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INCORPORATED VILLAGE OF WEST HAMPTON DUNES
ZONING BOARD OF APPEALS

July 27, 2019
10:00 a.m.

Meeting held at
906 Dune Road, West Hampton Dunes, New York

MEMBERS PRESENT:

- Harvey Gessin - Chairman
- Eric Saretsky - Acting Chairman
- James Cashin - Member
- Joseph Mizzi - Member

ALSO PRESENT:

- Joseph Prokop, Esq. - Attorney
Representing the Village
- John R. Dicioccio, Esq. - Attorney
Representing the Village
- Angela Sadeli - Village Clerk
- Aram Terchunian - Commissioner of Wildlife
Protection

1 A P P E A R A N C E S:

2 James N. Hulme, Esq.
3 Representing Applicants
4 323 Mill Road, Westhampton

5
6 Christine Parrottino, Applicant,
7 21 Dune Lane, West Hampton Dunes

8
9 Howard Freedman, Applicant
10 846 Dune Road, West Hampton Dunes

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1 (*The meeting was called to order, after the
2 Pledge of Allegiance, at 10:11 a.m.*)

3 CHAIRMAN GESSIN: I'd like to call to order
4 a meeting of the Westhampton Dunes Zoning Board
5 for today, whatever today's date is.

6 MS. SADELI: July 27th.

7 CHAIRMAN GESSIN: July 20 --

8 MS. SADELI: Seventh.

9 CHAIRMAN GESSIN: Seventh.

10 And the first application we're going to
11 review is 21 Dune Lane.

12 MR. HULME: For the applicant, James N.
13 Hulme, 323 Mill Road, Westhampton Beach. Since we
14 were -- also present is my client.

15 Since we were -- the only outstanding issue
16 it seemed the last time we were here was a
17 modification to the landscape plan that we had
18 submitted. And I don't know how the color copies
19 came through on the ones that we gave you, but I
20 have some more copies.

21 MR. DICIOCCIO: Technically, you know, the
22 public hearing is really closed.

23 MR. HULME: Okay, that's fine.

24 MR. DICIOCCIO: I think we've addressed all
25 the issues with the landscaping plan in the

1 decision

2 MR. HULME: Okay

3 MR. DICIOCCIO: I think there is a certain
4 type of species the Board preferred. We have
5 that --

6 MR. HULME: Okay.

7 MR. DICIOCCIO: -- you know, in the
8 decision. And there was a smooth finish on the
9 wall that they --

10 MR. HULME: I will shut up, then.

11 MR. DICIOCCIO: All right.

12 (Laughter)

13 ACTING CHAIRMAN SARETSKY: All right. So
14 I'll make a motion to --

15 CHAIRMAN GESSIN: Yeah, you have to take
16 this one.

17 MR. DICIOCCIO: Yeah.

18 CHAIRMAN GESSIN: Yeah.

19 ACTING CHAIRMAN SARETSKY: In accordance to
20 proposed written decision, July 27, '19, I hereby
21 make a motion to approve. Do I have a second?

22 MEMBER MIZZI: I second the motion.

23 MR. DICIOCCIO: All right. All in favor?

24 MS. SADELI: All in favor?

25 MEMBER MIZZI: Aye.

1 MEMBER CASHIN: Aye.

2 ACTING CHAIRMAN SARETSKY: Aye.

3 MR. DICIOCCIO: And Mr. Gessin recuses
4 himself.

5 CHAIRMAN GESSIN: Yes.

6 MR. DICIOCCIO: All right. That's it.

7 MS. SADELI: That's it.

8 MR. HULME: Okay.

9 MS. PARROTTINO: Thank you very much.

10 MR. HULME: I can get a copy at some point?

11 MR. DICIOCCIO: Yeah.

12 MR. HULME: Do you have a --

13 MR. DICIOCCIO: Yeah. We'll get it stamped
14 in with the Village Clerk.

15 MR. HULME: Okay. I'll get it from you next
16 week, then.

17 MS. SADELI: Yes.

18 MR. HULME: That's fine. All right.

19 MS. SADELI: And then Eric has to sign it.

20 MR. DICIOCCIO: Yeah, Eric is going to sign.

21 CHAIRMAN GESSIN: Why don't you stay?

22 MR. HULME: Because I got to get another
23 file book.

24 (Laughter)

25 MR. HULME: All right. We're done with

1 that, so.

2 MR. DICIOCCIO: You'll sign three copies.

3 CHAIRMAN GESSIN: Okay. The next
4 application is the continuing -- the continuance
5 of 846 Dune Road. Mr. Hulme, would you like to
6 address us?

7 MR. HULME: Yes. For the applicant, yes.
8 James N. Hulme 323 Mill Road, Westhampton Beach.

9 As we had discussed in the past, the --

10 MR. DICIOCCIO: All right. Good working
11 with you guys.

12 CHAIRMAN GESSIN: Thanks. A full switch
13 here.

14 MR. HULME: The only reason we need relief
15 from the Zoning Board on this -- well, let me take
16 a step back. What we have proposed is a small
17 swimming pool on the west side of the bay side
18 house. I think I got that right. And the only
19 relief we need is a finding, I believe a finding
20 by the Board under 560-52(B)(1), that we meet the
21 criteria there, because of the -- and we have to
22 go through that criteria there because there are
23 two houses, legal houses on this property, so we
24 have some nonconforming structures here. But --

25 (Cell Phone Sounded)

1 MEMBER CASHIN: Sorry.

2 MR. HULME: Are you dancing?

3 (Laughter)

4 MR. HULME: But other than that, we don't
5 need any dimensional relief. The pool is located
6 or it meets all of the required setbacks, and
7 things like that, so -- and I think we've
8 discussed pretty much at length the basis for why
9 we believe we meet the criteria of 560-52(B)(1).

10 There was a list of some materials that the
11 Board would like to have as part of the record
12 here, and I think we've provided everything that
13 you were looking for. I apologize for having done
14 it kind of serially, but I'll go through
15 everything that we believe we've provided you to
16 make sure we have it all.

17 Let's see. So we submitted an updated
18 landscape plan, which shows additional landscaping
19 between the proposed swimming pool and the
20 adjacent neighbor to the west, so that was one of
21 the things that you were looking at.

22 You wanted to see a photograph of the
23 proposed skirting for the building, which we
24 submitted.

25 You had asked for photographs of the

1 proposed lighting on the west side of the house,
2 and we submitted the photograph with identifying
3 the locations for the lighting and the type of
4 light --

5 MR. FREEDMAN: Right.

6 MR. HULME: -- that we propose.

7 You had asked for an updated survey showing
8 the right-of-way, and the two meters, and the
9 removal of the extended deck on the -- on the
10 roadside house, and that's what we've done here.

11 You wanted to see photographs of other
12 properties with pool, side yard pools, and we gave
13 you a series of six photographs of various
14 locations throughout the Village of that.

15 We have a letter from our neighbor to the
16 west saying that he doesn't have any real issue
17 with the swimming pool going in that location.

18 I had submitted a letter in response, I
19 believe, to Counsel dealing with some of the legal
20 technical issues about what setbacks we were
21 entitled to, and that was a letter dated May 3rd.

22 We submitted a photograph showing two water
23 vaults, water meter vaults. And we submitted a
24 letter from the Suffolk County Water Authority
25 confirming that each of the houses was -- is

1 served by a separate vault.

2 MR. PROKOP: The letter on May 3rd is
3 addressed to Chairman Gessin. He recused himself
4 on this, right?

5 MR. HULME: He did.

6 MR. PROKOP: So this is a letter to Counsel
7 that you're talking about?

8 MR. HULME: Yes, that's correct. I'm sorry,
9 I apologize.

10 MR. PROKOP: Did you get that?

11 MEMBER SARETSKY: Yeah, I think I have it.

12 MR. PROKOP: Okay.

13 MR. HULME: So, as I indicated, I believe
14 that the only relief we need is under the section
15 of the code that I identified, and I -- in my
16 written submission with the original application,
17 I went through the various criteria that are
18 contained in that code section, and I believe that
19 we meet the requirements of that code section.

20 And with that, I'd be happy to answer any
21 questions.

22 MEMBER SARETSKY: I have a couple.

23 MR. HULME: Sure.

24 MEMBER SARETSKY: In the letter from the
25 person to the west --

1 MR. HULME: Yeah.

2 MEMBER SARETSKY: -- they say that it's okay
3 with -- you know, they're saying it's okay, but
4 they want the equipment located on the east side
5 of the house. So do the people on that side know
6 that that's what's being proposed?

7 MR. FREEDMAN: Well, they have all their
8 pool equipment on that side.

9 MEMBER SARETSKY: Okay.

10 MR. FREEDMAN: I didn't call them up and say
11 do you care if they've gotten it.

12 MEMBER SARETSKY: Okay.

13 MR. FREEDMAN: But the other issue is
14 because it's a lap pool, you can't put the
15 equipment there anyway, and it makes more sense to
16 be on the other side.

17 CHAIRMAN GESSIN: And, also, there's a big
18 landscape buffer on that side.

19 MEMBER SARETSKY: Okay. The other question
20 I had, and maybe to Aram and Joe, I mean, the
21 photographs of these other pools that have homes
22 with pools on the side, you know, they're very
23 different setups in the -- in the setbacks from
24 some of the other homes. And I just don't know
25 that these are -- I guess, I'm -- I have other

1 reservations, but I'm more worried about a
2 precedent that we set for building pools on the
3 side of homes, when I understand it's easier than
4 dealing with the DEC or the DEP, whoever the
5 agency is that's requiring the setback from the
6 wetlands.

7 MR. HULME: But you got to remember that the
8 only reason we're here is because we have the
9 second home further up the lot.

