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VILLAGE OF WESTHAMPTON DUNES  
COUNTY OF SUFFOLK : STATE OF NEW YORK

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TOWN OF WESTHAMPTON DUNES  
ZONING BOARD OF APPEALS

-----x

September 23, 2023

9:00 AM

906 Dune Road

Westhampton Beach, NY 11901

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

ERIC SARETSKY, Chairman

IRWIN KRASNOW, Board Member

JAMES CASHIN, Board Member

JEFFREY FARKAS, Board Member

JOSEPH MIZZI, Board Member

ARAM TERCHUNIAN, Consultant

JOSEPH PROKOP, Esq. Board Counsel

ROBIN SANTORA, Village Clerk

ALL OTHER INTERESTED PARTIES

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CHAIRMAN SARETSKY: Call  
the meeting to order. I guess we're  
going to begin with the pledge of  
allegiance.

(Whereupon the Pledge of  
Allegiance was recited.)

CHAIRMAN SARETSKY: All  
right, we'll call the meeting to  
order. What's first on the agenda?

MR. SMITH: Here's Aram.

CHAIRMAN SARETSKY: Because  
you're late, you're going to have to  
read the Pledge of Allegiance by  
yourself.

MR. TERCHUNIAN: What  
really worries me is that Joe beat  
me.

BOARD MEMBER KRASNOW: Cost  
me 100 bucks.

CHAIRMAN SARETSKY: Make  
yourself comfortable.

MR. HULME: Thank you.

CHAIRMAN SARETSKY: Good  
morning.

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MR. HULME: What are we up to?

CHAIRMAN SARETSKY: I think you sent some new information. I think we're talking about 772.

MR. HULME: What happened to Antinucci?

BOARD MEMBER KRASNOW: That was not on the --

CHAIRMAN FARLEY: I don't think that's on the agenda.

VILLAGE ATTORNEY PROKOP: Let's just do one thing at a time. This is 772.

MR. HULME: I had asked for an adjournment of Antinucci for the last meeting. I don't understand why it's not on for this meeting. I was requested to send a notice out -- I was not requested to send a notice out, but the hearing was closed and I asked merely that the last day be adjourned. I don't understand why it's not on today. I

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didn't ask for it not to be on  
today.

VILLAGE ATTORNEY PROKOP:

So we're asking you to proceed with  
772. Are you not going to proceed  
with 772?

MR. HULME: I'm going to  
proceed with 772, but I think I'm  
entitled to an answer of why the  
case I expected to be on is not on  
today. I'm talking to the chairman,  
Mr. Prokop.

VILLAGE ATTORNEY PROKOP:

Why did you think it would be on?

CHAIRMAN FARLEY: Right now  
all I know about from -- you know,  
from --

MR. HULME: Let's -- all  
right, it's not happening today.  
What do I have to do to get it back  
before you so you can render a  
decision?

BOARD MEMBER KRASNOW: We  
were --

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CHAIRMAN SARETSKY: We were going to meet after this meeting and go over -- because you submitted a more recent document, right, showing -- and we wanted to see how that compared with can the original one.

MR. HULME: What I submitted was, as requested by counsel, was a list of the conditions that were requested in the transcript that I also included in the document. So it wasn't anything new and it wasn't anything that I unilaterally filed. It was something that was requested by counsel and that's what I provided.

VILLAGE ATTORNEY PROKOP:  
We received a letter from you on the eve of our last meeting asking us not to consider -- asking us to adjourn 732 and not consider it and then you would let us -- you would basically adjourn it open, which we did at your request --

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MR. HULME: Okay. So now  
I'm asking --

VILLAGE ATTORNEY PROKOP:  
-- at the applicant's request.

MR. HULME: -- what do I  
need to do to get it back in front  
of you?

VILLAGE ATTORNEY PROKOP:  
We've asked you on many applications  
for many years, we've asked you to  
get information to the Board that  
you'd like to submit at least ten  
days prior to the meeting.

On September 21st, we  
received a letter from you dated  
August 21st, which said -- less than  
48 hours ago, we received -- or  
approximately 48 hours ago, we  
received a letter from you dated  
August 21st with a plan attached and  
also the material attached that we  
asked from you about 60 days ago.  
So we're still -- because we only  
received it at that time, we're

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still looking at it.

We appreciate the fact that you did finally submit that material and we had questions about the plan that you submitted. Would you like to address that now or do you want to address it at the end of the meeting?

MR. TERCHUNIAN: A point of information, if I may? I'm pretty sure the public hearing is closed on this.

CHAIRMAN SARETSKY: I thought it was too.

MR. TERCHUNIAN: So I believe we're in the administrative step of what gets done. The applicant had requested an adjournment. He recently sent a letter that said they'd like to have a decision as soon as possible, but they would be willing to waive the timelines at the discretion of the Board.

1  
2 It seems to me that the  
3 Board is in the decision mode.  
4 There is no more information about  
5 this application that's going to be  
6 submitted. The hearing is closed.

7 BOARD MEMBER KRASNOW: I  
8 apologize. I thought it was a  
9 little different. I thought at  
10 first they -- we were going to make  
11 a decision. Then they said, we want  
12 to change our whole application --

13 MR. TERCHUNIAN: No.

14 BOARD MEMBER KRASNOW: --  
15 so we'll waive the time period for  
16 you to make the decision while we're  
17 reconsidering what we're going to  
18 resubmit.

19 BOARD MEMBER FARKAS:  
20 That's what I thought.

21 MR. HULME: Not to you.

22 MR. TERCHUNIAN: Just a  
23 small clarification that's  
24 important. They submitted an  
25 application to a completely



1  
2 different Board. It has nothing to  
3 do with this Board. They submitted  
4 an application to the Planning Board  
5 that the Planning Board is  
6 reviewing. They did not submit  
7 an -- they can't submit two  
8 applications at the same time to  
9 this Board.

10 So the question in front of  
11 the Board, from my point of view,  
12 is: Do you want to instruct your  
13 attorney to draft a decision for  
14 your consideration or do you want to  
15 set a time, a date, 60 days; 30, 60,  
16 90, whatever number of days that the  
17 Board thinks is necessary for you to  
18 make a decision?

19 CHAIRMAN SARETSKY: Well --

20 MR. TERCHUNIAN: It's  
21 purely administrative.

22 CHAIRMAN FARLEY: I agree  
23 that it's administrative in my mind.  
24 I thought what we were going to do  
25 was, either in executive session, is

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what you were calling it, we were going to review, just to do those things today I thought.

MR. TERCHUNIAN: Well, I think it's a housekeeping thing. In other words, Mr. Hulme has submitted what he believes to be the list of conditions that the Board requested along with the transcript. I think it's a housekeeping thing that Joe and I review his submittal and report to the Board whether or not that is the material that this Board asked for. And I think then the Board instructs the attorney to write a decision and gives him a date when it's done and informs the client -- the applicant your decision is going to be on "X" date.

VILLAGE ATTORNEY PROKOP: I don't make decisions. I'm sorry, I can't. The legal end of this is that, you know, I think that the Board should discuss -- the Board

1  
2 can discuss the application in open  
3 meeting. I think that that's what  
4 you should do. The submission that  
5 we received two days ago also had a  
6 plan attached to it. Somebody has  
7 to look at that plan and verify  
8 whether it conforms to the original  
9 plan. I noticed things -- I noticed  
10 differences.

11 MR. TERCHUNIAN: I agree,  
12 Joe. This is a housekeeping thing.  
13 You and I and the building inspector  
14 can review the material, advise the  
15 Board, yes, it is what you asked  
16 for; no, it isn't and we need  
17 something different. And then the  
18 Board can meet in open session,  
19 discuss application without any  
20 input from anyone else.

21 CHAIRMAN SARETSKY: Understood.

22 MR. TERCHUNIAN: And then  
23 advise the attorney that we want,  
24 you know -- you don't vote of  
25 course, but then you set a date for

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the decision, a hard and fast date.

BOARD MEMBER FARKAS: The documentation that was submitted to the Board of Trustees, do we get to see that?

MR. TERCHUNIAN: Absolutely.

BOARD MEMBER FARKAS: Okay because we haven't seen it.

MR. TERCHUNIAN: No, you haven't. My estimation is that Joe and the building inspector and I drafted a correspondence --

MR. HULME: That has nothing to do what we're seeking here.

MR. TERCHUNIAN: No, it doesn't, but what I assume is going to happen, regardless of what the Planning Board does, they're going to refer you for -- at least to look at. But that's up to the Planning Board.

BOARD MEMBER FARKAS: But why wouldn't we get to see that?

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MR. TERCHUNIAN: There's no reason that you wouldn't.

BOARD MEMBER FARKAS: Okay.

MR. TERCHUNIAN: But it's not in the front of you --

BOARD MEMBER FARKAS: Do we have to file a request to see it or is somebody going to send it?

MR. HULME: I'll give it to you.

BOARD MEMBER KRASNOW: Can I get a clarification on this? I'm just trying to understand. As a Zoning Board, we were going to agree that we were going to allow them to do X and we have some conditions. And now they're saying, well, you're granting us this -- you might grant us a subdivision, but we're going to go to the Planning Board and try and change X, Y and Z, even though we predicated our decision upon -- is that what's kind of going on here, why they're going to the --

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MR. TERCHUNIAN: What they're doing -- I'm sorry, finish your question.

BOARD MEMBER KRASNOW: So they're not -- if we were to grant a subdivision based upon houses being here, there, and elsewhere and a certain size to try to make it, you know, in accommodation to what some of the neighbors requested, and we grant this, then they can go to the Planning Board and change a lot of the things or conditions that we -- how do we protect ourselves?

VILLAGE ATTORNEY PROKOP: I'm sorry. This application is a discussion with the Board that no longer includes, as Aram said, I agree, we should not have any further input. Aram and I should be able to advise the Board and respond to questions without interference or domination by anybody else including the applicant or their attorney.

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2                   So if we're having a  
3                   discussion about 738 now, I would  
4                   like it to be with the Board without  
5                   the applicant's attorney at the  
6                   table. I don't want to feel that  
7                   anything I say is going to be  
8                   questioned or interrupted by the  
9                   applicant's attorney.

10                   BOARD MEMBER CASHIN: We  
11                   jumped to the other one.

12                   MR. HULME: I'm just trying  
13                   to get this back on track. That's  
14                   what I'm trying to do.

15                   MR. TERCHUNIAN: Irwin, to  
16                   answer your question, no, the  
17                   Planning Board cannot undue your  
18                   decision; period, full stop, no  
19                   other answer. They cannot undo a  
20                   Zoning Board decision. The  
21                   applicant has chosen to change the  
22                   arrangement of the lots in a method  
23                   that they believe does not require a  
24                   variance --

25                   BOARD MEMBER KRASNOW: Oh.

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MR. TERCHUNIAN: -- which  
is their right to do.

BOARD MEMBER KRASNOW: It  
just seems like why did they bring  
this to us initially with the public  
when we were doing as opposed --

MR. TERCHUNIAN: Because --

BOARD MEMBER KRASNOW:  
That's where I have an issue.

MR. TERCHUNIAN: Because if  
it doesn't require a variance, it  
never comes before this Board.

BOARD MEMBER KRASNOW: To  
me it's like --

BOARD MEMBER FARKAS: So  
why are they asking for a decision?

BOARD MEMBER KRASNOW: Right.

MR. TERCHUNIAN: Well,  
that's their choice. They have a  
process. They can --

(Whereupon, there was  
crosstalk.)

MR. HULME: I think that my  
client was rethinking the conditions



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that he agreed to as far as that  
plan. So he spent some time  
thinking about a plan that he  
believed didn't require any  
variances, but it's my --

BOARD MEMBER CASHIN: Which  
plan are you talking about?

BOARD MEMBER KRASNOW:  
Well, every plan requires a  
variance.

BOARD MEMBER CASHIN: Which  
one of these are we specifically  
talking about?

(Whereupon, there was  
crosstalk.)

MR. HULME: 738 and 742.  
He's not here to speak to this, but  
I suspect that it's like likely that  
if this Board ultimately grants the  
variances as we believe would be  
conditioned, that he will withdraw  
that other application. I mean, his  
intent is just to get to the finish  
line on this project so that he can

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move on.

BOARD MEMBER KRASNOW: We thought we were close there. That's why we were very perplexed.

MR. TERCHUNIAN:  
Mr. Chairman, we are there. Allow Joe and John and I to review the materials, advise the Board if they meet the requirements, have your discussion, schedule a decision. It's very simple.

MR. HULME: I appreciate that.

VILLAGE ATTORNEY PROKOP:  
But once again, that was exactly what was happening, except today we were challenge -- well, in the middle of the discussion about a different application, we were challenged about why we're not proceeding with --

MR. TERCHUNIAN: And he has his answer.

MR. HULME: I do.

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Appreciate it.

MR. TERCHUNIAN: We are proceeding.

MR. HULME: All right, so you want to move on to 772?

CHAIRMAN SARETSKY: Sure.

MR. HULME: Start with 772 Okay, so this is a two-lot subdivision for my client located at 772 Dune Road, Laura Fabrizio.

MR. TERCHUNIAN: Excuse me, counsel, may I interrupt you? We have somebody on Zoom. This is the second meeting they've come in on, but they have not identified themselves. Would you -- can we -- for the record, Mr. Smirth (phonetic), can we know who you are?

VILLAGE CLERK SANTORA: Now he's gone.

MR. TERCHUNIAN: So now he's dropped off.

CHAIRMAN FARLEY: Who was it?

MR. TERCHUNIAN: Richard Smirth.

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VILLAGE CLERK SANTORA:

Robert Smirth.

BOARD MEMBER KRASNOW: We should probably have two; one that we can see who's on there, one to --

BOARD MEMBER CASHIN: We've had some people jump into our meetings a couple of times. People totally unrelated to the Village.

MR. TERCHUNIAN: Right.

VILLAGE CLERK SANTORA: Right.

MR. TERCHUNIAN: Very odd, and especially when I questioned who he was, he disappeared.

CHAIRMAN SARETSKY: Good job.

MR. HULME: So, I believe that the last version of the site plan that we're considering is the June 1, 2023 site plan prepared by David Cox that's the one that I presented here before you.

We're seeking to divide the lot located at 772 into two lots.

One lot is 15,110 square feet in an

1  
2 area with a 56-foot lot width. Lot  
3 Number 2 is proposed at 17,798  
4 square feet with a 70 foot lot  
5 width, which is actually the  
6 existing lot width of Lot 2.

7 And also part of this  
8 project is there is, effectively, a  
9 reserve lot of an additional  
10 19,718 square feet, which was  
11 recently titled to the trustees  
12 pursuant to the settlement of the  
13 trustee action that this property  
14 was involved in Lot 1. So in large  
15 measure, this subdivision  
16 application is an analogous of a  
17 subdivision -- similar to the relief  
18 granted this property in a prior  
19 variance.

20 As to the specific  
21 variances that I believe this  
22 requires and I believe we discussed  
23 this before, but I just want to  
24 summarize them today.

25 For Lot Number 1, we're

1  
2 proposing 15,110 square feet as  
3 opposed to the required 40,000  
4 square feet. Also for Lot 1, we're  
5 requesting a lot width of 56 feet  
6 where 150 feet is required. Also  
7 for Lot 1 we're requesting a single  
8 side yard of 1.9 feet where 20 feet  
9 is required.

10 Also for Lot 1, we're  
11 proposing a total side yard of  
12 24.9 feet where 60 feet is required  
13 and, lastly for that lot, we're  
14 requesting accessory structure  
15 setback variance of 1.9 feet where  
16 20 feet is required. As it pertains  
17 to --

18 BOARD MEMBER FARKAS: Sorry  
19 to interrupt, but you also need the  
20 flagpole on Lot 1.

21 MR. HULME: No, the  
22 flagpole is Lot 2 actually. The  
23 flagpole is part of Lot 2. I was  
24 going to get to that.

