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INCORPORATED VILLAGE OF LAUREL HOLLOW
BOARD OF ZONING
PUBLIC HEARING
February 28, 2017
7:30 p.m.

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

PRESENT:

- RUSSEL MOHR, CHAIRMAN
- JEFFREY BLUMIN, MEMBER
- CINDY KAUFMAN, MEMBER
- CHRIS HADJANDREAS, MEMBER

ALSO PRESENT:

- HOWARD AVRUTINE, Village Attorney
- JAMES ANTONELLI, Village Engineer

- CHUCK PANETTA, ARCHITECT
- TODD E. ANDREWS, ARCHITECT

CONTINUED HEARING ON ZS5-2016/ZV4-2016
REESE - RIDGE ROAD

MARY ANNE COPPINS
OFFICIAL COURT REPORTER

1 MR. AVRUTINE: The last case is
2 ZV4-2016 and ZS5-2016. ZV4-2016 is a
3 continued public hearing on the
4 application of Todd A. Andrews, AIA, on
5 behalf of Howard Reese to construct a
6 new single family dwelling and swimming
7 pool at Ridge Road where the lot does
8 not have front line frontage on a street
9 of at least 150 feet in violation of
10 Section 145-5(A)(2) of the Laurel Hollow
11 Village Code, zero feet is proposed.
12 And where the principal building is not
13 set back 60 feet from every lot line in
14 violation of Section 145-5(B)(1) of the
15 Laurel Hollow Village Code; 50.44 feet
16 is proposed. The property is known as
17 Section 26 Block C lots 2011 and 2024 on
18 the Land and Tax Map of Nassau County.

19 The case ZS5-2016 is the continued
20 public hearing on the application of
21 Todd E. Andrews, AIA, on behalf of
22 Harold Reese, to construct a new single
23 family dwelling and swimming pool at
24 Ridge Road where the construction will
25 disturb a very steep slope and severely

1 steep slope as shown on slope analysis
2 prepared by Bladykas and Panetta, LS &
3 PE, PC, dated 8/29/15, last revised on
4 12/24/15. The site plan prepared by
5 Bladykas & Panetta, LS & PE, PC, date
6 8/29/2015 and last revised on February
7 22, 2017; the Tree Removal Plan prepared
8 by Bayview Landscape Architecture dated
9 9/28/2016 and last revised on 2/13/2017;
10 and the Map prepared by Bladykas &
11 Panetta, LS & PE, PC dated 8/29/2015 and
12 last revised on 9/28/2016. The property
13 is designated a Section 26 Block C Lots
14 2011 and 2024, on the Land and Tax Map
15 of Nassau County.

16 The exhibit list in connection with
17 this continued hearing is as follows:
18 First, all exhibits entered into the
19 record at the hearing held on November
20 15, 2016 by reference. The next exhibit
21 is the Legal Notice dated February 10,
22 2017. The next exhibit is an Affidavit
23 of Posting from Nicholas Porcaro that
24 the legal notice was posted
25 conspicuously on the bulletin board at

1 the entrance to Village Hall on February
2 17, 2017. The next exhibit is an
3 Affidavit of Publication from James
4 Slater stating that the legal notice was
5 published in the Oyster Bay Guardian on
6 February 17, 2017. The next exhibit is
7 a document that confirms that the legal
8 notice was published to the Village
9 website and sent to Village website
10 subscribers on February 17, 2017. The
11 next exhibit is an Affidavit from the
12 Deputy Clerk stating that the legal
13 notice was mailed on February 16, 2017
14 to the agencies listed in the affidavit.
15 The next exhibit is an Affidavit of
16 Mailing from the applicant indicating
17 that the Notice of the Public Hearing
18 was mailed on February 17, 2017 to the
19 persons set forth in the affidavit. The
20 next exhibit is a Full Environmental
21 Assessment Form prepared by David M.
22 Workman of VHB Engineering, Surveying
23 and Landscaping Architecture, PC dated
24 December 7, 2016. The next exhibit is
25 correspondence from Bladykas & Panetta,

1 LS & PE, PC dated December 20, 2016.
2 The next exhibit is a Memorandum of Law
3 by Murphy & Lynch, PC dated January 12,
4 2017. The next exhibit is
5 correspondence from Stephanie O. Davis,
6 CPG, FRM, group dated January 26, 2017.
7 The next exhibit is a Reply and
8 Supplemental Affidavit from Stephanie O.
9 Davis, CPG sworn to on February 1, 2017.
10 The next exhibit is a reply Memorandum
11 of Law submitted on behalf of the
12 objector, Marsha Kramer Mayer, dated
13 February 2, 2017. The next exhibit is
14 correspondence from Rosenberg Calica &
15 Birney LLP, dated February 2, 2017. The
16 next exhibit is correspondence from
17 James Murphy dated February 24, 2017.

18 Mr. Murphy, the floor is yours.

19 MR. MURPHY: Good evening, Mr.
20 Chairman, Members of the Board. My name
21 is James Murphy with the law firm of
22 Murphy & Lynch, with offices at 1045
23 Oyster Bay Road in East Norwich.

24 We thank you for this opportunity,
25 with regard to the continuance of this

1 hearing, your patience with regard to
2 having observed some 96 pages of
3 transcript back in November, as well as
4 some nine exhibits we had submitted in
5 support of this application. We have
6 present here this evening the same
7 witnesses on behalf of the application
8 who were present in November.

9 The siting of these proposed
10 improvements were designed in such a
11 fashion in order to not disturb any of
12 the severely steep slopes of this
13 parcel. However, on further reflection,
14 in order to further reduce any potential
15 environmental impact with regard to
16 these severely steep slopes, Mr. Todd
17 Andrews, as well as Mr. Chuck Panetta,
18 as I mentioned a moment ago, are here
19 this evening. They have taken a harder
20 look again at the site plan and have
21 concluded that it would be -- they would
22 be able to further shift the proposed
23 improvements from the margins of the
24 severely steep slope areas on this
25 property.

1 And with the permission of this
2 Board, I would like to have Mr. Panetta
3 walk this Board through as to how that
4 might be accomplished in order to
5 further remove the proposed improvements
6 from the steep slope area to reduce the
7 potential impact.

8 Also, in doing so, with the
9 permission of the Board, Mr. Panetta
10 would like to testify with regard to the
11 siting of this property for purposes of
12 any proposed improvements with regard to
13 achieving the minimal reasonable use of
14 the property, counter-posed to
15 maximization that might otherwise be
16 permitted. So those are two branch
17 areas we're addressing this evening to
18 further focus on expressing certain
19 concerns that had been made at the
20 original hearing back in November, as
21 well as comments from the Board in
22 November.

