

1 INCORPORATED VILLAGE OF OCEAN BEACH

2 FIRE ISLAND, NEW YORK

3 -----x

4 ZONING BOARD OF APPEALS

5 PUBLIC REHEARING

6 Variance Application Number BP2022-057

7 -----x

8 February 3, 2024

11:44 a.m.

9 Boat House

Ocean Beach, New York

10 -----x

11

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

13 JOEL BURRIS, CHAIRMAN

14 CRAIG SHERMAN, MEMBER

15 CONSTANTINE KARALIS, MEMBER

16 JEREMY CONWAY, MEMBER via Zoom

17 JACQUELINE RULON, DEPUTY CLERK

18 KENNETH GRAY, ESQ., VILLAGE ATTORNEY via Zoom

19 MIKE MANDARINO, BUILDING INSPECTOR via Zoom

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22

23

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D. Leigh Chapman  
Court Reporter

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APPEARANCES:

Steven Bertolino, Esquire  
Applicant's Attorney  
130 West Main Street  
East Islip, New York 11730

Glenn Graham, Architect  
Graham Associates  
256 Orinoco Drive  
Brightwaters, New York 11718

John Ross, Builder  
Ross Brothers Construction Incorporated  
595 North Street  
Manorville, New York 11949

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2

CHAIRMAN BURRIS: Good morning, everybody.

3

I thank those who are in attendance here. I see

4

about four people plus our assistants here. I

5

don't know how many people are online, but thank

6

you for participating.

7

My name is Joel Burris, Chairman of the

8

Village of Ocean Beach Zoning Board of Appeals.

9

It is Saturday, February 3rd, at 11:45 a.m. and

10

we do have a quorum present.

11

Joel Burris, present.

12

MEMBER SHERMAN: Craig Sherman, present.

13

MEMBER KARALIS: Continue Karalis, present.

14

CHAIRMAN BURRIS: By phone, we have present

15

Jeremy Conway. Jeremy, can you chime in?

16

MEMBER CONWAY: I'm here on Zoom, yes.

17

CHAIRMAN BURRIS: So we have four people

18

present. Three in person in the Village of

19

Ocean Beach. One is via Zoom. Our other member

20

is Kevin Conway, who regrets that he's not here

21

in person, but he's on an airplane flying, I

22

think, somewhere in Europe and couldn't change

23

his flights. So he is listening on but doesn't

24

qualify as being in attendance.

25

MR. GRAY: Chairman Burris?

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1 CHAIRMAN BURRIS: Yes?

2 MR. GRAY: I think you meant Kevin Lowry.

3 CHAIRMAN BURRIS: Kevin Lowry. Did I say  
4 Kevin Conway?

5 MR. GRAY: Yes, you did.

6 CHAIRMAN BURRIS: I apologize. Kevin  
7 Conway was a member years ago. Kevin Lowry.

8 We also have Jackie Rulon here for us. And  
9 our court reporter whose name, I'm sorry?

10 COURT REPORTER: Leigh Chapman.

11 CHAIRMAN BURRIS: Leigh Chapman. So thank  
12 you, everybody, for being here.

13 The meeting today is a rehearing of Variance  
14 Application Number BP2022-057, which was an  
15 application submitted by Bungalow Beach Hut, LLC,  
16 care of Kurt Bohlsen, B-O-H-L-S-E-N, with the  
17 applicant appearing being Glenn Graham. I see  
18 Glenn Graham is here today. Glenn is the  
19 architect for the project.

20 A little bit of history -- I hope I called  
21 the meeting to order in the beginning. I think I  
22 did. If I didn't, I apologize, since we have a  
23 quorum. I call the meeting to order since we  
24 have a quorum present.

25 We are here to review the application by

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1 Bungalow Beach Hut, LLC, but a little bit of  
2 background is important before we proceed.

3 And the background is that the initial  
4 hearing on this matter relates to an application  
5 that was submitted to the Village of Ocean Beach  
6 on September 9, 2022.

7 The Village of Ocean Beach Building  
8 Inspector issued a denial of the building plans  
9 previous to that, which is why they submitted the  
10 application for the variance. The plans that was  
11 submitted that I have in my possession, and I  
12 assume they're the correct plans, were dated May  
13 11th, 2022. My understanding is that there were  
14 plans submitted to the Village and to DEC also  
15 dated 4/7/2021.

16 On September 9th, we had the application.  
17 On June 30th, 2023, which was a long wait, we had  
18 the variance hearing. Now the application  
19 submitted that we heard has marked on it "nature  
20 of proposed work." On nature of proposed work,  
21 there are five columns. Four places where it can  
22 be checked off what the work is.

23 The first is construction of a new building.  
24 That was not checked. The second is addition to  
25 a building. That was not checked. The third is

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1 alteration to a building. That was checked. The  
2 fourth is other work described. And what is  
3 written next to it is "FEMA lift". That was the  
4 application that we heard. That is the  
5 application that we voted upon and that we agree  
6 to give a variance for a FEMA lift and alteration  
7 to a building.

8 The hearing was amenable. Before the  
9 hearing, we had a very extensive site visit,  
10 where the applicant explained to us exactly what  
11 was being done. The FEMA lift, some walls being  
12 moved, some new staircase putting on, the roof  
13 deck being moved, and the elimination of the  
14 ground floor.

15 At that time there were discussions  
16 regarding how the lift was going to be  
17 accomplished. I specifically said, it's going to  
18 be difficult to get the steel beams underneath  
19 and raise it. And how you gonna do it? I was  
20 advised, leave that to us, the engineers. I'm  
21 paraphrasing, but it was clear that everybody  
22 walking through the site believed that this was a  
23 renovation of a house and a lift. That was  
24 important for several reasons and we understood  
25 because the house was partially in the CEHA

1 District and being in the CEHA District, it's  
2 always been my understanding, if a house is taken  
3 down that under current regulations it can't be  
4 rebuilt. But that's not our jurisdiction before  
5 us. But that made a lot of sense as to why they  
6 had to pick up the house.

7 Everything was fine. We made some changes  
8 and on 11:36 p.m. on October 25th, I received a  
9 text from --

10 MR. GRAY: Joel, can I interrupt you for a  
11 second?

12 CHAIRMAN BURRIS: Yes.

13 MR. GRAY: I apologize. You used the word  
14 "CEHA". I just want everybody to know what that  
15 means. C-E-H-A, Coastal Erosion Hazard Area; is  
16 that correct?

17 CHAIRMAN BURRIS: That's correct, I  
18 believe, yes.

19 MR. GRAY: All right. I just wanted to  
20 make the record clear as to what CEHA stood for.  
21 I'm sorry, go back to your email.

22 CHAIRMAN BURRIS: Ken, I appreciate that  
23 and I appreciate you chiming in whenever I'm not  
24 clear or when you can add to what I'm saying.

25 At 11:36 on October 25th, I received a text

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1 from one of the residents in Ocean Beach saying,  
2 what's going on here? You approved a lift, and  
3 along with the text was a picture.

4 And the picture I have here, which was taken  
5 according to my -- whatever the codes are in  
6 pictures, October 23rd, 2023. So I guess it was  
7 taken two days earlier and you can see in the  
8 picture, which I'll give to the record, two  
9 Dumpsters, a Bobcat, some type of crane elevating  
10 equipment, and a site that is virtually cleared  
11 of everything except the ground floor of the  
12 building. Which is the part that they had agreed  
13 they were going to remove and then lift the house  
14 above that and a little corner of the building,  
15 which is placed up on the dunes. I can't tell  
16 you the exact size of it, but it's probably 15 by  
17 six or something like that with a little  
18 platform.

19 I didn't understand. I don't know if you  
20 can you see this. Anybody who wants to see it.  
21 (Holding the photo up to Zoom camera.)

22 UNKNOWN SPEAKER: Thank you.

23 ATTORNEY BERTOLINO: May I object for a  
24 moment? My name is Steve Bertolino. I'm  
25 attorney for the applicant and we're hearing

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1 people speak over the computer system, but we  
2 have no idea who's speaking. May I suggest to  
3 create a proper record, whoever is speaking  
4 through the computer needs to identify  
5 themselves each and every time they interject  
6 and put in their two cents?

7 CHAIRMAN BURRIS: Each time somebody speaks  
8 and adds to the conversation, I would appreciate  
9 it if you do as Steve requested. Which is state  
10 your name for the record, and you may have to do  
11 it each time so we recognize you when you speak.

12 (Discussion among Board members.)

13 Craig is right. Better you hold your  
14 comments until the end. Unless it's somebody  
15 like Ken, who's adding clarification as Counsel.

16 MEMBER SHERMAN: Or Bunny.

17 CHAIRMAN BURRIS: Or Bunny, who I didn't  
18 see on there.

19 I was rather taken aback by the email, and  
20 I, at 3:54 a.m., you can see that I wasn't  
21 sleeping that night because of it. I sent a text  
22 to Mike saying, Mike, what is this? I didn't  
23 expect Mike to see it at 3:58 a.m. and I guess  
24 I'm glad he didn't.

25 ATTORNEY BERTOLINO: Excuse me,

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1 Mr. Chairman. Who is Mike?

2 CHAIRMAN BURRIS: Mike Mandarino is the  
3 Building Inspector.

4 ATTORNEY BERTOLINO: Might be best in order  
5 to create a clean record, to identify who you're  
6 speaking about when you speak. Thank you.

7 CHAIRMAN BURRIS: Thank you, Mr. Bertolino.

8 The next morning, I spoke to Mike again.  
9 Mike being, whenever I refer to Mike, I'm talking  
10 about Mike -- how do I pronounce your last name  
11 here? It's Mandarino.

12 He said that he was aware of the situation  
13 and that he, in fact, had been told that there  
14 was some rot in the house, that he visited the  
15 site, and that house had to be knocked down  
16 because of the condition of the house. I  
17 responded by saying, my understanding of the law  
18 is that when you knock down a structure, that the  
19 variance we granted wouldn't be applicable and we  
20 would have to give a new variance, if we were  
21 inclined to give a new variance, based on the new  
22 facts and the new structure. Mike and I agreed  
23 to disagree on that, using his language, and I  
24 think that was perfectly fine. People can  
25 disagree.

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1           What happened then was I started getting  
2 calls from the community. People in the  
3 community were outraged. What has the Zoning  
4 Board done? Why have you permitted this? This  
5 is in the Coastal, CEHA District, Coastal Zone --  
6 What is the exact -- Coastal Hazard Erosion Zone.

7           I, then, independently, spoke to the members  
8 of the Zoning Board of Appeals, and each one  
9 independently said to me, several of them were  
10 very, very upset about it. I said, well, there's  
11 an easy way to remedy this. The house was  
12 knocked down. We have another hearing. They  
13 submit revised plans and they can go back and  
14 build the home without any delay. I thought that  
15 was a pretty good solution. So much so that when  
16 I didn't have a response from the Village on it,  
17 on October 29th at 11:27 and 21 seconds p.m. -- I  
18 love the internet -- I sent an email to each of  
19 the trustees of the Village of Ocean Beach, to  
20 the Village Superintendent and to the Village  
21 Building Inspector. And I did this trying to  
22 create an amicable situation and resolve what I  
23 saw before me as a very uncomfortable situation  
24 that could be worked out well for the Bohlsens,  
25 the applicant, et cetera, and I'm going to read

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1 into the record the email that I sent and I will  
2 give you a copy of it so you don't have to --

3 COURT REPORTER: Okay. Thank you.

4 MR. GRAY: Chairman, Ken Gray speaking. I  
5 just want to clarify. You said this email  
6 you're about to read, you sent it to the  
7 Building Superintendent? Kevin Schelling?

8 CHAIRMAN BURRIS: No, to Joe DiFrancisco.

9 MR. GRAY: The Village Administrator?

10 CHAIRMAN BURRIS: Village Administrator, I  
11 apologize.

12 MR. GRAY: Just wanted to clarify.

13 CHAIRMAN BURRIS: Okay.

14 The subject: "Ocean Beach Zoning Board of  
15 Appeals Variance not applicable to new home.  
16 Bohlsen house on Bungalow Walk and the Dunes."

17 That is the subject.

18 "Dear Joe, Mike, Ken, and Members of the  
19 Village of Ocean Beach Board of Trustees,

20 "As everyone is aware, this past week there  
21 has been a great amount of frustration,  
22 agitation, disappointment within the community  
23 regarding the demolition of the Bohlsen home on  
24 Bungalow Walk and the Beach. Each of the members  
25 of the Ocean Beach Zoning Board of Appeals are

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1 also very upset with the situation and the  
2 members unanimously feel that a stop work order  
3 should immediately be placed upon the property  
4 before any further work is performed at the  
5 property.

6 "This past summer, the Zoning Board of  
7 Appeals members performed a very careful and  
8 lengthy site visit at the Bohlsen property and  
9 its surroundings. The site visit was held  
10 immediately before the Zoning Board hearing  
11 regarding variances desired by the homeowner.  
12 Site visits such as the one before the Bohlsen  
13 hearing are scheduled and performed to enable the  
14 Zoning Board members to further understand and  
15 visualize proposed modifications to existing  
16 structures that are being proposed by the  
17 applicant.

18 "During the site visit to the Bohlsen home,  
19 the owners and their architect toured us through  
20 the house and explained each of the modifications  
21 that they proposed to make to the then existing  
22 structure. It was never mentioned or even  
23 suggested during the site visit or the hearing  
24 that the existing structure would be demolished  
25 and a new home built in its place.

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1           Notwithstanding, that the contractor found some  
2           rotted sections of the house subsequent to the  
3           issuance of the variance, this does not cause the  
4           variance to be applicable to a new structure.  
5           The variance was only applicable for the  
6           renovation of the then existing structure.  
7           Perhaps this could have included replacing some  
8           rotted areas with new wood or beams. But it is  
9           not applicable when the home is substantially  
10          bulldozed and removed. The fact that one small  
11          piece of a wall was apparently salvaged, and, in  
12          fact, moved off of its original location and  
13          placed on the Dune does not qualify this as being  
14          a renovation, as opposed to the construction of a  
15          substantially new house.

16                 "The construction of a new home at the site  
17                 as is being done now is not covered by the  
18                 variance granted for the renovation of the  
19                 existing home. If the construction of the new  
20                 home continues, it is the position of each of the  
21                 individual members of the Ocean Beach Zoning  
22                 Board of Appeals, that in the absence of a new  
23                 variance, the home must be constructed to fully  
24                 comply with all aspects of the current zoning  
25                 regulations.

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1            "In order to enable the owner to timely  
2 build their new home and to help avoid  
3 unnecessary conflict and delays, I would suggest  
4 that a new set of plans for the construction of a  
5 new home, which complies with current zoning  
6 requirements should be submitted to the Building  
7 Department for review.

8            "Please do not hesitate to contact me if you  
9 have any questions.

10            Respectfully submitted,

11            Joel Burris, Chairman of the Ocean Beach  
12 Zoning Board of Appeals"

13            Again, that letter was October 29th, 2023.  
14 At the time that letter was written, the house  
15 had been substantially demolished but for that  
16 one wall and piece of a floor that was left  
17 remaining on the dunes. I have a picture here  
18 from October 31st, 2023, which is very  
19 interesting to me. I'm holding it up for  
20 everybody to see it, but it shows three pieces of  
21 heavy equipment on the site, actually, four, a  
22 bulldozer, a Bobcat. I'm not sure what these two  
23 cranes are, and it shows full pilings on the side  
24 of the property presumably awaiting to be jettied  
25 into the ground where the home once stood. Hold

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1 that up. If you look all the way to the right,  
2 you can see the pilings.

3 (Member Sherman holds photograph up for Zoom  
4 camera.)

5 The calls continued to come in and neighbors  
6 were frustrated and, frankly, blaming the Zoning  
7 Board for doing something that they shouldn't  
8 have done, in their opinions. Neighbors were  
9 upset about potential views being blocked.  
10 What's happening?