25 BOARD MEMBER FARKAS: Okay,

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sorry.

BOARD MEMBER KRASNOW: Oh,  
it's not an easement on Lot 1, it's  
a --

MR. HULME: No. It's a  
flagpole on Lot 2. It's part of Lot 2.

BOARD MEMBER KRASNOW: Okay.

MR. HULME: So, getting to  
the proposed variances for Lot  
Number 2, we're looking for a lot  
area of 17,790 feet as oppose to the  
required 40,000 square feet. And  
we're looking for a flagpole of  
14 feet in width where 20 feet is  
required.

The conditions that we  
discussed at past meetings that the  
Board may be looking the applicant  
to agree to in the event that these  
variances are granted in this matter  
is that: They will only be one curb  
cut created by this subdivision. So  
both Lots 1 and Lot 2 will gain  
access to the property from the same

1  
2 curb cut as indicated on the survey  
3 with the existing curb cut for Lot 1  
4 being closed and both lots gaining  
5 their access across using the  
6 flagpole for Lot Number 2.

7 And the second condition  
8 that I believe that we discussed is  
9 that Lot Number 2 will not require  
10 any further variances, other than  
11 area and the flagpole, for any of  
12 the setbacks and we'll also agree to  
13 apply the four-tenths rule to the  
14 side yard setbacks.

15 So I believe summarizes the  
16 discussion to date and the variances  
17 needed.

18 BOARD MEMBER KRASNOW: So  
19 does that mean that the 14-foot side  
20 yard setbacks are to code then?

21 MR. HULME: Yes. Well, if  
22 -- yes.

23 MR. TERCHUNIAN: No. They  
24 would need a variance because the  
25 code is 60 feet overall and not less



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than 20.

BOARD MEMBER KRASNOW:

Right, that's what I'm saying.

MR. HULME: Yes. I'm  
sorry. Well, with the condition  
that we're agreeing and you're  
allowing four-tenths for the -- so  
if that's a variance, then it's a  
variance. If it's a condition  
that's imposed on the other  
variances --

BOARD MEMBER KRASNOW: The  
four-tenths doesn't alleviate the  
20-foot setback, does it?

MR. TERCHUNIAN: It does.

BOARD MEMBER KRASNOW: So  
the four-tenths is a variance then?

MR. TERCHUNIAN: On this  
lot it would be a variance because  
you're creating a new lot, whereas  
if it was an existing lot, it would  
not be a new variance.

BOARD MEMBER KRASNOW:

Okay. Thank you for clarifying.

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BOARD MEMBER FARKAS: So,  
Jim, for Lot 2, it's only two  
variances, lot area and lot width?

MR. HULME: Well, lot area  
and lot width -- well, no, not lot  
width at all because the 70 feet is  
an existing condition and the  
subdivision is not changing that  
condition. So I don't believe a  
variance is necessary for that lot  
width.

BOARD MEMBER FARKAS: But  
if the requirement is 150, why --

MR. HULME: But it exists  
at 70 feet right now.

BOARD MEMBER FARKAS: Right.

MR. HULME: And the relief  
that we're looking for has not  
created that. It's a preexisting  
condition.

BOARD MEMBER KRASNOW: But  
it's a 50 plus percent variance on  
the lot size.

MR. HULME: Yes. If that's

1 the -- well, I'll adopt your math.  
2  
3 I didn't do the math myself. So Lot  
4 Number 2 would require three  
5 variances, just for the clarity of  
6 the record. It would require the  
7 lot area, the flagpole, and the  
8 allowance of the four-tenths rule to  
9 apply for the side yard setbacks.

10 But Lot Number 2 would  
11 still be required to meet the lot  
12 coverage; rear yard, front yard  
13 setback, etcetera, etcetera.

14 BOARD MEMBER KRASNOW: So  
15 one other question -- well -- but in  
16 the 2006 variances there were four.  
17 Why is there one less now? Why  
18 would it not be greater than the  
19 original granted one?

20 MR. HULME: I'm sorry, I  
21 don't understand the question.

22 BOARD MEMBER KRASNOW: You  
23 have in your chart here in 2006  
24 there were four variances that were  
25 needed. Now you're saying there is

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three.

MR. HULME: In the rear lot.

BOARD MEMBER KRASNOW: What were the four variances? I'm going by what you said. I'm trying to understand this (handing).

MR. HULME: (Perusing) No, this indicates that the 70 feet is a preexisting condition. I'm not saying that that's -- that was not a required variance.

BOARD MEMBER KRASNOW: Oh, okay.

MR. HULME: I was just detailing the conditions of the property and I'd identified that particular -- that's in blue, right?

BOARD MEMBER KRASNOW: Right, but you're saying 60 feet, that's why --

MR. HULME: For Lot 1.

BOARD MEMBER KRASNOW: Well, I'm not trying to be

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argumentative. I'm trying to understand what's on the chart here.

MR. HULME: Let me see.

I'll try and answer your question.

BOARD MEMBER KRASNOW:

(Hanging.)

MR. HULME: (Perusing.)

BOARD MEMBER KRASNOW: I'm not trying to be difficult. I'm trying to understand.

MR. HULME: I think that that 60 feet was for the front, the lot width.

BOARD MEMBER KRASNOW: Okay.

MR. HULME: Yes, I don't think that was Lot 2. But in any event, perhaps we requested something that we actually didn't need to request at that time. But anyway, that's my analysis of what I believe the necessary variances are. That's, obviously, up to you to either agree or not.

So, moving on, we wanted to

1  
2 take a look at as broad a  
3 neighborhood analysis as we could.  
4 I think I submitted this to you  
5 before, but the first page of my  
6 original -- my recent submission was  
7 that we looked at every lot on the  
8 bay side from Cove Lane to the  
9 Village border and that is  
10 summarized in this two-page  
11 spreadsheet.

12 We did eliminate one or  
13 two -- two or three lots that were  
14 not considered. Two of them were  
15 private roads, so they didn't seem  
16 to be appropriate on the matter. I  
17 eliminated the Antinucci property  
18 because they're obviously in flux  
19 and we're not sure where that's  
20 going to end. And I also eliminated  
21 Pike's Beach from the analysis.

22 But if you go through all  
23 that and you look at the averages,  
24 you'll see that in that  
25 neighborhood, the average lot size

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area is a little over 21,000 square feet and the average lot width is a little over 71 feet.

However, to understand that number in a certain amount of context, I also provided you information about the smallest and largest lot in that range and those lots range from a little under 10,000 square feet to almost 44,000 square feet and the lot widths range from 40 feet up to 130 feet.

So we are, perhaps, in the lower part of that range, but we are certainly within the range of lots in that area. And the other way I wanted to demonstrate that to you is I create what is known as a scatter gram -- scatter graph.

CHAIRMAN SARETSKY: Before we leave this one.

MR. HULME: Yes.

CHAIRMAN SARETSKY: So how many of these are subdivision lots

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versus just single family houses?  
Do we know that?

MR. HULME: I don't know  
whether they're --

CHAIRMAN FARLEY: I'm just  
curious.

MR. TERCHUNIAN:  
Subdivision by this Village?

CHAIRMAN SARETSKY: Call it  
a flag lot. Whatever you want to  
call it, multiple houses, how about  
that, on a single lot.

MR. TERCHUNIAN: In this  
area?

CHAIRMAN SARETSKY: No. In  
other words, this --

MR. TERCHUNIAN: Let me see  
the map.

CHAIRMAN SARETSKY: -- this  
sheet, which I guess represents  
that --

BOARD MEMBER FARKAS: And  
also while you're looking, Aram, how  
many were created by requiring a



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variance?

MR. TERCHUNIAN: All right.

So the Skiderna property, those lots were created by a variance.

CHAIRMAN SARETSKY: But in

fairness, Skiderna are 80-foot lots and they are an aberration, an unusual way --

MR. TERCHUNIAN: I'm just

answering the question. I'm just answering the question.

BOARD MEMBER KRASNOW: And

they're not flag lots.

CHAIRMAN SARETSKY: They're

not flag lots.

BOARD MEMBER FARKAS: He's

giving us the information we're asking for.

MR. TERCHUNIAN: All right,

so Skiderna was created by a subdivision and the only flag lots within this group are at the very beginning of the Village where the constable's building is and next

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door to that, those are flag lots.

And then --

MR. HULME: Directly adjacent to this lot?

MR. TERCHUNIAN: Directly adjacent to this lot and was created by this Board as a flag lot.

CHAIRMAN FARLEY: But not created by this Board.

MR. HULME: Yes.

MR. TERCHUNIAN: Yes.

CHAIRMAN SARETSKY: Oh, I'm sorry. It was a variance that was issued --

MR. TERCHUNIAN: By the Zoning Board.

CHAIRMAN SARETSKY: -- in 2006, the same time as the original one?

MR. TERCHUNIAN: Right. By the Zoning Board.

MR. HULME: And so 782 Dune Road was Greg Panayis and he was granted a variance.

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MR. TERCHUNIAN: Right.

Those are the only ones that were either created by a subdivision or flag lot.

CHAIRMAN SARETSKY: I'm asking this because, for me, I need it sort of baby steps from cradle to grave here. In other words, I need to understand, when this original variance in 2006 was issued, what variances there were, which you've described, but, again, I haven't seen it on a drawing, highlighted, so I can kind of simply understand. And then why it can't be built, not unlike next door or not unlike what it once was on the original variances.

Now I understand about the lot, the driveway width and I don't want to get too granular yet because we still have further to go, but it's -- I'd be lying to tell you that it's confusing.

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MR. HULME: What part is confusing? I'll try and help you.

CHAIRMAN SARETSKY: So we had a Board in 2006 --

MR. HULME: Yes.

CHAIRMAN SARETSKY: -- that voted, three to five, to grant these variances.

BOARD MEMBER KRASNOW: Three to two.

CHAIRMAN SARETSKY: Three to two, I'm sorry. It was not a unanimous vote and there were -- in the ruling, Jeff, I believe there was a comment that was not -- how do you say this nicely? Maybe Jeff will read it to you. It was not well-endorsed, how's that? Okay?

Now here we are. I was hoping that this could happen for you under your original variance. I understand that the trustees of Southampton, there was a settlement, but I assume your client agreed to

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this, right?

MR. HULME: Yes.

CHAIRMAN SARETSKY: And  
now, in agreement to that, it  
requires additional variances. So  
far am I --

MR. TERCHUNIAN: It just  
requires variances, period; not  
additional.

CHAIRMAN SARETSKY: Okay,  
different variances?

MR. TERCHUNIAN: Different  
variances.

CHAIRMAN SARETSKY:  
Different variances. Some of them  
to percentage levels that seem kind  
of high, whatever it is. At the  
same time, from looking from the  
Village boundary to Cove Lane --  
Skiderna aside because I think that  
one is unusual.

MR. HULME: And I did  
eliminate that from my analysis.

CHAIRMAN SARETSKY: Okay,

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good. I mean, we can come to that.

BOARD MEMBER FARKAS: But Skiderna is, I think, to the east of Pike's.

CHAIRMAN FARLEY: It is.

BOARD MEMBER FARKAS: We're talking about -- and the analysis, you know, at least my analysis started at Pike's and moving west.

CHAIRMAN FARLEY: Right. Why don't you go ahead with your scatter diagram.

MR. HULME: Okay. So anyway --

BOARD MEMBER FARKAS: You want me to talk about -- you want me to mention what was in that decision in '06?

CHAIRMAN SARETSKY: Yes.

BOARD MEMBER FARKAS: So I'm just quoting -- I'm just reading from the decision. The full development of the permitted building envelope on the existing

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parcel would have a negative impact on the neighboring properties and neighborhood, which would significantly outweigh the benefits and the variances that are requested. That's what's in the 2006.

MR. HULME: But the Board approved the variances.

CHAIRMAN SARETSKY: No, I understand --

BOARD MEMBER FARKAS:  
Approved three to two.

MR. HULME: There's no degree of granting. Whether it's five to nothing or three to two or two and three-quarters to --

CHAIRMAN SARETSKY: I understand. I'm only trying to understand all the bits of information.

MR. TERCHUNIAN: Right, so if I may add some color to that because I was at that meeting. The reason that that paragraph is there

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is because the Board went on in their decision to condition their decision upon the size of the building on Lot 2, which is not the full development potential of the lot. They limited it to a 2,000 square-foot footprint.

BOARD MEMBER KRASNOW: And what are you proposing now? How many square feet?

MR. TERCHUNIAN: I don't know.

MR. HULME: I'm proposing a four-tenths setback.

MR. TERCHUNIAN: What's the building envelope?

MR. HULME: The building envelope it's not pulled out.

BOARD MEMBER KRASNOW: It's 70 minus 28 feet?

MR. HULME: Yes. That's 30 -- 42?

MR. TERCHUNIAN: No.

MR. HULME: 32 and then 70



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and 60 minus...

BOARD MEMBER KRASNOW: I

don't know.

MR. HULME: I mean --

(Whereupon, there was  
crosstalk.)

BOARD MEMBER FARKAS: It's 70.

MR. HULME: If a condition  
that you -- if you want that same  
condition --

CHAIRMAN FARLEY: No, I'm  
not --

BOARD MEMBER KRASNOW: I  
just was asking if it was similar to  
that or was it with a larger house?  
I'm just asking.

MR. HULME: Well, this is  
bigger than 2,000 square feet.

BOARD MEMBER KRASNOW: So  
the lot is smaller and the house is  
bigger now?

BOARD MEMBER FARKAS: So 70  
by 32, that's how I see it.

MR. TERCHUNIAN: That's

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2,100.

BOARD MEMBER MIZZI: I have

2,240.

MR. TERCHUNIAN: That's

what the request is. Is that just  
the primary envelope, not including  
the accessory?

BOARD MEMBER MIZZI: But

Lot 2 is 70-foot wide?

MR. HULME: Yes.

BOARD MEMBER MIZZI: 70

minus 28 is 42.

BOARD MEMBER KRASNOW: So

almost 3,000 feet.

MR. TERCHUNIAN: But is

this the entire building envelope?

MR. HULME: That's just the

primary.

MR. TERCHUNIAN: Right, so

I think just to --

MR. HULME: It's actually

quite a bit bigger, but we're

subject to the 20 percent lot

coverage, which is --

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MR. TERCHUNIAN: 17 times --

BOARD MEMBER FARKAS:

3,400, 3,500.

MR. TERCHUNIAN: The point here is that in the previous decision, the Board said full development will have an adverse impact. We're limiting you to 2,000 square feet on the primary structure, not the accessory -- not including the accessory, just the home itself.

BOARD MEMBER KRASNOW: Is that a 2,000-square foot footprint?

MR. TERCHUNIAN: Footprint.

BOARD MEMBER KRASNOW: Footprint, okay. So it could be a --

MR. TERCHUNIAN: A 4,000 square-foot house.

BOARD MEMBER KRASNOW: Okay, I was wondering.

MR. TERCHUNIAN: Armed with that information, I guess we can move forward.

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CHAIRMAN SARETSKY: Yes.

MR. HULME: I believe that that's a condition that the applicant would then agree to?

MR. SMITH: Yes.

CHAIRMAN FARLEY: I don't think we're dialed into it for that reason. We're just trying to understand it all.

MR. HULME: It was raised, so it's obviously important.

CHAIRMAN FARLEY: No, I understand.

MR. HULME: So I took the data that we collected in the spreadsheet, and I put it on a scatter gram. And on the Y-axis is the width and on the X-axis is the lot area. And each dot on this graph represents one of the lots that is the details of which are provided in the spreadsheet.

