

**OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
SEPTEMBER 15, 2016**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, September 16, 2016 at 8:15 p.m. in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairperson Kathleen Sullivan, Boardmember James Cameron, Boardmember Eva Alligood, Boardmember William O'Reilly, Boardmember, Boardmember Richard Bass, Village Attorney Linda Whitehead, Building Inspector Charles Minozzi, Jr., and Planning Board Secretary Mary Ellen Ballantine

I. ROLL CALL

II. APPROVAL OF MINUTES

Meeting of July 21, 2016

Meeting of August 18, 2016

Chairperson Sullivan: We can address our first item, approval of the minutes. We have determined we have a quorum for the July 21 meeting. Any comments, corrections? Have people turned them in over the last few months?

Boardmember Bass: I sent them to Mary Ellen.

Boardmember O'Reilly: July, right? I have a couple.

Chairperson Sullivan: OK, please.

Boardmember O'Reilly: Well, they're minor, they're small. Page seven, there's a sentence that didn't make sense. It quotes a Mr. Senior, it's the second line on page seven. It says, *"There's no slab immediately under the deck because there's a slab immediately under the deck."*

Village Attorney Whitehead: Oops.

Boardmember O'Reilly: Something's not correct there. I'm not quite sure what he said.

Village Attorney Whitehead: But one or the other.

Boardmember O'Reilly: On page 19, I'm quoted as saying, "*Could I ask a question?*" But there's no comment, there's no question, and I don't think ...

Village Attorney Whitehead: I guess the answer was no.

Boardmember O'Reilly: Jamie immediately followed, saying, "*I am overruled*", but I don't think I did ask a question and didn't ask

Deputy Village Clerk Ballantine: OK.

Chairperson Sullivan: I have comments, actually, on July and August that I'll just give you rather than go through them.

So anyone else? If not, may I have a motion to approve the minutes.

On MOTION of Boardmember Cameron, SECONDED by Boardmember O'Reilly with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of July 21, 2016 were approved as amended.

Chairperson Sullivan: The motion's passed.

III. NEW PUBLIC HEARINGS

**Accessory Apartment Approval
Application of Florin Mihai Cuibus
237 Farragut Avenue
SBL: 4.110-109-9. Waiver required for square footage.**

Chairperson Sullivan: OK, we have one item on our agenda under new public hearings. It's for an accessory apartment approval. Buddy, you want to give us your report?

Building Inspector Minozzi: I'll read the report to you. There haven't been any changes in the accessory apartment dwelling over the last three years. Upon inspection, there were no changes of the principal dwelling; there have been no complaints in the last three years; the coverage is 40 percent, which is 15 percent over the allowable coverage. The waiver exceeds square feet by 15 percent, and they do have off-street parking.

Chairperson Sullivan: Is there anyone here that would like to speak to this application? You're welcome to come to the microphone.

Mark Nelson, 233 Farragut Avenue: I'm right next door. We've just met Mihai, but we find him to be an excellent neighbor so we'd like to support this – what is it called? – waiver.

Chairperson Sullivan: An application.

Mr. Nelson: That's all I have to say unless you have any questions.

Chairperson Sullivan: No. Thank you so much.

We've received a letter that I'd like to read if everyone has a moment. It says:

"Dear Ms. Sullivan and Planning Board,

"It has come to our attention that Mr. and Mrs. Cuibus have recently purchased our former home at 237 Farragut Avenue and having some difficulty in receiving approval for the accessory apartment at said address. We have successfully received permits and waivers from you for at least the last 20 years, using the same measurements of the apartment. The structure and configuration of the accessory apartment has not changed in more than 45 years, and in 29 years that we lived at 237 Farragut Avenue we've never received a single complaint about the apartment from any neighbor or any resident of Hastings.

"We sincerely request that you show the Cuibus's the same understanding that you showed us, and grant them the waivers and permits necessary for them to get approval for the accessory apartment.

*"Thank you for your consideration.
Daniel and Ann Engelson?"*

This is the first time we've seen this application so this letter ... I don't know if maybe you could speak to what the issues were because, frankly, accessory apartments are one of our favorite things to get because they usually are very noncontroversial. If you don't want to speak, I'm sorry if you had some issues with the application process but it's pretty clear-cut how it goes about. I know Buddy handles these things very efficiently. We thank your former owners for speaking up and giving us some information.

Are there any questions, any comments from the Board? If not, may I have a motion to approve the accessory apartment?

On MOTION of Boardmember O'Reilly, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to approve the accessory apartment permit application at 237 Farragut Avenue, including the waiver required for square footage.

Chairperson Sullivan: Thank you very much. Off to the races.

IV. OLD PUBLIC HEARINGS - None

V. NEW BUSINESS- None

VI. DISCUSSION ITEM

Land Use Approval Task Force- Definitions (Continued)

Chairperson Sullivan: We have a light, but exciting, meeting ahead of us. We finally are getting to our discussion items. We have no old business and no new business, but we have our discussion item that we've been carrying for a little bit, which is returning to the Land Use Approval Task Force definitions.