11 But I believe that the Board of Trustees  
12 decided that they would rely upon the building  
13 inspector and the building inspector said that  
14 the house had been rotted because I guess he had  
15 seen pictures of some rot. So he had said to the  
16 contractor, yes, you can take it down and  
17 construction continued.

18 I now want to read a letter, well, before I  
19 read the letter. On December 2nd, we had a  
20 regularly scheduled ZBA meeting, and at the  
21 meeting, it was unanimously voted to rehear the  
22 application and that's why we're here today.

23 ATTORNEY BERTOLINO: Mr. Burris, for  
24 confirmation, would that be December 2nd, 2023?

25 CHAIRMAN BURRIS: 2023, yes, I apologize.

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1 Thank you for the correction.

2 That brings us to today's hearing, which we  
3 had been trying to schedule and it was difficult.  
4 We had scheduled it at one point and the  
5 applicant's representatives couldn't attend  
6 because they were out of town, and, obviously, we  
7 accommodated them. I think it's very important  
8 to note that we are one community. We want to  
9 accommodate. We do not want to fight within the  
10 community. We just want to do what's right for  
11 the community, and that's why we're here today,  
12 in my estimation.

13 We adjourned the meeting that was actually  
14 advertised for a previous date at Mr. Bertolino's  
15 request, and it was a logical and reasonable  
16 request. We then had to pick a date and Mr.  
17 Lowry -- we wanted to do it sooner rather than  
18 later. Mr. Lowry, unfortunately, couldn't make  
19 it today because he's on an airplane, but he did  
20 write a five-page statement that he asked me to  
21 read into the record so everybody would  
22 understand his feelings and what happened. So  
23 I'm going to read Kevin Lowry's statement.

24 "Good morning, everyone,

25 "I apologize for my absence.

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1 Chairman Burris worked very hard to schedule  
2 this hearing at the most opportune time for all  
3 concerned. Unfortunately, I am on a plane at  
4 this very moment, and I could not change my  
5 plans. However, because I have participated in  
6 every level of the process that has brought you  
7 here today, I owe it to the applicant, the Board,  
8 the community, and myself to offer this  
9 statement. You are here today for a hearing to  
10 discuss the possible revocation of the variances  
11 granted to the applicant in a hearing on  
12 June 3rd, 2023. The following is a brief review  
13 of the events leading into this moment.

14 "Sometime prior to September 1, 2022 the  
15 applicant applied for a permit to do a  
16 significant construction project at 76 Bungalow  
17 Walk. It was presumed that the project was to be  
18 a renovation. The building inspector denied the  
19 application on September 1, 2022 for several  
20 reasons. I have quoted part of his denial here  
21 and I ask the Chairman to emphasize for effect  
22 the words that I have capitalized as he reads.

23 "'The owner proposes to RENOVATE a  
24 pre-existing nonconforming house with area ratio  
25 of 58.7 percent or 3522 square feet. The

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1 RENOVIATION involves REMOVING the complete lower  
2 level including a half bath. The owner proposes  
3 RENOVIATING two first floor bathrooms in the  
4 northwest corner of the first floor into a full  
5 bath, modified office and laundry room. The owner  
6 proposes RENOVIATING the second floor by ADDING a  
7 fourth bedroom in the southeast corner by way of  
8 a BUMP OUT of approximately 5'4" to the south.  
9 The owner proposes BUMPING OUT an EXISTING  
10 bedroom in the southeast corner by approximately  
11 five feet to the east. The owner proposes  
12 relocating a second story bathroom from the north  
13 side of the second floor and having two full  
14 bathrooms mid structure on the east and west  
15 sides of the house. The owner proposes to REBUILD  
16 and move the pre-existing 300 square foot roof  
17 deck approximately 12'3" to the south from its  
18 existing location. The owner proposes to add an  
19 additional 375 square feet of second- floor deck  
20 and MODIFYING approximately 100 square feet of  
21 existing second-floor deck along the south side  
22 of the house. The owner proposes to MAINTAIN a  
23 front setback of 11 feet. The owner proposes to  
24 reduce the floor ratio to 54.48 percent to 3275  
25 square feet.'"

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1           "The building inspector, using the  
2 emphasized words, painted a picture of a  
3 renovation and drew clear distinctions between  
4 what was to be modified and what was to be  
5 demolished. The application was denied based on  
6 area ratio, front setback, fourth bathroom and  
7 roof deck. The applicant applied for variances  
8 on each of these.

9           "On June 3, 2023 a hearing was conducted on  
10 the application. At that hearing, the applicant  
11 and his agents presented their case in support of  
12 the variances. They did not dispute the building  
13 inspector's interpretation of the project as per  
14 his letter of September 1, 2022 part of which was  
15 read into the record here by Chairman Burriss. In  
16 fact, in his presentation, the applicant's  
17 counsel, Mr. Bertolino, used distinct and  
18 specific words to describe various parts of the  
19 project including; relocated, modification,  
20 maintain, demolished, et cetera. Everyone on the  
21 board came away with the impression that this was  
22 to be a renovation.

23           "There was no discussion or mention of a  
24 complete demolition of the entire structure. The  
25 board then approved the application with certain

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1 stipulations. Those stipulations were agreed to  
2 by the applicant. Construction began in the fall  
3 of 2023, and the applicant approached the  
4 building inspector requesting approval to  
5 demolish and re-build the entire house. That  
6 request was granted and the house was demolished.

7 "This was not discussed with the ZBA.  
8 Construction was then begun on a brand new home  
9 incorporating into one wall a veritable splinter  
10 saved from the former structure. I believe I  
11 speak for the Board, although they can obviously  
12 speak for themselves, when I say that it would  
13 have been more prudent for the building inspector  
14 to have denied the request for demolition and  
15 referred the applicant back to the ZBA to rehear  
16 the variance applications based on the monumental  
17 change of circumstances.

18 "If we, the ZBA had known that the structure  
19 was to be completely demolished, it is very  
20 possible that some or all of the variance  
21 applications might have been denied. Based on  
22 that fact and giving the applicant the benefit of  
23 every doubt, this event caused an appearance of  
24 possible impropriety. Therefore, on December 2,  
25 2023 at a regular scheduled meeting of the ZBA,

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1 on a motion made by me, we voted unanimously to  
2 conduct today's hearing to decide whether or not  
3 to revoke any or all of the applicant's  
4 variances. I assure you all that the enormity of  
5 this issue is not lost on any of us and any such  
6 action can be taken only by unanimous vote of the  
7 Board members present today.

8 "I ask the applicant first to explain to the  
9 Board and the community of Ocean Beach how this  
10 happened. Did we misunderstand the scope of the  
11 project at the original hearing in June? Was the  
12 complete demolition of the home part of the plan  
13 from the beginning? I also want to mention that  
14 I have heard some people say that because the  
15 Village ordinances do not define the term  
16 "renovation" that the incorporation of a  
17 scintilla of the original structure into the new  
18 building qualifies the new building as a  
19 renovation. I hope that the applicant does not  
20 insult the intelligence of everyone present by  
21 floating this preposterous argument. Generally  
22 accepted principals of law dictate that a term  
23 which is undefined will be given its normal  
24 interpretation.

25 "Obviously, the normal interpretation of

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1 renovation will not include what has taken place  
2 here.

3 "My last point on this topic is to advise  
4 the public that we, the ZBA will be precluded by  
5 law from revoking any variance if the applicant  
6 demonstrates that the actions he has taken to  
7 date were taken in reliance upon the permissions  
8 granted by the Village and that he will suffer  
9 irreparable harm if the variance or variances are  
10 revoked. This is called "detrimental reliance". I  
11 must also remind the applicant that said reliance  
12 must have been reasonable. I ask my fellow Board  
13 members to carefully scrutinize both the  
14 reasonableness of reliance and the magnitude of  
15 any detriment should you decide that revocation  
16 might be in order.

17 "The second issue I would ask the applicant  
18 to explain concerns the construction plans. The  
19 approved plans in the Village Office incorporate  
20 the stipulations agreed upon at the June 2023  
21 hearing, yet they are dated sometime in 2022.  
22 This cannot be possible. Hopefully, the applicant  
23 can explain this. I also ask the Board to  
24 recommend this issue be corrected by the  
25 submission of a corrected set of plans to avoid

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1 future misinterpretation of the chronology of  
2 this matter. In fact, I would suggest that both  
3 the original proposed plans and the final  
4 approved plans be included in the Village file.

5 "Upon completion of the applicant's  
6 presentation, and any questions from the Board,  
7 the public will be given an opportunity to be  
8 heard before the Board makes its determination. I  
9 thank all of those in attendance for your time  
10 and attention.

11 "Kevin Lowry, Journalist Fire Island News"

12 And his telephone number is in there  
13 (516) 578-0791.

14 Okay.

15 MEMBER SHERMAN: To make it clear, Kevin is  
16 a member of the ZBA.

17 CHAIRMAN BURRIS: Do any of the Board  
18 members want to make a statement? Or should we  
19 ask the applicant questions?

20 Would the applicant -- I think it might be  
21 helpful if the applicant would make a  
22 presentation and perhaps they can then explain  
23 some of the issues asked by Kevin in his letter.

24 Mr. Bertolino?

25 ATTORNEY BERTOLINO: Yes. Good morning or

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1 afternoon, I'm not sure what the time is.

2 Mr. Chairman, members of the Board, my name  
3 is Steve Bertolino, 130 West Main Street, East  
4 Islip, New York for the applicant.

5 The first thing I want to say, Mr. Chairman,  
6 is I believe you are an attorney-at-law as well;  
7 is that not correct?

8 CHAIRMAN BURRIS: That is correct, sir.

9 ATTORNEY BERTOLINO: Okay. And you know I  
10 was here at the hearing back in June of 2023.  
11 You recall that?

12 CHAIRMAN BURRIS: I recall that and I  
13 recall going through the minutes of the meeting  
14 and the statements between us.

15 ATTORNEY BERTOLINO: And yet, you sent a  
16 letter to the Village expressing your concerns  
17 that would obviously affect my client and yet  
18 you did not include me on that communication.

19 CHAIRMAN BURRIS: That letter was not sent  
20 in the capacity as being an attorney at all.  
21 That letter was sent as it is signed, "Chairman  
22 of the Zoning Board of Appeals".

23 If you're trying to attack my credibility  
24 and my ethics ,I think you will find it is high  
25 above reproach. If you are upset that it didn't

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1 go to you, I suppose I apologize to you, but by  
2 no means was I acting as an attorney at that  
3 point. I was acting in my official capacity as  
4 Chairman of the Zoning Board. Next question.

5 ATTORNEY BERTOLINO: Mr. Chairman, I am  
6 neither upset nor am I accusing you of any  
7 reproachable event.

8 In any event, was the letter, was any  
9 communication sent from you or any member of this  
10 Board to the applicant's representative, either  
11 myself or Glenn Graham, expressing concerns back  
12 in October of 2023?

13 CHAIRMAN BURRIS: There was no --

14 MR. GRAY: I'm sorry. Ken Gray here. May  
15 I interrupt for a second?

16 MEMBER SHERMAN: Please.

17 MR. GRAY: Mr. Bertolino, the Board is not  
18 here to be cross examined by you. This is a  
19 rehearing. If you have a presentation you would  
20 like to make and respond to any comments that  
21 were made by Zoning Board members or the letter  
22 from Kevin Lowry, please do so. But this is not  
23 a cross-examination of my Zoning Board members.  
24 Thank you.

25 ATTORNEY BERTOLINO: Understood, Mr. Gray.

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1 I'm just trying to establish for record, and I  
2 can do it another way.

3 Let the record reflect that neither myself  
4 nor the applicant nor Glenn Graham as architect  
5 of the applicant received any communication from  
6 the Chairman of the Zoning Board, from any member  
7 of the Zoning Board, nor from any official within  
8 the Village of Ocean Beach with respect to either  
9 concerns or claims that either the Zoning Board  
10 or any member of the Village in any capacity or  
11 any homeowner in the Village of any capacity.  
12 Let the record reflect that, please.

13 CHAIRMAN BURRIS: Mr. Bertolino, thank you,  
14 but I have to correct you on that. It is my  
15 understanding that Bunny from the Village Office  
16 did have communication with Glenn Graham, who  
17 was the applicant on the application and that he  
18 was aware that there were problems and that to  
19 some homeowners, he even said friends of his,  
20 I'm tired of hearing all the complaints about  
21 this. So there was no way that the applicant  
22 wasn't aware. If the applicant didn't let you  
23 know about it, I apologize. I would have  
24 expected that to have been the case, and the  
25 Village Attorney was fully involved.

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1           Excuse me. The letter that I read that I  
2 sent to the Village, the Village Attorney who  
3 represents the Board was also copied on it and I  
4 may have failed to mention that. That he was in  
5 the --

6           ATTORNEY BERTOLINO: Mr. Burris, --

7           MEMBER SHERMAN: Excuse me. The email that  
8 was sent --

9           CHAIRMAN BURRIS: Would you read it in,  
10 please?

11           MEMBER SHERMAN: -- the email that was sent  
12 by the Village Clerk, Jonneigh, was directed to  
13 Glenn Graham on October 26th at 2:16 p.m.

14           "Glenn, what the heck is going on at the  
15 Bohlsen house? Looks to be a complete demo. Not  
16 what we had approved. Joel Burris is upset and  
17 we've had a couple of complaints. You can expect  
18 a stop work order and a DEC complaint."

19           It was signed by Jonneigh, in her capacity  
20 as the Village Clerk. Mr. Graham did respond.

21           His response was: "The house was severely  
22 damaged with unforeseen rot. We had shared  
23 pictures with Mike Mandarino while he was in  
24 Florida and obtained his approval before  
25 proceeding."

1           And Mr. Graham had attached several pictures  
2 of rot in the lower portion of the building,  
3 which is what we're going to call the basement.  
4 The area which was to be removed below the first  
5 floor.

6           MR. GRAY: Ken Gray speaking. Just a point  
7 of clarification. If everybody doesn't know,  
8 the Village Clerk is Jonneigh Adrion, also known  
9 as Bunny as a nickname. If you hear the name  
10 "Bunny" and you hear the name "Jonneigh", they  
11 are the same person. They are the Village  
12 Clerk, for a point of clarification.

13           CHAIRMAN BURRIS: Mr. Bertolino, with due  
14 respect, would you like to withdraw that the  
15 applicant was notified?

16           ATTORNEY BERTOLINO: No. That's not what I  
17 meant and what I said is incorrect. I wasn't  
18 saying we were unaware. What I was saying was  
19 we were not given the letter that you sent and  
20 the concerns that you had. That letter was  
21 never provided to me or to the applicant. I  
22 agree, the architect was notified that there  
23 were concerns. We were never notified about the  
24 extent of the concerns that you read today, that  
25 you expressed in your opening statement. That

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1 was my presentation. If there's a  
2 miscommunication here, I apologize to you.

3 But, in the end, there was something that  
4 was said about the communication back and forth  
5 and the detriment to the applicant and I just  
6 want to point out, as the applicant's Counsel and  
7 as the representative making the presentation to  
8 the Board, somebody from the Village should have  
9 reached out to myself as well. Whether that was  
10 the Chairman of the Zoning Board of Appeals,  
11 whether that was somebody else in the Village  
12 that needed to do that, somebody should have  
13 reached out to my office and said something there  
14 and that was not done.

15 I admit, the email that was just read into  
16 the record by Mr. Sherman was received by  
17 Mr. Graham. Mr. Graham was dealing with the  
18 Village at that point in time. That is not in  
19 dispute. As the attorney of the applicant, I was  
20 not notified, whether it was proper notification  
21 or not, I was not notified.