And then the two dots that glow a little bit, if I could use

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that expression, the lower one is  
Lot 1 and the upper one is Lot 2.  
So that's where these --

CHAIRMAN SARETSKY: So the  
red one is Lot 1 and the blue one is  
Lot 2, right?

MR. HULME: Yes.

MR. TERCHUNIAN: He's  
looking at black and white.

BOARD MEMBER KRASNOW: I'm  
looking at green and blue.

MR. HULME: So this one is  
Lot 2 and this one is Lot 1  
(indicating) So you can see,  
although they're kind of in the  
lower end of the range, they're  
certainly within with the scatter of  
all of the various lots that exist  
in this neighborhood. So we're not  
proposing something that is out of  
keeping, I don't think, with what  
the data suggests is the overall  
character of the neighborhood.

And then the next thing I

1  
2 did was I wanted to tie it back to  
3 the prior variance and look at what  
4 I've described as kind of a yield  
5 calculation. And what I did was I  
6 compared the 2006 subdivision with  
7 the two lots and the reserve lot and  
8 the widths. And the subdivision  
9 that we're proposing now with the  
10 lot area -- and what is effectively  
11 a reserve lot as well, because it's  
12 gone to the trustees; it can never  
13 been developed; it can never be part  
14 of the property again; it can never  
15 be used for any development -- and I  
16 just looked at -- I sum totaled  
17 those square footages, came to a  
18 total square footage and divided  
19 that by two because we're creating  
20 two uses.

21 So the yield per lot is  
22 26,309 square feet now and it was  
23 26,318 square feet under the 2006  
24 subdivision. And what I'm trying to  
25 demonstrate there is that what we're

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seeking now, although the variances are different, is no more impactful on the neighborhood than the very same thing that you approved in 2006.

BOARD MEMBER FARKAS: Why do I have the reserve lot as 70 by 163, which is 11,410 square feet and you have it at 15,110? What did I do wrong here?

MR. HULME: I don't have the reserve lot in either of them.

BOARD MEMBER FARKAS: I'm sorry, you have it at 19,718.

MR. HULME: 19,718 is the new reserve lot.

BOARD MEMBER FARKAS: Right. Well, I have the new reserve lot -- looking at your survey -- as 70 by 163, which is 11,410 unless I did the math wrong.

MR. HULME: No, it's 163 on one side and it's 180 on the other side. So if you want to do that --

BOARD MEMBER FARKAS: I did

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it wrong.

MR. HULME: I'm not saying  
you did.

MR. TERCHUNIAN: Phase one  
plus phase two.

BOARD MEMBER KRASNOW: I  
don't know if we have any right to  
grant the side yard setbacks and  
variances and stuff, but do we have  
the right to grant the variance from  
20 feet to 14 feet if that's State  
code?

VILLAGE ATTORNEY PROKOP:  
Well, we haven't gotten an opinion  
yet as to whether or not that's  
State code.

BOARD MEMBER KRASNOW: If  
we can't do that, doesn't it  
change --

MR. HULME: So the  
limitation that I have found about  
that is the Zoning Code of the  
Village of Westhampton Dunes. And  
so --



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BOARD MEMBER KRASNOW: I  
thought the fire access was State  
Code.

MR. HULME: No.

MR. TERCHUNIAN: Member  
Krasnow, I looked up the State Code.  
It's 10 feet. If you're under a  
certain distance, it's only 10 or  
12 feet, something like that. So  
this would meet the fire code.

BOARD MEMBER KRASNOW: Okay.

MR. HULME: So there is a  
requirement in the Village Code that  
talks about 20 feet and that's why  
it's a subject of a variance.

BOARD MEMBER KRASNOW: Oh,  
I thought the fire operation was  
governed by State, not the Village.

MR. TERCHUNIAN: There is a  
State -- there is a State DOT  
minimum, but it's 10 feet.

BOARD MEMBER KRASNOW:  
Okay, so then we do have the right  
to grant that.

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MR. TERCHUNIAN: Yes.

MR. HULME: Okay. In summary, I guess, the easiest way to summarize all this is looking at it from the perspective of the five factors that the law requires you to balance in order to decide whether to grant the variances or not. First of all, undesirable change.

VILLAGE ATTORNEY PROKOP:

Can I ask you to hold up for a second?

MR. HULME: Sure.

BOARD MEMBER FARKAS: Just go back to my math for one minute. But he has 19,718. That's his number for the reserve lot.

BOARD MEMBER MIZZI: Yeah, it doesn't appear to be --

BOARD MEMBER FARKAS: It's a trapezoid and I know that my math is --

BOARD MEMBER MIZZI: I took the shorter end, 162 times 790. It

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came to 11,340 and then you got 18  
by 70 in a triangle, so I came up  
with 630 for that. So it's about  
12,000.

BOARD MEMBER FARKAS: Even  
if you take the 189 or whatever --

BOARD MEMBER MIZZI: This  
little sliver (indicating).

BOARD MEMBER FARKAS:  
Forget that. If you take the 180  
times 730, it's a lot less than the  
19,000.

BOARD MEMBER MIZZI: Yes  
12,600. That's why it's 12,000;  
because it's a triangle.

MR. HULME: I can confirm  
that number. Obviously, it is what  
it is. You know, if the number is  
17 versus 19, you divide that  
difference by 2, we're talking about  
1,000 square feet, 500 square feet  
in the yield. I mean, the point of  
the chart is that the end result to  
the community is -- the end impact

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to the community will be no different than the impact that this Board decided was okay in 2006 is my point.

BOARD MEMBER KRASNOW: If she was granted the variance in 2006, when did the trustees file the lawsuit?

MR. TERCHUNIAN: About a week later.

BOARD MEMBER KRASNOW: Oh, so literally simultaneously. Based upon the variances that were granted? Based upon the decisions or --

MR. TERCHUNIAN: Not solely based on those decisions. I can't answer for them.

BOARD MEMBER KRASNOW: But it alerted them to what was -- okay.

VILLAGE ATTORNEY PROKOP:  
So I just have one question. I want to stay out of this discussion except with regard to the prior --

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my responsibility to covenant the prior decision. The prior decision said that 25 percent of the total existing lot area must be covenant preserved as open space. So that's 25 percent of both parcels.

So whatever the area is of both parcels has to be covenanted -- 25 percent of that has to be covenanted as --

MR. HULME: Which is accomplished by a 13,000 --

BOARD MEMBER FARKAS: It would need to be sixteen-five based on your math.

VILLAGE ATTORNEY PROKOP: And where is the open space indicated on the survey; am I missing it?

MR. HULME: I'm --

MR. TERCHUNIAN: I believe that the applicant is referring to the trustee land as the open space.

VILLAGE ATTORNEY PROKOP:

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The land that is now owned by the trustees?

MR. TERCHUNIAN: That's is what I believe they're referring to.

VILLAGE ATTORNEY PROKOP:  
Did my question bother you?

MR. HULME: No.

VILLAGE ATTORNEY PROKOP:  
Or challenge, I apologize?

MR. HULME: No, keep them coming. I'm sorry? You said something to me, sir?

VILLAGE ATTORNEY PROKOP:  
Is this the --

MR. HULME: Did you get what he just said to me?

THE REPORTER: No, I didn't hear anything.

VILLAGE ATTORNEY PROKOP:  
No, I asked if my question was bothering you.

MR. HULME: And I said no, but you said something else and I'm trying to figure out what it was

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because I'm sure it was insulting.

VILLAGE ATTORNEY PROKOP:

The question I have is -- so this is what you guys were talking about, the area, this top piece (indicating)?

BOARD MEMBER MIZZI: Yes.

VILLAGE ATTORNEY PROKOP:

Okay, sorry.

BOARD MEMBER MIZZI: So

half of that is 16,430.

BOARD MEMBER FARKAS: Yes.

BOARD MEMBER MIZZI: What

was the follow-up question?

BOARD MEMBER FARKAS: So

twelve-six. We're talking about the original decision.

MR. TERCHUNIAN: Well, the

total area of the lot, according to this survey, is 32,900 square feet, right? And Joe's point was that the previous decision required 25 percent of that to be open space. That number would be 8,225.

BOARD MEMBER KRASNOW: Of

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the remaining property that's not  
part of the trustees, right?

MR. HULME: We're getting a  
little lost in the weeds here. The  
overriding point is you guys granted  
a subdivision that had Lot 1, Lot 2  
and reserve area. We're back  
looking for a variance, with the  
reserve area plus removed from our  
property, for the other two lots.

My point is -- and  
regardless of the actual details of  
the numbers, my point is that the  
impact of your granting these  
variances on the community would be  
exactly the same as the impact of  
the variances that you granted in  
2006. That's really the point.

BOARD MEMBER MIZZI: Can I  
ask a question?

MR. TERCHUNIAN: Yes.

BOARD MEMBER MIZZI: The  
only thing that's confusing is:  
Based on the survey, it appears what



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you're saying is 19,718 is around  
12,000 and therefore -- like whether  
or not the point still is relevant,  
that would make the yield per lot a  
figurative number because we're  
calculating this, this and this and  
it's not adding up -- (indicating).

MR. HULME: Regardless of  
the actual numbers, it the this now  
is bigger now than the this then.

BOARD MEMBER MIZZI: It  
doesn't appear to be based on the  
survey.

MR. TERCHUNIAN: Well, no.  
But it is bigger than the 25 percent  
requirement in the previous decision.

BOARD MEMBER MIZZI: I'm  
just saying --

MR. TERCHUNIAN: I think  
you're --

(Whereupon, there was  
crosstalk.)

BOARD MEMBER MIZZI: It was  
13. It's is now 12. It doesn't

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appear to be bigger.

MR. HULME: I'll be happy  
to redo the numbers, but --

BOARD MEMBER MIZZI: I hear  
you, but like last time you gave us  
this information; now you're giving  
us this information --

MR. HULME: Well, I don't  
know that I'm wrong.

BOARD MEMBER MIZZI: We're  
looking at a map. We should be able  
to take information that adds up.  
It's frustrating.

MR. HULME: Yes,  
frustrating for me as well.

CHAIRMAN SARETSKY: Us too.

MR. HULME: So what do you  
want me to do? I'm happy to redo  
the numbers again. I'm happy to  
come back, but the point of the  
numbers -- and the point is not  
going to change, is that the relief  
we're looking for now is no more  
impactful, in fact less impactful,

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because the reserve lot is bigger.  
Regardless of what the numbers are,  
the reserve lot now is bigger than  
it was that you required before as a  
mitigating factor for creating these  
two lots.

CHAIRMAN SARETSKY: I

think that --

BOARD MEMBER MIZZI: It

would be helpful to know that it's  
really bigger. I mean, you're  
saying that, but I don't know that  
to be true.

MR. TERCHUNIAN: Yes,

you're absolutely right and you  
should instruct the applicant to  
give this Board the information they  
need to reach a decision.

But just a point of

information, if this calibration is  
that the reserve lot that's now  
currently titled to the trustees is  
approximately 12,000 square feet,  
that is greater than the 8,225

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square feet that would be 25 percent of the lot.

BOARD MEMBER MIZZI: Yes.

BOARD MEMBER FARKAS: But Aram, why am I sitting here figuring out all the square footages and why am I doing the math and why is it not being presented and why do we have to have a discussion over every little detail? It's really not right. It's not fair to me. I'm here, you know, we're kind of -- we want to get to the end here.

MR. TERCHUNIAN: I understand, but this is the information that the Board requested that I advised the Board that they should ask for on the lot width and the lot area and the math has been done by the applicant and presented to you.

There's a question about the area of the lot size. That should definitely be resolved. Is

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there another question that should  
be resolved? I don't think we're  
doing the math here. I think the  
math is done.

MR. HULME: If I'm wrong, I  
apologize if I confused you.

BOARD MEMBER FARKAS: Thank  
you.

MR. HULME: If I have  
irritated you in any way, I  
apologize for that as well. I'm  
trying to do the best that I can to  
present the numbers as I understand  
them. If they need to be corrected,  
I will correct them. I will  
apologize for having been wrong and  
we will go forward, but I'm just  
trying to get the big picture.

BOARD MEMBER FARKAS: Sure.

MR. HULME: Were wandering  
in the weeds here and there's a  
bigger picture here.

BOARD MEMBER MIZZI: But  
these aren't the weeds though and

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I'm not asking you to apologize, but we're saying this is bigger. And we're just looking at it, obviously this is smaller than this, I mean, based on the map (indicating).

MR. HULME: Because it's not the complete picture. That's why it's dashed lines. This is not supposed to be equivalent to this (indicating). This is a piece of property that is outside the area of concern and it's just shown in sketch. It's not shown in detail (indicating).

BOARD MEMBER MIZZI: But the whole basis -- all I'm saying is the whole basis of the presentation that you made is, previously the reserved area is smaller, now the reserved area has gotten bigger and we should consider that. And it doesn't appear that the reserved area is bigger than it was. And so like it just would be helpful to

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just get our head around --

MR. HULME: Okay.

CHAIRMAN SARETSKY: And  
again, if you can make this a little  
more simple, it would help us. I  
mean --

MR. HULME: Okay. I mean,  
I can confirm these numbers are  
either correct or not. And if they  
are not correct, I will correct them  
and hopefully we can then reach an  
agreement that the numbers we're  
comparing are the numbers that we're  
comparing.

MR. TERCHUNIAN: So let's  
put that to rest because that's  
pretty clear. Let's focus on other  
issues that this Board thinks are  
important. For example, in a  
previous subdivision application,  
not just the side yards were  
discussed, but also the location of  
the building.

Now, there is a member of

1  
2 the community here who I'm sure is  
3 going to want to speak after this  
4 and they are someone who's view  
5 would be impacted by the location of  
6 the building. And that is -- the  
7 location of that building is  
8 completely within the discretion of  
9 the Board.

10 VILLAGE ATTORNEY PROKOP:

11 So speaking procedurally, again, and  
12 piggy-backing somewhat on what Aram  
13 said, I think if the applicant is  
14 done with his presentation for  
15 today, then what you should do is  
16 see if there's any comments from the  
17 public and then read into the record  
18 a list of the questions that you  
19 have for the applicant and to  
20 respond to.

21 And I suggest that you  
22 just -- the next time you meet,  
23 whether it's on this or another  
24 application, that you don't put this  
25 on the agenda just for the sake of



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2 putting it on the agenda, but that  
3 you put it on the agenda when the  
4 applicant has completed that list,  
5 responded to the list. I don't  
6 think you should make it burdensome,  
7 but I think if you have questions,  
8 that you should ask for those  
9 answers.

10 BOARD MEMBER CASHIN:

11 Before we go to the public comments,  
12 we had discussed a couple meetings  
13 ago and a couple times, this stuff  
14 was going to be vetted by you, Aram.  
15 Did you get a chance to look at this?

16 MR. TERCHUNIAN: I did and  
17 I apologize on timing to the Board.  
18 I e-mailed the Board last night and  
19 I included Joe and the building  
20 inspector. I had requested, from  
21 the applicant's attorney, an actual  
22 spreadsheet, which is what I sent  
23 you.

24 What I did was, they gave  
25 us the average, the minimum and the

1  
2 maximum. And what I did was I  
3 applied two additional statistical  
4 analysis to this. The first one is  
5 the median and, you know, I included  
6 a definition of the median because I  
7 always forget what it is. I just  
8 know it's more representative of the  
9 numbers. You know, when you get the  
10 household income for Suffolk County,  
11 it's always the median household  
12 income because it's more representative.

