Okay.

4 MR. TERCHUNIAN: Okay. Call the vote. All in
5 favor?

6 CHAIRMAN GESSIN: All in favor?

7 (All Said Aye.)

8 CHAIRMAN GESSIN: Okay, it's closed.

9 MS. HEROLD: Thank you.

10 CHAIRMAN GESSIN: Yes.

11 MS. PETINO: May I ask a question. There's
12 something I didn't understand. Carol Petino. The part I
13 don't understand is you are holding them to their
14 grandfathered amount, okay? You passed that, yes. But
15 now you're approving all of the variances that are based
16 on the higher lot coverage. Isn't that in conflict?

17 CHAIRMAN GESSIN: No. They just can't build greater
18 than 23.9.

19 MS. PETINO: But you just said that they could.

20 CHAIRMAN GESSIN: They'll have to mush their plan
21 around until they get to 23.9.

22 MEMBER MIZZI: They'll have to find 100 square feet
23 without affecting any of the perimeters.

24 MS. PETINO: Okay.

25 CHAIRMAN GESSIN: They have a very creative

1 architect and she'll figure it out.

2 (Laughter)

3 MEMBER GOLDFEDER: So they have to take it from
4 someplace else.

5 MEMBER MIZZI: And if they can't, they would need to
6 come back.

7 MS. HEROLD: Absolutely.

8 MEMBER MIZZI: Like say 500 square feet --

9 MS. HEROLD: Actually, though, the setbacks are not
10 relevant to the square footage.

11 MR. MERRELL: If it changes in angle, then they have
12 to come back.

13 MEMBER MIZZI: Yeah, if it would --

14 MR. MERRELL: A Setback or something changes.

15 MEMBER MIZZI: Yes, for a variance, yes.

16 MR. TERCHUNIAN: If it would decrease the setback.

17 If they go --

18 MEMBER MIZZI: Right.

19 MR. TERCHUNIAN: -- farther away, they're okay.

20 Are you ready to move on to our hearings?

21 CHAIRMAN GESSIN: Yeah. Okay. Let's go on to new
22 applications. Okay. The next one we're going to hear is
23 Kronberg.

24 MR. BATCHELLER: Yeah. I'm here representing the
25 Kronbergs. Okay. So --

1 MR. TERCHUNIAN: I'm sorry to interrupt you, Ed.

2 MR. BATCHELLER: Go ahead.

3 MR. TERCHUNIAN: Joe, you've reviewed the notices,
4 and the Board has jurisdiction on this matter?

5 MR. PROKOP: Yes. There's been an application of --
6 I've reviewed the notices, and application of mailing and
7 posting submitted, and we're making a copy of it as a
8 record -- as a record of the file, it's Document #1. And
9 the Board can proceed, we have jurisdiction.

10 MR. BATCHELLER: Okay. We're good?

11 CHAIRMAN GESSIN: Yeah.

12 MR. BATCHELLER: All right, thanks. Okay. So, you
13 know, we discussed this off the record last meeting. My
14 client, Sandra, wants to simply add onto her second floor,
15 existing second story deck towards the front, towards the
16 front yard, and we're asking for relief from some front
17 yard setback, and also because of the increase in the lot
18 coverage. And so we're officially bringing the front yard
19 deck, the deck to 39.3 feet. That's the new setback.

20 One of the things that we talked about a little bit
21 last week are there other properties in the area that have
22 similar conditions, and there are actually quite a few. I
23 printed out a couple if them, if you want to take a look.
24 You can see that some decks, like there's a deck there
25 that's at 17 feet, that's on Dune Lane.

1 And then this house has from -- it's a corner lot,
2 really where the road radius is, 25 foot. It's at 25 foot
3 from the front yard, approximately. From the road, it's
4 actually closer, because there's an easement there, but I
5 have that for you, if anyone else wants to see anything
6 else.

7 So I think that the deck that we're talking about
8 building is very much in keeping with the nature of the
9 neighborhood, which is basically a lot of outdoor
10 second-story living, so people can get the water views,
11 and we're making a six-foot increase into the existing
12 deck. I think it's a modest request.

13 The lot coverage goes up because it's a 5,000 square
14 foot lot. It's so small that I think if you sneeze, you
15 need to get a variance over there.

16 CHAIRMAN GESSIN: Right, yeah. That's the problem
17 where we've been struggling there.

18 MR. BATCHELLER: It's just a nonconforming lot.
19 It's an R-40 zone or something.

20 CHAIRMAN GESSIN: You don't know what the coverage
21 is on either one of those two lots, do you?

22 MR. BATCHELLER: No, I don't, because I don't have
23 that. Really, I don't have that survey. I could
24 guesstimate it, but I don't see that --

25 MEMBER GOLDFEDER: And the extension of the top, is

1 it a wetland issue?

2 MR. BATCHELLER: No.

3 MEMBER GOLDFEDER: There's no wetland beneath
4 it or --

5 MR. BATCHELLER: No, no, no, no.

6 MEMBER GOLDFEDER: -- where it extends out?

7 MR. BATCHELLER: Oh, we're not increasing the roof,
8 by the way, of the existing deck, we're just -- there's a
9 roof over the existing deck and we're just pushing the
10 deck out, an open design.

11 MR. TERCHUNIAN: Just FYI, they have a Letter of No
12 Jurisdiction from the DEC.

13 MEMBER GOLDFEDER: Thank you.

14 CHAIRMAN GESSIN: But, Aram, that's still covered,
15 right?

16 MR. TERCHUNIAN: Oh, yeah, those are good, unless
17 there's a change in condition.

18 CHAIRMAN GESSIN: Right. Now I had an issue with
19 the DEC on the decks and platforms.

20 MEMBER MIZZI: This is an example of another one, or
21 this is yours?

22 MR. BATCHELLER: No that's another -- another
23 property.

24 CHAIRMAN GESSIN: The way they interpreted or -- I
25 think that's the wrong word. The way they did not

1 interpret coverage was if you use the -- that plastic
2 decking --

3 MR. BATCHELLER: Open.

4 CHAIRMAN GESSIN: -- that's 40% open, they did not
5 consider that covered.

6 MR. TERCHUNIAN: Right, for walkways, for walkways
7 and --

8 CHAIRMAN GESSIN: And they're actually allowing us
9 to do that for both the platforms, steps, and portions of
10 decks.

11 MR. TERCHUNIAN: Okay. That's interesting. Well,
12 they're --

13 CHAIRMAN GESSIN: Because you're letting light and
14 air through it.

15 MR. TERCHUNIAN: Yeah. The DEC standard is
16 impermeable surface.

17 CHAIRMAN GESSIN: Right.

18 MR. TERCHUNIAN: So they have a different standard
19 than we do.

20 CHAIRMAN GESSIN: Than we do.

21 MR. BATCHELLER: They don't want shading underneath
22 it.

23 CHAIRMAN GESSIN: They're in a different world than
24 we are.

25 MR. BATCHELLER: Yeah. God bless them. So, I mean,

1 that's basically, you know, what we want to do over there.
2 She wants to make a more comfortable experience out there.
3 It's very tight. The existing deck is like five feet.
4 You can hardly get around a chair. She feels a little bit
5 unsafe. Just widening it and, you know --

6 CHAIRMAN GESSIN: Right. And I went over there and
7 I took some pictures prior to the last meeting.

8 MR. BATCHELLER: Yeah.

9 CHAIRMAN GESSIN: I mean, personally, I have no
10 issue with your application, except for the lot coverage.

11 MR. BATCHELLER: Right.

12 CHAIRMAN GESSIN: You know, and I don't know how --

13 MR. BATCHELLER: There's not much way around that
14 one.

15 CHAIRMAN GESSIN: I mean, you can't tell from this
16 picture, but he's way back from this house, from his
17 neighbor.

18 MR. BATCHELLER: Yeah.

19 CHAIRMAN GESSIN: And even when he comes forward,
20 he's still back.

21 MR. BATCHELLER: Right.

22 CHAIRMAN GESSIN: So, I mean, it really doesn't seem
23 to have an impact, but it's -- other than the 30%. Can
24 you see it?

25 MEMBER SARETSKY: Yeah.

1 MR. BATCHELLER: Again, you know, it's a small,
2 like, 5,000 square feet lot.

3 MEMBER SARETSKY: The issue is only the lot
4 coverage.

5 CHAIRMAN GESSIN: It's the lot coverage.

6 MEMBER SARETSKY: I mean, are there any precedences
7 like that?

8 MR. BATCHELLER: Many of those lots in that area
9 are -- most of the lots in that area are about 5,000. You
10 know, they're small lots, so they would all have
11 extraordinarily tight --

12 CHAIRMAN GESSIN: Can't buy some land from your
13 neighbor?

14 MS. AUDET: I have a half-acre for sale.

15 (Laughter)

16 MEMBER GOLDFEDER: And there is no objection from
17 the neighbors.

18 CHAIRMAN GESSIN: We have not received any.

19 MEMBER GOLDFEDER: The Board has not received any.

20 CHAIRMAN GESSIN: I don't think there's any house in
21 the Village that has this lot coverage.

22 MR. TERCHUNIAN: No.

23 CHAIRMAN GESSIN: That's the problem.

24 MR. TERCHUNIAN: These lots -- and just some
25 historical perspective for the Board. You know, Dune Lane

1 is its own little neighborhood where you have basically
2 5,000 and 10,000 square foot lots. And if you -- when
3 this house was originally built, it came in for a
4 variance, because it needed a variance for the rear yard
5 and the side yards, as well as the front yard. So it got
6 all of the -- and lot coverage. This lot already got a
7 variance just for this building to get built, because it
8 doesn't meet any of the zoning criteria. But the
9 rationale that the Board used at the time, and if you
10 review that decision, was they wanted to give them, you
11 know, an adequate, you know, interior -- basically, the
12 Board said, "We're going to give you this much lot
13 coverage, you guys decide how you want to use the exterior
14 and interior space." And the person who built the house
15 laid it out the way that they laid it out, with the
16 interior and exterior space. And they desired, clearly,
17 more interior than exterior, and they're obviously at a
18 lot coverage of 24.6%.

19 MR. BATCHELLER: That was a prior owner.

20 MR. TERCHUNIAN: That was a prior owner.

21 MR. BATCHELLER: The guy who built the house.

22 MR. TERCHUNIAN: The rationale of the Board was the
23 rationale of the Board. There aren't any other lots on
24 Dune Lane or anywhere else in the Village at 30% lot
25 coverage.

1 CHAIRMAN GESSIN: Yes.

2 MR. TERCHUNIAN: There's a few other lots that are
3 close to this in lot coverage, but I don't think there are
4 any that are more.

5 MR. BATCHELLER: Coverage is coverage.

6 MR. TERCHUNIAN: Yeah, coverage is coverage.

7 MR. BATCHELLER: But it is a deck. I mean, it's not
8 like a major impact. I mean, yes, it's square foot
9 coverage, but it's not like they're increasing the
10 building, it's just a deck. And the down -- the first
11 floor deck is staying -- is not being increased, it's just
12 the second floor.

13 MEMBER SARETSKY: And the concept of having it with
14 perforated material, that --

15 MR. TERCHUNIAN: Well, that doesn't speak to our
16 code.

17 MEMBER SARETSKY: Right.

18 MR. TERCHUNIAN: The DEC's code is a natural
19 resource-based code. Our code is a zoning based,
20 different standards.

