

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING
JANUARY 26, 2017

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, January 26, 2017 at 8 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember David Forbes-Watkins, Boardmember Adam Anuszkiewicz, Boardmember Marc Leaf, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

Chairman Collins: Ladies and gentlemen, thank you for joining us for the January 26, 2017 Zoning Board of Appeals meeting. This is our first meeting of the year.

I just want to lay out some ground rules before we begin. The first thing that needs to be said is that we are short of our typically five-member board tonight. Three affirmative votes are needed to pass any variance request, which means that we can do that; we've got enough for three. But it's also possible that a vote could be deadlocked. Which is why each applicant will have a chance, depending on how they're reading the situation, if they'd rather not proceed to a vote they can withdraw and return for another meeting as opposed to proceeding to a vote and, if they have perhaps a bad feeling about the way the conversation's going to risk getting their variance request rejected. So we'll remind you of that as each applicant presents.

I want to assure everybody here that we will allow everyone who wishes to be heard have a chance to be heard tonight. We have a couple of microphones for that purpose. We have a standing one, of course, that you all can see, and Mitch has the handheld. It's really important, however, that if you do speak you speak into a microphone because we have a remote transcriptionist who is recording all this. If you're not on mic they will not hear you and your record – your comments, rather – will not be entered into the record. So before you speak, just make sure you've got a microphone either in front of you or in your hand.

The other thing which I want to point out is, the Zoning Board has jurisdiction and authority to weigh in on some matters related to housing, but not all matters related to housing and development. We don't expect you to know all those distinctions, but we do. If, in an off chance that one of you wishes to be heard or to speak on a matter related to any of the projects tonight, and if that line of questioning takes us down a path that is not relevant from this board's perspective or within our domain of authority, we'll politely let you know that and, if possible, perhaps suggest another venue for you to share your feedback.

An example of this that's come up before is that an applicant will want to know will construction happen on a weekend. That's a great question, but it's not relevant to the Zoning Board or to any issues outlined in our zoning code. So we'll remind you of that.

The last thing I'm going to say, just as a procedural matter, is that I am going to change up the order of the agenda a little bit tonight, just anticipating that some of these cases are going to have more conversations than others. So I am going to begin with the 120 High Street application, then proceed to the Fulton Avenue application, and finish with the Main Street application.

So with that, Buddy, how are we on the mailings?

Building Inspector Minozzi: I have been informed by my staff that all the mailings have been completed.

Chairman Collins: All right, very good. Why don't we begin with 01-17, Amy Colley for 120 High Street. I should have mentioned one more remark in my opening. That is, I am bound to get somebody's name wrong at some point, and I apologize for that. Feel free to correct me if I get it wrong.

[Case No. 01-17](#)
[Amy Colley](#)
[120 High Street](#)

Relief from the strict application of code section 295-36.A of the Village Code for required parking for a home office in accordance with section 295-67.C(1)(e) at her single family dwelling at 120 High Street. Said property is located in the R-10 Zoning District and is known as SBL: 4.110-108-56 on the Village Tax Maps.

Variance is sought for the reduction of required parking:

One practitioner plus the single-family dwelling – 2 spaces proposed; Required - 5 spaces, (3 spaces for the practitioner, plus 2 spaces for the dwelling) {295-36.A}; Variance requested – 3 spaces.

Chairman Collins: Buddy, can you move the tripod?

Building Inspector Minozzi: Oh, sure.

Chairman Collins: I should say that's an easel. Thank you.

Boardmember Forbes-Watkins: We ought to move that so the audience can see the other side.

Village Attorney Whitehead: I think everybody, especially with the Planning Board, has figured out it actually works better and everybody can see it this way.

Chairman Collins: Anyway, if any of you wish to see anything that's being broadcast on the monitor feel free to get up and move around. All right, Mitch, the floor is yours.

Mitchell Koch, project architect: I'm the architect for Amy Colley, who has a home office. She's a psychologist. Amy sees patients, several a day, at home. She's been working out of a basement office which conforms to requirements of the zoning code for at-home offices, and has been doing that for almost eight years, I believe. Is that correct? Eight years. It came to her attention that she hadn't really conformed to the parking regulations in the code for an at-home office.

We examined all the different parking strategies she could make work. I just wanted to quickly show you – and there's a photograph of Amy's house, that's her house from the side – there's the neighbor on the left and the neighbor on the right, both of whom have sent letters supporting her application for a variance. There's the street – High Street is very quiet – parking on the northbound side of High Street only, and another neighbor.

I want to just quickly look at the plan, then we can discuss. What we did is, we showed the existing conditions, which is a house and a long driveway with a garage – a single-car garage – in the back, and the family car. This is the long-time existing conditions. Her patients mostly park in her driveway. We then very quickly examined what she would need to do to conform to the requirements of the zoning with regard to parking. Now technically, she has to provide five parking spaces. We have two different strategies we looked at: parking in the rear, five spaces, which would require – I mean, we identified it and I think you guys received all of this – all the variances necessary to make that parking work in the rear; four, by my count. We looked at parking in front, and another four variances would be required there. Frankly, we couldn't even manage it in front.

What we are asking is for – given the conditions on the street of her property, and the fact that this has been a long-time-functioning at-home office – is that she be exempt, or the requirements of the zoning be waived in this instance. I believe Amy's husband brought in two letters from the neighbors. I want to know if they've been entered into the record.

Building Inspector Minozzi: Just to set the record straight (cross-talk) ...

Chairman Collins: We do have them.

Building Inspector Minozzi: ... there would be one more variance for each situation. Mitch, we spoke about this. This parking in a required yard was not listed on Mitch's plans so it would be one more on top of what (cross-talk) ...

Village Attorney Whitehead: If he was to build ...

Building Inspector Minozzi: If he was, yes.

Chairman Collins: Yeah, I gathered that.

Building Inspector Minozzi: Yeah, on top of what Mitch has already written down.

Chairman Collins: Right.

Mr. Koch: Let me know if I should zoom in.

Chairman Collins: Yeah, we will. Thank you.

A typical day – or work day – 9-ish to 5-ish?

Mr. Koch: I think it varies because you work out of the city? Please come up and introduce yourself.

Amy Colley, applicant: Is this working? I see patients three days a week at my home office and two days in New York City. I space them 15 minutes apart just for this very reason, for the parking. So one person leaves and the other one can come in to the driveway. They're instructed to park in the driveway – also for confidentiality, for privacy – so they don't run into each other.

Chairman Collins: Sure.

Ms. Colley: I think that ... does that answer the questions?

Chairman Collins: Yeah. What I was trying to get at is, if we were to drop in on a typical day of the three you're working from home, what would we see as it relates to the number of cars parked either in your driveway or on the street?