13 So here's -- I will pass  
14 those down. At the bottom of this  
15 long list of numbers are the median  
16 and the standard deviation. So the  
17 median lot size of the lots that  
18 were presented is 18,600 square feet  
19 and the median lot width is 65 feet.  
20 So I think that in looking, you  
21 know, at the statistical  
22 significance of this analysis, the  
23 median is a more --

24 MR. HULME: What did you  
25 come up with for the median?

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MR. TERCHUNIAN: 18,600.

Joe, would you give one to the  
counsel, please?

BOARD MEMBER KRASNOW: At  
the bottom?

MR. TERCHUNIAN: Yes, in  
red. The standard deviation is a  
measure of the spread of the data.  
So if the lot widths and lot areas  
were very common, you would have a  
very small standard deviation.

This is the so-called bell  
curve. And if the width of the lots  
and the area of the lots were quite  
disparate, you would get a larger  
standard deviation. So the first  
standard deviation in area is 8,992  
square feet and the first standard  
deviation in lot width is 21 square  
feet.

So what that means is that,  
you know, you would take the median  
of 18,600 square feet plus or minus  
8,992 square feet. So there's a

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huge spread. The standard deviation is very large, which means that the lot widths vary quite a bit. There is no -- they're not tightly clustered.

VILLAGE ATTORNEY PROKOP:

The median is just the midpoint between the high and low; it's not the average, right? Did you calculate the average?

MR. TERCHUNIAN: The

average is right there.

VILLAGE ATTORNEY PROKOP:

I'm sorry, I apologize.

MR. TERCHUNIAN: The

applicant calculated the average and --

VILLAGE ATTORNEY PROKOP:

Thank you.

MR. TERCHUNIAN: So my

point is two things: Number one, I think that the median is more representative of the number. And number two, the standard deviation

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for lot area and lot width is quite large and that's reflective of the fact that there is a wide variance in the area of lots and the width of lots. So that was my analysis.

BOARD MEMBER FARKAS: I

know that you took what Mr. Hulme gave you and you did the median and the average, but shouldn't this really be narrowed and shouldn't you look at the homes within a certain radius, in a shorter radius, you know?

Personally, I took a look myself and I started at 770, which is the first house just west of Pike's and I went up to 782. And, you know, if you do the median and the average on both the square footage and both the width, I mean, the numbers come out a lot different. And it's really a question as to what you're sample is going to be and you took a sample

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that starts at 654 and you went only  
to Cove.

MR. TERCHUNIAN: I didn't  
pick this.

BOARD MEMBER FARKAS: No,  
no. I don't mean you, but Jim did  
it and you gave us, you know -- you  
used his --

MR. TERCHUNIAN: Well,  
listen, if the Board wants him to do  
a different area, they should  
specify that to him.

BOARD MEMBER FARKAS: Right.

MR. TERCHUNIAN: But let me  
point out a couple of unusual  
features of this neighborhood.  
First is that two lots away is  
Pike's Beach, which is going to be  
excluded. And then 1, 2, 3, 4, 5  
lots, 4 lots from that is the  
Skiderna piece. And immediately  
adjacent to Skiderna is --

BOARD MEMBER FARKAS: 738.

MR. TERCHUNIAN: 738 and

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742. So --

BOARD MEMBER FARKAS: But if you included those in the median, I mean, those six or -- you know, if you added those lots, the numbers change dramatically.

MR. TERCHUNIAN: I don't think that a public beach is --

CHAIRMAN SARETSKY: No, he's talking about the Skiderna and --

BOARD MEMBER FARKAS: And the unusual --

MR. TERCHUNIAN: In other words, all I'm saying is if you say all I want is a 1,000 feet -- give me a 1,000-foot radius in other words, the first 800 feet of that is -- are oddballs.

BOARD MEMBER FARKAS: But I wouldn't even include that. I agree, those are oddballs, but why wouldn't you just narrow -- well, not you, but why would the --

(Whereupon, there was

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crosstalk.)

BOARD MEMBER FARKAS: It's plain to me. It's very clear to me what the numbers show.

MR. TERCHUNIAN: The applicant choose the neighborhood. If the Board, and you as a member, think that you should have a different neighborhood, you should instruct the applicant to do that.

CHAIRMAN SARETSKY: Well, we probably need to talk about that and we're not prepared to do that today. Jeff did this calculation quickly based upon what you gave him 24 hours ago.

MR. TERCHUNIAN: 24 hours ago.

CHAIRMAN SARETSKY: Right?

MR. TERCHUNIAN: Yes, yes.

CHAIRMAN SARETSKY: So that's what I'm saying. We're trying to catch up here.

MR. HULME: Which is fine.



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I have no issue with that.

CHAIRMAN SARETSKY: Again,  
I appreciate your frustration. We  
have it even greater and we're  
trying so hard to sort of make sense  
out of this and try to find some  
common ground.

MR. HULME: Well, if you  
communicate back to me what you  
think the neighborhood is, I will  
redo the analysis based on that.

CHAIRMAN SARETSKY: I think  
we need to look at sort of a map and  
the Board probably needs to come up  
with what's fair and reasonable.

MR. HULME: I obviously  
reserve my right to disagree as to  
the definition of the neighborhood.

CHAIRMAN SARETSKY: I mean,  
Joe, is that a fair way of doing it?  
We'll look at it?

VILLAGE ATTORNEY PROKOP: Yes.

MR. HULME: Thank you.

BOARD MEMBER KRASNOW: I

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2 think -- to be fair, I think at this  
3 point we should probably now go with  
4 the public comments and then provide  
5 Mr. Hulme with a detailed list of  
6 what we want so that he can respond  
7 to it. So this way we're not -- we  
8 try to give him as much detail as  
9 possible to what we want to make it  
10 easier.

11 CHAIRMAN SARETSKY: Sorry  
12 to interrupt and, Joe, jump in. I  
13 think we need to hear the public  
14 comment and then I think we probably  
15 need to reconvene and then give him  
16 a detailed list. I don't know that  
17 we can do it here.

18 BOARD MEMBER KRASNOW: No,  
19 no. I didn't mean now. I just  
20 meant -- I'm saying that I think at  
21 this point, in that order we should  
22 talk to Aram and Joe about it and  
23 give you a list of what we need to  
24 help us get to the finish line.

25 BOARD MEMBER MIZZI: I have

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a question. Can you just clarify what that means, the standard deviation and median?

MR. TERCHUNIAN: Yes. The standard deviation is the measure of the spread the data.

BOARD MEMBER KRASNOW: The difference between high and low, I guess?

MR. TERCHUNIAN: No. It's the variability. It's a measure of the variability of the data. So small standard deviations means the numbers are very similar. Large standard deviation, which this is, means the numbers are quite disparate.

BOARD MEMBER MIZZI: How did you compute this?

MR. TERCHUNIAN: With an Excel spreadsheet.

BOARD MEMBER MIZZI: What would the formula be?

MR. TERCHUNIAN: I forgot my statistics books by Morris. I

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actually still have it.

MR. HULME: For the standard deviation, if you apply it plus or minus to the average, one third of the data falls within a range. So that's the other way of --

BOARD MEMBER KRASNOW:  
That's the purpose of this (indicating).

MR. HULME: I mean, the median is here somewhere and the average is here somewhere and the standard deviation captures everybody on either side.

MR. TERCHUNIAN: Right.

MR. HULME: But it is a measure of variability.

BOARD MEMBER MIZZI: Do we know how we calculate median?

MR. TERCHUNIAN: I mean, I'll give you the formulas. I don't remember them all. Actually on the Excel spreadsheet that I sent you,

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just go up to the formula on top.

BOARD MEMBER MIZZI: Okay,  
got it.

CHAIRMAN SARETSKY: Okay.  
So I think we're going to listen to  
this gentlemen.

MR. TERCHUNIAN: Will you  
allow him a seat, Mr. Hulme?

MR. HULME: Oh, yes, I'm  
sorry.

MR. SMITH: Thank you. My  
name is Adam Smith. I'm the  
property owner of 770 Dune Road.

CHAIRMAN SARETSKY: 770?

MR. SMITH: 770.

BOARD MEMBER MIZZI: That  
wasn't you, Mr. Smirth?

MR. SMITH: No. I was as  
entertained as all of you of the  
immediate hanging up.

I did have just two  
clarifying questions if maybe I can  
have a survey? So I was curious  
about the flag is on -- the 1.9 foot

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side yard is which border?

MR. HULME: Here

(indicating). It's between here and the flagpole.

MR. SMITH: Okay.

MR. HULME: So the

effective distance is actually -- to this neighbor is actually 14 feet plus 1.9, but because of where we're trying to put the flagpole, we're 1.9 feet off the flagpole.

MR. SMITH: And then the

only other question I had was, the single entry point to those lots, there is currently a driveway to the applicant's existing home.

MR. HULME: Right.

MR. SMITH: That would go

away and this would --

MR. HULME: Yes, correct.

MR. SMITH: Okay. My

comments, I guess, are really twofold. I figure I would just start with, this is a difficult

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2 situation for us because we feel  
3 very strongly and care about the  
4 applicant. She's a wonderful person  
5 and neighbor of ours. If it wasn't  
6 for that, we would probably be more  
7 opposed to this situation.

8 A couple of things that I  
9 do want to make sure that the Board  
10 considers and explores before a  
11 decision is made, there were a lot  
12 of numbers shared today and I will  
13 admit some of the yield was a  
14 creative way to show low impact to a  
15 previous decision.

16 But I think in 2006 -- I  
17 agree with the comment about there's  
18 degrees of approval or whatever your  
19 point was, but barely passing a  
20 variance is a fact. And since then,  
21 the lot has gotten smaller and the  
22 house building envelope has gotten  
23 bigger. So they're -- I can  
24 definitively tell you, as someone  
25 with a unique position in this

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proceeding, there is a negative impact to the neighborhood and specifically to my property.

If we think about the home that has just been built here by First Dunes, and I welcome you all to come to my property and stand on the back deck of the backyard and imagine a home between that house and my property line and I promise you that would be an impact.

BOARD MEMBER MIZZI: Can you clarify where your property is?

MR. SMITH: This is my home (indicating).

BOARD MEMBER MIZZI: Okay.

MR. SMITH: So this the home that's just been built or is in the process of building built. My home is here. This home is the home that Cardis's (phonetic) just built and this is what we're proposing goes in between (indicating).

So I'd ask you to consider



1  
2 that and I honestly would welcome  
3 you to come take a look at it  
4 because it's clear, if you stand in  
5 my back yard, the impact would be  
6 dramatic to our views, which Aram  
7 mentioned before. But also just to,  
8 you know, to think of a home being  
9 build that close to our property  
10 line is meaningful.

11 The last thing I just ask  
12 you to explore is the variances that  
13 are being asked for here are  
14 significant. A 17,000 square foot  
15 and 15,000 square foot on a  
16 40,000-square foot requirement?  
17 Someone said 50 percent earlier.  
18 It's more than that. It's over 50  
19 on one and then 65 or 70 on the  
20 other. 1.9 foot side yards, 5.6  
21 foot side yard setbacks.

22 What this does, and I think  
23 your comments were the ones that I  
24 want to go back to, if you look at  
25 the adjoining properties that really

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2 are the comparable to this  
3 subdivision request, it is 770 to  
4 782. And when you look at that  
5 group of properties, if these  
6 variances are granted, all of those  
7 properties -- this is one of the  
8 smaller ones. All of those  
9 properties immediately have the  
10 playbook for how to do this exact  
11 same thing. If this is granted,  
12 those will even actually have an  
13 easier time because most of those  
14 properties are wider.

15 So when you go to a  
16 settlement and you give up 8,000  
17 square foot on the rear of your  
18 property, you live with the  
19 consequences of this decision,  
20 right? You've accepted the  
21 consequences of giving up that  
22 square footage and the impact it can  
23 have on your future ability to  
24 build.

25 And I think to continue to

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2 refer back to 2006, tries to create  
3 an environment where we ignore that,  
4 where we're not considering the  
5 impact of this settlement. So I  
6 think as the Board continues to  
7 review this, I want to make sure  
8 that we're thinking about the  
9 playbook that's created for future  
10 precedent that we follow through the  
11 rest of these properties, which if  
12 you have questions about one  
13 property having a negative impact on  
14 the neighborhood, if all of them  
15 follow this playbook, I think it  
16 becomes even more clear.

17 BOARD MEMBER KRASNOW: Can  
18 I ask you two questions?

19 MR. SMITH: Sure.

20 BOARD MEMBER KRASNOW: How  
21 long have you lived here?

22 MR. SMITH: We bought this  
23 home in 2010.

24 BOARD MEMBER KRASNOW: Did  
25 you lose property as part of the

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trustees decision as part of your  
lot also?

MR. SMITH: We did not. We  
were not part of the litigation.

BOARD MEMBER KRASNOW: So  
your property goes all the way --

MR. SMITH: Our property,  
we were not part of the litigation  
and --

BOARD MEMBER KRASNOW: And  
this is now of affecting your view  
out to the west, I'm guessing?

MR. SMITH: Yes. The  
existing home that's being built --

BOARD MEMBER KRASNOW: And  
this would possibly cut it off  
further?

MR. SMITH: This would cut  
it off further and even more  
dramatically if additional homes  
were subdivided to the west of us.

MR. HULME: Could I ask  
you, is there a location on Lot  
Number 2 where we could place a

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house that would be, in your mind,  
less impactful?

MR. SMITH: I appreciate  
that and because it is Laura, I've  
thought a lot about that. There's  
just not much room there.

BOARD MEMBER KRASNOW: You  
want this?

MR. SMITH: It's okay. Of  
course I would love to work with  
her. I know how meaningful this is  
to her, but if you just stand there  
and look at it, it is hard to  
imagine putting another home there.

MR. TERCHUNIAN: Just for  
the Board's information, the reason  
that Adam's property is not -- was  
not in the litigation is because  
there was an initial litigation by  
the trustees against the previous  
owner of this lot, Mr. Louis  
Bonafonte (phonetic).

And in that litigation, the  
property owner prevailed over the

1  
2 trustees and gained all of the  
3 property and speaking to Member  
4 Krasnow's question, this reminds me  
5 of a previous question about what  
6 motivated them. Quite frankly, it  
7 was the Bonafonte decision that  
8 motivated the trustees because they  
9 had lost. And so they initiated a  
10 new lawsuit against 37 property  
11 owners including some who had  
12 actually built on what was  
13 previously bay bottom. And the  
14 result of that initial filing of 37  
15 property owners was that over the  
16 span of 16 years, it was whittled  
17 down to 7.

18 BOARD MEMBER KRASNOW: Now  
19 this was a -- this wasn't -- this  
20 was something that voluntarily  
21 eventually was a settlement? This  
22 wasn't forced by the Court? It was  
23 settled?

24 MR. TERCHUNIAN: Yes, it  
25 was settled.

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2 MR. HULME: To call it  
3 voluntary is a little euphemistic  
4 because there was 15 years of  
5 litigation. There were motions to  
6 dismiss. There were motions for  
7 summary judgement. And there was  
8 significant pressure from the judge  
9 handling the case for the parties to  
10 reach an accommodation. So in that  
11 context, if you want to call that  
12 voluntary, then it was voluntary,  
13 but it wasn't like everybody just  
14 wanted to --

15 BOARD MEMBER KRASNOW: It  
16 was Court appointed?

17 MR. HULME: Yeah, I think  
18 it was actually. It was an  
19 agreement, but it was a Court  
20 ordered agreement, so it wasn't  
21 really voluntary.

22 BOARD MEMBER KRASNOW: So  
23 was 774 part of that lawsuit? Did  
24 they lose property also?

25 MR. TERCHUNIAN: Let me look.

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BOARD MEMBER KRASNOW: How  
were they able to move forward and  
this one --

MR. TERCHUNIAN: They had a  
previous subdivision approved by  
this Board and filed with the County.