21 MEMBER MIZZI: Sir, could I ask a question just
22 for --

23 MR. BATCHELLER: Yeah.

24 MEMBER MIZZI: I just want to make sure I understand
25 what you're asking.

1 MR. BATCHELLER: Okay.

2 MEMBER MIZZI: You have the picture there.

3 MR. BATCHELLER: Yeah.

4 MEMBER MIZZI: Come forward.

5 MR. BATCHELLER: So, okay. So this is an existing
6 house, correct?

7 CHAIRMAN GESSIN: Yeah.

8 MEMBER MIZZI: Just answer a question.

9 MR. BATCHELLER: All right.

10 MEMBER MIZZI: So this deck is coming forward?

11 MR. BATCHELLER: This deck is coming forward.

12 MEMBER MIZZI: By this amount?

13 CHAIRMAN GESSIN: And turning around the corner.

14 MR. BATCHELLER: Exactly. And it's tying in. This
15 deck, the first floor deck --

16 MEMBER MIZZI: Yes.

17 MR. BATCHELLER: -- goes out on the side.

18 MEMBER MIZZI: Right.

19 MR. BATCHELLER: Okay, here. See, that's the
20 walkway that's how it connects, so we're just filling in
21 that area.

22 MEMBER MIZZI: And what's below this right now?

23 MR. BATCHELLER: It's just land. Actually, the oil
24 tank is below that, the fuel tank.

25 MEMBER MIZZI: So this is a deck, first floor.

1 MR. BATCHELLER: Yeah.

2 MEMBER MIZZI: The deck becomes --

3 MR. BATCHELLER: What happens is this current
4 existing deck goes like this (indicating).

5 MEMBER MIZZI: Right.

6 MR. BATCHELLER: And so this -- so we're filling in
7 this area and we're increasing this area.

8 MEMBER MIZZI: But in terms of lot coverage, this is
9 not affected by lot coverage.

10 MR. BATCHELLER: Correct.

11 MEMBER MIZZI: There's already a deck there.

12 MR. BATCHELLER: Right.

13 MEMBER MIZZI: So it's this sliver?

14 MR. BATCHELLER: Yeah. Which is --

15 CHAIRMAN GESSIN: Six by whatever.

16 MR. BATCHELLER: Six by -- what's the dimension, 34

17 or --

18 CHAIRMAN GESSIN: 34.06.

19 MR. BATCHELLER: Yeah, yeah.

20

21 CHAIRMAN GESSIN: 6.17 by 34.06.

22 MR. BATCHELLER: So it's 204 square feet.

23 MEMBER MIZZI: Which you're asking for 270.

24 MR. BATCHELLER: Well, that's because of -- yeah,

25 I'm including that, but that should be deducted from the

1 lot coverage.

2 MEMBER MIZZI: Yeah. And then, I don't know, is
3 this -- in the current lot coverage, is this stair
4 computed?

5 MR. BATCHELLER: The stair is --

6 MEMBER MIZZI: Like if you were to take the existing
7 20 -- 1228 square feet, was this stair calculated in that?

8 MR. BATCHELLER: No, because the stairs don't count.

9 MEMBER MIZZI: Okay.

10 MR. BATCHELLER: So 204, so that would be 4%, as
11 opposed to 5.4, actually.

12 CHAIRMAN GESSIN: And where does this walkway go, is
13 this an elevated walkway?

14 MR. BATCHELLER: It's on the first floor. Yes, it's
15 in line with the first floor. It's hard to see on this
16 plan, but it's --

17 CHAIRMAN GESSIN: That's okay. Well, where does it
18 actually go?

19 MR. BATCHELLER: It just goes to the stairs to the
20 back of the house there, and I think there's a door.

21 MEMBER MIZZI: Do these stairs go down?

22 MR. BATCHELLER: Yes, to grade.

23 MEMBER MIZZI: From grade to basically this?

24 MR. BATCHELLER: Yes, essentially like that on the
25 side.

1 MEMBER SARETSKY: Those stairs are counted in the
2 coverage and the walkway?

3 CHAIRMAN GESSIN: Does that -- that walkway counts
4 in your coverage, right?

5 MR. BATCHELLER: This walkway is from the original
6 footprint, yes.

7 CHAIRMAN GESSIN: Yeah, I know, but it counts in
8 your coverage.

9 MEMBER MIZZI: It's 1228 square feet.

10 MR. BATCHELLER: Yeah.

11 MR. PROKOP: Excuse me. We have to -- this is a
12 public hearing. We can only -- I'm sorry.

13 MR. BATCHELLER: I don't know, I'd have to ask the
14 client.

15 MR. PROKOP: We just have to -- we have to have one
16 conversation. I'm sorry.

17 CHAIRMAN GESSIN: Are you the client?

18 MR. PENNESSI: No.

19 CHAIRMAN GESSIN: Oh, I thought you were the client.
20 Okay.

21 MR. BATCHELLER: No.

22 MEMBER MIZZI: Who is this guy? We keep seeing him
23 every week.

24 (Laughter)

25 CHAIRMAN GESSIN: We're trying to make it work for

1 you.

2 MR. BATCHELLER: I understand. Well, actually, so,
3 if we take that section out, that is -- that drops us down
4 to 4% increase. So now we're at 28% lot coverage. I
5 believe there's a door on the side here, I'm not certain.

6 MEMBER MIZZI: Would there be a -- I'm just
7 asking -- a consideration for adding lot coverage over a
8 stair? Because you're really not affecting like --

9 CHAIRMAN GESSIN: No, no. If he's stacking, he's
10 not increasing lot coverage.

11 MEMBER MIZZI: Right, but yeah. I'm just saying, is
12 like if this exists as-of-right, like adding a stair,
13 adding this section over a stair is really --

14 CHAIRMAN GESSIN: No.

15 MEMBER MIZZI: Yeah, you're not --

16 MR. BATCHELLER: Right.

17 MEMBER MIZZI: You're not affecting anything
18 relative to --

19 MR. BATCHELLER: If we take that out, it's another 1%.

20 MEMBER MIZZI: Yeah. It's like I think, personally,
21 looking at the photo -- so this is going to come out
22 further?

23 MR. BATCHELLER: Over in line with the existing.

24 MEMBER MIZZI: Yeah. So it would seem to me like if
25 it came out without going over, it might --

1 CHAIRMAN GESSIN: You're saying this he really has
2 already, so now we're down to this?

3 MEMBER MIZZI: Right.

4 CHAIRMAN GESSIN: So, if we can get rid of some of
5 this --

6 MEMBER MIZZI: Yeah.

7 CHAIRMAN GESSIN: -- and substitute it for this, he
8 may not even need a variance.

9 MEMBER MIZZI: Right.

10 MR. BATCHELLER: So you're suggesting maybe cut this
11 back.

12 CHAIRMAN GESSIN: Yeah. I think --

13 MR. BATCHELLER: We're not counting these stairs,
14 but we're cutting back this deck a little bit?

15 CHAIRMAN GESSIN: Well, this is part of your
16 coverage.

17 MR. BATCHELLER: Yeah.

18 CHAIRMAN GESSIN: So, if you can move this, the more
19 you remove here, the less of a variance. Maybe you don't
20 even need a variance.

21 MR. BATCHELLER: Now, one thing to tell you, but I
22 don't know if this makes any difference, the reason for
23 this is there's going to be a stair built in here to
24 connect the first floor.

25 CHAIRMAN GESSIN: Doesn't matter, you have that.

1 You have that already.

2 MR. BATCHELLER: Right, okay. I mean, I don't know
3 if we can pick up maybe 1%.

4 MEMBER MIZZI: He says there's no deck below here,
5 this piece.

6 MR. BATCHELLER: No, there is a deck here.

7 CHAIRMAN GESSIN: No, there's a deck there.

8 MEMBER MIZZI: Oh, there. I'm sorry. Got it, got
9 it, got it, got it.

10 CHAIRMAN GESSIN: So this shouldn't count. This
11 shouldn't count, this shouldn't count.

12 MEMBER MIZZI: Right.

13 CHAIRMAN GESSIN: And whatever he can give back
14 here, he doesn't have to ask for there.

15 MEMBER MIZZI: I agree.

16 CHAIRMAN GESSIN: Right?

17 MEMBER MIZZI: And this is -- yeah. This is access
18 down there, you could play with this. Maybe leave the
19 stairs drop sooner and then --

20 CHAIRMAN GESSIN: Where is that door? Where is the
21 door you're talking about?

22 MR. BATCHELLER: I'm not certain, I'd have to look.
23 There's a side door there.

24 MR. TERCHUNIAN: And what you're hearing from the
25 Board is --

1 MR. BATCHELLER: They want to see if we could --

2 CHAIRMAN GESSIN: Thirty percent is a problem.

3 MR. TERCHUNIAN: This lot's already been granted
4 substantial relief in order to build what's there, and the
5 builder made a choice, that's the way they wanted to do
6 it, and this person bought it in that condition, and we
7 want to accommodate them to the extent that we can.

8 MR. BATCHELLER: Right.

9 MR. TERCHUNIAN: But, clearly, whatever we give to
10 you, everybody on that street who's got a 5,000 square
11 foot lot is going to want the exact same thing, and
12 they're not going to care that it's a deck or a house when
13 it comes to coverage.

14 MR. BATCHELLER: I understand.

15 MR. TERCHUNIAN: You're treated the same under the
16 code.

17 MR. BATCHELLER: So I think that what's important to
18 the client is this deck in front.

19 CHAIRMAN GESSIN: Right.

20 MR. BATCHELLER: So it seems to me that we could
21 talk to her about --

22 MEMBER SARETSKY: Changing the side.

23 MR. BATCHELLER: -- you know, modifying. You know,
24 even if there is a door there, just put a stair to the
25 door and a platform, and that's it.

1 CHAIRMAN GESSIN: I think you have enough to give
2 back that you could probably accomplish it without a
3 variance.

4 MR. BATCHELLER: Yeah, okay. So --

5 MR. TERCHUNIAN: You still need the front yard
6 variance.

7 CHAIRMAN GESSIN: Yes.

8 MEMBER MIZZI: I'm just saying this is -- this still
9 wouldn't be forward of the adjacent neighbor.

10 MR. TERCHUNIAN: Right.

11 MEMBER SARETSKY: No, it would still be back.

12 MR. TERCHUNIAN: So that's not really the issue.

13 CHAIRMAN GESSIN: Yeah. We don't have a problem
14 with the forwardness of the deck.

15 MR. TERCHUNIAN: Well, before you go there, you
16 haven't really showed us what's going on on either side of
17 this. I mean, you gave us the example of the guys that
18 are closer.

19 MR. BATCHELLER: Right.

20 MR. TERCHUNIAN: But you really need to tell us
21 what's going on in this neighborhood. You know, you
22 cherry-picked, you know, three or four examples, but we
23 need to know really what's happening right around it.

24 MEMBER MIZZI: If you could just have a plan of
25 like -- of your property and the adjacent property,

1 because these sheets you're passing around, it's kind of
2 confusing.

3 MR. BATCHELLER: Okay. Hold on a second. Maybe
4 this will help.

5 MR. TERCHUNIAN: We can't review that.

6 MEMBER MIZZI: Yeah.

7 MR. TERCHUNIAN: Can't review that here. You really
8 need to put it on a site plan.

9 CHAIRMAN GESSIN: We need an area site plan with
10 three or four houses down the road.

11 MR. BATCHELLER: That's the Google map, Google
12 Earth.

13 MR. TERCHUNIAN: That's not a site plan.

14 MR. BATCHELLER: No.

15 MEMBER MIZZI: Just for -- out of curiosity, which
16 is yours?

17 MR. BATCHELLER: Actually, I have to think about
18 that. It's like a -- it's an old Google Earth. That one
19 right there.

20 MEMBER MIZZI: Right. If you were to make a drawing
21 that just showed these and, you know --

22 MR. BATCHELLER: So you want a site plan with
23 setbacks?

24 MR. TERCHUNIAN: If you go -- if you FOIL the
25 Village files on the previous applications, you're going

1 to see all the information is already there.

2 MR. BATCHELLER: Yeah, okay.

3 MR. TERCHUNIAN: This Zoning Board has done a lot of
4 work on Dune Lane.

5 MR. BATCHELLER: Okay, yeah.

6 MR. TERCHUNIAN: There's a lot of information in
7 those files.

8 MR. BATCHELLER: Okay. So what's the next step,
9 then, folks?

10 CHAIRMAN GESSIN: I would see how much you could
11 take off the rest of the house.

12 MR. BATCHELLER: Okay.

13 CHAIRMAN GESSIN: Then do the area site plan.

14 MR. BATCHELLER: Okay.

15 CHAIRMAN GESSIN: And come back at the next meeting.

16 MR. BATCHELLER: Okay. So present a site plan or a
17 modified --

18 MR. TERCHUNIAN: Yeah.

19 MR. BATCHELLER: A site plan of what we could do as
20 far as recalculate the lot coverage.

21 MR. TERCHUNIAN: You've got us focus in on the
22 house, and you've got to do some cleanups on that.

23 MR. BATCHELLER: Okay.

24 MR. TERCHUNIAN: But now we got to take a step back
25 and we've got to look at the bigger picture. If you come

1 in and FOIL the files, you're going to find this has been
2 done before.