23 And with permission, Mr. Panetta,
24 would you like to identify yourself for
25 the record.

1 MR. PANETTA: Good evening, Members
2 of the Board, my name is Chuck Panetta
3 from the firm Bladykas & Panetta.

4 Again, we went through an
5 exhaustive presentation at the hearing
6 to go over the genesis of the plan
7 before you. We went through the issues
8 at hand, the topography and the
9 constraints of the site and how we came
10 up with the plan before you. So I'm not
11 going to reiterate that. But I did want
12 to go into some issues that came of
13 late.

14 I understand the concern of the
15 Board. One of the issues that we had
16 done is we did revise the plan and we
17 relocated the sanitary system to ensure
18 that it was outside of the severely
19 steep slopes. And to that end, we
20 talked to the Village Engineer and there
21 may be a concern that the pool was near
22 severely steep slopes.

23 So what I wanted to assure the
24 Board is, first, that we would not
25 propose to create structures within the

1 severely steep slopes. We understand
2 that. We had submitted the slope
3 analysis plan before you. It's been the
4 subject of public hearings and then, on
5 record in this Village, for over a year
6 and subject to scrutiny. But in an
7 effort to be as clear as possible on
8 limiting any impacts, we took a critical
9 look and the proposed sanitary system
10 could be slightly shifted in order to
11 achieve that goal, and the proposed pool
12 could be slightly shifted to the north
13 to achieve that goal.

14 So, we just want to be clear that
15 we made a representation to this Board
16 that the implementation of this plan
17 would not disturb severely steep slopes,
18 and we feel clear that it would not.
19 But if this Board had a concern and
20 wants to impose such a restriction on
21 this plan, we would be open to that
22 because we feel it would be easy to
23 achieve, if it needed to be.

24 MR. AVRUTINE: Just a question, Mr.
25 Panetta.

1 In my discussions with Mr.
2 Antonelli, the Village Engineer, I think
3 one of the issues that we had, and I
4 certainly do not have the ability to
5 look at it with a critical eye as Mr.
6 Antonelli does, but I think part of the
7 problem came from the fact that the
8 slope analysis which indicates the
9 various categories of slope might -- the
10 drawing was in a different scale than
11 the site plan was and it was difficult
12 to discern where the borders were on the
13 site plan because there was no overlay
14 and it is not the same scale.

15 Mr. Antonelli and I discussed this
16 and it was even difficult for him, as an
17 engineer, to make those determinations.

18 So I think based upon that
19 assertion and your statement that it is
20 the intention of the applicant to make
21 sure that in your proposal there is no
22 disturbance of the severely steeped
23 slope area, I think it would helpful to
24 the Board as a whole to have some sort
25 of document overlay, something that

1 makes it crystal clear on the site plan
2 where you're showing your improvements
3 to be, and on this same drawing, showing
4 where the borders of the various slope
5 categories are, so someone who doesn't
6 necessarily have the trained eye of an
7 engineer can make those determinations
8 for themselves and see it and understand
9 it.

10 So that's just me speaking as the
11 attorney, trying to make heads and tails
12 of the material that I was looking at.

13 MR. PANETTA: Fair enough.

14 Again, I just want to be clear that
15 I am trying to avoid wading into the
16 weeds of how this Village identifies
17 slopes, and regulates them. And there
18 is -- if you go into your Code, it's not
19 just measuring between contour lines,
20 they have a method with a diagram where
21 they show the methodology utilized and
22 it's averaging slope. So, again, we
23 were clear on the slope analysis that we
24 submitted. It has been part of the
25 public record for the past year. And,

1 so, we want to be clear to the Board
2 that we have been transparent and our
3 intention is to develop this property
4 and we feel this plan does that, by the
5 way. But to the extent that we can make
6 is better, we always would. So if this
7 Board wanted to impose that restriction,
8 we would be open to it. So I just
9 wanted to be clear on that and assert
10 that.

11 To that end, I did want to dive
12 into the numbers a little bit because
13 that was the other issue that I wanted
14 to present to the Board, because I know
15 there has been some information floating
16 around and there has been some
17 submittals to the Village that may not
18 be clear because they purport to
19 identify certain things.

20 So I would like to submit a
21 document to the Village, just a synopsis
22 of some of the numbers we are dealing
23 with related to the existing property.

24 Our proposed plan here, the first
25 item --

1 MR. AVRUTINE: One moment, I want
2 to see where we are in terms of the
3 exhibits that we marked. This document
4 is going to be marked. This is an
5 undated document on letterhead from
6 Bladykas & Panetta, LS & PE, PC that
7 states on the upper left Section 26
8 Block C Lot 2011, 2024 Ridge Road,
9 Laurel Hollow, New York and has
10 calculations on it. And it's being
11 marked as Applicant's Exhibit 14.

12 MR. PANETTA: And before I get into
13 that, I do want to talk about this. I
14 want to just make it clear to the Board
15 on the plan that we are not proposing to
16 import any fill on the property. I saw
17 documentation, some correspondence back
18 and forth that included claims that
19 there was somehow imported fill being
20 brought to the site. And the site plan,
21 all the information that we submitted
22 and the calculations we have done,
23 clearly indicate that, if anything, we
24 will be removing material from the site.
25 There is no intention to bring fill in

1 and there is no need to bring fill in at
2 all. So any excavation with the dry
3 wells, sanitary system, excavation of
4 the foundation that needs to be done and
5 the limited regrading. Again, we went
6 extensively through this at the previous
7 hearing, but I just wanted to make sure
8 that was part of the record and clear to
9 the Board.

10 In addition, the type of retaining
11 walls and the height of retaining walls,
12 I believe the tallest retaining wall
13 needed is -- there is a corner of the
14 terrace that I think there is a 7-foot
15 grade change between the terrace and the
16 existing grade. But that is the extent
17 of it. It's just in the northeast
18 corner. Then the grade rises quickly to
19 conceal those foundation walls, so there
20 is no 15-foot walls proposed. And I
21 just want to be clear that the site plan
22 identifies all these grades and elements
23 and is unambiguous to what we were
24 proposing.

25 But, really, the document I just

1 want to talk to goes into some of the
2 issues of what is a lot, what is
3 extensive, what is minimal. When you
4 look at some of these zoning
5 requirements of the Village, that's
6 really -- this is just to compare
7 numbers that are equal to each other,
8 because we have seen documentation where
9 people are using numbers from the Nassau
10 County Assessor's website that
11 calculates an odd number, that living
12 space that is nothing related to the
13 floor area ratio that this Villages
14 uses, which includes garages and is a
15 whole other calculation.

16 So just to be clear on what we are
17 proposing and what is allowable here,
18 you can run through the numbers that
19 would be allowable principle dwelling
20 footprint, and what we are proposing is
21 much less. We're allowed 5,237 square
22 feet and we are proposing 2,460 square
23 feet and that is in character with the
24 community.