22 MR. GRAY: Ken Gray speaking, again. Can I  
23 chime in? Can we all agree and stipulate that a  
24 stop work order was never issued on this  
25 property?

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1           ATTORNEY BERTOLINO: So stipulated by the  
2 applicant.

3           MR. GRAY: Mr. Burris?

4           CHAIRMAN BURRIS: Yes, stipulated.

5           MR. GRAY: Mr. Mandarino, are you on the  
6 call?

7           (No verbal response given.)

8           MEMBER SHERMAN: I don't see him on there.

9           MR. GRAY: Mike Mandarino?

10          (No verbal response given.)

11          Well, as Counsel to the Village and Counsel  
12 to the Zoning Board of Appeals, I will stipulate  
13 that a stop work order was never issued on this  
14 project during this cycle of events, for lack of  
15 a better word.

16          CHAIRMAN BURRIS: Mr. Bertolino, we are  
17 trying to work with you. I don't think anybody  
18 should dig a hole here.

19          ATTORNEY BERTOLINO: Mr. Burris, I'm not  
20 trying to dig a hole; I'm trying to create a  
21 record. As you so eloquently did by reading a  
22 five-page letter as opposed to submitting it,  
23 I'm entitled to say what I believe should be set  
24 forth as well.

25          CHAIRMAN BURRIS: You're correct.

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1 I also wanted to state one other thing  
2 because I assume this is bothering you. You sent  
3 a letter to the Village Office directed to me,  
4 and you did not receive a response from me. You  
5 received a response from the Village Clerk. So I  
6 want to make sure that you understand there was a  
7 response.

8 ATTORNEY BERTOLINO: Is that regarding the  
9 adjournment?

10 CHAIRMAN BURRIS: That was regarding the  
11 adjournment, yes.

12 ATTORNEY BERTOLINO: And my letter  
13 requesting the adjournment was only because I  
14 received a copy of an email that said there was  
15 going to be a rehearing. Which, again, for the  
16 record, the rehearing doesn't say anything about  
17 a revocation. Although, I fully understand that  
18 that's within the purview of a rehearing and  
19 didn't highlight what the purpose was for.

20 Having come here today and hearing first  
21 hand what some of the concerns are, I will  
22 attempt to address them, hopefully, in a way that  
23 the Board understands.

24 So as was just expressed, Mike Mandarino,  
25 who I understand is the Building Inspector here,

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1 was contacted on October 23rd and I would like to  
2 hand up to the Board the text messages, which I  
3 believe was from Glenn Graham, to Mr. Mike  
4 Mandarino, who was, I suspect, out of town at the  
5 time. The gist of those emails indicate that the  
6 rot was very extensive that was found on the  
7 house. That some of the portions that were  
8 previously expected to be reused were not  
9 salvageable in any way, shape, or form. I have  
10 several photographs that I can hand to the Board  
11 to show them the condition of the wood. This was  
12 not wood that was, how should we say, soft. This  
13 was wood that was deteriorated to the point where  
14 there were gaping holes and it was virtually  
15 paper.

16 That being said, the logical thing to do for  
17 the applicant and the architect is to reach out  
18 to the building inspector, who it is my  
19 understanding at that point, had issued a  
20 building permit and had control over the site and  
21 the construction that was going on at the site.  
22 It's my understanding that the purview of the  
23 building inspector is to make a determination as  
24 to whether or not we needed to continue or some  
25 other avenue needed to be pursued.

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1           We received permission from the building  
2 inspector to continue with the renovations and  
3 alterations. Now, we can differ as to what the  
4 definition of an alteration or renovation is and  
5 the extent of those alterations and renovations.

6           I would like to point out to the Board that,  
7 with respect to the plans, the plans that were  
8 submitted in '21 and which were updated several  
9 times throughout this process, clearly show  
10 multiple pages of new walls being installed and  
11 multiple pages where walls were being removed.  
12 Many of those walls were exterior walls. In  
13 addition, and I believe it's page two or three of  
14 the submitted and approved plans also indicate a  
15 majority of new floor joists and new girders  
16 because there were no new girders on the existing  
17 structure. So when the piles went in, the new  
18 girders went in, and on top of the girders went  
19 new floor joists. All as proposed and set forth  
20 on the plans.

21           Now one can argue whether or not the saving  
22 of one wall or a partial wall is a scintilla of a  
23 house, but, ultimately, the applicant and the  
24 architect relied upon the building inspector who  
25 said, yes, I understand. I can see. I verify in

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1       some way, shape, or form that the construction  
2       materials existing within that dwelling structure  
3       were no longer able to be used in any way, shape,  
4       or form. You can continue and replace, or I  
5       should start with remove and replace as  
6       necessary.

7               The project continued. The project  
8       continued, again, as stipulated, without a stop  
9       work order and continued with inspections  
10      multiple times from the building inspector in  
11      various stages.

12             That being said, the applicant did nothing  
13      deliberately to quote "demolish a house."  
14      Although, as we all know from living on the  
15      beach, when one has to lift a house, which was  
16      clearly in the plans submitted, the house gets  
17      picked up and moved to a different location on  
18      the lot and sometimes even to the neighboring lot  
19      next door. That was done in this case. The  
20      poles were driven and what structural components  
21      of the residential dwelling that could be  
22      salvaged, were salvaged and were incorporated  
23      into the alteration and renovation as approved.

24             With respect to Mr. Lowry's concerns as to  
25      demolition and rebuild the house, it was never

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1 the intention of the applicant at the start, and  
2 I certainly don't think that the Chairman or the  
3 Board wants to cast dispersion upon myself or  
4 Mr. Graham as being party to such a ruse against  
5 the Board or the Village.

6 Certainly, when Mr. Graham was engaged, he  
7 submitted plans or drafted plans and then  
8 submitted them clearly showing an alteration and  
9 renovation and as I pointed out those renovations  
10 and alterations did show removal of existing  
11 walls and adding new walls on the interior and  
12 exterior. When we came before the Board, after  
13 the passage of time, I stood here in front of the  
14 Board and made the presentation as best we could  
15 as to the current conditions then existing as  
16 well as to the plans submitted by the building  
17 department.

18 Indeed, I was present when many of the Board  
19 members and Mr. Gray, for a brief period I  
20 believe, went to the site and looked at the  
21 house. I do not recall one person in that group  
22 looking at the structure that we all could see in  
23 front of our own eyes, no one to my recollection  
24 said, oh, my gosh, this wall is unsalvageable.  
25 Isn't this going to be a demolition? The reason

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1 I point that out is because we all saw the same  
2 thing. This was rot that accumulated over many,  
3 many decades. This was rot that was not poking a  
4 finger through but was literally paper thin and  
5 not existent in some places. Unknown and unseen  
6 to the naked eye, including those naked eyes of  
7 the Board members who spent an hour or two going  
8 through the home. Had any Board member at that  
9 point in time seen the extensive damage that they  
10 saw here today, I would like to think that they  
11 would have said, hey, wait a minute. This  
12 doesn't look like it's doable.

13 I highlight that because we all saw the same  
14 thing. The applicant, Kurt Bohlsen, he was  
15 living at that house. He had his children in  
16 that house. He had his family members in that  
17 house, not only in 2021 and 2022 but also in  
18 2023. Had he known that the condition of those  
19 walls would have been about to fall down and  
20 would not pass inspection from any building  
21 inspector in any municipality, I doubt very much  
22 that Mr. Bohlsen would have hosted any kind of  
23 weekend get togethers with his friends and family  
24 in that home. That is because the extent of that  
25 damage was beyond the naked eye's reach. We

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1 didn't know; we couldn't see. So hopefully, that  
2 addresses Mr. Lowry's concerns that there was  
3 some kind of ruse, and I don't think he used that  
4 word, but he said the appearance of, and I quote,  
5 "the appearance of impropriety."

6 So let's put that to bed and set forth for  
7 the record and in front of this Board that there  
8 were no shenanigans going on. There was no  
9 impropriety. This is what happens when you  
10 build. Sometimes when you're doing an  
11 alteration, you encounter things that you didn't  
12 see before that you didn't anticipate. The  
13 normal course in that situation is to do exactly  
14 what the applicant did. You reach out to the  
15 municipal agency in charge and specifically to  
16 the building inspector, which is what we did.  
17 The building inspector from Village of Ocean  
18 Beach, who had, in my view, had control over that  
19 site and had the sole ability to make a  
20 determination as to whether we could go forward  
21 or not, gave us permission to do so. With that  
22 permission and relying on that permission, the  
23 work continued. As Mr. Gray pointed out, in the  
24 absence of a stop work order, which could not be  
25 issued by the Zoning Board Of Appeals and only

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1 issued by the building inspector, with the  
2 absence of that, the applicant continued.

3 It is my understanding that as of today, the  
4 house is fully posted. The girders are all  
5 strapped down. The framing is done. The windows  
6 are in. The roof is on. The mechanicals on the  
7 inside, such as plumbing, heating, and electric  
8 have begun. And certainly I would argue, the  
9 applicant would have a severe economic and  
10 detrimental condition on his hands if this Board  
11 saw fit to revoke the application.

12 With respect to what was built, my  
13 recollection from back in 2023, was that some of  
14 the Board members had concerns being related to  
15 them from community members about the angle of  
16 the house, the height of house, the location of  
17 the house, and we went back and forth on site and  
18 in this room with respect to what was there. We  
19 haven't changed any of that. We haven't changed  
20 the footprint area. We haven't changed the size.  
21 What we did change in the plans, which were  
22 approved, was that chamfer wall. For those who  
23 don't know what that is, it was just like a  
24 diagonal wall on the southeast corner and if you  
25 recall, we actually stood on a neighbor's deck

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1 to the east. We looked across. Somebody stood  
2 on the rooftop of the subject property and they  
3 positioned themselves into such a way so that we  
4 could tell whether or not the resident or  
5 neighbor to the east would have a view or not.  
6 And it was all agreed, I believe by the neighbor  
7 as well that, yeah, that location would be  
8 sufficient. We took some ballpark measurements.  
9 The architect revised the plans. He altered that  
10 champer wall, which is that diagonal on the  
11 southeast corner of the building, and that was  
12 done as well.

13 Beyond that, there were no changes to the  
14 plans submitted to the Village. There were no  
15 changes to the plans, to my belief, that this  
16 Board should have had in front of them at the  
17 time they reviewed the application, at the time  
18 they approved the application, and the only  
19 change that the Board may not have seen would  
20 have been that chamfer wall, which was done at  
21 the request of the Board and the neighbor.

22 So as far as reviewing the plans,  
23 Mr. Chairman, I am sorry if perhaps the Board's  
24 view of the plans they reviewed were one level of  
25 alteration, when the actuality of what was

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1           happening was a different level of alteration.  
2           We can argue alteration, renovation, what is the  
3           percentage? I'm doing this a long time. I'm  
4           sure some of these Board members and the building  
5           inspector has been doing this a long time. It  
6           was old adage, save one wall, in the building  
7           world, if you will, in the trades. You save one  
8           wall, you can rebuild that as there. Obviously,  
9           in this case we tried to save as much as we can.

10                   I spoke to the actual builder, John Ross  
11           from Ross Brothers Construction, who is here  
12           today. I asked him, did you use everything that  
13           you could? He said, yes. Did you use some of  
14           the floor joists? He said, yes. The plans  
15           clearly show that we anticipated replacing many  
16           of the floor joists because they were rotted or  
17           insufficient to carry the load to today's  
18           standards.

19                   So I suggest that the Board look at the  
20           plans closely, today, now, take a break. Call us  
21           back, and if you have questions as to what you  
22           think we changed or what was modified, we'd be  
23           more than happy to answer.

24                   I have here today John Ross, the builder  
25           from Ross Brothers Construction to answer direct

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1 questions if the Board wants to inquire of Mr.  
2 Ross as to what he encountered and what he did  
3 about that. I have here with me today Mr. Glenn  
4 Graham, the architect, who submitted and drew the  
5 plans from the very inception of this project.  
6 And I don't need to make their statements for  
7 them. We have nothing to hide. If this Board  
8 wants to inquire of them, I fully support that  
9 because, like you said Mr. Burris, we're all here  
10 as part of the Ocean Beach, Fire Island community  
11 to work together and live together. But I want  
12 to be clear that we did not put forth a  
13 renovation and an alteration when, in fact, we  
14 meant to do a demolish and rebuild. This was  
15 never the intent. That was not something we  
16 tried to get past the Board but things happen.

17 CHAIRMAN BURRIS: Do you know at what point  
18 that happened? At what point the decision was  
19 made to knock down the house?

20 MR. GRAHAM: Glenn Graham speaking.

21 If you see my text that we printed out, that  
22 is the very second I learned from John Ross that  
23 the house had that damage and I was shocked at,  
24 right there (indicating), what you're holding  
25 there. That is a print out of my text message to

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1 Mike Mandarino in Florida describing, "Hi, Mike,  
2 there's been unforeseen rot that nobody could  
3 see."

4 And, jeez, none of us could see it. We all  
5 walked through that house and Mike, excuse me,  
6 John Ross pulled off the siding and those photos  
7 are showing three quarters of the wall was  
8 disintegrated.

9 CHAIRMAN BURRIS: So the text was  
10 October 23rd.

11 MR. GRAHAM: Yep.

12 CHAIRMAN BURRIS: This is what was given to  
13 me dated October 23rd (holding a photo). Were  
14 these pictures of this?

15 MR. GRAHAM: But I'd also like to --

16 ATTORNEY BERTOLINO: Glenn, Glenn, excuse  
17 me. Let the record reflect that the Chairman  
18 has handed Mr. Graham a photograph that the  
19 Chairman was referring to earlier showing the  
20 containers and some pieces of equipment.

21 MEMBER SHERMAN: And the house  
22 substantially demolished.

23 MR. GRAHAM: That is correct, but if you  
24 read the text --

25 MEMBER CONWAY: Mr. Chairman?

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1 Mr. Chairman? Mr. Chairman? Jeremy Conway.

2 CHAIRMAN BURRIS: Jeremy, one second.

3 MR. GRAHAM: If you read the text that was  
4 sent to Mike, Mike acknowledges that John Ross  
5 had already spoken to him last week and that he  
6 told him to leave a wall. So I was notified a  
7 week, well, a couple days after and a week after  
8 John had already had Mike Mandarino on site  
9 looking at the building. I then go on to  
10 apologize to Mike for interrupting his vacation.

11 "Sorry to bother you. I was not aware."

12 CHAIRMAN BURRIS: So what you're saying is  
13 the discussion had already occurred between John  
14 Ross and Mike and the date that these were sent  
15 to him is not really relevant.

16 MR. GRAHAM: It was the first day that I  
17 was notified, which was a week after Mike had  
18 been on site and maybe John Ross can clarify the  
19 conversation he had, and, John, why don't you  
20 tell them --

21 MR. GRAY: Mr. Burris, Ken Gray here. Can  
22 I chime in for a second?

23 CHAIRMAN BURRIS: Sure.

24 MR. GRAY: Mr. Graham, I just want to  
25 clarify an issue. Either from the statement

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1 from Mr. Burris or the letter that was read from  
2 Member Kevin Lowry, I believe there was a  
3 statement that the plans that were originally  
4 submitted and dated by you were dated sometime  
5 in 2022, maybe September, and then at the, I  
6 believe it was the June 2023 Zoning Board  
7 hearing, there was a request for the  
8 modification of the angle of the wall, on the  
9 southwest wall. And then you modified the plans  
10 to comply with the agreement or condition,  
11 whatever word you want to use, concerning that  
12 and you submitted those revised plans.

13 MR. GRAHAM: That is correct.

14 MR. GRAY: But those documents, I just want  
15 to ask you this. That document was still dated  
16 September 2022. Is it simply clerical error  
17 that your office maybe failed to indicate, you  
18 know, September '22, revised July 2023?