3 MR. BATCHELLER: Right, right.

4 MR. TERCHUNIAN: So take a look at what they did.

5 MR. BATCHELLER: Okay. All right, no problem. All
6 right. Very good.

7 CHAIRMAN GESSIN: Because I think you should be able
8 to do --

9 MR. BATCHELLER: Yes.

10 CHAIRMAN GESSIN: The issue here is going to be the
11 coverage.

12 MR. BATCHELLER: Okay.

13 CHAIRMAN GESSIN: If you can get the coverage down
14 to neutral, to where you are now currently.

15 MR. BATCHELLER: To the same coverage?

16 CHAIRMAN GESSIN: Right. And then you're only back
17 here for a front yard --

18 MEMBER SARETSKY: Front yard.

19 CHAIRMAN GESSIN: -- variance.

20 MR. BATCHELLER: Okay.

21 CHAIRMAN GESSIN: Then you'll be -- you know, then
22 we'll --

23 MR. BATCHELLER: What if we come within a couple
24 percent?

25 CHAIRMAN GESSIN: You're really high.

1 MR. TERCHUNIAN: We just denied one.

2 MR. BATCHELLER: Okay.

3 MR. TERCHUNIAN: You heard the first decision of the
4 day, didn't you?

5 MR. BATCHELLER: Yeah.

6 MR. TERCHUNIAN: Just checking.

7 MR. BATCHELLER: Things didn't look so bad after
8 that.

9 CHAIRMAN GESSIN: And maybe you'll be five feet
10 rather than four feet, you know.

11 MEMBER MIZZI: And it's existing deck, so you've
12 added a certain amount. But maybe the existing deck adds
13 a certain amount. It's not the amount you're asking for,
14 so --

15 MR. BATCHELLER: Right.

16 CHAIRMAN GESSIN: Five rather than four, maybe, you
17 know.

18 MR. BATCHELLER: All right. Let me work on it.

19 CHAIRMAN GESSIN: Yeah. You have to get creative
20 with a chainsaw, that's all.

21 MR. BATCHELLER: At this point, the virtual
22 chainsaw.

23 MR. TERCHUNIAN: Well, that's way better than an
24 actual one.

25 (Laughter)

1 MR. BATCHELLER: All right. So we're going to
2 revisit next meeting?

3 CHAIRMAN GESSIN: Yeah.

4 MR. BATCHELLER: Okay.

5 MR. BATCHELLER: Get it together quick. We'll
6 schedule another meeting, and maybe we'll get done next
7 time.

8 MR. BATCHELLER: All right. Do I need to set
9 another --

10 MR. TERCHUNIAN: No.

11 CHAIRMAN GESSIN: No. We're going to put you over
12 to the next meeting.

13 MR. BATCHELLER: Thank you very much.

14 CHAIRMAN GESSIN: Thank you.

15 MEMBER MIZZI: Thank you.

16 MR. TERCHUNIAN: Make a motion to adjourn for all
17 purposes.

18 CHAIRMAN GESSIN: This application. So we're going
19 to adjourn this application to the next meeting.

20 MR. BATCHELLER: Okay.

21 MEMBER GOLDFEDER: I'll second it.

22 MR. TERCHUNIAN: For all purposes.

23 CHAIRMAN GESSIN: For all purposes. Okay.

24 MR. BATCHELLER: All right. Thank you very much.

25 MR. TERCHUNIAN: Thank you.

1 CHAIRMAN GESSIN: Do you want this back?

2 MR. TERCHUNIAN: No. We should have one set in the
3 file.

4 CHAIRMAN GESSIN: Okay. Laura you want to keep
5 them?

6 MS. AUDET: I have a question. When do you get to
7 ask a question, after --

8 MR. PROKOP: He'll ask for any comments.

9 MS. AUDET: Oh, okay.

10 MR. PROKOP: So what we'll do is we'll have the
11 presentation by the applicant, right, and then we'll have
12 any comments. Generally, the comments are organized by
13 comments in favor of the application, but it really
14 doesn't matter. But the order would be to have a
15 presentation by the applicant or the representative, and
16 then comments, and everybody -- everybody that would like
17 to speak can speak.

18 CHAIRMAN GESSIN: Okay. The next application is --

19 MR. PROKOP: Or if I could bother you for a second,
20 just we have the postings on this, right?

21 MS. DALESSANDRO: Yes. This is the one I showed you
22 before.

23 MR. PROKOP: Okay. So in this one, we have a -- I'd
24 like to state that we have record of the mailings. We
25 also have an affidavit that the -- the affidavit of

1 mailing and posting, as required by the Village Code.
2 Therefore, I'm recommending that it would be determined
3 that we have the jurisdiction to proceed with the public
4 hearing, and that the affidavit be accepted as Document
5 Number 1 for the record.

6 CHAIRMAN GESSIN: Okay.

7 MR. MERRELL: I have a question. Pursuant to Code,
8 Section 560-49(H) of the Village Code, we were not
9 notified.

10 MR. PROKOP: What section is that?

11 MR. MERRELL: Section 560-49(H) of the Village Code.
12 The parcels abating and directly opposite of the applicant
13 property are subject to proof and we have not been sent
14 anything with proper notice to --

15 MS. PETINO: We weren't notified.

16 MR. MERRELL: We weren't notified, so we could
17 schedule our objections to the proposed application.

18 MR. PROKOP: Okay. So the way we need to work this
19 is the first time that you comment, we need to have you
20 say your name and address for the record.

21 MR. MERRELL: James Merrell, I said it once.

22 MR. PROKOP: If you don't want to say it again, you
23 don't have to, but then you won't be allowed to speak. So
24 the rule is that if you want to speak for the first time,
25 please, sir, if you could just give your name and address

1 for the record.

2 MR. MERRELL: My Name is James Merrell.

3 MR. PROKOP: And what is your address, please, in
4 the Village?

5 MR. MERRELL: In the Village, 834 Dune Road.

6 MR. PROKOP: Okay, thank you.

7 MS. PETINO: A.

8 MR. MERRELL: A.

9 MR. PROKOP: I'm sorry, but we just need it to
10 create a record. So 834A?

11 MR. MERRELL: A.

12 MS. PETINO: Yes.

13 MR. PROKOP: Okay. And you're speaking also? Are
14 you -- do you want to comment on the record as to this
15 point?

16 MS. PETINO: I'm just adding the A, so you have the
17 proper address.

18 MR. PROKOP: Okay. Thank you.

19 MR. MERRELL: She's reminding me.

20 MS. PETINO: Carol Patina.

21 MR. MERRELL: Okay. Pursuant to the Village Code,
22 Section 560-49(H), parcels abating and directly opposite
23 the property must be served. We were not served and there
24 is no notice.

25 MR. PROKOP: Okay. So where does your property fall

1 within -- with regard to 836? You're 834, right, 834A?

2 MR. MERRELL: Yup.

3 MR. PROKOP: So what, are you adjoining?

4 MR. MERRELL: No, we're not adjoining. According to
5 Google Maps, we're opposite.

6 MS. PETINO: Here we are.

7 MR. MERRELL: We're opposite, with Daisey Lane in
8 between us.

9 MS. PETINO: We're his neighbor here.

10 MR. MERRELL: With Daisey Lane in between us.

11 MR. PROKOP: Aram, do you have a comment about this?

12 MR. TERCHUNIAN: Yeah. Notice is proper on this.

13 We examined that issue when the applicant came to us, and
14 the opposite refers to across the street.

15 MR. MERRELL: We are across the street.

16 MR. TERCHUNIAN: Daisey Lane is not a street.

17 MR. MERRELL: It is recognized by Google Maps.

18 SERGEANT HENNIG: It's not recognized by the Village
19 of Westhampton Dunes.

20 MR. MERRELL: So It is a legitimate street. It's a
21 private street, but it's still a street.

22 MS. PETINO: It's still a street.

23 MR. MERRELL: A Street is a street.

24 MR. TERCHUNIAN: It is a private parcel, not a
25 street.

1 MR. MERRELL: Well, you're creating a -- to appeal
2 anything done by the Board.

3 SERGEANT HENNIG: That's according to Google Maps,
4 that's not according to the Village. I've been here 17
5 years. That's not been a street in this Village. It's a
6 private easement, that somewhere along the line,
7 somebody --

8 MR. MERRELL: It is a private street, we're not
9 arguing that.

10 MR. PROKOP: You didn't receive --

11 MS. AUDET: I don't know. I haven't been home, so I
12 don't know if I got one or not.

13 MR. PROKOP: Okay.

14 MR. MERRELL: Okay. The other question is --

15 MR. PROKOP: One second.

16 MR. MERRELL: -- across the street --

17 MR. PROKOP: Just wait a second.

18 MR. MERRELL: Okay.

19 MR. PROKOP: Please. We got to get the first thing
20 taken care of. But the problem is there's other
21 properties between you.

22 MS. PETINO: There are no properties between --
23 Patina.

24 MEMBER GOLDFEDER: They're here.

25 MR. TERCHUNIAN: Joe, you're correct, there is

1 actually a separate parcel. There's a flag portion.

2 MEMBER MIZZI: A flag lot, yeah.

3 MR. TERCHUNIAN: A separate parcel. It abuts 836
4 directly, and then so-called Daisey Lane, which is a
5 private piece of land.

6 CHAIRMAN GESSIN: Okay.

7 MR. PROKOP: I know that there's -- so there's a
8 couple -- there's a couple -- and I'm speaking to the
9 Board now. So we have somebody here who's claiming that
10 they didn't get notice. And there's a couple problems,
11 and I think it's going to raise another point. So we're
12 just talking about we do have a requirement that adjoining
13 properties have to get notice, okay? So I believe -- the
14 first thing is that I believe that this is not an
15 adjoining property. And, I'm sorry, I think his claim is
16 that he's across the street from -- opposite, opposite the
17 subject property, and that there's a street. But I think
18 it's not a street, I think it's actually a property.

19 But the other thing, though, legally, if somebody
20 raises an objection to notice and they're present at the
21 hearing, the objection is waived. If he didn't appear and
22 he found out about this, and then, you know, a couple of
23 months later, a couple of weeks later, objected --

24 MR. MERRELL: My name is James Merrell. I believe
25 you're wrong with that. There is a five-day period, so

1 that you could establish your information to appeal
2 something, which was not given.

3 MR. PROKOP: Okay.

4 MR. MERRELL: So, actually, and according to my
5 attorney, you are wrong.

6 MR. PROKOP: Okay. Well, I'm sorry. Were you going
7 to make a second objection? Was there a second thing?

8 MR. MERRELL: Yes, there is a second objection. Has
9 Suffolk County been notified?

10 MS. DALESSANDRO: Yes, they have.

11 MR. PROKOP: Yes.

12 MR. MERRELL: Wait. They're Certified?

13 MS. DALESSANDRO: Yes. They're always notified.

14 MR. PROKOP: And did we get back --

15 MS. DALESSANDRO: We did not get anything back yet.
16 They have five days.

17 MR. PROKOP: Okay. What was the date that they were
18 notified?

19 MS. DALESSANDRO: The 23rd of February.

20 MR. MERRELL: I do feel that an issue that we have
21 driven up, the substantial increase of his property in the
22 past at other meetings, that the fact that he failed to
23 notify us shows a willful disregard of the spirit of the
24 law.

25 MS. PETINO: In the spirit of neighbors in

1 proximity. Petino.

2 MR. MERRELL: Which is true.

3 MR. PROKOP: Okay. So the two objections that we
4 have so far, the first one is -- as I said, I don't think
5 that the -- that this gentleman was required to get
6 notice, because I don't believe that he's either opposite
7 or adjacent to the property. And the second -- the
8 second -- if you want, would you like to make that --
9 since you have an objection and a comment, would you like
10 to make that part of the record or the file? I mean, you
11 can do that.

12 MS. PETINO: Yes.

13 MR. MERRELL: Yes.

14 MR. PROKOP: Okay. Could you just write your name
15 on there and then --

16 MS. PETINO: Sure.

17 MR. PROKOP: Then we'll include it as part of the
18 record. So that's the first point. I think that we can
19 proceed.

20 And the second -- and following that, I would like
21 to say that it's my understanding that if the person -- if
22 somebody doesn't have notice or objects to notice, that
23 their appearance waives the lack of notice, but he has --
24 Mr. Merrell respectfully has an answer to that.