25 As an aside, we have a survey of

1 the property to the south of us and the
2 footprint of that dwelling is 2,550
3 square feet. We are certainly in
4 character with the community. There is
5 nothing over the top about this. As a
6 matter of fact, this is one of the
7 smaller houses on Ridge Road. We
8 surveyed quite a bit of them and you can
9 ride up and down Ridge Road and
10 understand this is a lot lower.

11 The other, I just want to be clear,
12 is the floor area ratio. The allowable
13 floor area ratio, which is a 9 percent
14 calculation, would be 7,856 and that
15 does -- would include an attached
16 garage, which we are proposing the
17 4,752. So, again, it's well below the
18 allowable.

19 A lot of that is due to the
20 terracing and the tight footprint so
21 that we do have a foundation built into
22 the hill. The house acts as a
23 foundation, acts as the retainage so the
24 house is specifically designed for this
25 site. We are not trying to shoehorn

1 some colonial house onto this area.
2 We're specifically designing this house
3 to these contours.

4 Then I just want to go into total
5 allowable coverage. That number, again,
6 we are about less than half of the
7 allowable 17,000 square feet. We are at
8 8,111. That includes the driveway, all
9 the impervious areas.

10 Some of the alternatives that we
11 were looking at, especially moving the
12 house location which had been suggested
13 previously to the area, to this area,
14 really exploded that number with the
15 amount of impervious area being created.

16 Lastly, I want to go into the total
17 accessory building. Again, this is all
18 accessory structures allowable. We are
19 showing you a complete build-out here
20 and are not trying to piecemeal a site
21 plan, and we are well below that. The
22 allowable would be 8,729 -- that is a
23 misprint, and the proposal is 1956, so
24 we are well below the allowable.

25 So I just wanted to be clear on

1 that because I saw some correspondence
2 that conflated some floor area with a
3 footprint number and it really distorted
4 the full picture to the Board. I think
5 we made a clear presentation on the
6 genesis of this site plan. And going
7 into the numbers, we feel this is a
8 mitigation of the impacts of development
9 here.

10 If the Board has any questions, we
11 would be happy to answer them.

12 MR. AVRUTINE: Are there any
13 questions for Mr. Panetta?

14 CHAIRMAN MOHR: Just for the
15 record, what you are suggesting is that
16 the most recent plan of 2/22, you're
17 suggesting you have further revisions,
18 based on some conversation you had with
19 Mr. Antonelli?

20 MR. PANETTA: I don't have further
21 revisions. I have had a conversation
22 about the potential for impacts. And I
23 said we would, if the Board imposed such
24 a condition, we would be able to meet
25 it. So I would rather -- I don't

1 believe that we need to revise this
2 plan. But again, I would just want the
3 Board to understand that we have the
4 ability to do that, and if that was
5 something that the Board would impose,
6 we would be able to comply.

7 MR. AVRUTINE: Jim?

8 MR. ANTONELLI: Yes, Mr. Chairman,
9 Members of the Board.

10 Yesterday I went to look at the
11 site and I walked it. Now that the
12 building, the proposed building location
13 has been staked, it appears as though
14 the house is -- the house location is
15 chosen at the peak of a, let's call it a
16 local high point on the property, where
17 off to the south and east of that
18 property line there is topographic swale
19 or ravine that runs toward the neighbor
20 that would be to the east.

21 What I thought, now that everything
22 is staked in the field, sometimes you
23 can look at a plan and think that it's
24 possible that the construction could be
25 done according to the plan, but when you

1 go out and look at it in the field, you
2 see actual conditions sometimes.

3 It raised a number of issues in my
4 mind. I thought it looked awfully
5 steep, that whole side yard, and,
6 frankly, it bothered me that the
7 sanitary system was going in there and
8 so close to the swale and above that
9 neighbor's rear yard.

10 So I did talk to Chuck Panetta
11 today and I said, you know, I would feel
12 a lot more comfortable if we can get the
13 sanitary system closer to the garage and
14 move it further up slope into something
15 that is relatively flatter. I thought
16 that would make a little more sense just
17 in case there was a possibility of --
18 and Chuck knows more about the detail of
19 it than I do in a vertical sense -- but
20 I wanted to make sure that if there was
21 any chance that the leaching pools in
22 the soil conditions would allow the
23 sewage effluent flow at a horizontal
24 direction. I didn't want it to come out
25 to the surface. I want to make sure we

1 are in a flatter area.

2 MR. AVRUTINE: Just to clarify, to
3 make it crystal clear for the record and
4 the Board, I guess if there was some
5 adverse condition that happened and
6 there was to be some, I guess, slope
7 degradation, there is concern about what
8 would happen with the septic system; is
9 that what you are saying?

10 MR. ANTONELLI: I don't know about
11 a slope degradation. Like I said, if it
12 would travel horizontally, rather than
13 vertically.

14 MR. AVRUTINE: What would cause
15 that, that's my question.

16 MR. ANTONELLI: If one of the walls
17 of the structures was too close to a
18 sloped area or if it was too high.
19 I think the way it's designed it's going
20 to be low enough so that won't happen,
21 but I thought if we can safeguard that.

22 Anyway, after seeing it in the
23 field, I went back to the plan that was
24 submitted and I took some measurements
25 with the scale. I understand how the

1 slope maps were created, they were
2 created electronically. I don't have
3 that luxury when I am reviewing a plan.

4 So when I looked at the sanitary
5 system in that corner of the house in
6 the pool area, I thought that some of
7 that area fell into the severe slope
8 category. And I understand, and I want
9 the Board to understand this too, that
10 when you go from a 40 scale, a one inch
11 to 40-foot scale slope map, you can
12 hardly -- the contours are so close, a
13 2-foot interval, you really can't
14 measure these without going cross-eyed.
15 The plan that is submitted, the site
16 plan is at 20 scale. When I measured a
17 portion of the pool, a portion of the
18 sanitary and the decking, the overhang,
19 it looked to me like that was in the
20 severely sloped area.

21 I called Chuck Panetta and I said
22 is there a chance you can move that back
23 further, I think the sanitary could be
24 moved easily toward the garage, I don't
25 think that is an issue.

1 I have not heard anything tonight
2 about this, what they thought about the
3 pool or the decking. I don't know how
4 the Board will look at that decking
5 overhang, because, obviously, there has
6 to be some type of support into the
7 ground. I don't think that is a major
8 slope disturbance. But to me, I thought
9 again, just scaling, I thought that at
10 the 2-foot contour, which is shown on
11 the site plan, there were a number of
12 contours that were 5 feet apart, that's
13 great than 35 percent and throws you
14 into the severe category. And it was
15 definitely, at least according to my
16 measurements and calculations, my
17 thought, it was part of the contiguous
18 steep slope -- severe slope, sorry,
19 from down below, it's further towards
20 the water. So I thought it would have
21 been regulated. And I brought that to
22 their attention and asked if there could
23 be something done at the corner of the
24 pool and sanitary system, specifically.