19 CHAIRMAN BURRIS: I think that Mr. Graham  
20 would probably tell us that he just forgot to  
21 redate it.

22 MR. GRAY: Joel, Joel, Joel, that's what  
23 I'm asking Mr. Graham, not you.

24 MR. GRAHAM: I agree. Yes, I have five  
25 people in my office drafting and if we were

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1 going to list every revision, I started this  
2 project in 2021 and it took as a year and a half  
3 to work with the DEC to get their approval.  
4 There was probably 75 iterations of this plan.  
5 So we didn't --

6 MR. GRAY: No, no, no. It wasn't a  
7 criticism. Trust me, it was not a criticism. I  
8 just wanted to point out that that happens  
9 sometimes. You do revisions and this one, when  
10 you resubmitted as per the stipulation and  
11 agreement between the applicant and Zoning  
12 Board, you did it in compliance with that  
13 agreement, consistent with that agreement. You  
14 just failed to, you know, whatever, it didn't  
15 note that it was a revision.

16 MR. GRAHAM: Mr. Gray, there would be a  
17 record of that submission online because we  
18 filed these plans electronically. So the date  
19 they went in would be recorded. Mike Mandarino  
20 or the clerk would have that date of the filing.  
21 Once they're deemed acceptable, we then print  
22 out four hard copies and mail them to the  
23 Village. Then they are approved. When the  
24 application fee is paid, a permit is issued.  
25 So, yes, the revision was a clerical miss, but

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1 the plans should be recorded when received.

2 MR. GRAY: Very good. Thank you,

3 Mr. Graham.

4 MEMBER CONWAY: Mr. Chairman?

5 CHAIRMAN BURRIS: Yes, Jeremy?

6 MEMBER CONWAY: I just wanted to ask a  
7 point of clarification. The owner's  
8 representative made mention of a large amount of  
9 drawings submitted to the Village for the  
10 project. But what I would like to clarify is  
11 that for the June 3rd hearing, if I'm not wrong,  
12 there were six pages of drawings submitted for  
13 review at that hearing. It was a site plan,  
14 three ground plans, or four ground plans and an  
15 elevation. So that would have been the  
16 documents that were in front of us for the  
17 hearing, correct?

18 MR. GRAHAM: I believe that to be  
19 incorrect. I have a -- no, the email. I'm  
20 going to read an email to Jonneigh Adrion from  
21 September 9th, 2022.

22 MEMBER CONWAY: No, no, I'm just talking  
23 about the documents that were provided to the  
24 Zoning Board members for review for the hearing  
25 on June 3rd, which I received as a packet and it

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1 was six sheets of drawings. I just want to make  
2 that record because you've made a record that  
3 there were substantial drawings available for  
4 review to the Board.

5 MEMBER KARALIS: This is Constantine  
6 Karalis. I want to clarify that the drawings  
7 that we're talking about were the drawings  
8 issued to the DEC and they were actually dated,  
9 six sheets of documents there. And I heard  
10 several comments about some of the issues that  
11 are being discussed --

12 MEMBER CONWAY: Can I just finish this?  
13 Because I want to be clear. At the original  
14 hearing, it's the responsibility of the  
15 applicant to bring forth all documents for the  
16 Board to review during that hearing.

17 So the point I'm making is that it's my  
18 belief that there were six sheets of drawings  
19 presented by the applicant at that time for the  
20 hearing and that that's the correct number of  
21 drawings that the Board used for their  
22 consideration.

23 CHAIRMAN BURRIS: Jeremy, I believe what  
24 you're referring to are the DEC documents that  
25 we were given. Let's make sure we agree. And

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1 they say on them "Project Description FEMA Lift  
2 and Addition." Is that right; in the bottom  
3 right?

4 MEMBER CONWAY: Yes, but those were the  
5 documents that were supplied for the hearing.

6 MR. GRAHAM: I'd like to clarify that when  
7 we started this project and made our application  
8 --

9 MEMBER CONWAY: I just need an answer to  
10 the question.

11 MR. GRAHAM: I don't know what you  
12 received. I know what was sent to the town.

13 MEMBER CONWAY: Well, I know what's a  
14 matter of record of the Board having in their  
15 receipt.

16 CHAIRMAN BURRIS: Wait, wait. Jeremy, we  
17 didn't receive anything other than these. That,  
18 I think, the Board members would agree. What  
19 the question really is, was there more submitted  
20 than this?

21 MR. GRAHAM: I'd like to answer it. When  
22 we started this application, I did not believe  
23 that a variance was needed. So the full set of  
24 construction plans were filed to Mr. Mandarin  
25 for what I thought was gonna be a permit and

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1 then ultimately denied. So from day one, the  
2 town had the full construction set. Whether or  
3 not they weren't shared with the members of the  
4 Board, this goes back seven, eight months prior  
5 to the hearing. We had already filed a full set  
6 of plans and I have, going back to  
7 September 9th, 2022, I have an email to Jonneigh  
8 Adrion thanking her about getting the hearing  
9 date.

10 She says, "I believe Mike spoke to Joel  
11 already on this date. Attached is a PDF of the  
12 plans."

13 The attachment says "construction set" and  
14 it says, "Thanks again for your help. Have a  
15 nice weekend."

16 So what was given to the Board and  
17 ultimately reviewed. There was a construction  
18 set submitted months earlier, and I believe I had  
19 a construction set in my possession the day we  
20 all went to the site.

21 MEMBER CONWAY: My question was really  
22 directed to what was presented to the Board for  
23 consideration at the June, for the hearing  
24 because that's really what the Board is working  
25 with.

1           ATTORNEY BERTOLINO: Mr. Conway, Steve  
2 Bertolino for the applicant. Just to add to  
3 what Mr. Graham said. It is common practice for  
4 the architect to submit the full set of plans to  
5 the building department or for the denial letter  
6 for the Zoning Board then to review. What the  
7 building department or clerk's office shares  
8 with the Zoning Board that's already been on  
9 file is beyond the control of the applicant.

10           When we presented our application in '23  
11 before this Board, I don't recall any Board  
12 member or, how shall I say, community member that  
13 was present asking to see the full set of  
14 construction drawings on site with the Village.  
15 And to take it a step further, I believe they  
16 didn't ask for it because everything you need to  
17 see, primarily, is on those first six or seven  
18 pages of the plans. Although, plans sometimes  
19 contain 20 or 30 pages, many of them have mundane  
20 details as to what size nails to use. What type  
21 of strapping, and how should we say, cutaways  
22 or details as to lumber or things of that nature.  
23 They're not necessarily going to indicate to the  
24 Board how the position of the dwelling will be or  
25 the height. I believe all the pertinent

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1 information that we submitted is the information  
2 that the Board had, at least at their fingertips,  
3 and the information the Board would need.  
4 Additionally, I don't think anything that  
5 occurred in October of 2023 is changed by the  
6 remaining pages of the filed plans that the Board  
7 may or may not have reviewed outside of the  
8 hearing.

9 MEMBER CONWAY: Okay. I appreciate that.

10 Just for the record, I just wanted to make  
11 sure, as you want to make sure for the record,  
12 that it's a matter of what drawings the Board had  
13 before it for the hearing on June 3rd because  
14 that's relevant to the decisions that the Board  
15 makes on June 3rd. I believe it's the onus of  
16 the applicant, not anybody else, to make sure  
17 that the Board is presented with all the  
18 applicable information that they need to rely on  
19 when they make a determination. So I just want  
20 that to be a matter of record.

21 MEMBER SHERMAN: I just want to point out  
22 that the public was provided at that meeting  
23 with copies of plans upon entry into the meeting  
24 area, which was at the Boat House, and that  
25 there was nobody from the applicant who looked

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1 at those plans and said these were incorrect  
2 either.

3 ATTORNEY BERTOLINO: Agreed.

4 MEMBER CONWAY: Thank you.

5 MEMBER SHERMAN: So based on that, is the  
6 assumption to be made that the plans that the  
7 Board saw that day, which we have copies of,  
8 those were the plans that would have been  
9 provided to the ZBA if the applicant had come  
10 forth and said these are the plans for the  
11 review of the variance application?

12 ATTORNEY BERTOLINO: It is our position  
13 that the full set of plans upon which the denial  
14 was based should be part of the record as part  
15 of the application for the building permit,  
16 which then triggers the denial. Those plans  
17 were on file with the Village. That should be  
18 part of the record that the Board reviews.  
19 Whether they do so at the hearing or prior, that  
20 is not up to me.

21 With respect to the plans that were  
22 submitted for the hearing, if you had the six  
23 pages that were for the DEC, there is nothing on  
24 those plans that are different from the plans  
25 that were on file and approved. Except that

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1 chamfer wall, again, the southeast wall. That  
2 may not have been depicted on the plans that the  
3 Board saw back in June of '23 because that is  
4 what was agreed to at that hearing date. So  
5 those plans would have been revised. They would  
6 have been filed with the Village, which they  
7 were, and on file for all to see.

8 Again, we can disagree whether or not the  
9 Board had the full set of plans, and I would say  
10 even if the Board did not have, quote, a full set  
11 of construction plans in front of them, the  
12 relevant issues were all on the pages of the  
13 documents that the Board had. The other pages,  
14 if you want we can pull them up, have mundane  
15 details to meet New York State Code and as long  
16 as I've been doing variance applications for 28  
17 years has never been anyone's concern what size  
18 nail, what type of strapping, what type of two by  
19 four we're using. Most people are concerned with  
20 the footprint, the elevation, and things of that  
21 nature. What it's gonna look like.

22 MEMBER CONWAY: But any drawings, I'm sorry  
23 to interrupt, any drawings that show a  
24 determination for demolition might be relevant.

25 ATTORNEY BERTOLINO: There were none.

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1 There were no plans submitted for demolition.

2 MEMBER KARALIS: This is Constantine  
3 Karalis. I need to, please let me clarify a  
4 couple of things.

5 First of all, on the issue of the chamfered  
6 wall on the southeast corner of the second floor,  
7 and for the record, I must say I have three sets  
8 of plans in front of me. One is the set of six  
9 pages that was submitted to the Board for the  
10 original hearing for the variance that was  
11 granted.

12 On sheet marked DEC 5, there is a proposed  
13 second-floor plan on the bottom left of the page  
14 that shows that corner to be a full corner,  
15 90 degrees. Now I have two sets of plans in  
16 front of me, which may or may not be the full  
17 construction plans, but one set that I have is,  
18 bears the signature of the Building Inspector,  
19 Mr. Mandarino. The other one does not. The one  
20 that bears no signature continues to show a  
21 corner, full 90-degree corner. The other set of  
22 plans that was signed and approved by  
23 Mr. Mandarino does show a chamfered corner.

24 Interestingly enough, all these three plans  
25 are dated 4/7/21. So I just want to say that for

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1 the record because there is questions about when  
2 was anything done and revisions and so on and on.  
3 The chamfered corner was already in the plans  
4 back then.

5 The second point I would like to make is in  
6 the construction plans, there's a section, sorry.  
7 Sheet A6.0, again, dated 4/27/21. So this plan  
8 is now what? Like three years old?

9 MR. GRAHAM: Constantine, may I say one  
10 thing?

11 MEMBER KARALIS: Yes, sir.

12 MR. GRAHAM: The construction plans  
13 Revision 1 are dated 4/7/21, but you'll see at  
14 the bottom, in my plan it says there's been 12  
15 revisions. The newest one being July 7th, 2023.

16 MEMBER KARALIS: You might want to see what  
17 I'm looking at. I'm looking at plans that bear  
18 the approval for construction by Mike Mandarino.

19 MR. GRAHAM: Yeah. See Revision 12,  
20 7/7/23? As the job progressed we revised --

21 MR. KARALIS: This is what I'm referring to  
22 (indicating).

23 MR. GRAHAM: Revised plans per owner and  
24 Revision 11, revised plans as per Zoning Board  
25 of Appeals.

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1           MEMBER KARALIS: Right. Okay. But what  
2 I'm saying is that didn't really need to be  
3 revised because it was already in the drawings  
4 from 2021.

5           MR. GRAHAM: Revision 11 says, "Revised  
6 plans as per Zoning Board of Appeals June 19,  
7 2023."

8           MR. KARALIS: Yes, but the plan is dated --

9           MR. GRAHAM: We don't change that. We  
10 change the revision date. Regardless -- I don't  
11 know what the point is of this.

12           MEMBER KARALIS: Well, the major point is  
13 actually on the same section, it shows new  
14 construction of the roof and of the floor plane  
15 between the first and the second floor. So  
16 these plans, essentially, had the demolition of  
17 the whole house back then. We've been talking  
18 here about moving walls around, including  
19 exterior walls. But the plans themselves since  
20 2021 show that, in fact, the whole house was  
21 taken down. Except for part of the first floor,  
22 and I would totally agree with you that that  
23 part really needed to go because we all saw what  
24 it looked like.

25           CHAIRMAN BURRIS: That was never in

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1 question.

2 MEMBER SHERMAN: That was the basement  
3 area.

4 (Multiple conversations at once.)

5 MEMBER KARALIS: No, no, the basement is  
6 down here. The basement is below that.

7 MEMBER SHERMAN: One second. This section  
8 right here (indicating) is on the bottom here?

9 MR. ROSS: No, that's the second floor.

10 MEMBER SHERMAN: Well, it's on the sand.

11 If you look at the picture here, and you can  
12 see --

13 MR. ROSS: That's the grounded wall that  
14 comes down --

15 MEMBER SHERMAN: Correct. So this is  
16 really the foundation of the home, which we're  
17 referring to as the basement area because it's  
18 ground floor and it's on, I believe, this is the  
19 north, yeah, the north side of the house.

20 CHAIRMAN BURRIS: Is this rot in this  
21 portion?

22 MR. ROSS: No. This is the second floor --  
23 oh, this is the basement. This is the second  
24 floor (indicating).

25 CHAIRMAN BURRIS: So where is this rot,

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1 down here (indicating)?

2 MR. ROSS: That rot was over here  
3 (indicating).

4 CHAIRMAN BURRIS: Here (indicating)?

5 MR. ROSS: No. More west.

6 CHAIRMAN BURRIS: It was a little bit west,  
7 so it was this level.

8 MR. ROSS: Well, not necessarily, no. It  
9 was the second floor that came down. That was  
10 not a foundation, that was just a skirting wall.

11 MEMBER SHERMAN: Correct. This is the  
12 skirting wall of the basement level or the  
13 ground-floor level. This is nonstructural.

14 MR. ROSS: Right.

15 MEMBER SHERMAN: You can see from, you  
16 know, from the studs. This clearly wasn't a  
17 whole house. This was a facade, basically, that  
18 was on the other side.

19 CHAIRMAN BURRIS: If it were holding up the  
20 house, it's the plywood that's rotted, not the  
21 beams.

22 MR. ROSS: But it was the picture before  
23 that that was holding up the house.

24 MEMBER SHERMAN: Just out of curiosity, had  
25 the applicant engaged, and I know Mr. Graham

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1           you're the architect, had engaged an engineer to  
2           determine whether any of the property was  
3           salvageable? Were you able to do any way,  
4           shape, or form to try to save the structure?  
5           Once it was going to be raised, certain members  
6           would have been replaced anyway. It doesn't  
7           appear, from anything that we saw, that the  
8           house was substantially rotted. A lot of these  
9           pictures are very small areas that don't give us  
10          much in the way of definition.

11                   CHAIRMAN BURRIS: If you look at the  
12           property, it seems like at some point you  
13           leveled it. When this was taken, this was  
14           lower.

15                   MEMBER SHERMAN: The north side had a  
16           facade wall.

17                   (Multiple conversations at once.)

18                   MR. ROSS: But the other pictures show,  
19           clearly, the other pictures on the bottom there,  
20           show the floor joist there.

