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INCORPORATED VILLAGE OF LAUREL HOLLOW
BOARD OF ZONING
PUBLIC HEARING
August 15, 2017
7:30 p.m.

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

PRESENT:

- RUSSELL MOHR, Chairman
- NEWTON J. BURKETT, Member
- JEFFREY BLUMIN, Member
- CINDY KAUFMAN, Member
- LOUIS LEBEDIN, Member

ALSO PRESENT:

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

ALSO PRESENT:

- JAMES P. MURPHY, ESQ.
- ADAM CASSEL, P.E.
- STEVEN DIRAIMO

ZS8-2015 & F1-2015 - Hearing on application to
regrade rear yard at 3 Cedarwood Court

MARY ANNE COPPINS
OFFICIAL COURT REPORTER

1 MR. AVRUTINE: The next matter is
2 ZS8-2015 and F1-2015, the reopening of
3 the Public Hearing on the application of
4 James Murphy on behalf of Steven and
5 Elizabeth DiRaimo to re-grade the rear
6 yard at 3 Cedarwood Court where the
7 updated re-grading plan deviates from
8 the plan previously approved by the
9 Board of Zoning Appeals.

10 That new plan is depicted on a site
11 plan prepared by Paul Angelides, PE, PC
12 and dated 4/7/2017.

13 The property under application is
14 designated Section 14 Block A Lot 1106
15 on the Land and Tax Map of Nassau
16 County.

17 The exhibits in connection with
18 this application are as follows:

19 First, notification from the Nassau
20 County Planning Commission dated July 5,
21 2017 that the matter is deferred to the
22 Laurel Hollow Board of Zoning Appeals
23 for action as it deems appropriate.

24 The next exhibit is Legal Notice of
25 the Public Hearing dated July 26, 2017.

1 The next exhibit is an Affidavit of
2 Posting from Nick Porcaro that the Legal
3 Notice was posted conspicuously on the
4 bulletin board at the main entrance of
5 the Office of the Village Clerk on
6 August 4, 2017.

7 The next exhibit is an Affidavit of
8 Publication from James Slater stating
9 that the Legal Notice was published in
10 the Oyster Bay Guardian on August 4,
11 2017.

12 The next exhibit is an Affidavit
13 from the Deputy Clerk stating that the
14 Notice of Public Hearing was mailed to
15 other interested parties on August
16 2, 2017.

17 And the next exhibit consists of
18 documents confirming that the Notice of
19 Public Hearing was published to the
20 Village of Laurel Hollow website and
21 sent to NEWS subscribers on August 2,
22 2017.

23 The next exhibit is an Affidavit of
24 Mailing from the applicant indicating
25 that the Notice of Public Hearing was

1 mailed on July 27, 2017 and on August 1,
2 2017 to persons named in the Affidavit.

3 The next exhibit consists of
4 correspondence from James Antonelli,
5 Village Engineer, dated 6/6/2017.

6 And the last is correspondence from
7 Joanna Taylor and Russell Taylor dated
8 11/5/2016.

9 Mr. Murphy.

10 MR. MURPHY: Again, good evening,
11 Mr. Chairman, Members of the Board.

12 For the record, my name is James
13 Murphy with the law firm of Murphy &
14 Lynch. Our office is at 1045 Oyster Bay
15 Road, East Norwich, New York.

16 I'll try to make this as brief as
17 possible because the evening is drawing
18 long.

19 I would like to make a preparatory
20 comment, and that is this matter is a
21 quintessential example of Murphy's Law.

22 The subject property consists of
23 3.99 acres and was acquired by Steve
24 DiRaimo and his wife Elizabeth on
25 December 14, 2012. Although the house

1 itself was built in 1981, based upon a
2 subdivision map that was approved by
3 this Planning Board of the Village in
4 1979.

5 On March 31st of 2016, last year,
6 an approval was granted to expand, to a
7 certain limited extent, the rear yard of
8 the DiRaimo residence and then
9 subsequent, things went amuck, perhaps,
10 literally and figuratively and they got
11 over-enthusiastic and more fill was
12 added than was approved. That brings us
13 to this evening.

14 It's basically an engineering
15 question, engineering matters to be
16 addressed.

17 We have in support of this
18 application, Mr. Adam Cassel who is with
19 Paul Angelides, the firm, with the plans
20 that are be before you in support of
21 this application which are dated April
22 7th of this year.

23 I have a few exhibits just for the
24 record before we go into the substance.

25 I would like to introduce the deed

1 I made reference to a moment ago into
2 the DiRaimos.

3 MR. AVRUTINE: The deed will be
4 marked as Applicant's Exhibit Number 1.

5 MR. MURPHY: The second exhibit is
6 two documents treated as one exhibit, a
7 CO for the subject property.

8 Thirdly, for the record, I would
9 like to -- and I have a copy for each
10 member of the Board.

11 This is a letter in summation from
12 Paul Angelides to myself in which he
13 outlines what he understands to be the
14 situation and his recommendation with
15 regard to addressing such.