BOARD MEMBER KRASNOW: Were  
they impacted by the trustees'  
decision? It wasn't just 772 that  
lost property, was it?

MR. TERCHUNIAN: Yes, they  
were impacted as well.

BOARD MEMBER KRASNOW: And  
yet they were able to still fit it  
in --

MR. TERCHUNIAN: Well, they  
had an approved subdivision.

CHAIRMAN SARETSKY: Didn't  
773 also?

MR. HULME: No. We had an  
approved variance.

(Whereupon, there was  
crosstalk.)

MR. HULME: Those lots were



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actually on the tax map. They were approved by the Village.

MR. TERCHUNIAN: The Village and the County.

CHAIRMAN SARETSKY: Can we back up for one second?

MR. HULME: But that's not us.

CHAIRMAN SARETSKY: No, I understand. I'm just trying to understand the difference though. So in 774, it was a subdivision that was already done?

MR. HULME: Yes.

CHAIRMAN SARETSKY: And in this case, the variances weren't the same.

MR. TERCHUNIAN: They didn't need additional variances.

CHAIRMAN FARLEY: No. I'm saying, whatever it was that was done in 774, how did that compare to the variances from 2006 or 7?

MR. TERCHUNIAN: Same.

BOARD MEMBER KRASNOW: Same.

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They filed the subdivision plan.

They didn't.

MR. TERCHUNIAN: Right.

BOARD MEMBER KRASNOW: So they did --

MR. TERCHUNIAN: They locked it in.

BOARD MEMBER KRASNOW: They hurt themselves by not filing it. Even though the action started, they could've --

MR. TERCHUNIAN: No, they couldn't have. They tried.

BOARD MEMBER FARKAS: It was a week after he said.

MR. TERCHUNIAN: The subdivision process takes more an a week. Once --

BOARD MEMBER KRASNOW: I don't understand why this one got it and this one didn't.

MR. HULME: Because he was ahead of them.

MR. TERCHUNIAN: Yes, he

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was ahead of them.

MR. HULME: They weren't  
happening at the same time.

BOARD MEMBER KRASNOW: Oh.

MR. TERCHUNIAN: 774 was  
done years before.

BOARD MEMBER FARKAS: Did  
774 need variances when they did  
that subdivision?

MR. HULME: Yes. Very  
similar to the variances that you  
granted here. In fact, I'm sure  
that we argued 774 to get the 772  
variance.

BOARD MEMBER FARKAS: I  
have a question for you. The fact  
that the applicant signed an  
agreement with the Town of  
Southampton and settled the case,  
isn't the current status now self  
created? Because she really could  
have continued to fight, let the  
judge make a decision and maybe she  
would have been successful in her

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case and she could use the existing variances.

VILLAGE ATTORNEY PROKOP:

With regard to the application, I don't want to comment on that, but I think that they were -- it was a situation -- I can just talk about the litigation. If you're asking me a factual question about the litigation, I think it was a process, basically, of attrition over an extended litigation and.

BOARD MEMBER FARKAS: She really had no choice.

VILLAGE ATTORNEY PROKOP:

Technically it was a settlement, but it was a lot of zigs and zags in the litigation, some positive and some negative.

BOARD MEMBER KRASNOW: It's almost like saying if she lost, it wouldn't have been self created.

BOARD MEMBER FARKAS: If she lost?

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BOARD MEMBER KRASNOW: If she lost the case, it wouldn't have been self created.

BOARD MEMBER FARKAS: Right, or if she won the case, she would have --

BOARD MEMBER KRASNOW: Then it would be moot. So by settling --

BOARD MEMBER FARKAS: That's my point.

BOARD MEMBER KRASNOW: That's a fact.

MR. HULME: My point is that --

(Whereupon, there was crosstalk.)

BOARD MEMBER KRASNOW: Not to penalize, but from a technical standpoint, yes.

VILLAGE ATTORNEY PROKOP: I'm sorry, do you mind?

MR. SMITH: No.

VILLAGE ATTORNEY PROKOP: But to talk generally, procedurally,

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if you're asking me a question about self created, I think the fact of whether or not something was self created, you can answer that question, but it's not supposed to be a basis for your decision. If you look at the criteria that I just passed out in number three.

BOARD MEMBER CASHIN: It's one of the five?

VILLAGE ATTORNEY PROKOP:  
Yes, it's on the five and sixth page, whether the alleged difficulty was self created which consideration shall be relevant, but not necessarily preclude the granting.

BOARD MEMBER CASHIN: Right.

BOARD MEMBER FARKAS: Right.

VILLAGE ATTORNEY PROKOP:  
And any of the people that were involved in this litigation were just caught up in it. It was one of a series of steps against the Village by our outside powers-to-be,

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not just the trustees. And I'm sure she didn't -- well, any of those people didn't willfully join that lawsuit.

MR. TERCHUNIAN: An additional point of information for the Board regarding the seven lots in this area, I've recently flagged the wetlands for and I believe there are building permits applications filed for two of those lots. The locations of the homes on those lots would preclude subdivision.

VILLAGE ATTORNEY PROKOP:  
Say that again.

MR. TERCHUNIAN: Of the lots that were identified as potentially subdividable.

BOARD MEMBER KRASNOW: To the west?

MR. TERCHUNIAN: To the west. I flagged wetlands on two of those within the last month and I believe building applications are

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filed on those. Two locations of the homes proposed would preclude any future subdivision.

MR. SMITH: If I could add to that, I think the reason for those proposed locations are also due to the impact that a subdivision would have on the neighborhood.

MR. TERCHUNIAN: I don't think I can speculate to that.

MR. SMITH: Well, that's not speculation. I've had conversations with the builder who we all know who it is and he also agrees that those lots subdivision would have a negative impact on the community.

MR. TERCHUNIAN: Just for the Board to understand that this is not the person who said it saying it, it's somebody saying they said it.

MR. SMITH: That's fair, but I think we all know where that person lives and we all know the sun



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2 sets in the west and the subdivision  
3 of those lots would have a negative  
4 impact on the view of that person's  
5 home, primary home.

6 So the last thing I'm going  
7 to say is the current state, 2006,  
8 self imposed, the settlement has had  
9 an impact, this application would  
10 result in two significantly  
11 nonconforming lots. And these two  
12 nonconforming lots would  
13 indisputably provide a precedent for  
14 others to follow.

15 And whether it's the two  
16 lots that we're talking about now or  
17 others nearby that are in this  
18 adjacent neighborhood, those are the  
19 district variables and to talk about  
20 Cove Lane, we know those are  
21 different lots, no flag lots, not  
22 subdivision opportunities.

23 So I think if we look at  
24 this small part of our community and  
25 you see what two nonconforming lots

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does to that stretch of the road, I think it's hard to argue that it wouldn't have a negative impact on the community. And thank you for --

BOARD MEMBER KRASNOW: I guess geographically you're really the one that's most effected because anybody to the west, the house would be behind the house. It wouldn't effect their view. This house is going to get built after the fact, so they're going know there's potential there. So really anything to the west, they're not looking to the east, as you say, for the sunsets. So probably you're the one that's being impacted the most.

MR. TERCHUNIAN: Two -- a point of information and a question for Adam. A point of information is that impacting somebody's view is not a criteria for a Zoning Board decision, number one.

Number two, I'm wondering,

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Adam, if the home was shifted north in such a manner as it aligned with the house that's currently under construction and thus didn't interfere with your view, would that change your opinion?

MR. SMITH: I promise you, because I go back because it's Laura. I'm trying to find a solution here because I know how meaningful it is for her and to fight for 14, 15 years, but that's -- I know what I say here, I'll to my best, but you really can't articulate it until you actually stand there to find a spot for a home back there, it just feels impossible.

And I agree with you, this Board is not responsible to accommodate my view, one person's view, right? But when you look at where a house, even a 2,000-square foot, 2,500-square foot, you know,

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two floors, that's a big structure for the lot that we're talking about here and it will have an impact on our property and the view certainly no matter where you put it.

Now I would, of course, appreciate the opportunity to kind of talk about, if this goes forward, you know, where it's placed, but I don't think there is a position that because of -- that doesn't have an impact, a meaningful impact.

And I think what this turns into is a different -- my property definitely becomes quite different. It already has become quite different because of 774. Adding another house next to 774, closer to me, changes it dramatically.

BOARD MEMBER KRASNOW: Does moving it south help you at all? Does that less effect you or that --

MR. SMITH: It's a trade off of do you want it further south

1  
2 against the water blocking the view  
3 or do you want it further north,  
4 which is going to block the sunset?  
5 It's which poison you want. Good  
6 question though. I've thought about  
7 it and both are -- you know, I don't  
8 know. If I had to choose one, I'd  
9 have to -- yeah, we've thought about  
10 is it better to be in the site line  
11 where it's kind of lining up with  
12 the 774 house? Is it better to push  
13 it down towards the water? I don't  
14 know the answer.

15 MR. TERCHUNIAN: The other  
16 -- you know, you raised several  
17 times, Adam, the point that this  
18 could serve as a precedent for other  
19 subdivisions. Your property could  
20 be one of those.

21 MR. SMITH: It's  
22 interesting you say that. As you  
23 mentioned Bonafonte, he prevailed.

24 MR. TERCHUNIAN: I was his  
25 expert.

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MR. SMITH: Well, you must have done pretty good work. But we had that opportunity. We were not tied up in litigation for 15 years, so, yes, we had the opportunity.

MR. TERCHUNIAN: And you still have.

MR. SMITH: And we have chosen not to because we believe that that would have a negative impact on -- I could --

MR. TERCHUNIAN: But a future owner could.

BOARD MEMBER KRASNOW: It would give you a much larger.

(Whereupon, there was crosstalk.)

MR. SMITH: I wouldn't even need variances to say within a buildable lot because I didn't give up anything in the settlement. My lot is fully intact. It's larger to start at 100 feet. Yes, we could absolutely --

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MR. TERCHUNIAN: -- as  
well.

VILLAGE ATTORNEY PROKOP:  
The fact you can subdivide your  
property is not relevant. I'm sorry  
you're being asked that.

MR. SMITH: Well, I  
appreciate that, but it is relevant  
because if all of this happens, why  
wouldn't I subdivide my lot, build  
another house and sell them both and  
find another place that's not --  
that's what we've enjoyed down here  
for the ten years we've lived here  
and the ten years we rented before  
that.

We've been a member of this  
community for almost 20 years in  
some capacity. We've had the  
opportunity to subdivide this lot  
and have chosen not to. But, yes,  
if all of this builds out west of  
us, yes, I likely will be back in  
here and saying, I want to make this

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two assets instead of one, like everybody else did, and then I'll say thank you and goodbye. Because this is not what we came down here for, right? This is just -- this is the point of --

MR. TERCHUNIAN: -- closer to the water, you have better view of the water and sunset.

MR. SMITH: You spent a lot of time down there in the bay behind us. It's a special place. You fill that full of houses, it's not. You know that.

CHAIRMAN SARETSKY: We understand crystal clear what you're saying and just to make a point on behalf of the Board, we know Laura to be a lovely, wonderful person and that's what's making all of this that much harder.

MR. SMITH: Yes.

CHAIRMAN SARETSKY: I'm not sure that a lot of other people



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understand. That's one of the reasons why we've been meeting so many times and it's not an easy decision.

MR. SMITH: Yes, agreed.

CHAIRMAN SARETSKY: Fair enough?

MR. TERCHUNIAN: Yes.

MR. HULME: One last point, if this owner or a future owner decided not to seed the subdivision, they could, in fact, build a house right there.

CHAIRMAN SARETSKY: I understand.

MR. HULME: The potential impact is there regardless of the relief granted or not.

CHAIRMAN SARETSKY: Understood.

MR. TERCHUNIAN: That's a good point.

MR. SMITH: Without creating two nonconforming lots that

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would --

MR. HULME: Yes. If she chose to.

MR. SMITH: So there's two issues at stake, yes.

(Whereupon, there was crosstalk.)

MR. SMITH: Going back to Aram's point, if she did that, this Board wouldn't even be consulted because it wouldn't require a variance and you're not responsible for protecting my view, but it would be one single conforming lot that doesn't create the second issue we're discussing here, which is a --

MR. SMITH: So I agree with your point, but it still would be within the existing code.

MR. TERCHUNIAN: I would just advise the Board that -- two things. Number one, and as you all well know, we always stick to the

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2 facts of the immediate case and  
3 there is no such thing as a  
4 precedent, quite frankly, because  
5 the facts of every case are unique.

6 The second part is that the  
7 particular fact trail here is  
8 replicatable (sic) on maybe three or  
9 four lots in the Village. And that  
10 is the ones that were, A, the  
11 subject of the litigation and, B,  
12 the subject of the settlement. So  
13 the universe of potential projects  
14 shrinks dramatically when you take  
15 that into account.

16 MR. SMITH: I guess I would  
17 just, respectfully, maybe -- I'm not  
18 an attorney, but maybe there is  
19 legally not a precedent and  
20 everybody's case is reviewed  
21 individually, but my guess is if  
22 this gentlemen to the right of me  
23 had this done and was representing  
24 another property, his position would  
25 be far easier to argue. This is a

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precedent that would be followed.  
This would establish, within the neighborhood, a decision that this Board had made that had made the argument for another property quite easily.

BOARD MEMBER KRASNOW:

Wouldn't there be more potential opportunities for flag lots on other properties?

MR. TERCHUNIAN: Flag lots are permitted.

MR. SMITH: I actually think that the last meeting I came to there was a discussion about flag lots. Flag lots should be permitted for a lot that is larger, but the flag is not the issue, it's the variances of the two lots.

MR. TERCHUNIAN: The issue is not the flagpole, the issue is the flag, which is the lot.

MR. SMITH: Yes. The issue is the two nonconforming lots. If

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you have -- I don't remember the other gentleman's name that was arguing last time we were here for the two lots, the three, or whatever he was looking for.

BOARD MEMBER FARKAS: Antinucci.

MR. SMITH: Yeah. Those are big lots. You could likely create subdivisions --

BOARD MEMBER KRASNOW: But they're still smaller than yours.

MR. SMITH: Huh?

BOARD MEMBER KRASNOW: They're still not even as wide as your lot. They're only 79 feet.

MR. SMITH: If we go back to the meeting, I'm sure you all will remember, but of course it was an important meeting for me, the Board was advising that group of residents to, kind of, take what we're talking about here because you could end up in the exact same situation that I'm in, which is they

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could build a couple behind you and end up with building in aggregate than what's coming to you. So it was ironic to me that you're advising one applicant and group of residents against exactly what this applicant is requesting.

CHAIRMAN SARETSKY: I think in fairness -- I hear everything you're saying and understand it crystal clear. I think that the Antinucci and the Skiderna piece that came before it are, in my opinion and Joe was with me at that time, are anomalies to Westhampton Dunes. They're not the, whatever you want to call it, the median, the average, the norm, call it whatever you'd like, it is.

MR. HULME: They're outliers.

CHAIRMAN SARETSKY: They're outliers, even if they're way outlying, but I totally understand your point and I totally understand

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the concern.

MR. SMITH: Yeah, thank you to the Board for the opportunity to talk to you.

BOARD MEMBER CASHIN: Thank you.

BOARD MEMBER FARKAS: Thank you.

MR. HULME: I have nothing further.

VILLAGE ATTORNEY PROKOP: Aram, can I just ask you, on another applications that we've gotten in the last several months, there's been, on the bay side, there's been a 300-foot title wetlands line drawn.

MR. TERCHUNIAN: Right.

VILLAGE ATTORNEY PROKOP: Is that relevant to this application?

MR. TERCHUNIAN: No. It's relevant only to the DEC's jurisdiction. It doesn't effect this Board's jurisdiction. You can

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ask them to put it on there if you want, but it doesn't play a role.