10 MR. PROKOP: So did you have a question for
11 me that I could answer?

12 MEMBER SARETSKY: I guess -- I guess my
13 question is, is how do these photos -- in other
14 words, I'm looking at the size of these homes and
15 the size of the setbacks between them, and they
16 seem much greater than the setback between these.

17 MR. HULME: All right. Well --

18 MR. PROKOP: Well, all those conditions
19 are -- I guess what the applicant is trying to do
20 is show existing conditions, and anything that's
21 depicted in the photograph is an existing
22 condition. So it's the locations of the other
23 pools, how they're sited, and, you know, how high
24 they are, you know, what the coverage -- and,
25 really, anything that's an existing condition.

1 MR. HULME: And I think these other pools,
2 for the most part, were permitted without Zoning
3 Board approval, because they met the setbacks, and
4 our pool meets those very same setbacks. So we're
5 not asking to put a pool any closer to a property
6 line than anybody else is entitled to under the --
7 under the Village Code.

8 The only reason that we're here is because
9 we have this second home, which really is a
10 nonplayer as far as the impact of this, of this
11 structure goes.

12 These pools are side yard pools, they're
13 much higher in a lot of cases. They're not any
14 closer or any further away than what we're
15 proposing. The pools themselves that have been
16 granted just by building permit are larger than
17 the pools -- the pool that we're proposing.

18 The photographs that we submitted of these
19 other side yard pools are completely devoid of any
20 landscaping, you know, whereas -- whereas we have
21 proposed very dense landscaping. And the person
22 who is most impacted by this is the neighbor to
23 the -- who has written us a letter, saying he's
24 fine.

25 The other thing I would point out is if

1 you're worried about precedent, there's not a lot
2 of properties in West Hampton Dunes that have two
3 houses on them. So, again, the only reason why
4 we're here is because of the presence of these two
5 houses. So by granting this relief to this
6 configuration, you really haven't created any
7 precedential value for any or many other lots in
8 the Village. And people will come and get side
9 yard pools for properties that are improved with
10 one single family residence as per the code, as
11 they have. So you're not really creating any
12 precedence that anybody else, even me, will be
13 able to use to come --

14 MR. PROKOP: But we just had -- we have
15 another potential application, right? I mean, I
16 don't think the numerical, the numerical number of
17 related -- similar properties is relevant, the
18 potential for other common -- similar
19 applications.

20 MR. HULME: Well, how many? How many -- how
21 many properties in The Village of Westhampton
22 Dunes have two houses on them, two legal houses?
23 Not too many, if any. Everybody else is a
24 separate lot. And they would come in with a side
25 yard pool, and they would either meet the

1 requirements of the code for setbacks, and the
2 pool would be allowed by the Building Inspector,
3 or they would have to come to this Board to get a
4 variance for that purpose.

5 And this is a very unique situation, and,
6 you know, most Zoning Boards really like unique
7 situations, because when they give relief in
8 circumstances that are as unique as this, they are
9 not creating precedential -- any precedent.
10 There's nobody up and down the street that can
11 cite to this case, unless they have two legally
12 constituted homes on one property.

13 MR. FREEDMAN: One thing I'd just like to
14 point out, and maybe you haven't seen this
15 picture, it was 921 Dune Road. And you can see
16 this house was just done, and, in fact, there's no
17 landscaping, and, you know, it's -- the pool is
18 right on top of the other house.

19 MEMBER MIZZI: That's my house.

20 MR. FREEDMAN: Is it really?

21 MEMBER MIZZI: This one.

22 MR. FREEDMAN: Oh.

23 MEMBER MIZZI: Next door.

24 MS. SADELI: Yeah, he's next door.

25 MR. HULME: And that was -- that was granted

1 just because the building code allows for pools in
2 the side yard.

3 MEMBER MIZZI: I think --

4 MR. TERCHUNIAN: Well, I think the salient
5 issue -- pardon me, go ahead.

6 MEMBER MIZZI: I was just going to say, you
7 know, from my perspective, they could have built
8 their entire house in that location. So it's a
9 matter of light and air versus -- like from my
10 perspective, as the neighbor to the west, you
11 know, first of all, if they -- they went and got
12 a -- they didn't come to this Board. They went
13 and got approval for a house, and I look at it as,
14 you know, it was either going to be blocking light
15 and air, or it was going to be a swimming pool
16 and --

17 MEMBER SARETSKY: It's as-of-right.

18 MEMBER MIZZI: It's as-of-right, yeah. So
19 I -- had they -- you know, had they come, had they
20 come to the Zoning Board, I probably wouldn't have
21 been able to vote, but I would have my -- you
22 know, certainly have an opinion on it.

23 MR. PROKOP: So I just want to mention,
24 while I have it on my phone with zoning from the
25 internet here, the section that -- does everybody

1 know the -- they're familiar with the Three-Tenths
2 Rule that --

3 MEMBER MIZZI: (Nodded yes)

4 MR. PROKOP: Okay. So it does, it does
5 mention main structure being centered. So
6 that's --

7 MEMBER SARETSKY: So how does that affect
8 us?

9 MR. PROKOP: Because their -- part of their
10 claim is that they don't need to -- they don't
11 need a variance, because the main structure is the
12 house -- excuse me, the deck is part of the main
13 structure, and that, therefore, the centering
14 should be the deck and the house together. I
15 don't know that I agree with that, I think the
16 main structure is the house.

17 MR. HULME: I think your Building Inspector
18 agrees with that, though. That has been --

19 MR. PROKOP: So do you have anything from
20 him that said that?

21 MR. HULME: I don't, but it is --

22 MR. PROKOP: Didn't he write a denial that
23 got you here?

24 MR. HULME: No.

25 MR. PROKOP: Then why are you here?

1 MR. HULME: Because we need a variance for a
2 pool.

3 MR. FREEDMAN: That was the reason for his
4 denial, he said, because --

5 MR. HULME: Oh, yeah, I'm sorry. The reason
6 for the denial is because we have two houses.

7 MR. FREEDMAN: Because we have two houses.

8 MR. HULME: Not because we didn't meet
9 any -- we're here --

10 MEMBER SARETSKY: Just because it was a
11 stipulation.

12 MR. HULME: In accordance with the Building
13 Inspector, we are here solely because we have two
14 houses, not because we do not meet the setback
15 requirements.

16 MR. PROKOP: So then in your May 3rd letter,
17 why do you have the section about the --

18 MR. HULME: Because you asked me. You asked
19 me a question, I wrote a letter answering the
20 question.

21 MR. PROKOP: Okay.

22 MR. HULME: That's why, that's why I did it.

23 MR. FREEDMAN: The Building Inspector said,
24 "Oh, I'll approve this, this is fine, you've met
25 all the requirements. However, you have two

1 houses." Because he -- we went through with him
2 the setbacks and how each side needs to be to be
3 centered.

4 MEMBER SARETSKY: But shouldn't mean -- I
5 guess my question is we're here because the
6 stipulation we had approving all the other stuff,
7 right?

8 CHAIRMAN GESSIN: Yeah.

9 MEMBER SARETSKY: So now the Building
10 Inspector says, "Oh, you have to go back for any
11 changes," right? So that's why we're here.

12 MR. HULME: No. We're here -- this
13 application is separate and apart from the other
14 application that we brought before you. That was
15 in anticipation of ultimately doing a subdivision
16 of this property. We're still pursuing that, but
17 that's two or three years out because of all the
18 agencies that we go, and we want to get a pool
19 now, okay? So we applied separate and apart from
20 that whole application. You don't even need to
21 regard that application, because that doesn't have
22 anything to do with this. We put in a separate
23 request to build a pool next to the side yard of
24 this house.

25 The Building Inspector reviewed our

1 application and said, "You meet all of the setback
2 requirements," because he centered the house and
3 the deck. "You meet all of the other requirements
4 except for this section."

5 MEMBER SARETSKY: For the swimming pool?

6 MR. PROKOP: No. The decision said that any
7 other changes in the property have to come to the
8 ZBA, so that's why you're here.

9 MEMBER SARETSKY: That's why we're here.

10 MR. PROKOP: That's why you're here.

11 MR. HULME: Well, no.

12 MR. TERCHUNIAN: That's not the only reason.

13 MR. HULME: No.

14 MR. TERCHUNIAN: So if you read in the
15 announcement, when you have two houses on a single
16 lot, you cannot do anything else on that lot
17 without coming to this Board, no matter what has
18 ever happened before.

19 MEMBER SARETSKY: Uh-huh.

20 MR. TERCHUNIAN: So although this Board --

21 CHAIRMAN GESSIN: Forever.

22 MR. TERCHUNIAN: Forever.

23 CHAIRMAN GESSIN: Right.

24 MR. TERCHUNIAN: Forever. So, although this
25 Board reviewed and approved an application, and a

1 condition of that application was if you do
2 anything else, you have to come back, it -- they
3 had to come back anyway, do you understand?

4 MEMBER SARETSKY: Uh-huh.

5 MR. TERCHUNIAN: They had to come back
6 anyway. So what Mr. Hulme is saying is they came
7 back, because, A, you asked them, and B -- or you
8 required them, and B, they're required by the --
9 by the regulations of the Village to come any time
10 they make a change on a lot with two homes.

11 MR. PROKOP: What regulation is that?

12 MR. TERCHUNIAN: It's quoted in --

13 MR. HULME: 560-52(B)(1).

14 MR. TERCHUNIAN: So the reason -- the
15 variance they're seeking is to expand what's
16 called a nonconforming use, because they have two
17 homes on one lot. That's a nonconforming use.

18 So what the code says is that the Zoning
19 Board can entertain these applications of a
20 nonconforming use on this lot to expand it a
21 certain percentage, if you desire, if you agree.
22 If the applicant makes a compelling case, you have
23 the authority to expand it, I think it's up to 50%
24 more than what currently exists.