16 MR. AVRUTINE: Let me just
17 interrupt for a moment, Mr. Murphy.

18 We have a two-page exhibit
19 consisting of two separate Certificates
20 of Occupancy, one Certificate of
21 Occupancy number 708 dated July 22,
22 1981. The second one, Certificate of
23 Occupancy number 1483, dated 9/14/2005
24 marked an Applicant's Exhibit Number 2.
25 And then a letter from Paul Angelides

1 dated March 30, 2017. This will be
2 marked as Applicant's Exhibit Number 3.

3 MR. MURPHY: As the Board is
4 perhaps reviewing this letter, I will
5 summarize for the record that Mr.
6 Angelides has concluded that the
7 regrading, as enthusiastic as it was,
8 has not destabilized the slope; however,
9 he believes that work needs to be done
10 with regard to both prevention of soil
11 erosion and water runoff down the steep
12 slope itself.

13 He is suggesting that pursuant to
14 the plans which are part of this
15 application this evening I made
16 reference to a moment ago dated 4/7/17,
17 there is to be a swale and a berm to be
18 constructed along the crest of the ridge
19 fronting on that slope, as well as three
20 dry wells on either side of that swale
21 to include sod to be planted on the
22 upland area, as well as erosion control
23 mats and vegetation along the slope.

24 I would like to, in moving along,
25 introduce as one exhibit 10 photographs

1 of the subject property.

2 MR. AVRUTINE: We'll mark these as
3 Applicant's Exhibit Number 4.

4 MR. MURPHY: These photographs were
5 taken by myself this past Sunday. I
6 think these photographs were taken,
7 principally, for the purpose by me to
8 show that yet indeed that work has to be
9 done.

10 The burning question is what is the
11 best way to perform that work. As I
12 said, I think it's a matter of perhaps
13 dueling banjos between Mr. Antonelli
14 and Mr. Angelides at this point in time.

15 Actually, I can have Adam walk the
16 Board through the second page of the
17 application that you have including the
18 site plan itself with regard to what is
19 referred to as Section A, B and C with
20 regard to his proposal, that is Mr.
21 Angelides' proposal, with regard to
22 solving and addressing these concerns.

23 MR. CASSEL: I am Adam Cassel, I am
24 a licensed professional engineer. I
25 work for Paul Angelides. Paul and I

1 collaborated on this project --

2 MR. AVRUTINE: Please give your
3 address.

4 MR. CASSEL: My business address is
5 17 White Oak Tree Road, Syosset, New
6 York.

7 So we were engaged by the owner to
8 review the concern that came up with the
9 Village review, particularly Mr.
10 Antonelli's letters, with regard to the
11 surface water disposal and erosion that
12 was occurring on the property.

13 Paul and I visited the site a
14 couple of times. We got a layout of the
15 land. We also reviewed the existing
16 site plan, along with the letter by Mr.
17 Antonelli. We pretty much came to the
18 conclusion that as it that the site,
19 the slopes are stable and if we
20 attempted to remove any of this dirt, it
21 would be much more disruptive than just
22 leaving it. We're leaving it and just
23 dealing with the situation as it
24 currently exists.

25 So, what we came up with is this.

1 We take all of the runoff from the
2 asphalt driveway and put it in the
3 system labeled C, three dry wells that
4 go into the ground, and they disburse of
5 the water. The levelled out area in the
6 backyard, which extends about 100 feet
7 from the rear wall, we would create a
8 swale which is really just a depression
9 in the ground, and on the up-hill side a
10 berm so that any surface water flowing
11 along the rear property won't go down
12 the sleep slope and disrupt the
13 neighbor. That water will be collected
14 in a swale, which then flows towards the
15 dry well on the other side.

16 We then would also put in sod
17 instead of seeding and watering because
18 the sod will help, one, limit the
19 surface water flow and also cut down on
20 the erosion. Then we are also going to,
21 on the stepper slope, we have dry wells
22 -- the steep slope is channelled for
23 three dry wells along with a wall that
24 is a catch main. That is going to
25 collect all surface water and dispose of

1 it below ground. That will also be
2 covered with erosion control mats to
3 prevent further surface erosion from the
4 steep slope.

5 That's how we plan on addressing
6 Mr. Antonelli's concerns, and we would
7 like to move forward with dealing with
8 this problem that exists.

9 If you have any questions, I can
10 answer them.

11 CHAIRMAN MOHR: Obviously, there
12 are no questions from the public.

13 But I would like to open up the
14 floor on this to Mr. Antonelli.

15 Unless the Board members have any
16 questions, I would like to hear what
17 your thoughts are on what was approved
18 by this Board back in March.

19 MR. ANTONELLI: That was my first
20 question because I'm having a timeline
21 problem.

22 CHAIRMAN MOHR: I thought it was
23 April.

24 MR. ANTONELLI: Then we got this
25 plan in response to that. I am a little

1 confused on the whole --

2 CHAIRMAN MOHR: We had done an
3 approval on the plan in March or April.

4 MR. AVRUTINE: It was 2015.

5 CHAIRMAN MOHR: That wasn't us.
6 That wasn't me, though.

7 MR. MURPHY: The Board of Zoning
8 Appeals approved a regrading plan on
9 March 31, 2016.

10 CHAIRMAN MOHR: 2016, correct.

11 MR. MURPHY: 2016.

12 MR. ANTONELLI: So then when we got
13 the plans in April, right, that's when I
14 raised some additional concerns, okay.