25 The second point about the notification to Suffolk

1 County, so the notification to Suffolk County is required,
2 which we did, in the time period. It used to be 30 days.
3 It's been increased. It's either 45 or 60 days, but
4 it's -- we're not -- whatever it is, we're not -- we're
5 still within the notice period, we haven't gone beyond it
6 yet, and we don't have a response.

7 So what that affects is that we can have a public
8 hearing, but we can't take any action. What the --
9 Section 239-L, M and N of the General Municipal Law, of
10 which governs this notice requirement, and also the
11 Suffolk County Charter, required the notice to be given,
12 but the notice -- the notification and the notice period
13 are -- precede action by the Board, not the public
14 hearing. So we're allowed to have a public hearing on
15 this application, we just can't take any action on it.

16 CHAIRMAN GESSIN: Can't vote.

17 MR. PROKOP: Can't vote, right.

18 CHAIRMAN GESSIN: Okay.

19 MR. PROKOP: Are you in agreement with that, Aram?

20 MR. TERCHUNIAN: Yes, completely.

21 MS. AUDET: So can we ask questions now, or you're
22 waiting for --

23 MR. TERCHUNIAN: We still have a -- if you have an
24 objection --

25 MR. PROKOP: We're not going to get there until

1 about two o'clock.

2 MS. AUDET: Okay.

3 (Laughter)

4 MR. TERCHUNIAN: Just to set the table, we had --
5 the Attorney advised the Board they have jurisdiction to
6 hear the case. If you have a question about jurisdiction,
7 we can talk about that now. If you have a question about
8 the case, we need to let the applicant tell us what their
9 case is.

10 MS. AUDET: Great.

11 MR. TERCHUNIAN: And that's where we are now, I
12 think, Mr. Chairman.

13 CHAIRMAN GESSIN: Okay. So can we start?

14 MR. PROKOP: So we can start the public hearing, and
15 the objection is preserved. You know, if there was an
16 objection, I'm recommending that you start the public
17 hearing, and we just can't take any action. The public
18 hearing should be adjourned as open when we get to that
19 point.

20 CHAIRMAN GESSIN: Okay. Ready to start the hearing?

21 MR. NELSON: Okay. My presentation is that several
22 weeks ago, I was informed that I needed a variance for my
23 front yard setbacks.

24 My name is Yale Nelson, Y-A-L-E, N-E-L-S-O-N, 836
25 Dune Road.

1 I am not asking for any additional lot coverage.
2 The setbacks that I am asking are very similar to the ones
3 you approved earlier today. I put together the numbers,
4 with a lot of help, as best I could, and applied for my
5 permit in good faith, initially, not realizing that I
6 needed the setbacks, the variance for the setbacks.
7 So, hopefully, I could answer whatever questions you have.
8 If it's technical, I'll have to defer to others that are
9 more knowledgeable than I.

10 MR. TERCHUNIAN: Well, Yale, why don't you tell the
11 Board the specific relief that you asked for your in your
12 application.

13 MR. NELSON: The specific relief?

14 MR. TERCHUNIAN: Yeah. You asked for some very
15 particular things. Why don't you just tell them what they
16 are.

17 MR. NELSON: Okay. So I'm asking for a lot coverage
18 variance of 3.6% to maintain my existing lot coverage of
19 23.6%. Okay. I'm asking for a front yard variance of
20 20.4 feet, for a front yard setback of 39.6 feet to the
21 house, when 60 feet is the minimum front yard setback.
22 I'm asking for a front yard variance of 33.9 feet, for a
23 front yard setback of 36.1 to the deck, when 70 feet
24 minimum front yard setback is required. I'm asking for a
25 front yard variance of 20.4 feet to allow a front yard

1 setback of 39.6 feet for a proposed second floor deck,
2 when 70 feet minimum is required. And I'm asking for a
3 front yard variance of 33.9 feet to allow a front yard
4 setback of 36.1 feet to a proposed second floor balcony,
5 when 70 feet minimum front yard setback is required.
6 Again, it is all very similar to what you approved this
7 morning.

8 MR. TERCHUNIAN: So, just for the Board's
9 information, there's no request for a rear yard variance
10 or for side yard variances. This application appears to
11 be consistent with those requirements.

12 MEMBER GOLDFEDER: Well, there is an easement on the
13 west side.

14 MR. TERCHUNIAN: Yes.

15 MEMBER GOLDFEDER: And there is a driveway on the
16 right side.

17 MR. TERCHUNIAN: That's right. But neither one of
18 them affect the setback distances.

19 MEMBER GOLDFEDER: Exactly.

20 MR. PROKOP: So, by way of creating a record for the
21 Board, what I'd like to say as a Village Attorney is that
22 I wanted to be -- to state on the record, yeah, I think
23 it's public knowledge, but I would like to state on the
24 record that the -- there was an existing house at this
25 property. The lot coverage of the existing house was

1 preserved as-of-right under the action of Rapf vs. The
2 United States, and which was a Federal lawsuit that the
3 property owners in the Village were involved in at one
4 point in time.

5 The Village granted a building permit to the
6 applicant, which is still existing, to build out the --
7 and, actually, the structure that is contemplated is under
8 construction at the site, and is at some stage of that
9 construction, I'm not sure exactly what the stage is.
10 And I just ask Aram, is there anything that I said that's
11 correct -- I mean, excuse me, that is incorrect or that
12 you would like to comment on?

13 MR. TERCHUNIAN: You're correct.

14 MEMBER GOLDFEDER: And with an approved building
15 permit?

16 MR. TERCHUNIAN: Yeah, a permit. A building permit
17 was applied for. A building permit was granted for lot
18 coverage no greater than what previously existed. The
19 Village is bound by the Federal Court order to grandfather
20 the lot coverage of any preexisting structure. And it
21 wasn't until after the fact that the Building Department
22 realized that the -- that there was an issue with the
23 front yard. Even with the preexisting house, it was
24 nonconforming. And, at that point, we contacted Mr. and
25 Mrs. Nelson and they made the application that's in front

1 of you today.

2 MR. PROKOP: It essentially has to do with the
3 raising of the house and the height structure of the new
4 house. That's basically what we're dealing with. The
5 issue is created by it.

6 CHAIRMAN GESSIN: So the issue is because he built
7 the new house, is that the issue?

8 MR. TERCHUNIAN: Yeah. The issue is, built it and a
9 second story.

10 CHAIRMAN GESSIN: Oh, the second story.

11 MR. TERCHUNIAN: In other words, you know, the first
12 story is grandfathered, but the second story is new
13 construction within the required front yard setback.

14 CHAIRMAN GESSIN: I got it, okay. So it's purely
15 just the second story. Yeah, okay.

16 MEMBER MIZZI: I just have one question. Was it
17 determined that this -- I don't have anything but the
18 plan, but this section that sticks out is a second story
19 cantilever. That does not apply to the side yard setback?
20 I'm seeing that we're using the dimension of 17.4 and I
21 see this thing.

22 MR. TERCHUNIAN: Those access decks around side,
23 this runs from the front to the back, all the way to the
24 back.

25 MEMBER MIZZI: Right.

1 MR. TERCHUNIAN: So that's an access deck, and
2 that's not typically included in the side yard setback,
3 because it's for access only.

4 MEMBER MIZZI: It's permissible?

5 MR. TERCHUNIAN: Yeah.

6 MEMBER MIZZI: On both sides?

7 CHAIRMAN GESSIN: In walk-around decks.

8 MEMBER SARETSKY: Depends on what that is.

9 MR. TERCHUNIAN: Four feet or less.

10 MEMBER SARETSKY: Four feet or less.

11 CHAIRMAN GESSIN: What Joe says, he thought that
12 normally walk-around decks are one side only.

13 MR. TERCHUNIAN: I'd have to ask Joe on that.

14 MR. PROKOP: Walk-around deck was -- I don't know
15 what a walk-around deck is. You're allowed a walkway to
16 get from the front to the back on one side, and it has to
17 be four feet or less. I mean, that's what my
18 understanding is. Obviously, I'm not the Building
19 Inspector.

20 MEMBER MIZZI: I don't know how that affects the
21 side yard, but just -- like I don't know what the minimum
22 permissible --

23 MR. TERCHUNIAN: But then that's calculated in the
24 side yard, anyway, right, the setback is to the deck, yes?

25 MEMBER MIZZI: I'm not sure. I'm just -- I'm not

1 seeing -- oh, 13.

2 MR. TERCHUNIAN: Yeah.

3 MEMBER MIZZI: Yeah.

4 MR. TERCHUNIAN: Is that here?

5 MEMBER MIZZI: So it's 13 and 17.

6 MR. TERCHUNIAN: And 13. This 17 is to the
7 building. It's actually 13 to the deck, and that
8 complies.

9 MEMBER MIZZI: Got it.

10 CHAIRMAN GESSIN: From this picture, you can see
11 he's clearly further back than 836A, which is the one we
12 approved this morning. This is 836A.

13 MEMBER MIZZI: Right.

14 CHAIRMAN GESSIN: And that's -- you can see him
15 pushed back, pushed all the way back.

16 MEMBER MIZZI: Oh, yeah. I was just asking about
17 the side yard setbacks.

18 CHAIRMAN GESSIN: Oh, side, okay. I guess I moved
19 on that one, huh?

20 MEMBER MIZZI: Yeah, thanks.

21 CHAIRMAN GESSIN: Do you want to see it?

22 MEMBER SARETSKY: No, I saw it before.

23 CHAIRMAN GESSIN: You want to see any of these?

24 MEMBER GOLDFEDER: No, thank you. Sorry.

25 MR. TERCHUNIAN: So I don't know if the Board has

1 any questions, but just to summarize what I hear has been
2 presented is that the side yards and the rear yards are in
3 compliance, the front yard is a request for a variance,
4 and the request for the variances on the front yard are
5 less than what was approved at the next door neighbor
6 earlier in the meeting, and that the lot coverage is going
7 to stay the same as it is.

8 CHAIRMAN GESSIN: At 23.6, right?

9 MR. TERCHUNIAN: 23.6.

10 CHAIRMAN GESSIN: Right.

11 MEMBER SARETSKY: I mean, Aram, should we talk about
12 the fact that these two lots are sort of unique and --

13 MR. PROKOP: Well, no. It would take -- excuse me
14 for a second. That would be really -- anyway, what I
15 would do is like open up the -- excuse me, I'm sorry.

16 CHAIRMAN GESSIN: Okay.

17 MR. PROKOP: Open up to other comments.

18 MEMBER SARETSKY: Sure, okay.

19 CHAIRMAN GESSIN: You mean, from the --

20 MR. PROKOP: From the public.

21 CHAIRMAN GESSIN: From the public. Does anybody
22 have any comments?

23 MS. AUDET: I have a question.

24 CHAIRMAN GESSIN: Sure.

25 MS. AUDET: I'm just confused about --

1 MR. TERCHUNIAN: Would you just say your name,
2 please?

3 MS. AUDET: Oh, sorry. Liz Audet, 836B Dune Road.
4 I'm just confused as to why we're here now. Is it
5 because the Building Department made a mistake and didn't
6 realize he needed a variance?

7 MR. PROKOP: Yeah, that's basically it, right.

8 MS. AUDET: Because the house is already built.
9 Really, it's all framed out, so --

10 MR. PROKOP: Yeah. This is something that --

11 MS. AUDET: -- it's not like you can really complain
12 about it now, right, because it's already done?

13 CHAIRMAN GESSIN: Well, it's not done, it's being
14 constructed, right.

15 MS. AUDET: Well, I mean -- but I don't think you're
16 probably in a position to start -- and I don't really
17 care. I think people should be allowed to build what they
18 want to build within what the Town allows, so I don't have
19 a problem with that. It's just that I was confused to
20 get -- you know, to find out that after the house is
21 already framed and done, now there's a meeting about it,
22 so -- and then I noticed on the initial survey versus the
23 one now, you know, some of the measurements have changed.

