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INCORPORATED VILLAGE OF LAUREL HOLLOW  
PLANNING BOARD  
PUBLIC HEARING  
January 31, 2017  
8:00 p.m.

VILLAGE HALL  
1492 Laurel Hollow Road  
Syosset, New York 11791-9603

- PRESENT: PAUL BREGMAN, Chairman  
SCOTT ABRAMS, Member  
ELIZABETH DiBLASIO, Member  
NANCY JONES, Member  
JAMES GALTIERI, Member

- ALSO PRESENT:  
HOWARD AVRUTINE, Village Attorney

14-2016 - Diefendorf - 12 Waylor Lane  
Removal of Trees

RONALD KOENIG  
OFFICIAL COURT REPORTER

## Proceedings

1 MR. AVRUTINE: This is the continued public  
2 hearing on Tree Removal Application Number 14-2016, on  
3 the application of Christine E. Diefendorf to remove  
4 trees at 12 Waylor Lane. The original application  
5 proposed removal of 17 trees. An amended tree-removal  
6 plan and planting plan, received by the Village on  
7 January 6th, 2017, and based on the Tree Survey prepared  
8 by Haynes Land Surveyors dated October 14, 2016, depicts  
9 the removal of ten trees.

10 This property is designated as Section 25,  
11 Block 48, Lot 12 on the Land and Tax Map of Nassau  
12 County.

13 The exhibits in connection with tonight's  
14 continued hearing are as follows:

15 First, by reference, all exhibits entered into  
16 the record at the hearing commenced on November 22,  
17 2016.

18 The next exhibit is an amended application  
19 with amended tree-removal plan and amended planting plan  
20 with photographs in correspondence dated January 5th,  
21 2017.

22 The next exhibit is a follow-up inspection  
23 report by Vincent M. Reilly dated December 30, 2016.

24 The next exhibit is the legal notice dated  
25 January 10th, 2017.

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1           The next exhibit is an affidavit of posting  
2           from Nicholas Porcaro that the legal notice was posted  
3           conspicuously on the bulletin board of the Village Hall  
4           on January 20th, 2017.

5           The next exhibit is an affidavit of  
6           publication from James Slater that the legal notice was  
7           published in the Oyster Bay Guardian on January 20th,  
8           2017.

9           The next exhibit is a document that confirms  
10          that the legal notice was published to the village  
11          website and sent to village website subscribers on  
12          January 19th, 2017.

13          The next exhibit is an affidavit from the  
14          Deputy Clerk stating that the legal notice was mailed to  
15          the individuals set forth on the list attached to that  
16          affidavit on January 13th, 2017.

17          The next exhibit is an affidavit of mailing  
18          from the applicant indicating that the Notice of Public  
19          Hearing was mailed on January 13th, 2017 to the  
20          individuals set forth in the affidavit.

21          The next exhibit is, by reference, the  
22          transcript of the Planning Board hearing held on  
23          November 22nd, 2017.

24          And the final exhibit consists of  
25          correspondence from Valerie Schaefer to the Planning

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1 Board dated November 26th, 2016 and January 17th, 2017;  
2 and correspondence from Chris and Roey Diefendorf dated  
3 January 17th, 2017.

4 Mr. Diefendorf, would you like to address the  
5 Board?

6 MR. DIEFENDORF: Sure.

7 MR. AVRUTINE: Please give your name and  
8 address.

9 MR. DIEFENDORF: Monroe Diefendorf, 12 Waylor  
10 Lane, Laurel Hollow.

11 So, in a follow-up to the initial application,  
12 we did send out now to all of our neighbors, some of  
13 whom are here, and to Kara Kelly (phonetic) who is also  
14 a coowner of our neighbor next door, the McCarthys, as  
15 part of the estate. So, the map you have, it's  
16 attached, that was given to us by Nancy Popper, that  
17 indicates which homes have been, which are adjacent.

18 In response to some of the letters that had  
19 come in previously, I haven't seen Valerie Schaefer's  
20 newest letter, but I understand she sent one in, let me  
21 just say first of all, that our neighbor, John  
22 Maccarone, did submit a letter, which I've sent into  
23 you, I think you've seen that, indicating that there  
24 would be no problem with us putting in a grass area  
25 behind our house. So, for the record, submitted.

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1           In addition, I've submitted to you 17 pictures  
2 that were taken prior to any work commencing. It shows  
3 34 trees that are eligible for removal because they were  
4 either too small or dead. So, those are all indicated  
5 in your packages, and if you have any questions, we can  
6 discuss that.

7           In reference to Valerie Schaefer's original  
8 letter that she had sent saying that she was concerned  
9 that there might be noise, she didn't want to have any  
10 noise from the back from the children playing, I did  
11 submit also a map that indicates that from the back  
12 where we are indicating putting the grassy section to  
13 her home is over 500 feet. And in addition, we  
14 submitted pictures from Valerie's two front driveways  
15 indicating that she can't see a tree in the back,  
16 nothing is visible from her home, and her home resides  
17 80 feet behind the driveway.

18           MR. AVRUTINE: Excuse me, Mr. Diefendorf. I  
19 have an extra copy of the letter dated January 17th.  
20 would you like a copy?

21           MR. DIEFENDORF: Yes.

22           CHAIRMAN BREGMAN: By the way, I just want to  
23 double check --

24           MR. DIEFENDORF: This is the letter she sent.

25           CHAIRMAN BREGMAN: If I just might, there are

1 two letters on January 17th. I don't know whether you  
2 have that and you read them for the record.

3 MR. DIEFENDORF: Valerie said she was sending  
4 one to the Board, which I didn't see. She sent one to  
5 us saying --

6 CHAIRMAN BREGMAN: Yes. But they don't read  
7 exactly, it's not as if they are copies of each other.

8 MR. AVRUTINE: You are correct.

9 MR. DIEFENDORF: I haven't seen the one she  
10 sent to the Board. I don't know what she --

11 CHAIRMAN BREGMAN: I have it here. If you  
12 would like to look at it, you may.

13 MR. DIEFENDORF: Sure.

14 I will just read it.

15 To the Planning Board, this is a follow-up to  
16 my letter of November 26, 2016 concerning the  
17 application of the Diefendorfs' removal. Since most of  
18 us moved to the north shore of Long Island because of  
19 the beautiful trees, I'm not happy when anyone wants to  
20 remove so many as 17 in one area. The proposed area is  
21 across the street from my property, but is in the  
22 backyard of the Diefendorfs, quite a distance from my  
23 home. It will not personally impact me, but I hope that  
24 we consider the neighbors closer to the project.  
25 Therefore, I have no issue with the permit being

1 considered, Valerie Schaefer.