15 The first question I have is were
16 the dry wells installed?

17 When I was there it looked like it
18 was so steep, at that point, and that
19 everything was buried. I don't know how
20 you would get equipment down there,
21 although they put --

22 CHAIRMAN MOHR: The lower dry wells
23 are you talking about, Jim?

24 MR. ANTONELLI: Yes.

25 MR. MURPHY: The lower dry wells

1 have been installed.

2 CHAIRMAN MOHR: What's on top of
3 that, because it looks like a flat
4 surface.

5 MR. CASSEL: The ground is a flat
6 area.

7 MR. ANTONELLI: It's been graded.

8 MR. CASSEL: It's just a flat area
9 that's sloped toward the dry wells.

10 When we got involved in the project
11 the dry wells were already installed and
12 pursuant to that, we looked at the size
13 of the dry wells and this slope and
14 water shed area and we found the dry
15 wells to be sized properly.

16 MR. ANTONELLI: Right, because we
17 had calculated that you needed the
18 three.

19 Do they have an open top?

20 MR. CASSEL: Yes.

21 MR. ANTONELLI: So that's the
22 inlet, correct?

23 MR. CASSEL: Then there's this wall
24 in the back which is made up of -- we
25 call them mafia blocks, concrete blocks.

1 CHAIRMAN MOHR: Jim referred to
2 them --

3 MR. ANTONELLI: I avoided that on
4 the record. I said concrete.

5 MR. CASSEL: They are what they
6 are.

7 So that also prevents the water
8 from overflowing over the dry wells,
9 catch it to collect the water in the dry
10 wells.

11 MR. ANTONELLI: The issues that I
12 had, notwithstanding the plan because
13 it's a difficult site, we all know that
14 and we're trying to retrofit this thing
15 after the damage was done, so to speak.

16 MR. CASSEL: Correct.

17 MR. ANTONELLI: Let me back up with
18 one other question.

19 I know that there were a number of
20 measures taken along the way. Since the
21 concrete was put into place, and I know
22 it's stacked up more than one segment,
23 one block up high.

24 MR. MURPHY: The photographs
25 reflect that.

1 MR. ANTONELLI: Has there been an
2 incident of any release down stream
3 since then, I wasn't aware of it.

4 I know a consultant who is working
5 for the other neighbor and I think he is
6 unaware of it. I just wanted to confirm
7 if anybody knew if there was another
8 incident since when that dry well went
9 in.

10 MR. MURPHY: The answer is no. To
11 the best of my knowledge, no.

12 We have had communications with the
13 neighbor down below, the Taylor family.
14 As a matter of fact, the Taylor family
15 contacted me first to be of assistance
16 to them when they had the first
17 down-flow. I said, gee, I looked up the
18 hill, and I said I represent some
19 neighbors up there, maybe I represent
20 one of them. And low and behold I did.
21 So I had to back out.

22 I suggested that they -- since it's
23 an engineering question, they should
24 first contact Chuck Panetta, which they
25 did. As a consequence of the work that

1 has been done, there has been no
2 communications with regard to from the
3 Taylors, as best I know, in terms of any
4 subsequent problems or with regards to
5 the DEC.

6 So, the short answer, again, is no.

7 MR. ANTONELLI: Okay, I was unaware
8 of it, too, and I did check with a
9 number of people.

10 I thought one of the conditions of
11 approval from the last hearing in front
12 of this Board was to remove material,
13 regrade it and stabilize it, besides
14 putting in the dry wells and then
15 whatever else we had to do down slope.

16 To my knowledge, it hasn't been
17 done. I have been there a number of
18 times. I think there was some type of a
19 jute mesh, J-U-T-E, or some type of
20 erosion control fabric that was put down
21 in places, but I didn't think it was
22 effective.

23 The lot had -- the rear of the
24 property had not been graded, tree
25 protection hasn't been done. I thought

1 that the fill slope, to me, looks like
2 it's greater than one to three, which is
3 going to be really hard to hold. I
4 don't know how you're going to hold that
5 in place. I think it's going to be very
6 difficult without regrading that.

7 I've always been an advocate of
8 once something like this happens and the
9 damage has been done, so to speak, the
10 trees are gone, the fill is already
11 there. I hate to disturb that, again,
12 to try to fix something, typically. But
13 in this case, I thought it is too steep.

14 As you can tell, the site has
15 erosional gullies throughout. I know
16 they put the cut-off channel up-slope
17 and I think that is doing a good job to
18 help protect it. But from there to the
19 area where the dry wells are down-slope,
20 I think it's so steep, we are going to
21 have an awful time of trying to
22 re-vegetate that. That's where I have
23 an issue with the plan.

24 When you look at the contours, it
25 looks like it just didn't fit. Just

1 with the amount of fill that is there in
2 the drop off, it looks like it's not
3 going to be able to hold that slope
4 unless you regrade it.