24 CHAIRMAN GESSIN: I only have what's in front of me,
25 I don't know.

1 MS. AUDET: From the previous, you know, stuff. I
2 got this from the FOIL in the --

3 MR. TERCHUNIAN: Mr. Chairman, what Ms. Audet is
4 showing you is the previously existing structure on the
5 lot.

6 CHAIRMAN GESSIN: Oh.

7 MR. TERCHUNIAN: Which was of different dimensions,
8 but the same lot area.

9 CHAIRMAN GESSIN: I got it, okay.

10 MS. AUDET: Well, it says like the back of the --
11 where the house ended used to be -- wait a minute -- 50.2
12 feet from my property line, and now it's 49.7, not that,
13 you know --

14 CHAIRMAN GESSIN: Almost the same.

15 MS. AUDET: That really doesn't matter so much to
16 me, it's just that I'm on wondering now, are these right,
17 the new dimensions? Like who --

18 MR. TERCHUNIAN: Ms. Audet, if I could answer your
19 question.

20 MS. AUDET: Sure.

21 MR. TERCHUNIAN: What you're holding in your right
22 hand --

23 MS. AUDET: Yes.

24 MR. TERCHUNIAN: -- is what's proposed to be
25 approved at this hearing.

1 MS. AUDET: Okay.

2 MR. TERCHUNIAN: What you're holding in your left
3 hand was the house that preexisted that was knocked down.

4 MS. AUDET: Oh, okay. So -- but was this one in the
5 left, was this submitted for the first --

6 MR. TERCHUNIAN: No.

7 MS. AUDET: That he got approved for?

8 MR. TERCHUNIAN: That was what existed on the site.

9 MS. AUDET: Okay.

10 MR. TERCHUNIAN: That was the building that was
11 there.

12 MS. AUDET: Okay.

13 CHAIRMAN GESSIN: The preexisting --

14 MEMBER MIZZI: The house that was knocked down.

15 CHAIRMAN GESSIN: The preexisting house.

16 MS. AUDET: Right, no. I remember, yeah, and they
17 took down the house and now this is what we have.

18 MR. TERCHUNIAN: Right. They actually only -- they
19 left the foundation. They just --

20 MS. AUDET: The pilings.

21 MR. TERCHUNIAN: Yeah, the pilings, that's right.

22 MR. MERRELL: My question is, this is being
23 considered new construction? James Merrell.

24 MR. PROKOP: So, anyway, Ms. Audet's question is
25 that -- I mean, you know, this is something that happens

1 fairly often in municipalities where there's a -- you
2 know, an approval is given, then you realize afterwards
3 that a variance might have been needed, or something else,
4 you know. So that -- and that's what happened here, and
5 that's basically why we're here.

6 The Village and the Building Inspector are
7 protected. There's -- but we have to go back. You know,
8 we sort of have to back up now and go back through to the
9 approval that was necessary from the ZBA. And the ZBA is
10 -- the ZBA is starting from zero. You're consideration
11 also is --

12 CHAIRMAN GESSIN: As if nothing is there.

13 MR. PROKOP: Yeah. Although, to some extent, it is
14 relevant as a hardship. The fact that the applicant could
15 make the statement that, you know, that there is some
16 hardship, because he was allowed to build, but I'm not --
17 neither Aram nor I are speaking on behalf of the applicant
18 or making comments on the record for their testimony.

19 CHAIRMAN GESSIN: Right.

20 MR. PROKOP: I'm just -- you know, just wanted to
21 answer that question, since it's being raised. But that's
22 why -- that's basically why we're here.

23 So the fact is that -- and I put down on record
24 before we started, I wanted to put on the record that
25 there is a house under -- that was under construction.

1 I'm not sure if it's ongoing, or stopped, or whatever, but
2 the -- that's known.

3 CHAIRMAN GESSIN: Okay.

4 MR. TERCHUNIAN: Mr. Merrell, you had a question?

5 MR. MERRELL: Yes, I have a number of questions.

6 MS. PETINO: I have one question. Is it new
7 construction?

8 MR. MERRELL: Is this house considered new
9 construction or existing construction?

10 CHAIRMAN GESSIN: I have no idea.

11 MR. MERRELL: The house, is it new or existing?

12 MR. TERCHUNIAN: It's my opinion that this is
13 reconstruction and addition, because the foundation was
14 preserved and that preserves the right of the owner

15 MR. MERRELL: Okay. Under the Village Codes, and
16 this is very clear, Section -- Section 560-8, he must have
17 applied for a variance before he started on any
18 construction, whether it's existing or not, of 20%. Now,
19 there's also a question about his 23%. It is the original
20 house.

21 MR. PROKOP: I'm sorry, could I -- I know you're --

22 MR. MERRELL: Section 560-8.

23 MR. PROKOP: I know, but what's your point?

24 MR. MERRELL: Okay. The point is it clearly states,
25 before any building permit should be issued for any

1 construction, whether existing, or approval, or new, of
2 20% must go through the Zoning Board first before a
3 building permit is issued. There is no ifs, ands or buts
4 about it. Okay. Now, it does have a provision for
5 grandfathering, but the problem is you're using the
6 lawsuit as a grandfather thing. But he has no -- the
7 house was not built, rebuilt with the proper -- proper
8 variances with the decks after the hurricane. And there
9 is a survey showing, after the hurricane, the house
10 existing with different decks.

11 So the 23% is incorrect. He has less than 23%. He
12 has to apply for that 3.8%, because he had no previous
13 variances. And on the previous application, you did talk
14 about the variances in the record. There is no variances
15 on this, period.

16 Second of all, the mismeasurements of the house are
17 impossible to figure out. And under the Village Code
18 itself, it says that any layman should be able to read the
19 plans. Now we have had people say, "Oh, only experts,"
20 blah, blah, blah. We have figured out the square footage
21 of the house, and even from just the scaling of the house,
22 he's applying for 25.6. But, if you add up some of the
23 measurements on the house, the drawings are not precisely
24 to scale. The one side measures 62 feet by scale, but
25 when you measure it using his measurements off his plans,

1 it's 64-feet-point-six, which is a 1% increase just right
2 there with one mistaken measurement.

3 So I'm proposing that all the drawings have to have
4 accurate measurements that could be interpreted.

5 Second, he must apply for the 6 or 7% increase that
6 he is really trying to go. And all of this hardship is
7 being created by him because not following the Village
8 Codes.

9 MR. TERCHUNIAN: Let me see if I can summarize what
10 you said. Your first point is that he needed to apply for
11 a variance before he applied for a permit?

12 MR. MERRELL: Yes.

13 MR. TERCHUNIAN: And your second point is that the
14 plans that you've reviewed, that you've measured, don't
15 add up to the information that we've been given?

16 MR. MERRELL: Correct.

17 MR. TERCHUNIAN: Is there a third point?

18 MR. MERRELL: There is a third point. The 23% that
19 he's alleging, he never had a variance for that extra 3%.
20 And in the previous application, you did talk about the
21 variances on record. Now, there is no variances on
22 record. And using the -- using the lawsuit as a
23 free-for-all to say that it was there doesn't include the
24 fact that the house was rebuilt much further after the
25 hurricane, because it was still there during the

1 hurricane, and the decks were there, and the survey is
2 after the hurricane.

3 MR. PROKOP: Just so that --

4 MR. MERRELL: So there is a survey from 1995, that's
5 after the hurricane.

6 MR. PROKOP: Okay.

7 MR. MERRELL: That's why he has to -- that's what he
8 has to build to, unless he has preexisting variances, and
9 there is none in the building records. In fact, when we
10 looked at the file, there was two pages on his thing the
11 first time.

12 MR. PROKOP: So I guess what he's saying, if I
13 understand him correctly, is that the -- there's a
14 question about what is as-of-right here, because the -- I
15 think he's saying that the -- there's a survey, the survey
16 before -- the pre-lawsuit survey and the post-lawsuit
17 survey, or the pre-washout survey and the post-washout
18 survey are different.

19 MR. MERRELL: No, it was bad, for the record. There
20 are three surveys after the washout. The one in 1995 is
21 after the washout. It does not show the decks that he's
22 proposing as the same house, as this preexisting. Now, if
23 he has not gone through increase of the zoning -- of the
24 lot coverage for that, that is not as-of-right, because
25 what you're saying by approving that is that if somebody

1 had build 100% of their lot with deck and had no -- just
2 because it was after the hurricane, they could build 100%
3 of their deck, 100% of their lot.

4 You're setting a very bad precedent, that stuff that
5 was improperly built without the proper Zoning Commission
6 is considered pre -- as a grandfathered situation that
7 could be built on. And all of this hardship has been
8 created by Mr. Nelson, because he didn't follow the
9 Village Codes, which clearly states that 20 -- that
10 anything over 20% should go through the Zoning Board
11 first. And the first thing the Building Department should
12 have said, which denied us and kept saying, until we dug
13 it out of the record, that all construction of anything --
14 and you just heard that little deck that wanted to go a
15 few feet has to go through here. And if this is not done,
16 it changes the whole nature of the dune. And, also, there
17 is real safety issues with future floods and washouts with
18 maximum coverage.

19 CHAIRMAN GESSIN: Okay. How did you measure the
20 footage of this house?

21 MR. MERRELL: I measured it two ways. One, on the
22 plans, I measured -- I added up the side measurements of
23 the plans. Second of all, I went to the Building
24 Department and used the scale and scaled it.

25 CHAIRMAN GESSIN: Okay.

1 MR. MERRELL: And I've also had 40 years of building
2 experience.

3 CHAIRMAN GESSIN: This was done by computer by the
4 surveyor.

5 MR. MERRELL: That Doesn't matter what the survey
6 says, it's not --

7 CHAIRMAN GESSIN: This footprint was done by the
8 computer.

9 MR. TERCHUNIAN: Right.

10 CHAIRMAN GESSIN: It says 23. --

11 MR. MERRELL: No, he doesn't even have 23. The 23
12 is established on a house that was there -- that was built
13 improperly after, after --

14 MR. TERCHUNIAN: Mr. Merrell, can I address your
15 points? You've made your points.

16 MR. MERRELL: Okay.

17 MR. TERCHUNIAN: You have three points, so they
18 deserve to be addressed.

19 MR. MERRELL: Okay.

20 MR. TERCHUNIAN: So let's address them.

21 CHAIRMAN GESSIN: I measure all the time, I do this
22 for a living. I can't compete with a computer. I'll
23 never come out with the same number.

24 MR. TERCHUNIAN: So your first point is that he
25 needed to apply to the Zoning Board.

1 MR. MERRELL: Right.

2 MR. TERCHUNIAN: Okay. So let me explain the
3 procedure in this Village, and all Villages, is that your
4 first stop is always to the Building Department and you
5 make your application there. And if the Building
6 Inspector deems that he could issue a permit, then he
7 does. And if he deems or she deems that they can issue a
8 permit, or they cannot issue a permit, then they will tell
9 you the reasons why and refer you to the Zoning Board.

10 MR. MERRELL: Right.

11 MR. TERCHUNIAN: In this particular case, the
12 sequence appears to have been that the Nelsons arrived,
13 they applied for a building permit, and the Building
14 Department made an error, and they issued a building
15 permit when they should have referred it to the Zoning
16 Board.

17 MR. MERRELL: Correct.

18 MR. TERCHUNIAN: So the Nelsons didn't do anything
19 improperly.

20 MR. MERRELL: I didn't say that, I said the Village.

21 MR. TERCHUNIAN: Now's the time where I'm responding
22 to you.

23 MR. MERRELL: Okay.

24 MR. TERCHUNIAN: So, number one, the sequence is
25 Building Department first always, not Zoning Board first,

1 that's number one. Number two, well, number two, you say
2 that you have scaled the plans that were submitted.

3 MR. MERRELL: Right.

4 MR. TERCHUNIAN: And you have arrived at different
5 numbers.

6 MR. MERRELL: Correct.

7 MR. TERCHUNIAN: This Village and all Villages
8 require that building plans and surveys be submitted by
9 licensed professionals who carry air ozone emissions
10 policies who have to back up what they submit to us with
11 those policies and their professional licenses. We need
12 to not substitute our judgment against a professional
13 who's licensed by the State of New York to practice that
14 field.

15 And so, whereas I appreciate -- I have gone through
16 many of the same things you have. The fact of the matter
17 is if the Village is presented with a document by a
18 licensed professional who's licensed by New York State
19 Education Department, that is presumptive as being
20 accurate. And we'll, obviously, be happy to take a look
21 at it again, but that is the procedure that is followed
22 universally throughout New York State.

23 Your third point was that you dispute the fact that
24 the preexisting, the legal preexisting coverage is 23.6%,
25 and you're pointing out to the Board that if they want to

1 consider the 23.6%, it's not necessarily grandfathered.

