

MEETING
OF THE
ZONING BOARD OF APPEALS
VILLAGE OF HEAD OF THE HARBOR

December 15, 2025

7:04 P.M.

P R E S E N T:

JOSEPH BOLLHOFER - Chairman

WILLIAM ANDERSON

JOHN LOVETT

ALYSON SVATEK

MARK ZUCKERMAN

CHRISTOPHER BIANCO, VILLAGE ATTORNEY

APPEAL OF NISSEQUOGUE FARM LLC

DEBORAH KNIESSER, STENOGRAPHER

1 NISSEQUOGUE FARM LLC

15 Application of Nissequogue Farm
16 LLC, Suffolk County Tax Map number is
17 801, Section 5, Block 2, Lots 34.20,
18 34.21, and 34.22, also known as 650-654
19 North Country Road, St. James, New York
20 requests the following relief from
21 Village Code Section 165-23(B) (4) (F) .

22 There are eight requests, and I'll
23 read each one:

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1 NISSEQUOGUE FARM LLC
2 line where the Village Code Section
3 165.23(B) (4) (F) requires 200 feet;
4 Two, a greenhouse 34.4 feet from
5 the west-side property line, Village
6 Code 165-23(B) (4) (F) requires a minimum
7 side-yard setback of 50 feet;
8 Three, a greenhouse 33.5 feet from
9 the west-side property line, Village
10 Code 165-23(B) (4) (F) requires a minimum
11 side-yard setback of 50 feet;
12 Four, a greenhouse 43.7 feet from
13 the west-side property line, Village
14 Code Section 165-23(B) (4) (F) requires a
15 minimum side-yard setback of 50 feet;
16 Five, a greenhouse 42.6 feet from
17 the west-side property line, Village
18 Code 165-23(B) (4) (F) requires a minimum
19 side-yard setback of 50 feet;
20 Six, a greenhouse 45 feet from the
21 west-side property line, Village Code
22 165-23(B) (4) (F) requires a minimum
23 side-yard setback of 50 feet;
24 Seven, a concrete foundation 12.9
25 feet from the west-side property line,

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1 NISSEQUOGUE FARM LLC
2 Village Code Section 165-23(B)(4)(F)
3 requires a minimum side-yard setback of
4 50 feet;
5 And eight, existing and proposed
6 driveways lie within the required
7 50-foot vegetated buffer on the
8 east-side property line, Village Code
9 165-23(B)(4)(F).

10 I'll acknowledge for the record
11 that we have received an affidavit of
12 publication and a green card showing
13 mailings to -- certified mailings as
14 well as an affidavit of the mailing.

15 Okay. Who would like to speak on
16 behalf of the applicant?

17 MR. BERGSON: I would. My name is
18 Howard Bergson. My office is at 194
19 Main Street in Setauket. I represent
20 the applicant, Nissequogue Farms, as
21 well as the owner of property is Ogden
22 St. James LLC.

23 This zoning application -- this an
24 application for variances -- is an
25 outgrowth of our review of the site

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1 NISSEQUOGUE FARM LLC
2 plan by the building inspector with
3 respect to the -- mostly the current
4 conditions and one -- I think one
5 request in change in the property.

23 But -- but we believe that the
24 variance requests will not change the
25 nature and character of the

1 NISSEQUOGUE FARM LLC
2 neighborhood, will not have an adverse
3 effect on the -- on the district or the
4 neighborhood, and not substantial in
5 nature, are designed to accomplish the
6 minimum amount of -- I'm sorry,
7 requesting the minimum amount with
8 respect to the intended use. And we
9 believe that the application will
10 satisfy this board in terms of the
11 requirements that the Village Law -- I
12 believe that's Section 7-12B of the
13 Village Law of the State of New York.

14 Now, before I get into it any
15 further, I'd like to get part on the
16 record matters that -- some documents
17 that I've handed up. And I'm doing
18 this because -- because just as a
19 history of this application. And there
20 are six -- actually there are eight
21 documents.

22 The first -- the first one is the
23 building department's -- the building
24 inspector's denial. It lists those
25 variances that the Chairman just read.

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1 NISSEQUOGUE FARM LLC

2 The second one is the notice that
3 the -- the Chairman had just read. The
4 third is a memorandum to the Village
5 Trustees from the Planning Board.

6 And with respect to the -- the --
7 this is with respect to the site plan.
8 And without going into all the detail
9 of it, if you look at the next to the
10 last full paragraph on Page 2, it
11 reads:

12 [As read]: "The Board further
13 finds that the special-use permit
14 should issue" --

15 And we're not here for the
16 special-use permit, but this is just
17 the background for this application so
18 that we can move forward with the
19 project as -- as designed.

20 [As read]: "As indicated above,
21 the operations of this use at the site
22 will not be anymore objectionable to
23 the nearby properties. The location,
24 the size, the nature, and the intensity
25 of the operation conducted in

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1 NISSEQUOGUE FARM LLC
2 connection with the use, the size, and
3 the location of the site, with respect
4 to the streets giving access to it are
5 in harmony with the appropriate and
6 orderly development of the district in
7 which the site is located.

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1 NISSEQUOGUE FARM LLC

2 building inspector.

3 The next document is an

4 August 1st, 2025 -- let me just go

5 back. That memorandum from the

6 Planning Board was October 7, 2024.

13 [As read]: "Based upon the above,
14 it is our opinion that the operation of
15 the existing nursery does not result in
16 the litarious [phonetic] impact on the
17 traffic conditions, and this element is
18 not in the -- and this element is not
19 an impediment to the issue of the
20 special-use permit."