5 MR. AVRUTINE: When you say regrade
6 it, do you mean flatten it?

7 MR. ANTONELLI: Flatten it from one
8 vertical to three horizontals, one to
9 three.

10 CHAIRMAN MOHR: Tier it.

11 MR. ANTONELLI: Or terrace it.
12 Maybe there is a way to do it, I don't
13 know if you are able to get that stable.

14 MR. CASSEL: As far as our
15 inspection and our review of the site,
16 one, if you even attempt to terrace it,
17 pretty much all these trees that are on
18 the hill, or a lot of them are going to
19 have to be removed.

20 Because terracing, instead of
21 having a slope, we have on the third
22 page, we have a --

23 MR. ANTONELLI: The trees that are
24 there are already buried several feet
25 high up the trunk. Everybody has seen

1 that, they show up in the pictures, too.
2 I'm wanted to show dead --

3 MR. CASSEL: This is a depiction of
4 the slope. We're showing it as we
5 measured it on the site. We have a
6 steep slope, I'm definitely not going to
7 disagree with that. In order to
8 terrace, you have to cut back into the
9 hill several times. That is one option
10 Mr. Antonelli discussed.

11 The second one was he doesn't feel
12 that the slope would hold because as we
13 have now, we have erosion gullies. But
14 none of that is surprising. There is no
15 vegetation on this steep slope.
16 Everything is being funneled from the
17 up-land side, which is pretty level,
18 down the slope. So in order to
19 alleviate that problem, vegetation is a
20 must and that will cut down erosion
21 substantially. And then in order to
22 hold the vegetation on that steep slope,
23 we propose erosion control mats, which
24 gets staked deep into the ground and
25 that will allow vegetation to grow

1 where it will adhere and attach to that
2 mat. It's not relying on this steep,
3 kind of loosely-laid slope.

4 MR. ANTONELLI: That was already
5 approved. That was approved in March,
6 the erosion control mat. It just hasn't
7 been --

8 MR. CASSEL: We saw it, too. It
9 was really just a filter, looked like
10 just trying to place it at the site just
11 to keep rain water from disturbing the
12 ground.

13 That's not what we are proposing.
14 That is really just kind of a temporary
15 fix that was kind of thrown down. This
16 is a permanent erosion control mat that
17 gets staked into the ground. The
18 vegetation will grow into it and around
19 it.

20 The other point is that attempting
21 to even remove the dirt is going to be
22 very disruptive because you do have the
23 steep hill. You cannot get any real
24 equipment in there, Bobcat or backhoe.
25 Essentially, it's going to have to be

1 almost done by hand if you want to start
2 removing that dirt, which then you're
3 going to have to get a truck and
4 transport it away. It's much more of a
5 disturbance, as far as we see it, to try
6 and attempt to remove it at this point.

7 If there are no erosion issues
8 currently, based upon just what was
9 installed lower down the hill with the
10 dry wells and attachments, then anything
11 we do in furtherance is going to be that
12 much more of a hindrance of any issues
13 regarding the slope.

14 MEMBER BURKETT: How healthy is the
15 soil with respect to trying to grow the
16 vegetation that you want to grow?

17 MR. CASSEL: It could grow.

18 MEMBER BURKETT: It looks like --

19 MR. CASSEL: It's a sandy kind of
20 dirt soil, looks like Nassau County.

21 MR. ANTONELLI: I think you would
22 probably have to use some top soil.

23 MEMBER BURKETT: I would think so.

24 MR. ANTONELLI: So I just want to
25 make sure on sheet 3, this profile is

1 existing? Because it says slope
2 previously regraded.

3 MR. CASSEL: We got engaged after
4 the soil and Jim was saying the
5 enthusiastic regrading of the soil. So
6 this is as it exists when we got
7 involved. Nothing has been changed at
8 that point.

9 MR. ANTONELLI: Okay. So it says
10 here 15 to 25 percent. It is not. This
11 is shown at about one to three, roughly.
12 Which wouldn't be bad, just looks a lot
13 steeper than that to me. It may be in
14 place, I don't know where this section
15 was taken.

16 MR. CASSEL: We took pretty much a
17 straight shot from the back of house to
18 the straight line. So, obviously, if
19 you go, depending on where you are,
20 exactly, something may be steeper,
21 something may not be as steep.

22 MR. ANTONELLI: So is the proposal
23 to do any more grading of that?

24 MR. CASSEL: No. What do you mean
25 in terms of grading, raising grade,

1 cutting grading, filling?

2 MR. ANTONELLI: Smoothing it out a
3 little --

4 MR. CASSEL: At this point --

5 MR. ANTONELLI: -- along the
6 contour.

7 MR. CASSEL: There has been a
8 natural consolidation of it.

9 CHAIRMAN MOHR: There is also
10 natural erosion, so you need to keep
11 that.

12 MR. CASSEL: That can not be
13 alleviated until we vegetate the hill.

14 One method that can be done
15 temporarily is you put down wood chips.
16 That just cuts down erosion in the
17 meantime until the permanent vegetation
18 is added.

19 CHAIRMAN MOHR: We need to get Mr.
20 Antonelli comfortable with a plan of
21 attack --

22 MR. ANTONELLI: Or the Board.

23 CHAIRMAN MOHR: I need to hear your
24 comfort level.

25 MR. ANTONELLI: I don't see, I

1 haven't seen anything or heard anything
2 yet that is different than what we
3 talked about in March.