Ms. Colley: You'd probably see two cars parked in the driveway. One is mine, and the other one is the patient's.

Chairman Collins: OK.

Ms. Colley: 'Cause my husband takes our second car to his job.

Chairman Collins: OK, so how often are cars on the street, if ever?

Ms. Colley: Of my patients?

Chairman Collins: Yeah.

Ms. Colley: Rarely, because they're instructed to park in the driveway. We didn't want to be creating any problem whatsoever for our neighbors who use the parking on the street.

Chairman Collins: OK. And you're not anticipating – and obviously no one can predict the future perfectly – a change to your practice that would result in a significant change in the parking arrangement.

Ms. Colley: No.

Chairman Collins: OK. And how long have you been running your practice out of your house?

Ms. Colley: Since 2008. I guess it's almost nine years now, or whatever.

Chairman Collins: I sort of feel like we're having a conversation about something that's been ongoing for a long time. I live not far from there and certainly have never noticed an unusual parking density in your neck of the woods. I mean, people park on High Street as they do throughout the entire Village, which is to say we see cars on the street all the time. But I have never noticed anything unusual about this property and the density of cars parked there.

Seeing as we have a couple letters in support of this application, and I'm not seeing a reason for dissent here, it feels like a pretty easy project to get behind. But I'll ask my peers here if they have any questions or comments.

Boardmember Forbes-Watkins: Clearly the lot just does not adequately provide for an alternative that makes any sense. The front yard would be an obscenity and it could never be

done. The rear is close to stupid. Beyond that, I can see no good reason not to give this variance.

Chairman Collins: What you just described feels like a solution in search of a problem.

Boardmember Forbes-Watkins: Yeah.

Chairman Collins: This has not been a problem, I really don't think. The neighbors would know, believe me. We've had many instances where neighbors get frustrated or worried about parking, and they're the first to let us know if there's an issue. And I agree with David. Is there anyone here to comment on that?

Boardmember Anuszkiewicz: My question is, what happens if we don't grant this. How would that change anything? I mean, it's been ongoing for eight years, nobody's complained. Who's going to tell you you can't see your patients if we don't change the zoning on the property?

Building Inspector Minozzi: I can.

Boardmember Anuszkiewicz: Why haven't you yet?

Building Inspector Minozzi: Because we just found out about it.

Boardmember Anuszkiewicz: How did you find out?

Building Inspector Minozzi: We had to go there for an inspection. I think it was for the tax reassessment, was it? No?

Ms. Colley: The solar panels.

Building Inspector Minozzi: Oh, solar panels. Thanks.

Boardmember Anuszkiewicz: So you'll bring her in to us.

Boardmember Leaf: Mr. Chairman, my view of this is I think it's great that the applicant and her architect came in and showed us what would have to happen to comply because it shows to me a willingness and a real interest in complying with the requirements. You know, for me the fact that a noncompliance has existed for many years is not necessarily a reason to grant the waiver. We don't want to encourage people to hide noncompliance, however in this situation you didn't know about it. When it was caught, or brought to your

attention, it's obvious that you responded with a real interest in complying. That goes a long way to making me feel like you have done everything you can to consider whether the variance is one that's truly necessary.

The other thing I weigh very strongly here is the letters from your neighbors. And the fact not that the noncompliance was in effect for a long period of time, but that your neighbors have had a long period of time to determine whether or not this use, this area variance that would be required, ends up adversely affecting the neighborhood. It doesn't affect the neighborhood or they would have said so.

For those reasons, I also agree with the presentation so far.

Boardmember Anuszkiewicz: I would want to just finish that because what I would be concerned with is that we grant it. If we grant it, I think it should be restricted to the way you're using it. I would hate to see somebody after you come and try to do one of those parking plans, especially by paving over the front yard or even putting that amount of pavement in the back. You know, I'd hate to grant this, then have you move and somebody else come in with a home office who really doesn't work the way you do who needs more parking, and says, "Well, it's already been granted as a home office and I need the parking." I'd be worried about that.

Chairman Collins: Well, the good news is that if they were to try to do that, at least in the front yard, they would have to come in for a separate variance request and we'd have a hearing on that. If they did it in the back would they be as-of-right?

Building Inspector Minozzi: No.

Village Attorney Whitehead: No.

Boardmember Anuszkiewicz: As long as there's not a risk of that.

Ms. Colley: We're never moving.

Boardmember Anuszkiewicz: It happens.

Boardmember Leaf: These are all the variances they would need.

Male Voice: Plus one.

Chairman Collins: Does anyone in the public wish to be heard on the case? Just for the record, we've talked about a couple of letters that have been entered on the applicant's behalf. Those letters in support are by Clifford and Lynn Schur and by Michael and Maureen Santana. I won't read the letters, but they are in support.

Village Attorney Whitehead: Just state their addresses.

Chairman Collins: Oh, sure. Thank you. The Santana's, Michael and Maureen, are at 118 High Street, and the Schur's are at 120 High Street.

Village Attorney Whitehead: No, 122. She's 120.

Chairman Collins: That's you. So 122, you're right. My fault.

If there are no other questions or comments from the Board, and no questions from the public, would you like to proceed to a vote?

Ms. Colley: Sure.

Chairman Collins: OK, may I have a motion please?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuszkiewicz with a voice vote of all in favor, the Board resolved in Case Number 01-17, to approve a variance for two parking spaces where five are required.

Chairman Collins: The vote is unanimous, congratulations. Thank you again.

Ms. Colley: Thank *you*.

Chairman Collins: We'll then proceed to what was the top of the noticed agenda, which is case 19-16 for Ellen Kera, 6 Fulton Street.

Case No. 19-16
Ellen Kera
6 Fulton Avenue

Relief from the strict application of Village Code Sections 295-68. F.1.a and

295-55.A for additions and alterations to her single-family dwelling at 6 Fulton Street. Said property is located in the R-10 Zoning District and is known as SBL: 4.140-146-22 on the Village Tax Maps.

Variances are sought for the following non-conformity and extension of an existing nonconformity:

Front yard setback: Existing – 7.61 feet; Proposed for the covered porch – 8.71 feet; Required minimum – 30 feet {295-68. F.1.a}; Variance sought – 21.29 feet
Extension of an existing nonconformity: Existing and Proposed to second story addition – 13.71 feet; Required minimum – 30 feet; Variance sought – 16.29 feet

Chairman Collins: This is the second go-round with this board seeking a front yard setback variance and extension of an existing nonconformity for the proposed second story addition.

David Barbuti, project architect: I'm representing Ms. Ellen Kera for her property at 6 Fulton.

Cable Access Director Corso: Is his mic on? Thanks.

Chairman Collins: Thank you, Jen.

Village Attorney Whitehead: Try again.

Building Inspector Minozzi: Take two.