VILLAGE ATTORNEY PROKOP:

What does it mean?

MR. TERCHUNIAN: It's the limit of the DEC's jurisdiction. Their jurisdiction is 300 feet from the title wetlands line. So any activity that occurs within that 300-foot radius is subject to the DEC site title wetlands rules, but it does not effect this Board or the Village.

So just so that we stay focused, right now what I've heard loud and clear and that hopefully the applicant has as well, is that go back and check your math and give us a revised memo on your deal and Joe and I will do the housekeeping that we discussed, but is there anything else that pops up from the members?

CHAIRMAN SARETSKY: What I



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first -- I think what I'd like to do is, after this is over if you and Joe have a minute, maybe you can spend a minute to make a list of what we might want because maybe some of the things we might want, we already have.

BOARD MEMBER MIZZI: I just have a question. The sheet that you were reading from describing the variances, is that something that we have?

BOARD MEMBER KRASNOW: Yes.

MR. TERCHUNIAN: Yes.

BOARD MEMBER MIZZI:  
Because I saw a different sheet that you have. I just want to make sure it's there.

MR. TERCHUNIAN: It should be in your package. If not, Robin is going to make you a complete set.

MR. HULME: Well, don't copy it yet because if I have to change it.

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BOARD MEMBER MIZZI: He was reading from something that was clearly listing the variances. I want to make sure that --

MR. TERCHUNIAN: It was in the packet at the last meeting.

BOARD MEMBER MIZZI: Okay, good.

MR. TERCHUNIAN: But we will -- Robin will create a digital package.

BOARD MEMBER MIZZI: That would be great.

MR. TERCHUNIAN: I see that you were the only Board member in the 21st century.

BOARD MEMBER MIZZI: Well, he's got one too.

MR. SMITH: May I get a copy of the final as well?

VILLAGE CLERK SANTORA: Sure.

MR. HULME: So you'll advise me of that?

CHAIRMAN SARETSKY: Yes.

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MR. HULME: And I will  
respond. Thank you.

BOARD MEMBER FARKAS: You  
want to spend a few minutes after  
the meeting?

MR. HULME: Yes.

VILLAGE ATTORNEY PROKOP:  
So I think there should be a motion  
to adjourn the public hearing.

CHAIRMAN SARETSKY: Motion  
to adjourn.

BOARD MEMBER MIZZI:  
(Indicating).

CHAIRMAN SARETSKY: Okay,  
all in favor?

MR. TERCHUNIAN: Okay, so a  
motion by the Chairman and a second  
by Mr. Mizzi and the vote appears to  
be unanimous.

MR. HULME: Is there a date?  
(Whereupon, there was  
crosstalk.)

VILLAGE ATTORNEY PROKOP: I  
think it should be considered to be

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the next meeting provided the applicant provides whatever material that is necessary and request.

MR. HULME: But is there a next meeting scheduled?

CHAIRMAN SARETSKY: I don't think so.

VILLAGE CLERK SANTORA: We do not have a date set.

VILLAGE ATTORNEY PROKOP: Okay.

MR. TERCHUNIAN: Well, can we take a minute just to look at our schedules and see if we can set something?

CHAIRMAN SARETSKY: Sure.

(Whereupon, there was crosstalk conversation to discuss meeting dates.)

CHAIRMAN SARETSKY: Okay, I think the 4th will be the next date.

MR. TERCHUNIAN: As is the policy of the Board, we will like this ten days prior so that I can

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send a memo 24 hours before.

(Laughter.)

(At this time a brief recess was taken.)

VILLAGE ATTORNEY PROKOP:

Before we open up the next application, I wanted to talk about what I passes around. So I passed around three things stapled together. So if you look at number -- this is the first one that says 7-712B permitted action by the Board.

So this is from the New York State law and number three at the bottom starts an area variances, right? So this is what -- A, is what you can do and, B, is what you should take into account when you make a decision.

So this is the five criteria that we find out what they are when we come to make a decision, but this is what the law says the

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criteria actually are. So these are the criteria that you need to run through when you make a decision and then base a decision on this criteria. The next document --

BOARD MEMBER CASHIN: You told me once before, I want to make sure I'm correct, you can vote no on some of the criteria and yes on the others?

VILLAGE ATTORNEY PROKOP:  
Right.

BOARD MEMBER CASHIN: And none of them are dispositive, right?

VILLAGE ATTORNEY PROKOP:  
Yes. You don't have to have three out of five. You know, it depends how strongly you feel about any one of the criteria. So even if it was three out of five against the application, you could still approve it or three out of five in favor of the application, you could still deny it, you know, depending how

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strongly you feel about the other  
one and two.

The next document that I  
gave you is from the -- did you get  
a copy?

BOARD MEMBER FARKAS: Uh-huh.

VILLAGE ATTORNEY PROKOP:

Okay. These are the New York State  
DEC regulations on SEQRA, the State  
Environmental Quality Review Act,  
and this particular Session 617.7  
determining significance, this, in  
C -- C is what -- so it's C1 and  
then you see a Sub 1. These are the  
minimum criteria that you should  
consider when you do a SEQRA  
evaluation, right.

So when we talk about  
SEQRA, whether or not it's going to  
have an impact on the environment,  
you know, we all have a general  
impression about whether or not it's  
going to have an impact on the  
environment, but these are the

1  
2 specific things that you should  
3 think about. You don't have to have  
4 a vote on each one of these like you  
5 should on the other five criteria,  
6 on the variance criteria, but these  
7 are the kinds of things that the  
8 State wants you to take into account.

9 MR. TERCHUNIAN: May I  
10 interrupt, please, Joe? You're  
11 right, if it's a Type I or an  
12 Unlisted action, but a residential  
13 area variance, which is what this  
14 Board has been dealing with to date,  
15 is automatically a Type II action.  
16 So you should definitely read these  
17 criteria and they're important for  
18 you to keep in your mind.

19 But the matter, for  
20 instance, that was in front of this  
21 board just a moment ago, is a  
22 residential area variance. That's  
23 an automatic Type II, and so it's  
24 automatically assumed not to have a  
25 significant environmental impact.



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2 The purpose of a Type I or  
3 an Unlisted is that if the Board  
4 determines that it would have a  
5 significant adverse environmental  
6 impact, you could request a  
7 environmental impact statement, but  
8 it would have to be a Type I or an  
9 Unlisted action. Type II's are  
10 automatically considered not  
11 adversely significant.

12 BOARD MEMBER KRASNOW: A  
13 septic system today isn't creating  
14 an environmental impact at all?

15 MR. TERCHUNIAN: It does.  
16 It's just not a significant adverse  
17 environmental impact. That's the  
18 key.

19 VILLAGE ATTORNEY PROKOP:  
20 So the thing that Aram is leaving  
21 out -- because he practices in a  
22 different scope of this than I do --  
23 is that one of the five criteria is  
24 whether or not it's going to have an  
25 impact on the environment. So

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everything that he said is correct.  
If it's an Unlisted action or a  
Type I action, you're required to go  
through these criteria.

However, even without it  
being a Type I or Unlisted action,  
one of the State requirements, when  
you evaluate a variance, it impacts  
on the environment, which has  
nothing to do whether it's Type II  
or Unlisted or Type I. And these  
are just the kinds of things that  
the State suggests that you  
consider as far as impacts on the  
environment.

MR. TERCHUNIAN: I agree  
with Joe's interpretation. You  
should understand these questions  
and apply them, but it doesn't  
create a Type I or an Unlisted.

VILLAGE ATTORNEY PROKOP:  
Yes. I'm going to be redundant for  
a second, but you're required to  
evaluate a variance to determine

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whether or not they'll be an impact  
on the environment.

MR. TERCHUNIAN: A  
significant adverse.

VILLAGE ATTORNEY PROKOP:  
Yes, a significant adverse impact on  
the environment and community. I'm  
just suggesting to you, you know,  
rather than just have this vague  
term in your mind about environment,  
you could consider these criteria  
even if it's not a Type I or  
Unlisted action. And then -- yes?

BOARD MEMBER MIZZI: It  
doesn't say that here, significant  
adverse impact. It says having  
adverse effect or impact.

VILLAGE ATTORNEY PROKOP:  
Right.

BOARD MEMBER MIZZI: Is it  
significant or adverse effect?

VILLAGE ATTORNEY PROKOP:  
Adverse, yes. Significant is the  
language in the SEQRA determination.

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It's not the language in the State  
variance.

MR. TERCHUNIAN: All right,  
so -- sorry.

BOARD MEMBER MIZZI: I'm  
just reading the words.

MR. TERCHUNIAN: You're  
right about reading that, but that's  
the entire reason why this  
subsection relates only to Type I  
and Unlisted actions and not the  
Type II actions, because of the term  
substantial adverse impact is in  
SEQRA for determining Type I and  
Unlisted. It's not in -- because a  
Type II action is automatically  
considered not to have those impacts.

VILLAGE ATTORNEY PROKOP:  
I'll take you through that when we  
get to --

BOARD MEMBER MIZZI: Okay.

VILLAGE ATTORNEY PROKOP:  
This is so you have it in front of  
you and you can read it. I'll take

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it -- when we have this in an application, I'll take you through it step by step.

The second thing I circulated is very important to the Board and to me, which is this is actually the current dimensional regulations of the Residents District in the Village. And I think mostly of what we deal with is R40.

So when we adopted this, this was copied from the Town of Southampton and so it has districts in it that do not exist in the Village, particularly Country Residence District if I'm not mistaken.

MR. TERCHUNIAN: We only have R40. The entire Village is R40.

VILLAGE ATTORNEY PROKOP:  
Okay, so that will make this really simple. But anyway, I already heard this stated today because there's a

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lot of misconceptions about what our dimensional regulations actually are, but if you look at that column under R40, this is actually what our dimensional regulations are.

And then there's another -- however, you need to look at the zoning -- this is what Aram and I do for you. You also need to look at the Zoning Code because some of these provisions are -- like the 30/40 Rule and lot width, how to measure lot width, are modified in the actual code. So that's what Aram and I do, you know, help you work your way through that, often debating with each other.

MR. TERCHUNIAN: Healthily.

VILLAGE ATTORNEY PROKOP:

But anyway, if you wanted to know what the Zoning Code really is, this is what it is.

BOARD MEMBER FARKAS: So if it's R40, how do those homes get

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built on lot sizes that are less than 40?

MR. TERCHUNIAN: Because the Village adopted a three-tenths and four-tenths rule for the side yards because otherwise every single lot in the Village would be coming to this Board for a variance because you cannot build a house in --

VILLAGE ATTORNEY PROKOP:  
No, that's not right.

BOARD MEMBER FARKAS: No?

VILLAGE ATTORNEY PROKOP:  
Where R40 -- because the Village preexisted the adoption of the R40 District, all the lots were already created as buildable lots, so everybody got to build on their lot, even if it was only 10,000 square feet or 5,000; 20,000; whatever it is.

So the R40 didn't apply to the lot size and whether it was a buildable lot, but it does apply to

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2 the -- it does create this column.  
3 It makes -- this is the relevant  
4 column for dimensional regulations.

5 The 30/40 rule came into  
6 place because when we were dealing  
7 with, basically a sand bar that had  
8 just come out of the ocean -- we  
9 just had a sandbar that was created  
10 in 30 feet of ocean water. As it  
11 started getting built out, what we  
12 realized was that it would be a  
13 significant impact on the person  
14 across the road as to where the  
15 house -- where a house was placed on  
16 a lot and how wide that house was.

17 So it was determined to  
18 give a benefit to -- it was  
19 determined that on lots existing at  
20 that time, that people that agreed  
21 to center the principal structure  
22 should have a small benefit for  
23 doing that, which is we let them go  
24 to 30 instead of 40.

25 BOARD MEMBER MIZZI: The



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three-tenths rule.

VILLAGE ATTORNEY PROKOP:

Pardon me?

BOARD MEMBER MIZZI: The

three-tenths rule.

VILLAGE ATTORNEY PROKOP:

Yes, you can use the three-tenths rule instead of the four-tenths rule on existing lots, not lots that were subsequently subdivided if you agreed to center the principal residence. We figured that that way when you drove down Dune Road you wouldn't just see houses, you would see some spacing between the houses and also the neighbors across the street would have some kind of view of either the ocean or the bay.

MR. TERCHUNIAN: Joe, just

to my point. So, in other words, if the Village had not adopted the three-tenths or four-tenths and most of the lots in the Village do not have the required side yards under

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the code listed and therefore would need to come to the Zoning Board for variances to build. So the village Board avoided that workload. It would have overwhelmed.

BOARD MEMBER FARKAS: We are overwhelmed. Thanks, Joe. Thank you.

CHAIRMAN SARETSKY: All right, let's proceed.

MR. HULME: So --

CHAIRMAN SARETSKY: 9 Dune Lane.

MR. HULME: 9 Dune Lane. So there have has been a lot of discussion -- some discussion about this third addition to the top of this house. And in doing some of my research, based on questions from the Board, it appears to me that this could be characterized as a third story as opposed to just a mezzanine.

And despite the fact that

1  
2 there are numbers and numbers of  
3 three-story buildings in the  
4 Village, which I don't believe  
5 require variances, I'm wondering if  
6 we characterize this as a third  
7 story if it needs a variance for  
8 that purpose. And if needs a  
9 variance for a purpose, I don't  
10 think it was advertised for that.  
11 And so I don't want to get too much  
12 further down the road if we're going  
13 to have to just readvertise the  
14 application.

15 BOARD MEMBER MIZZI: Can I  
16 just ask a question? I'm confused  
17 about this. Is a third story  
18 permitted in the Village? I know  
19 the whole thing with the mezzanine  
20 and there's a calculation for a  
21 mezzanine, which might appear to be  
22 a third story, but does anybody know  
23 if a third story is permissible?

24 MR. TERCHUNIAN: To answer  
25 your question, this lovely handout

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that Joe handed out, if you look under stories, it has a number.

BOARD MEMBER MIZZI:

(Perusing) Two.

MR. TERCHUNIAN: There you go.

BOARD MEMBER MIZZI:

Because my house appears to be a three-story house, but it was designed under the code to be a mezzanine, my third story; I don't know how others have done it.

BOARD MEMBER FARKAS: Do you have a door going up to the third floor?

BOARD MEMBER MIZZI: No.

BOARD MEMBER FARKAS:

That's what makes it a mezzanine.

VILLAGE ATTORNEY PROKOP:

What do you do, jump up there? How do you get --

(Laughter.)

BOARD MEMBER MIZZI: It's open to the floor below.

VILLAGE ATTORNEY PROKOP:

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Go on record that Mr. Hulme was  
laughing at me.

(Laughter.)

BOARD MEMBER MIZZI: My  
point is, it's open to the floor  
below. It's a portion of the square  
footage of the floor above and floor  
below. Like there are requirements  
that I've researched in the building  
code that permitted it.

MR. HULME: I think we meet  
the requirement, I think, of the  
square footage, but this is an  
enclosed space with a bathroom and  
door at the top of the stairs. So  
I'm not sure it's still -- I don't  
know. That's why I'm asking --

BOARD MEMBER KRASNOW: It's  
not a loft.

MR. HULME: If it's a third  
story and that's a two, then I think  
that the case needs to be  
re-advertised for that purpose.

MR. TERCHUNIAN: I think

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Joe and I are in agreement that it is a third story.

MR. HULME: Okay.

BOARD MEMBER MIZZI: I mentioned it before and I was also just -- I'm saying it, not to be difficult, but just to make sure that it's considered. I was told when I built my mezzanine by Gary -- I think it was Gary -- he's like, don't make that a bedroom. You haven't advertised it as a bedroom.