25 MR. AVRUTINE: I have a question.

1 What would you request from the
2 applicant, in terms of a modified plan,
3 that would satisfy you and demonstrate
4 definitively, what we're talking about
5 here, which is that the severally sloped
6 area is not being disturbed by virtue of
7 these improvements. What would you ask
8 for, what would do that, definitively?

9 MR. ANTONELLI: The sanitary moving
10 closer to the garage. It doesn't have
11 to go far, possibly 10 feet.

12 MR. AVRUTINE: I'm not talking
13 about actually what you're doing, I'm
14 talking about how it would be shown on a
15 plan. How can it be shown on a plan so
16 that it's crystal clear to you, that the
17 severely steep slope is not being
18 impacted. Because right now, again,
19 from the way I understand it, you are
20 working off two different documents.

21 MR. ANTONELLI: One of them is
22 computer generated. And as you may
23 know, all maps have certain
24 generalizations about them. At that
25 scale, I couldn't tell where the line

1 would really be, so I scaled myself on
2 the larger scale map. Again, that would
3 have to be projected however -- there
4 are a number ways to do it. I don't
5 know, exactly, which method was used to
6 make those calculations. There are a
7 number of algorithms that could be used.
8 Most computer programs do them
9 differently than one another, so I'm
10 still not sure what you're asking me.

11 MR. AVRUTINE: Just if the goal
12 here, again, as a lay person, if the
13 goal here is to definitively establish
14 that the proposed improvements are not
15 disturbing the severely sloped area, how
16 do we know for sure. I know by moving,
17 you said by actually moving, but how
18 far? And if you show them in the
19 different location than they currently
20 are, shouldn't you be able to see on a
21 map where the severely sloped area line
22 begins?

23 MR. ANTONELLI: Also, keep in mind
24 that when topographic maps are made,
25 whether they are done by aerial

1 photograph or by hand, they're only good
2 to a half of a contour interval, so this
3 is good to the nearest foot. So I don't
4 know whether you can say this is exactly
5 the line and this is exactly how it
6 should be done and where it should be, I
7 don't know if you can do that.

8 MR. AVRUTINE: Okay, so it is not
9 exactly as I thought it was.

10 MR. ANTONELLI: When I went out in
11 the field and I saw what that looked
12 like toward that ravine toward the
13 property line, I just thought I better
14 go back and check the map and see
15 exactly what slopes we have there.
16 I thought it was within the severe
17 category.

18 MR. AVRUTINE: All I'm trying to
19 figure out, is because Mr. Panetta said
20 it, he said if the Board wants to make
21 it a condition that there is no
22 disturbance in the steep sloped areas,
23 we will agree to that and do that. At
24 the end of the process here, how do we
25 know, how do we verify that is the case

1 by virtue of a plan that would depict
2 it? That's all I'm asking. How do you
3 verify?

4 MR. ANTONELLI: Well, I would be
5 happy to share my hand sketch with the
6 applicant and they can check it
7 themselves. Like I said, the other one
8 is computer generated.

9 MR. AVRUTINE: I hate to put this
10 on you, Mr. Antonelli, you're going to
11 be the one that is going to have to
12 verify it to tell us whether it does or
13 doesn't.

14 MR. ANTONELLI: That's what I am
15 telling the Board. I did it by hand and
16 it's what I'm going with. I think the
17 sanitary system, at least the septic
18 tank, was in the severely sloped area
19 and I think a portion of pool is in the
20 severely sloped area. That's what I am
21 saying.

22 MR. AVRUTINE: Okay, I understand
23 that that's what you are saying, all I
24 am trying to say if they --

25 MR. ANTONELLI: Based on -- I'll

1 give you the basis. It's based on a
2 hand-scale measurement of the site plan
3 submitted, the 20 scale. The 40 scale I
4 couldn't use.

5 CHAIRMAN MOHR: Was that reinforced
6 by your field visit and supported? You
7 did the hand scale.

8 MR. ANTONELLI: Measurements. I
9 have no way of making a field
10 measurement.

11 CHAIRMAN MOHR: I understand that.
12 But you did your hand sketch first, then
13 you do a site visit, correct?

14 MR. ANTONELLI: No, the other way
15 around. After I did the site visit, I
16 said I think I want to take a harder
17 look at where -- I didn't realize -- by
18 looking at the map, it's hard to
19 visualize where you would be on the
20 property. Until this thing was staked
21 and I went out there, it was very hard
22 to visualize that.

23 CHAIRMAN MOHR: So you went back
24 and did a further analysis and now, here
25 we are today. And I think that based on

1 what I am hearing from Mr. Antonelli, I
2 think the Board is going to want to see
3 if there are alternatives to not impact
4 those severely steeped slopes,
5 particularly with the sanitary and then
6 looking at that edge of the pool that
7 Mr. Antonelli refers to.

8 MR. ANTONELLI: I think moving the
9 sanitary, I think Mr. Panetta already
10 said that, it's not a big issue and that
11 can be done. There are a number of ways
12 to bring the plumbing out of the house
13 to make that work. I would like to see
14 it closer to the garage.

15 CHAIRMAN MOHR: Are you suggesting
16 moving the pool a bit to the north?

17 MR. ANTONELLI: I think there is a
18 portion of the pool that is in the
19 severely sloped area.

20 MR. AVRUTINE: Do you have a sense
21 of how much of it?

22 MR. ANTONELLI: Approximately
23 one-third.

24 MR. AVRUTINE: And also, whatever
25 the support is for the deck you said,

1 too.

2 MR. ANTONELLI: The deck, the
3 corner of the deck overhang looks like
4 it's in the severe sloped area.

5 CHAIRMAN MOHR: So what would be
6 impacting the severe slope in that case
7 would be the support structure.

8 MR. ANTONELLI: The support.

9 And as I know the Code, and I did
10 not, I was not the author of this
11 ordinance, but I did work with the
12 consultant who was and I did review it
13 before it was offered as a proposed
14 ordinance to the Village.

15 My understanding is that if it's
16 within a severe area, the Board can
17 certainly consider something like that
18 support. A stairway was something that
19 was talked about for a long time in the
20 development of that ordinance, those
21 types of things, access to other parts
22 of your property, that could be done
23 within the severely sloped area. But it
24 bothered me that something like an
25 amenity like the pool would be in there,

1 or at least close enough to it. Under
2 anybody's eye, I think, would say that
3 it's very close.

4 MEMBER HADJANDREAS: If the deck
5 were to be cantilevered, where the
6 supports wouldn't affect the steep
7 slope.

8 MR. ANTONELLI: I have not seen any
9 detail for it. It's an overhang, I
10 don't -- I'm assuming --

11 MEMBER HADJANDREAS: We're just
12 assuming there's going to be pylons or
13 whatever.

14 MR. ANTONELLI: I would assume so.

15 MR. AVRUTINE: Do you want to
16 address that?

17 MR. PANETTA: Yes. We took a
18 critical eye to this, too. And like I
19 said, the methodology that this Village
20 asks to be used is not just measuring
21 from contour line to contour line, it's
22 taking an area and averaging that grade.
23 So there is some interpellation when you
24 are establishing these areas of steep
25 slope, very steep slope and severely

1 steep slope.