Mr. Barbuti: We're here for two variances. I was here last month. If you'd like, I'll go through the principal points again. How do you want me to proceed?

Chairman Collins: Well, I would suggest you pick up exactly where we left off, which is to say that we – and I'll let you jump in here – sent you back with a suggestion that you think about resituating the garage for a variety of different reasons. Some of the principal issues that were expressed, especially by the neighbors, were concerns about the size of a retaining wall. One of our fellow boardmembers who's not here tonight made a point that by relocating a garage we would be able to minimize the extent of a variance request that was needed.

Mr. Barbuti: Correct.

Chairman Collins: Go ahead and pick up wherever.

Mr. Barbuti: Certainly. Basically, as you said, we were here last month. The Board had two major concerns. One was that there was an approximately 2-1/2 foot section at the front of the garage that actually encroached within the setback. What we had done was, we had slid it back towards the rear of the property about 2-1/2 feet so now the entire new structure of the garage is beyond the minimum required front yard setback. The variance we're actually looking for is to construct upon the existing structure, which already has an encroachment into the setback. That takes care of that.

In regards to the retaining wall along the driveway, we had dropped the floor of the garage. Actually, let me backtrack. There was some conversation regarding whether access to the garage should be through the front or through the side like I had originally shown. There would be more difficulty doing front-on, front pull-in, to front garage doors. We basically left the impervious surface; we just basically had to raise it a little bit at the existing driveway to have a side entrance to the garage. What we did was drop the garage floor elevation and reduce the size of the retaining wall substantially. I think we're looking at roughly a 2-foot high wall at its largest spot.

Chairman Collins: That is significant. That's a more than 50 percent reduction (cross-talk) ...

Mr. Barbuti: Right, absolutely.

Chairman Collins: ... at its highest, which I think was over 5-1/2 feet the last time.

Mr. Barbuti: Actually, the plans I had were very small and I couldn't read them. It was actually 4-1/2 feet, we went to 2. So it's 2-1/2 feet. We tried to accommodate the neighbor to the side, took the Board's consideration, and tried to modify the plans as best we could to bring it to some sort of compliance.

Chairman Collins: OK. Any other changes related to the project or the part where the variances are required, meaning the building on the existing structure and its existing nonconformity?

Mr. Barbuti: No, basically we had left that as it was. You know, we're trying to get four bedrooms upstairs.

Chairman Collins: OK. With this relocation of the garage, what's the change now in the overall size of the driveway?

Mr. Barbuti: The driveway actually stayed pretty much the same.

Chairman Collins: OK.

Mr. Barbuti: We're really not increasing that much impervious surface, based on existing to proposed. I think the net ... the Planning Board was at last week, last Thursday ... the net increase in impervious surface on the whole project is 74 square feet; that's pavement and structure.

Chairman Collins: Compared to where it is today, you mean?

Mr. Barbuti: Yes.

Chairman Collins: OK.

Mr. Barbuti: There's a lot more blacktop out there now than there will be because there's actually a very large strip along the side of the property here which we are going to take up and plant.

Chairman Collins: OK. So the net is an increase of 74 square feet.

Mr. Barbuti: Correct, correct.

Chairman Collins: The retaining wall, you said now, is 2 feet. Is that a consistent 2 feet from ... is it 2 feet the whole way, or is it still – if I remember right – shorter?

Mr. Barbuti: Originally when we had it we were probably halfway up the driveway here. So there was a retaining wall that went from a foot down to about 4-1/2 feet. Then it stayed probably 4-1/2 feet across the back of the driveway. We've eliminated probably 14 or 15 feet of retaining wall; we've got sort of an L, probably 3 feet; and then it comes back to the house. At the corner here, we go from basically zero – or 1 foot, let's call it – to 2 feet. And I think we have 2-1/2 feet back when we get to the house. So there's going to be a slight grade 'cause the property slopes a little bit.

Chairman Collins: Right.

Mr. Barbuti: I mean, we can easily try to re-grade the back area, but we want to try to keep the contours as natural as we can.

Building Inspector Minozzi: Dave, try to talk into the microphone, OK?

Boardmember Forbes-Watkins: It's right there.

Chairman Collins: Well, I wish Mr. Dovell was here to comment on it because he was the one who really came up with the idea of relocating the garage. But now that it's sort of outside the scope of the variance it's kind of outside our purview anyway. But I wanted to bring it up because I know there were a couple of sensitive subjects from the neighbors' point of view related to the project, and I did want to just go back and shine a light on those again. Especially it seems like, in the case of the retaining wall, that was a sensitive area. And you've certainly addressed that.

My feeling about the part of the project that requires a variance hasn't changed. I think your proposed design is handsome and will be – to me, from the perspective of the neighborhood – in the Fulton Avenue area, a significant improvement. Hard not to get significantly better as soon as you break out a hammer on this one.

Mr. Barbuti: Right.

Chairman Collins: So I like what you've done here.

Questions, comments? Marc?

Boardmember Leaf: I'm good.

Chairman Collins: Does anyone from the public wish to be heard on this case? Please come forward and introduce yourself again.

Shannon Rooney, 15 Jordan Road: I'm directly behind this property. I have a letter I'm going to submit, hopefully to be included as part of the record but I'll just kind of paraphrase what it says. I've consulted with my land use attorney, Mr. Bob Davis of Mount Kisco, and we have the following comments.

The Board, as you know, in determining its approval is required to conduct a balanced test in considering the five criteria outlined in article 2951461: "whether an undesirable change will be produced in the character of the neighborhood or a detriment to a nearby property will be created by granting the area variance." The neighborhood is currently comprised of smaller homes on smaller lots, with only one exception to the west – Anthony Tarricone's property – which isn't similar in size but is on a lot that's four times as large.

Once constructed, this house will be the biggest house on the smallest lot in the property, and it's located extremely close to the street. The benefits of this applicant is solely to make the most money by creating the largest house possible for resale, without regard to the character of the nearby properties. If the 30-foot offset they're seeking a variance for is upheld, a significantly smaller home in character with the surrounding homes would result.

Number two: "whether the benefits sought by the applicant can be achieved with the same method, which will be feasible for the applicant to pursue but would not require a variance." The lot can be developed adhering to the restriction, but it would result in a significantly smaller home equating to less overall money to the developer. The impact to the steep slopes imposed by upholding the variance will remain unchanged because under the current application the construction is already maximizing this, so there won't be an impact. They're already going into the steep slopes and they're already developing all the way up to the rear setback of 30 feet, so I don't see that being an issue.

Number three: "whether the requested variance is substantial." The front yard setback, although there is an existing encroachment there already into the front yard and this proposal is decreasing that by 1.1 foot, the proposal still constitutes a significant increase which is actually calculated as 71 percent. So by keeping the nonconformity you're going to be giving them a 71 percent variance. Extension of the existing nonconformity, existing of the proposed second story addition, that proposed increase in building height within the existing nonconforming actually requires a variance of 54 percent. So both of those are considered a significant increase.