21                   MR. GRAY: Joel, can you speak one at a  
22           time? Let people finish their sentences so that  
23           Leigh can get a complete record here, please?  
24           We seem to be talking over each other. Thank  
25           you.

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1           MEMBER SHERMAN: Can we potentially get the  
2 answer to if the applicant had engaged an  
3 engineer to review the structure before the  
4 determination was made to present Mr. Mandarino  
5 with the idea of demoing the entire structure?

6           MR. GRAHAM: We did not hire a structural  
7 engineer. Nor did I visit the site. I was  
8 given those pictures, as I said, after that was  
9 down. But John Ross had Mike Mandarino, I  
10 believe, on site.

11          MR. ROSS: He visually inspected it.

12          MEMBER SHERMAN: Do you know when Mr.  
13 Mandarino, because what it looks like is --

14          MR. ROSS: Beginning of October.

15          MEMBER SHERMAN: -- what it looks like from  
16 those text messages that Mr. Mandarino was in  
17 Florida.

18          MR. ROSS: No, he visually inspected it  
19 prior to that.

20          MR. GRAHAM: That's when I found out, prior  
21 to that.

22          MR. MANDARINO: Hey, can I chime in,  
23 please?

24          MEMBER SHERMAN: Mike, is that you on the  
25 line?

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1 MR. MANDARINO: Yes, that's me.

2 MR. GRAY: Mike, identify yourself, please.

3 MR. MANDARINO: Mike Mandarino, Building  
4 Inspector.

5 All right, so I been listening to this whole  
6 meeting. I worked there five days, five, six  
7 days, every two weeks. And since that project  
8 began, I was at that project every day that I  
9 worked there. In fact, I ride the whole Village  
10 every day that I worked there. So I saw every  
11 day of the demolition that I was working there  
12 and, basically, you didn't need an engineer to  
13 make a decision of what was going on there. That  
14 house was like a sponge. You could put your  
15 finger through the wood.

16 John Ross did, on one of my visits there, he  
17 came to me with plans and said, Mike, before I do  
18 this -- John is a person who doesn't ask for  
19 forgiveness; he asks for permission. I went to  
20 the site and I was there many times and I looked  
21 at the sponge-like wood. It was like paper  
22 mache. It crumbled in your hand. I said, John,  
23 it's going from a partial renovation to a total  
24 renovation.

25 You can dissect it any way you want. Call

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1           it whatever you want, and I might be getting  
2           ahead of myself, but there is no guidance in our  
3           code as to define what you need to do relative to  
4           a substantial renovation or a demolition. In  
5           this Village, we allow you to basically renovate  
6           what you have, if you had nonconforming  
7           structures. I'm getting a little bit more over  
8           the top here, but as far as the structure, the  
9           integrity of the structure at the time, it was so  
10          conspicuous you didn't need an engineer to  
11          approve it.

12                   MEMBER SHERMAN: Mike, Craig Sherman. Can  
13           I just ask you a question? Also at the time  
14           where you had approved, or sounds like  
15           recommended a demolition, did you, I think you  
16           reached out to the DEC to advise them as well?

17                   MR. MANDARINO: Oh, yes, absolutely. That  
18           was my first concern because, listen, I been  
19           there five years and I know the code pretty well  
20           and it's a pretty wide open code. It gives me a  
21           lot of discretion. My biggest concern was if  
22           this was okay with the DEC. I ran it through  
23           Eric Starr (phonetic) and he had no problem with  
24           it. I told him that this is going to end up  
25           being a whole demo, basically a total

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1 renovation. He had no problem with it. He ran  
2 it through his chain of command. They had no  
3 problem with it. If the DEC had no problem with  
4 it; I had no problem with it. The structure  
5 that the Zoning Board approved was ultimately  
6 the exact structure that is there now. How it  
7 got there should not be a concern to anyone.  
8 Especially since there's no guidance in our code  
9 to give me the opportunity to make any other  
10 decision as to whether the variances should  
11 stand or not stand.

12 MEMBER SHERMAN: Mike, one other question.  
13 Is there any State code that should have been  
14 followed here, you know, for substantial  
15 improvement?

16 MR. MANDARINO: There's no State code for  
17 substantial improvement as far as I know, and I  
18 think that was brought up by one of the Board  
19 members and I did look at it. There's no State  
20 code. That's usually a local thing, and there  
21 are local municipalities that define substantial  
22 renovation and then consider it as a demolition.  
23 Or there are sets of rules but not in our code  
24 and there's nothing in the State code. Though  
25 it was suggested that there was, there is not.

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1           CHAIRMAN BURRIS: Okay. So, I was probably  
2 the one because I had dinner one night with a  
3 group of architects and they thought the State  
4 building code, not zoning code, somewhere  
5 defines the definition of renovation versus new  
6 construction. And they may have been wrong. So  
7 you're saying, to your knowledge, it's not  
8 there.

9           MR. MANDARINO: No. It's not there, no.

10          MEMBER KARALIS: I just want to make a  
11 clarification. This is Constantine Karalis  
12 again. I just want to make sure that we are all  
13 understanding the same conditions.

14           That the plans that were approved, again,  
15 when we're talking about demolition, total  
16 demolition, but the total demolition was not  
17 caused totally by the condition of the lower part  
18 of the house. The total demolition was amplified  
19 by the fact that the drawings themselves called  
20 for the removal of the roof and the floor between  
21 the two levels. So let's not just simply say,  
22 oh, well, you know, the thing had to go because  
23 it was rotten. The important part was rotten.  
24 The reason I bring this up is that this was not  
25 brought forth to the Zoning Board at the time.

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1 The six sheets that we talked about before marked  
2 DEC, when they were issued, moving walls around  
3 did not indicate at all the fact that the actual  
4 construction plans showed that the roof and the  
5 floor between the two levels would be removed.  
6 Not because of rot, but because of the way that  
7 the architect decided to move on with the house.

8 After all, if you take out that many walls  
9 and move them around, the floors cannot stand  
10 there waiting for something to happen. So I  
11 understand fully why this was done, but the  
12 Zoning Board did not know that at the time that  
13 we voted to approve those variances.

14 MEMBER SHERMAN: Just a point of  
15 clarification. Sorry. I just want the record  
16 to show that the plans that the ZBA received on  
17 the date of the hearing for the variances was,  
18 according to Mr. Graham's revisions, would be  
19 Revision 9, dated February 8th, 2022. If there  
20 were any plans that were created after that date  
21 the Board didn't have the benefit of seeing  
22 those.

23 CHAIRMAN BURRIS: Mr. Ross, can I ask you a  
24 question?

25 MR. ROSS: Yes.

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1           CHAIRMAN BURRIS: Let me show you the  
2 picture again that we looked at. This was  
3 October 31st. This was the portion of the house  
4 (indicating) that you intended to remove. I  
5 know I had discussions with Mike Mandarino and  
6 he said, look, we don't define what percentage  
7 of the house has to be retained.

8           MR. ROSS: (Inaudible).

9           CHAIRMAN BURRIS: That's what I wanted to  
10 ask. What I was sent was that this was  
11 (indicating) what was retained.

12          MR. ROSS: Correct. That wall was always  
13 --

14          CHAIRMAN BURRIS: But it's not the wall.  
15 It's remaining two by fours; am I wrong?

16          MR. ROSS: But this is what it ultimately  
17 would have looked like when it was rebuilt  
18 because those walls would be taller in the plans  
19 that were submitted.

20          CHAIRMAN BURRIS: But we were told that the  
21 house was only going to be two feet higher than  
22 it was now after the lift. That's not really  
23 accurate then, is it? Several times we were  
24 told two feet.

25          MR. ROSS: I can't speculate on that.

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1           CHAIRMAN BURRIS: Because this must be two  
2 feet alone without even the lift of the house.

3           MR. GRAHAM: Let me clarify. The house  
4 that's standing down on the ocean today is  
5 exactly what this Board approved variances for.  
6 There is nothing different than what was on  
7 those plans to the construction drawings. That  
8 house matches footprint, height, everything to  
9 the T that this Board granted variances for.

10          CHAIRMAN BURRIS: We were told that, and it  
11 was discussed in the minutes several times, that  
12 it was a two-foot difference. Is that the  
13 two feet?

14          MR. GRAHAM: The two feet difference is the  
15 elevation and height to meet FEMA.

16          CHAIRMAN BURRIS: FEMA, okay, so was it  
17 two feet plus that? This is the old two by  
18 fours.

19          ATTORNEY BERTOLINO: Mr. Burris, you're  
20 pointing to one photograph and asking if the  
21 two feet is the extension of the two by four in  
22 that picture. That's not what the two-foot  
23 elevation change was we requested. We're  
24 talking the end product. The end product of the  
25 project would have been a raised elevation that

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1 was two feet higher.

2 What you're trying to do, if I'm hearing you  
3 correctly, is say, well, it looks like in this  
4 picture of a few two by fours of some framing, is  
5 that the two feet? That's not how it works.  
6 It's the finished product that dictates --

7 MEMBER SHERMAN: Mr. Ross has already said  
8 that the walls are taller. So Mr. Ross has said  
9 that the current walls are taller. These appear  
10 to be the new framing studs here (indicating)  
11 with some of the old, and there's also some rot  
12 in here. Like, you know, pieces from the wall  
13 that was set aside for the house.

14 So Mr. Burris' question is pretty simple.  
15 Is there any frame of reference here that where  
16 you put in the old framing into the new framing,  
17 does this have any significance for height? In  
18 other words, is this the old height of the former  
19 structure and here above it is the taller wall or  
20 two feet on top?

21 The way I understand it is that the house  
22 was being raised to FEMA height so that the  
23 pilings would be two feet higher. So the lowest  
24 member of the floor joist would be elevated two  
25 feet above where it is now on new pilings. The

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1 house would be lifted and raised two feet, but I  
2 don't believe that we were presented with  
3 information that would say that the walls were  
4 going to be taller in structure.

5 MR. GRAHAM: We didn't request a height  
6 variance.

7 MEMBER SHERMAN: Well, the point we're  
8 trying to get at is did you need one?

9 ATTORNEY BERTOLINO: We did not. We do not  
10 as it sits there today. I think we're about  
11 two inches under what the submitted and approved  
12 plans call for.

13 Mr. Chairman, I do understand what you're  
14 getting at and you and I seem to be on the same  
15 page. Except I'm looking at it as though you're  
16 trying to dissect at what point of construction  
17 can I call out two feet, and I'm saying that's  
18 not the purview of the Board. The Board looks at  
19 it and says, when you are done, how high is this  
20 going to be? Not necessarily am I putting an  
21 18-inch piece wood in or am I putting a 36-inch  
22 piece of wood in?

23 MEMBER SHERMAN: It was for reference for  
24 the Chairman.

25 CHAIRMAN BURRIS: You're correct on that.

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1           However, what we're looking at is a deck on top  
2           and part of the variance was permitting you to  
3           have a deck on top. Whereas, if this had been a  
4           new house, it wouldn't have been approved.

5           ATTORNEY BERTOLINO: But, Mr. Burris, the  
6           same argument applies. You approved an existing  
7           deck that was there. You approved it at a  
8           certain height and when this project is done, it  
9           will have what was approved. Nothing in the  
10          plans and nothing that was done changes that  
11          finished final product.

12          CHAIRMAN BURRIS: The finished product,  
13          you're correct, isn't changed. But what is  
14          changed is the reason we gave a variance for  
15          that finished product was because the structure  
16          itself was there and being elevated.

17          MR. ROSS: May I say something?

18          CHAIRMAN BURRIS: Yes.

19          MR. ROSS: The second floor was never to  
20          remain. It was all new floor joists on the  
21          second floor. So the whole house was to be  
22          demoed. All the walls were to be demoed except  
23          for one wall downstairs, two or three walls  
24          downstairs.

25          MEMBER SHERMAN: That's our issue. The

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1 plans that we saw were these that are dated, as  
2 I said, February 8th, 2022. There were  
3 revisions of the plans that were made after  
4 that. There were revisions of the plans that  
5 were made up to, I think, just prior to the  
6 initial ZBA review, hearing on the variances and  
7 this Board wasn't afforded the opportunity to  
8 look at those plans.

9 ATTORNEY BERTOLINO: Mr. Sherman, if I may.  
10 What may have been submitted in those revised  
11 plans may not be within the purview of the  
12 Board. I would submit to the Board if something  
13 that was changing in the plans, such as, we want  
14 to build a bigger deck. We want to build two  
15 more feet higher. That 100 percent should have  
16 come back before the Board. But saying whether  
17 or not I'm going to use an eight-foot two by  
18 four or a 10-foot two by four or 10-inch floor  
19 joists versus eight-inch floor joists is not  
20 necessarily in the purview of the Zoning Board  
21 but more in the purview of the building  
22 department and the building inspector.

23 MEMBER SHERMAN: I agree with you. The  
24 difference here is that if we would have seen  
25 the construction plans and we saw that the

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1 floors and roof were being moved, there may have  
2 been other questions prior to us approving the  
3 variances. Those questions could have led to  
4 the decisions being different and that's why  
5 we're here.

6 ATTORNEY BERTOLINO: And I understand that.  
7 So let me put it to you in the simple way that  
8 I'm looking at it, right? You've approved a  
9 footprint, a square footed footprint meaning  
10 setbacks, what we're doing and an overall height  
11 and saying, yes, even with respect to the  
12 elevation, not the same height. Elevation is,  
13 well, what does it look like, right? And that's  
14 the chamfered wall. That's what was before the  
15 Board. That's what the Board approves. What,  
16 in my view, was never before the Board is how we  
17 do it.

18 If we choose to take the second floor off  
19 and move it to the side and then put all new  
20 floor joists back and then bring the second floor  
21 back and put it on the new floor joists, that's  
22 up to us. If we choose to use a two by six  
23 versus a two by eight in a wet wall, that's  
24 between us and the building department.

25 CHAIRMAN BURRIS: We don't disagree.

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1           ATTORNEY BERTOLINO: To Mr. Karalis' point  
2 of this is what I see in the plans, we have  
3 always submitted that we want to get to this  
4 point and we plan on accomplishing that goal by  
5 doing it this way. But none of those scenarios,  
6 to me, is in the purview of the Board. I don't  
7 think the Board gets to look and say, well, if  
8 you're going to rebuild, you can't replace the  
9 second-floor joists. Right? You're not allowed  
10 to do that. That would be up to building  
11 inspector to say, hey, look, if I've got a first  
12 floor and a second floor and we don't believe  
13 that the second floor is properly supported as  
14 to today's code, we're gonna take the second  
15 floor up a foot. We're going to put new floor  
16 joists in and put it back. I don't think that  
17 that's what the Board looks at. The Board looks  
18 at it and says, when you're done with all that  
19 building and inspections by the building  
20 inspector, what's it going to look like, how  
21 does it meet the code, area variances, or use  
22 variances if there are any. And that's why  
23 we're splitting hairs over how we got to the  
24 point of what the Board approved.

25           MEMBER SHERMAN: It's just important to us

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1 to have that clarification, how we got to that  
2 point because we believe that given other  
3 information and that other decisions may have  
4 been made. Again, the only way we could ever  
5 determine that is by rehearing this. Looking at  
6 all the information. Looking at all the sets of  
7 plans, as opposed to the ones dated February  
8 2022.

9 CHAIRMAN BURRIS: What I would like to do  
10 is open it up to the community at large. One of  
11 the reasons I want to do that is because I  
12 recall when we had the meeting, one of neighbors  
13 was upset about possibly losing their view.  
14 Actually, both the neighbors were upset about  
15 that. And in the record I saw they were told,  
16 no, it will go up two feet and only two feet.  
17 It didn't only go up two feet. It went up more  
18 than two feet between the FEMA lift and the new  
19 structure.