2 MR. MERRELL: Correct.

3 MR. TERCHUNIAN: And I would point out to you, thank
4 you for that information, we'll review it, but, in fact,
5 the applicant has requested the proper relief, which is
6 23.6% or 23.6 overall.

7 So the thing that's in front of the Board is, in
8 fact, the thing that they're asking for. The Board can
9 consider all of the facts in the case, including the
10 grandfathering and the Rapf, et. al., and the application
11 on its merits absent those things.

12 MR. MERRELL: Yes, but in the building code --

13 MS. PETINO: May I talk?

14 MR. MERRELL: Go ahead.

15 MS. PETINO: Okay. All right. I think we're going
16 to need a backup of the surveys, because -- oh, Carol
17 Petino. I did an overlay on the computer --

18 CHAIRMAN GESSIN: Sure.

19 MS. PETINO: -- where the houses really do overlay,
20 they all match. Look at this.

21 MEMBER MIZZI: Which houses are you referring to?

22 MS. PETINO: Here we are in 1995.

23 MEMBER SARETSKY: Existing.

24 MR. MERRELL: That's the only thing he has a right
25 to build to.

1 MS. PETINO: Now we're in '14. The house matches
2 right up. This is the house. Here's the deck without the
3 variance. And now let's go to the new house. It goes
4 right top again. Line it up from the septic tanks. These
5 lines, I don't know what happened, it seems to be
6 stretched or something, because it does not line up.

7 MEMBER MIZZI: Which lines?

8 MS. PETINO: The easement.

9 MEMBER MIZZI: Okay.

10 MS. PETINO: But the rest of it all seems to line
11 up. But the strange part is --

12 MEMBER GOLDFEDER: The west side of the easement.

13 MS. PETINO: Yes.

14 MEMBER MIZZI: You're saying -- you're saying this
15 one, aside from the easement lines, lines up with the
16 prior survey?

17 MS. PETINO: Oh, yeah. You'll see everything goes
18 right on top over there.

19 MR. TERCHUNIAN: Ma'am, are you submitting this for
20 the record?

21 MS. PETINO: I'm going to have to do another one,
22 because this is the only one I have. I'll get you better
23 paper.

24 MR. TERCHUNIAN: The Board can't consider it until
25 it's given to them.

1 MS. PETINO: Well, then I can put this in the
2 record. They can certainly look at it now. I could
3 submit it tomorrow.

4 MR. TERCHUNIAN: You can submit it tomorrow?

5 MS. PETINO: Perhaps if I'd had a little bit more
6 notice --

7 MR. TERCHUNIAN: As long as we have a copy for our
8 file.

9 MS. PETINO: Yes, you will. You finish, and then I
10 want to say something.

11 MEMBER MIZZI: So you're presenting that the current
12 house, pretty much with the exception of some corners,
13 overlays to the house that existed recently, which is this
14 one with the decks, but not with the one from some time
15 ago?

16 MS. PETINO: Well, the house matches up. And
17 this --

18 MEMBER MIZZI: What I said, we're talking about lot
19 coverage.

20 MS. PETINO: Right, we're talking about lot, yeah.

21 MEMBER MIZZI: So the decks and the house.

22 MS. PETINO: Yeah. But, see, these were never
23 provided with a variance.

24 MEMBER MIZZI: Okay.

25 MS. PETINO: So --

1 MEMBER MIZZI: But I'm just asking a factual
2 question.

3 MS. PETINO: Okay.

4 MEMBER MIZZI: This -- if someone were to say the
5 house that was taken down and was replaced with the new
6 structure that's going up, it pretty much aligns with the
7 structure that was there.

8 MS. PETINO: Yeah.

9 MEMBER MIZZI: Okay. And do you agree that that's
10 23.4?

11 MS. PETINO: No, I can't. I cannot agree to that.

12 MEMBER MIZZI: Okay.

13 MS. PETINO: Because the point where it's very kind
14 of difficult to read all of these numbers --

15 MEMBER MIZZI: Right.

16 MS. PETINO: -- the number of the --

17 MR. PROKOP: Laura, do you have building plans in
18 the file?

19 MS. DALESSANDRO: (Nodded yes.)

20 MS. PETINO: Of the side yard --

21 MR. PROKOP: Can I see?

22 MS. PETINO: Of the side yard setbacks --

23 MEMBER MIZZI: Right.

24 MS. PETINO: -- even though these all match up --

25 MEMBER MIZZI: Yeah.

1 MS. PETINO: -- it's different on every survey.

2 MEMBER MIZZI: Okay.

3 MS. PETINO: So something's wrong. I don't know
4 what's wrong, but something's wrong.

5 MEMBER MIZZI: But I would say --

6 MS. PETINO: And these should be all the same. If
7 this is 11 feet, this should be 11 feet, and this should
8 be 11 feet, but they're not, so something's wrong.

9 MEMBER MIZZI: Right.

10 MS. PETINO: Now there I'm not a trained
11 professional.

12 MEMBER MIZZI: Right.

13 MS. PETINO: But I am a professional when it comes
14 to doing the layout.

15 MEMBER MIZZI: What I'm going to say, you know,
16 what's going to happen, if this surveyor is saying this is
17 13, and this is 13, and this is 17.4, this is just a --
18 it's not an as-built survey, it's a survey that provides
19 laying out the house. It has to be submitted at the end
20 of the project. And at that point --

21 MS. PETINO: Oh.

22 MEMBER MIZZI: No, no, listen.

23 MS. PETINO: Okay.

24 MEMBER MIZZI: The licensed surveyor has to by
25 law -- they would lose their license by not telling you

1 the actual, the actual number from the property line to
2 the house.

3 MS. PETINO: See, but I'm not very -- I'm not so
4 concerned about that. What I'm concerned about --

5 MEMBER MIZZI: Right.

6 MS. PETINO: -- is the square footage here.

7 MEMBER MIZZI: Right.

8 MS. PETINO: And that's -- so you're building on a
9 house of cards with a horse before the cart, if we
10 can't -- if we can't tell what's really here? We have to
11 wait until after? I mean, the poor deck guy can't build
12 his deck. And what does he mind? He wants like a little,
13 tiny deck. This is an entire house that you're going to
14 wait until after it's constructed?

15 CHAIRMAN GESSIN: Well, he won't get a CO if it's
16 not correct.

17 MS. PETINO: I don't care whether he gets a C of O.

18 MEMBER MIZZI: But that's the process. I mean,
19 we --

20 MS. PETINO: I thought the process was lot coverage.

21 MR. TERCHUNIAN: Well, ma'am may I ask you a couple
22 of questions about these documents?

23 MS. PETINO: Uh-huh.

24 MR. TERCHUNIAN: You prepared these documents?

25 MS. PETINO: Yes, I did.

1 MR. TERCHUNIAN: Okay. Are you an engineer?

2 MS. PETINO: No, I'm not an engineer.

3 MR. TERCHUNIAN: Are you an architect?

4 MS. PETINO: No, I'm not an architect.

5 MR. TERCHUNIAN: All right.

6 MS. PETINO: It was prepared with a graphic
7 designer.

8 MR. TERCHUNIAN: Okay. I just need to --

9 MS. PETINO: And off of your surveys from your
10 Village --

11 MR. MERRELL: So one survey --

12 MS. PETINO: -- that was submitted by everyone
13 involved.

14 MEMBER GOLDFEDER: Can I ask a quick question now?

15 MR. TERCHUNIAN: Sure.

16 MEMBER GOLDFEDER: As surveyors go, is Nabdanum
17 (phonetic) used by one and not by others?

18 MR. TERCHUNIAN: No, it's universal.

19 MEMBER GOLDFEDER: So it's universal. So the
20 concept used is universal for all surveyors, not different
21 types of techniques?

22 MR. TERCHUNIAN: Correct.

23 MEMBER GOLDFEDER: Thank you.

24 MR. TERCHUNIAN: But ma'am, all I'm trying to do is
25 to provide on the record how these documents were created

1 and who created them.

2 MS. PETINO: Okay.

3 MR. TERCHUNIAN: Okay.

4 MS. PETINO: They were created with myself and my
5 partner. We scanned the surveys that exist in the public
6 record and that are up on this application, and then we
7 put them to scale.

8 MR. MERRELL: On top of each other?

9 MS. PETINO: On top of each other.

10 MR. MERRELL: So the scaling is the same.

11 MS. PETINO: As a graphic designer who --

12 MR. MERRELL: Does this.

13 MS. PETINO: Does this. No, he's not an architect.

14 MR. TERCHUNIAN: Was there anyone involved in this
15 process who's a licensed professional by New York State
16 Education Department?

17 MS. PETINO: Would he be licensed? I'm not sure
18 about that. I'd have to get back to you.

19 MR. MERRELL: Under the Village Code, it says all
20 plans should be able to be read by a layperson. And you
21 keep saying that a layperson can't saying anything, only a
22 licensed architect.

23 MEMBER SARETSKY: I don't think that's what he's
24 saying.

25 MR. TERCHUNIAN: No, sir, I never said that.

1 MR. MERRELL: Okay.

2 MR. TERCHUNIAN: And she did a very, I thought,
3 impressive job of describing the materials. It's
4 important that we understand how these materials were
5 prepared.

6 MR. MERRELL: Well, my question is the licensed
7 architect should be at this meeting.

8 MR. PROKOP: Hold on. Hold on for a second.

9 MR. MERRELL: So the questions about the square
10 footage could be asked.

11 MR. PROKOP: We have to do one thing at a time. I'm
12 sorry. You don't have to worry about being cross -- we're
13 not -- you don't have to worry about being cross-examined,
14 you're allowed to submit things to the Board, and you
15 could submit whatever you like. Okay. It doesn't have --
16 what you submit doesn't have to be stamped or sealed by
17 anybody.

18 There is a problem, however, because you pointed --
19 you're pointing to something that you apparently spent a
20 lot of time creating, but we don't have it. Okay. The
21 fact that you have it and showed it to us doesn't -- we
22 don't have it. So if you'd like us to have it for part of
23 the -- for the record, you need to give us a copy.

24 The meeting, what's going to happen at the end of
25 today's meeting, it's going to be adjourned. Your

1 comments are on the record. You could make the comments
2 again at the next hearing, if you'd like to and the
3 Chairman allows you to. But if you'd like those documents
4 to be considered by the Board, they have to be in the
5 record, please, in whatever format you'd like to.

6 With respect to Mr. Merrell's comment that he made
7 some time ago, I'd just like to point out to the Board,
8 and I'm not -- this is just a legal comment, I'm sorry, I
9 apologize, I don't mean to be -- pretend to be a surveyor
10 or a building plan generator, but there's no -- there's no
11 rear yard setbacks shown on the property -- on the survey.
12 I think what he's -- I don't want to --

13 CHAIRMAN GESSIN: Sure, there is.

14 MR. PROKOP: It's to the deck, it's not to the
15 house, right?

16 CHAIRMAN GESSIN: To the --

17 MS. AUDET: Oh, you're right.

18 MR. PROKOP: Okay. The second thing is that the
19 dimension -- I think what Mr. Merrell is indicating -- and
20 I'm making this comment on behalf of the Village, not on
21 behalf of Mr. Merrell. I'm just trying to straighten this
22 out, so we could straighten out our records, if it needs
23 to be. There's no -- the building dimensions are not
24 shown on the survey. What's actually -- what's shown on
25 the survey is the setbacks. You could deduce the building

1 dimensions by subtraction from the survey, but I think
2 what he's saying -- and, again, Mr. Merrell, with all due
3 respect, please correct me if I'm wrong. What he's saying
4 is that he did that, he went in and looked at the building
5 plans and they don't match up with what -- that
6 subtraction doesn't match up, apparently.

7 MR. MERRELL: Right. He's calling the --

8 MR. PROKOP: So somebody has to figure that out.
9 Like, in other words, if you subtracted this, you could
10 figure out that the house is whatever it is, 49 feet or
11 something, or 50 feet, or 20 feet, whatever it is, but,
12 apparently, there's a comment that it's not.

13 MR. MERRELL: Right. He's saying that the house and
14 deck together is basically 2500 square feet, 24 --

15 MR. TERCHUNIAN: Respectfully --

16 MR. MERRELL: 2,496, but it doesn't at up.

17 MR. PROKOP: But this has to be -- we have a
18 question that just has to be --

19 MR. TERCHUNIAN: But, respectfully, whether it's
20 house or deck, you know, that's an issue for the Building
21 Inspector to determine. The Zoning Board is looking at
22 what the setbacks are and what the coverage is. Those are
23 the things that are being requested of us.