25 [As read]: "The Board in their

1 NISSEQUOGUE FARM LLC
2 conclusion is the Board affirms its
3 finding and conclusion set forth in its
4 prior letter recommending the approval
5 of the application without conditions.

16. The recommendation here does not
17. constitute a waiver of this Board's
18. authority to conduct that site review.
19. They don't want to give up their
20. authority."

25 [As read]: "For reasons set forth

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1 NISSEQUOGUE FARM LLC
2 in my October 7th -- in the October 7,
3 2024 and September 9, 2025 letters
4 enclosed herewith, the Board recommends
5 approval of the applicant's request for
6 the variance -- variance relief from
7 the Zoning Board of Appeals. This
8 recommendation does not constitute a
9 waiver of this board's authority to
10 conduct site-plan review."

20 MR. BERGSON: Okay. So I have
21 just two more documents very briefly.

22 One is the Village publication
23 which if you go to what is labeled as
24 Page 76, the Nissequogue Nursery, it's
25 a slight history -- it's a short

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1 NISSEQUOGUE FARM LLC
2 history of the property and its use by
3 the Kutson [phonetic] family back into
4 the '60s and '70s, I believe, and
5 the -- in terms of a nursery and as a
6 compost center. Now, we're not
7 proposing a compost center, but the
8 point is that it had an agriculture
9 use, a nursery, and a landscaping use
10 back for decades and decades before
11 the -- it was purchased by Ms. Ogden.

21 So it's consistent with the
22 intention of the Village Code as well
23 as the current -- in terms of the
24 nursery with the accessory use and it's
25 consistent with the nature and -- of

1 NISSEQUOGUE FARM LLC
2 the business entity operated by Ms.
3 Ogden.

4 THE CHAIRMAN: Did you state when
5 your client purchased the property?

6 MR. BERGSON: 2006.

7 THE CHAIRMAN: Thank you.

8 MR. BERGSON: It was purchased in
9 2006. Before that, it was owned the
10 Kuzicks either directly or through
11 family trusts as I assume part of the
12 estate, some sort of estate planning.

20 MR. BERGSON: Again, the specifics
21 of the -- of the variance request will
22 be spoken to by Mr. Cunniffe, and I'm
23 going to let him do that now. But I
24 thank you for your time and your
25 attention. I appreciate the ability to

1 NISSEQUOGUE FARM LLC
2 put all of that on the record. And
3 again, I believe that the -- this board
4 will be satisfied that these variance
5 requests are not substantial and they
6 will not have any adverse effect on the
7 nature and character of the community,
8 the district, the neighborhood.

17 I just want to go over some of the
18 specifics related to the -- the
19 structures and maybe help answer some
20 questions regarding -- because I know
21 that some of the board members were out
22 to take a look at the property.

23 I'll take it from -- from the
24 denial letter from Mr. O'Shea, July
25 25th, which headlights the -- Section

1 NISSEQUOGUE FARM LLC

2 1, 2, and 3 of Village Code

3 165-23(B)(4)(F).

4 We'll take it from the beginning
5 is number one is a 10-yard refuse
6 dumpster which is located 187.85 versus
7 required 200 feet from -- from the
8 roadway. And so North Country Road is
9 up here. The dumpster and refuse
10 container is right here. It was cited
11 here. There's a strong existing --
12 hopefully you've all seen it --
13 incredibly dense cedar row which
14 completely shields it from North
15 Country Road. And Ms. Ogden has placed
16 this almost kind of epicenter so it's
17 not bordering a property, it's not near
18 a buffer. And it's sort of internal to
19 the focus and organization of -- of her
20 operation.

21 Sliding it 15 feet, would we be
22 taking out -- first off, there's very
23 specific grading along the driveways
24 that have been established as well as
25 some drainage. But we have right in

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1 NISSEQUOGUE FARM LLC
2 the vicinity of this -- of this refuse
3 container which is perfectly screened.
4 We have 24-inch tree, 24-inch tree,
5 29-inch tree, 25-inch tree, 34-inch
6 diameter tree. These are all oak trees
7 right in the middle.

16 So I just want to move on through
17 some of the greenhouse structures. The
18 greenhouse structures are within the
19 50-foot setback. There's actually a
20 buffer line. And they are hoop houses
21 which are basically uncovered for about
22 seven months out of five. So in the
23 seven months, we all enjoy plants which
24 are in the buffer out of the five
25 months. It may even be more than seven

1 NISSEQUOGUE FARM LLC
2 months where there are -- most of them
3 are uncovered now in December at this
4 point in the year. But there's one,
5 two, three, four, and five. This guy
6 complies.

15 And the buffer itself is shielding
16 all the dead folks in the cemetery from
17 seeing the greenhouses. I don't think
18 they have much of an effect on the
19 community at all. They're really just
20 adjacent to -- to the cemetery. And
21 there is established screening on -- on
22 Ms. Ogden's property. It's just
23 where -- it's just within that.

1 NISSEQUOGUE FARM LLC
2 difference of about seven feet, six to
3 seven feet within the buffer. Just
4 fairly minor. I think it's just sort
5 of a non-discussion, but obviously with
6 respect I -- I leave it to you all for
7 that. I just wanted to make note of
8 sort of the dimensional difference.