2 The methodology we've used for this
3 map is the same way our office has been
4 doing it since the inception of the
5 standard and it was consistent with the
6 previous building inspectors.

7 So, that's where I just want to be
8 clear to the Board, our intention is to
9 not disturb those. We feel that this
10 plan does.

11 To the extent that Mr. Antonelli
12 has concerns over the corner, the
13 southeast corner, we were -- my
14 intention was that can we move the pool
15 to the north and get that corner out of
16 the -- what he would consider a severely
17 steep slope or to assuage any potential
18 for a disturbance, we would be willing
19 to do that.

20 To the extent that there is a post
21 here and requires us to move this over
22 12 inches, 18 inches to be out of
23 whatever potential area this could be,
24 we would be willing to do that, but that
25 is where I just want to be clear.

1 When we establish these slope maps
2 and we overlay them on our plan in order
3 to create these site plans, we do that
4 with utilizing interpellation between
5 contour lines and getting areas of
6 slope. And so it is not just -- because
7 there are certain dimensional
8 requirements, we don't have little
9 fingers of severe slope running through
10 or different slope areas per every
11 contour line.

12 The intention, and I would go back
13 to when this was first instituted with
14 Rita Wolf, is for areas to be shielded
15 from development. And that's the
16 intention we take when we develop these
17 site plans and that's what we feel
18 throughout our interaction with this
19 Village is then a hallmark of
20 implementing this ordinance. So we feel
21 we are consistent with that.

22 But, again, to any degree that a
23 potential impact is created, that's why
24 I initially said we would comply with
25 that, whether it's shifting the house

1 over 12 inches to alleviate the issue
2 with the overhanging deck, or moving the
3 pool further to the north to alleviate
4 the concern of the Village Engineer.

5 Again, this just happened today.
6 The conversation came up and we
7 reexamined what was done here.

8 So to the point that Mr. Avrutine
9 had, if a plan to overlay the sloped
10 area was put on the site plan, I know
11 sometimes we don't like to do that
12 because it just adds more hatching and
13 makes these already difficult-to-read
14 site plans with the many lines and
15 dimensions, that much more difficult to
16 read. But I think in here, it may bring
17 some clarity.

18 MR. AVRUTINE: Also, just to
19 clarify for the record, I want to make
20 it clear that no one is calling into
21 question your methodologies and your
22 means and your integrity, not
23 whatsoever.

24 MR. PANETTA: I understand that.

25 MR. AVRUTINE: What concerns me

1 though, in all of this, is that you were
2 able to conclude, based upon your
3 analysis, this is not an intrusion, and
4 Mr. Antonelli says a third of the pool.
5 So if it was two inches or something
6 like that, I can understand. But it
7 just seems like when he says a third, it
8 causes me to be concerned about who is
9 right. So, I think we need some
10 clarity.

11 MR. PANETTA: Sure.

12 MR. ANTONELLI: Part of the issue
13 here is the way the ordinance is
14 written.

15 Initially, it was written so that
16 it did not specify what scale the plan
17 should be. And I'll say, whether
18 everybody knows this or not, I'll say if
19 you have a 10-foot-scale plan, a
20 20-foot-scale plan and a 40-foot-scale
21 plan, you're going to come up with a
22 different severe slope.

23 Your slope category lines are going
24 to be in a different location on every
25 one of those. It's just the nature of

1 how these things are put together, how
2 they're made.

3 The slope map was done at a 40
4 scale, if that's blown up to 20 inch
5 super imposed, it may not fit the
6 contours as well as if it were done
7 originally at a certain scale.

8 MR. AVRUTINE: I guess we're
9 getting beyond my pay grade.

10 I guess what I would like is maybe
11 for an agreed methodology to be used so
12 that either it is or it isn't and --

13 CHAIRMAN MOHR: And what scale you
14 want the plan on.

15 MR. AVRUTINE: So that we have a
16 consistent --

17 CHAIRMAN MOHR: With the overlay.

18 MR. AVRUTINE: A consistent way of
19 looking at this, that's all.

20 You don't have to answer that now,
21 Jim. I want to just make sure that
22 everything is being done in a way that
23 is consistent, and everyone will look at
24 it the same way and there won't be
25 interpretation based upon the map.

1 CHAIRMAN MOHR: Any questions from
2 the Board?

3 MR. PANETTA: I did have one final
4 housekeeping item to attend to, it was
5 just the revised date on the map.

6 The only change to any of the
7 previous map that was submitted was
8 there was one note, that bubble. It was
9 really, it was a landscaping note that
10 we had on previous plans that I wanted
11 to clarify and just make a note because
12 we had different references to
13 restoration. We just made the blanket
14 note that it was going to be noted that
15 those restorations were going to appear
16 on the landscape, this way there would
17 be no conflict between the two plans.

18 Just a housekeeping item, that's
19 the revision date that you see there on
20 2/22.

21 MR. AVRUTINE: Thank you.

22 Are there any questions of Mr.
23 Panetta? Any other questions?

24 Mr. Murphy, do you have more
25 witnesses?

1 MR. MURPHY: I think, perhaps, in
2 the spirit of further clarification,
3 perhaps Mr. Todd Andrews can shed some
4 additional light on that which has just
5 been discussed.

6 So, briefly, if he can be allowed
7 to testify in a narrative with regard to
8 his thoughts with regard to such, that
9 might be helpful.

10 MR. ANDREWS: For the record, Mr.
11 Chairman, Members of the Board, my name
12 is Todd Andrews. I am an Architect with
13 Centerbrook Architects, 67 Main Street,
14 Centerbrook, Connecticut.

15 Just as a record of clarification,
16 I know the question about the deck came
17 up and whether or not that would have a
18 post.

19 It's currently designed as a
20 cantilever deck, so that the structure
21 would tie right back to the house. The
22 intention is that no part of the house
23 structure touches down on any part of
24 the severely steep sloped area.

25 I think the other point of

1 clarification I would like to make is
2 with today's technology, our model and
3 our house is designed real size, so the
4 site is actual size and everything that
5 we print to scale these days is, again,
6 reflected, based on the fact that with
7 the technology we're building a
8 parametric model of the home,
9 three-dimensionally, so that it's an
10 accurate reflection and it gives us that
11 ability to look very closely at the
12 details, especially in regard to the
13 site.

14 So as Mr. Panetta indicated, it is
15 our intention that we look very closely
16 at that demarcation line where the
17 severely steep sloped areas are and the
18 adjacency to what is the very steep
19 slope with all of the intention of
20 keeping all of the house and built
21 amenities out of that.