I have sent out ... everyone got hard copies, then people got electronic copies after, and there's sort of two documents, one of which was prepared for July which takes the list of issues from the Land Use Task Force's memo with some of the things we discussed and thought we should also tackle. That sort of was a bit of a recap of a previous conversation we had.

The next piece was looking at ... I looked at some definitions in different places for building, structure, open space, and things like that – some of the top issues.

Building Inspector Minozzi: Kathy?

Chairperson Sullivan: Yes, sir.

Building Inspector Minozzi: You sent us two attachments, and I printed them both out. They look identical.

Chairperson Sullivan: Well, then that could have been my mistake.

Boardmember Cameron: Well, the ones that you sent me later, they look different.

Building Inspector Minozzi: Really?

Boardmember Cameron: Which one do you have?

Village Attorney Whitehead: I have one that came for the July meeting, and then the one that came ...

Boardmember Cameron: The other one.

Village Attorney Whitehead: Yeah, that was ... I have that. It says from the July ...

Building Inspector Minozzi: Did I make a mistake then?

Village Attorney Whitehead: Probably.

Building Inspector Minozzi: Maybe I printed out the same ones from then.

Village Attorney Whitehead: I just want to point out, with structure and building and some of the other things, some of the problem isn't just in the definitions. It's how those definitions are actually used in the code.

Chairperson Sullivan: Yeah, definitely.

Village Attorney Whitehead: And relate to ... actually, they relate to the definitions of coverage and development coverage and things like that. So they're intertwined, and that's where the issues are largely.

Chairperson Sullivan: Buddy, do you want to take mine? Which one do you have?

Building Inspector Minozzi: I have the ... I'm going to have to go downstairs and print the other one.

Boardmember Cameron: He doesn't have this one.

Building Inspector Minozzi: I don't have it.

Chairperson Sullivan: You don't have the July document? That's the key one. I wish I had another copy.

Building Inspector Minozzi: Let me run downstairs. I'll be right back.

Boardmember O'Reilly: Can you get me ... I'll have one, too.

Village Attorney Whitehead: Do you want to just copy it? Buddy, do you want to borrow those to copy instead of if you can find it and print it?

Boardmember O'Reilly: I left that one at home.

Chairperson Sullivan: Well, Linda, you jumped right into one of the key topics, I think. I want to ask the Board, Kerry had me thinking about what we can accomplish as volunteers when it comes to how complicated this project can be. So one thing I'd like us to just think about, and maybe talk about at the end of the meeting or at the beginning of the meeting, after looking at this and thinking about it, what do you feel we can most productively do, since it has taken us maybe since March to get back to these discussion points?

Village Attorney Whitehead: Well, I think your priority as a board has to be hearing applications that are before you. This is something that, if you have time, you can help and do some. But you obviously have to deal with the applications. So when you say it's been since March, I think it's been because you've had some longer agendas and you've also been short on people. Even tonight, you only have four people.

Chairperson Sullivan: I think one thing we chatted a little bit about is whether ... one possibility is to tackle this head-on as a board and work on it and try to resolve the issues. Another option could be getting it to a place where we give an opinion on certain things and then look for assistance in resolving some of the complexities that Linda pointed out; which is, how these things fit together. But I'd love us to talk about what we want to do. I have no agenda either way. Kerry brought the thought up about our volunteers aren't going to work.

Chairperson Sullivan: Look who's here. Thank you.

Boardmember Alligood: Made it.

Boardmember O'Reilly: Didn't she say she wasn't going to make it?

Village Attorney Whitehead: No, she said her train was running late. Kerry said she's not going to make it.

Chairperson Sullivan: We're just beginning the discussion of the definitions. So, Jamie, you were going to say something?

Boardmember Cameron: I was a member of the Land Use Task Force. I think one of the principal things it was trying to do was to try to, through examples and FAQs and what have you, make the process better understood. In doing that, we got into some of the definitions which – while we may understand what they say today – are very hard for the uninitiated to understand what they are. I would suggest we focus on that first. Because a lot of things in what's come up here – which are a mixture of actual changes to the code which might be for the good – is things like fencing, which I think is a good thing to change, but I'm a little worried about how much appetite the Board of Trustees is going to have if we present them with too much.

I would suggest that we, should I say, ease our way into it and find a way to get a better operating code and clean up some of the more egregious ones or the ones that are just hard to understand. Like the word "tangent." Anyway, just those things and then maybe concentrate after that on other things which I personally have problems with, like the definition of cellar or basement. I'm not sure we're really called upon to change those at this time, but that's just my reaction.