25 MR. HULME: And I provided the calculation

1 of that showing that we are not.

2 MR. TERCHUNIAN: So that's the kernel of the
3 reason as to why they're here, so the Board --
4 they're here because they must come here under any
5 circumstance. The regulation says to the Board,
6 review the material submitted to you at your
7 discretion. You have the ability, the authority
8 to expand up to 50% more than presently exists.

9 CHAIRMAN GESSIN: If you go back into the
10 minutes of the original case, basically, what our
11 discussions were about was to assure us that
12 whatever the requirements of that original
13 approval were, were complied with, and we would
14 let them go forward, and that's what they're doing
15 here.

16 MR. PROKOP: So my -- I think that what is
17 it? Just cite that section again that you think
18 covers it.

19 MR. HULME: 560-52(B)(1).

20 MR. PROKOP: I think that they had to come
21 here, but I think it's for a different -- I think
22 it's because of the ZBA decision. I don't know
23 that I agree with what was just said, but I think
24 the result is the same, that they had to come
25 here. I'm not --

1 MR. HULME: And here we are. And despite my
2 own personal opinion, that the whole ZBA decision
3 on the subdivision has nothing to do with this
4 case, we have, at your request, complied with all
5 of the requests that you made in that decision,
6 and you were not adverse to a pool as a general
7 concept. This is a tiny, little pool directly
8 adjacent to the house, landscaped to the hilt, far
9 more than anybody else is landscaped. And the
10 relief that we're seeking is not relief that
11 anybody else in the Village can come and get.

12 MEMBER SARETSKY: But I guess my question --
13 I'll ask it as a question.

14 CHAIRMAN GESSIN: Go ahead.

15 MEMBER SARETSKY: I thought that we went
16 through this whole process of the subdivision with
17 these special requirements because it was such an
18 unusual type thing, and we tried to create these
19 conditions to prevent something unusual from
20 happening down the road, like two large homes
21 being built on a single lot.

22 In this case, I know that, Aram, we talked
23 about it, and maybe you can refresh me, but this
24 pool could be built in the back if they went --
25 and maybe in the size to fit for the setback for

1 what -- you know, the wetland, in other words. In
2 other words, like other people have homes that
3 fit, because they can -- they make their deck
4 smaller, they do whatever it takes, right?

5 MR. TERCHUNIAN: There are other pools that
6 are on the north side of the house, yes.

7 MEMBER SARETSKY: And in this case, you
8 know, it's been somewhat helpful that the neighbor
9 is saying it's okay. My concern, sort of, is me,
10 personally, is just does this set up a precedent
11 where, again, it just keeps coming, because --

12 MR. TERCHUNIAN: Okay. So that if you're
13 concerned about the precedent, it is very
14 reasonable. So what you have to ask yourselves,
15 as the Board, is are we allowing them to do -- to
16 put a pool in the side yard when ordinarily under
17 the code they would not be able to put a pool in
18 the side yard? That -- and so the answer to that
19 question is they can put a pool in the side yard
20 by a permit. They don't need a variance to put
21 the pool in the side yard. They only need the
22 variance because they're expanding a nonconforming
23 use.

24 So the issue of whether the pool is on the
25 north side, the south side, east side or the west

1 side is irrelevant, it can be on any side of the
2 house.

3 MR. HULME: And to put it maybe a simpler
4 way, if we tore down one of the houses, we
5 wouldn't be here. So the precedent that you're
6 concerned about is precedent for what? Somebody
7 with a single family residence --

8 MEMBER SARETSKY: But I guess --

9 MR. HULME: -- can't come in -- can get a
10 side yard pool, as shown in these photographs,
11 under the code. And if they want a greater
12 setback than the code allows them to have the side
13 yard pool -- side yard pools are permitted in this
14 community, okay, these are all legal.

15 MEMBER SARETSKY: But I'm only worried that
16 there's another home that's being subdivided, or
17 is being proposed to be subdivided, just like
18 yours, and it's going to be -- you know, if I were
19 them, I would be looking for a mirror image of the
20 same, the same deal. In other words --

21 MR. HULME: But then how many -- how many
22 examples of this are there? None.

23 MEMBER SARETSKY: No, no. There's one more
24 we're awaiting right now, right, Joe?

25 MR. PROKOP: Yeah.

1 MR. HULME: So there's two.

2 MEMBER SARETSKY: I know, but I'm just
3 trying to think.

4 MR. HULME: So that, to me, that's not a
5 floodgate, that's --

6 MEMBER SARETSKY: Okay.

7 MR. HULME: That's a little bitty thing
8 and --

9 MR. PROKOP: Well, that's for the Board to
10 decide.

11 MR. HULME: Right. No. Well, I'm just
12 expressing my opinion. You guys know that I'm
13 expressing my opinion.

14 MR. PROKOP: Aram, if this was -- if this
15 was a single and separate house --

16 MR. TERCHUNIAN: Yes.

17 MR. PROKOP: -- this one house in the back,
18 would this -- would they need a variance for this?

19 MR. TERCHUNIAN: No.

20 MR. PROKOP: Why?

21 MR. TERCHUNIAN: Because pools are allowed
22 in the side yard.

23 CHAIRMAN GESSIN: There's no restriction in
24 the side yard.

25 MR. HULME: And because your Building

1 Inspector says so.

2 MR. PROKOP: Doesn't that say that it --
3 doesn't the code say that it's not and --

4 MR. HULME: The code, your code says that
5 you cannot put a pool in a required side yard.

6 MR. PROKOP: Right. Doesn't it say that you
7 need a -- that's -- so doesn't that mean that you
8 can't have a pool in the yard?

9 MR. TERCHUNIAN: No, because the required
10 side yard, for example, would be the Three-Tenths
11 Rule. So you would take -- wherever the
12 three-tenths setback would place you, and that
13 distance would be the required yard, the required
14 side yard.

15 MR. PROKOP: Is the main structure centered?
16 The main structure, just the house, is that
17 centered?

18 CHAIRMAN GESSIN: It's almost centered.

19 MR. TERCHUNIAN: Not exactly.

20 MR. PROKOP: Okay. So why isn't it the
21 Four-Tenths Rule?

22 MR. TERCHUNIAN: But it would be with this
23 addition of the deck.

24 CHAIRMAN GESSIN: The numbers are on this
25 side.

1 MR. TERCHUNIAN: Oh, okay.

2 CHAIRMAN GESSIN: I'm sorry. There's an
3 eight here someplace.

4 CHAIRMAN GESSIN: Oh, that's why. Yeah,
5 he's right. Okay, there's the 8. Where's the 8?

6 MR. PROKOP: Did you find the notice?

7 MS. SADELI: I don't have it in here.

8 CHAIRMAN GESSIN: It's a little bit off
9 center.

10 MR. TERCHUNIAN: This is 17 and 11. No,
11 11.5 and 11.5 to the decks. And then to the house
12 is 20 and 24. Here's the 24, right here.

13 CHAIRMAN GESSIN: Right, right.

14 MR. TERCHUNIAN: So the side yard setbacks
15 for the house are 20 to the east and 24 to the
16 west.

17 MEMBER SARETSKY: So, Aram, just explain, if
18 it's not centered, like Joe's saying, does that
19 mean that it falls under the Four-Tenths Rule now,
20 something different?

21 MR. TERCHUNIAN: I'm just looking it up.

22 MR. PROKOP: So you think the -- Aram, you
23 think that this -- the reason, it's because they
24 need a -- it's because they have a non -- the
25 house is a nonconforming use, so they, when they

1 expand it, it's -- what about the house is
2 nonconforming?

3 MR. TERCHUNIAN: Well, it's not the house,
4 it's the fact that you have two houses on a single
5 family lot makes it nonconforming.

6 MR. PROKOP: But we granted the subdivision.

7 MR. TERCHUNIAN: Yes, but the subdivision
8 hasn't come into effect. So, at the moment, it is
9 still nonconforming. Had the subdivision come
10 into effect, and without the condition of this
11 Board on their previous decision, they could have
12 gone and gotten the permit for this pool.

13 MEMBER SARETSKY: Okay.

14 MR. TERCHUNIAN: Because you reserved the
15 right.

16 MEMBER SARETSKY: No, I understand.

17 MR. TERCHUNIAN: This Board reserved the
18 right and said, "Go get your subdivision. Even
19 after you do a subdivision, if you want to do
20 something on this lot" --

21 CHAIRMAN GESSIN: He's still coming back.

22 MR. TERCHUNIAN: -- "you've got to come back
23 to this Board."

24 MEMBER SARETSKY: But what happens --
25 because they're still trying to get the

1 subdivision --

2 MR. TERCHUNIAN: Right.

3 MEMBER SARETSKY: -- what happens if we
4 approve it and then they don't get it?

5 MR. TERCHUNIAN: Then they don't get it.

6 MR. HULME: Then we can't subdivide.

7 MR. TERCHUNIAN: Then you can't -- they
8 can't subdivide.

9 MEMBER SARETSKY: But I'm saying, if it's a
10 nonconforming -- maybe I'm saying this backwards.
11 If it's a nonconforming lot --

12 MR. TERCHUNIAN: It's not a nonconforming
13 lot. The lot is conforming. It's a parcel of
14 land within the Village. It's how many square
15 feet?

16 MR. PROKOP: Well, the Board of Trustees
17 never voted on this, right?

18 MR. TERCHUNIAN: No.

19 MR. PROKOP: So they don't have a
20 subdivision. So Aram's right, it's a
21 nonconforming -- it's still a nonconforming use,
22 right?

23 MR. TERCHUNIAN: On a conforming lot. The
24 lot conforms, the land is okay. It's the --
25 single family residence means there's one house on

1 one lot. This is two houses on one lot, so
2 there's a two-family residence. So that's the
3 nonconformity.