22 There are some retaining walls, as
23 Mr. Panetta indicated, that are adjacent
24 to the driveway and to the east of the
25 house, so that the built or developed

1 areas can reconnect with the existing
2 terrain in a terraced and a stepped way.
3 I think there are some walls that have
4 been shown and the plan with some
5 landscaping that are helping, again, to
6 make that transition from developed area
7 to the natural terrain so that it's more
8 in keeping with the natural aesthetic of
9 what's happening at the site.

10 So I just wanted to make those two
11 points of clarification to support Mr.
12 Panetta.

13 CHAIRMAN MOHR: Can you demonstrate
14 the areas, is the entire deck
15 cantilevered or is it just the area to
16 the south?

17 MR. ANDREWS: This is an elevated
18 deck upper level, so the entire deck is
19 up on what is the first floor so it's
20 completely cantilevered and connecting,
21 so it connects to that upper level.

22 CHAIRMAN MOHR: What is your
23 opinion with regard to Mr. Antonelli's
24 analysis of the pool area?

25 MR. ANDREWS: With the pool area, I

1 think what is in question is where the
2 demarcation of the severely steep sloped
3 area is. We worked very closely with
4 Mr. Panetta and off of his site survey
5 to locate our plan. We were using that
6 as the basis of our design to try and
7 keep everything to the north of that
8 area. I think we will have to work to
9 make sure that the clarity on where that
10 line exists is accounted for properly,
11 which is our intention. I think that's
12 why Mr. Panetta said if there is some
13 concern about it being marginally close,
14 then the response would be to move the
15 house north to get it out of any of that
16 impact zone.

17 CHAIRMAN MOHR: Any questions?

18 MR. ANDREWS: I think the last
19 point I would make is based on that, and
20 the map that we used, we have not
21 intended only to draw not only the house
22 or the amenities of the pool within that
23 setback -- or, I'm sorry, the severely
24 steeped slope area. Thank you.

25 CHAIRMAN MOHR: Thank you.

1 MR. MURPHY: Although we're
2 confident that this Board is proceeding
3 properly with regard to the SEQRA
4 protocol, Mr. David Wortman is here this
5 evening to answer any questions this
6 Board may have with regard to items
7 pertaining to SEQRA, to address any
8 questions you might have.

9 MR. AVRUTINE: Thank you.

10 Jim, do you have any questions
11 about the long form that was submitted?

12 MR. ANTONELLI: No.

13 MR. AVRUTINE: So as far as
14 completeness, you are satisfied.

15 MR. ANTONELLI: It was submitted
16 twice in December. I think one during
17 the first week, then again on December
18 22nd. And in between I've spoken to the
19 person who prepared it and I'm satisfied
20 that the responses are complete and
21 certainly ready for any consideration by
22 the Board.

23 MR. MURPHY: And, perhaps, last but
24 not least for this portion of this
25 evening's discussion, in the event that

1 this Board feels that the diversified
2 non-evasive landscaping plan would be
3 improved with augmentation with regard
4 to additional mountain laurel if that
5 would be a concern of this Village, we
6 are certainly happy to include
7 additional mountain laurel. We think
8 the landscape plan, in terms of its
9 diversity, works well, but we're happy
10 to add more mountain laurel if the Board
11 would so wish to condition such,
12 assuming the Board is otherwise
13 favorably inclined with regard to this
14 application.

15 MR. AVRUTINE: Thank you.

16 CHAIRMAN MOHR: Do you have any
17 other witness, Mr. Murphy?

18 MR. MURPHY: No.

19 MR. AVRUTINE: Mr. Calika?

20 MR. CALIKA: Yes, thank you.

21 Robert Calica. My firm is
22 Rosenberg Calica & Birney, 100 Garden
23 City Plaza, Garden City, New York. I am
24 the attorney for the neighbor/objector,
25 Dr. Marcia Kramer Mayer.

1 What will happen if this
2 application is, as presented, which is
3 you have a 4800 square foot living space
4 house with an elevated 1700
5 square-foot-plus pool and deck area
6 supported by a retaining wall that I
7 believe goes several feet into the
8 ground, as we read the plan, with an
9 8100 square footprint in the face of
10 what the Village ordinance is.

11 If 100 percent of this house is
12 within a very steep slope, this
13 application should be denied because the
14 Village Code does not permit the
15 disturbance of land and vegetation in a
16 severely steep slope area, except by
17 permit granted by the Board of Zoning
18 Appeals. The permit must be based upon
19 regulations and standards that are set
20 forth in the Chapter 145(12). This
21 application meets none of those. Those
22 standards are imposed by the Board, by
23 the Legislature. They are not
24 discretionary, they are mandatory.

25 Not to limit your authority or to

1 be dismissive, but what we pointed out
2 in citing Appellate cases is that a
3 Board of Zoning Appeals is required to
4 adhere to the ordinance enacted by the
5 legislative body, has no authority to
6 disregard it and if it does so, it errs
7 as a matter of law.

8 The first standard is that the
9 Board, if it's going to issue a slope
10 disturbance permit, must do so that is
11 the reasonable minimum necessary to
12 produce a reasonable return, not the
13 maximum. There has been no dollars and
14 cents proof. But those of you in this
15 area, I know Mr. Avrutine deals with it,
16 I assume, Mr. Mohr, you're a developer,
17 you are familiar with the principle and
18 it's in our brief. There is no showing
19 that you have to build a house with a
20 footprint, if you include the pool and
21 deck, of over 6500 square feet in order
22 to have a reasonable development.

23 Now, the engineer and the architect
24 are emphasizing, well, this is a
25 two-level house so we will consider only

1 a two-dimensional footprint, not a
2 three-dimensional footprint. But the
3 Village Code doesn't permit them to do
4 that. The Village Code, in enacting
5 this slope ordinance, talks about the
6 aesthetic character of steep slopes to
7 the Village, and it uses a similar word
8 of -- I won't use my language, I will
9 use the Village Code language because it
10 says it twice, uses synonyms that say
11 almost the same thing. It says to
12 protect the Village's environmental and
13 aesthetic character, that is height, and
14 also contribute to the attractive visual
15 character of the Village and its
16 surrounding areas.

17 This is a two-level house built at
18 the highest promontory on this property.
19 It is not a one-level house. It's
20 certainly not the minimum necessary to
21 get a reasonable return because a house
22 of nearly 5000 square feet of living
23 space and a raised deck and pool area of
24 another 1700 feet is scarcely necessary
25 as shown to be necessary to get a

1 reasonable return. If you measure it by
2 the neighbor to the right, that house is
3 2900 square feet. If you measure it to
4 the neighbor to the left, looking at the
5 harbor, that house is 1600 square feet.