Chairperson Sullivan: I think that's a really good perspective, basically, and what you folks were thinking about when you prepared the list. But focusing on the public's understanding of terms, clearing it up and making it operate better, however we determine that. And then cleaning up some things that are just not working.

Boardmember Cameron: I look upon it as helping the Building Department and the Board to let people who come in the door understand what's going on. Also what we need to do is get rid of situations where an applicant comes in and simply doesn't understand what we think the code says and we're into a battle royal about it. So those are the ones.

Chairperson Sullivan: Any thoughts? We have two things to share. You sort of came up ... this July 21 Task Force memo, revised, was kind of after we discussed the initial things. We came up with a list of items which may be items, Jamie, are in your third category of cleaning up the problems, or not: structure, building, coverage, calculation of rate, height in the CC and MR-1.5 districts, open space, and then driveway, which I believe those are due

for definitions. Then we talked about new definitions of attic, fence, retaining wall, housekeeping facilities, average curb level, open space and recreation space.

We also talked about new requirements for fill because, currently, there's no permit required. We've run across that on some past projects, and also run across having to deal with the results of not having it in past projects. Then we had topics to pursue, which was review of zoning code and how it matches up with existing conditions, which we could handle in a day or two; and application of FAR to single-family districts. The last item on the first page was just modifying existing definitions: basement, cellar, bed and breakfast, border, court, dwelling unit, family, floor area gross, home occupation, hospital, length of building with area of lot, signs, supermarket, and townhouse. This is when we went to the codes page by page. This is the top list. The other ones got into some detail after that.

Boardmember Cameron: No, it was a beautiful list.

Chairperson Sullivan: It's quite ambitious. Any thoughts, folks, in looking at this?

Boardmember Cameron: I just come back to the height in CC, and more of 1.5. I'm more than happy to come back at our next meeting with things – since I wrote those 20 definitions – that I think we could change to make it work better. Maybe set a couple of examples before you, and maybe we could just adapt on that. Our problem, as you know, with that one that Washington was not perpendicular to the lot lines. We need to find a fix in there that allows somebody to make a determination of what we're going to do if we're not going to do the perpendicular to the curb line, or whatever line we're choosing to build on the line.

Boardmember O'Reilly: You're talking about this page here.

Boardmember Cameron: No, just below it.

Boardmember O'Reilly: This one.

Boardmember Alligood: Should we try to like pick out what we're going to tackle tonight, and just kind of dig into that?

Chairperson Sullivan: Getting an offer for some help for later.

Boardmember Cameron: I have one other thing, just to say. I'm actually leaving for a plane at a quarter after four in the morning, so I may not be really late tonight.

Chairperson Sullivan: We will be with you. I think we'd like to have a shorter one. So,

Eva, what do you think?

Boardmember Alligood: I guess I'm just wondering. I'd love to hear what others think. Maybe we should tackle the ones that have tripped up the most applicants in terms of being confusing or just been the subject of discussion multiple times. And where we've said ... I know we've said to ourselves, Oh, we really need to get back to that and re-look it. Also, I saw there was an interesting and helpful analysis of what other villages ... how they define some of these terms. I thought we can compare. I guess my suggestion is start with the top list. I'm assuming these ones rose to the top because they fit that category.

Chairperson Sullivan: We picked them out the last time we talked about them.

Boardmember Alligood: Meaning like those are the ones that we thought were the most urgent because they kept coming up.

Chairperson Sullivan: I believe so.

Boardmember Alligood: Yeah, I think that's reasonable to start with the top ones and see how far we get.

Chairperson Sullivan: Before you walked in, Linda gave us a caveat about some of the difficulties of dealing with these because how it's just not the definition, but it's also how it fits into the other parts of the code.

Village Attorney Whitehead: Part of the problem with building and structure is how they're used and how they tie into the definitions. Actually, if you get this page it's all here. You have the issue of building and structure, and those relate to the definitions of building coverage, and maximum development coverage and how those are used throughout the code. That's where I think you have some issues and inconsistencies. And some of the terms aren't even used in the code.

Boardmember Alligood: Are you saying that if we fix one we have to kind of go through and fix a whole bunch?

Village Attorney Whitehead: They go together.

Boardmember Alligood: Right.

Village Attorney Whitehead: Definitions of building and structure, structure in particular, they've been kind of contorted to work the definitions of the different coverages. It may be

better to just start from scratch.

Boardmember Alligood: I thought you might be suggesting that we look at tweaking the terms of building and development coverage, and then going from there.

Boardmember Cameron: Well, the maximum development coverage is used exactly once.

Village Attorney Whitehead: Mm-hmm.

Boardmember Cameron: It actually was made for the buffer.

Boardmember Alligood: It was made what?

Boardmember Cameron: For the Ginsburg development zone, and it's only used once. So twice, the definition and then it's used once in their vote.

Village Attorney Whitehead: And that's part of the problem. There were a lot of things that were put into the code when that was done or when the waterfront zones that aren't even mapped were done. Terms were used in those that aren't used anywhere else.