2 Again, the view from her home, which will  
3 indicate exactly what she said, she has no impact  
4 whatsoever on it.

5 I will refer to Mrs. Otto's letter that was  
6 sent back on November 22nd, and she said, This would be  
7 a bad precedent. I don't want to hear any noise.

8 For the record, I indicated that where our  
9 properties meet is in one point. There's literally one  
10 inch of our properties that are adjacent to each other,  
11 contiguous, and the impact would be minimal.

12 MR. AVRUTINE: All comments are to be  
13 addressed to the Board.

14 MR. DIEFENDORF: I will refer to the letter  
15 that Phil McCarthy had sent on November 10th suggesting  
16 that we put a nature path in, a pond, a bench, that  
17 would be a good idea.

18 I'm not sure having a pond in the backyard  
19 where young children coming around makes any sense at  
20 all.

21 He did submit a thumb drive with some videos.  
22 I got ahold of it. I looked at it. The orientation is  
23 completely out of whack.

24 So, you will see in your package submission of  
25 the property marker which indicates that where Phil says

1 that the trees that were, quote, cut down, were on his  
2 property, that is not correct. So, you will see that in  
3 your package.

4 In addition to from when we started in  
5 addition to the full survey that we had and then  
6 followed up with a tree survey, followed up with a  
7 topographical survey before, a topographical survey  
8 after, and now a resubmission of the tree survey with  
9 plantings, you will see the new revision takes it down  
10 from 17 trees down to ten trees. In addition to the ten  
11 trees that are being removed, there are ten trees being  
12 planted. This is a well, thought-out plan by an  
13 independent arborist.

14 So, I submit to the Board this is a well,  
15 thought-out plan that should be approved.

16 I thank you.

17 CHAIRMAN BREGMAN: Okay. Thank you.

18 Everybody has already reviewed, I'm sure, the  
19 prior application. So when we had met at the last board  
20 meeting, we discussed going back out to the property and  
21 that I would make an inspection with Mr. Reilly, our  
22 arborist, to determine if there were, what trees had  
23 been removed, and if trees that were removed potentially  
24 without a permit were of a size that would have required  
25 a permit. So, as you see in the report by Mr. Reilly,



1 we did make an inspection on December 30th, and we  
2 walked around the property for quite sometime with  
3 Mr. Diefendorf and looked at all of the trees that we  
4 could see, because not all the trees may have been  
5 visible because there were some that were ground as we  
6 had seen when we went to the site the first time.

7 In making that inspection, as Mr. Reilly  
8 reports, there were only two trees that appeared to be  
9 of a size that would have required, one definitively,  
10 one questionably, would have required a permit. The  
11 other trees that were removed, and there were probably  
12 somewhere around eight or ten, were all under the 7-inch  
13 caliper, so they would not have required a permit under  
14 any circumstance by our Code. So, for all intent and  
15 purposes, there are two trees in question that were  
16 removed that would have required a permit.

17 Now, that's a different matter as to how that  
18 will be handled. That's not really under our  
19 jurisdiction. What is under our jurisdiction is the  
20 application that he has now presented. It's an amended  
21 application and, as you see, he amended his application  
22 to eliminate a number of the trees that he was  
23 originally planning to remove. So, he went down from 17  
24 trees to ten trees. And that was on the basis of a  
25 discussion that we had with him there -- that I had with

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1 him there, about considering maybe revising the number  
2 of trees that he wanted to remove. And it was his  
3 choice to do that, it wasn't a demand by me. It really  
4 had to be his choice to make this application however he  
5 felt he wanted to do it.

6 So, he now has presented this application with  
7 ten trees, and then, he's correct, Mr. Diefendorf,  
8 stated that he has ten trees that he's planting. The  
9 trees I believe are shown -- well, we have two plans,  
10 one which shows the trees to be removed, and another  
11 plan that shows the trees to be planted. So, I'm sure  
12 everybody has seen those two plans.

13 The other part of this that the Board just  
14 needs to understand is, the trees are one part of this  
15 application. However, the application, no matter if it  
16 were to be approved, he still, if he wants to regrade  
17 the property, based on our Village Engineer Jim  
18 Antonelli's review of the topographic plans that he  
19 presented, he will be required to seek a cut-and-fill  
20 application, a permit from the Board of Trustees,  
21 because he's exceeding five yards of earth to be moved.  
22 So, our decision, if it's made on the positive, is still  
23 contingent and subject to what the Board of Trustees  
24 does. If we decide to not approve it, he can still go  
25 and decide to get a fill permit, if that's what he

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1 chooses to do. But I just want everybody on the Board  
2 to understand, based on what I've been told and what I  
3 understand to be happening, and you can say whether you  
4 are going to proceed with that or not, it's a second  
5 part of this that will really be a condition no matter  
6 what we do.

7 So, let me just pass it to the Board and ask  
8 anybody if they have any questions about the plan,  
9 questions for Mr. Diefendorf about the plan, or  
10 questions about the inspection.

11 MEMBER GALTIERI: You will still have enough  
12 room to do your soccer field with just ten trees being  
13 removed?

14 MR. DIEFENDORF: The way we move around there,  
15 and again, a soccer field is -- I don't care if the kids  
16 are playing baseball or whatever, I just want them  
17 coming over to see us.

18 MEMBER GALTIERI: You will have enough room to  
19 do that?

20 MR. DIEFENDORF: Um-hum.

21 CHAIRMAN BREGMAN: Anything? Any questions?

22 One other thing I want to remind the Board of,  
23 our Code permits five trees to be removed in a four-year  
24 period without a permit. There are requirements in  
25 order to -- I'm sorry, automatically, you get the

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1 permit, but you cannot be denied. The only reasons you  
2 could be denied is if they're in the setbacks or if they  
3 are in a steep slope, any type of steep slope, or if  
4 they are one of the big trees under the Big Tree List.

5 None of the trees that he wants to remove are  
6 in the Big Tree List or in a steep slope. There are  
7 some, as I think you'll see, there are some that would  
8 be in the setback.