6 It is true that there are larger
7 houses. It is true you can point to
8 that schedule and say this is not a
9 large coverage ratio. But in a
10 severely -- in a very steep sloped area,
11 it is. This is not built on grade.
12 This is not built on a slight grade.
13 This is built, entirely, 100 percent on
14 a very steep slope where the ordinance
15 restricts the owner and restricts the
16 discretion of the Board.

17 The other standard is there must be
18 some effort to mitigate the impact,
19 including scale back the application.
20 What justification in an area that the
21 Village Board, the legislative body has
22 said you should avoid, to the extent
23 practicable, any construction in a very
24 steep slope area. Why is the Board
25 being asked to entertain an application

1 of this scope without reduction, without
2 mitigation. 4800 square feet of living
3 space, two levels, affects the visual
4 character, affects the aesthetics,
5 impacts the slopes. The engineer says
6 there's no danger. But the Village Code
7 has already said there is a danger of
8 degradation. There is a danger of
9 changes of grade. There is a danger of
10 collapse.

11 The very first case I argued when I
12 was a 20-something lawyer was trying to
13 convince the New York Court of Appeals
14 that driving on the beach in Kismet on
15 Fire Island was not a hazard, because it
16 wasn't. All the geological evidence,
17 all the scientific evidence that if you
18 drive on inland roadways it's not going
19 to cause any harm to the dune, any harm
20 to the beach, these are all interior
21 roadways.

22 And the Court of Appeals instructed
23 me, and I'll give the citation, it's
24 Lighthouse Shores against Town of Islip
25 in New York Court of Appeals. If the

1 legislature decides it's a danger, it's
2 a danger. And the only way you overcome
3 it is not coming to the Board of Zoning
4 Appeals for a variance, you go to the
5 legislative body and say change your
6 mind. Because if you want to overcome a
7 legislative finding of environmental
8 harm, you must show, unconstitutionally,
9 beyond a reasonable doubt.

10 The same rule was applied in
11 Huntington when they enacted the ban on
12 self-service gasoline stations. When is
13 the last time that anybody has read in
14 Newsday about an immolation of a driver
15 on Long Island gassing up their car.
16 That was the finding of the Huntington
17 Town Board, predictably challenged by
18 Exxon and they lost. It was challenged
19 by Mobil, they lost. There was not a
20 shred of scientific evidence that you
21 were going to have immolation of drivers
22 trying to fill their cars.

23 But the Court of Appeals said when
24 a legislative body finds that there is
25 going to be a harm to the environment,

1 that is a given and that is the rule
2 that governs the exercise of discretion
3 by the Board of Zoning Appeals.

4 The house is oversize for a very
5 steep slope. It is not the minimum
6 necessary to get a reasonable return.
7 It contravenes the statute's requirement
8 that you minimize visual impacts,
9 aesthetic considerations, it will be
10 visible, and it looms 50 feet above the
11 neighboring home. It will be visible at
12 every turn. The Village Board has
13 determined that the aesthetic character
14 of the bluff is to be preserved.

15 This Board, with all due respect,
16 is required to follow both the statute
17 and the regulations and the standards.
18 There is no mitigation. There is no
19 scaling back presented. 100 percent of
20 this home, if it's pulled north and
21 pulled in and the sanitation is moved so
22 it does not roll down the hill and if
23 one-third of the pool, if it turns out
24 to be in a severely steep slope is
25 modified, you still have 100 percent in

1 an area that is prohibited, absent a
2 permit granted in accordance with the
3 standards of this statute, and none of
4 those standards are met.

5 There is also a SEQRA violation we
6 mentioned. Segmentation is not
7 permitted. Can the Board reasonably
8 conclude that somebody constructing a
9 4800 square foot house with whatever
10 expense, with the 1700 foot deck and
11 pool is not going to seek access to the
12 beach and the harbor below. That
13 requires a stairway. The applicant says
14 there is no present plan.

15 SEQRA requires all reasonably,
16 foreseeable predictable impacts be
17 considered. It is not considered. They
18 will have to build stairs and access
19 points on severely steep slopes.

20 Another important fact that just
21 became apparent when Village Engineer
22 Antonelli said I think a third of the
23 pool and the deck may be in the severely
24 steep area. If it is not, it means that
25 the extent of the very steep slope area,

1 is so perilously close to the 35 percent
2 limit that you are dealing at the most
3 impactful part of a very steep slope.

4 It is obvious from that concern and
5 Village Engineer Antonelli's description
6 that the slope is certainly not at the
7 lower end of the spectrum of 25 percent.
8 It's closer to the maximum because by
9 his measurements done at intervals with
10 proper equipment and certain engineering
11 experience, he believes that a third of
12 it may be in a severely steep slope,
13 which means the rest of it is at the
14 limit of a very steep slope. That, too,
15 is a factor. The amount of trees that
16 are being removed is not insignificant.
17 It's 29 large caliper trees. The amount
18 of mountain laurel that are being
19 removed, they're protected, the name of
20 the Village is Laurel Hollow, is
21 described to be thousands of square feet
22 with under 500 feet replacement. Every
23 one of these steps militates against the
24 granting of this permit and requires
25 that it be denied.

1 As I said, the courts have
2 instructed that despite the expertise
3 and experience of a Board of Zoning
4 Appeal, and despite the fact that the
5 statutory scheme confers discretionary
6 acts upon an experienced Board of Zoning
7 Appeal because of its greater expertise
8 and familiarity with these types of
9 matters than legislatives bodies, you
10 were nevertheless circumscribed by the
11 law. The law of this Village prohibits
12 this application because the standards
13 to excuse it and grant a permit have not
14 been met because the SEQRA compliance is
15 insufficient because this is a real
16 hazard. There is no mitigation, there
17 is no scaling back. On its face, this
18 application should be denied, whether or
19 not a significant portion of the pool
20 is, as Mr. Antonelli believes may be the
21 case, that a third of it is within the
22 severely steep slope. The application
23 should be denied today and no amount of
24 moving around the edges is going to
25 rescue it from these deficiencies. The

1 law requires it and, respectfully, this
2 Board has no legal authority to do
3 anything but follow the standards
4 adopted by the Village Code. If the
5 property owner is unhappy, he can
6 petition the Village Board, but not the
7 Zoning Board.

8 Thank you for your time and
9 attention.

10 CHAIRMAN MOHR: Okay, would any
11 member of the public like to speak?

12 MR. REESE: Harold Reese, 74
13 Whitehall Road, Rockville Centre, 11570.

14 Mr. Chairman, members of the Board,
15 good evening.

16 It's been another late night. When
17 I first got here we had five
18 applications and five of them got
19 approved. I felt pretty good sitting
20 back here. This has been going on over
21 two years. The frustration of certainly
22 the buyer, the crew they hired here to
23 get this thing approved, is not to be
24 believed, not with just efforts, but
25 obviously dollars.