Chairperson Sullivan: One thing I saw with coverage – because I looked at these different codes, Eva – was Irvington. This is looking at building coverage, development coverage, maximum development coverage. Then when you get to Irvington, they call it lot coverage. I go, Wait, yeah, that's exactly what we're talking about. We're covering the lot. Then you can talk about what those items are that they're covering. It gets away from people coming in front of us with maximum development coverage in a nonresidential zone and trying to say they have the ability to get coverage, even though it's not in the zone. But to call it lot coverage was kind of clarifying.

Village Attorney Whitehead: And a lot of places do that. There's two concepts here, and your code mixes them up because of the definition of building coverage, actually. Some municipalities regulate building coverage – which is just the buildings – and then total lot coverage, which includes all your impervious surfaces. The problem is that your definition of building coverage right now includes buildings and structures.

Boardmember Alligood: Oh.

Village Attorney Whitehead: So it should be just buildings. Then you look at how you want to use the two because they have different uses.

Boardmember Alligood: I like the concept of going to the simplest city for that because there's a logic to it, getting to our point that we want to make it kind of easy for people to figure out. Everybody can picture a building. It's kind of intuitive what that includes. Then if you want to say but you have another category called lot coverage, then you start to find where you add onto that.

Chairperson Sullivan: And that helps you think about the building mass and footprint for a building rather than just finding how much you're getting, whether it's a parking lot or a driveway that gets a variance or something like that.

Village Attorney Whitehead: Your definition of building is actually fine and it's a pretty standard definition. The problem comes in that building coverage isn't just buildings.

Boardmember Alligood: Right. That could be a really good, easy fix, and it's logical.

Boardmember Cameron: Well, you say that. But when I get worried is that when you do that you have to make – and I know you made the same everywhere – you have to make a chance in 30 places in the code. When the Board of Trustees sees that ...

Village Attorney Whitehead: That's my problem.

Boardmember Cameron: That really is. But there's at least four things we've passed down to them and they have got caught up with somebody from the audience.

Village Attorney Whitehead: That's my problem, and I can ...

Boardmember Cameron: OK.

Chairperson Sullivan: But this is a real key issue. We have this every time; something comes up that doesn't make sense.

Boardmember O'Reilly: Don't our definitions have to be consistent with something else? I mean, whatever we do our definition has to be consistent with ... I mean, does it have to measure up to a model code of zoning or something?

Village Attorney Whitehead: No.

Boardmember O'Reilly: It can be our own.

Village Attorney Whitehead: What's really funny is, you do use both terms in the code.

For instance, if you look at – and I just randomly opened up my code book – in 295-70.1, which is your 2-R and 3.5 zones – under number three you have lot coverage. You have, for single-family dwelling, building coverage shall not exceed 50 percent of the area of the lot. Then you have development coverage shall not exceed 60 percent.

Boardmember Cameron: Right.

Village Attorney Whitehead: But the way your definitions of building coverage is, they're almost the same thing.

Boardmember Cameron: Well, not quite, but anyway.

Village Attorney Whitehead: By making building coverage really just the buildings – which I think was the intent when you even look at the ... when you have a provision that says building coverage shall not exceed 50 percent, I think that was intended to be the buildings.

Chairperson Sullivan: So would our modification be – if we follow this logic – building coverage is 50 percent, and then lot coverage is an additional 10 percent?

Village Attorney Whitehead: Yeah, in this particular zone.

Boardmember Cameron: In that particular zone.

Boardmember Bass: Can I ask, what's the end ... if this was a blank slate, we were designing a new town ...

Chairperson Sullivan: In Hastings, which is an old town.

Village Attorney Whitehead: But all of your zones are set up that way. They have a building coverage requirement, and then a larger development.

Boardmember Bass: Again, what do we really want to see at the end of the day? If we have a vision of what we're trying to accomplish, I think we can find the language and definitions to do it. A lot of jurisdictions have lot coverage and open space, and that's how they govern how much is built on one particular lot. So you could have 40 percent lot coverage and 50 percent open space requirements, and that then allows you to have a minimum of 50 percent open space and then have driveways, sidewalks or whatever.

Village Attorney Whitehead: But driveways and sidewalks would count towards lot

coverage.

Boardmember Bass: Right. But I think we should step back and say what do we want to accomplish and what's our built condition. Because we don't want to write a code and create percentages that requires everything in Hastings then have to be a variance. I want to take a step back and not struggle with the definitions; I want to struggle with what do we want to accomplish.

Village Attorney Whitehead: Richard, here's my problem with that. I don't think it's a bad idea, it's a very different project.

Boardmember Bass: I know.

Village Attorney Whitehead: I think what the Land Use Task Force was raising and what we were trying to do was fix some definitions that are ambitious, unclear, or don't seem to work right. I think what you're talking about is actually looking at the substantive zoning and saying do we want this to be 50 percent or 40 percent. That's a much different and bigger concept.