4 MEMBER SARETSKY: I guess what I'm saying in
5 a weird way is just why wouldn't we just wait
6 until that piece gets done? I think --

7 MR. TERCHUNIAN: Because it's going to take
8 two or three years and they want to swim in the
9 pool before that.

10 MEMBER SARETSKY: I know, but, I mean --

11 MR. TERCHUNIAN: Well, but that's the
12 applicant's right to ask, and it's your --

13 MEMBER SARETSKY: Okay.

14 MR. TERCHUNIAN: And it's your duty to
15 evaluate.

16 MEMBER SARETSKY: I'm just trying to
17 understand how it affects us and West Hampton
18 Dunes, not the applicant.

19 MR. TERCHUNIAN: Yeah.

20 MEMBER SARETSKY: If we approve something, a
21 variance, and then it doesn't -- the subdivision
22 doesn't go through.

23 MR. TERCHUNIAN: Then they have -- then they
24 have a pool. I mean, that's --

25 MR. PROKOP: Are there any pools within five

1 or eight -- 500 feet of this that are within 11
2 feet of the property line, side yard?

3 MR. HULME: I don't know.

4 MR. PROKOP: I mean, the side --

5 CHAIRMAN GESSIN: Yeah, next door.

6 MR. HULME: There are plenty of side yard
7 pools, but --

8 MR. PROKOP: Pardon me?

9 CHAIRMAN GESSIN: Next door. 844 is within
10 11 feet of the property line.

11 MR. PROKOP: 844?

12 MEMBER SARETSKY: But that pool is on the
13 back of the house.

14 CHAIRMAN GESSIN: Yeah, but that's not what
15 he asked.

16 MEMBER SARETSKY: Okay.

17 MR. TERCHUNIAN: But, you know, front, back
18 or side --

19 MEMBER SARETSKY: Okay.

20 MR. TERCHUNIAN: -- our code doesn't
21 distinguish.

22 MEMBER SARETSKY: Okay.

23 CHAIRMAN GESSIN: All right.

24 MR. FREEDMAN: I mean, what's a little
25 frustrating on my end is when I went in for the

1 subdivision, I had gotten a sense from the Board
2 that, "We really don't want you to build a
3 McMansion." You know, "We wouldn't have a problem
4 with the pool." And then I waited four or five
5 months, then I spent about \$15,000 to get all the
6 things that you wanted to do, I think, and, you
7 know. I'm hopeful that -- you know, the neighbor
8 rents his house out, and he'd like me to start
9 after Labor Day. So I'm hoping to get the piles
10 in, so I can get that done, so it's not disruptive
11 to the -- you know, to the neighbor. So I'm
12 hopeful.

13 MEMBER SARETSKY: With all due respect, I
14 think we've been -- at least I see myself as being
15 incredibly generous going along with what we've --
16 all the things we've done. So, again, we're here,
17 and I'm here on my personal time, to try to help
18 accommodate this.

19 MR. FREEDMAN: No, I appreciate it.

20 MEMBER SARETSKY: But I appreciate your
21 position, but --

22 MR. FREEDMAN: I'm not criticizing you, I
23 appreciate it.

24 MR. HULME: No. Let's go back. Let's put
25 this in its simplest form.

1 CHAIRMAN GESSIN: Okay.

2 MR. FREEDMAN: We submitted an application
3 to the Building Inspector. The Building Inspector
4 reviewed the application and came to the
5 conclusion that we met all of the setback
6 requirements in the code, and that the only reason
7 we needed -- well, setting aside that you told us
8 we had to come back, the only reason the Building
9 Inspector is sending us back to the Zoning Board
10 on this particular issue is, as advertised, for
11 the Section 560-52(B)(1), which allows this Board
12 to grant this relief that we're looking for based
13 on certain -- how much we're expanding, the
14 density, etcetera, etcetera, etcetera. We've
15 reviewed all that.

16 So the -- I think you have to take as fact
17 that the pool meets the setback requirements,
18 because that's the Building Inspector, whose job
19 it is to interpret the code, has ruled that.

20 And if there were -- again, if there were
21 not a second house on this property, we would not
22 be here. The Building Inspector would have issued
23 us a building permit for this pool and we would
24 have built it. So I don't know how more simply to
25 say it. You're -- we're talking about --

1 MR. PROKOP: Well, what's important here is
2 to note, when the Board has an application, the --
3 so the Building -- the Building Inspector ruled on
4 something that got you here.

5 MR. HULME: Right.

6 MR. PROKOP: But once you're here, it's up
7 to this Board, it's a de novo review. So it --
8 whatever he determined in the beginning doesn't
9 really matter, because this Board can --

10 MR. HULME: With all due respect, I
11 disagree.

12 MR. TERCHUNIAN: But the code gives this
13 Board guidance. There are four criteria in the
14 code under this section. Do you have the section
15 of the code?

16 MR. HULME: I have the criteria, but not the
17 section. There is expansion, there's a 50%
18 expansion cap. In this case, we're expanding 21%.
19 There's a change in parking. We're not changing
20 the parking requirement or the parking load on
21 this property. There's a lot coverage limit, that
22 it has to meet the code, which is 20%, and it is
23 17.3%. And there is a density. Does this
24 application or the granting of this application
25 change the density of the neighborhood? We have

1 two houses before, we'll have two houses after.
2 It's exactly the same thing.

3 So I think on all four legs, we meet the
4 requirements of this code section, that the
5 Building Inspector sent it here to evaluate.

6 MEMBER SARETSKY: I mean, how do I look at
7 the information from the Building Inspector to
8 confirm what he said?

9 CHAIRMAN GESSIN: Well, we have to assume
10 he's not an idiot and --

11 MEMBER SARETSKY: No, I'm assuming --

12 (Laughter)

13 MEMBER MIZZI: Assume he's not what?

14 CHAIRMAN GESSIN: No. No, but seriously,
15 going back to the --

16 MEMBER MIZZI: Assume he's not what?

17 MEMBER CASHING: An idiot.

18 CHAIRMAN GESSIN: -- original approval --

19 MEMBER MIZZI: Oh, okay.

20 CHAIRMAN GESSIN: Okay. Going back to the
21 original approval, really, all we were trying to
22 do was prevent someone from getting an approval
23 and not following through with their requirements,
24 and I don't think that's the case here. I think,
25 initially, they may not have, but they currently

1 are. Okay. And that's really -- that's really
2 all I think our powers are for, is to -- in this
3 case, is to make sure that they do what they
4 promised they would do, because we did what we
5 promised we would do.

6 MR. HULME: And if we want to flip the
7 precedent, and I know you're concerned about
8 precedent, but the precedent that you set between
9 whatever you decide here and the other Zoning
10 Board application that you approved, is that
11 you're allowed to impose a whole bunch of
12 conditions that we have to meet in order to -- in
13 order to get the relief. So if somebody does come
14 down the road, if there is another one in the
15 pipeline, it is not -- it would not be -- it would
16 be appropriate, in fact, not only not
17 inappropriate, but appropriate for you to impose
18 similar kind of conditions if you would decide to
19 grant them, and I don't know the facts and
20 circumstances of that case, to grant them the same
21 kind of relief.

22 So I think you're -- if you're creating a
23 precedent, you're creating a precedent that gives
24 you a lot of latitude as to what you can require
25 in return for granting the variance. And I think

1 in this particular case, the relief that we're
2 looking for meets the requirements of the code
3 section that the Building Inspector identified as
4 the need for relief.

5 MR. TERCHUNIAN: Eric, if you care to read
6 it for yourself.

7 MEMBER SARETSKY: No, I believe you.

8 MR. TERCHUNIAN: No. Well, I mean, it's --
9 I always like to read it. This is the Village
10 Code. Section 560-52(B) has four sections, and
11 this is the criteria that the Village Board
12 adopted to give this Board the guidance as to how
13 to deal with this type of application.

14 MEMBER SARETSKY: So let me simplify my
15 question. If you're telling me that what they're
16 asking for is -- doesn't require a variance really
17 in any way, and the only reason that we're
18 required to have a variance is because of the --

19 CHAIRMAN GESSIN: Well, they're not seeking
20 a variance.

21 MEMBER SARETSKY: Special permission,
22 whatever we're calling it, I mean, and I'm just --
23 again, what's your recommendation, Aram?

24 MR. TERCHUNIAN: Well, I won't make a
25 recommendation, I'll say this. If you're

1 concerned about a precedent of putting a pool in
2 the side yard, there is -- there is no concern,
3 because the Village Board has already established
4 the precedent that you're allowed to put a pool in
5 the side yard, okay?

6 If you're concerned that the pool in the
7 side yard is too close to the adjacent buildings,
8 then you would look to the requirement that you
9 can't put an accessory structure in the required
10 side yard. In this case, the required side yard
11 is 11.5 feet. The pool is not going in the
12 required side yard, it's going outside of that.

13 If you're concerned that the expansion of
14 the pool on the property is too much, it's less
15 than 50%, which you're allowed to authorize up to
16 50% based upon the specifics of this case in front
17 of you.