1 I thought I had it with me this
2 evening, but at some point, a quarter
3 mile north of our property there is a
4 big house for sale on the bluff with six
5 or eight bedrooms, a pool, all kinds of
6 stuff in Laurel Hollow. And it's a
7 quarter mile, half mile north of our
8 property that somehow got approved for
9 this monster of a house. This is a very
10 modest house. It has some issues which
11 I think we've been beating around here
12 now for a long time to get it resolved,
13 this pool now and whatever.

14 I behoove the Board to expedite
15 certainly any kind of decisions, one way
16 or the other, so at least we can go
17 forward. I think this thing should be
18 approved. Obviously, these people are
19 very anxious to move in and we need the
20 approval to get this done. Thank you.

21 CHAIRMAN MOHR: Please give your
22 name and address for the record.

23 MR. BARRIOLA: Manuel Barriola,
24 B-A-R-R-I-O-L-A, 1640 Moore's Hill Road.

25 So we are the prospective buyers

1 for the property. I just want to say I
2 am a physicist, not an expert on this,
3 but Chuck Panetta has the latest
4 technology. He is confident that he
5 will properly follow the boundaries so
6 that we will not overstep steep slopes.
7 The Village Engineer has some doubts.
8 He said we are willing to go one step
9 further and move the property to make
10 100 percent sure we don't break any
11 rules, and we are very happy to comply
12 with all the rules that the Village
13 imposes upon us. I think with the new
14 revisions there should be no issues and
15 we will be inside the boundaries.

16 MR. AVRUTINE: Anyone else who
17 wishes to speak, do you want to go
18 again?

19 MR. CALIKA: Just in light of the
20 applicant and Mr. Reese's comment, I
21 will be very brief.

22 We covered it in the memorandum of
23 law. He pointed to a house a quarter
24 mile away. I don't know what the
25 circumstances are. But we did point

1 out, as a matter of law, that if this
2 home does not satisfy the standard, the
3 ordinance, and if this Board, in the 33
4 prior applications, whatever the
5 particulars are, has not conformed with
6 the ordinance, that is not a
7 get-out-of-jail free card. The law is
8 that the Board cannot duplicate prior
9 errors once the errors are pointed out.
10 They are required to comply with the
11 law. If, in the event, you fail to do
12 so in respect of any of the prior
13 approvals, that unlike a normal, typical
14 situation, is not a binding precedent if
15 the other cases resulted in an error of
16 law, and that error of law has now been
17 made known to the Board. Thank you.

18 MR. AVRUTINE: Anyone else from the
19 public wish to be heard?

20 Mr. Murphy, you can come up, finish
21 up.

22 MR. MURPHY: There's many things
23 that can be said with regard to the
24 comments by Mr. Calica. We have
25 addressed them, we believe, in our

1 memorandum with regard to having
2 complied with the Village Code, with
3 regard to the requirements for the
4 issuance of a slope permit.

5 In terms of minimal reasonable
6 usage, not maximization, we had
7 testimony in November, we had testimony
8 tonight. Mr. Calica, I believe, with
9 all due respect to his opinions,
10 professional opinions, with regard to
11 the use of the test with regard to an
12 economic test in terms of the reasonable
13 rate of return. That is a test that
14 applies, as this Board knows, for use
15 variances, not for slope permits and not
16 for a number of other variances. There
17 are a number of things I can say but I
18 think we covered that in terms of our
19 brief.

20 In terms of mitigation, we have
21 located -- in answer to mitigation, we
22 located it as far north as reasonably
23 possible away from our neighbors. On
24 page 21 of the transcript Mr. Panetta
25 makes reference to the number of

1 reiterations. This has been going on
2 for two years, as Mr. Reese testified a
3 moment ago. There have been a number of
4 reiterations with regard to what's the
5 proper siting of this property, in terms
6 of its improvements. There are plans
7 that were prepared further toward the
8 water.

9 In terms of practicality, the most
10 practical location for this home on this
11 parcel, a two-acre parcel which is in
12 fact a buildable lot in the Village of
13 Laurel Hollow, is where we sited it
14 right now, not further towards the
15 water. Nowhere on this property which
16 enjoys the benefits of slope, can a home
17 be built in a more practical position
18 and siting that we have indicated here.
19 That's a test with regard to the Village
20 Code requirements in terms of what is
21 the most practicable location for an
22 improvement.

23 The Reeses have owned this property
24 since 1967 and they have paid many taxes
25 for many years with regard to such.

1 They are entitled to have this property
2 improved with a family residence, with
3 all due respect.

4 With regard to our neighbor to the
5 south, I don't believe that any home on
6 this property would meet with the
7 consent of our neighbor. And as a
8 consequence, we have designed a home
9 that is as minimally reasonable and
10 smaller in terms of its usage as
11 practical in today's market. It's a
12 standard amenity to have a swimming pool
13 and deck. And we tried to comply with
14 today's requirements, appreciating that
15 the law reflects the necessity of times
16 and these times reflect such amenities
17 for these types of properties in this
18 location in this Village. Thank you.

19 CHAIRMAN MOHR: Thank you.

20 MR. AVRUTINE: No one else wishes
21 to speak?

22 Motion to close the public hearing?

23 MEMBER KAUFMAN: Moved.

24 MR. AVRUTINE: Member Kaufman.

25 Second?

1 MEMBER BLUMIN: Second.

2 MR. AVRUTINE: Second by Member
3 Blumin. All in favor?

4 CHAIRMAN MOHR: Aye.

5 MEMBER HADJANDREAS: Aye.

6 MEMBER KAUFMAN: Aye.

7 MEMBER BLUMIN: Aye.

8 MR. AVRUTINE: I need a motion for
9 the Board to declare itself lead agency
10 under New York State Environmental
11 Quality Review Act. Anyone?

12 MEMBER BLUMIN: Motion.

13 CHAIRMAN MOHR: So moved.

14 MR. AVRUTINE: Member Blumin,
15 second by Chairman Mohr. All in favor?

16 CHAIRMAN MOHR: Aye.

17 MEMBER HADJANDREAS: Aye.

18 MEMBER KAUFMAN: Aye.

19 MEMBER BLUMIN: Aye.

20 MR. AVRUTINE: And a motion to
21 declare the matter unlisted under New
22 York State Environmental Quality Review
23 Act.

24 MEMBER KAUFMAN: So moved.

25 MR. AVRUTINE: By Member Kaufman.

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MEMBER HADJANDREAS: Second.

MR. AVRUTINE: Second by Member
Hadjandreas. All in favor?

CHAIRMAN MOHR: Aye.

MEMBER HADJANDREAS: Aye.

MEMBER KAUFMAN: Aye.

MEMBER BLUMIN: Aye.

MR. AVRUTINE: And I believe the
Board is going to reserve decision at
this time, decision reserved. Thank you
all.

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

I, Mary Anne Coppins, Court
Reporter, hereby certify that the above
transcript is a true and accurate copy
of the minutes taken by myself
stenographically in the within matter.

Mary Anne Coppins

Court Reporter