1 NISSEQUOGUE FARM LLC
2 planning thing. But it just seems to
3 be -- it's -- it's low line. There's
4 really just this sort of remnant
5 historic -- a little bit of piece of
6 history. It actually just says that
7 there obviously was some development in
8 the buffer during the time the Kuzicks
9 owned the property.

10 So we're just asking to just kind
11 of leave well enough alone there.

12 Hopefully you all could agree with
13 that.

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1 NISSEQUOGUE FARM LLC
2 the middle of the drive and just clips
3 it a little bit and the drive gets out
4 of -- it gets on the better side of the
5 50-foot buffer. So there's that little
6 sliver there.

21 But the Smithtown Arts Council
22 building, I don't see any development
23 occurring here. It's also in the
24 larger aerial. I did bring sort of a
25 larger aerial with me.

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1 NISSEQUOGUE FARM LLC

2 We can see that there's a --
3 there's a whole bunch of buffering on
4 their property. There's buffering in
5 here. And there's buffering here where
6 that little drive aisle wants to
7 connect. And it's really far away from
8 any presence related to the Arts
9 Council building, so we didn't think it
10 was such an egregious request to ask to
11 propose that.

12 On the south side of the property,
13 I just want to make note we have some
14 parts of the property that are not in
15 Head of the Harbor. It's St. James or
16 Smithtown. And we are conceding to
17 some -- we were in the buffer quite a
18 bit on some of the greenhouses, and I
19 just wanted to take note that Judy's
20 recognized that. And in the site plan,
21 we have proposed to take a whole bunch
22 of -- of area off of all those paths
23 that are encroaching into the 50-yard
24 buffer that's on the south end.

25 So that's really the gist of the

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1 NISSEQUOGUE FARM LLC
2 nature of the structures. There -- I
3 think the requests are pretty minimal.
4 We just hopefully can maintain what's
5 here. And I'll open up for any
6 questions about the structures and the
7 application itself.

19 MR. CUNNIFFE: Yeah, those are the
20 ones I was referring to. So we propose
21 to take away --

DEBORAH KNTESSEB - STENOGRAPHER

1 NISSEQUOGUE FARM LLC

2 MR. CUNNIFFE: No, no, we've
3 already self-imposed the modifications
4 so we appreciate that.

5 THE CHAIRMAN: Okay. And there's
6 also a frame shed in the southwest area
7 of the property that also encroaches
8 inside the 50-foot buffer. And there's
9 a note here, relocate an existing shed
10 eight feet to the east and out of the
11 buffer.

12 MR. CUNNIFFE: Yeah, we're making
13 a move to get that out of the buffer.
14 It's really just in there just a
15 smidge, but --

16 THE CHAIRMAN: I think that's a
17 moveable shed anyway.

18 MR. CUNNIFFE: It is. So why not.

19 THE CHAIRMAN: All right. Okay.
20 So I think you're concluded at
21 this point?

22 MR. CUNNIFFE: I am, sir.

23 MR. BERGSON: Can I just make one
24 comment?

25 THE CHAIRMAN: Sure.

1 NISSEQUOGUE FARM LLC

2 MR. BERGSON: With respect to the

3 foundation, John indicated it's in the

4 buffer. And removal of it would

5 probably cause more damage to the

6 buffer than it's justified. And it's

7 existence there is not the basis of the

8 development at all. Any -- any request

9 to actually build anything on it or use

10 it for anything, we'd have to come back

11 and go through this entire process and

12 not likely to be granted in any event.

21 So I just wanted to make that
22 clear that although it's a substantial
23 structure, it's low to the ground and
24 it's -- it's not usable for anything
25 and any use would have to come back for

1 NISSEQUOGUE FARM LLC
2 municipal approval. And as I said, not
3 likely to be granted in any event.

4 Thank you.

5 THE CHAIRMAN: Thank you.

6 Yeah, so doctor -- Board Member
7 Dr. Zuckerman and I did visit the site.
8 I don't know if anybody else had an
9 opportunity to do that. And Mr.
0 Anderson as well.

11 MR. ANDERSON: Thank you.

25 Now, let's see. The conditions

1 NISSEQUOGUE FARM LLC
2 that we need to deal with as you
3 probably know are five factors. And we
4 can address the substantiality aspects
5 of it which of course is just a factor
6 not determinative, but doing some math
7 I'd just like to put this on the
8 record.

9 With regard to the refuse dumpster
10 being 187.85 feet, you're requesting
11 relief of approximately six percent.
12 The others regarding the five
13 greenhouses run from a nine-percent
14 request, 13 percent to 16 percent, and
15 two at 31 and 33 percent.

24 So the circumstances on the other
25 side, you're also fortunate in that the

1 NISSEQUOGUE FARM LLC
2
3 Town of Smithtown is the property
4 owner. As you know, Mills Pond House
5 and its properties which is also a
6 rather large segment of property, we
7 haven't received anything on the record
8 from the Town of Smithtown in favor of
or against the application.

11 Okay. All right. So the other is
12 a request for the variance on the
13 foundation that we were talking about
14 which essentially is a significant
15 variance entirely within the buffer
16 zone. So that would be a 74-percent
17 request for variance. Again, one
18 aspect of -- the one factor of what
19 we're looking at.

20 Now, we're required to address the
21 issue of whether there are any feasible
22 alternative methods. And I know that
23 you two gentlemen have talked about
24 this circumstance to a certain extent.

25 I don't know if you want to add

1 NISSEQUOGUE FARM LLC
2 anything regarding that issue, whether
3 there's a feasible alternative method
4 or how important that is?