9 MEMBER ABRAMS: And none are being requested  
10 to be part of that, the four trees that --

11 CHAIRMAN BREGMAN: There is no delineation of  
12 which trees are part of, say, the five trees. My  
13 suggestion, and a consideration or something you may  
14 want to consider, is Mr. Diefendorf did take down two  
15 trees that appeared to have been -- a permit should have  
16 been procured for those trees. Those two trees can be  
17 considered as part of his five trees, if we so choose.  
18 So, then there would be three trees that would be  
19 automatic.

20 Now, outside of the trees that are in the  
21 setback, he would have a choice of any trees like any  
22 other homeowner, it doesn't matter how big they are or  
23 how small they are, the Code permits the trees to be  
24 removed. It is then up to the Board to make a  
25 determination about the balance of the trees. So in

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1 theory, if he has ten trees and he was permitted five  
2 trees but he's already used two trees, there's about  
3 seven left. That's really what we are talking about.

4 So, the question for the Board ultimately is,  
5 you have the number of trees that he wants to remove, he  
6 has gone ahead and submitted a planting plan to make up  
7 for the trees he's removing, and it really now is a  
8 question of if the Board feels that the application is  
9 acceptable in its form or something less than that. You  
10 know, it's the Board's choice to permit all, none, or  
11 something in between.

12 what I think maybe would be appropriate now is  
13 to open it up to the public and let the community  
14 express its opinion.

15 So, feel free. Just state your name.

16 MS. OTTO: My name is Wilma Otto. I live at  
17 4 Woodvale Drive, which is intersected by -- this is my  
18 property (indicating).

19 CHAIRMAN BREGMAN: Right.

20 MS. OTTO: I would be very much against some  
21 of these trees being removed, but I have personal  
22 reasons, as well as some others. But the fact that even  
23 though our properties only intersect at a small point,  
24 this point and here is where he wants to, to the lower  
25 end of his property, is where he wants to put a playing

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1 field, a soccer field or whatever he has in his mind,  
2 that will be about 200 feet from my house. And if there  
3 are a number of children playing and screaming and  
4 knocking balls around, I will be impacted by that.

5 Mr. Diefendorf says that Valerie Schaefer, who  
6 lives across the street, is on a slope, can't see his  
7 property and would not be impacted by it, but she is all  
8 that distance from where he wants to put this field. My  
9 house, I believe, is the closest to the area that he  
10 wants to make into a big playing field for his  
11 grandchildren.

12 I love grandchildren, because I have them and  
13 I have great grandchildren, but I don't like a lot of  
14 noise. And as a point, just down the road from us is  
15 the high school. That high school, across the street  
16 from it, has a big playing field with everything already  
17 laid out on it. If his children are so anxious to play  
18 these big games, they could walk down there and play and  
19 enjoy themselves, and wouldn't be making all the noise  
20 that I would hear.

21 I don't know if there's anything else I can  
22 offer. I am a tree lover. I have a number of specimen  
23 trees on my property, including redwoods. I have a  
24 recognized wildlife habitat, and I enjoy all the little  
25 critters that come around, and the owls and everyone

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1 else. And I love children, but I don't like all the  
2 noise it engenders. And the point is, Mr. Diefendorf  
3 wants to put this closer to my house than to his own.  
4 So, this is one of the reasons I'm totally against this,  
5 and of course, the fact that he wants to cut down trees,  
6 and has already cut down trees that are alive.

7 He's been here 35 years, I understand. There  
8 are three families in our area, Phil's, mine, and one  
9 other house on Woodvale that have been here more than  
10 50 years. When we moved here, my husband and I, I used  
11 to call the area the purple plain, because there were no  
12 trees on the property except for one cedar. We planted  
13 trees. The back part of my property is a wooded area.  
14 I have all sorts of little animals living back there,  
15 and I enjoy seeing them. But those trees have taken  
16 50 years to grow. By the time Mr. Diefendorf's, if he  
17 cuts down all the trees, by the time his grandchildren  
18 are 50 years old, there will be another generation of  
19 trees growing there, but in the meantime, we won't have  
20 any trees.

21 I talk too much. I'm sorry.

22 CHAIRMAN BREGMAN: You are entitled to say  
23 your piece. Okay.

24 DR. DREXLER: I am Dr. Steven Drexler, a  
25 next-door neighbor to Mrs. Otto.

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1 MR. AVRUTINE: Your address?

2 DR. DREXLER: 8 Woodvale Drive.

3 My property, the back of my property actually,  
4 comes right up entirely to Mr. Diefendorf's back.

5 And I will say that the reason that we are  
6 here today is because I happen to be home the very day  
7 that people were illegally in the back, my backyard,  
8 cutting down trees, which I thought may have been on my  
9 property -- I'm still not sure if they cut down my trees  
10 or his trees -- and they were taking down trees  
11 illegally. I immediately put a stop to it and told them  
12 that they needed to get a permit for that. I asked them  
13 if they had a permit. No, Mr. Diefendorf wasn't home at  
14 the time. But that essentially put an end to all the  
15 work, and now we are here as a result of that.

16 I was not aware of this soccer field and  
17 regrading proposal, which actually worries me a lot more  
18 than the taking down of the trees. But, I do see from  
19 the plan, having looked at it and having gotten a copy  
20 of it from Nancy Poppa, that a substantial number of  
21 those trees actually do come right up to the back of my  
22 property, and I think it will really very much change  
23 the entire character of my backyard and the surrounding  
24 area by taking out a lot of trees, regrading the  
25 property and putting up a fence. And already, my



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1 backyard has been substantially impacted by the building  
2 of a brand new \$9 million home that comes up to the back  
3 of my next-door neighbor, the Sobers (phonetic), because  
4 that house now has a very, clear view of my bedroom.  
5 whereas, before, I could actually leave my bedroom  
6 shades open and I didn't have to pull them closed at  
7 night. So, I'm concerned about this as well.

8 I was originally concerned, not as much as I  
9 am now having heard some of the things. I will say that  
10 Mrs. Otto will hear the noise from there. Mrs. Otto  
11 regularly complains to me about noise I make, so I know  
12 she is sensitive to it. She does have a very nice,  
13 pretty backyard and it does have very nice character and  
14 it does attract wildlife, as does my yard. I see deer.  
15 As much as people don't like deer, they eat my garden,  
16 but I tolerate them. There is a lot of wildlife back  
17 there. I think clearing a lot of trees out from the  
18 back will actually cut down on the amount of wildlife  
19 that is back there.