18 So, I mean, those are the way -- that's the
19 way I look at this, I just break it down by the
20 numbers.

21 MEMBER SARETSKY: Okay.

22 MEMBER CASHIN: Jim, is there a landscaping
23 plan?

24 MR. HULME: Yeah, we submitted that. And
25 what we added --

1 MEMBER CASHIN: Where are the --

2 MR. HULME: The pool is here, and this is
3 all new proposed.

4 MEMBER CASHIN: Right. Okay. These are
5 existing, these three?

6 MR. HULME: Yeah.

7 MEMBER SARETSKY: So while he's looking at
8 that, just to go back to the question I asked
9 earlier, if for some reason or other the Board of
10 Trustees doesn't vote on this subdivision, or
11 whatever it is, and it doesn't happen, and this
12 group authorizes them to have a pool, it wouldn't
13 really matter, because the pool would be --

14 MR. PROKOP: So, yeah. So what I think is
15 happening here is -- right. So what I think is
16 happening here is you have an application for a
17 variance to put a pool in a side yard. I think it
18 should be -- I think it should have been used --
19 the Fourth-Tenths Rule should have been used, not
20 the Three-Tenths Rule. But I think that there's
21 enough description in the public notice that was
22 used that the Board has jurisdiction to grant the
23 setback relief that's necessary.

24 With regard to Aram's comment, that they're
25 not looking for a variance because it's an

1 expansion of a nonconforming use, that is -- that
2 is a variance. And the section that Mr. Hulme and
3 Aram are relying on actually says specific
4 variances as this had. So I think it is a
5 variance that they're looking for.

6 So it's a variance, and it's also -- it's
7 something that the Board can consider today.
8 Because it's something that the Board can consider
9 today, I think what you should do is to go through
10 the -- he may abandon the subdivision, right?
11 So -- or it may -- it may not be approved or he
12 may abandon it.

13 I think that there is a precedent here for
14 not only the other one or two two-house properties
15 that are going to be before you, but also on other
16 properties in the Village, and -- but that's
17 something that you need to take into -- and that's
18 something you should take into consideration.

19 But I think because you have the
20 jurisdiction to look at it, I don't think it has
21 anything to do with what the Building Inspector
22 did. He got it here, and then his job is over,
23 basically, so you shouldn't take that into
24 consideration.

25 You should go through the five criteria with

1 regard to the applica -- with regard to the
2 application, and that's my recommendation, being,
3 you know, the impacts on neighbors, and things
4 like that.

5 One thing which is relevant is that you
6 have -- it has been mentioned to me by the Village
7 that there's a problem with the landscaping that
8 was provided in the last pool application that we
9 did. There's some kind of issue now that's
10 arising, so we just have to be careful with
11 what --

12 MEMBER SARETSKY: This is the one on Cove
13 Lane?

14 MR. PROKOP: -- happens.

15 CHAIRMAN GESSIN: What's the issue?

16 MR. PROKOP: There's -- we have to -- we
17 have to -- I think there are signs that have been
18 put on the property, and things like that.

19 CHAIRMAN GESSIN: Oh.

20 MR. TERCHUNIAN: Not anymore.

21 (Laughter)

22 MR. PROKOP: So you might just mention that.

23 CHAIRMAN GESSIN: That's good to know.

24 MR. HULME: Before you do that, if it gives
25 you any comfort at all, and Joe is correct, we may

1 abandon -- we don't plan to abandon the
2 subdivision, but it could be denied. We have no
3 difficulty with the conditions that were imposed
4 there becoming the conditions that are imposed
5 here, if you choose to grant this relief. And, in
6 fact, the materials that we provided you I think
7 are in satisfaction of really those conditions,
8 and I think we have satisfied all those
9 conditions. But we have no difficulty at all in
10 retaining the condition -- the requirement that
11 those conditions being met as part of any relief
12 that you might grant here. So that in case this
13 subdivision is abandoned, you've still protected
14 yourselves and your Village in the way that you
15 intend.

16 MR. FREEDMAN: And, also, you had requested,
17 even though it doesn't affect this, that I go
18 ahead and get a separate water meter, because
19 that's what I had planned -- I needed to do for
20 the subdivision. So even though it doesn't affect
21 the pool, I went and, you know, did it and
22 committed to that. If I get turned down by -- at
23 this point, by the DEC or by the Trustees, I've
24 now gotten a second water meter that I wouldn't
25 have needed. But I went and did it, because, as a

1 requirement of the zoning, they said, "We want to
2 see that you are, you know, moving forward and
3 doing things," so I went and did that as well.

4 MR. PROKOP: The proposed -- that condition
5 on the other side, is that part of this
6 application, too?

7 MR. FREEDMAN: I was asked to remove it.

8 MR. PROKOP: Okay. And you need --

9 MR. HULME: I think you have an earlier
10 version of it.

11 MR. PROKOP: And you need a lighting plan
12 and a landscape plan.

13 MR. HULME: Well, we submitted the light --

14 MR. FREEDMAN: We did that.

15 MR. HULME: -- a photograph of the light
16 location.

17 MR. PROKOP: You have a picture of the house
18 with an arrow that says --

19 MR. HULME: And we showed the lights as
20 well.

21 MR. PROKOP: Oh, you did. Okay, great.

22 MR. HULME: We showed the type of light.

23 MEMBER CASHIN: Who enforces the landscaping
24 plan once we approve it? Who makes sure that --

25 MR. PROKOP: The Building Inspector.

1 MEMBER CASHIN: He gets this and makes sure
2 they cover it?

3 MR. PROKOP: He's supposed to.

4 MR. KRASNOW: Can I ask a question, comment?

5 CHAIRMAN GESSIN: Sure.

6 MR. KRASNOW: If Mr. --

7 MEMBER CASHIN: Can you identify yourself
8 for the --

9 MR. KRASNOW: Sure. Irwin Krasnow. I live
10 at 929 Dune Road.

11 If Mr. Freedman was further ahead with his,
12 quote, subdivision, or if he had his subdivision
13 granted, he could have his pool without coming to
14 this Board, correct, from what I understand?

15 MR. PROKOP: No, he'd have to -- it would
16 be -- if it had been approved.

17 MR. KRASNOW: If his subdivision was
18 approved, he can have the pool without coming to
19 the Board; is that correct, based upon what --

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

21 MR. HULME: Based on the code itself, yes.

22 MR. KRASNOW: Right. That's --

23 MR. HULME: But based on the decision that
24 this Zoning Board made in granting us the relief
25 that we needed for the subdivision, they

1 conditioned that relief on our returning to them
2 if we made any changes.

3 MR. PROKOP: So the Village --

4 MR. KRASNOW: It was my understanding that
5 any house that has a pool on it --

6 MR. PROKOP: The Village Attorney's position
7 is that no. I stated that before. The
8 applicant's position is that you just heard,
9 whatever that was. My position is that he would
10 need a variance.

11 MR. KRASNOW: Even if the houses were a
12 subdivision?

13 MR. PROKOP: Even if it was a --

14 MR. KRASNOW: Separate lot?

15 MR. PROKOP: Yeah, because I think the
16 Four-Tenths Rule applies, not the Three-Tenths
17 Rule.

18 MR. HULME: Well, all these photographs
19 suggest that side yard pools as a general --

20 CHAIRMAN GESSIN: That's not -- that's not
21 what he said.

22 MR. PROKOP: Do you have the lighting plan?

23 MR. HULME: What did he say?

24 CHAIRMAN GESSIN: He's talking about the
25 Four-Tenths Rule now.

1 MR. HULME: Right. Oh, true.

2 MR. PROKOP: To have a picture of the side
3 of the house, that says "Proposal"?

4 MR. FREEDMAN: I also attached the lights.
5 There are just four lights on the side of the
6 house. That's all that I'm doing, and we're
7 already there. I have a picture of it.

8 MR. HULME: This is what we were asked to
9 produce, and this is what we produced.

10 MR. PROKOP: Aram, don't they usually --
11 don't people usually have the -- isn't there a
12 lighting person that you're supposed to go to to
13 get -- a lighting consultant to show -- I think
14 I've seen it before, somebody comes with a picture
15 of the house and it has the lights on it.

16 MR. TERCHUNIAN: We don't -- the Village
17 doesn't have a specific lighting code. It's --

18 MR. PROKOP: Yeah, we do.

19 MR. TERCHUNIAN: Do we?

20 MEMBER SARETSKY: I thought it was the Town
21 of Southampton's code or something.

22 MS. SADELI: We adopted it.

23 MR. TERCHUNIAN: Oh.

24 MEMBER SARETSKY: We adopted it.

25 MR. TERCHUNIAN: I stand corrected.

1 MR. FREEDMAN: I was just putting in four
2 lights on the side of the house, so it's not --
3 and here's a picture, an example of the light,
4 because I thought -- my thinking was that you
5 would want minimal lighting so it didn't disturb
6 the neighbors, so that's why it's just enough --

7 MR. PROKOP: It's supposed to serve as
8 shielding and the scope --

9 MR. FREEDMAN: Right.

10 MR. HULME: Well, for the record, we can say
11 that whatever lighting we do install, we'll comply
12 with the recently adopted code.

13 MR. TERCHUNIAN: But when you put in your
14 building permit, you're going to have to provide
15 them --

16 MR. HULME: Right.

17 MR. TERCHUNIAN: -- with the specific
18 fixtures and demonstrate compliance.

19 MR. FREEDMAN: Right.

20 MR. HULME: We were -- the request to us was
21 to show us where you're going to put the lights
22 and what light fixture you're going to put, and
23 that's why we submitted what we submitted.

24 We understand that when -- if we get to the
25 point where we're going to get a building permit,

1 we'll have to prove compliance with the Village
2 Code for lighting. And what I am stating for the
3 record is that we are not seeking a variance from
4 that section of the code. Whatever that code says
5 is what we're committing to do.

6 MEMBER CASHIN: Did you have a question that
7 you wanted to ask?

8 MR. KRASNOW: No. I just was trying to
9 understand, since the issue kept being that they
10 have two houses on the lot is why they're here, as
11 opposed to if they had one house. One house on
12 the lot would be as-of-right, and he talked about
13 subdividing. It seems like, eventually, if a
14 subdivision is approved, he would be getting this
15 anyway, without having to go to the Board for the
16 pool. And, you know, why -- and, again, I'm not
17 his -- I just met him today. Like why make him
18 wait a couple of years to do that if it's kind of
19 an as-of-right customary and similar use in the
20 rest of the Village?