So I also think it was shown to us -- like mine is a work loft, but like also, you know, I would hate to come back and see bedroom and be told that it's not permitted to be a bedroom.

MR. HULME: That's --

BOARD MEMBER KRASNOW: Is that septic system issue too?

BOARD MEMBER MIZZI: Well, I guess what I'm saying more clearly is, if it's intended to be a

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bedroom, make sure that when  
combined with the other bedrooms it  
meets all the requirements.

MR. HULME: Yes.

BOARD MEMBER KRASNOW: Do  
you have a sprinkler?

BOARD MEMBER MIZZI: No.

BOARD MEMBER KRASNOW: I  
think --

CHAIRMAN SARETSKY: I think  
that's a more recent addition.

MR. TERCHUNIAN: That's  
State building code.

CHAIRMAN SARETSKY: But I  
don't think it existed.

MR. TERCHUNIAN: (Nodding.)

BOARD MEMBER MIZZI:  
Previously, the other benefit of  
not --

MR. TERCHUNIAN: Not the  
mezzanine.

BOARD MEMBER MIZZI: The  
other benefit of having a mezzanine  
is it didn't require sprinkler

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system at that time in 2008 when I  
got my house.

BOARD MEMBER KRASNOW: So  
then this would need a variance for  
the third floor and then it would  
need a variance for --

MR. HULME: Or we need to  
redesign it to turn it back into a  
mezzanine. This house only has two  
bedrooms, so I think the goal here  
was to get another bedroom.

VILLAGE ATTORNEY PROKOP:  
So if it's okay with Jim, my  
recommendation is that you adjourn  
this and then we'll do the -- we'll  
re-notice it with the other  
variance, if that's okay.

MR. HULME: That's  
wonderful for me. Thank you.

CHAIRMAN SARETSKY: Motion  
to adjourn?

BOARD MEMBER MIZZI: One  
other question. Should we give  
feedback because I hate for them go



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back and do a bunch of work and  
then --

MR. TERCHUNIAN: Joe, just  
a point of information. Should they  
close this hearing and then  
readvertise a whole new hearing and  
then just adopt all of the records  
from the first hearing? Because are  
we going to adjourn and then modify?  
I'm asking. I don't know the  
answer.

VILLAGE ATTORNEY PROKOP:  
You can do either way; whatever you  
want to do.

MR. TERCHUNIAN: Then do it  
the easiest way, which is to adjourn  
it.

CHAIRMAN FARLEY: One last  
thing before we adjourn it. Also,  
if you're going to come back with  
it, I think try to make every effort  
for it to fit within the pyramid and  
at the very least give us a drawing  
showing us how you're trying do that.

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MR. HULME: Sure.

CHAIRMAN SARETSKY: In other words, I understand you're looking for a variance, but right now the variance for the first time it's one side and all on that side.

MR. HULME: Yes. I mean, there may be some internal reasons in the house for why that is, but I'll come back.

CHAIRMAN SARETSKY: And either show that in the section, whatever it is.

MR. HULME: Okay.

CHAIRMAN SARETSKY: It doesn't have to be anything elaborate. All right, so a motion to adjourn.

MR. TERCHUNIAN: For all purposes.

CHAIRMAN SARETSKY: For all purposes.

MR. TERCHUNIAN: To our November 4th meeting.

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CHAIRMAN SARETSKY: To our  
November 4th meeting. All in favor?

MR. TERCHUNIAN: The  
second? Mr. Mizzi is the second.

BOARD MEMBER MIZZI: Second.

CHAIRMAN SARETSKY: All in  
favor?

(Chorus of "ayes".)

VILLAGE ATTORNEY PROKOP: I  
need to ask a question. I need it  
to write the decision. So I printed  
out all of the materials that you  
gave us from day one. I printed it  
out and I was going through it --

(Whereupon, there was audio  
interruption.)

VILLAGE ATTORNEY PROKOP:  
No, this is on.

VILLAGE CLERK SANTORA: Sorry.

VILLAGE ATTORNEY PROKOP:  
I'm sorry. So on the initial  
application it said that the  
applicants were -- 738 and 742, LLC's --  
were contract and deeds, but they

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were deeds. Do you want us to  
consider them to be --

MR. HULME: They're owners  
now.

VILLAGE ATTORNEY PROKOP:  
They are?

MR. HULME: Yes, they are  
in fact the owners.

VILLAGE ATTORNEY PROKOP: I  
think that that was the only other  
thing I needed to ask you. If  
there's anything else, I'll shoot  
you an e-mail.

MR. HULME: Thank you.

VILLAGE ATTORNEY PROKOP:  
Thanks.

MR. HULME: And my  
intention was to reflect what was in  
the transcript. If I gave you the  
wrong map, obviously, there's a  
correct map somewhere.

BOARD MEMBER MIZZI: Thank  
you.

MR. HULME: Thank you.

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Enjoy this beautiful sunny day.

VILLAGE ATTORNEY PROKOP: Okay,  
we're still -- this is still on open  
meeting, which I think is what it  
should be.

VILLAGE CLERK SANTORA:  
Okay. Am I supposed to be recording  
still?

VILLAGE ATTORNEY PROKOP: Yes.

VILLAGE CLERK SANTORA:  
Okay, I'm sorry.

CHAIRMAN SARETSKY: Okay.  
We're here to talk about what we're  
asking, Jim Hulme to do to provide  
for.

VILLAGE ATTORNEY PROKOP:  
Yes. We wanted to discuss, in  
public, the list of things that we  
want the applicant to provide.

CHAIRMAN SARETSKY: So I  
would like to just --

VILLAGE ATTORNEY PROKOP:  
Which one are we talking about?

CHAIRMAN FARLEY: 772,

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correct?

VILLAGE ATTORNEY PROKOP:

Okay. I'm going to let you do the discussion, please.

CHAIRMAN SARETSKY: Okay.

I'm going to throw it out there and the two of you can tell us what we have, what we don't have, and what we still need. I would like to see a drawing of the original house shown the way it is.

Then a second piece, the Southampton settlement showing where it was, where it is, okay? It could be with a pink highlighter, a yellow highlighter. It doesn't have to be a science project, okay?

And then I'd like to see, if they were to build a subdivision on that house, on that lot, as of right. Let's forget the roadway because now you're telling me the roadway is okay in the width that it's in. And the last thing, what

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is it they're proposing.

MR. TERCHUNIAN: All right,  
let's go through this and make sure  
I got it right.

CHAIRMAN SARETSKY: First  
is what's there today or was there  
from inception. And if anyone else  
wants --

BOARD MEMBER FARKAS: We  
want to know what was there from  
inception, what the 2006 decision  
looked like --

CHAIRMAN SARETSKY: Correct.

BOARD MEMBER FARKAS: --  
what they're requesting now and what  
you could build by right. Those  
were the four things you want?

CHAIRMAN SARETSKY:  
Exactly. Unless --

BOARD MEMBER KRASNOW: --  
they're asking for a bigger house on  
a smaller property.

VILLAGE ATTORNEY PROKOP: I  
think -- excuse me. In this

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discussion, because it's a Board discussion, it is public, but it is a Board discussion. I don't think you should comment on the application. You should just talk about what the things are that --

CHAIRMAN SARETSKY: I'm not commenting. I'm talking about what I think the Board needs.

VILLAGE ATTORNEY PROKOP:  
Okay.

CHAIRMAN SARETSKY: The second piece I think I'd like to have is the chronology of events that happened, okay? So it starts off with whatever it was from the original. Second, there's the 2006 settlement. There's the date that she agreed to --

BOARD MEMBER KRASNOW: 2006?

BOARD MEMBER FARKAS: Decision.

CHAIRMAN SARETSKY: I'm sorry, the 2006 variance. Okay, and, again, we know the parts and



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pieces that some people think are relevant or not relevant, the way it was voted on or not voted on, all of those things we can then fill in ourselves.

Then I'd like to know the settlement. In other words, how it changed, by what amount. And then the last is what she is proposing and, again, why it can't fit like next door.

MR. TERCHUNIAN: Okay. I'm going to answer the last one first because it's the easiest, okay? They cannot subdivide without a variance, period, full stop, end of sentence.

CHAIRMAN SARETSKY: But let's stay with that for a second. She'll had all these variance in 2006 that allowed her to subdivide, correct?

MR. TERCHUNIAN: Right.

CHAIRMAN FARLEY: Now she

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loses a piece of land.

MR. TERCHUNIAN: Right.

CHAIRMAN SARETSKY: So if the only thing we were asked for was to compensate for that loss of land because she did or didn't make her condition for agreeing to this part of her signing off. In other words, she didn't say, I'll agree to this settlement if Westhampton Dunes lets me still subdivide my two houses.

MR. TERCHUNIAN: Right.

CHAIRMAN SARETSKY: Because next door, that's exactly what -- well, they subdivided and had it in writing and had it done. So to their advantage, they were faster, quicker, sooner.

MR. TERCHUNIAN: They were years before.

CHAIRMAN SARETSKY: I understand. So, assuming this was about fairness and whatever we're calling it, I'd like to see that

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from of cradle to grave.

MR. TERCHUNIAN: Yes, all right. I think I got it.

BOARD MEMBER FARKAS: Do you want a copy of the decision, the settlement, also from the Town?

CHAIRMAN FARLEY: Yes, I think it would be great if we could have that as part of the packet, Robin, what the original 2006 piece --

MR. TERCHUNIAN: Well, 2006? He's talking about the settlement.

(Whereupon, there was crosstalk.)

BOARD MEMBER KRASNOW: You're talking about the settlement of the trustees.

CHAIRMAN SARETSKY: Yes, the settlement of the trustees; 2006 I think I have.

VILLAGE CLERK SANTORA: So you want what exactly?

MR. TERCHUNIAN: I got it.

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CHAIRMAN SARETSKY: The  
other piece is -- sorry, before I  
forget.

BOARD MEMBER MIZZI: It's  
okay.

CHAIRMAN SARETSKY: The  
stuff we've gotten before, if we can  
just compile it. And, again, if  
we're asking Jim Hulme for it, it  
would be great if he could, one,  
he's going to give us the corrected  
numbers and whatever can be done to  
simplify this.

MR. TERCHUNIAN: So this is  
what I propose. I'm sorry --

CHAIRMAN SARETSKY: I have  
one more thing.

MR. TERCHUNIAN: Okay,  
because that's ten and that's as  
much as I can fit on this page.

CHAIRMAN SARETSKY: Well,  
then maybe we can combine it.

BOARD MEMBER KRASNOW:

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CHAIRMAN SARETSKY: The other pieces is, I think this group needs to understand what neighborhood were talking about, okay?

MR. TERCHUNIAN: Okay.

CHAIRMAN SARETSKY: So the adjacent neighbor gave something. We should look at a Goggle Map. We should do this together. I don't think we're going to do this this second, right now.

MR. TERCHUNIAN: Well, let's just throw some numbers out. I will take some Goggle Maps and draw some radius on them and then you'll choose between them, you know, 1,000 feet -- 500 is way too short just because of those other lots, but something between 1,000 and 2,000 feet.

CHAIRMAN SARETSKY: And the reason I think we need to do this in a careful way is, obviously, Pike

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Beach is not part of this. I really don't believe, in my opinion, Antinucci and Skiderna are part of this. Those, in my mind, will outliers is the words that he used, which is great. If we can pick a sample, something else other than that. So it can include them, as far as the distance, but it shouldn't include them in the --

MR. TERCHUNIAN: Right, in the analysis. Absolutely, okay.

CHAIRMAN SARETSKY: Okay. And then -- I think that's -- I'm sorry, go ahead.

BOARD MEMBER MIZZI: I had a clarifying question. You said it couldn't be done without a variance, absolutely. In any event or would the house --

MR. TERCHUNIAN: In other words, on a single lot, you can only have one single-family dwelling. You cannot put two houses one lot,

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period. You can't do it. That's a use variance. You can't subdivide without a variance for the obvious reasons. That's why they're in front of us.

BOARD MEMBER MIZZI: Okay.

CHAIRMAN SARETSKY: Got you.

BOARD MEMBER MIZZI: That answers my question.

CHAIRMAN SARETSKY: I think I got that now. So every home here cannot have the second home unless it's a subdivision.

MR. TERCHUNIAN: Or they get a use variance, which is like -- Joe? I've been doing this 40 years. I haven't gotten a use variance.

VILLAGE ATTORNEY PROKOP:  
You would need a use variance.

CHAIRMAN SARETSKY: What is a use variance?

BOARD MEMBER FARKAS:  
Wasn't there a property on Dune Road that had two homes on one lot?

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VILLAGE ATTORNEY PROKOP: Yes.

MR. TERCHUNIAN: But it was all preexisting because they updated the -- when the Town updated the master plan in 1972. Prior to that you could put two houses.

BOARD MEMBER MIZZI: And the alleged variance, a C of O for that.

MR. TERCHUNIAN: He did?

BOARD MEMBER MIZZI: Yeah, what's his name didn't agree Mr. Hayfee (phonetic).

CHAIRMAN SARETSKY: It was definitely not really a fair comparison to this.

MR. TERCHUNIAN: No.

CHAIRMAN SARETSKY: It's different.

MR. TERCHUNIAN: It's a different animal. The analysis is actually 774, which had two homes on it and that's why one of the reasons they got a subdivision.



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CHAIRMAN SARETSKY: Okay.

BOARD MEMBER MIZZI: I have more of a clarifying question, which is not part of the list of things. Should that be on this or afterwards?

VILLAGE ATTORNEY PROKOP:

You really shouldn't discuss anything other than -- if you have a legal question, we can go into executive session and you can ask me. But otherwise, I think right now in public we're just trying to get the list together.

CHAIRMAN SARETSKY: Okay.

So I now have something I'd like to make sure we're just clear on with 9 Dune Lane, but that can be another page, right?

MR. TERCHUNIAN: Yes. One page per...

BOARD MEMBER MIZZI:  
Application.

CHAIRMAN SARETSKY: All right. We can come back to 772 if

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2 you want. As far as Dune Lane goes,  
3 I know that he is going to  
4 contemplate whether it's a third  
5 story or mezzanine, which that's his  
6 decision. But I think part of our  
7 concern here, Aram, if I'm getting  
8 you right and understanding  
9 everybody here, is that this does  
10 not fit within the pyramid and  
11 therefore he should provide a  
12 drawing showing what will fit, okay?  
13 And then he can show it shaded,  
14 highlighted or whatever what it is  
15 he's proposing.

16 MR. TERCHUNIAN: So I'm  
17 going to say that they've done that.

18 CHAIRMAN SARETSKY: I  
19 haven't seen it.

20 MR. TERCHUNIAN: They  
21 showed the pyramid.

22 BOARD MEMBER FARKAS: They  
23 did it without lines and shading.

24 MR. TERCHUNIAN: Oh, okay,  
25 all right.

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BOARD MEMBER MIZZI: I

think what I'm saying is they've shown us a drawing with a big void in the pyramid on one side and it encroaching outside the pyramid on the other side and I guess what we're trying to understand is, is there some reasonable -- like we really don't understand why they can't do a renovation that doesn't do this as opposed to taking this space that's available to them (indicating).

MR. TERCHUNIAN: Okay,

let's see how to --

BOARD MEMBER MIZZI: I

think it's an architectural, you know -- because they've kind of said it, but they're really not saying to us like, this wall is in the way or this, you know -- and it gets back to us saying like, do we have to show them how to --

CHAIRMAN SARETSKY: Back to

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that.

BOARD MEMBER MIZZI: An architect should be able to articulate, here's what I tried to do; here's why it's a hardship; here's why it doesn't work.

CHAIRMAN SARETSKY: And if you would give me something on either side, this would work and no one is opposed to it.