5 MR. BERGSON: Well, in term of
6 most of the variance requests, they're
7 so minimal that the disruption to cure
8 them, it would be physically
9 impossible -- it would cause more
10 disruption to the -- to the property,
11 to the environment than is justified by
12 the minimum nature.

13 You addressed the nature of the --
14 of the foundation that we discussed.

15 And our position, of course, is that
16 that would have a significant impact.

17 The removal would be like a gouge into
18 the -- into the buffer.

1 NISSEQUOGUE FARM LLC
2 by -- I'm using the same term. But
3 it's also based upon an approved exit
4 and entry approved by the New York
5 State Department of -- DOT with respect
6 to the entry off of 25A.

7 So the relocation of that just to
8 move it outside of the buffer would
9 be -- would be an extensive and
10 difficult process requiring additional
11 approvals from the DOT and it just
12 doesn't seem -- well, again, a lot of
13 this is physically impossible. From a
14 practical point of view, from a visual
15 point of view, from an aesthetic point
16 of view, it doesn't seem to make a lot
17 of sense. You're all familiar with the
18 entrance to it as it currently exists.

23 UNIDENTIFIED SPEAKER: What about
24 the back of the property?

25 THE CHAIRMAN: Excuse me, you'll

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1 NISSEQUOGUE FARM LLC

2 have your opportunity.

3 MR. BERGSON: With respect to the
4 other -- the existing -- the existing
5 driveway, it's the -- not the existing,
6 I'm sorry -- the proposed extension of
7 the driveway, that is -- that is a
8 request so that the physical operation
9 of the -- the nursery can be
10 facilitated and be more practical.

11 We think that there's -- that's
12 the only place that that driveway, as I
13 understand it, could be extended and
14 accomplish that goal. And again, we
15 believe that that incursion into the
16 buffer there, given the -- the
17 screening, given the distance from
18 the -- from the historical building and
19 center that's on the adjacent property
20 is minimal and -- and does have an
21 adverse impact on the community or the
22 environment or specifically the
23 neighbor Smithtown -- the Town of
24 Smithtown itself.

25 Again, they haven't objected to

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1 NISSEQUOGUE FARM LLC
2 it. You know, they're aware of this
3 kind of applications. They have their
4 own all the time. And we received no
5 objection from them.

6 As far as the -- the greenhouses,
7 the -- what are they called?

8 MR. CUNNIFFE: Coop houses.

1 NISSEQUOGUE FARM LLC
2 So while certainly a lot of
3 physical things can be done, as a
4 technical matter as far as
5 alternatives, there really -- from a
6 practical point of view, from an
7 aesthetic point of view, this is really
8 the best way of proceeding. It causes
9 less impact on the property, on the
10 buffers, and less impact to the general
11 community.

12 THE CHAIRMAN: Thank you.

24 We also have to address whether
25 the variance has any adverse effect or

1 NISSEQUOGUE FARM LLC
2 impact on the physical or environmental
3 conditions in the neighborhood. You
4 did indicate there the existing buffer
5 is heavily vegetated with mature trees
6 and plantings. The cemetery is
7 directly adjacent to the greenhouses.
8 And you also indicated that there's no
9 storm-water runoff. The site is stable
10 in that respect.

11 So the last of these is whether
12 the difficulty was self-created. And
13 the response is that the greenhouses
14 were improperly planned due to the
15 interpretation of the already dense
16 vegetated buffer. The foundation of
17 course is a remnant of prior ownership.
18 The refuse container was purposely
19 located as we know behind the line of
20 cedar trees and removing it might
21 necessitate taking out some mature
22 trees which of course the Village
23 doesn't like to see happen. All right.

24 Do --

25 MR. BERGSON: Can I add just one

1 NISSEQUOGUE FARM LLC

2 other thing?

3 I think the statute also indicates
4 that while that is one of the five
5 concerns that a zoning board can look
6 at, the last item is not something that
7 is definitive in any way. That -- you
8 know, whether it was technically
9 self-created, it really comes down to
10 looking at it, whether it was
11 necessary, whether it was a minimal
12 request, whether it has any of those
13 adverse effects, that the Chairman has
14 indicated the Board's probably looking
15 at.

16 THE CHAIRMAN: Right. As we've
17 kind of intimated, none of these five
18 factor is to be determinative, just all
19 to be taken into consideration. All
20 right.

21 Any other board members have any
22 questions or comments?

23 MR. ZUCKERMAN: I'm wondering if
24 Ms. Ogden would agree that this
25 foundation would not be touched at all?

DEBORAH KNIESSER, STENOGRAPHER

1 NISSEQUOGUE FARM LLC

2 MS. OGDEN: I have no reason to
3 touch it.

4 MR. ZUCKERMAN: As part of the
5 variance granted.

6 THE CHAIRMAN: As a condition to
7 generate approval to leave the
8 foundation where it is?

9 (Simultaneous speakers.)

10 THE CHAIRMAN: I have no objection
11 to that.

12 MR. BERGSON: Ms. Ogden has no
13 objection.

14 THE CHAIRMAN: Okay. All right.

15 Anyone else? Any comments or
16 questions?

17 No. All right.

18 Anyone else here who would like to
19 speak regarding the application?

20 MR. OCHS: Yes.

21 THE CHAIRMAN: Could you state
22 your name and address for the record,
23 please?

24 MR. OCHS: Steven Ochs, 22 Great
25 Oak Road in St. James.

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1 NISSEQUOGUE FARM LLC

2 My property is just south of
3 Judy's. And when -- I've been in my
4 home since 1992.

5 Diane how long have you been --

6 UNIDENTIFIED SPEAKER: 1991.

7 UNIDENTIFIED SPEAKER: 2000.

8 MR. OCHS: Dr. Hartman?

9 UNIDENTIFIED SPEAKER: 1974.

10 MR. OCHS: Okay. So when Judy

11 moved in, it was a very quiet

12 neighborhood. There wasn't much

13 traffic in and out of that property.