Number four: "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district." First, the physical appearance of such a large house is out of character with the neighborhood. The variance allows for a substantially larger house, which is solely driven by the purpose of saving money during construction; maximizing the size of the building; and making as much money for the developer in the long-term. The physical appearance of this size construction on such a small lot does impact the physical condition of the neighborhood.

Second, with respect to the environment, although the proposed project will not significantly increase the volume of direct stormwater runoff to the adjacent properties the collection and distribution so close – which is less than 5 feet from the property boundary – has not been adequately proven by the applicant as not having a negative effect. Concerns for breakout have been expressed by me in a letter to the Planning Board which – based on my extensive experience as a licensed professional civil engineer in New York as identified by the responding e-mail from the village engineer – the issue of stormwater flowing out of the ground should not be an issue. However, we will review this further. The applicant should

provide a cross-section through the infiltration system and 20 feet onto the neighboring property. This, alone, implies there is a potential for impact which has not been proven otherwise

Although the applicant is not changing the natural flow of water, once they artificially redirect the water they will be creating a liability on my property, which is downslope. There is no specific provision in the code for a drainage structure, and that's something that maybe the Village should be looking at in the future. A structure is defined as a combination of materials, assembled, constructed or erected, whether temporarily or permanently at a fixed rate, including, without limitation, a building, porch, deck or patio with an impervious surface, stationary carport, swimming pool, sign, outdoor generator, air conditioning equipment, or satellite dish, the use of which requires location on the ground or attachment to something having location on the ground. This does not preclude this drainage system from being a structure. And, in addition, it is attached to the building through roof leaders and other structures located in the ground. Therefore, it is considered a structure and would be required to be located within the 30-foot rear yard setback.

Number five: "whether the alleged difficulty is self-created." The hardship, as admitted by the applicant, is self-created. The developer purchased the property and is fully aware of the limitations for its development. The proposed construction already impacts the steep slopes area, and therefore requiring the setback does not create a further hardship other than a smaller house which will inevitably lead to less money to be made.

The approval of these variances is a balancing test. On one side a larger house and more money for the developer, and on the other a long-term assurance that my property will not be affected. If you choose to approve this variance, at a very minimum I request the following conditions be made. One, in an effort to avoid an issue going forth with any new homeowner with regards to the drainage, and since this system is considered a structure, drainage calculations should be revised an appropriately-sized system be designed and also located no closer than 20 feet from the rear of my property.

Two, a covenant should be filed that makes any new homeowner aware of the system and its requirements for maintenance as well as its limitations for construction on top of it and near it. Meaning, if they puncture it it's not going to work, it'll impact my property. If they want to put up a playground and dig into it and it doesn't work, then what happens? This issue will ensure the long-term viability of the system and ultimately protect my property.

Three, what's not shown on the plan is where the system is located in relation to the trees. The actual landscaping that's being proposed is dwarf spruce trees which grow to a maximum height of 12 feet and at a rate of only 3 inches per year. There's nothing on the

plans that indicate what size is actually being planted. I assume, to save costs, a 2- to 3-foot tree would be what they're proposing. If that's the case, at that growth rate it would take a minimum of 36 years before there would even be any screening provided to the first floor. I request that mature trees in a height of a minimum of 6 inches or larger be initially planted, and with a condition for these plantings to be maintained and replaced if they die.

That's it. Thank you for your time.

Chairman Collins: Thank you. Mr. Barbuti, did you want to respond to any of those?

Mr. Barbuti: Certainly. I can go through my principal points once again to rebut. I don't think we're here to go back and forth. I think the biggest concern from our neighbor to the rear is the drainage system. She failed to say we had several conversations over the past few days and after the Planning Board meeting regarding that. If I just might go back to that, based on the net increase of 74 square feet I need one CULTEC unit addition, based on post and pre-development; I provided 15. Although there were some errors in the computer program that was done by engineer, he indicated we needed 10. That was actually incorrect; we actually need less than that. I proposed 15.

I had a conversation yesterday with my neighbor, or *the* neighbor, that we will be removing the extra five, which will now give her more than 10 feet from the rear property line to the CULTEC system. If I need to further decrease, based on some things I discussed with Mr. Hahn, the village engineer, we will do that to try to make her happy.

Chairman Collins: Before we move on, Linda, do you have a point of view on whether or not Ms. Rooney's statement about the drainage system applying as a structure, and therefore being subject to variance, is there anything you can comment on that?

Village Attorney Whitehead: Sure, just a couple of things. It is not a structure; a structure is something that's located on the ground. The drainage structures are below ground, they've never been considered as structures in any municipality that I am ever aware of. There is a 5-foot from the property line requirement; they're now going to be 10 feet from the property line. The village engineer has reviewed this and will continue to review the drainage through the issuance of the building permit.

I also just want to clarify one thing because I think it's very important to the relevant plan of the drainage. You're supposed to look not at the impact of the construction overall, but the impact of granting the variance. If you remember, your variance is primarily for a second floor on top of an existing first floor. It's not adding to the drainage, it's not adding stormwater. If you deny the variance they could still build the garage and the other additions

in the back, which are really where the new impervious surface is. The law says when you look at those five factors in the balancing it's the impact of the granting of the variance. The variance permits what's in the front and was colored. I'll let the architect go through it, but in his original submission he did address the five factors for you.

Chairman Collins: Go ahead. Do you have anything else you want to ask?

Mr. Barbuti: If the Board has any questions I'll be free to answer.

Village Attorney Whitehead: I think if you could just quickly go through, for the record, where you summarized and addressed the five factors.

Mr. Barbuti: Certainly. Factor number one: "whether undesirable changes will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting this variance." The proposed structure will be in character with the neighborhood, which consists of residential homes, many of which are set closer to the front property line than the required 30-foot setback. The proposed construction will increase the value of the homes in the neighborhood and will also remove a vacant eyesore that presently exists.

Number two: "whether the benefits sought by the applicant be achieved by some method which will be feasible for the applicant to pursue but not require a variance.: The proposed construction cannot be achieved by some other means because of the location of the existing structure, and it's already encroaching into the front yard setback. Part of the existing structure would need to be demolished to become compliant with the front yard setback, and a larger addition proposed to the rear and side yards impacting steep slopes.

Chairman Collins: Before you move on, I think it's important to note that in order for this property to be as-of-right essentially you would have to demolish and move back closer to ... what's the name of your street again?

Ms. Rooney: Jordan Road.

Chairman Collins: So it'd have to be moved substantially back, so 20, 25 feet closer to Jordan, in order for it to be as-of-right.