20 MR. GRAHAM: I totally disagree.

21 CHAIRMAN BURRIS: Okay. If I'm wrong, I'm  
22 wrong.

23 MR. GRAHAM: Otherwise, we would have had  
24 to request a height variance.

25 CHAIRMAN BURRIS: No, no, no. I'm not

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1 saying you violated height restrictions. I'm  
2 saying that it went up more two feet.

3 MR. GRAHAM: I do not believe that to be  
4 the case at all.

5 ATTORNEY BERTOLINO: Here's the play on  
6 words, Mr. Burris. Saying something is going up  
7 two feet, as we all know, we have seen houses  
8 lift up and down for the last ten years, right?  
9 You lift up, put aside, you rebuild, you put  
10 back, and you put down. Us going up two feet,  
11 the presentation to the Board and now is saying,  
12 our current top elevation is ten and when we're  
13 done, we're going to be at 12. That's the  
14 definition in our view of we're raising  
15 two feet.

16 CHAIRMAN BURRIS: Wait. Are you saying  
17 your top elevation from the floor plate?

18 ATTORNEY BERTOLINO: From what was  
19 existing, the top elevation, to what is now  
20 existing. So preexisting versus what's sitting  
21 there now --

22 CHAIRMAN BURRIS: Two feet in total.

23 ATTORNEY BERTOLINO: Two feet in total.

24 CHAIRMAN BURRIS: And whether that two feet  
25 is comprised of the poles being two feet longer

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1 or the ceiling heights being two feet longer,  
2 you're saying this house is only two feet higher  
3 than it was before?

4 ATTORNEY BERTOLINO: Yes. Whether we do it  
5 by the pole, but, of course, we have to comply  
6 with FEMA first-floor elevations and then what  
7 we do to get to the finished height as far as  
8 construction materials, whether it's a two by  
9 eight and a two by ten or anything else.

10 CHAIRMAN BURRIS: I'm talking about the  
11 neighbor nextdoor. From their roof deck now,  
12 you're looking at a wall and a house.

13 MR. GRAHAM: I would like to clarify that.  
14 David Scharf is my dentist. I sat in his  
15 dentist chair and talked about this application  
16 for months, prior, with my mouth open and  
17 getting probed. Not only did I talk to him  
18 about the project, I shared the construction  
19 drawings with him, so the neighbor was well  
20 aware of what was going on.

21 MR. SCHARF: This is David Scharf. Can I  
22 speak?

23 MEMBER SHERMAN: Please.

24 MR. SCHARF: David Scharf, 72 Bungalow  
25 Walk. I'm the neighbor to the south, to the

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1 north rather.

2 Glenn met with me in my office. Do you  
3 remember the date, Glenn? It was sometime in  
4 June or May. I specifically asked you how much  
5 the house was going up, and you said 18 to  
6 24 inches. You went so far as to say that we're  
7 going to move the rooftop deck to the south so it  
8 doesn't block my view as much. And you said that  
9 if I want a cable railing or a glass railing that  
10 you would put that in so as not to obstruct the  
11 view. You were very clear that it went up 18 to  
12 24 inches.

13 Now what I hear you saying is that it's  
14 going up 18 to 24 inches from the new first-floor  
15 elevation, which is substantially higher than it  
16 was. So can you clarify exactly what you meant  
17 because you said that to us on two separate  
18 occasions.

19 MR. GRAHAM: We did not raise this house  
20 any more than we had to to meet FEMA, which is  
21 somewhere in the two, two-and-a-half feet range.  
22 We do recall and thank you, you came and  
23 supported us at the application that day, and  
24 we're not building anything different than what  
25 was originally approved. This all started

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1 because it was unforeseen rot in the house. I  
2 mean, we are building the exact same house that  
3 was approved by this Board.

4 MR. SCHARF: You're answering the question  
5 in a round about way. So let me be very clear.  
6 Before construction, if we picked a fixed  
7 reference point on the ground that was immovable  
8 and then after construction, is the highest  
9 member of this house, the top of the railing  
10 only going to be 18 to 24 inches higher than the  
11 measurement from that fixed reference point  
12 before we started?

13 MR. GRAHAM: Yes, I believe that to be  
14 true. My plans call out, the plans that were  
15 approved by the building department, a maximum  
16 height of this house at 24 feet from the  
17 finished floor elevation, which is the Village  
18 code. We are not exceeding that. That height  
19 is from the lowest floor level to the top of the  
20 handrail that is on the roof deck.

21 MR. SCHARF: I'm not talking about the  
22 lowest floor level. I'm talking about a fixed  
23 reference point on the ground because if you're  
24 saying it would only be 24 inches from the  
25 lowest floor level and you're moving the floor

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1 level then what you told me was not accurate.

2 MR. POLLACK: And me as well. No one ever  
3 told us it going to raised nine feet high.

4 CHAIRMAN BURRIS: Please announce your  
5 name.

6 MR. POLLACK: Mitch Pollack. No one ever  
7 said at the last meeting that it was going to be  
8 nine feet off the ground for the first floor.

9 ATTORNEY BERTOLINO: If I can,  
10 Mr. Chairman.

11 Mr. Chairman, I understand there's  
12 confusion, misunderstanding with surrounding  
13 members. However, what the applicant is required  
14 to do is to submit a set of plans to comply with  
15 code, whether it's State code, Village Code, or  
16 FEMA, federal elevations, right? Pretty much  
17 everyone in this room can agree we know what FEMA  
18 is. There are different levels of FEMA depending  
19 on where you are located even on this small  
20 island. You can be closer to the ocean and have  
21 one elevation at FEMA and you can be at the other  
22 end of the island, north and south, and have a  
23 different elevation. Village code calls out  
24 24 feet above your first floor FEMA elevation.  
25 Because of the first floor FEMA elevation on the

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1 ocean may be higher than that on the bay, a  
2 24-foot structural dwelling would appear and, in  
3 fact, be higher on the ocean than it would be on  
4 the bay. Assuming the ocean may have a 13-foot  
5 first-floor elevation and the bay may have a  
6 nine-foot first-floor elevation. Therein lies  
7 the difference, but we are code compliant and I  
8 would hope that the Board understands that when  
9 we submit an application and say we're going to  
10 24 feet from first floor elevation, we're not  
11 hiding anything.

12 MR. POLLACK: Yes, you did.

13 ATTORNEY BERTOLINO: We're complying with  
14 FEMA code and the Village code.

15 MR. POLLACK: That never came up at that  
16 last Zoning Board of Appeals hearing that the  
17 house was going to be nine feet high.

18 ATTORNEY BERTOLINO: It never came up  
19 because it is not --

20 MR. POLLACK: Off the ground.

21 ATTORNEY BERTOLINO: Excuse me, sir. It  
22 never came up because it's not a Zoning Board  
23 question. We complied with the Zoning Board,  
24 I'm sorry, we complied with the zoning code with  
25 respect to both aspects of FEMA and the

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1 elevation of the building when it's complete  
2 above the first floor elevation.

3 MR. GRAY: Ken Gray here, can I chime in?

4 ATTORNEY BERTOLINO: Please.

5 MR. GRAY: Ken Gray. I agree, it is FEMA  
6 elevation and I think it's FEMA elevation plus  
7 two feet. Then we get to the Village code of  
8 what the highest point is allowed to be, which  
9 is I think 24 feet. And the Village code has  
10 this issue on whether or not it's a pitched roof  
11 and what the pitched roof is or whatever. I  
12 believe it's FEMA elevation plus two. They give  
13 an extra two feet. And I agree that it was not  
14 in front of the Zoning Board because they were  
15 not asking for a variance, for any height  
16 variance because they didn't need any height  
17 variance.

18 CHAIRMAN BURRIS: Mr. Gray, I agree with  
19 you, and I agree with Mr. Bertolino that a  
20 height variance was not needed here and that was  
21 not before us.

22 However, as we look at the total of all the  
23 variances, we take into account the situation.  
24 In other words, although a height variance wasn't  
25 needed here, the variance was needed to put up

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1 the roof deck. And had we known, perhaps we  
2 wouldn't have said, yes, you can put up the roof  
3 deck. I'm looking through the transcript of the  
4 hearing and --

5 MR. GRAY: I'm sorry, Mr. Burris. I want  
6 to be clear. I believe the rooftop deck,  
7 although, pursuant to our Village code now, was  
8 a legal, preexisting, nonconforming structure,  
9 correct?

10 CHAIRMAN BURRIS: Correct, but it was  
11 moved. So when that roof deck was removed and  
12 demolished, well, forget about the demolished.  
13 Even if you had lifted the house, as opposed to  
14 demolish the house, it was put in a different  
15 location. So as such, it wasn't a nonconforming  
16 use and we granted a variance for it.

17 ATTORNEY BERTOLINO: Mr. Burris, if I may.  
18 We discussed at the last hearing that the roof  
19 deck would be moved and I believe us moving it  
20 was at the request of Mr. Scharf, who lies just  
21 behind the house. So to say now, well, it was  
22 moved, we all knew it was moved and --

23 CHAIRMAN BURRIS: And we said it was okay  
24 to move it. I agree with you.

25 ATTORNEY BERTOLINO: Now it comes back to

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1 the question if we're replacing girders and roof  
2 joists and floor board members, the end result  
3 is that we built and are building what was  
4 approved and I want to be clear. It's  
5 frustrating on our side because we did not hide  
6 anything and I understand that that may be  
7 difficult for some people to believe even before  
8 today or after today, but we presented  
9 everything to the building department and to the  
10 Zoning Board that we believed the Zoning Board  
11 has the purview to review, needed to review.  
12 The Board reviewed it extensively on site and at  
13 the hearing. The public came. I apologize, but  
14 if the public doesn't understand FEMA elevations  
15 and Village Code, I can't tell them what  
16 questions to ask.

17 MEMBER SHERMAN: That's not true.

18 ATTORNEY BERTOLINO: No, not you. I didn't  
19 say the Board. I said the public.

20 MEMBER SHERMAN: That's not at question.  
21 If an explanation like that needs to be made, we  
22 can make that to the public. That's not the  
23 point. The thing that the Chairman is saying,  
24 which I agree with, is the roof deck had to be  
25 moved. It was being moved also for the benefit

1 of the neighbor to the north. If we would have  
2 had the knowledge that that roof deck was going  
3 to be higher than the plans that were presented  
4 before us, we may have thought differently about  
5 granting the variance.

6 ATTORNEY BERTOLINO: But, Mr. Sherman, the  
7 roof deck is not higher than what was presented  
8 to you. That was our point.

9 MEMBER SHERMAN: So that's the point we  
10 want to make clear. The reason why we're  
11 rehearing this is for clarification. You know,  
12 we just want to make sure that the way the  
13 decisions were made, that they were made with  
14 information that was proper to those decisions.  
15 If there were other information that we are  
16 unaware of at the time that the Board made the  
17 decision, we have to ask those questions.

18 ATTORNEY BERTOLINO: I understand. Excuse  
19 me, sir. But the premise that the roof deck is  
20 now higher than what was presented, to me, is  
21 incorrect.

22 MEMBER SHERMAN: Okay.

23 MR. POLLACK: Can I say a few things,  
24 please?

25 MEMBER SHERMAN: Just state your name.

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1           MR. POLLACK: Mitch Pollack. First of all,  
2 I am one of the neighbors that was affected by  
3 the so called chamfer movement. At the time  
4 that we looked at the property, the chamfer  
5 faced the ground floor of my house, and now, if  
6 you'll see in this picture (holding a  
7 photograph) the height of the ground floor is  
8 directly in front of my second-floor deck.  
9 Okay? I never would have agreed to that if I  
10 had known it was going to be an entire floor.  
11 You can barely see the chamfer. This is taken  
12 from my deck. That's the chamfer over there  
13 (indicating). It completely blocks my view. It  
14 was supposed to be one floor down.

15           At the time of the Zoning Board of Appeals  
16 hearing, no one said, oh, by the way, it's going  
17 to be at the height of your second floor, not  
18 your first floor. I never would have agreed to  
19 that, and I doubt if Mr. Scharf would have agreed  
20 to that either. Neither of us understood that  
21 the house was going to be built nine feet high.

22           Second of all, the house, I was there the  
23 day -- this attorney, I forget your name,  
24 Bertolino?

25           ATTORNEY BERTOLINO: Yes.

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1           MR. POLLACK: Okay. You were trying to  
2 imply that the building inspector knew about  
3 this prior to the house being demolished. I  
4 don't believe that to be true because I was  
5 there the day he rode up and the demo guys were  
6 there and he got off his bike and said to them,  
7 couldn't you save any of the house? And they  
8 said, no, it wasn't saveable.

9           In addition to that, you implied that the  
10 owner had no idea of the condition of the house  
11 inside the walls. I find that to be completely  
12 unbelievable. He had a deck that was hanging off  
13 by a nail. He had mold everywhere. The whole  
14 house was falling down. For you to say that he  
15 didn't notice it? That's impossible.

16           Now, I have a question about a handicap  
17 ramp. Isn't that required?

18           CHAIRMAN BURRIS: I can't answer that.  
19 That's a building inspector question.

20           MR. POLLACK: When a new house is built.  
21 New house.

22           MR. MANDARINO: No, no, Mike Mandarino, no.

23           MR. POLLACK: Okay. Thank you.

24           ATTORNEY BERTOLINO: For the Board, just so  
25 I can address the comments from Mr. Pollock.

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1           What I'm representing to the Board is  
2 exactly what Mr. Mandarino, the Building  
3 Inspector, set forth. I was not present. I  
4 can't tell you the time of day, the day of the  
5 week, or even the month.

6           MR. POLLACK: You know for a fact.

7           ATTORNEY BERTOLINO: I defer to the  
8 building inspector who set forth to this Board  
9 that he visited the site numerous times. He  
10 inspected it. What I presented to this Board  
11 was the building inspector was fully aware of  
12 what was going on on that site. The applicant  
13 proceeded to construct what he was offering and  
14 renovating, albeit, to a greater extent than we  
15 originally thought. All under the supervision  
16 of the building inspector and under the issuance  
17 of the building permit and if the Board has  
18 more, we'd certainly address it. But otherwise,  
19 I submit to this Board at this point in time,  
20 the applicant would clearly suffer a huge  
21 economic detriment, as well as noneconomic loss  
22 if this Board were to revoke what was previously  
23 permitted and approved by this Board. And I  
24 think we're almost, seems like we're almost  
25 done, but I will obviously address any other

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1 questions or concerns that the Board has.

2 CHAIRMAN BURRIS: Mr. Bertolino, I'm  
3 reading the transcript from the hearing, and on  
4 page eight or is it ten, on line 23.

5 "We're Looking to raise the house to current  
6 FEMA levels."

7 This is a quote from you.

8 "We're looking to raise the house up to  
9 current FEMA levels, so the entire structure will  
10 come up about 18 inches to two feet depending on  
11 your perspective."

12 So what I think that the neighbors believed,  
13 and certainly I would have too from hearing this,  
14 was that with the FEMA lift it was only going to  
15 raise the peak of the roof or the peak of the  
16 roof deck two feet. That's clearly not the case,  
17 though. Can we establish that?

18 ATTORNEY BERTOLINO: Just reading that one  
19 snippet in the transcript, I would agree with  
20 you. However, we're raising it to FEMA, and the  
21 entire structure is going to be two feet higher.  
22 How that's interpreted, again, without --

23 CHAIRMAN BURRIS: Two feet higher after  
24 reaching the FEMA level is what you're saying.  
25 So it's really --

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1           ATTORNEY BERTOLINO: Yeah. And, again, as  
2 pointed out by Mr. Mandarino and the Board, we  
3 weren't asking for an area variance so we didn't  
4 present any more information and I didn't hear  
5 any questions at that time. Perhaps there was a  
6 misunderstanding back and forth.