4 We talked about slope
5 stabilization. We talked about -- and
6 we did have a plan that showed us a real
7 erosion control mat that they were to
8 put down. We had a plan for drainage,
9 that was done. What we didn't have,
10 though, was that channel up-slope, I
11 like it. I think other things we talked
12 about catching the driveway water
13 because that contributes to that.

14 MR. CASSEL: In addition to the dry
15 wells that were installed down below, we
16 also proposed additional dry wells to
17 catch the water from the swale, even
18 more dry wells to catch the water from
19 the driveway; in addition to what was
20 also proposed.

21 CHAIRMAN MOHR: Can you clarify for
22 us, I'm confused, what is in now and
23 currently exists in this rear yard plan.

24 MR. CASSEL: Sure. If you go to
25 the second --

1 CHAIRMAN MOHR: It says existing
2 down below which we know is in, correct?

3 MR. CASSEL: These dry wells and
4 the barrier wall in this flattened area.
5 The slope is pretty much of the steep
6 area and what we call the levelled area,
7 pretty much where it is at.

8 Somebody did dig, I'll call it, a
9 temporary swale, just to catch some of
10 the water to prevent more momentum
11 during the rain from eroding. So this
12 is kind of a rough, I'll call it a rough
13 trench.

14 That also is a problem as it
15 currently exists because that's
16 funneling water around. Once water is
17 here, it has nowhere to go except down
18 the hill. That's where we were going to
19 do more of a permanent swale, perhaps
20 stone, that goes into dry wells, new dry
21 wells on the side.

22 MR. ANTONELLI: So that would go
23 directly into open top dry wells?

24 MR. CASSEL: Correct. These two
25 are open inlets and these two are

1 overflows.

2 MR. ANTONELLI: Okay.

3 MR. CASSEL: So this would all --

4 MR. ANTONELLI: I see, a high point
5 in the middle and they'll flow in each
6 direction.

7 MR. CASSEL: Correct. I believe
8 all three of these dry wells are in
9 already.

10 MR. ANTONELLI: They're in?

11 MR. DiRAIMO: Those were separate
12 permits.

13 MR. AVRUTINE: Please give your
14 name for the record.

15 MR. DiRAIMO: Steve DiRaimo, 3
16 Cedarwood Court.

17 The three on top, the driveway was
18 a separate permit, those are in.

19 MR. ANTONELLI: Are there catch
20 basins?

21 MR. DiRAIMO: There is a -- only
22 one has a top, but because it wasn't
23 stabilized we just put a mesh, so they
24 just wouldn't fill up.

25 MR. ANTONELLI: I didn't realize,

1 okay.

2 MR. DiRAIMO: They are in, they're
3 working, they're catching the water.

4 MR. ANTONELLI: That should help.

5 MR. DiRAIMO: It ponds a little,
6 but then eventually it goes down because
7 there's mesh over the cover.

8 MR. CASSEL: To prevent it from
9 getting it silted up. This one is in
10 with the inlet covered. Then you have
11 two overflows. So this area which is
12 existing, these dry wells, this steep
13 slope which is existing, so really what
14 we are proposing is a swale and the
15 overflow.

16 MR. ANTONELLI: The drainage plan
17 looks good. I'm just concerned about
18 the slope between the channel, or the
19 cut-off ditch or swale, so to speak, in
20 with the down slope, that I thought it
21 looked a lot steeper. If they can
22 stabilize that in place, then fine.
23 Again, it wasn't the Board's directive
24 to remove fill.

25 CHAIRMAN MOHR: I don't recall.

1 MR. ANTONELLI: Okay.

2 MR. AVRUTINE: Mr. Murphy, do you
3 have the old decision, the 2016
4 decision?

5 MR. MURPHY: I do have the
6 decision.

7 CHAIRMAN MOHR: May I see it?

8 MR. ANTONELLI: If it can be
9 stabilized, fine. But I think it's
10 steeper than one to three and that's
11 about as steep as we're going to be able
12 to hold.

13 CHAIRMAN MOHR: You don't have the
14 old plan?

15 MR. CASSEL: We have a plan.

16 MR. ANTONELLI: The section they
17 provided -- if this is the as-built, it
18 looks like they met the criteria. I
19 don't know if it's like that everywhere
20 there, so maybe something may have to be
21 removed.

22 CHAIRMAN MOHR: Meaning as far as
23 the slope goes.

24 MR. CASSEL: We took that slope
25 line, you can see this long line right

1 down the center. So, there may have
2 been some natural consolidation since
3 you guys were out there. I don't know
4 what -- we got involved after the fact.

5 CHAIRMAN MOHR: We were all out
6 there recently.

7 MR. CASSEL: It may be a little
8 steeper around the corner.

9 MR. ANTONELLI: These are existing
10 or proposed?

11 That's the other thing I didn't
12 understand was on sheet 1.

13 MR. CASSEL: Pretty much existing.

14 This really is just showing the
15 area affected. This is the site plan
16 that was provided to us. We are really
17 just showing this is the area affected.