14 Now, on weekends, Saturdays, there's

15 trucks going. I'm really concerned now

16 that it's expanding further. These are

17 residential properties. All of us pay

18 lots of taxes, you know.

19 What is being done to, you know,

20 keep our privacy?

21 You're talking about the cemetery.

22 You're talking about the Arts Council

23 building. Nobody lives there. But

24 there's a bunch of us south -- you're

25 on High Hedges -- that are adjacent to

1 NISSEQUOGUE FARM LLC
2 this property. And we bought because
3 it was a residential area. And I don't
4 hear anything about a buffer or
5 anything to try to keep the noise down.
6 Those are concerns.

12 MR. OCHS: Okay. But understand,
13 I -- other than getting a letter in the
14 mail -- and it sounds like this has
15 been planned for some time -- that I
16 got two weeks ago -- and I'm kind of
17 surprised, Judy, because I was on a
18 Zoom call with you about another matter
19 that nobody said anything about this.
20 And it looks like it's pretty far
21 along.

25 MR. OCHS: Understood.

1 NISSEQUOGUE FARM LLC

2 THE CHAIRMAN: The site plan
3 approval would be from the Planning
4 Board. And all I can say is that when
5 the law requires that neighbors be
6 notified, as far as our board is
7 concerned, you can see that the
8 applicant has complied with that
9 requirement.

10 Do you have any other comment
11 about anything else?

12 But does anyone know when the
13 predecessor started operating this
14 Nissequoque Farm?

15 MR. BERGSON: I attempted to get
16 the -- the deed -- the deed that would
17 show when the Kuzicks purchased the
18 property. I wasn't able to go that --
19 back that far over the phone with my
20 title company. But my understanding is
21 that they were operating a nursery and
22 landscaping business and a compost
23 business for years in the -- in the
24 '70s and '80s at the very least.

25 And again, the business card that

1 NISSEQUOGUE FARM LLC

2 I've given you shows that the Kuzicks
3 were nurserymen and landscaping, so
4 that had the function.

5 But there's -- there's an issue
6 that I think needs to be just
7 reinforced here for a second. This
8 application before this board isn't
9 about the overall application for the
10 special-use permit. This is about
11 whether or not these specific zoning
12 requests, variance requests,
13 area-variance requests, are appropriate
14 or whether or not they're substantial
15 or whether or not they have an adverse
16 effect.

17 So this board's authority is -- is
18 broad and grand, but it -- but it's
19 limited to the notice -- the
20 requirement that -- the notice
21 requirement than the request for the
22 variances which I might add have been
23 since suggested that they're
24 appropriate by the Planning Board which
25 doesn't, of course, release you from

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1 NISSEQUOGUE FARM LLC

2 your responsibility to review.

14 Now, I -- I moved out here in
15 1975, but I don't remember being --
16 knowing what was going on with this
17 particular piece of property back then.
18 But it's pretty clear that the Kuzicks
19 owned this property back into at least
20 the '80s, 1980s. And I think the
21 historical description doesn't
22 specifically in the -- in the
23 publication doesn't specifically
24 address that timeframe. But it's
25 pretty clear that the -- that they're

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1 NISSEQUOGUE FARM LLC
2 dealing with something that has an
3 historic nature and not just something
4 that would happen to come along to 2005
5 or 6 or 3 or 4.

6 THE CHAIRMAN: Thank you.

7 It's a point that really should be
8 emphasized I guess because I understand
9 you folks come into this somewhat
10 blind. Maybe --

11 UNIDENTIFIED SPEAKER: Yeah.

12 THE CHAIRMAN: Let me just finish.

13 Our board's jurisdiction and our
14 board's sphere of authority and
15 responsibility is limited to decide
16 whether the requested variances should
17 be granted. This is a -- Counselor,
18 correct me if I'm stating it
19 incorrectly -- but I think this a
20 three-prong process as far as the
21 municipality is concerned. The
22 Planning Board and the Trustees have
23 requested that our board be, let's say,
24 first in determining whether the
25 variances should be -- requests should

1 NISSEQUOGUE FARM LLC
2 be granted. It goes to the Planning
3 Board at some point for site-plan
4 approval. And the Trustees still need
5 to approve the issue of whether a
6 special-use permit is to be granted.

7 That's their authority; all right?
8 So you -- if you have concerns
9 about matters that we can satisfy you
10 or address anyway, then you certainly
11 should follow this to make sure that
12 you say your peace to the Planning
13 Board and to the Trustees as well.

14 MR. OCHS: I appreciate that.

22 Okay?

23 MR. OCHS: Okay.

24 THE CHAIRMAN: All right.

25 Anyone else who would like to

1 NISSEQUOGUE FARM LLC

2 speak regarding this matter?

3 MS. PORCIELLO: I'll say
4 something. My name is Collette
5 Porciello.

6 THE CHAIRMAN: Speak up, please.

7 Speak up louder.

8 MS. PORCIELLO: Okay. My name is
9 Collette Porciello, 5 High Hedges
10 Court. And I am adjacent to the
11 property, and I do have a few questions
12 that maybe I could get some clarity on.