20 I moved to Laurel Hollow 22 years ago because  
21 one of the things that really sold me on it was that it  
22 was a tree sanctuary and a wildlife sanctuary and a bird  
23 sanctuary, as well. And I like that about it. It's a  
24 very park-like type of village, and the area right  
25 around where we live is very park like.

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1 I don't really see the whole purpose of  
2 building a soccer field in your backyard just to have  
3 your grandchildren over. Your grandchildren should want  
4 to come over because they want to visit you, not because  
5 you have a soccer field in your backyard. I don't think  
6 it's really appropriate to do that. I think if you are  
7 going to do something to your backyard, it should be in  
8 character with the way Laurel Hollow is now, which is  
9 that people generally have backyards that are pretty and  
10 have a lot of wildlife and a lot of trees. They don't  
11 have big fields. Granted, my property does not have a  
12 lot of trees, mainly because a lot of them got knocked  
13 down by storms. And the previous owner -- my house was  
14 built in the '60s -- cleared a lot of trees before, I  
15 think, a lot of the ordinances were in place. But I  
16 haven't cleared any trees. And any trees that come down  
17 on my property, I haven't replanted, but I haven't taken  
18 down any on purpose at all, because I do like the  
19 park-like view of it.

20 So, that's what I have to say.

21 CHAIRMAN BREGMAN: Thank you.

22 MR. MCCARTHY: Well, my name is Philip  
23 McCarthy. I live at 8 Waylor Lane, right next door to  
24 Mr. Diefendorf.

25 I feel very much like Dr. Drexler does about

1 that whole area being a wildlife habitat. My property  
2 is also a registered wildlife habitat, like Ms. Otto's,  
3 and I know that the trees back there have been feeding  
4 areas for a great horned owl. And since August, since  
5 those trees were all taken down -- and it's hard to  
6 imagine there were just only a few trees because those  
7 chainsaws were going for about three and a half weeks  
8 and the stump cutter/grinder was there for about four  
9 days. So, anyway, but that area has been a feeding area  
10 for the great horned owl, and since those trees have  
11 been cut down, I have not heard it at all.

12 And also, there's a red-tailed hawk family  
13 that was in that area. That's gone. I know that there  
14 is several rabbit hutches. I saw them when I walked on  
15 the property with you guys. I saw the rabbit hutches  
16 that were destroyed. There is a fox den there, right on  
17 the border. That fox, I haven't seen at all now. So,  
18 this wildlife that is special to Laurel Hollow, in that  
19 area, much of it is gone now now that whole area has  
20 been destroyed.

21 Mr. Diefendorf had left the tallest, most  
22 obvious trees. Those were the ones that are left.

23 And I know that another qualm that I have  
24 about this is that I know he said he didn't want to  
25 spend the extra \$500 to have the property line marked.

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1 I see the trees that are marked on there that want to be  
2 taken down that are marked on the survey, but it's hard  
3 for me to know how they were marked when there is no  
4 actual line. We don't actually know where the property  
5 line is. He says he knows where it is, and he was  
6 walking it when we were there, but you've got to be able  
7 to point to that point and know exactly where it is.  
8 For me, that is very arbitrary, where this line is now.  
9 I don't know where this property line is.

10 CHAIRMAN BREGMAN: I would like to make a  
11 point, Mr. McCarthy.

12 From the Board's perspective that we are  
13 looking at a survey, we depend on the fact that a  
14 professional has prepared the survey and has located the  
15 trees based on benchmarks and appropriate survey  
16 techniques, and we need to rely on the fact that the  
17 professional is accurate in his presentation of both the  
18 boundary lines and the location of the trees.

19 MR. MCCARTHY: What about the trees that have  
20 been taken down already? They are not marked.

21 CHAIRMAN BREGMAN: I can't attest to trees  
22 outside of what we were looking at where these trees  
23 were marked.

24 Where these trees were marked, and all of the  
25 trees that we saw that -- I was with not just you, but

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1 subsequent to you with Mr. Reilly -- the trees that we  
2 could discern, because we could not necessarily discern  
3 when there's a ground stump whose property line they  
4 were on if they were slightly over where we are looking  
5 at some of the trees here. So, to that point, you may  
6 be correct. But we are looking at this application now.  
7 If we can't see what was there, we are at a  
8 disadvantage.

9 MR. MCCARTHY: And maybe for the future when  
10 this is going to happen, maybe an area should be  
11 photographed before any work is done at all, because  
12 this is what can happen, is that a lot of trees could be  
13 just cut down, stumps grounded, leaves on top of it, and  
14 nobody knows that the trees existed. A lot of damage  
15 can be done, and we don't know it.

16 Now, one of the reasons what bothers me about  
17 what Mr. Diefendorf had done is, he had sent me a letter  
18 saying what he was going to do, and I had trusted him.  
19 He had marked an area where there was going to be a  
20 border, some kind of a border all around that area. And  
21 then, when I went back there, I found that there was no  
22 border. It looked like the trees had been taken down  
23 right up to what we think is the property line. So, it  
24 looked like there was going to be a 3 or 4-foot border  
25 there, and that's all gone. So, that's one reason I was

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1 disappointed with him.

2 But, you know, I mean, I don't know if I have  
3 a vote. I would like to see these trees remain. I know  
4 there was one that's marked that's right on marked  
5 property line there that I would like to see that one  
6 stay, at least.

7 Trees are friends. I've seen these trees. I  
8 can see these trees from my back porch. I've seen these  
9 trees for many years. Some of these trees are 50 years  
10 old, at least. And I know that he wants to replace  
11 these by very, tiny, 7-foot trees, and that, in a  
12 lifetime, that doesn't really do much for me. You know,  
13 I'm 60 years old, and by the time those are big and  
14 beautiful, I will be long gone. So, we wait a long time  
15 for these trees, and I would like to keep them.

16 I understand what he wants to do. You know,  
17 as far as noise goes, I know that it can be a little  
18 noisy, but it's a nice kind of noise, children playing.  
19 I've always enjoyed hearing his family over there  
20 enjoying themselves. That's never bothered me too much.  
21 But maybe these 11 grandchildren that are going to be  
22 growing, maybe other friends are going to be coming over  
23 too, it's going to be like a big thing, having a soccer  
24 field at grandpa's house, and it's going to bring more  
25 than the 11 grandchildren. So, maybe, that's what I'm

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1 concerned with too, and maybe a lot of cars and having  
2 it be a big thing. So, that's what I object about too.