24 MR. MERRELL: But the house and deck is the
25 coverage. The house -- the Square footage of the house is

1 the coverage. That's the most crucial point.

2 CHAIRMAN GESSIN: But it's on the plan.

3 SERGEANT HENNIG: You've got to lower your voice.

4 Lower your voice. Thank you.

5 CHAIRMAN GESSIN: That's on the plan.

6 MR. TERCHUNIAN: But what's on the plan is by a
7 licensed surveyor that describes the area of all of the
8 different features, and it provides minimum setback
9 distances to the identified features. That is the thing
10 that's within the jurisdiction of the Zoning Board.

11 MS. PETINO: Not lot coverage?

12 MR. TERCHUNIAN: And lot coverage is also provided.

13 MR. MERRELL: No, it's not. I respectfully
14 disagree.

15 MR. TERCHUNIAN: It's right on the survey.

16 MR. MERRELL: But it's not -- but it's inaccurate.

17 MS. PETINO: But it's not -- you cannot document it.
18 It's not --

19 MEMBER MIZZI: May I speak?

20 MR. TERCHUNIAN: Yeah. You're on the Board, you get
21 to talk any time.

22 MEMBER MIZZI: No. I think -- I just want to say
23 for the record, my observations, from the paperwork that
24 was shown, are that it appears that the house as drawn on
25 this piece of paper is very, very close, except for some

1 changes in angles, to the survey that preceded it, that --
2 and I'm using the drawing that was presented to us.

3 I think, for me, if the question is -- if the
4 question is someone is challenging that -- so what's shown
5 here seems to be replacing what existed, based upon two
6 separate surveys taken some time ago. If the question is,
7 does that represent 23.6% for 2,490 square feet, my only
8 point was it's not a matter of waiting until the end in
9 deciding, it's when you build a house and a surveyor tells
10 you this is where the house would be laid out, and then
11 the builder builds the house, at the end of the day,
12 someone has to measure the house and say that's accurate.
13 You're asking a different question, which is for someone
14 to demonstrate to you that this represents 24 -- 2490
15 square feet of lot coverage.

16 You're saying it should be properly be able to be
17 read on the plans. We're looking at a survey. Usually
18 one looks at, you know, a grouping of plans.

19 MR. MERRELL: Right.

20 MEMBER MIZZI: I don't know if those exist, but
21 someone asked if those plans were here. But, for me,
22 if -- when I'm looking at number one, which is -- so is it
23 23.6? We're being told by a surveyor it is. If there's a
24 question about it, I think this is something that has to
25 be clarified. It appears to be exactly what was on the

1 last submission that's on file. Whether that received a
2 variance or not, we're still being requested to review a
3 variance of 3.6%, more than 20%.

4 And we're allowed to consider the fact that the man
5 who had a house there laid a new house out on what, even
6 using you're drawing, on almost exactly what was there.
7 So, for me, I have a couple of questions, but we're not --
8 we're concluding, I think, that what you're saying, that
9 this matches the last -- what was there before the house
10 was removed is accurate. Whether that's -- if that's 2490
11 square feet or more, then it affects us, because we're
12 considering it to be 3.6%, not -- or the request to be
13 3.6%, not more.

14 MS. PETINO: How would you figure that out now?

15 MEMBER MIZZI: Well, it could be -- it's math. I
16 mean, it's on a --

17 MEMBER SARETSKY: I think what Joe is saying is the
18 architect who worked off of this used a CAD program
19 electronically that is calculating this number. Now we
20 could certainly ask him to check it or look at the
21 architectural drawings.

22 MS. PETINO: I think it should be in the file.

23 MEMBER SARETSKY: Sure.

24 MR. TERCHUNIAN: But I think --

25 MR. MERRELL: I mean, the file should be here,

1 because this is a variance hearing where lot coverage is
2 questioned, and the licensed architect is not here.

3 MR. TERCHUNIAN: Sir, yes.

4 MEMBER MIZZI: But with all respect --

5 MR. TERCHUNIAN: That is a licensed document. That
6 is presumptive evidence.

7 MEMBER MIZZI: And with all respect, you know, if
8 the group agreed that there was -- it warranted -- we've
9 often sent people back to provide information. So we --
10 it doesn't -- it has nothing to do with who comes, it's
11 the information we require. So we --

12 MR. MERRELL: The only survey --

13 CHAIRMAN GESSIN: And, truthfully, whether he --
14 whether he had exactly 3.6 or not, he's asking for 3.6.

15 MR. MERRELL: No, but he's not asking for 3.6.

16 CHAIRMAN GESSIN: He's asking for 3.6.

17 MR. MERRELL: He's not asking for 3.6. He's asking
18 for 25.6. And just because the line-ups, the one drawing
19 is showing 62 feet, another drawing is showing 64 feet 6
20 inches, you know, it's like the loosey goosey numbers of
21 this.

22 CHAIRMAN GESSIN: You're not listening to me, we're
23 not approving 25. We're going to approve what he --
24 approve or deny what he's asking for. We're not going to
25 approve --

1 MR. MERRELL: And I have to say something about the
2 architect. The architect --

3 CHAIRMAN GESSIN: I don't care about the architect.
4 We're not reviewing -- we're not voting on the architect.

5 MS. PETINO: But this is like -- this is like, well,
6 there's a house being built with no approval yet, and
7 you're approving 23.6%.

8 CHAIRMAN GESSIN: We didn't approve anything.

9 MEMBER MIZZI: We didn't approve anything.

10 CHAIRMAN GESSIN: We're just listening.

11 MR. TERCHUNIAN: Ma'am, there is a valid building
12 permit issued by this Village that's in force.

13 MR. MERRELL: No, no. We question whether that's
14 valid. Under the code, it is not valid. You keep saying
15 "valid", it's not valid. And you guys have the right
16 to --

17 SERGEANT HENNIG: You got to stop raising your
18 voice, please. Just speak -- we're in a small room here,
19 there's no reason to speak that loud.

20 MR. MERRELL: Okay.

21 MEMBER MIZZI: Mr. Merrell, the point that the
22 Chairman was making is if we approve 23.6, nothing can be
23 built more than 23.6. It could be built illegally, and
24 he'd find himself back here, and you'd have a pretty
25 strong case to say, "I made my" -- "I told you guys it was

1 23.6," or "It was 25 and you approved 23.6." The man left
2 the room, did what he wanted, came back, and at the end of
3 the day, we're going to rely on the as-built survey to
4 tell us whether it's 23.6, not drawings, not tape
5 measures, a licensed survey.

6 And I would say, I'm in the building industry as
7 well, I build commercial buildings in New York City. I've
8 never heard of a surveyor, except one that made a
9 mistake -- they use electronic equipment now. At the end
10 of the day, he's going to establish these points, which
11 are the property lines, the lot area of the lot. He's
12 going to be required just to submit -- just to get flood
13 insurance, this information has to be all done. At the
14 end of the day, he's -- the guy from Fox Surveying in
15 Westhampton Beach is not going to, you know --

16 MS. AUDET: Jeopardize his --

17 MEMBER MIZZI: He's not going to make it become 25
18 on a plan to help Yale to your detriment, to our benefit,
19 to anything. I mean, sometimes they measure and there's a
20 rule, like if it's -- if it's four foot, it's supposed to
21 be a four-foot walkway and it's four foot and a half of an
22 inch, or a fraction of an inch, the guy will do that. But
23 they're not -- they're not going to change a lot coverage.
24 I mean, we have to rely that if we approve 23.6, that
25 Mr. Nelson is going to build something to 23.6, that --

1 and if it's not, then I would say you have a -- you're
2 going to it be -- have a very strong argument as a
3 neighbor to say, "I raised the flag loud and clear, I made
4 my case, you didn't listened to me, the Board listened,
5 Mr. Nelson didn't listen," and then we'd have to have
6 another hearing. It would have to come before the Zoning.
7 He wouldn't be able to get a permit.

8 CHAIRMAN GESSIN: He won't get a CO.

9 MS. PETINO: So what happens, then? Let's just go
10 to the future and the house is built, it's 25%.

11 MEMBER MIZZI: He'd be taking decks down.

12 MEMBER SARETSKY: Right. He'd have to reduce it to
13 make it comply.

14 MEMBER MIZZI: He'd be taking decks down.

15 MS. PETINO: Or he wouldn't get a C of 0.

16 MEMBER MIZZI: Correct, right.

17 MS. PETINO: Or flood insurance.

18 MEMBER GOLDFEDER: He wouldn't be able to sell the
19 house.

20 MS. PETINO: Or sell the house.

21 MEMBER SARETSKY: He wouldn't be able to sell the
22 house.

23 MEMBER MIZZI: He wouldn't be able to get title
24 insurance.

25 MEMBER SARETSKY: Title insurance.

1 MS. PETINO: Title insurance. Okay.

2 MR. MERRELL: See, we disagree with the 23%.

3 MEMBER MIZZI: We haven't proved that yet. That's a
4 different argument. We haven't even talked about that
5 yet. We're just saying he's --

6 CHAIRMAN GESSIN: Let us do our job.

7 MEMBER MIZZI: He's asking --

8 MS. PETINO: We'll be quiet for a while.

9 MEMBER MIZZI: He's asking us to approve 23.6%, and
10 we're going to hear that. We're going to make the
11 determination, but we have -- and you're allowed -- but
12 he's allowed to tell us why he doesn't agree with 23.6%.

13 CHAIRMAN GESSIN: You can tell us whatever you want,
14 that's what the hearing is, but we've heard it.

15 MEMBER MIZZI: No. What I'm saying is we didn't say
16 we agree with it, we're just saying is that's what we're
17 basing our -- the request on and the information we're
18 using. Thanks.

19 CHAIRMAN GESSIN: Okay. Yes.

20 MR. PENNESSI: Hi. Dan Pennessi from 836C Dune
21 Road. I'm making a suggestion. Having been here at the
22 last meeting, and something that the Board had asked a
23 prior applicant, was to show both the setbacks and the
24 coverage of the existing improvements and the proposed.

25 CHAIRMAN GESSIN: Right.

1 MR. PENNESSI: And I think that that may reconcile
2 -- I think that what Carol is saying is that she's having
3 trouble reconciling the setbacks, if it is, in fact, that
4 the existing improvements have the same lot coverage as
5 the proposed improvements. So perhaps one way to do it is
6 to try to reconcile those two surveys by licensed
7 professionals.

8 MEMBER MIZZI: The only thing I'd say is I think
9 they're consistent between the two drawings that she
10 prepared. And this survey is -- those are old surveys,
11 those are hand-drawn surveys. This is the current survey.
12 It's going to be -- this is how the house was laid out.
13 If -- possibly, if it was laid out improperly relative to
14 the property line, that's going to be -- it's going to
15 come back to us, I mean, if there's a missing dimension
16 here. But I think we consider a survey from Fox Surveying
17 to be -- this is telling us these are the locations to
18 which the house will be built. And so I don't think
19 there's any question. Whether it's being done properly,
20 he's building it. Builders might make mistakes, but this
21 is what -- we have to approve what we're being told will
22 be built.

23 MEMBER GOLDFEDER: What -- do you have an objection
24 to the setback?

25 MR. PENNESSI: No. I'm just making the comment to

1 suggest that I think that what's been raised is that there
2 were varying setback distances noted on two separate
3 surveys, one of the existing improvements, and one on the
4 survey for the proposed improvements, and perhaps it it's
5 just a reconciliation of the two.

6 MEMBER MIZZI: I don't know that's relevant, because
7 this -- these setbacks comply, certainly on the side
8 yards. I did some calculations myself with more than 40%.
9 And, again, it's easy. Like we're approving this. If we
10 approve it, they'll need our approval for the side yard
11 setbacks. They have to prove to the Building Code with an
12 as-built survey that the house is 17.4 feet, and 16.7
13 feet, and 13 feet, and they'll do that. That's not even
14 part of it of us. They're not even asking for our
15 approval on it, they don't need it.