18 MR. ANTONELLI: Where's the dam,
19 where's the dry well? You can't tell.

20 MR. CASSEL: That was a topographic
21 survey that was provided to us, more of
22 just showing the property and the
23 affected area.

24 MR. ANTONELLI: I remember where
25 that came from now, yes, okay.

1 MR. CASSEL: I would refer to the
2 grading line on this plan.

3 MEMBER LEBEDIN: Excuse me.

4 The next solution you are proposing
5 is how long do you think the vegetation
6 will grow before holding and avoiding
7 erosion?

8 MR. CASSEL: You can plant,
9 there's a number of different
10 vegetation, you can plant and it'll grow
11 pretty quick. The problem is that this
12 time of year if you don't get anything
13 in the ground until about October --

14 CHAIRMAN MOHR: You have to get it
15 in in September.

16 MR. CASSEL: -- you'd be looking at
17 next spring to start. You want
18 something to start spreading quickly,
19 there are vegetation that can split.

20 MEMBER LEBEDIN: Nothing's been
21 done to date.

22 MR. CASSEL: But they are not
23 allowed to do any more work, because I
24 guess there's a Stop Work Order,
25 whatever you want to call it, because

1 they want a resolution. An erosion
2 control mat is what will stabilize the
3 ground until it is mature enough to
4 hold.

5 CHAIRMAN MOHR: A combination of
6 both. I think what Lou is asking is
7 that we can define a plan.

8 MR. CASSEL: If that's an approval
9 issue we can specify something and can
10 give you something which shows you that
11 this is we propose to do, this kind of
12 vegetation.

13 MR. ANTONELLI: Here is the problem
14 I have.

15 On the topographic map on page 2,
16 sheet 2 of the plan, it shows three dry
17 wells above the concrete dam. The
18 concrete dam is somewhere around the 183
19 contour. The top dry well is around the
20 202 contour. It is not flat and it is
21 not flat like it's shown on the cross
22 section on sheet 3.

23 CHAIRMAN MOHR: So now you are
24 talking about the dry well by the swale?

25 MR. ANTONELLI: The dry wells are

1 between 190 feet and 215 feet from the
2 house. That should drop then from 202
3 to 183, and it really is essentially
4 flat. So I think something is wrong and
5 it's got to show that there is a lot of
6 grade to be made up. That's why I don't
7 think that one to three is going to fit.

8 MR. CASSEL: Can you repeat that
9 one more time?

10 MR. ANTONELLI: That's 183, that is
11 to center, it's really steep through
12 here using that grading. It is not flat
13 like this. That topo looks like it was
14 taken from that another topo.

15 I think there's just a couple of
16 details to work out, but I think this
17 concept, I think we have it.

18 CHAIRMAN MOHR: What I am troubled
19 with, Mr. Murphy, is what transpired
20 between April of '16 and today, what
21 work was or was not done.

22 MR. MURPHY: What was done was more
23 than was approved.

24 CHAIRMAN MOHR: So the fill, as you
25 say, was enthusiastically put on site.

1 MR. MURPHY: More fill was put on
2 than was approved by this Board.

3 MR. AVRUTINE: Was there some kind
4 of difficulty that the applicant
5 encountered in complying with the
6 approved plan that resulted in the extra
7 fill?

8 The Board is looking for some
9 explanation as to why this occurred.
10 There was an approved plan in place.

11 CHAIRMAN MOHR: Did that result in
12 the situation that happened with the
13 neighbor below when the fill was added?

14 MR. MURPHY: Yes.

15 CHAIRMAN MOHR: Okay. Now we are
16 trying to resolve that and your concern
17 is the steepness of the slope that was
18 created as a result of additional fill
19 that has been brought in.

20 MR. ANTONELLI: Correct.

21 CHAIRMAN MOHR: We have a mess on
22 our hands, and in trying to resolve it
23 by putting these mats in, doing four
24 additional dry wells that are not there
25 right now with the swale and the

1 rip-rap, correct?

2 MR. ANTONELLI: Swale is a good
3 idea.

4 MR. AVRUTINE: Jim, is there a
5 scenario here where you would envision
6 recommending to the Board that it
7 required compliance with the old
8 approved plan?

9 MR. ANTONELLI: Not in its entirety
10 because this is --

11 CHAIRMAN MOHR: It's very
12 different.

13 MR. AVRUTINE: I understand.

14 MR. ANTONELLI: It is different and
15 that's why they are here.

16 MR. AVRUTINE: I understand that.

17 MR. ANTONELLI: That's why I
18 couldn't resolve it on my own memos back
19 and forth to the Building Department.

20 MR. AVRUTINE: I guess my question
21 is more in line if there is a benefit
22 from where we are today to having
23 compliance with that plan, as opposed to
24 something close to what is being
25 proposed today?

1 MR. ANTONELLI: I think in light of
2 the inspection that we have from the
3 applicant's new consultant, I think it
4 showed me that somebody had to be in
5 error here and we think there were some
6 errors made in the topographic survey on
7 the last plan, on the old plan. That's
8 what I think, so I don't think we can go
9 back to that.