3 So, I vote for trees, and I would like to just  
4 keep them.

5 CHAIRMAN BREGMAN: If there is nobody else in  
6 the audience, we can close it too, or do we discuss  
7 this?

8 MR. AVRUTINE: Whatever your pleasure, sir.

9 Any discussion should take place prior to the  
10 close of the public hearing.

11 CHAIRMAN BREGMAN: We will continue to  
12 discuss.

13 I do want to make a note for everybody,  
14 including the public, that you may recall, Mr. Reilly  
15 had made a previous inspection prior to the second  
16 inspection with me. In that inspection, he noted all of  
17 the original 17 trees that Mr. Diefendorf wanted to  
18 remove, and he made specific comments to the condition  
19 of the trees.

20 The trees on the plan that Mr. Diefendorf has  
21 now eliminated from his application are actually 1, 3 --  
22 I'm looking at the original plans submitted, excuse me,  
23 I'm looking at his new amended plan that he submitted  
24 with this application, and you will see the plan that  
25 shows squares around some of the trees, and that shows

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1 five trees, 1, 3, 4, 5, and 6. So, the balance of the  
2 trees that are shown X'd out are the remaining ten trees  
3 he wants to remove, the condition of those trees, and I  
4 will make reference to Tree Number 12 because,  
5 Mr. McCarthy, I believe that's probably a tree that you  
6 are referring to that's close right to the side of your  
7 property. Mr. Reilly did make a comment about that tree  
8 and his comment reads, Tree has weak branch crotches,  
9 extensive dieback, rotten base with mushroom growth on  
10 deadwood, and is mostly hollow, tree is a hazard.

11 In most cases, not all cases, but in many of  
12 the cases, and this is of record from our last hearing,  
13 he does make note of the conditions of trees that they  
14 are not all in good condition, that there are many trees  
15 that have weak foliage, questionable, some are hollow,  
16 some have cankers, which doesn't necessarily mean the  
17 tree is going to die, it can last another 50 years with  
18 a canker. But they don't necessarily measure up to true  
19 specimen trees in great health. Many of them are not in  
20 the best of condition, but they are still standing, they  
21 are alive, they still have green on them.

22 But I do want to make the note, particularly  
23 because you did refer to the one close to your property,  
24 so you know what our arborist said about that particular  
25 tree.



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1                   MEMBER ABRAMS: That's the only tree that's in  
2 the perimeter of the property. Everything else is  
3 further inward in the property, where it looks to me  
4 like the neighbors that surround it, there are other  
5 trees that would be potentially blocking the view,  
6 especially with these five other trees that were  
7 originally planned to come out that are now being saved.

8                   CHAIRMAN BREGMAN: And one correction from  
9 what I said. If there are ten trees and two have been  
10 removed, that leaves eight trees. That would leave  
11 three trees remaining for the five. That would leave  
12 five trees that he's really -- that you could look at  
13 being requested above the initial five trees.

14                   MEMBER GALTIERI: If we include the two --

15                   CHAIRMAN BREGMAN: If we include the two, it  
16 will be three more. So, seven. I am correct.

17                   MEMBER ABRAMS: I'm not clear if that's  
18 something that we should be deciding if he wanted -- if  
19 he wanted to take three trees out as his right of those  
20 five, that would have been submitted as a separate  
21 application, and that's not what he's done. He's  
22 requesting these ten trees. He's changed his plan from  
23 17 to ten. And from this application, I don't see any  
24 request to from the five trees.

25                   CHAIRMAN BREGMAN: It's just a point. That's

1 all.

2 MEMBER ABRAMS: I appreciate that the two  
3 trees that maybe were taken out before, now we need some  
4 type of permit to cover those and those other two trees  
5 would come out of the five, but I don't see three others  
6 coming from here.

7 MEMBER GALTIERI: The point is, he's got three  
8 to go, whether he goes through the process or not.

9 CHAIRMAN BREGMAN: Right. He could withdraw  
10 this application and come back and request five and we  
11 could say, no, you can have three, and then come back  
12 later on and request. But he is requesting everything  
13 at once.

14 But ultimately for us as a board, it's a  
15 matter of approving none, all or in between.

16 MEMBER ABRAMS: So, Tree 12, does that have  
17 dead branches?

18 CHAIRMAN BREGMAN: Tree 12 is what I read to  
19 you that is a hazard. The end of the comment is, it's a  
20 hazard.

21 MEMBER ABRAMS: And it's potentially a bigger  
22 hazard if the reason why the other trees are being  
23 cleared out is so that kids are going to be playing in  
24 that area more often. Unfortunately, branches have  
25 fallen off trees and killed people.

1                   MEMBER GALTIERI: Question, if a tree is  
2 considered a hazard, does that come under the five-tree  
3 rule?

4                   CHAIRMAN BREGMAN: No. well, a tree that is a  
5 hazard doesn't necessarily warrant, on its own, to be  
6 removed.

7                   Again, if Mr. Diefendorf or any homeowner  
8 makes an application to remove five trees, whether they  
9 can either be deemed a hazard or not, it's irrespective  
10 of that, they have the right to remove five trees. But  
11 from the Board's standpoint, if we are being told by an  
12 arborist that a tree is a hazard, it should be noted,  
13 and that has to be taken into consideration.

14                   Not every tree noted by Mr. Reilly is deemed a  
15 hazard. And we have all of those comments.

16                   MEMBER JONES: Along the side that is in  
17 question with Tree Number 12, there is three additional  
18 trees proposed to be planted there.

19                   CHAIRMAN BREGMAN: well, there's a few more  
20 further down.

21                   MEMBER JONES: Right, but in that area right  
22 there. 12 is a big tree, I mean, could additional trees  
23 then be put? Even though Mr. Diefendorf is offering to  
24 put three there, along that side seems to be a major  
25 concern, could additional trees, you know, where the 12

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1 is, be put where there's nothing or just to kind of fill  
2 it in or block that?

3 CHAIRMAN BREGMAN: We can request the  
4 applicant to add trees. It's within our bounds to do  
5 so.

6 MEMBER JONES: I think that side of the yard  
7 seems to be a major concern for the neighbors, and I  
8 think additional tree planting just along -- and that  
9 would not be part of the field. If it's along the  
10 border, that would not be impacting the play area.