Boardmember Bass: OK.

Village Attorney Whitehead: I mean, if you disagree tell me.

Boardmember Bass: No, I hear you.

Chairperson Sullivan: I have to jump in because I think the bulk of our community is under two zones, R-10 and R-20. We can tweak that a little bit, but what we run across as a board are the multi-family, the downtown zones that are not making sense. They're the ones where I think we could potentially look at it. Michael, who isn't here has brought up, and I support him 100 percent, we really need a better operating definition of open space. You mentioned that in your example. We have so many things presented as open space that I don't know if we know what we want. Maybe for a handful of these problematic zones in the multi-family areas – and I don't mean problematic because they're multi-family – the requirements are contradictory. Maybe we can make it less of a gigantic task.

Boardmember Cameron: The other problem we have, quite frankly, is that we have zones where the built outbuildings are all contrary to what the new zoning is.

Building Inspector Minozzi: And the MR-C is a perfect example of that.

Village Attorney Whitehead: Well, the coverage provision.

Chairperson Sullivan: But interesting zones to look at.

Boardmember O'Reilly: If I could go back to the first point somebody was raising – I think it might have been Eva – these seven items on the top were the most ambitious and came up most often?

Boardmember Cameron: No.

Boardmember O'Reilly: They why are at the top of the list?

Chairperson Sullivan: I don't know if they're the most ambitious, but they're the ones we felt could have the most impact.

Village Attorney Whitehead: Open space; you have no definition of open space, yet you have open space requirements.

Boardmember Cameron: Right, and we have people making up how you get there.

Boardmember Alligood: That's a problem.

Boardmember Cameron: You will notice it marked it. It's on the top of mine.

Village Attorney Whitehead: That's probably an easy one to deal with. Because the requirement's already there, you're just defining what counts.

Chairperson Sullivan: Let's put that on the easy list.

Boardmember Cameron: Let's put that as a yes.

Village Attorney Whitehead: Well, it may not be easy to decide what you want to count, but it doesn't require additional changes to the code.

Chairperson Sullivan: Just clarification. Calculation of grade is one of those, as well, I believe. That's one we need a definition for. Is that how you think about it, Buddy, or not? Because you deal with that a lot.

Building Inspector Minozzi: When you say the calculation of grade, do you mean like steep slopes?

Chairperson Sullivan: For height. Is it something that needs more clarity but doesn't cause major upheaval if it's addressed?

Building Inspector Minozzi: For Washington Avenue, it was basement versus cellar, and XXX as compared to the height. It was a very, very difficult calculation to do. I don't think that our ... I honestly don't know how we could change the definitions in the code to actually make it easier.

Chairperson Sullivan: OK.

Building Inspector Minozzi: I think a situation like that was just a difficult situation because the lot was pitching in two different directions. All the buildings were stepped, so it just was extremely difficult to calculate and I spent hours on it. But I don't know if we can fix that.

Boardmember Cameron: Well, there are ways. Part of it, on that particular thing, was that all the various buildings appearing above the ground were actually connected by a garage underground. You were actually in all as one, and that may be something to think about. Whether we should count them all as one. Matter of fact, you could even calculate them, if they're condominiums, as each separate condominium. But that may be too much work.

Building Inspector Minozzi: Well, a situation like this, this is very true. I mean, if we calculated a subterranean garage as structure, obviously, as coverage yet it was subterranean and there were only buildings on three sides with an open play area in the center but yet it got counted because we counted the subterranean garage as the coverage. I don't know if that's right. I don't know if I agree with that.

Boardmember Cameron: Well, maybe on that one we could just see if we could find someone else who's tackled this, or a long line of condos counting as a single building and calculating them all. Because some of them were clearly way above the ground and some were clearly way below the ground.

Village Attorney Whitehead: My thought if they're connected above the ground they're one building.

Building Inspector Minozzi: Exactly. I mean, I think of the spirit of the code was not meant for subterranean garages.

Village Attorney Whitehead: Right, because it's above the XXX.

Building Inspector Minozzi: We have to take it literally, and that really needs to be defined better.

Boardmember O'Reilly: But from what you're saying, it sounds like it's still open to interpretation no matter what you say.

Building Inspector Minozzi: In the code right now?

Boardmember O'Reilly: It would almost seem like even if you ... you're still saying something which makes me think it's open to interpretation. Even if you come up with a calculation, an architect could look at it differently and you've got to look at it from the point of view of what the code actually defines. Unless it is watertight. No?

Boardmember Cameron: Even without the subterranean garage we have this question when you have a building descending a hill and it's multiple units. Some are clearly above ground and some are completely below ground, but you use an average to calculate whether they're all basements or cellars.

Building Inspector Minozzi: That's exactly how I calculated that.