21 You know, I'm a couple of doors down from
22 like 921, like he said, and they put this
23 beautiful pool on the side, and I didn't think it
24 was an issue. I mean, I'm not the direct
25 neighbor, but they do overlook my house, but I

1 didn't see that as a big deal. I thought it
2 was -- they did a beautiful job building the house
3 that he mentioned, Joe mentioned.

4 MEMBER CASHIN: Thank you.

5 MR. PROKOP: It was a condition, right?

6 MEMBER SARETSKY: It was a condition of what
7 this Board came up with, so that's why they're
8 here.

9 MR. HULME: Right. Well --

10 MR. PROKOP: One way or the other, they were
11 going to come back.

12 MR. TERCHUNIAN: One way, one way or the
13 other.

14 MR. HULME: One way or the other, we were
15 coming here.

16 (Laughter)

17 MR. PROKOP: We may disagree, but here they
18 are.

19 MR. HULME: If we tore down the house and
20 abandoned the subdivision, we wouldn't be here.

21 CHAIRMAN GESSIN: That's right.

22 MR. HULME: And how do we know that?
23 Because --

24 MR. PROKOP: Is there any chance of that?

25 MR. HULME: Huh? No, there's no chances of

1 that at all, although.

2 (Laughter)

3 MR. PROKOP: We'll name the -- we'll name,
4 you know, something after you, the Freedman
5 Memorial.

6 MR. FREEDMAN: Oh, my gosh.

7 MR. HULME: No, no memorials. He's still
8 alive, he's going to be living for a long time.

9 MEMBER CASHIN: The Freedman Precedence.

10 MR. HULME: The Freedman Syndrome.

11 (Laughter)

12 MR. TERCHUNIAN: I think -- you know, Jim,
13 talk about the four criteria that are in
14 560-52(B), but there are still are the five
15 criteria of any variance. So maybe you want to
16 just put that on the record for the Board.

17 MR. HULME: All right. Well, in my written
18 submission it was covered, but I will talk
19 about it.

20 Undesirable change in the character of the
21 neighborhood. This Village is full of houses with
22 pools. We're not effectively changing any, any
23 character of the neighborhood by adding --

24 MR. PROKOP: I'm not, I'm not challenging
25 you. And not disrespectfully, but do you know, do

1 you know the properties that have pools in the
2 side yard?

3 MR. HULME: We've listed six of them and
4 gave you addresses.

5 MR. PROKOP: You listed six of them. Okay,
6 pardon me.

7 MR. HULME: We gave photographs with six
8 pictures and six addresses.

9 MR. PROKOP: Okay. Thank you.

10 MR. HULME: And so they are merely
11 representative of the fact that there are side
12 yard pools.

13 Adding this pool -- the character of this
14 neighborhood is really influenced by the fact that
15 we have two legal houses, and won't be at all
16 affected, I don't think, by the addition of a
17 pool. We haven't changed the degree of
18 nonconformity. A pool is a permitted accessory
19 structure throughout the Village, subject,
20 obviously, to setback requirements and code
21 requirements. But the addition of this pool
22 wouldn't produce an undesirable change.

23 And then, also, under that section, I
24 reviewed the criteria of 560-52(B)(1), which
25 talked about the expansion of the parking lot

1 coverage and the density, which is the code
2 section that deals with the expansion of a
3 nonconforming use, which is one of the other
4 reasons that we're here, and as I've discussed, we
5 meet all of those.

6 Other feasible methods, we don't believe
7 there is any other method, taking into
8 consideration all of the regulatory agencies that
9 have jurisdiction over this, other than the
10 location that we have placed the pool.

11 The substantial nature of the variance, we
12 have a discussion or a disagreement whether the
13 Four-Tenths Rule or the Three-Tenths Rule applies.
14 But in the case of the Three-Tenths Rule applying,
15 it's not -- I would suggest that it's not
16 substantial, because we meet the requirement of
17 the code for the setback. Even if the Four-Tenths
18 Rule applies, we're talking about --

19 MR. TERCHUNIAN: Twelve feet.

20 MR. HULME: Twelve feet is the setback.

21 MR. TERCHUNIAN: (Nodded yes)

22 MR. HULME: So we're talking about a foot,
23 or half less than a foot.

24 MR. TERCHUNIAN: Half a foot.

25 MR. HULME: Point-four feet, actually,

1 because we're at 11.6.

2 MR. PROKOP: If the Four-Tenths -- that's a
3 good point.

4 MR. HULME: If the Four-Tenths apply, we're
5 talking about .4 feet of variance, which I would
6 suggest --

7 MEMBER SARETSKY: Can I ask a question?

8 MR. HULME: -- is de minimus.

9 MEMBER SARETSKY: Does that help us with the
10 fact that if it was to use the Four-Tenths Rule,
11 that -- in other words, how do we decide which is
12 which, in other words, which is the one that --

13 MR. TERCHUNIAN: Well, I think that you go
14 by the guidance of the Building Inspector. And if
15 you're talking about, well, four-tenths of a foot,
16 that's within the discretion of the Building
17 Inspector to grant.

18 MEMBER SARETSKY: Okay.

19 MR. PROKOP: So I think that one of the --
20 when somebody's looking for an expansion of a
21 nonconformity, one of the things that is taken in
22 consideration is whether -- how much relief that
23 would be compared to if it was complying with the
24 law. So the fact -- if he's right, somebody
25 should confirm it --

1 MR. TERCHUNIAN: I checked it.

2 MR. PROKOP: Checked what?

3 MR. TERCHUNIAN: The four-tenths, I did the
4 numbers.

5 MR. PROKOP: It's at half a foot?

6 CHAIRMAN GESSIN: Yeah.

7 MR. PROKOP: So one of the things about the
8 application is he's --

9 CHAIRMAN GESSIN: Point four.

10 MR. HULME: It's .4 feet, actually. Let's
11 beat that.

12 (Laughter)

13 MR. PROKOP: If you follow that, if it was
14 just the regular houses, the question I asked a
15 while ago is if it was just a stand-alone house,
16 single and separate on the lot, what would the --
17 what would -- how would the zoning impact it. So
18 he would be here for less than a foot variance,
19 apparently.

20 MR. HULME: Yes, 4.8 inches.

21 MR. PROKOP: And that includes the deck and
22 everything else?

23 MR. HULME: Yes.

24 MR. PROKOP: There's no catwalk or anything?

25 MR. HULME: No.

1 MR. PROKOP: So there's conditions. If you
2 start to consider this, there's conditions that
3 you can impose regarding location of the
4 equipment, the buffering, and fencing, and things
5 like that. And I would require a lighting plan,
6 and a proper lighting plan that conforms with our
7 code, and also a landscape plan, before the
8 decision takes effect.

9 MR. HULME: We submitted the landscaping
10 plan already, but --

11 MEMBER MIZZI: Can I ask a question? So the
12 house is centered or not?

13 MR. PROKOP: The house is not centered.

14 MEMBER MIZZI: So the decks are centered,
15 but the house is not centered?

16 MR. PROKOP: The main -- our code refers to
17 main structure.

18 MEMBER MIZZI: Right.

19 MR. PROKOP: It's my opinion that the main
20 structure is the same as --

21 MEMBER MIZZI: I understand. I'm just
22 trying to get -- because this is 20.6 to the house
23 from the one property line. I'm just trying to
24 understand what's the dimension from the other
25 property line.

1 MR. PROKOP: It's 20 feet and 24 feet for
2 the house. Somebody looked at that before.

3 CHAIRMAN GESSIN: He's .4 feet off.

4 MR. PROKOP: So it's 20.4? It's 20 and
5 20.4, or is it 20 and 24?

6 CHAIRMAN GESSIN: Twenty and --

7 MR. TERCHUNIAN: It's 20.6 on one side, and
8 24.4 on the other.

9 MR. PROKOP: Okay.

10 MEMBER MIZZI: That was my question. Oh,
11 yeah, 16.4 and 8, I see it.

12 MR. TERCHUNIAN: Uh-huh. That's cheating,
13 Joe, not using glasses. You say you don't need
14 glasses, and you're using your phone as a
15 magnifying glass?

16 (Laughter)

17 MEMBER MIZZI: Yeah, I had to. This thing
18 is so small.

19 MEMBER SARETSKY: I can't see it with -- I
20 can't see it with glasses.

21 MEMBER MIZZI: It looked centered to me.

22 (Laughter)

23 MEMBER CASHIN: It's 16.4 and 9, not 8,
24 right?

25 MEMBER MIZZI: Eight.

1 MR. HULME: Well, we would certainly
2 encourage you to conclude that it is centered.
3 But if you conclude that the Four-Tenths Rule
4 applies, rather than the Three-Tenths Rule, then
5 we need a --

6 MR. PROKOP: Joe, do you have something to
7 say?

8 MR. HULME: We need a variance for 4.8
9 inches --

10 MR. PROKOP: Did you have something else?

11 MR. HULME: -- to meet that requirement

12 MEMBER MIZZI: That was my question.

13 MR. HULME: Is there anything else we can --

14 MR. PROKOP: So this is a public hearing,
15 and you sent the notices to the --

16 MR. HULME: Yup.

17 MR. PROKOP: -- neighbors, right?

18 MR. HULME: Yup.

19 MR. PROKOP: So can you just give copies to
20 Angela at some point?

21 MR. HULME: We just filed an Affidavit of
22 Service earlier this week.

23 MR. PROKOP: And so your options now are to
24 close the public hearing, or adjourn the public
25 hearing, keep it open. And then, if you choose to

1 close it, then you can reserve decision or make a
2 decision, it's up to you.