11 CHAIRMAN BREGMAN: You're referring to --  
12 Does everybody see the north/south arrow to  
13 the left of the plan? So for purposes of discussion,  
14 we'll call the bottom of the plan south, the top of the  
15 plan north.

16 MEMBER JONES: Maybe fill in the south a  
17 little bit.

18 CHAIRMAN BREGMAN: Up to the 25-foot -- the  
19 25-inch -- is that Tree 25 or is that 25 inch?

20 MR. AVRUTINE: It's 25 inch.

21 CHAIRMAN BREGMAN: Up to the 25-inch.

22 MEMBER ABRAMS: I don't even know if his  
23 property goes back that far. I don't know how far back  
24 this property goes.

25 MEMBER JONES: But does it matter?

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1 CHAIRMAN BREGMAN: well, does it matter? It  
2 could if a neighbor who is --

3 MEMBER JONES: No. I meant even though it may  
4 not go back that far, does it matter to not to put a  
5 tree there? I think we should put a tree there no  
6 matter where somebody's property, because it looks like  
7 the other properties are over more.

8 MEMBER ABRAMS: well, we are talking about  
9 another tree south of Tree Number 8 on the other side of  
10 the tree that is coming out?

11 MEMBER JONES: Yes, or two.

12 CHAIRMAN BREGMAN: The recommendation I would  
13 always want to make is to make sure that it's, you know,  
14 either the arborist or a landscape architect site the  
15 trees, because there is no point in planting -- how many  
16 times have we seen trees planted too close together and  
17 they don't survive.

18 MEMBER ABRAMS: As it is, one tree is coming  
19 out and it's being replaced by three.

20 CHAIRMAN BREGMAN: well, he's proposing to  
21 take ten trees out, Scott.

22 MEMBER ABRAMS: I'm saying, the one by Tree  
23 Number 12. If Tree 12 comes out and the three trees are  
24 going in that proximity, is what I'm saying. And being  
25 on the north side, it's closer to where the view would

1 be from his house or patio into the backyard.

2 CHAIRMAN BREGMAN: Mr. Diefendorf, in looking  
3 at the planting plan where you have Trees 8, 9 and 10,  
4 which are white pines, I don't see, unless I am just not  
5 reading it, I don't see the size of those trees. Is  
6 there a size that you're intending to plant?

7 MR. DIEFENDORF: I don't see it.

8 CHAIRMAN BREGMAN: Because the other trees,  
9 you'll note, have heights to them. These do not.

10 MR. DIEFENDORF: It might be in Vincent's  
11 report, because he did another report.

12 CHAIRMAN BREGMAN: You mean, it may be in his  
13 secondary or --

14 MR. DIEFENDORF: Yeah, in his secondary one.

15 CHAIRMAN BREGMAN: I believe everybody should  
16 also review the secondary report and the summary that  
17 Mr. Reilly also made about benefits and negative impacts  
18 of trees.

19 MEMBER JONES: It doesn't say the size  
20 anywhere, no.

21 CHAIRMAN BREGMAN: There's a general  
22 statement, you'll see, Mr. Diefendorf, that just says,  
23 In addition, the homeowner plans to plant seven 7-foot  
24 to 8-foot trees to further strengthen as buffer. But,  
25 in essence, you are showing ten trees.

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1 MR. DIEFENDORF: That's because when we walked  
2 it out while we were there, we looked at that side and  
3 we said why don't we put three more here to help be a  
4 buffer.

5 CHAIRMAN BREGMAN: Understood. But it's not  
6 specific. That's all I'm saying.

7 MEMBER ABRAMS: But we can request them to be  
8 the same 7 to 8 foot in height as the others are. And  
9 all the others are listed as 7 to 8 foot in height, we  
10 can request that make them 9 to 10, right?

11 CHAIRMAN BREGMAN: Yes.

12 Mr. Diefendorf, would you consider additional  
13 plantings to the south of Tree 8 and to the south of 21,  
14 and certainly up to at least two trees that would  
15 potentially fill in that area as an additional buffer?

16 MR. DIEFENDORF: Right below you've got 10, 9,  
17 and 8, and then you think two more?

18 CHAIRMAN BREGMAN: A 21-inch tree and then two  
19 more. 21-inch diameter --

20 MEMBER ABRAMS: Well, the 21-inch is coming  
21 out.

22 MR. DIEFENDORF: The only thing I'd say is  
23 that, unless there are 25-foot trees that are right  
24 there, it would be sort of useless to put some trees. I  
25 don't know what is on the other side of that line, but I

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1 have no opposition to that.

2 MS. OTTO: May I?

3 CHAIRMAN BREGMAN: Yes.

4 MS. OTTO: I don't know what the sense is in  
5 taking out large existing trees to put in, in just about  
6 the same area, small trees. why?

7 CHAIRMAN BREGMAN: Because the applicant has a  
8 right to request removal of trees. Every homeowner in  
9 the community has a right to request removal of trees.

10 And the issue for a board is to weigh the  
11 rights of the applicant's request and what its impact  
12 would be on the character of the community and/or if it  
13 has specific impact or negative impact on specific  
14 properties, such as removing trees might cause drainage  
15 issues, erosion issues, sight line issues. All those  
16 factors come into play. We have to look at the reports  
17 that have been given to us by professional arborists and  
18 the condition of those trees, and it's really up to the  
19 Board to make a judgment call on weighing that balance.

20 MS. OTTO: Okay.

21 MR. MCCARTHY: I know he wants to have the  
22 soccer field, but why wouldn't it be sufficient just  
23 taking out 12, 13 and 15? That area is twice the size  
24 of his house, the first level of his house, as far as I  
25 see it. Just taking out these three trees here,



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1 wouldn't that be enough room for a playground? This way  
2 those trees that remain there can help be used as a  
3 buffer for sound, because as it is, we hear more sound  
4 now from Cold Spring Harbor Road than we did before he  
5 had taken out all the other trees. So, it's just going  
6 to make it noisier for us. There's this whole section  
7 now we get this noise from from the street, and I know  
8 it's just going to make it even noisier. It's just nice  
9 having it quiet.

10 why isn't that enough? I'm asking you,  
11 Mr. Diefendorf.