Ms. Rooney: But still maintained ...

Building Inspector Minozzi: You have to come up to the mic please.

Ms. Rooney: Right. But still at the rear setback that it's shown at. The overall size of the building would get a lot smaller, which would decrease the amount of runoff and there would be no issue.

Chairman Collins: Except that I just want to point that there are tradeoffs, right? So from looking beyond the zoning code you would have a house that is now 25 feet closer to your property – 22 feet closer to your property – to be as-of-right.

Ms. Rooney: Right, without a deck. They could build within those lines, that's fine. I'm not opposed to the development. I believe doing something with that property is ... I would like for the drainage structure, because of my technical expertise in these things, just to be located, at a minimum, 20 feet. It's a structure, it's attached, it's in the ground and you can't build upon it.

Chairman Collins: The drainage issue, the case law is pretty clear on how to define it, and they're well within the right for where they place it.

Ms. Rooney: OK, can I just give you the plan that shows they place that? I just want this to be on the record because ...

Chairman Collins: Sure.

Ms. Rooney: You know, I mean we've had conversations and we'll try to work it out ourselves. But I don't have any method of recourse after this if, for some reason, the calculations come back and it gets bigger for some reason, whatever. So I just need this on the record.

Chairman Collins: Yeah, I understand. And that'll be a matter for the building department and their permitting to address.

Ms. Rooney: Right.

Chairman Collins: We could, I think, as a board, condition some landscaping for the front because that's where the variance is needed. I think it would be a stretch for this board to mandate plantings in the back of the house for something that's completely out of the scope for this particular project from a variance perspective. Their need for a variance is restricted just to the front yard so it would be very difficult, I think, to sustain an argument that we would then require this property owner to start doing things in parts of the property that are out of scope for a variance request.

Ms. Rooney: OK.

Chairman Collins: I understand your need. And I think, by the way, you can continue to have the conversation with the homeowner and maybe there's something that could be negotiated separately. But that would be outside of this board.

Ms. Rooney: Well, I wonder what the impact of the size of the house would be if they did, in fact, keep it within the 30-foot offset. Therefore, the 71 percent and the 52 percent variance they're seeking, how does that impact?

Village Attorney Whitehead: It's not new impervious surface, it's second floor above an existing first floor you would be granting a variance for.

Chairman Collins: So yes, I think your larger point is if they built a smaller home what would that mean in terms of drainage. I think as long as the Village has said, and the Village engineer has given a blessing to, the drainage situation it's hard. I'm in no position – and I don't think anyone on this board is in a position – to say we have any reason to overrule this.

Boardmember Forbes-Watkins: Or power.

Boardmember Anuszkiewicz: Yeah, we look at a lot of cases where people are proposing to build over the top of existing nonconforming ground or structures we don't typically evaluate them for drainage. We're evaluating them for bulk and whether or not they block somebody's view or they're building it too close to someone else's house.

Ms. Rooney: Right, I understand. For me, it's an issue of this is a drainage structure. It's built with structural fill, it's dug 4 feet into the ground, it's going to be located less than 5 feet from my property. It's considered a structure, it's H-20 ...

Building Inspector Minozzi: It's not considered a structure, sorry.

Ms. Rooney: It's not within the zoning code as being anywhere ... there's no specific provisions. If this was a drywell would you allow a drywell to be located there, as well?

Building Inspector Minozzi: Yes.

Chairman Collins: The zoning code is pretty clear on it.

Village Attorney Whitehead: And the building inspector is the one who determines that.

Ms. Rooney: OK, I'm just going on the advice of my attorney, that's all.

Building Inspector Minozzi: I just need to say that Hahn has visited the site ...

Chairman Collins: And who is Hahn?

Building Inspector Minozzi: ... oh, our village engineer, I'm sorry – has visited the site since the Planning Board meeting and has re-concurred (ph) his original view without even seeing the site, just doing everything by numbers and by topographical and such. He has also re-said (ph) that we will deal with the inconsistencies as well as with Mr. Barbuti during the building permit process. So the few items he is concerned about, it's more a matter of having two reports not matching. He's still comfortable with what is being proposed. The inconsistencies will be handled at the time of the building permit.

Ms. Rooney: If he's comfortable with what's being proposed, then why is he asking for a cross-section of the infiltration system 20 feet beyond into the neighboring property?

Chairman Collins: I'm going to ask that you take that conversation up separately. We're really not in a position to spend any more time on this because it is outside the scope of the variance request. I will say that we have granted a lot of requests like this. And I'll give you a reason why, from a variance perspective, there's a significant mitigating factor that applies here. That is, if I remember correctly, Buddy, the property line – the front yard property line – is significantly far back from the road, correct?

Building Inspector Minozzi: Correct.

Chairman Collins: There have been instances like this in the past, where you look at it and say, "Oh, wow, in terms of the severity of the variance this seems like it's a lot," as you point out in your remarks.

Ms. Rooney: Yeah.

Chairman Collins: But from a practical standpoint they are farther from the road than you would get a sense just if you looked at the front yard setback.

Ms. Rooney: Right. Have you driven up Summit street and seen the existing property and imagined it to be two-and-a-half times taller and bigger?

Chairman Collins: I walk by this property every Saturday.

Ms. Rooney: Not going downhill, going uphill?

Chairman Collins: Yes.

Ms. Rooney: OK.

Chairman Collins: I understand. But, again, the height of the structure is within their as-of-right as well. They're not here to get – if I'm correct – a building height variance.

Building Inspector Minozzi: They're within the height.

Chairman Collins: The only variance they require is a front yard setback on the extension of a nonconformity. My perspective, and I welcome input from the Board – and certainly anyone else in the public can be heard on this too – this request is not out of character relative to other variances we have granted. And I think given the fact that they're taking a derelict structure that's been derelict for a long time, and bringing in something that is new and, I think, a very thoughtful design – and obviously aesthetics is in the eye of the beholder – I think it's very difficult to argue that this would inflict a negative impact overall. That's my opinion.

And I think, if we need to, we can address some of these other things. The second point, to the benefit we sought from the applicant from other means that are feasible, there are other means but I don't know whether or not they're feasible. And, quite frankly, I don't know whether or not they're more desirable. I don't know that you, or the neighborhood, would want a full-on demolition and, if need be, the potential for excavation or rock removal in order to build a property that would be as-of-right.

Ms. Rooney: They're already doing that. They are going to be putting a foundation in at 30 feet, and extending it. So they're going to be doing that anyway.

Chairman Collins: Well, right, but for a garage that's as-of-right. They were going to be doing that for a property that's as-of-right. All I'm saying is that we get a lot of pushback from folks who don't want construction in an area where there might be blasting, and I understand that.

Ms. Rooney: They're going to be doing that anyway as part of this proposal.