Boardmember Cameron: I know you did.

Building Inspector Minozzi: You've got to take each apartment and average it out, and then add the averages together.

Boardmember Cameron: I'm not critical of what you did and I agreed with what you did, but I'm questioning whether that's what other people do.

Building Inspector Minozzi: I can't see any other way to do it, you know.

Boardmember Cameron: You could do each condo separately.

Building Inspector Minozzi: Oh, OK.

Boardmember Cameron: I mean, that's just an example and I'm not saying you should do that.

Building Inspector Minozzi: I got you.

Boardmember Cameron: You might just say, well, that's just silly.

Village Attorney Whitehead: I don't think I've seen it done that way. If they're part of a building, if they're attached, that's the building. So you would take the average of the entire ... you know, your height would be determined based on the average for that entire building.

Boardmember Cameron: So maybe you shouldn't include the garage piece.

Village Attorney Whitehead: The underground should not count.

Building Inspector Minozzi: We did count that.

Village Attorney Whitehead: That's kind of logic.

Boardmember Cameron: You just calculate the peripheral of the basement. But one of the problems with these cellars versus basements is, in different buildings they're at different heights. Anyway, if someone has the wisdom ...

Village Attorney Whitehead: But all of that is the average of the whole thing, in terms of how much is below and how much is above and whether you determine whether it's a basement or a cellar. You look at the entire building, and if the average meets the one definition that's what the whole thing is. Richard's nodding his head, thank you. I have the planner at the other end.

Chairperson Sullivan: I'd be happy to look into other examples of that because I think it's interesting to get a sort of approach.

Building Inspector Minozzi: It's a tough one.

Chairperson Sullivan: You know, it's a tough one. We don't run across it that much, but it's ...

Building Inspector Minozzi: No. And this particular case we're speaking of really opened our eyes to it. It opened our eyes to a couple of them, a few of these things.

Chairperson Sullivan: Let me dig around a little bit and see who else does it. I bet I'll be looking at New York City.

Boardmember Cameron: Well, you'll be looking at any town where there's steep slopes.

Village Attorney Whitehead: All the Rivertowns.

Chairperson Sullivan: I'm thinking of places that have complicated buildings, where there's a stepping-down of condos around a garage.

Village Attorney Whitehead: I live in a condo on a townhouse development on a hill in Irvington. And we're totally on a hill, with rock and garages under it in some places, above ground in others. That's why I think the Rivertowns are actually good to look at. Look at even Yonkers, Dobbs Ferry, Irvington, Tarrytown, Sleepy Hollow, Ossining. Because that's where you've got the similar topography.

Chairperson Sullivan: Yeah, thank you. That's what I'll do.

Village Attorney Whitehead: Some other parts of the county are flatter and they look at things a little different.

Chairperson Sullivan: OK, thank you. I appreciate that. That's good.

Building Inspector Minozzi: If you're talking about the calculation of grade, I don't think we should touch our steep slopes law. I think it's very self-defined the way it's written. Who doesn't understand it I can easily explain it to them.

Village Attorney Whitehead: And looking at the calculation of grade is really looking at definition of building height because it's used there.

Chairperson Sullivan: And cellar and basement.

Village Attorney Whitehead: Yeah, although cellar and basement are pretty standard.

Chairperson Sullivan: Once you get the grade.

Boardmember Cameron: Once you get to define what the animal is, the calculations.

Chairperson Sullivan: But Eva's point was useful. Anything else come to people's mind?

Boardmember Cameron: Just to go back to the steep slopes for a minute, I think steep slopes is an ideal place where we have an FAQ. In other words, you're saying we don't need to change it, we just have a good FAQ and that solves the problem of explaining it.

Boardmember Alligood: I think driveway has been one that's tripped us up a lot.

Village Attorney Whitehead: And I think driveway, in part, has tripped you up because of the way it's included in the definition of structure or not, and that your building coverage includes structures. I know I keep going back to it. It's just bizarre. Bldg coverage should be building.

Building Inspector Minozzi: You can count the driveway, but you can't count the spots that are used for parking. It's very convoluted.

Village Attorney Whitehead: I don't think it's driveway that's convoluted. I think it again ties back to the coverage issue.

Boardmember Cameron: Driveway is not an issue with a three or more building development. Because that goes to the Planning Board and the Planning Board approves the driveway and approves the parking which is suitable for the size of the building. It's more of an issue. It's included in the definition, and it's more of an issue that we have tremendous pressure on this town because so many people have too many cars and park them in their front yard.

Boardmember Bass: Not to beat a dead horse, but the reason why I was raising what do we want to accomplish when it just comes to lot coverage and that definition is, just using the New York City example, they have lot coverage. And in Queens you have people paving over their grass because driveways didn't count as lot coverage. So the whole point of lot coverage was that rain would soak into the dirt. Well, the city planning's definition didn't accomplish so you had 100 percent asphalt or concrete. That wasn't the intention of the zoning resolution, but that's how people interpreted it. That's why I say what do we want to accomplish.