13 So like Steve said, we contend
14 with the noise. We contend with --
15 there was a lot of natural patches
16 of -- of just wooded brush all around.

17 All gone now. So maybe they weren't
18 tall oak trees and needed permits,
19 although there's been a lot of tree
20 removal. And I was never notified or I
21 didn't know if there were permits given
22 or requested for any of that tree work,
23 but we're way beyond that now.

24 So even just something as simple
25 as that, the clearing of any kind of

1 NISSEQUOGUE FARM LLC
2 space back there, any kind of natural
3 vegetation, is really gone. So --

7 But I have to tell you again, like
8 I told Mr. Ochs, our board has no
9 authority, no jurisdiction, to deal
10 with the percentage or square footage
11 of the property that was cleared, if it
12 was improper, or anything like that.
13 We can't even speak about that issue.

14 MS. PORCIELLO: Okay. So 50 feet
15 from the west line --

19 MS. PORCIELLO: Right.

20 So you -- you're suggesting that a
21 19-percent increase is really not
22 objectionable to --

25 MS. PORCETELLO: Okay.

1 NISSEQUOGUE FARM LLC

2 THE CHAIRMAN: And none of my
3 numbers was 19 percent.

4 MS. PORCIELLO: Okay.

5 THE CHAIRMAN: So --

6 MS. PORCIELLO: Could you --

7 THE CHAIRMAN: I'll say it's
8 one factor out of five, like I said
9 before, that they need to consider.

10 MS. PORCIELLO: Right.

11 So but there -- aren't there four
12 greenhouses that are proposed that
13 would be on the west side? Am I
14 understanding that correctly?

15 THE CHAIRMAN: The application
16 calls for a variance on five of those
17 greenhouses or hoop houses that are
18 existing.

19 MS. PORCIELLO: Right. Okay.

20 So can they be smaller in size?
21 Do they have to be the size -- can they
22 actually be shorter so they're not
23 taking up as much room? Is that a
24 possibility?

25 THE CHAIRMAN: I think anything's

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1 NISSEQUOGUE FARM LLC
2 a possibility, but what is your
3 specific concern about the size?

4 MS. PORCIELLO: Because it
5 wouldn't go into -- it couldn't require
6 as much space to buff into the property
7 line there.

11 MS. PORCIELLO: It is. I mean, it
12 is so it does affect me personally.
13 While it may not affect the community
14 or the front of North Country Road, it
15 does affect us personally, yes.

24 How deep is your backyard? Do you
25 know from your rear line to the house?

1 NISSEQUOGUE FARM LLC

2 MS. PORCIELLO: Why would you ask
3 that?

4 THE CHAIRMAN: Because we have
5 two-acre zoning.

6 I suppose that High Hedges was a
7 cluster zone? I mean, you're less than
8 two acres?

9 MS. PORCIELLO: Yeah, but what
10 does that have to do with this?

11 THE CHAIRMAN: Well, I'm just
12 taking that into consideration. Your
13 house if it were on a two-acre lot,
14 like --

15 MS. PORCIELLO: Well yes.

16 THE CHAIRMAN: -- with a full-size
17 backyard, then it would be farther away
18 from --

19 MS. PORCIELLO: It would be.
20 Correct.

21 THE CHAIRMAN: -- these houses.
22 All right.

23 MS. PORCIELLO: Yeah. But
24 unfortunately we're in the situation
25 that we're in.

1 NISSEQUOGUE FARM LLC

2 THE CHAIRMAN: That's right.

3 MS. PORCIELLO: I'd like to create
4 space there. I'd like to keep the
5 space that there is.

6 THE CHAIRMAN: Understood.

7 MS. PORCIELLO: So actually I do
8 want to point out that the operation
9 for over 20 years, but it's really --
10 we can't say that it's the same as it
11 was. Because when we moved in, they
12 had a compost pile back there. And if
13 people came to buy some of the compose,
14 that was a lot of action. There
15 weren't trucks zooming in and out of
16 there trying to get back and forth onto
17 25A and holding up traffic.

18 Though they might have had that
19 paperwork and it was on the business
20 card, I mean it's really unrealistic to
21 say that that is what they were doing
22 because they weren't doing that. The
23 construction and the action that goes
24 on there now is not what it was 20
25 years ago when we moved in. It was

1 NISSEQUOGUE FARM LLC
2 quiet. And they were only selling
3 compost. There were not construction
4 vehicles coming in and out, boom, boom,
5 boom, all morning, all night. I don't
6 think it's fair to say that it's the
7 same. It's not the same. It's way
8 different now, and it's way more
9 modernized.

10 I understand. We don't live under
11 a rock. We have to realize that
12 there's going to be progress in -- but
13 still, we -- it directly affects us.

20 I think that the special-use
21 permit -- this isn't exactly what this
22 is about but it ties into -- to it all.
23 This -- this helps that operation, not
24 any other operation for anybody else,
25 not anybody else's quality of life.

1 NISSEQUOGUE FARM LLC

2 And I guess my question is -- like
3 you said, it's a three prong -- so all
4 this time doing business as without a
5 special-use permit doing what -- you
6 know, having a business like that,
7 that's not -- that's not in code and it
8 still exists.