Chairman Collins: Well, imagine more of it is what I guess I'm saying. In my mind, there are other approaches to building here. I think I would have a hard time saying they're feasible, both from an expense standpoint and in terms of overall disruption. Is the variance

area requested substantial? I would say that it is substantial but, as I said, there are mitigating factors that make me comfortable with the substantial-ness (ph) of the variance that's been requested.

Village Attorney Whitehead: Mr. Chairman, that's very relevant because there's a number of cases that have held that you don't look at substantiality just in terms of numbers. We've been given percentages, but you're not supposed to look at just in terms of numbers; you're supposed to look at it in relation to the totality of the impacts and circumstances.

Chairman Collins: Right. And that's why I wanted to point out the proximity to the street. Well, "Will it have an adverse effect or impact on the physical or environmental condition?" I think the answer is a definitive no. I think compared to the status quo, putting a new structure there strikes me as anything but, on having a negative impact. I understand your concern about the water. We're in no position and have no authority to overrule the village engineer. I would say after the fact to continue your dialogue with the applicant. And is this self-created? I don't think so.

Village Attorney Whitehead: It's not determinative.

Chairman Collins: Yeah, it's not determinative. So that's this boardmember's overview of the five factors. Did any of you guys want to weigh in?

Boardmember Anuszkiewicz: I think you summed it up very well. We don't have any say over this, but I have a comment about it. Which is that are these new trees that you're trying to plant here?

Ms. Rooney: Yes.

Boardmember Anuszkiewicz: I'm not sure you can plant new trees on top of this structure underground. I don't know if that's something you looked at, Buddy, or your engineers looked at.

Building Inspector Minozzi: Yeah, we'll have the engineer look at it.

Boardmember Anuszkiewicz: I mean, if I were the neighbor that would be my concern, probably more so than development. I would want to make sure that given there's a new deck there (cross-talk) ...

Ms. Rooney: Right, the drainage ...

Boardmember Anuszkiewicz: ... privacy, which I think they're providing by doing a lot of planting for you. But the way this is drawn it looks like those trees aren't going to live there.

Chairman Collins: Just know, again, that's outside (cross-talk) ...

Boardmember Anuszkiewicz: So that has nothing to do with anything we can vote on.

Chairman Collins: Correct.

Boardmember Anuszkiewicz: But since you brought it, I'm just commenting on it.

Mr. Barbuti: Can I just comment?

Boardmember Anuszkiewicz: Sure.

Mr. Barbuti: We will be modifying it, so that was an oversight. That will be addressed, it will be fixed and changed. I mean, my conversation the other day with Ms. Rooney – just so the Board knows – I will work with her. I've been doing this for 35 years; all of my work comes from word of mouth so I am proactive in making a good neighbor, even though this is not mine. That's how I work. She offered to do drainage calculations for me. I said be my guest, do them. I will show you what my engineer does, we'll sit down and go through it and come to happy terms. As part of the drainage, I think I have expressed that we're going to work on this 'til she's happy.

Chairman Collins: OK, thank you. I appreciate that. Marc, did you have anything you wanted to add?

Boardmember Leaf: Well, I was certainly glad to hear what Mr. Barbuti said about wanting to work with the neighbor. I think that's very important, part of the record, and we are glad that's something you're committed to do voluntarily. I will say that I agree with you that where the variance that's being asked for is in the front yard I'm focusing on the impact on the front and looking at the other issues the neighbor has raised. And, you know, lot coverage and development coverage are both well within the requirements of the code. The height is well within the requirements of the code. I think the neighbor mentioned that it's going to be increased by one-and-a-half times. It's actually only going from 18 to 30, which is not one-and-a-half times; it's three-quarters of a time, I guess.

And you also talked about what size house could they build within the envelope. Looking at the envelope, I think they could build an even bigger house if they wanted to demolish this one, flip it around, and use the whole envelope. I'm not sure if this is one of those things you

might have to be careful what you wish for, you may end up getting something worse if this didn't happen. Certainly the applicant is building as-of-right except with respect to the variance – which is, in this case, a second story – so I'm inclined to see this as the balancing test as working in favor of the applicant.

Chairman Collins: Thank you. Do you have anything else? Does anyone else wish to be heard on this? OK, Mr. Barbuti, do you wish to proceed to a vote?

Mr. Barbuti: Yes.

Chairman Collins: OK. May I have a motion?

Village Attorney Whitehead: You would be making the motion to grant for all the reasons that have been set forth.

Boardmember Forbes-Watkins: Yes, of course.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuszkiewicz with a voice vote of all in favor, the Board resolved on Case Number 19-16, the approval of a front yard setback, existing 7.61, proposed for covered porch 8.71 feet; extension of an existing nonconformity, existing and proposed second story addition 13.71 feet against the required minimum of 30 feet.

Chairman Collins: The vote is unanimous. Congratulations. Good luck with your project.

We will proceed to our last case, which is Ethan Arrow and Fabian Engelbertz for 4 West Main Street.

Case No. 20-16
Ethan Arrow & Fabian Engelbertz
4 W. Main Street

View Preservation approval as required under section 295-82 and relief from the strict application of code Sections 295-55.A and 295-76.E.3 of the Village Code for the addition, alterations and decks to their multi-family dwelling at 4 W. Main Street. Said property is located in the CC Zoning District and is known as SBL: 4.70-48-10 on the Village Tax Maps.

Variance is sought for the extension of an Existing Nonconformity:

Side Yard (against single-family residence): Existing and Proposed for roof deck – approximately 6.33 feet; Required minimum – 10 feet {295-55.A and 295-76.E.3}

Chairman Collins: The applicant seeks view preservation approval as well as a side yard variance request.

Building Inspector Minozzi: And here is your mic, sir.

Mitchell Koch, project architect: I'm here for Ethan and Fabian to help with their project. I just want to say we're grateful for the opportunity to have a public hearing about this. I know that Peter and Fran are, too, because they unfortunately missed the Planning Board when we had the view preservation advisory. I know they want to definitely make their side of this heard.

This is the house at 4 West Main Street. It's a charmer. Everybody, I'm sure, has seen it on their way in to work. It's a house that's very close to its neighbors and they've been good neighbors. They share that access to the back. You can see how lovely and lush it is. They have worked thing with regard to that fence and access to the backyards, everything very cordial. There's another picture from Warburton, actually through the fence, that we took in October and you can see the backyards. The house on the right is Peter Rockwood's and Fran's; then the brown houses, 4 West Main; and you can't see Mrs. Rapoli's, but you can see a couple of the other houses, 8 and 10 West Main. They all step back, receding from West Main in sort of a line. I'll demonstrate that.