12 MR. AVRUTINE: No. No.

13 CHAIRMAN BREGMAN: Mr. Diefendorf has made his  
14 application. If Mr. Diefendorf wants to respond to that  
15 general comment, he can or he need not.

16 I think when it comes to the noise factor and  
17 children playing, children can run around a property  
18 with trees or without trees, and they can make as much  
19 noise as they want whether there are trees there or not.  
20 I think that the question of is this going to generate  
21 more noise --

22 MR. MCCARTHY: I'm talking about the noise  
23 from Cold Spring Harbor Road, the traffic.

24 CHAIRMAN BREGMAN: Can I just finish?

25 MR. MCCARTHY: Okay.

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1                   CHAIRMAN BREGMAN: The question of children  
2 and whether they are going to make more or less noise,  
3 is not anything that anybody can really assess  
4 accurately.

5                   As far as traffic, there is a substantial area  
6 between any road and these trees. As far as any type of  
7 traffic noise coming through, I'm not sure that is going  
8 to have a dramatic effect. I think that when it comes  
9 to what the effects are relative to sight line and  
10 whether a tree is healthy and shouldn't be removed are  
11 more of the important factors, because I don't really  
12 see that there is a significant issue relative to noise  
13 factors by removing these trees from where a lot of cars  
14 go.

15                  MR. MCCARTHY: It's only because we are up on  
16 a hill, as we would get more noise, it's just because of  
17 the situation of the elevation, that makes all the  
18 difference.

19                  CHAIRMAN BREGMAN: I understand that's how you  
20 may feel.

21                  The issue now really is how the Board wishes  
22 to proceed with the application and if the Board wants  
23 to inquire of anything else of Mr. Diefendorf. If not,  
24 I think, if there's nothing else from the public, we  
25 should close the public portion of the hearing and then

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1 we can continue.

2 DR. DREXLER: I have one other statement. I  
3 noticed, when I walked back there, that that part of his  
4 property where he's taking the trees which adjoins my  
5 property has a substantial slope to it. So I'm  
6 concerned taking out those trees is going to create a  
7 problem with drainage, which could substantially impact  
8 my own yard as well as runoff into Mrs. Otto's yard  
9 because it does sort of slopes down in that direction.  
10 I would like to see that studied a little bit better,  
11 actually.

12 CHAIRMAN BREGMAN: The initial study, the  
13 initial analysis by our arborist indicated that it would  
14 not have much of a drainage impact, if any, at all.

15 Now, that's very different than if  
16 Mr. Diefendorf wants to regrade property. And there's  
17 been a review of that, as I mentioned earlier, by our  
18 village engineer. And he would be required, not just to  
19 get the permit, but required to put in drainage because  
20 there would be certain drainage issues that would have  
21 to be addressed. So, that has been reviewed.

22 Mr. Diefendorf has seemingly indicated he  
23 wants to go before the Board of Trustees, and I guess  
24 that's an open hearing as well.

25 MR. AVRUTINE: Yes.

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1                   CHAIRMAN BREGMAN: And you are certainly more  
2 than welcome to also express your opinion based on  
3 whatever we are going to do tonight.

4                   So, if there is no more comments from the  
5 public, I would like to close the public hearing.

6                   Do I need a motion?

7                   MR. AVRUTINE: Yes.

8                   CHAIRMAN BREGMAN: I need a motion.

9                   MR. MCCARTHY: Just one thing. I think I  
10 should say this. I know it's going to be tough, but  
11 Valerie Schaefer came up with her second letter because  
12 she had sent a Christmas card to Mr. Diefendorf, and he  
13 returned the card to her with a very nasty note. She  
14 received this nasty note the day before Christmas, and  
15 it just made her feel horrible. It ruined her  
16 Christmas. She felt so bad of it, she called up, and he  
17 was very angry at her because saying about the noise  
18 that it would generate, the grandchildren would  
19 generate. And I'm so sorry that he, I think it's almost  
20 an intimidation, a little bit of a bullying that he did  
21 to her. And then she came up with this other letter.  
22 It really hurt her a lot by his actions, and that's why  
23 she came up with the second, because I know she enjoys  
24 his wife so much. She's a widow and she enjoys the  
25 neighborhood, that's why she came up with the second

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1 one.

2 MR. AVRUTINE: Just for the record, the Board  
3 appreciates that comment, but she's not here to speak  
4 for herself, so there is only limited value that can be  
5 given to that statement.

6 CHAIRMAN BREGMAN: May I get a motion to close  
7 the public hearing?

8 MEMBER DiBLASIO: Yes.

9 CHAIRMAN BREGMAN: Second?

10 MEMBER JONES: Second.

11 MR. AVRUTINE: All in favor?

12 CHAIRMAN BREGMAN: Aye.

13 MEMBER ABRAMS: Aye.

14 MEMBER DiBLASIO: Aye.

15 MEMBER JONES: Aye.

16 MEMBER GALTIERI: Aye.

17 MR. AVRUTINE: The first environmental motion  
18 is one for the Board to declare itself lead agency under  
19 the New York State Environmental Quality Review Act.

20 May I have a motion?

21 MEMBER ABRAMS: Yes.

22 MR. AVRUTINE: A motion by Member Abrams.  
23 Second?

24 MEMBER GALTIERI: Second.

25 MR. AVRUTINE: By Member Galtieri.

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All in favor?

CHAIRMAN BREGMAN: Aye.

MEMBER ABRAMS: Aye.

MEMBER DiBLASIO: Aye.

MEMBER JONES: Aye.

MEMBER GALTIERI: Aye.

MR. AVRUTINE: And the next motion would be to declare the matter unlisted under the New York State Environmental Quality Review Act.

MEMBER ABRAMS: I make that motion.

MR. AVRUTINE: Member Abrams makes the motion.

Seconded by Member Jones.

All in favor?

CHAIRMAN BREGMAN: Aye.

MEMBER ABRAMS: Aye.

MEMBER DiBLASIO: Aye.

MEMBER JONES: Aye.

MEMBER GALTIERI: Aye.

MR. AVRUTINE: The applicant submitted the Short Environmental Assessment Form, and it was reviewed both by myself and by the Village Engineer, James Antonelli. The applicant completed Part One. Mr. Antonelli completed Part Two and made a recommendation that the Board enact a negative declaration meaning that for purposes of SEQRA, the New

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1 York State Environmental Quality Review Act, the action,  
2 if approved, will not result in any significant adverse  
3 environmental impact.