7           CHAIRMAN BURRIS: Certainly, I can  
8 understand how the neighbors believed it was a  
9 two feet increase and I certainly would have  
10 believed the same and I think that's why the  
11 neighbors probably --

12           MR. POLLACK: We're pissed. I just want to  
13 remind you that this is a new construction.  
14 This is not a renovation. There's no part of  
15 the old house left.

16           CHAIRMAN BURRIS: We understand but for a  
17 couple of two by fours in this picture. I think  
18 we need to take a recess, have an executive  
19 session. We're running in circles. David, you  
20 want to say something?

21           MR. SCHARF: May I say something?

22           CHAIRMAN BURRIS: Yes.

23           MR. SCHARF: Since I'm affected more than  
24 anybody, I just want to make a few  
25 clarifications.

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1           Mr. Bertolino, the roof deck wasn't moved at  
2 my request at all. That's number one.

3           Number two, Glenn Graham was very clear. I  
4 mean, as a novice, I wouldn't ask how high is the  
5 house going up. It's absurd to think that as a  
6 novice I would know that it's going to go up 18  
7 to 23 inches after the FEMA increase. I think  
8 that was intentionally unclear because if you  
9 told me it was going up two feet plus FEMA,  
10 another six feet to eight feet to completely  
11 block my view, my support for the project at the  
12 previous hearing would have been different and I  
13 suspect that's the same case for Mitchell  
14 Pollock.

15           So I suggest to the group in the future,  
16 when these people come before you asking for  
17 another variance, I would suggest that you dig a  
18 little deeper. I had one chance to do this, and  
19 now my view is gone forever. I would suggest to  
20 the Board that you dig a little deeper when you  
21 get an answer from them for tremendous  
22 clarification because I can't imagine Glenn  
23 Graham wanted, was asking, you know, felt that my  
24 questions was, is it only going up two feet from  
25 the floor level. Any reasonable novice would

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1 think it's the top of the roof. You know, I just  
2 think that's an absurd statement.

3 The next thing I'd like to know from Mr.  
4 Mandarino, the Building Inspector, was did he  
5 actually inspect the rot? Or did he make the  
6 approval to take down the structure based on a  
7 few photographs he got from the builder?

8 MR. MANDARINO: I made that clear during my  
9 prior -- this is Mike Mandarino. I made that  
10 clear several times that I inspected that site  
11 every day that I'm there and I actually went  
12 down to the site and I practically put my  
13 fingers through the plywood. Yes, I made that  
14 clear earlier.

15 MR. SCHARF: Thank you.

16 So can I just get an answer from Glenn  
17 Graham or Mr. Bertolino? Because you keep going  
18 back to the answer was, well, what was built was  
19 what was on the plans. Which is not the answer  
20 to my question. Which is whether or not you  
21 thought I was asking is the top of the building  
22 only going up two feet, or is it going up two  
23 feet from where the new floor level is? To  
24 answer that question to say, we built what's on  
25 the plans, that is intentionally unclear and it

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1 leads me to believe that you knew that you were  
2 being, not telling the complete truth. You  
3 weren't lying, but you weren't telling the  
4 complete truth and that influenced my decision  
5 and Mitch Pollack's decision. So could someone  
6 that, please?

7 ATTORNEY BERTOLINO: I will address that,  
8 Mr. Scharf. I will tell you, I don't know you  
9 other than representing you on the purchase of  
10 your home or sale, and you are not important  
11 enough to me to lie to. Okay? So don't accuse  
12 me in public, on the record of lying to this  
13 Board. I did no such thing.

14 I will tell you if you do not have an  
15 understanding of the difference between FEMA  
16 elevations, that is not my fault. If somebody  
17 had asked me a specific question at the time of  
18 the initial hearing, I would have answered it. I  
19 would have answered it and presented it  
20 truthfully, but do not, under any circumstances,  
21 cast dispersions upon my character and tell this  
22 Board in public that I have lied. You are not  
23 important enough for me to lie to. Understood?  
24 Have I addressed it?

25 CHAIRMAN BURRIS: I think we can move on.

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1           MR. SCHARF: I wonder if Glenn Graham could  
2 answer that question well.

3           MR. GRAHAM: Glenn Graham. My  
4 understanding today is that the -- and let's all  
5 talk about the house in general. This was a  
6 three-story home. We removed the lower level.  
7 We have pictures from 1977 showing that lower  
8 level. So FEMA is established from the lowest  
9 first floor. Which in this case, this house has  
10 a living room that has a three or four step up.  
11 So this house as it exists today is only about  
12 two feet higher than that original lower level  
13 living room. That lower level, and we can prove  
14 this by giving you the old surveys compared to  
15 today's surveys showing the lower level slightly  
16 below FEMA. We only had to lift the house that  
17 extra two feet to comply to FEMA. This is --

18           CHAIRMAN BURRIS: Were any of the ceilings  
19 raised in addition --

20           MR. GRAHAM: Excuse me, Mike?

21           MR. MANDARINO: Maybe I can clarify this.  
22 We seem to be stuck on how much the house  
23 actually went up from the original house. Now  
24 the original house was three stories. If you  
25 remove that basement level, the first floor was

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1           how high grade on the old house?

2           MR. GRAHAM: Yeah, probably seven feet  
3           depending where you stood on the site.

4           MR. MANDARINO: Yeah. The house actually  
5           went up two feet and as I look at it, I'm trying  
6           to picture in mind the old house versus the new  
7           house. If it did go up, it couldn't have gone  
8           up more than two feet because that first floor  
9           was already seven, eight feet off the ground and  
10          that's included in the FEMA. Does everyone  
11          understand that? Once you take the old house  
12          and you remove the basement, that's all open  
13          space. That first floor was only raised an  
14          additional two feet.

15          MR. POLLACK: May I speak?

16          MR. GRAHAM: I agree, Mike.

17          MR. POLLACK: May I say something? Joel?

18          CHAIRMAN BURRIS: Yes.

19          MR. POLLACK: Mitch Pollock, again. When  
20          Mr. Bohlsen bought the house, there was no  
21          basement floor. That house, during Hurricane  
22          Sandy, sand washed over it and buried that  
23          entire lower floor.

24          MR. MANDARINO: Not an issue.

25          CHAIRMAN BURRIS: You know, we established

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1           that the basement wouldn't be included. At one  
2           point, I believe, even before the plans were  
3           submitted, there was discussion about raising it  
4           and creating what I viewed as a three or  
5           four-story house. And Mike and I caucused and  
6           agreed, no, that they were not to build a  
7           three-story house. And I think Glenn is nodding  
8           his head. Glenn agreed with that. Okay? So we  
9           viewed this as being a two-story house being  
10          lifted, not a three-story house and that wasn't  
11          the way it started. Mike was right on top of  
12          that issue.

13                 I'd like to ask Mr. Ross a question, if I  
14          can. When I look at these pictures, I see  
15          tremendous equipment on the site from when the  
16          pictures started to be taken. I see poles being  
17          on the site. Typically, when you're lifting a  
18          house, you use cribbing. I understand you could  
19          move it to another location, but you don't jam it  
20          full of poles because you can't get under every  
21          portion of the house. So am I correct? You kind  
22          of splice together poles because you can't lift  
23          the house 20 or 30 feet in the air?

24                 MR. ROSS: No. Our intention was to move  
25          the house towards the dune, put the poles in,

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1           move the house back to the north, put the rest  
2           of the poles in, and then shift it back to the  
3           south.

4           CHAIRMAN BURRIS: So your intention was  
5           when you signed the contract to do this, your  
6           intention and your contract was based upon  
7           elevating the existing structure, not building a  
8           new structure.

9           MR. ROSS: Yeah, and the poles were never  
10          to be spliced. The poles were always 30 some  
11          foot poles.

12          CHAIRMAN BURRIS: And I assume that the  
13          cost of building a house is different whether  
14          you're rebuilding a house or altering. Probably  
15          because rebuilding a house is probably less  
16          expensive because altering becomes outrageously  
17          expensive and lifting it. I don't want you even  
18          to answer that because I think that, I'm  
19          assuming that you changed your contract and your  
20          price structure.

21          MR. ROSS: I had to charge an additional  
22          price to the owner for more lumber and all the  
23          rotted lumber that was going to be saved, which  
24          we now had to replace, yeah.

25          CHAIRMAN BURRIS: Do you agree this is

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1 substantially a new house?

2 MR. ROSS: It was always, but I agree, it  
3 was always, if you look at the plans, every wall  
4 was new. Every exterior wall was new. Every  
5 interior wall was new. There was half the floor  
6 joists on the first floor were all new. So  
7 everything was basically new on this house when  
8 it was submitted, except for a few walls here  
9 and there and some floor joists.

10 CHAIRMAN BURRIS: Ken, please stop me if  
11 I'm out of line on this.

12 What I'm getting at, it's not going to  
13 affect how we vote or at least how I vote. What  
14 I'm getting at is that houses are taxed  
15 differently if it's a new house versus an old  
16 house.

17 MR. ROSS: Correct.

18 CHAIRMAN BURRIS: And because you left  
19 20 feet of two by four in this house, is it fair  
20 for this house to be taxed at a different level  
21 than other houses? Or is there some way,  
22 Counselor Ken, that we can view this, if it gets  
23 approved, that we can view this as a new house  
24 so it gets on the tax rolls?

25 MR. GRAY: Joel, Joel, Joel. Mr. Burris,

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1 Ken Gray speaking. How it gets assessed is  
2 based upon the Village assessor on how the house  
3 is situated as of January 1 of every year. So  
4 they get evaluated based on any renovations or  
5 whatever word you want to use, but it's based  
6 upon the condition of the house as of January 1  
7 of every year.

8 CHAIRMAN BURRIS: Is there not --

9 MR. GRAY: The assessor doesn't make a  
10 determination whether or not you have marble or  
11 tile or whether you have gold plated garbage  
12 cans or anything like that. So that is not an  
13 issue on with taxation.

14 CHAIRMAN BURRIS: Okay. What I was getting  
15 at --

16 MR. GRAY: And that is not in the purview  
17 of the Zoning Board.

18 CHAIRMAN BURRIS: Okay. I told you to stop  
19 me because it probably wasn't.

20 MR. POLLACK: Joel, I have one more  
21 question. Is it possible that we can see, in  
22 person, where, what pieces of the hold house are  
23 incorporated into the new structure? Can we go  
24 up there and be shown? Because I don't believe  
25 there's any of the old house in there.

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1 CHAIRMAN BURRIS: I think that Mr. Ross  
2 will acknowledge what pictures are showing --

3 MR. KARALIS: (Showing picture.)

4 MEMBER SHERMAN: Unfortunately, as Mike  
5 Mandarino has said, it's almost entirely  
6 irrelevant what's left of the old house in the  
7 new house. It's irrelevant.

8 CHAIRMAN BURRIS: The house is built.

9 MEMBER SHERMAN: I do want to read  
10 something from the record that Mr. Bertolino had  
11 stated. I only want to read this because I want  
12 you to understand how the confusion, not just on  
13 the part of the public, but also on the Zoning  
14 Board could have taken place because of the FEMA  
15 plus two versus the two feet.

16 From the record Mr. Bertolino:

17 "Mr. Chairman, that is a good recitation of  
18 what's happening."

19 I'm not going to go back to that. I didn't  
20 delve into that because you initially said in a  
21 short statement, yes, that's exactly what's  
22 happening and here's what you're saying.

23 "Two-story home maintaining the roof deck at  
24 its current level. I should say we're not  
25 stepping it up higher than that. The whole house

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1 will be raised two feet so it will become  
2 two feet higher, but you won't be on the roof and  
3 then climbing higher than that."

4 The Chairman responded just stating, "Would  
5 you please restate or repeat 'two stories without  
6 a basement.'"

7 So there were some statements that were made  
8 that could cause confusion, and I understand that  
9 we're not looking at a request for a variance for  
10 height. But we are looking at a request for the  
11 roof deck and if the roof deck would have had the  
12 substantial obstruction to the neighbors that  
13 we're now aware of, we may not have voted the  
14 same way.

15 ATTORNEY BERTOLINO: Mr. Sherman, I  
16 appreciate that. I don't recall that,  
17 obviously, from that many months ago. But  
18 hearing it, sounds to me as though I'm  
19 explaining that here is your flat roof and we're  
20 not climbing up on top of that. Again, just  
21 knowing the project and knowing what I was,  
22 believing what I was explaining and I say it.  
23 We have a flat roof. Roof deck will remain  
24 here. We're not climbing up. I know  
25 Mr. Scharf's roof deck. You got on the

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1 staircase and you climb up to the roof deck.  
2 This roof deck is on top of the flat roof and I  
3 believe, if you read that again, it says, we are  
4 raising the house two feet and the roof deck is  
5 flat. We're not climbing up above that. Again,  
6 if somebody had a concern then I would have  
7 addressed it.

8 MEMBER SHERMAN: Absolutely. I think the  
9 point is that and I certainly recall the  
10 conversation in the room. Everyone in this room  
11 was under the impression that the house was  
12 going to be raised two feet from where it is  
13 now. In that statement, there was no comment  
14 of, yes, we're going FEMA plus two. To make  
15 anyone here believe that we were looking at  
16 really what's FEMA height plus two feet, and,  
17 so, you know, I just want to point out to you  
18 where the confusion may have lied (sic)  
19 regardless to what happens at this point as far  
20 as decisions on the variances. But that might  
21 have been the point.

22 CHAIRMAN BURRIS: If we're done with  
23 comments --

24 MR. GRAHAM: Can I just clarify the height?  
25 The existing house had eight-foot ceilings. You

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1 had one-foot or so of floor pack. So you take  
2 the eight-foot ceilings and the floor pack then  
3 you add on the roof deck. The existing house  
4 was just about at height limit at 24 feet. We  
5 took that house, or the intention was to take  
6 that same house and lift to it two feet to meet  
7 FEMA and we're still winding up, the approved  
8 plans are at 24 feet. So it was never --

9 MEMBER SHERMAN: We're not talking about  
10 the structure.

11 MEMBER KARALIS: Time out. It's 22 feet  
12 for flat roofs, not 24 feet.

13 CHAIRMAN BURRIS: I know where we are.  
14 It's not a comfortable situation for any of us.  
15 The house is built. What isn't done yet is the  
16 roof deck and the mechanicals that were going to  
17 go up there. Can we have some type of  
18 explanation as to how you are going to be able  
19 to prevent the mechanicals from interfering with  
20 the neighbor?

21 MR. ROSS: The mechanicals are not going on  
22 the roof.

23 MR. GRAHAM: That was one of the things  
24 brought up at the last hearing.

25 MEMBER SHERMAN: It was, but in the record,

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1           there was conversation about the mechanicals  
2           being on the roof but in no way to interfere  
3           with the Scharfs.

4           CHAIRMAN BURRIS: In fact, reasonable best  
5           efforts was I think what I said.

6           ATTORNEY BERTOLINO: I'm going to defer to  
7           Glenn on that, Mr. Chairman and Mr. Sherman. My  
8           recollection, and I just asked John Ross, is  
9           that the mechanicals were agreed to go on the  
10          west side of the structure and not on the roof.