This is the existing rear of the house. It was a two-story addition, I suppose it's about 60 years old, I'm not sure. The house itself was built in the 1880s. This is just a lot of introductory stuff. Mr. Rapoli, on the left – this is 4 West Main on the right – and you can see it's very tight and very close. I'm hopeful they looked at the survey. This is a pretty typical condition in the central commercial district, and this is where the chickens live. On Mrs. Rapoli's side there is the fire escape, so this is the west side.

I want to say that we are here for one zoning variance. This is to do a roof deck on this roof, you can see from my office, stepping out from a door that's been there forever which is the path to the fire escape. Basically, this is a nonconforming structure. We want to put a roof deck on top of it which we would say has very little impact. As you can see, it's actually higher than the roof of Mrs. Rapoli's house. Normally, in the central commercial district, there are no side yard setbacks. But because her house is a single-family there is a caveat

and we have to respect a 10-foot side yard. This addition currently is 5.3 feet from the property line so we are seeking a zoning variance for this roof deck for 4.7 feet – about 4 feet 8 inches – on the roof.

The appearance of it, if you can see up here, is a very low structure. Basically for structural reasons it really makes sense to go spanning from wall to wall, not relying on the roof framing. The structural element would be I wanted to allow 12 inches above the very shallow roof pitch so I can structure from side to side. It's about a 13-foot span, 42 inch high railing in this iteration it's in a Victorian style; a wrought iron railing, as shown. I just want to check my notes real quick, bear with me. For what it's worth I'm just going to pop in, this is the way the roof might look from the east. Moving on, from Mrs. Rapoli's side this is the way the roof deck might look, with a gate to the existing fire escape. Then based on the recommendations of the Architectural Review Board, who have looked at this, we're putting a railing to match at the lower deck, which is an as-of-right deck. We'll get to that very quickly, I promise.

Basically, the only place ... I mean, so that's the zoning variance. I just wanted to put that out there: that is the zoning variance we seek, and that's the only zoning variance. It's to extend a nonconforming side yard by a foot, plus a railing. There is an impact on view preservation from the apartment upstairs above Rockwood and Perry. I wanted to show you, this is the south end of the apartment; a row of windows, and this is the view from one of the windows. Now, obviously I Photoshopped it, but this is a wrought iron railing. This would be the deck structure on the roof. This is if you put your nose to the glass of the window on the west side right here. This window here, that's what you see. As you can see, it's very lush. I'm showing something below which we'll get back to.

You can see, in the context of the room, basically the impact of that. And you can see, from within this room, they have a wonderful winter view of the river and the Palisades; not this summer, but in the winter for sure. I want to say that the effort here is to make the railing as transparent as possible. A wrought iron railing instead of a wooden railing has about an 85 percent void and you can see through it. But I understand it's there. I did go to the Architectural Review Board and they did approve a cable rail as an alternative, even though I don't think it's quite as appropriate to the appearance of the house. You can see that it's more transparent. We string our cable rails with a 3-inch gap so there's a little bit more than that 4 inch on center business. The view, again, from ... as you can see, I'm standing back in the kitchen of the tenants upstairs. You can see the impact of the railing up there.

I'm just going to, once again, make sure I'm in the right place. This is – sorry, guys ...

Boardmember Anuszkiewicz: Can I ask a question while you're doing that?

Mr. Koch: Yes, go ahead.

Boardmember Anuszkiewicz: Do you need that fire escape? Is that for egress from an apartment on the third floor?

Mr. Koch: That's correct, and the second floor. It's staying.

Boardmember Anuszkiewicz: They're remaining, so this is a multi ...

Mr. Koch: It's a multi-family. I'm sorry, it's a three-family. Ethan, one of the owners, is going to speak to that whole question of a three-family versus two-family. But the fire escape needs to stay.

As you can see, it's a beaut.

Boardmember Anuszkiewicz: Is the access to that fire escape, today ... is there anything there on that roof, or is it just sloped?

Mr. Koch: It's a flat roof and it is ... I will go back to the photograph. You can see you come down a couple steps, you're on the roof, and there's basically the landing at the top of the fire escape. You take a ship's ladder down to a landing at the second floor, and from there it's one of those drop ladders down to the side yard.

Building Inspector Minozzi: Just real quick, they have to come back to the ARB. The ARB was not satisfied with the rail and such. Basically how the procedure works, once they get through zoning they'll go back to the ARB and then go back for site plan approval with the Planning Board. The only thing the Planning Board has approved in this project was the view preservation. They have not issued site plan approval yet, and the Architectural Review Board did not care for the cable rail on this particular structure. They would rather the rail being proposed match what's already there to fit better on this particular structure..

Boardmember Anuszkiewicz: That will reduce the transparency.

Building Inspector Minozzi: It's still 85 percent open (cross-talk) ...

Village Attorney Whitehead: It's still wrought iron.

Building Inspector Minozzi: ... because it's a wrought iron rail. I just wanted to let you know where we stood.

Boardmember Forbes-Watkins: Makes it harder.

Mr. Koch: Let me move on here – sorry, guys. I'm moving right along here. I'm just showing you now ... moving on to the addition on the ground. We're going to get an enlargement in a moment. This is the property. There's a stair here, nestled in, and basically a dining area. The addition would comprise about 300 square feet and it extends 10 feet back. This is approximately a little bit more than a 6-foot stair hall. I need to get a 6-foot interior space plus the thickness of the walls. Because the stairs go to the basement I'm getting a little bit more because it's 6 feet before I hit my 8-inch block walls. So you see it sticks out a little bit past the corner of the building.

I want to point out that no zoning variance is required for this on this side of the property. This is just basic central commercial – no side yards are required – so we're dealing with two completely different conditions. The way it's set up, you can see here we have a small deck off the addition, which is a first-floor deck. I'm allowed to encroach up to 6 feet into the side yard. This is an as-of-right addition with regard to just zoning setbacks and area. There is approximately 3-foot to the property line here. The overall width is about 20 feet all in, including the deck. Are there any questions about this at this juncture, 'cause I'll move on.

Chairman Collins: No, I don't think so.

Mr. Koch: So here's the basic look. I just want to point out that Peter's building sits a little bit uphill from us. Everybody knows where we are in relationship to the street. The apartment upstairs is somewhat above the addition. You can see that. As you look out from the apartment I'm showing that there is no effect with regard to view preservation from the apartment. You can see that this piece of wood is like a mockup we put on the roof. It identifies right here the southeast high-point corner of the stair. Then down here there is what looks like a radio antenna collapsing in the yard, and that would be the southeast corner of the lower part of it. We're mindful that this is a wonderful view, and we don't want to screw it up.

Chairman Collins: You may be coming to this, but one of the things I noticed in the Rockwood attorney's response to this was more the first-floor impact.

Mr. Koch: Yes, and I will come to that. I just wanted to identify that from upstairs in the apartment there's no impact, there's no effect.