16 And similar to the lot coverage, if we approve a
17 variance for a front yard setback, we're going to approve
18 what's shown and requested here, and then they're going to
19 have to build it to that. If they don't, they're going to
20 find themselves here with a Sawzall cutting a deck. But
21 it's -- that's what I -- my view, personally.

22 CHAIRMAN GESSIN: Any other questions? Any other
23 comments from the Board?

24 (No response.)

25 CHAIRMAN GESSIN: Joe, do we close the hearing, or

1 we just --

2 MR. PROKOP: No. It has to be adjourned.

3 CHAIRMAN GESSIN: Okay.

4 MR. PROKOP: Keep it open, adjourn.

5 CHAIRMAN GESSIN: Now, when are we going to hear
6 back from Suffolk County?

7 MS. DALESSANDRO: Forty-five days, which would be
8 the 8th of April.

9 CHAIRMAN GESSIN: Okay. So we want to set a date
10 for the next hearing?

11 MR. PROKOP: Well, we can ask him for a Letter of
12 Nonjurisdiction. Normally -- I mean, Local Determination.
13 I wasn't aware that we didn't get it before today. So,
14 otherwise, I would have called and gotten it. But the --
15 you know, I don't know if it's -- if you have to wait the
16 45 days, is, I guess, what I'm saying. I mean, it's
17 possible to call them and just ask for the letter.

18 MR. TERCHUNIAN: Yeah.

19 MR. PROKOP: Or you could wait the 45 days.

20 MR. TERCHUNIAN: They do -- they try to help out,
21 but they're very slow in that office.

22 MR. PROKOP: So the answer is, if you want to play
23 it safe, it has to go 45 days.

24 CHAIRMAN GESSIN: When would that be?

25 MEMBER SARETSKY: April

1 MR. TERCHUNIAN: April 6th.

2 CHAIRMAN GESSIN: A month.

3 MS. DALESSANDRO: The 8th.

4 MR. NELSON: What is that waiting for?

5 MR. TERCHUNIAN: Suffolk County Department of
6 Planning sends a comment. They had a comment letter.

7 MR. PROKOP: Do you have something?

8 MS. AUDET: No. I just wanted to know why we were
9 here after the fact, that's all, but it was answered for
10 me that someone made a mistake. So I just hope when I
11 come, then nobody is going to be complaining.

12 (Laughter)

13 MS. PETINO: May I clarify one -- are you done? I'm
14 sorry.

15 MS. AUDET: Yes.

16 MR. PROKOP: Well, I think we're done.

17 MS. PETINO: I need one thing clarified so I can
18 sleep tonight.

19 MEMBER MIZZI: We want you to sleep tonight.

20 MS. PETINO: You do want me to sleep tonight.

21 MR. PROKOP: Do we have a date? So, did we come up
22 with a date? What's the 45 days, when does that run out?

23 MS. DALESSANDRO: Forty-five days was April 8th.

24 CHAIRMAN GESSIN: That would mean --

25 MR. PROKOP: So that's when we can act on -- is

1 April 8th, is what, a Wednesday?

2 MS. DALESSANDRO: It's a Wednesday.

3 CHAIRMAN GESSIN: So it would be the 11th.

4 MR. PROKOP: Yeah. That's okay with me.

5 CHAIRMAN GESSIN: Is that an okay date?

6 MS. DALESSANDRO: Is that an okay date?

7 CHAIRMAN GESSIN: Guys?

8 MEMBER MIZZI: What date would that be?

9 CHAIRMAN GESSIN: April 11th.

10 MEMBER MIZZI: I'm going to be out of town. I'm
11 going to be out of the country.

12 MEMBER GOLDFEDER: When do you get back?

13 MEMBER MIZZI: Actually, the 12th.

14 CHAIRMAN GESSIN: You'll be out on the 12th or
15 you --

16 MEMBER MIZZI: I won't be out on the 12th, I'll be
17 back in the country.

18 MR. TERCHUNIAN: Jim will be back.

19 MEMBER MIZZI: But Jim could do it, I'm fine.

20 MEMBER GOLDFEDER: How's the 18th?

21 MEMBER MIZZI: I'm free the 18th, if it needs to be
22 the 18th

23 MR. PROKOP: I won't be here the 18th.

24 CHAIRMAN GESSIN: Okay. Let's pencil it in for the
25 12th, and we'd have to see if he's --

1 MEMBER MIZZI: Eleventh.

2 CHAIRMAN GESSIN: Eleventh, rather, okay? If he's
3 good, we'll do it for the 11th.

4 MR. PROKOP: So I would make a motion -- the motion
5 is to adjourn to the --

6 CHAIRMAN GESSIN: Adjourn to --

7 MEMBER MIZZI: She wants to ask a question.

8 MR. PROKOP: Oh, I'm sorry.

9 MS. PETINO: Thanks. I just had it in my head that
10 you needed a public hearing for any kind of construction
11 over 20% before you could get a building permit; is that
12 true or false?

13 MR. PROKOP: I'll take a look at that.

14 MEMBER MIZZI: Yeah.

15 MR. PROKOP: I'm not familiar, you know --

16 MEMBER MIZZI: Yeah. Just from my personal
17 perspective, I'm a homeowner, I'm volunteering on the
18 committee here doing this. If -- I'm not giving anyone a
19 free pass, but if somebody applied to the Building
20 Department and wasn't told they needed a variance, and,
21 therefore, a variance didn't get submitted to us, we get
22 it in the mail at our homes and we come into the meeting
23 and we hear the variance, so I can't really answer
24 whether --

25 MS. PETINO: That part of it.

1 MEMBER MIZZI: Right. We certainly know today that
2 a variance is necessary, and we're starting the process of
3 considering whether or not -- how we vote on the variance
4 individually. That's -- you know, so it's really not --
5 you know, you're speaking to us, but we're residents, you
6 know.

7 MS. PETINO: So who would I speak to?

8 MR. TERCHUNIAN: The Village Attorney will answer
9 your question.

10 MS. PETINO: Whom would I speak to?

11 MR. TERCHUNIAN: He'll answer your question, he'll
12 respond.

13 MR. PROKOP: Well, that's something you could --
14 well, actually, I respond to the Board.

15 MR. TERCHUNIAN: Oh, I'm sorry, I apologize.

16 MR. PROKOP: But that's -- so I'll respond to the
17 Board. And then that's -- if you have a question -- a
18 question like that is really something to ask at a
19 Trustees meeting.

20 MEMBER MIZZI: Yeah, I think it's more appropriate.

21 MR. PROKOP: Yeah, that's a broader policy issue --
22 question. I'm not saying it's an issue, I'm saying if you
23 have a question like that.

24 MR. TERCHUNIAN: Ma'am, if I understand your
25 question, you're asking, if somebody wants to build more

1 than 20% on their lot, do they have to get a variance, is
2 that your question?

3 MS. PETINO: No. My question is, I was on the
4 understanding that when you applied for a building permit,
5 if it was over 20%, a public hearing was required. Now,
6 maybe --

7 MR. TERCHUNIAN: Let me answer your question. It's
8 a very simple question, okay? The Village has a Zoning
9 Code. The Zoning Code sets -- identifies setbacks from
10 front yard, side yard, rear yard, it identifies elevations
11 that the structure has to be, identifies the height it has
12 to be, and it identifies the lot coverage, okay? If
13 somebody can't comply with those zoning setbacks, they are
14 free to apply to the Zoning Board of Appeals for a
15 variance from those zoning codes.

16 MS. PETINO: But how would I get --

17 MR. TERCHUNIAN: And then the Zoning Board will hold
18 a public hearing on whatever application is put in front
19 of them exactly what has taken place today.

20 MS. PETINO: But how -- okay. So I think I want to
21 go. What do I have to do to get a building permit?

22 MR. TERCHUNIAN: You have to fill out a building
23 permit application, provide the appropriate fee, a set of
24 plans, a series of insurances, etcetera. It's all spelled
25 out.

1 MS. PETINO: And in that it said anything over 20%
2 had to be brought to a public hearing.

3 MR. TERCHUNIAN: I'm going to repeat myself, okay?
4 It's not just the 20%. The 20% lot coverage is one aspect
5 of zoning. There are other aspects of zoning, front yard
6 setbacks, side yard setbacks, rear yard setbacks, FEMA
7 elevation, height of the building. All of those need to
8 be complied with, otherwise, you have to go -- you have
9 the opportunity to apply to the Zoning Board of Appeals
10 that requests that the Village vary those codes on a
11 case-by-case basis. That's what happening here today.

12 MS. PETINO: Okay.

13 MR. TERCHUNIAN: That is the public hearing.

14 MR. PROKOP: I have two motions I need from the
15 Board.

16 CHAIRMAN GESSIN: Okay.

17 MR. PROKOP: So did we do the motion to set the
18 hearing, or was there a motion to adjourn the hearing
19 to --

20 CHAIRMAN GESSIN: We got lost.

21 MR. PROKOP: You got lost.

22 CHAIRMAN GESSIN: The other thing we didn't deal
23 with was the fees.

24 MR. PROKOP: I'm going to take care of that in a
25 second.

1 CHAIRMAN GESSIN: Okay.

2 MR. PROKOP: I'm sorry. Thanks for reminding me.
3 So the question is -- the motion is to adjourn the public
4 hearing, open until April 11th.

5 MEMBER SARETSKY: Moved.

6 CHAIRMAN GESSIN: Would someone like to make a
7 motion to adjourn this hearing to --

8 MEMBER SARETSKY: I would be glad to.

9 CHAIRMAN GESSIN: Would someone like to second?

10 MEMBER GOLDFEDER: I'll second it.

11 MEMBER MIZZI: I vote yes.

12 CHAIRMAN GESSIN: Okay. Adjourn it to April 11th.

13 MR. PROKOP: We have two resolutions we need to do.
14 The first is, with regard to the fees, we have --

15 MEMBER MIZZI: What fees?

16 MR. PROKOP: So the fees are the --

17 CHAIRMAN GESSIN: The fees for the stenographer, for
18 Aram.

19 MR. PROKOP: For professional and consultants.

20 CHAIRMAN GESSIN: And the Village Attorney.

21 MR. PROKOP: So the fees regarding -- the fees for
22 professionals, consultants and the stenographer should
23 have been a condition on the two approvals that we did
24 first, Panayis and Herson. So I'm making --

25 MEMBER MIZZI: Put it all on Yale's.

1 (Laughter)

2 MR. PROKOP: I'm making a recommendation -- the
3 first is that the Board approves a motion to add those
4 fees pro rata to Panayis and Herson, those approvals.

5 MEMBER SARETSKY: Yeah, I move.

6 MEMBER GOLDFEDER: I second.

7 CHAIRMAN GESSIN: Would someone like to make a
8 motion? You'll make the motion.

9 MEMBER SARETSKY: Yes.

10 CHAIRMAN GESSIN: Yes.

11 MR. PROKOP: The second is that I think as a policy,
12 you should set the Board's policy that in the future all
13 applicants will be responsible for the stenographer, the
14 pro rata cost for a stenographer, professional and
15 consultant fees that are attributed to their application
16 and hearing.

17 CHAIRMAN GESSIN: Yes.

18 MEMBER SARETSKY: I make a motion to move it.

19 MEMBER GOLDFEDER: On an annual basis, or an
20 individual basis?

21 MEMBER SARETSKY: Individual.

22 CHAIRMAN GESSIN: Individual basis.

23 MEMBER GOLDFEDER: Because, in the aggregate, if you
24 come forward and you're the only one coming forward, then
25 you are penalized for the --

1 MEMBER SARETSKY: Paying it all.

2 CHAIRMAN GESSIN: Yeah. If there's one person at
3 that hearing, they'll pay the whole thing. If there's
4 two, they'll split it. And if there's three --

5 MEMBER MIZZI: Frankly, if that was their biggest
6 concern, you can wait until those, you know --

7 CHAIRMAN GESSIN: Yeah, right, just wait.

8 MR. PROKOP: So that's approved. Okay. I would
9 just like to add the stenographer, since these aren't
10 depositions, could you set up the pages so there's more
11 words on each page? We could do smaller margins, that
12 would be okay. Thank you.

13 CHAIRMAN GESSIN: Is that it?

14 MR. PROKOP: I just asked her to reduce the cost of
15 this.

16 (Laughter)

17 CHAIRMAN GESSIN: I make a motion to adjourn this
18 hearing.

19 (Whereupon, the meeting was adjourned at 12:04 p.m.)
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