4 So the question is, does the Board now wish to  
5 adopt Mr. Antonelli's recommendation and pass a negative  
6 declaration under SEQRA?

7 CHAIRMAN BREGMAN: A motion?

8 MR. AVRUTINE: A motion for a negative  
9 declaration, that's Member Galtieri makes the motion.

10 Second?

11 MEMBER DiBLASIO: Yes.

12 MR. AVRUTINE: By Member DiBlasio.

13 All in favor?

14 CHAIRMAN BREGMAN: Aye.

15 MEMBER ABRAMS: Aye.

16 MEMBER DiBLASIO: Aye.

17 MEMBER JONES: Aye.

18 MEMBER GALTIERI: Aye.

19 MR. AVRUTINE: Now the Board is free to act on  
20 the application itself.

21 CHAIRMAN BREGMAN: It really is on the basis  
22 of all, none or in between, and/or additional plantings.  
23 So ultimately, if somebody wants to make a motion on the  
24 application, if there is a motion for permitting this  
25 application and/or any specific exclusions or additions.

1 I'll make a stab at it. I'm going to make a  
2 motion that the application be approved as shown for the  
3 ten trees, and that there be two additional trees in  
4 conjunction with the trees shown as 8, 9 and 10, which  
5 will be planted to be no less than 7 to 8 feet in  
6 height. The two additional trees will be planted south  
7 of Tree 8 and the 21-inch tree to be removed, and in  
8 front of and north of the next tree, which is 25 inches  
9 shown actually on both of these revised plans.

10 This approval is going to also be subject to  
11 the application that Mr. Diefendorf will make to the  
12 Board of Trustees for a fill permit. So, if he does not  
13 get the fill permit, he does not get this application  
14 approved.

15 That's a motion on the table.

16 MEMBER DiBLASIO: The fill permit also  
17 includes drainage?

18 MR. AVRUTINE: Whatever the Board of Trustees  
19 would determine in connection with that, if it were to  
20 approve it.

21 MEMBER GALTIERI: I have a question.

22 CHAIRMAN BREGMAN: Yes.

23 MEMBER GALTIERI: Besides trees, is there any  
24 other shrubbery or anything that would suffice or make  
25 that barrier or the separation a little less obvious,



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1 you know, rhododendron, something like that?

2 CHAIRMAN BREGMAN: You know what, Jim, it's  
3 possible. Ultimately, that can be presented. You can  
4 request that. I don't know. There's still a lot of  
5 growth around, and how much those shrubs would grow is  
6 going to be up to the arborist to make a determination,  
7 what would be applicable.

8 Mr. Diefendorf used the arborist, as we know,  
9 and that was the recommendation of the arborist, to  
10 plant these trees that, I would gather, are contusive to  
11 this area and where they are going to be planted. So,  
12 without getting more information from a landscape  
13 architect or the arborist, I can't really answer that.  
14 You can certainly amend the motion, if you want to add  
15 that as a condition.

16 MEMBER GALTIERI: I think your motion is good.

17 MEMBER DiBLASIO: Do we have an established  
18 buffer zone, in other words, a setback area? Do we have  
19 a definite area that would be called like a setback  
20 area?

21 CHAIRMAN BREGMAN: well, the setbacks are  
22 automatic. I mean, our setbacks are 40 feet on side  
23 yards and rear yards. So based on that setback, we know  
24 where the trees would be.

25 He did not show the setbacks on here, but the

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1 setbacks of the trees, these trees, because you can  
2 scale them. The only tree in question in the setback on  
3 what would be the east side, would be Tree Number 15.  
4 It's really right on the border on a scale basis.  
5 That's all the way to what would be to the right of the  
6 plan. But otherwise, all the other trees are -- let me  
7 show you this tree here --

8 MEMBER DiBLASIO: I see it.

9 CHAIRMAN BREGMAN: -- that is close, it  
10 doesn't -- he doesn't show the setbacks, but on a scale  
11 basis, it's close to the 40 feet.

12 That tree, by the way, just so you know, just  
13 so it's clear what Mr. Reilly said, tree has poor shape,  
14 but otherwise has no major problems. So, that is one of  
15 the healthier trees.

16 MEMBER DiBLASIO: And there are no trees,  
17 really, going in on that side.

18 CHAIRMAN BREGMAN: By the way, I think  
19 Mr. Diefendorf has pictures of the tree.

20 MEMBER DiBLASIO: There are no trees going in  
21 on that side.

22 CHAIRMAN BREGMAN: There are no trees going in  
23 on that side, based on his planting plan, no. I mean --

24 MR. AVRUTINE: 5, 6 and 7.

25 CHAIRMAN BREGMAN: I see. Yes. Excuse me.

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1 Sorry.

2 It's not quite in that vicinity. It's a  
3 little further back.

4 Mr. Diefendorf, if I might add, the trees that  
5 you show, 5, 6 and 7, in that particular spot where no  
6 trees were actually being removed, is there a reason  
7 they were located in that spot?

8 MR. DIEFENDORF: No. That was the arborist's  
9 recommendation.

10 CHAIRMAN BREGMAN: There's no indication why  
11 he selected those -- that particular location. That was  
12 the arborist's selection. So, that's what is before us,  
13 unless there's a suggestion to modify it.

14 You will see that the majority of the trees on  
15 that border are either remaining, there's quite a number  
16 of trees that are on the other side. I will say that a  
17 number of those trees that he's not taking down, I would  
18 not say are the most beautiful of trees. They are not  
19 in the best shape, but he's not removing them. So, I  
20 can't really address, Mr. Diefendorf wasn't able to add  
21 as to exactly why they are located there, but that's  
22 where he's suggesting them.

23 The motion is out there.

24 MEMBER GALTIERI: I will second it.

25 MR. AVRUTINE: Second by Member Galtieri.

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CHAIRMAN BREGMAN: All in favor?

Aye.

MEMBER ABRAMS: Aye.

MEMBER DiBLASIO: Aye.

MEMBER JONES: Aye.

MEMBER GALTIERI: Aye.

MR. AVRUTINE: Application approved with the  
conditions as stated by the Chair.

That completes the hearing.

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CERTIFIED THAT THE FOREGOING IS A TRUE AND  
ACCURATE TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC MINUTES  
IN THIS CASE.

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RONALD H. KOENIG  
Senior Court Reporter