3 MEMBER SARETSKY: What were the items that
4 you wanted? They provided a landscape plan. You
5 said they should have a lighting plan?

6 MR. PROKOP: We need a lighting plan to --

7 MEMBER SARETSKY: What was -- there was
8 something else.

9 MR. PROKOP: That's it, landscaping and
10 lighting.

11 MR. FREEDMAN: Is there any way I could --
12 if you're ready to make a decision, potentially,
13 just be subject to getting approval from the
14 Building Department for a lighting plan, so I
15 don't have to have, you know, have another meeting
16 and go through the process that really --

17 MR. TERCHUNIAN: Well, just from a
18 procedural point of view, it's much cleaner if the
19 Board gives the Attorney the direction --

20 MR. FREEDMAN: Oh, I'm sorry.

21 MR. TERCHUNIAN: -- to write a decision,
22 which is going to take some time to do, and that
23 provides you the opportunity to submit a lighting
24 plan.

25 MR. PROKOP: I'm kind of backed up. I'm

1 working on decisions from 2017.

2 (Laughter)

3 MR. HULME: I'll write the decision for you,
4 Joe.

5 (Laughter)

6 MR. PROKOP: Okay. I think this is -- this
7 will -- well, we need a decision before we do it.

8 MR. HULME: I would ask that, unless there's
9 any other questions, that the Board at least close
10 the hearing today. We will -- as a condition of a
11 decision, we will provide a lighting plan in the
12 interim.

13 MR. TERCHUNIAN: You can -- you can close
14 the hearing today and leave the record open for 15
15 or 30 days for the opportunity, the sole purpose
16 of them submitting a lighting plan, and, also, at
17 the same time, instruct your attorney to provide
18 you a written decision.

19 MEMBER SARETSKY: You guys agree, that's
20 best?

21 MEMBER CASHIN: I think so.

22 MEMBER MIZZI: (Nodded yes)

23 MEMBER SARETSKY: Okay.

24 MR. PROKOP: Yeah, I think that's good
25 enough.

1 MR. TERCHUNIAN: You need a motion and a
2 second and a vote.

3 MEMBER SARETSKY: So could I get a motion
4 to --

5 MR. PROKOP: Close the hearing.

6 MEMBER SARETSKY: Close the hearing?

7 MEMBER CASHIN: Motion to close the hearing.

8 MR. PROKOP: We need a second.

9 MEMBER MIZZI: (Raised hand)

10 MR. PROKOP: And then all in favor?

11 MR. TERCHUNIAN: So Joe. So Joe Mizzi. You
12 have Jim Cashin, Joe Mizzi.

13 MR. PROKOP: All in favor of closing the
14 hearing?

15 MEMBER CASHIN: (Raised hand)

16 MEMBER MIZZI: (Raised hand)

17 MEMBER SARETSKY: (Raised hand)

18 MR. TERCHUNIAN: Unanimous.

19 MR. PROKOP: And --

20 MEMBER CASHIN: He's recusing.

21 MR. PROKOP: Yeah, Harvey recused himself.

22 And then -- okay. So the next -- the motion
23 that Aram and I recommend is that we -- the Board
24 reserve decision and -- the Board reserve decision
25 and instruct the Village Attorney to start working

1 on a decision that will be presented to the Board
2 for consideration at its next meeting.

3 MEMBER CASHIN: I so move.

4 MEMBER SARETSKY: Second.

5 MS. SADELI: All in favor?

6 MEMBER SARETSKY: Aye.

7 MEMBER MIZZI: (Raised hand)

8 MEMBER CASHIN: (Raised hand)

9 MR. TERCHUNIAN: Okay. Let's go to the
10 beach.

11 (Laughter)

12 MR. HULME: You want a lighting plan.

13 MR. PROKOP: Excuse me for one second. If
14 you have anything that you want, since we're here
15 in open session, if -- we're still here in open
16 session, meaning if had anything you want to
17 discuss about the impacts, because we still have
18 those five impacts to consider, is there anybody
19 that wants to say anything about those, because
20 it's important that those are in.

21 MEMBER CASHIN: Okay. No. Just as a
22 reminder, though, there's -- the way I understand
23 our decision-making process, we can disagree with
24 one of those, but if the total of the criteria
25 outweigh the one we disagree with, then we can --

1 MR. PROKOP: It's a balance.

2 MEMBER CASHIN: We can vote accordingly

3 MR. PROKOP: Yes, it's a balance on -- you
4 could disagree with two of them.

5 MEMBER CASHIN: Right.

6 MEMBER SARETSKY: Okay.

7 MEMBER MIZZI: Is it too late for me to
8 comment on something?

9 MR. PROKOP: No.

10 MEMBER MIZZI: I think the logic is sound
11 relative to, you know, equipment. Like I -- but I
12 do feel a little uncomfortable that we're
13 receiving a letter from one neighbor saying, "I'll
14 approve it if you put a" -- you know, if you put
15 the equipment next to the other neighbor, because
16 it feels like someone could go back later in the
17 records and say, you know, the Zoning Board got
18 involved in approving equipment someplace. And,
19 you know, I'd rather not be a party to that, to be
20 honest with you, because if my neighbor got relief
21 from the Zoning Board to move equipment to my side
22 of the house, and I read it back later, I would be
23 upset with the Zoning Board.

24 MR. PROKOP: Well, my recommendation
25 normally is that the equipment have a buffering.

1 MEMBER MIZZI: Right.

2 MR. PROKOP: It could be buffered with some
3 kind of, you know -- you know, I hate to say wall,
4 but some kind of a configuration to buffer.
5 Normally, we --

6 MR. HULME: We could even -- we could
7 even --

8 MEMBER MIZZI: I guess what I'm saying is I
9 would be --

10 MR. HULME: You could dig a hole and put it
11 below.

12 MEMBER MIZZI: I almost feel like we
13 should --

14 MS. SADELI: Just one at a time. She
15 can't -- she can't take that.

16 MEMBER MIZZI: I'm sorry. I guess what -- I
17 feel like maybe we should go on record in saying
18 we are not party to any, you know, like --

19 MR. PROKOP: You're on the record.

20 MEMBER MIZZI: Okay. But what I'm saying
21 is, you know, I guess I meant in our response,
22 that we're not party to any of these agreements
23 between, you know, the homeowner and these
24 neighbors, because it feels to me like we've
25 presented -- we've been presented with something

1 that's a provisional approval, as long as we allow
2 equipment to go on the other side of someone
3 else's house, and I would prefer that that's not
4 something I'm involved in.

5 CHAIRMAN GESSIN: Yeah, but the letter
6 didn't say that, did it?

7 MEMBER MIZZI: That's what it says.

8 CHAIRMAN GESSIN: It says that the equipment
9 had to be on the other side?

10 MEMBER SARETSKY: Yeah, it says here.

11 CHAIRMAN GESSIN: Oh, I missed that.

12 MR. FREEDMAN: We probably can get the
13 neighbor to say he doesn't care about that.

14 MEMBER SARETSKY: Well, that may be more
15 helpful to our --

16 MR. HULME: We can probably get a letter to
17 that effect.

18 MR. FREEDMAN: The neighbor, we're very
19 close. They have their own equipment there. I
20 don't think he'll care, but I was afraid to like
21 offer it and --

22 MEMBER MIZZI: No.

23 MR. FREEDMAN: If you think that I should --

24 MEMBER MIZZI: I guess --

25 MR. HULME: And the other thing that should

1 give you comfort is that that neighbor has been
2 invited to every hearing that we've held.

3 MEMBER MIZZI: No. One thing is --

4 MR. HULME: Personally invited.

5 MEMBER MIZZI: Understood.

6 CHAIRMAN GESSIN: And that neighbor has
7 their equipment mounted on the west side.

8 MR. HULME: Right.

9 MR. FREEDMAN: On the side next to my house.

10 MEMBER MIZZI: I'm just saying, is that I
11 just -- like I just would prefer not to be party
12 to this horse trading.

13 MR. PROKOP: Yeah.

14 MR. HULME: And you're not subject to
15 that -- that's a letter that we got to try to give
16 you some comfort, but the Board is certainly not
17 subject to whatever is characterized in there.
18 You're going to -- if you're going to approve this
19 and you're going to render a decision, I'm sure
20 that there's going to be a condition in what Joe
21 prepares as to what, where and how we can put
22 the --

23 MEMBER MIZZI: That's my point.

24 MR. HULME: The machinery.

25 MEMBER CASHIN: But there's no requirement

1 in the Village not to have the equipment in the
2 side yard.

3 MEMBER MIZZI: No. Yeah. I'm not saying
4 that, I guess. I guess, is I just wouldn't want
5 the appearance that 846 was, you know -- was
6 supporting this because we were agreeing to move
7 equipment to the other side next to someone else's
8 house.

9 MR. PROKOP: Yeah. So I -- that's a -- I
10 think the Building Inspector has -- yeah, I don't
11 want to say anything about that in public,
12 actually, about the equipment, but it could be
13 part of your decision.

14 MR. HULME: Tell us to put it wherever you
15 want and we'll put it there, that's your purview.
16 Okay? Thank you. Thank you very much.

17 MR. FREEDMAN: Thank you for your time, I
18 appreciate it.

19 MR. HULME: Thank you. This is an
20 interesting situation, and a difficult
21 deliberation. I really appreciate your attention.

22 MR. FREEDMAN: Thank you.

23 MR. HULME: Joe, thank you.

24 MR. PROKOP: Okay. Thank you. Good job.

25 MR. FREEDMAN: Thank you for taking your

1 time on a Saturday.