10 The other thing is I like the
11 drainage plan superimposed onto this,
12 regardless of how the grading looks, I
13 think he can make that work in the
14 field.

15 CHAIRMAN MOHR: I understand.

16 MR. ANTONELLI: So the question is
17 between the swale and the dry wells, can
18 we groom that and stabilize it, that's
19 the question.

20 CHAIRMAN MOHR: But in front of
21 this Board is the application of the
22 slope.

23 MR. AVRUTINE: Does that require a
24 revised plan to be submitted?

25 MR. ANTONELLI: We have it here, we

1 do have it.

2 MR. AVRUTINE: Okay.

3 MR. ANTONELLI: We did just discuss
4 that on page 2 the topographic
5 information around the dry wells, it
6 looks like it's something from an old
7 plan that was brought in, it's not
8 correct. But it appears as though --
9 and certainly the engineer is testifying
10 that the cross section shown on page 3
11 is correct. If that's correct, then
12 throughout the rear yard if they can
13 make it look like that, then I think
14 it's going to work.

15 CHAIRMAN MOHR: And with the work
16 that has been done to date, the
17 temporary swale, the dry wells down
18 below, the concrete blocks, right now it
19 seems to alleviate the problem of the
20 neighbors that are below. So if we do
21 the additional improvements, we will be
22 improving that to a more final solution.

23 MR. ANTONELLI: Correct.

24 CHAIRMAN MOHR: And what I would
25 like to suggest, only because we've been

1 going through this for years, is that --
2 and Howard will advise us -- I'd like to
3 see some sort of time constraints put on
4 that for the application to be completed
5 by.

6 MR. DiRAIMO: We want to get the
7 growing season in. I want to get this
8 done before October.

9 CHAIRMAN MOHR: Unless the Board
10 has any other comments, I'd like to make
11 the conditions the sod, the mats.
12 You're going to get back to us about the
13 vegetation that you're going to specify
14 that it will be planted in mid-fall,
15 that will be the quickest growing. All
16 the dry well work and swale work,
17 rip-rap, et cetera, all to be done
18 within 60 days.

19 MR. ANTONELLI: They lost so much
20 material through the gullies and down
21 below that that water carried most of
22 the fines, the silty and sandy -- now
23 it's sandy and stoney.

24 MEMBER BURKETT: That was my point.

25 MR. ANTONELLI: I think it's going

1 to have to be top-dressed.

2 CHAIRMAN MOHR: That would be
3 another condition to the approval.

4 MR. ANTONELLI: Yes, but they have
5 got to establish some vegetation,
6 something that can take root and hold
7 it, that's the key.

8 MR. DiRAIMO: I want to say --

9 MR. ANTONELLI: When you get into
10 that final slope, and you said more
11 final, we want to strive toward
12 permanency. I am not so sure we are
13 going to get that this fall, we will
14 see.

15 MR. DiRAIMO: I just wanted to say
16 to Mr. Antonelli, from the photo it is
17 flat where the dry wells are. So it may
18 not show it there, but...

19 CHAIRMAN MOHR: It's clearly flat
20 from the visual.

21 MR. ANTONELLI: Yes. And there was
22 something wrong with that topo shown on
23 sheet 2.

24 MR. MURPHY: Photo number 9.

25 CHAIRMAN MOHR: Any comments from

1 the Board?

2 MEMBER BURKETT: No. I think your
3 proposal is excellent.

4 MR. MURPHY: So do we, for what
5 it's worth.

6 CHAIRMAN MOHR: Now, how do we put
7 it together, Counselor?

8 MR. AVRUTINE: Are we approving
9 this plan?

10 MR. CASSEL: Do you want us to
11 submit a revised plan based on our
12 discussion?

13 MR. ANTONELLI: Yes.

14 CHAIRMAN MOHR: With conditions.

15 MR. ANTONELLI: With the planting
16 detail.

17 CHAIRMAN MOHR: Planting detail,
18 topsoil.

19 MR. ANTONELLI: Some specificity.
20 I think we can be looking at a ryegrass
21 or a ryegrain that grows on disturbed
22 soil. This isn't part of the usable
23 yard. I'm assuming that on that slope
24 we can put something in there that can
25 grow quickly.

1 MR. AVRUTINE: Assuming the Board
2 is inclined to approve the application,
3 it's going to be approval of a plan to
4 be submitted subject, and you're going
5 to have to eventually sign off on it
6 saying you're going to meet otherwise;
7 is that all right?

8 MR. ANTONELLI: Okay.

9 MR. AVRUTINE: Okay. If that's
10 acceptable, then how quickly can you
11 have a plan to Mr. Antonelli?

12 MR. CASSEL: I think we need a
13 week.

14 MR. AVRUTINE: Talking about moving
15 this thing along.

16 MEMBER KAUFMAN: Put a timeline on
17 this.

18 MR. AVRUTINE: That's what I am
19 saying. Get it submitted. If it's
20 insufficient or you don't like it, it
21 has to be redone.

22 MR. ANTONELLI: I think we are that
23 close.

24 MR. CASSEL: I think what Mr.
25 Antonelli is asking for is pretty

1 straightforward. I don't think it will
2 be an issue.