11          MR. ROSS: And they're down low, finished  
12          first-floor level, yeah.

13          CHAIRMAN BURRIS: So they're between the  
14          Scharf's house and then this house?

15          MR. ROSS: No, that would be the north  
16          side. They're on the west side.

17          MR. GRAHAM: And on the approved plan, it's  
18          showing the air-conditioning platform on the  
19          west side of the house. So we did take into  
20          consideration the mechanicals. We're also  
21          taking into consideration Mr. Scharf's request  
22          for wire railings to not block their view  
23          instead of doing solid. We're not trying to  
24          play games with anybody here. We're sympathetic  
25          to what --

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1           CHAIRMAN BURRIS: Having been up to  
2 Mr. Scharf's roof, it's not going to matter.  
3 Although, I appreciate you're doing wire  
4 railings. It's so far above Mr. Scharf's house  
5 that --

6           MEMBER SHERMAN: Member Karalis has  
7 something to --

8           MEMBER KARALIS: I would like to make a  
9 recommendation. On that northeast corner where  
10 the staircase is going up to the roof, there is  
11 now a totally solid wall that goes to the height  
12 of the railing on the roof. It would be well  
13 appreciated if you would actually modify that to  
14 (inaudible) and lower the second flight of the  
15 staircase because you're now above the landing.  
16 So that the view from the north side, the view  
17 will be open. As I think could be also for  
18 people coming from inside the house going out to  
19 the roof. When they go out that door on the  
20 north side, instead of looking at a solid wall,  
21 there would be railing continuous from the --

22           MR. GRAHAM: That's an acceptable  
23 compromise. The only reason it was designed --

24           MR. KARALIS: It will make conditions  
25 better for everyone concerned and the neighbors

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1 to the north.

2 CHAIRMAN BURRIS: Can you explain to us, if  
3 this is the house we're talking about, which  
4 wall? This whole wall (indicating)? Is it just  
5 this piece of it?

6 (Multiple conversations at once.)

7 CHAIRMAN BURRIS: I'm going to make a  
8 motion, which I guess we have already done, to  
9 go into executive session. Everything is off  
10 the record for the past five minutes,  
11 approximately. Anybody want to second?

12 MEMBER SHERMAN: Second.

13 CHAIRMAN BURRIS: Anybody opposed?

14 (No verbal response given. The Board went  
15 into executive session at 2:06 p.m. and called  
16 the meeting back to order at 2:17 p.m.)

17 CHAIRMAN BURRIS: We're out of executive  
18 session. I want to call the meeting back to  
19 order.

20 First of all, I thank everybody for bearing  
21 with us and putting up with this lengthy hearing,  
22 as was the last one, which was seven hours, which  
23 was the one that determined that we rehear this.

24 Are there any members of public that haven't  
25 spoken that would like to speak? And if not, I'm

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1 going to make a motion and see if we can resolve  
2 this in a manner that's amicable to everybody.

3 Is there anybody listening? Any members of  
4 the public?

5 (No verbal response given.)

6 No? Okay.

7 Ken, are you on?

8 MR. GRAY: I'm here.

9 CHAIRMAN BURRIS: And Jeremy, are you on?

10 MEMBER CONWAY: Yes, I am.

11 MR. SCHARF: Excuse me, Joel. I just need  
12 clarification on exactly where the mechanicals  
13 are going on the west side of the building? The  
14 northwest corner for the house is just outside  
15 of my bedroom window, so can I get  
16 clarification --

17 CHAIRMAN BURRIS: Yes. We discussed that  
18 with the architect as well as with the builder  
19 and do you want to, Glenn, do you want to  
20 specify where they're going? We're assured that  
21 they're moved away from the bedroom.

22 MR. GRAHAM: The approved plans show the  
23 air conditioning system on the west middle  
24 portion of the house. We have about four to  
25 five more feet we can move it south before we

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1 hit into a window, so we will move that air  
2 conditioning as far south as practical. But  
3 right now, it's in the middle of the house. It  
4 would be one-third from the south.

5 CHAIRMAN BURRIS: Is the platform the level  
6 of the window or is it below the window?

7 MR. GRAHAM: It's slightly below the  
8 window, but it has to be at FEMA, so we don't  
9 want it to be in front of the window, so --

10 CHAIRMAN BURRIS: I guess what I'm getting  
11 at is if it has to bother either the Scharfs or  
12 the Bohlsens, since it's the Bohlsen's system,  
13 it should bother the Bohlsens. So get it as far  
14 away and right up to the window, I guess. Is  
15 that fair?

16 MR. GRAHAM: Yes.

17 CHAIRMAN BURRIS: Okay?

18 With no further comments from the public,  
19 I'd like to make a motion, which Ken is going to  
20 articulate.

21 MR. GRAY: Well, first you're going to  
22 close the public hearing. If there are no more  
23 comments or public comments, first you're going  
24 to close the public hearing.

25 CHAIRMAN BURRIS: Okay. First, I'd like to

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1 close the public hearing. Do I have a second?

2 MEMBER KARALIS: Second.

3 CHAIRMAN BURRIS: All in favor?

4 ALL MEMBERS: Aye.

5 CHAIRMAN BURRIS: The public hearing  
6 closed.

7 MR. GRAY: So I believe the proposed  
8 resolution that the Board wants to consider  
9 would be, based upon the rehearing that was  
10 directed by the Zoning Board of Appeals and  
11 based upon this public hearing, that they would  
12 like to make a resolution to confirm the prior,  
13 and reaffirm the prior Zoning Board resolution  
14 that was approved on June 3rd of 2023 breaking  
15 certain variances with conditions and add the  
16 additional condition, at this point, that the  
17 access on the north side of the property that  
18 leads to the rooftop deck and the rooftop deck  
19 not have solid construction but be made of cable  
20 railing.

21 CHAIRMAN BURRIS: I think it's the access  
22 wall which forms a wall part of the stairway.

23 MR. GRAY: The stairway heading up from the  
24 second floor to the rooftop deck and the rooftop  
25 deck be made and constructed of a rail, a cable

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1 rail, as opposed to a solid wall construction;  
2 is that correct?

3 MR. KARALIS: That is correct. This is  
4 Constantine Karalis. It is the portion above  
5 the landing leading to the flight to the roof.

6 CHAIRMAN BURRIS: It's from the landing up?

7 MR. KARALIS: From the landing up to the  
8 roof level will be wire railing (inaudible) as  
9 best as possible to accommodate waterproofing of  
10 the edge of the railing and the walls.

11 MR. GRAY: Mr. Bertolino, that is the  
12 motion that's before the Board. Before the  
13 Board takes a vote on that, do you have a  
14 concession to make on that issue?

15 ATTORNEY BERTOLINO: Yes, Mr. Gray, thank  
16 you. My understanding is being in executive  
17 session and consulting with Mr. Karalis, outside  
18 of that, we've agreed that we will make every  
19 attempt possible to have the access staircase to  
20 the roof deck with a wire railing. So to be  
21 clear, the roof deck will have a wire railing  
22 and we will make the staircase to that roof deck  
23 as low as possible with a wall.

24 In other words, my understanding with  
25 speaking to John Ross, the builder, that he will

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1 need a certain amount of space to accommodate  
2 waterproofing, which may leave, as Mr. Karalis  
3 said, a small wall a little higher than the  
4 landing but never to exceed the top of the roof.

5 CHAIRMAN BURRIS: Can we say, not to exceed  
6 one-foot?

7 MR. ROSS: Yes, one-foot above the  
8 structure, yes.

9 CHAIRMAN BURRIS: Well, not above the  
10 structure, above the landing. Not to exceed  
11 one-foot above the landing.

12 ATTORNEY BERTOLINO: Yes, so I made that  
13 concession, Mr. Gray. As well as the  
14 concession, my understanding is that the  
15 mechanicals will be moved to the far south as  
16 possible on the west side.

17 MR. GRAY: Okay. And, of course, this is  
18 all subject to approval by the building  
19 inspector to make sure that it's compliant with  
20 Village and State code.

21 ATTORNEY BERTOLINO: And that's why I said  
22 as far as possible to the south, Mr. Gray.

23 MR. GRAY: Understood.

24 MR. SCHARF: I think that that's too vague  
25 to say "as far as possible" because I think

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1 we've seen today how vague language gets us in  
2 trouble. Can we specify that that's going to be  
3 on the southern third of the house at a minimum?

4 ATTORNEY BERTOLINO: Well, none of us have  
5 the dimensions here in front of us.

6 CHAIRMAN BURRIS: Well, that's not true. I  
7 think we might be able to specify that it's in  
8 the southern third.

9 ATTORNEY BERTOLINO: It may not be the  
10 southern third depending on where the FEMA line  
11 runs in. I think specifically setting forth the  
12 southern third, I think it would be better for  
13 all involved to say as far south as possible  
14 without interfering, A, with the window and, B,  
15 with the FEMA line --

16 CHAIRMAN BURRIS: How 'bout we say up to at  
17 least as far as possible but up to the window?  
18 Up to within one-foot of the window, your  
19 window?

20 MR. GRAHAM: That's fine.

21 MEMBER KARALIS: It is actually, you take  
22 the landing. You allow one-foot above the level  
23 of the landing --

24 ATTORNEY BERTOLINO: We're not talking  
25 about the landing.

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1           CHAIRMAN BURRIS: Within one-foot of their  
2 window.

3           MR. GRAY: Chairman, to be honest, that was  
4 not part of the resolution, the location of  
5 those facilities. That was not part of the  
6 resolution.

7           CHAIRMAN BURRIS: I'm willing to do this --

8           MR. SCHARF: Why can't we just amend the  
9 resolution?

10          CHAIRMAN BURRIS: Why not make this another  
11 condition?

12          MR. GRAY: Because it's not a variance.  
13 It's not a variance. That's a building  
14 inspector determination.

15          MR. MANDARINO: Guys, there's rules, this  
16 is Mike Mandarino. There is code regarding how  
17 far mechanicals can be from a window. So for  
18 you to say, oh, up to one-foot from the window  
19 might not be correct.

20          CHAIRMAN BURRIS: Okay. Do we have an  
21 agreement to move it as close as possible?

22          ATTORNEY BERTOLINO: Mr. Burris, I have  
23 represented that to the Board. As far south as  
24 possible. I cannot represent that it will be in  
25 the southern one third nor within one-foot of

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1 the window. Whatever meets code, both building  
2 and FEMA code, we will comply.

3 MEMBER SHERMAN: David, they're gonna make  
4 best efforts. That's what we're hearing.

5 MR. SCHARF: Okay.

6 CHAIRMAN BURRIS: Okay. Ken, do you feel  
7 that the motion as you've stated is sufficiently  
8 clear to be voted upon?

9 MR. GRAY: I believe so and I believe the  
10 motion was that we're maintaining and confirming  
11 both the zoning variances that were dated on  
12 June 3rd, 2023 with whatever conditions applied  
13 at that point. With the added condition now  
14 that the staircase going from the second floor  
15 to the rooftop deck and the rooftop deck will  
16 have cable railing, as opposed to solid, and I  
17 think Constantine pointed out that there has to  
18 be a point of some solid railing going up to the  
19 platform.

20 CHAIRMAN BURRIS: Not to exceed a foot.

21 MR. GRAY: Right. Other than that, the  
22 rooftop wrapping will be cable railing. So I  
23 think that's an additional condition that you're  
24 adding and modifying from the previously  
25 approved Zoning Board decision.

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1           CHAIRMAN BURRIS: Cable railing, which will  
2 always be transparent. It will not have a solid  
3 wall or solid material between them.

4           ATTORNEY BERTOLINO: To be clear, that  
5 cable railing requires posts every five feet.

6           CHAIRMAN BURRIS: Of course.

7           MR. GRAY: So before you vote on this, let  
8 me just read something into the record for you.

9           "New York State Village Law, Section  
10 7-712-A, subsection 12, Zoning Board procedures  
11 concerning rehearings. A motion for a Board of  
12 Zoning Appeals to hold a rehearing to review any  
13 order, decision, or determination of the Board  
14 not previously reheard, may be made by any member  
15 of the Board. A unanimous vote of all members of  
16 the board then present is required for a  
17 rehearing to occur."

18           That's what happened in December, I believe,  
19 of 2023.

20           MEMBER SHERMAN: December 2nd, 2023.

21           MR. GRAY: December 2nd? Thank you.

22           MEMBER SHERMAN: No problem.

23           MR. GRAY: "Such rehearing," which is what  
24 we're having today, "is subject to the same  
25 notice provisions as an original hearing."

1 Which we've done.

2 "Upon such rehearing, the board may reverse,  
3 modify, or amend its original order, decision, or  
4 determination upon the unanimous vote of all  
5 members then present provided the board finds  
6 that the rights vested in the person acting in  
7 good faith in reliance upon the reheard order,  
8 decision, or determination will not be  
9 prejudiced, thereby."

10 And I'm reading from the statute, which was  
11 a recap of what part of Kevin Lowry's last part  
12 of his letter said. So I just wanted to read the  
13 statute to you.

14 So if this Board is inclined to modify, even  
15 adding the additional condition about the railing  
16 that we just talked about, that's a modification.

17 CHAIRMAN BURRIS: Yes, but I don't think  
18 it's really prejudicing them. It's not a hard  
19 thing, and they're consenting to it now. Is  
20 that correct?

21 ATTORNEY BERTOLINO: Mr. Chairman and Mr.  
22 Gray, Steve Bertolino for the applicant. Just  
23 clarifying for the record.

24 We will consent to those two additional  
25 conditions on the modification provided the Board

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1 affirms and grants the conditions that were  
2 already granted.

3 MR. GRAY: Very well.

4 Again, I just wanted to point out what the  
5 point of law was, and, Mr. Bertolino, I  
6 appreciate you consenting on the record as to  
7 those modifications.

8 CHAIRMAN BURRIS: Okay. I make a motion to  
9 -- I guess we can vote. I already made the  
10 motion and you articulated it.

11 MR. GRAY: You asked me to articulate a  
12 resolution, so if you want to --

13 CHAIRMAN BURRIS: I make a motion to vote  
14 upon the resolution as stated by Counsel Ken  
15 Gray. Do I have a second on making, on voting  
16 on it?

17 MEMBER SHERMAN: Second.

18 CHAIRMAN BURRIS: Now in order for this to  
19 go through, we need unanimous consent. So,  
20 Jeremy, you better be there.

21 I now will take a roll call vote, as to all  
22 members as to passing the resolution.

23 Chairman Burris says yes.

24 MEMBER SHERMAN: Craig Sherman, member,  
25 yes.

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1           MEMBER KARALIS: Constantine Karalis,  
2 member, yes.

3           MEMBER CONWAY: Jeremy Conway, member.  
4 Based solely on the condition of detrimental  
5 reliance, I vote yes.

6           CHAIRMAN BURRIS: Motion passes.

7           I want to thank everybody for their  
8 patience, for the time you put in. As Steve  
9 Bertolino probably doesn't understand, this was  
10 hundreds and hundreds of hours of agony for all  
11 of us. With telephone calls in the middle of the  
12 night to me and I'm sure other people. So I'm  
13 glad we were able to close this matter amicably  
14 and thank you, members of the public, for being  
15 here as well as for your input.

16           Mike, thank you very much for your  
17 assistance on this. It wasn't an easy situation  
18 for anybody but I think it all worked out and  
19 let's be together as a community again. With  
20 that being said, I close this meeting.

21           ATTORNEY BERTOLINO: Mr. Burris, members of  
22 the Board, Mr. Gray, thank you very much on  
23 behalf of the applicant. Have a wonderful  
24 evening.

25           (Time Noted: 2:33 p.m.)

## CERTIFICATION

I, D. Leigh Chapman, a Notary Public  
in and for the State of New York, do hereby  
certify:

THAT the forgoing is a true and  
accurate transcript of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 11th day of February, 2024.

*Leigh Chapman*  
\_\_\_\_\_  
D. LEIGH CHAPMAN

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**ATTORNEY BERTOLINO:** [58] 8/23 9/25 10/4 16/23 24/25 25/9 25/15 26/5 26/25 28/6 29/16 31/1 31/19 32/8 32/12 43/16 51/1 53/3 53/12 54/25 68/19 70/9 71/5 72/9 73/6 74/1 76/5 76/18 76/23 77/4 80/9 81/13 81/18 81/21 82/4 83/17 83/25 84/18 85/6 85/18 86/25 87/24 88/7 89/18 90/1 93/7 101/15 104/6 110/15 111/12 111/21 112/4 112/9 112/24 113/22 115/4 116/21 118/21  
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