Village Attorney Whitehead: Can I make a suggestion that goes along that line. You really want to be concerned about your total lot coverage, if you will, your development coverage, all your impervious surfaces. The code has developed over the years to include this exclusion of a driveway from structure. I think that developed because of the definition of building coverage to include structures. It was a way to keep driveways from being included in building coverage. If you take structures out of building coverage you can eliminate the exclusion of a driveway or you've got to use impervious coverage, impervious surface coverage. Because you do want to control that.

Boardmember Bass: And that's another problem.

Village Attorney Whitehead: That's a big thing that you want to control. Maybe the

numbers need to change because we are looking to include more. But I think your lot coverage or development coverage should really be all impervious surfaces because that's what you want to control.

Boardmember Cameron: Buddy has a problem with that.

Building Inspector Minozzi: That brings it up to the next level, one inherited problem we're dealing with – not so much at the Board level, but what I'm dealing with downstairs – semi-pervious. You have a lot of products out there today that are 50 percent pervious and we have to count them as non-pervious.

Village Attorney Whitehead: I can tell you that's a stormwater calculation issue that relates to your SWPPPs. One example I know in Rye, people will do a stone patio but they'll set it in stone dust. So it's not completely impervious. Rye, for one, has actually – and this goes more to their wetland ordinance than anything else, but they also use for stormwater – given a lot of these different kinds of semi-pervious finishes percentages. It's no in their definitions, it's completely policy. But it makes sense. We want to encourage that.

Building Inspector Minozzi: Absolute, and especially ...

Village Attorney Whitehead: You want to encourage people to use the semi-pervious – the pavers, set in stone dust instead of ...

Building Inspector Minozzi: If they were getting a reduction in coverage they would definitely be more willing to use these new products.

Village Attorney Whitehead: Which is better for the environment.

Boardmember Bass: That's why I go to what do we want to accomplish.

Chairperson Sullivan: So Buddy's suggestion is doable, right?

Village Attorney Whitehead: Develop a policy.

Chairperson Sullivan: Definition.

Village Attorney Whitehead: Develop a policy on semi-pervious surfaces. I can find out what Rye does.

Building Inspector Minozzi: Yeah, and that directly affects coverage.

Village Attorney Whitehead: It also affects how they do the stormwater management.

Chairperson Sullivan: I think we have the beginning of a plan. We're looking at going towards a building coverage equaling buildings and lot coverage and development coverage being other stuff. We want to understand open space, semi-pervious and impervious surfaces to add into it.

Village Attorney Whitehead: Not that I'm volunteering you, but I'm happy to work with Richard on some of the coverage, structure, building and try to get some information on how communities are dealing with the semi-pervious.

Chairperson Sullivan: That'd be great. If you guys wouldn't mind doing that, that'd be great.

Village Attorney Whitehead: Just because I think we both have access to information elsewhere.

Boardmember Bass: We have plenty of free time.

Village Attorney Whitehead: I'm not going there.

Boardmember Alligood: You can be very efficient.

Boardmember Cameron: We should also look at how many percentages we have to change if we want to do that. That may be part of the problem.

Village Attorney Whitehead: Right. I think as part of this we can say if we're now going to include driveways we need to sort of up the percentage.

Building Inspector Minozzi: Especially in our problem zones. Honestly, the R-20, the R-10, the R-7.5 it's not a problem. It's really not a problem, you know. It's been working, I haven't had much resistance to any of it. It's the downtown areas. That's where we have all our problems.

Chairperson Sullivan: Yeah, we have a lot of interesting proposals coming from XXX.

Building Inspector Minozzi: Even on smaller scales it's difficult.

Village Attorney Whitehead: But you do, just from a stormwater standpoint, want to

encourage – where it works – the use of the semi-pervious.

Building Inspector Minozzi: Absolutely.

Village Attorney Whitehead: It's a big benefit to the environment.

Chairperson Sullivan: I think we've heard Buddy on that.

Boardmember Cameron: People may think we're taking something away from them when we say that semi-pervious only counts 50 percent, whereas they would probably tell you it's 100 percent.

Building Inspector Minozzi: Well, right now it's getting counted as zero. I think whatever we give them they're going to be a lot ...

Village Attorney Whitehead: It's getting counted as completely impervious.

Building Inspector Minozzi: Yes, exactly, because of the way our definitions are.

Boardmember Cameron: Sure.

Chairperson Sullivan: So I think we have a game plan.

Village Attorney Whitehead: So in the definition of structure would be an impervious driveway, something like that.

Chairperson Sullivan: Thank you. That'd be great.

Village Attorney Whitehead: I volunteered him to help me because he keeps nodding his head with everything I say.

Boardmember Alligood: Then don't look at her.