9 So my question is why does that go
10 on, and if I want to just change the
11 code and for a variance because I'm
12 going to sell plants and start a
13 business, does everybody just get to
14 ask for it and get it and then suddenly
15 anyone can have anything they want?
16 That's why there are rules and that's
17 why there are ordinances and that's
18 why -- so how does that work? Just
19 because we want to make a change we
20 come and we ask for it and we get it?

21 THE CHAIRMAN: Okay. If you're
22 finished now, I'm going to tell you
23 that I don't know how it works. And if
24 I did know how it worked, I couldn't
25 tell you. I wouldn't tell you how it

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1 NISSEQUOGUE FARM LLC

2 works.

3 You heard before, as I said, our
4 jurisdiction is limited to the matters
5 before us. A special-use permit issue
6 is going be determined by the Board of
7 Trustees, and you're certainly invited
8 to attend any hearing in that regard.

9 The same thing with the site plan, we
10 go before the Planning Board.

11 So if you have any other comments
12 regarding the requested variances here,
13 we can certainly hear them or
14 questions.

15 Are there any such questions or
16 comments?

17 MS. PORCIELLO: It's a concern how
18 close those greenhouses are.

19 THE CHAIRMAN: Okay. We went over
20 that one.

21 MS. PORCIELLO: I mean, I don't
22 really understand where the dumpster
23 proposal is. To be honest, I can't
24 see. I'm just going by --

25 THE CHAIRMAN: Would you like the

1 NISSEQUOGUE FARM LLC

2 opportunity to come up and see it?

3 MS. PORCIELLO: Is that okay that
4 it gets turned around and we can all
5 see it?

6 MR. CUNNIFFE: No. First off,
7 Margaret has all our drawings and she
8 actually requested that they be at the
9 front counter for the public to see
10 during the initial application and
11 hearings and our initial start of the
12 special-use permit. So they're there.

17 MS. PORCIELLO: I just didn't want
18 to be disrespectful and walk over
19 there.

20 MR. CUNNIFFE: No, you wouldn't
21 be. But it's about this big on the
22 drawing, so if I turn it around it
23 would be no use to you.

24 I'll appease you. So the dumpster
25 is right here. This is North Country

1 NISSEQUOGUE FARM LLC
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Road. From North Country Road, the property line due south is 187.86 feet in where it was supposed to be 200 feet. Which, by the way, the dumpster's actually -- one end of it is even greater, further away from North Country Road if you will. But it sits perfectly behind a full, dense stand of cedars. So from 25A it's not visible. And it is covered with canopy from mature trees with a 34-inch diameter trunk, 24, 24, and 28, and 26, and 34. So all of those are mature trees with significant canopy.

16 And I believe your home reside
17 here, and I know that you are elevated.
18 So if we went and moved all this back
19 for everybody to make everybody happy,
20 we'd end up taking these trees out, the
21 canopy would be gone, and you'd be
22 seeing a dumpster. That's why it's
23 fairly insignificant with 15 feet. The
24 percent is -- is insignificant. And
25 this is centrally located.

1 NISSEQUOGUE FARM LLC

2 So that's where that is. It's
3 very hard to see. But hopefully that
4 helps you gain some perspective.

5 MR. OCHS: While you still have
6 that up, could you point out where the
7 greenhouses are going to be located?

8 MR. CUNNIFFE: They're existing
9 and they've been there for quite some
10 time. These two are here, and these
11 are the most egregious into the buffer.
12 But there's all buffering here and
13 there's also existing trees and
14 buffering here.

15 And then there are three others.
16 So these are about five and six feet
17 over the buffer line. They are 72-feet
18 beyond that. If you think about seven
19 feet of 72 feet in length, taking
20 seven feet off, if you're -- if you're
21 seeing these hoop houses now, seven
22 feet isn't going to change. And if we
23 are going to change them, which we
24 don't want to disturb anything in the
25 existing buffer, we're going to add the

1 NISSEQUOGUE FARM LLC
2 seven feet here which only increases
3 the length with respect to these
4 relative to any parcels that can see
5 them.

6 If -- I don't see how -- how
7 they're -- the footprint within the
8 buffer is really going to make an
9 impact as far as their right to build
10 and they're right to exist as a
11 structure.

12 And these down here, we're taking
13 a substantial amount of -- of -- of
14 hoop length out of -- out of these just
15 to stay within the buffer because we
16 recognize that they were -- unlike
17 these two where we have some
18 constraint, these three we really can't
19 come back. But we're -- so we're just
20 going to propose to cut them off and do
21 less because we want to respect the
22 buffer here.

23 So these three, they're not on the
24 docket for tonight but I just wanted to
25 point that out.

1 NISSEQUOGUE FARM LLC

2 THE CHAIRMAN: You're talking
3 eight, nine, and 10?

4 MR. CUNNIFFE: Yes, sir.

5 THE CHAIRMAN: Okay.

6 So you understand those three that
7 are adjoining the rear yard of Diane
8 Cucciniello --

9 MS. CUCCINIELLO: Yes.

10 THE CHAIRMAN: So they're going to
11 be moved so that they are more than 50
12 feet away from the property line.

13 MR. OCHS: Thank you for that.

14 MS. CUCCINIELLO: That makes me
15 happy.

16 MR. CUNNIFFE: They're being cut
17 back.

18 (Simultaneous speakers.)

19 MR. CUNNIFFE: Yeah, we're
20 reducing the footprint.

21 THE CHAIRMAN: The end result will
22 be that they're outside of the 50-foot
23 setback.

24 MS. PORCIELLO: But not on the
25 west side? On the west side, are they

1 NISSEQUOGUE FARM LLC

2 the same?