3 MR. AVRUTINE: Okay. And you want
4 the work to be completed within 60 days
5 from sign off by Mr. Antonelli; is that
6 reasonable, under the circumstances?

7 MR. CASSEL: We have a contractor
8 ready to go.

9 MR. DiRAIMO: I have someone ready
10 to go. I would like to get it in before
11 the winter so I'm fine with that.

12 CHAIRMAN MOHR: Will it be
13 inspected by you, Jim, or the Building
14 Inspector or both?

15 MR. ANTONELLI: I would like to do
16 it.

17 CHAIRMAN MOHR: Okay, I agree, I
18 think it should be.

19 MR. ANTONELLI: Yes, I don't think
20 we need the Building Department.

21 MR. AVRUTINE: Is there any more
22 questions or comments by the Board?

23 May I have a motion to close the
24 Public Hearing?

25 MEMBER KAUFMAN: So moved.

1 MR. AVRUTINE: Motion by Member
2 Kaufman.
3 Second?
4 MEMBER BLUMIN: Second.
5 MR. AVRUTINE: Second by Member
6 Blumin.
7 All in favor?
8 MEMBER BURKETT: Aye.
9 MEMBER LEBEDIN: Aye.
10 MEMBER KAUFMAN: Aye.
11 MEMBER BLUMIN: Aye.
12 CHAIRMAN MOHR: Aye.
13 MR. AVRUTINE: And a motion for the
14 Board to declare itself lead agency.
15 MEMBER KAUFMAN: Moved.
16 MR. AVRUTINE: Member Kaufman.
17 Second?
18 MEMBER BURKETT: I'll second.
19 MR. AVRUTINE: All in favor?
20 MEMBER BURKETT: Aye.
21 MEMBER LEBEDIN: Aye.
22 MEMBER KAUFMAN: Aye.
23 MEMBER BLUMIN: Aye.
24 CHAIRMAN MOHR: Aye.
25 MR. AVRUTINE: I need a motion to

1 designate this application as unlisted
2 under the New York State Environmental
3 Quality Review Act.

4 Anyone?

5 MEMBER BLUMIN: Moved.

6 MR. AVRUTINE: Member Blumin.

7 Second?

8 MEMBER BURKETT: Second.

9 MR. AVRUTINE: Second by Member
10 Burkett.

11 All in favor?

12 MEMBER BURKETT: Aye.

13 MEMBER LEBEDIN: Aye.

14 MEMBER KAUFMAN: Aye.

15 MEMBER BLUMIN: Aye.

16 CHAIRMAN MOHR: Aye.

17 MR. AVRUTINE: Mr. Antonelli, your
18 recommendation as to completion.

19 MR. ANTONELLI: I didn't do it
20 before tonight's meeting because I
21 didn't think this is a negative impact
22 at that time.

23 MR. AVRUTINE: Okay.

24 At this time, are you prepared to
25 make that recommendation?

1 MR. ANTONELLI: Yes, I am.

2 MR. AVRUTINE: And so, you will
3 submit to me, at some point, the
4 completed, the rest of the completed
5 document. It doesn't have to be this
6 minute.

7 So, the next motion would be to
8 have this matter be deemed a negative
9 declaration under New York State
10 Environmental Quality Review Act. This
11 is a motion for a negative declaration
12 under SEQRA.

13 CHAIRMAN MOHR: Motion.

14 MR. AVRUTINE: Chairman Mohr.
15 Second?

16 MEMBER BLUMIN: Second.

17 MR. AVRUTINE: Member Blumin.
18 All in favor?

19 MEMBER BURKETT: Aye.

20 MEMBER LEBEDIN: Aye.

21 MEMBER KAUFMAN: Aye.

22 MEMBER BLUMIN: Aye.

23 CHAIRMAN MOHR: Aye.

24 MR. AVRUTINE: Now, a motion to
25 approve. And the motion to approve,

1 subject to submission of a revised plan
2 to the satisfaction of the Village
3 Engineer that all work as depicted to be
4 completed within 60 days of sign off by
5 the Village Engineer of the revised
6 plan.

7 Any other conditions?

8 CHAIRMAN MOHR: I guess the mats
9 and soil and other things.

10 MR. ANTONELLI: Part of the plan.

11 MR. AVRUTINE: That is going to be
12 part of the plan that Mr. Antonelli
13 approves.

14 MEMBER BURKETT: Maybe that Mr.
15 DiRaimo not put us in this situation
16 again.

17 MR. DiRAIMO: No.

18 MR. AVRUTINE: Okay.

19 MEMBER BURKETT: Thank you.

20 MR. AVRUTINE: I need a motion.

21 MEMBER KAUFMAN: So moved, motion
22 to approve.

23 MR. AVRUTINE: With those
24 conditions.

25 By Member Kaufman. Second?

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MEMBER BURKETT: Second it.

MR. AVRUTINE: Second by Member
Burkett.

All in favor?

MEMBER BURKETT: Aye.

MEMBER LEBEDIN: Aye.

MEMBER KAUFMAN: Aye.

MEMBER BLUMIN: Aye.

CHAIRMAN MOHR: Aye.

MR. AVRUTINE: Very well. Thank
you.

* * * * *

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