2 MEMBER MIZZI: Thank you.

3 MR. FREEDMAN: I know it's not where you
4 want to be.

5 MEMBER SARETSKY: No problem.

6 MR. PROKOP: So is there anything you want
7 to discuss? We're still in, I mean --

8 MEMBER CASHIN: Do you have any other
9 matters before the Board?

10 MS. SADELI: That was it.

11 MR. PROKOP: I guess we resolved the matter
12 with the other pool.

13 CHAIRMAN GESSIN: What other pool?

14 MEMBER SARETSKY: This was the one on Cove
15 Lane?

16 MR. PROKOP: Yeah, Cove Lane.

17 MEMBER SARETSKY: I didn't even know there
18 was an issue, but that was the last one we did.

19 MR. PROKOP: Aram, the issues with the Cove
20 Lane, is there -- the Cove Lane pool that was
21 approved, is there anything that has to do with
22 this Board?

23 MR. TERCHUNIAN: No. It was a Building
24 Department sign issue. They put up a series of
25 "No Trespassing" signs, which are not allowed in

1 the Village, so they were removed.

2 The landscaping in -- and they put -- you
3 know, they did a 4-foot fence, and they did
4 landscaping. They wanted to be very private, it's
5 their right. But "No Trespassing" signs, gone.

6 MR. PROKOP: Okay.

7 CHAIRMAN GESSIN: So you want to close the
8 hearing?

9 MR. PROKOP: The hearing's closed, the
10 meeting's open.

11 Does anybody -- does anybody want to say
12 anything about any of the five criteria, impacts
13 on the environment, impacts on the neighborhood,
14 impacts on the surrounding properties, the scope
15 of the relief granted, and whether or not the
16 impacts were self-created?

17 MEMBER SARETSKY: Well, I guess the impacts
18 are self-created.

19 MEMBER CASHIN: The impacts are
20 self-created, yeah.

21 MEMBER SARETSKY: It's definitely
22 self-created.

23 MEMBER CASHIN: Almost all of them are that
24 come before us.

25 MR. PROKOP: What about impacts on

1 neighboring properties?

2 MEMBER SARETSKY: There's definitely an
3 impact, but it seems as if the person impacted is
4 okay with it, right?

5 MEMBER CASHIN: Yeah. I'm not sure that's
6 what the -- what the criteria say, but yeah.

7 MEMBER SARETSKY: No. I'm just trying to --

8 MEMBER CASHIN: Yeah.

9 MR. PROKOP: We'll have to do something with
10 the equipment, that's all, see what they propose.
11 And what about the changes and conditions in the
12 neighborhood?

13 MEMBER SARETSKY: Go back to the equipment
14 for a second. Why can't the equipment be in the
15 middle?

16 CHAIRMAN GESSIN: In the back.

17 MEMBER SARETSKY: In the back, right?

18 CHAIRMAN GESSIN: I don't remember what
19 their setbacks were.

20 MEMBER SARETSKY: No. But I'm saying, under
21 their deck.

22 CHAIRMAN GESSIN: You can't go under, it has
23 to go above, FEMA plus two.

24 MEMBER MIZZI: It's got to have air.

25 MEMBER SARETSKY: Exposed?

1 CHAIRMAN GESSIN: No, FEMA plus two.

2 MR. TERCHUNIAN: It has to be elevated above
3 the flood level.

4 MEMBER SARETSKY: Right, but the ones that
5 I've seen are under, under people's decks.

6 MEMBER MIZZI: They're not supposed to.

7 CHAIRMAN GESSIN: Those are the older ones.

8 MEMBER SARETSKY: Oh, okay.

9 CHAIRMAN GESSIN: We can't do that anymore.

10 MEMBER SARETSKY: The new ones have to be
11 exposed, okay.

12 MEMBER MIZZI: And they have to have air
13 around them circulating.

14 MR. TERCHUNIAN: Yeah, and --

15 MEMBER MIZZI: You can't put them underneath
16 anything.

17 MR. TERCHUNIAN: Yeah, and rained on,
18 because otherwise they rot.

19 MEMBER MIZZI: Right, you want the fresh air
20 around it.

21 MR. TERCHUNIAN: Either that, or you got to
22 sprinkle them.

23 MEMBER SARETSKY: I'm sorry. Go ahead, Joe.

24 MR. PROKOP: No. It's up to you. I'm just
25 trying to stimulate a discussion.

1 MEMBER CASHIN: My feeling is that the -- in
2 my only personal opinion, is that the ones -- I
3 think it would be four to one in favor on the
4 criteria, in my mind, as I think through the
5 criteria.

6 MR. PROKOP: Okay. All right. So I'll try
7 to draft a decision, keeping that in mind, and you
8 can -- we'll circulate it in common time.

9 MEMBER MIZZI: And I don't know if you guys
10 agree with it.

11 MEMBER SARETSKY: Yeah. I mean --

12 MEMBER MIZZI: There's a couple of those
13 that --

14 MEMBER SARETSKY: Listen, if between Aram
15 and Joe, the answer is this is essentially
16 as-of-right, and the issues that are related to
17 it, there's no issue from the neighbor on the
18 other side, I mean, it really just goes back to
19 the fact that, to me, that it's not -- the
20 subdivision isn't done yet, and this does have
21 special conditions. And if it doesn't create a
22 problem that we're approving the pool, whether he
23 gets the subdivision or not, then I guess it's a
24 moot point. I mean, is that fair to say? Or
25 maybe not.

1 MR. PROKOP: I think the way to look at the
2 application is the fact that to impose the
3 Four-Tenths Rule, and see what -- you know, how
4 everybody else would be impacted. See how it
5 would be impacted if it was a stand-alone, one
6 house on the property.

7 MEMBER MIZZI: How wide? How wide is the
8 lot?

9 MR. TERCHUNIAN: Seventy-three feet.

10 MEMBER SARETSKY: I mean, if --

11 MEMBER MIZZI: So four-tenths versus
12 three-tenths.

13 MEMBER SARETSKY: What were the inches you
14 said?

15 MR. PROKOP: Is 7 feet.

16 CHAIRMAN GESSIN: Seven-five.

17 MEMBER MIZZI: Seven feet.

18 MEMBER SARETSKY: But are we saying that
19 it's 4.8? In other words, if you use --

20 MEMBER MIZZI: So Three-Tenth -- yeah, the
21 Three-Tenths Rule is you get -- it's versus
22 Four-Tenths.

23 MR. PROKOP: Combined is three-tenths. So
24 it would be 21 feet versus 28 feet, and you have
25 to divide the two. So it would be --

1 MR. TERCHUNIAN: No. Four-Tenths is weird,
2 because it's four-tenths of the lot width, and
3 four-tenths of that number is the minimum, and
4 four-tenths of that number is 12.

5 MR. PROKOP: Right.

6 MEMBER MIZZI: Say that again.

7 MR. TERCHUNIAN: So the Four-Tenths Rule is
8 different, because it's four-tenths of the 75.
9 So .4 times 75 is 30, and then four-tenths of 30
10 is 12. That's the minimum on the Four-Tenths
11 Rule.

12 MEMBER SARETSKY: And you were saying that
13 he's at 11?

14 MR. TERCHUNIAN: He's at 11-5 something.

15 MEMBER SARETSKY: So 4.8.

16 MEMBER MIZZI: So what's the Four-Tenths
17 Rule? Four-tenths of the width of the property.

18 MR. TERCHUNIAN: And the minimum, that's --
19 the total side yard has to be four-tenths of the
20 wetlands.

21 MEMBER SARETSKY: Both sides.

22 MR. TERCHUNIAN: Both sides. And then the
23 minimum side yard is four-tenths of the total.

24 MR. PROKOP: So if we were the strictest
25 that we could possibly be, it would still only

1 be -- we're talking about six inches or so.

2 CHAIRMAN GESSIN: Less than six inches.

3 MR. PROKOP: You know, if you disregarded --

4 MEMBER SARETSKY: It's 4.8, yeah.

5 MR. PROKOP: -- and listen to me, then it
6 would be, whatever, six inches or four inches.

7 MR. TERCHUNIAN: Yeah, less than six inches.

8 MR. PROKOP: That's how I would view it.

9 MR. TERCHUNIAN: Yeah, which is -- you know,
10 the Building Inspector is authorized under New
11 York State Building Code to grant six inches of
12 relief.

13 MEMBER SARETSKY: So wouldn't it behoove us
14 to stay with the Four-Tenths Rule and let the
15 Building Inspector do his thing?

16 MR. TERCHUNIAN: No. I think, you know,
17 this is a superior Board, you have the most
18 authority.

19 MR. PROKOP: I would probably put that in
20 the decision, that the Four-Tenths Rule applies,
21 but it's de minimus.

22 MEMBER SARETSKY: Right.

23 MR. TERCHUNIAN: So I agree.

24 MR. PROKOP: So that gives us guidance for
25 the future.

1 MEMBER SARETSKY: If this just like comes up
2 again, we did it by the book.

3 MR. TERCHUNIAN: You know it, yeah.

4 MEMBER SARETSKY: I mean, that would be sort
5 of my position --

6 MEMBER CASHIN: I agree.

7 MEMBER SARETSKY: -- to do it.

8 MEMBER CASHIN: Move to close the hearing.

9 MR. TERCHUNIAN: Meeting.

10 MEMBER SARETSKY: Aye.

11 MEMBER CASHIN: Second.

12 MEMBER MIZZI: (Raised hand)

13 MEMBER CASHIN: All in favor?

14 MEMBER SARETSKY: Aye.

15 MEMBER CASHIN: Aye.

16 (Time Noted: 11:15 a.m.)

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

STATE OF NEW YORK)

SS:

COUNTY OF SUFFOLK)

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

THAT, the above and foregoing contains a true and correct transcription of the proceedings taken on July 27, 2019.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of July, 2019.

Lucia Braaten
Lucia Braaten

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