MR. TERCHUNIAN: I see what you're saying.

VILLAGE ATTORNEY PROKOP: You could -- you shouldn't help people plan their --

CHAIRMAN SARETSKY: That's right.

VILLAGE ATTORNEY PROKOP: However, one of the five questions is whether there's alternatives available. So you could say -- you could make your decision and say -- whatever your decision is, I don't want -- we shouldn't discuss that

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now, but you could say there are  
alternatives available.

BOARD MEMBER MIZZI: I  
guess what we're asking -- go ahead.

MR. TERCHUNIAN: This is  
what you're asking: You're asking  
the applicant to provide you with  
feasible alternatives to the  
variance they're requesting.

BOARD MEMBER MIZZI: And/or  
like maybe this porch right here --

MR. TERCHUNIAN: For  
whatever reason, we don't care.

BOARD MEMBER MIZZI: Right.  
I just saying, they could say, look  
this porch is the perfect porch for  
the sunset and I really would rather  
not enclose it. And that's why  
really I'm asking for this, but they  
haven't done that.

MR. TERCHUNIAN: You're  
asking them to give you feasible  
alternatives that will either  
eliminate or minimize the variance

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requested.

BOARD MEMBER MIZZI: Yes,  
and/or reasons why --

BOARD MEMBER FARKAS: Well  
said.

BOARD MEMBER MIZZI: Well  
said. It's done.

CHAIRMAN SARETSKY: You  
have you my vote, senator. Don't  
write that.

(Laughter.)

CHAIRMAN SARETSKY: We can  
go back to 727 because I jumped off  
of that. I don't know if we -- if  
everything on 772 is crystal clear.

BOARD MEMBER FARKAS: I  
have one thing to add when you're  
done.

CHAIRMAN SARETSKY: Again,  
I think, following Joe's direction,  
were going to stay off of the  
analysis of it. We're just talking  
about what we were looking for,  
correct?

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VILLAGE ATTORNEY PROKOP: Yes.

CHAIRMAN SARETSKY: I'm  
just trying to see if there's  
anything else that we talked about.

BOARD MEMBER MIZZI: And  
Aram was asking for 1,000 to 2,000  
and I don't think we answered him.

MR. TERCHUNIAN: Well, what  
I'm going to do is I'm going to show  
you three radius. I'm going to show  
you 1,000; 1,500 and 2,000 and you  
guys tell me what you think is the  
best.

BOARD MEMBER MIZZI: Great.

BOARD MEMBER FARKAS: I  
have one question.

MR. TERCHUNIAN: That's it.

BOARD MEMBER FARKAS: I  
know Jim is going to check his  
numbers. Can we have someone from  
the from the Village look it over  
before it comes to us?

MR. TERCHUNIAN: What I'm  
going to ask them to do is to have

1  
2 the areas of the lots placed on  
3 there by the surveyor and that way  
4 we don't have to do any  
5 measurements. They're going to be  
6 on the document that the surveyor  
7 creates.

8 BOARD MEMBER MIZZI: To be  
9 clear, I looked at the survey. It  
10 appeared that the 32,900 square feet  
11 that he's representing for Lot 1 and  
12 2 was there, but this analysis --  
13 because maybe in 2006 there was  
14 13,000 square feet and I think what  
15 he's doing is assuming -- like he's  
16 taking 52 -- he's basically saying  
17 it was 19, 19 and 13 that's how he  
18 got 52. Now he's saying it's a  
19 32,900 square foot lot, plus land  
20 that was given away. The map is  
21 showing it as 12,000. He's just  
22 subtracting the same number, the  
23 2023 from --

24 MR. TERCHUNIAN: Your  
25 explanation helped me figure it out.



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What he didn't account for was the last land loss due to erosion.

BOARD MEMBER MIZZI: Yeah, that's what I suggest there.

BOARD MEMBER KRASNOW: I would have thought it was accretion.

MR. TERCHUNIAN: Yes, but after accretion comes erosion. The ocean gives and bay takes it away.

VILLAGE ATTORNEY PROKOP: Unfortunately you didn't say that when he was on the stand, but that's perfect.

CHAIRMAN SARETSKY: There's also one more comment that was made that I would like to get verified. Adam Smith said that the lot is now smaller and the house is now bigger. So is that true? Was the house expanded?

MR. TERCHUNIAN: No, no, no. The --

CHAIRMAN SARETSKY: I'm not saying it's true.

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MR. TERCHUNIAN: This is what he meant to say: The envelope shown on the document is larger than the 2,000 square feet that was approved in the previous application. That's what he's saying.

CHAIRMAN SARETSKY: Okay.

MR. TERCHUNIAN: And as I said to you before and I'll repeat, you're at a nexus for determining the size of the house and the location of the house. That's fully within your purview in any decision.

VILLAGE ATTORNEY PROKOP:

That was like a two-hour fight two months ago.

BOARD MEMBER KRASNOW: I

think there was -- if I recall on the original decision, the lot sizes were -- forget about the fact that they lost the land, the lot sizes were different and now they reflected it to make the lot with the existing house much smaller than

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they originally had and make the other lot bigger to give a bigger house as a second house. I think they swapped it.

MR. TERCHUNIAN: Yeah, but regardless of that point, if this Board were to say, your primary structure, the house itself, not pool, not deck, not accessory, but your primary structure can only have a 2,000-square foot footprint; that's it.

BOARD MEMBER KRASNOW: I understand. I just saw that the way they were trying to get a larger house was by making the existing house foot property smaller than on the original application that was approved.

MR. TERCHUNIAN: They also did that to eliminate a variance on the front lot. There was a rear yard variance that would have been required if the -- if they didn't

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move that lot line.

CHAIRMAN SARETSKY: Okay.

MR. TERCHUNIAN: Here's my list of 11 things. I squeezed an extra line. You want to see what the original lot looked like.

CHAIRMAN SARETSKY: That one we may actually have --

MR. TERCHUNIAN: No, I'm going to put everything together from our records and whatever I don't have, I'm going to ask you.

CHAIRMAN SARETSKY: Okay, because it doesn't have to be 11 if we can combine them.

MR. TERCHUNIAN: Yes. Original lot; what the 2007 subdivision lot looked like; what the present subdivision lot looked like and then the difference between them.

CHAIRMAN SARETSKY: Uh-huh

MR. TERCHUNIAN: And you'd like it that to be color coded,

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which makes sense to me. Then, if they built today without a variance, what is their as of right. So, you know, if they decided they're going to tear the house down and build a home next.

CHAIRMAN SARETSKY: I was actually asking if they built with the old variance, whatever your calling it. In other words --

MR. TERCHUNIAN: That would be 2006 subdivision, so that would be on there.

CHAIRMAN SARETSKY: Okay, got you.

MR. TERCHUNIAN: And then a chronology of, since this application was received and approved in '06, to the present with the machinations of the litigation and the settlement; look at the loss due to the settlement -- not the loss. We'll say change in instead of loss. The change in lot due to

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2 the settlement and I'm throwing in  
3 there the change in lot due to  
4 erosion, in case he doesn't know  
5 what it is; a copy of the trustees'  
6 settlement; compile all these  
7 subdivisions that are linked to the  
8 chronology into a tabbed file.

9 CHAIRMAN SARETSKY: Great.

10 MR. TERCHUNIAN: An area  
11 radius and then revise the survey  
12 with lot areas for each lot on the  
13 survey so we don't have to do math.

14 VILLAGE ATTORNEY PROKOP:

15 On that spreadsheet, the list that  
16 you did that you calculated the  
17 median and the standard deviation, I  
18 think -- the Board's response to  
19 that was they asked you which  
20 properties on there are subdivided  
21 and/or flag poles.

22 MR. TERCHUNIAN: Uh-huh.

23 VILLAGE ATTORNEY PROKOP:

24 Could you copy that list and just  
25 pull out the ones that are -- delete

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everything except the ones that are  
flag poles or --

MR. TERCHUNIAN: Do a --

VILLAGE ATTORNEY PROKOP:

Granted subdivision. Just do the  
same thing, but only include granted  
subdivisions or flagpoles.

MR. TERCHUNIAN: Okay.

Joe, you're making me do a second  
page, I just want to let you know.

CHAIRMAN SARETSKY: You can  
squeeze it in there.

MR. TERCHUNIAN: There's no  
room. I need to keep it orderly.

VILLAGE ATTORNEY PROKOP:

This whole thing, the prior  
variances were for lot area and  
those lot areas don't exist anymore.  
So she got like a lot area variance  
of 10,000 square feet, but that  
doesn't help her now because the  
combined lot area is smaller. So  
she can't do anything as of right.

BOARD MEMBER FARKAS: Why

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not? What do you mean? She could build.

MR. TERCHUNIAN: She could build a giant house.

BOARD MEMBER FARKAS: She could build a giant house.

VILLAGE ATTORNEY PROKOP: Oh, one giant house on the whole property, I'm sorry.

CHAIRMAN SARETSKY: Why couldn't she build two small houses?

MR. TERCHUNIAN: You cannot build a second home on a single lot, period. That's a use variance.

CHAIRMAN SARETSKY: But we could grant a variance -- in other words, you said no one gets those.

MR. TERCHUNIAN: Use variances? No.

CHAIRMAN SARETSKY: But what I'm saying is -- so a subdivision -- if she were granted a subdivision to match up with what she had --



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MR. TERCHUNIAN: Right.

CHAIRMAN SARETSKY: -- but  
along for -- I'm trying to think of  
how to say this. In other words, if  
the only issue is that the land that  
she lost -- we're not going to  
punish her for the piece she loses,  
but she then -- that gets absorbed  
into a smaller home.

In other words, we're  
trying so hard to get to the part  
where this Board is not on the hook  
for issuing essentially new  
variances. If it's an adjustment to  
the one she has, this is just one  
way of thinking.

MR. TERCHUNIAN: No, you  
can't do that. The Board either has  
to grant a new variance or they have  
to deny the variance.

CHAIRMAN SARETSKY: I  
understand. At the end of the day,  
that's --

MR. TERCHUNIAN: The grant

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of a new variance could be a reflection of the previous variance, but modify it in some way to reflect current conditions.

VILLAGE ATTORNEY PROKOP:

Well, let's figure out what --

CHAIRMAN SARETSKY: I don't

think so. That's right here.

BOARD MEMBER MIZZI: One

comment. When you go back, this doesn't look right. The guy who sat down, Smith?

MR. TERCHUNIAN: Right.

BOARD MEMBER MIZZI: It's

showing his lot as 20,000 square feet and he has a 95-foot lot.

BOARD MEMBER KRASNOW: 100

feet.

BOARD MEMBER MIZZI: He's

770, right?

BOARD MEMBER KRASNOW: On

the survey it says 100 feet.

VILLAGE ATTORNEY PROKOP:

Yes, it's a big lot.

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BOARD MEMBER MIZZI: It says 95 and it's 20,000 square feet.

BOARD MEMBER KRASNOW: It's much bigger than that. His lot is super deep.

BOARD MEMBER MIZZI: We're saying -- and, again, maybe it's to your point about this lot is smaller than 52,000, but she's 70 feet --

CHAIRMAN SARETSKY: It's more than 20.

BOARD MEMBER MIZZI: The bigger lots, they're 100 feet and they're only 40,000 square feet. And the guy that -- the one next door that's being developed is an 80 foot with a flag and that's only 42,000 square feet and they're telling us this one is 52,000 square feet. I'm not sure these are right and maybe it will be clarified by the surveyor.

BOARD MEMBER FARKAS: Some of the number may be from before the

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accretion of the land.

BOARD MEMBER MIZZI: Right,  
but shouldn't we be looking at  
apples to apples?

BOARD MEMBER KRASNOW: The  
widths can change.

BOARD MEMBER MIZZI: What  
I'm saying is like -- like the whole  
method here is giving us averages  
and we should be looking at  
consistent numbers that are  
accurate.

BOARD MEMBER KRASNOW: I  
think --

BOARD MEMBER MIZZI: Without  
making everyone to do a survey.

MR. TERCHUNIAN: Supposedly  
the applicant, Robin, you'll confirm  
-- FOIL'd all these surveys and did  
it from the surveys that are on file.

CHAIRMAN SARETSKY: Okay.

MR. TERCHUNIAN: I'll  
definitely check the one and I'll  
spot check the others.

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CHAIRMAN SARETSKY: Okay.

BOARD MEMBER MIZZI: She's  
32 plus land she gave away, right?  
So, in theory, she would be more,  
but I'm saying if she's really 52 or  
somewhere between 52 and greater  
than 32, why are the 100-foot lots  
less?

CHAIRMAN SARETSKY: They  
didn't give anything.

(Whereupon, there was  
crosstalk.)

CHAIRMAN SARETSKY: Something  
is not right.

BOARD MEMBER KRASNOW:  
That's one of the things. I feel  
like we need some kind of a process  
or a professional to look at when  
somebody hands in an application, to  
make sure all these facts that we're  
given are accurate. Because we seem  
to be -- and I don't think anybody  
is trying to mislead us, but we seem  
to be finding situations where we

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discuss something and then we find out the facts that we're basing it upon are not completely accurate or there was a mistake and how do we prevent that?

MR. TERCHUNIAN: That's -- well, two things. Number one, it's the applicant's responsibility to give us accurate information. And number two, you know, I think the process we're doing right now is pretty effective and the fact that, you know, Joe looks at it and caught what he caught.

VILLAGE ATTORNEY PROKOP: I can tell you, I do -- I'm sorry to say this. I'm not trying to blow smoke because I don't deserve to, but I do many of these, you know, millions of square feet. You know, ten square feet, a million square feet, same agenda. There's no mistakes. There's no wrong day, wrong Village, you know, wrong

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setback. You don't have those mistakes. So Aram and I owe it to you that you get a clean product, but it's really a struggle.

BOARD MEMBER FARKAS: It's not easy for you.

VILLAGE ATTORNEY PROKOP:  
Yes, it's a struggle because I'm the attorney. I'm picking up stuff that I shouldn't have to look for. It's not up to me to say that that setback can't be ten feet; it doesn't add up. Oh, yeah that's right, I'm sorry.

CHAIRMAN SARETSKY: I guess the part that's disconcerting is that here's Hulme, who is the like the superstar guy -- I'm sorry, let's move on.

BOARD MEMBER MIZZI: I mean, there's also Harvey's house, which is not subdivided. He's got about 100 foot lot that's deep, it's got all that property in the back

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and only showing it as 43,000.

MR. TERCHUNIAN: I'm going to look at those particular ones and spot check the others.

BOARD MEMBER MIZZI: Also -- yeah and I'm just venting, but I mean, the guy has to come prepared because he dismisses our questions, but he's coming up with a conclusion yield per lot. Okay, and then we're going here and saying, okay, this is -- you know, your work product, but we're supposed to be evaluating minimum -- but of course the numbers change. If they're using small lots instead of big lots, it makes the average less.

MR. TERCHUNIAN: Sure.

BOARD MEMBER MIZZI: It's just... like I said, I had one question afterward.

CHAIRMAN SARETSKY: All right, so should we close?

VILLAGE ATTORNEY PROKOP:



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Yes, thank you.

BOARD MEMBER KRASNOW:

Motion to adjourn the meeting.

CHAIRMAN SARETSKY: All in  
favor?

(Chorus of "ayes".)

VILLAGE ATTORNEY PROKOP:

Seconded by --

MR. TERCHUNIAN: Member  
Mizzi.

(Whereupon, the meeting was  
adjourned at 11:26 a.m.)

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

I, REBECCA WOOD, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

THAT the above and foregoing contains a true and correct transcription of the proceedings.

I further certify that I am not related, either by blood or marriage, to any of the parties in this action; and

THAT I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of October, 2023.

  
REBECCA WOOD