24 MS. CUCCINIELLO: We look at them
25 every day. We know it's there.

1 NISSEQUOGUE FARM LLC

2 THE CHAIRMAN: All right.

3 Any other questions or comments.

4 MS. CUCCINIELLO: Diane

5 Cucciniello, 24 Great Oak Road,

6 St. James.

7 Again, I'm relieved that she's
8 going to be moving those because I do
9 see them even though there's 280 feet
10 from the back fence to my house. I can
11 see those every day.

12 My other concern is do they have
13 fans that run in them? Do they have
14 any other kind of noise or anything
15 that goes along with them?

16 MS. OGDEN: There's no fans. They
17 are where they've been. They are steel
18 bars that get covered with plastic over
19 the winter to protect the plants that
20 are inside. So the plastic is getting
21 put up actually tomorrow and will be
22 removed when weather permits in March
23 or April. There's no electric in them.
24 There's no fans.

25 THE CHAIRMAN: I inadvertently

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1 NISSEQUOGUE FARM LLC
2 called them greenhouses, and I've since
3 been educated they're hoop houses. As
4 Ms. Ogden has said, they're just steel
5 bars that are covered in plastic.
6 There's no electric, no water inside
7 there.

8 MS. CUCCINIELLO: Well, we've
9 heard the plastic flapping so I'm aware
10 of the plastic. I just wanted to make
11 sure there's nothing else going on or
12 anything else going into new ones.

13 MS. OGDEN: There's nothing new.
14 This is existing. There's nothing new
15 proposed. This is just what's been on
16 the property.

17 THE CHAIRMAN: Anyone else?

18 Okay. I'll entertain a motion if
19 the Board is ready to vote?

20 MR. ANDERSON: Motion.

21 MS. SVATEK: I'll second.

22 THE CHAIRMAN: Second. Okay.

23 All those in favor of the

24 application I'll ask you to state aye
25 for the record and those opposed to the

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1 NISSEQUOGUE FARM LLC
2 application I'll ask you to state nay
3 for the record.
4 MR. LOVETT: Aye.
5 MR. ZUCKERMAN: Aye.
6 MS. SVATEK: Aye.
7 THE CHAIRMAN: Aye.
8 MR. ANDERSON: Aye.
9 THE CHAIRMAN: Okay. Thank you
10 all for coming.
11 THE VILLAGE ATTORNEY: We do have
12 to do SEQRA --
13 THE CHAIRMAN: I'm sorry?
14 THE VILLAGE ATTORNEY: We have to
15 do a SEQRA as well just to establish
16 we're lead agency.
17 THE CHAIRMAN: That's right. We
18 did get notification from -- I believe
19 it was Suffolk County agencies that
20 the -- I believe the Board of Trustees
21 is lead agency?
22 THE VILLAGE ATTORNEY: I was told
23 that they were going to give it to us.
24 They wanted us to handle it. And
25 that's not the county, but the Board of

1 NISSEQUOGUE FARM LLC

2 Trustees wanted us to do it to be the
3 lead agency. So we can just pass a
4 resolution saying we're lead agency,
5 and we can make that now or at the next
6 meeting.

9 THE VILLAGE ATTORNEY: Yeah.

10 THE CHAIRMAN: Do you folks
11 understand what we're talking about?

16 The Board of Trustees has asked us to
17 undertake that responsibility and to
18 determine also if this requires
19 anything that will result in the
20 negative declaration or whether a full
21 environmental impact statement would be
22 required? Is that --

23 THE VILLAGE ATTORNEY: Yes.

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1 NISSEQUOGUE FARM LLC
2 been a full environmental assessment
3 completed which we've reviewed.

4 So do we need to vote to accept to
5 be the lead agency?

14 MR. ANDERSON: I'll make the
15 motion.

16 THE CHAIRMAN: Second?

17 MS. SVATEK: Second.

21 MR. LOVETT: Aye.

22 MR. ZUCKERMAN: Ave.

23 MS. SVATEK: Ave.

24 THE CHAIRMAN: Ave.

25 MR. ANDERSON: Ave.

1 NISSEQUOGUE FARM LLC

2 THE CHAIRMAN: Okay.

3 And then the second aspect of this
4 is whether this should be a negative
5 declaration under the SEQRA Review Act.

6 All in favor of negative declaration
7 say aye and all against a negative
8 declaration say nay.

9 MR. LOVETT: Aye.

10 MR. ZUCKERMAN: Abstain.

11 MS. SVATEK: Aye.

12 THE CHAIRMAN: Aye.

13 MR. ANDERSON: Aye.

14 THE CHAIRMAN: I think now we're
15 concluded. Thank you.

16 (Whereupon, at 8:06 P.M., this
17 hearing was concluded.)

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2 C E R T I F I C A T E

3

4 STATE OF NEW YORK) : SS.:
5 COUNTY OF SUFFOLK)

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8 I, DEBORAH C. KNIESSER, Court Reporter
9 and Notary Public for and within the State
10 of New York, do hereby certify:11 That the within transcript was prepared
12 by me and is a true and accurate record of
13 this hearing to the best of my ability.14 I further certify that I am not related
15 to any of the parties to this matter by
16 blood or by marriage and that I am in no way
17 interested in the outcome of this matter.18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 15th day of December, 2025.

20

Deborah C. Kniesser

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DEBORAH C. KNIESSER

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