Boardmember Bass: This volunteering keeps getting me in trouble.

Village Attorney Whitehead: Other people can take on open space and grade and all of that.

Chairperson Sullivan: I'll do the grade because I like numbers. Jamie'll do heights because he's ...

Village Attorney Whitehead: They're tied together.

Chairperson Sullivan: He's doing specifically the heights in the CC and MR-1.

Boardmember Cameron: Another one we should just throw and out and think about, we have this issue the width of the side lot where the building is going down a hill. Because you measure it from the height of the building, the building keeps on getting taller going down the hill. We have nothing covering us on that, except maybe an ad hoc rule that we average in or something like that. But that's just something to think about.

Village Attorney Whitehead: You know what else was on that came up in the Washington Avenue one, that provision about the side yards that ended up reducing the permitted side yard to like zero, which I don't even remember where that was or what it was. But it was something funky.

Building Inspector Minozzi: For every foot of length it had to step in a certain amount.

Village Attorney Whitehead: Yeah, because it's a deep lot.

Building Inspector Minozzi: It went from zero to 10 feet.

Village Attorney Whitehead: And it didn't make a whole lot of sense.

Boardmember Cameron: In one of our zones you can't have it going longer than 160 feet.

Village Attorney Whitehead: Well, this just had to do with the length of the lot.

Building Inspector Minozzi: Yeah, it was the length of a building on the lot. After 50 feet it requires another foot setback, or every 10 foot, or something like that. I don't remember because I don't use it a lot, but it's something like that and that's what gave them such a large setback.

Village Attorney Whitehead: And for whoever's looking at open space, I just found at least one of the places in the code where it's used is in the MR-C district. It says, *"Dwellings for three or more families, provided that suitably improved and usable recreation area and open space shall be provided in accordance with the following requirements,"* and then it gives the square footage requirement. So I know we've had discussions do patios count, do roof decks count.

Boardmember Cameron: Right, you stack balconies.

Village Attorney Whitehead: The way this says ... what is "*usable recreation area and open space*"? We may want to change it here to say open space, and then define it. We need to make the change in both places.

Building Inspector Minozzi: But most of the new buildings, especially in the downtown – the new stuff that's been coming up downtown – are all paying rec fees because they're ...

Village Attorney Whitehead: But this is different than the rec fee requirement. And I can tell you that in a lot of municipalities decks and roof decks do count towards open space requirements. It's just the way your downtown zones are, it is giving somewhat outdoor open space.

Chairperson Sullivan: The other thing Michael's mentioned is private ...

Village Attorney Whitehead: Michael doesn't want them to count.

Chairperson Sullivan: Is there a time when we want communal open space in some size of development?

Village Attorney Whitehead: But I don't think that's what this requirement is getting at. But I think it's a good thing for somebody to look at what other municipalities have.

Boardmember Bass: Well, that would be a difference between open space and recreation space.

Chairperson Sullivan: Right.

Boardmember Cameron: I personally have a problem with stacked balconies with roofs all the way up, built right on the property line. The one about the tangent defining the side, I think that would be done with an FAQ or an example, rather than having to change the language.

Chairperson Sullivan: So do we have enough to do for our next go-round?

Building Inspector Minozzi: I just want to add one more thing, just a little deeper involvement in the pervious. You know, we count decks, under our ...

Village Attorney Whitehead: They're another semi-pervious how do you count them, yeah.

Building Inspector Minozzi: Building coverage, and actually 99 percent of them are semi-pervious.

Village Attorney Whitehead: Right, because they're open.

Building Inspector Minozzi: They have open joints.

Village Attorney Whitehead: Well, that was the one on that one where it was weird because there was actually a slab under-part with a deck.

Boardmember Cameron: That would be very interesting. If you count it as open space, you've got to count each one of them as coverage all the way down.

Village Attorney Whitehead: But again, it's semi-pervious – how much do you count a deck. Because most decks, yeah, they have openings and the water's going right through and seeping right into the ground. It's not creating runoff.

Building Inspector Minozzi: If we're going to look at pervious and semi-pervious I think that should be looked at as well.

Village Attorney Whitehead: I've taken no notes, so ...

Boardmember Bass: I've taken some notes.

Chairperson Sullivan: And he's been nodding, so.

Village Attorney Whitehead: I know he's been nodding.

Boardmember Bass: I'm in a good mood, so I'll ...

Chairperson Sullivan: So we'll call it a night. Is that OK?

Boardmember Cameron: Oh, that's a delightful idea.

Chairperson Sullivan: Don't you think? Anyone have anything else to add?

I would like a motion to adjourn.

VII. ANNOUNCEMENTS

Next Meeting Date - October 20, 2016

VIII. ADJOURNMENT

On MOTION of Boardmember O'Reilly, SECONDED by Boardmember Cameron with a voice vote of all in favor, Chairperson Sullivan adjourned the Regular Meeting.