Chairman Collins: OK.

Mr. Koch: Again there's that summer view with it below us. I'm identifying from the yard now, behind the store, some of the views. This identifies the existing condition right now. As we move along you can see ... I don't know if you can see it here. Here's 8 West Main, here's 10 West Main, and basically even if this weren't here you couldn't see the Palisades beyond this point. This is approximately the view shed right now. As we get up into here, you have the hill on the other side of Washington Avenue in the distance. Here's the same thing rendered with a different angle. You can see that this is approximately full western view and this is the proposed addition, which you can see I've identified. It lines up with 8 in the back, but this shows the actual impact on the view from the rear yard.

Here's the big picture. You see here the West Main Street properties. They're really in a sea of beautiful lush trees and foliage. Basically, as you stand here and look out, this is about it. You can see Palisades yonder, and right now you can see the Palisades here. Just beating this to death, from the backyard once again this is the view looking due west. Our addition would, if you will, shade this part of the yard from the direct view to the west. This part of the yard remains open. Again, there's the buildings beyond and this is the outline of our proposed addition.

Here's a photograph through the fence, more of a 3-dimensional view of the proposed addition. You can still see that structure in its last stages of collapse in the backyard. If you look, you would see up here in the tree there is the other edge. This is the edge of the existing two-story addition. I enhanced the line of the top of the Palisades – do you see it? – and you can see pretty far south in the winter, and the line of basically the river's edge. I want to point out that the backyard is pretty large. Here's the view. This structure shows where we propose to put the addition, and this is the view that's going to be lost. I'm really doing their work for them, but I know everybody's friendly and I just wanted to get it out there.

This is the view that remains of the Palisades in the winter from this table, which nobody moved; it's just where the table is in the backyard. The tenants of course come down, exit the front of the building to Warburton, go up to West Main, and go along the property of West Main and down the alleyway to get into the backyard. I understand there's an impact from the addition, but if you sit here you've still got these wonderful views if you come out in the winter. That's what this is about, and there's more of that view to the south.

Moving on, that's addressing the backyard. I guess my point is that we're keeping ... you know, it's a small enough addition and a large enough backyard to still have quite a nice view. From within the shop there are three windows. Two of them basically are just looking at the alley and there's no view of the Palisades from them. I've identified them here and here. From the window behind the cash register you have a partial view of the Palisades.

Here's the existing corner, and the arc of the view from that window – if you stand right at it – is this, approximately. If our addition is approved this much of the view from that window at the point of sale is going to be diminished. I have a picture I took in the store, and you can barely see that line. That's that structure in the backyard. I enhanced it just to show the impact from within the store of the addition.

As I stand, you can see this is really where clients stand when we're buying wine. Here's that column. You can, if you get up to the window, I am sure see more, or more of the obstruction. I'm just trying to put it all out there. That's the end of the presentation from me. I just want to say that it's a small addition, we understand that there is impact, but the effect on the apartment where people are living is negligible or nil. The effect on a window at the back of the shop is partial, and the same thing is true for the backyard. There's a partial obstruction. We're here in the spirit of working with the neighbors and compromising, and we want to definitely maintain good relations. I'm going to turn it over to Ethan, and I'll just shut up now.

Building Inspector Minozzi: You can use the stand-up mic.

Ethan Arrow, applicant: I'm the owner of 4 West Main, along with my husband, Fabian Engelbertz, who's here with me. This is actually in the form of a letter. I can submit it afterward, but I'll just read it as it's written.

"Dear members of the Zoning Board,

"My husband, Fabian, and I thank you for the opportunity to review our submission for a modest addition onto our home at 4 West Main. I know how tedious these matters can be so please know that it's much appreciated. I'd also start out by thanking our neighbors for bearing with us through this journey, thanking them for showing concern about our little slice of Hastings here. I also want to validate their concerns with respective preservation and density of the downtown area. Fabian and I want more than anything for this not to be sort of a we-versus-them conversation, knowing that there'll be ample opportunities to work with them in the future on other matters that pertain to what were here for today.

"Mitch has done a great job laying out the architectural merits of the impact of our addition, but I'd also like to tell you a little bit more about our need and rationale for it. So a little more autobiographical. It all started last April, when we received our homes tax reassessment letter from the Town of Greenburgh. We had bought the home 10 months before that, in July 2015, with the intention to move into one

unit at first and then, over time, slowly expand it into two units, leaving one unit for rental income. That was the plan when we bought it. Once settled into two units, we would then begin to grow our family. So that was kind of our vision for moving to Hastings and buying the home.

"Those plans ground to a halt, however, when we found out the reassessment would raise our taxes by about 115 percent. We don't quite know how much that means – what that means in dollar terms – because the local village tax roll will now mirror the town's. But we're guessing it's somewhere between like 10- and 12 thousand additional dollars per year. Since we bought the home at the limit of our budget, it meant that we had to come up with another arrangement in order to stay in the home financially and provide for a place to grow our family, logistically. That's when we reached out to Mitch. That was in September.

"What we have designed here will allow us to do just that, namely maintain two rental properties while expanding in the home enough to allow for the owner's unit to comfortably fit two bedrooms; that's the goal, two bedrooms. Currently, the first floor unit measures about 700-775 square feet. And that's simply, for us, not enough space to justify the cost of carrying the home. The costs include a loan we took out for the down payment, which is sort of idiosyncratic, but also the mortgage, the now-elevated taxes, and the costs associated with maintaining a home from the 1800s properly, which is something that we've done and have learned is rather expensive.

"I also want to say that although we've only been in the Village for, now, 18 months. We love it. In fact, it's exactly this type of civic engagement that drew us to Hastings in the first place. Since moving here, my husband has had the amazing fortune of finding a job in the town at the local pediatrics office. I only make that point to say our lives are very much becoming centered around the central downtown area, which is something we're very excited about. Once settled in our home, as we see it here today or some variation of this, which is the goal, our plan is to grow a family. So that means have kids, which is sort of outside the realm of this conversation, how we would do that. Once we do that, we want to be an anchor on 4 West Main as a family, similar to how the tenants that have lived there for awhile have been; they're sort of our role models in that respect.

"Also, I would just like to point out we'll work tirelessly – something we've been doing the Mitch – to maintain sort of the Victorian charm and brightness of the home, appreciating the fact that West Main is a gateway to the downtown area. Particularly this part of West Main Street, right before you get onto Warburton. As

homeowners, we understand and appreciate the desire to preserve what is currently there or, in this case, what's not there. But we are simply confronted with a set of circumstances that has forced us to seek a change in order for our living arrangement to work for our budget and our family needs.

"We feel this modest addition represents a tasteful addition to the downtown community, and we ask kindly that you consider our request to make a little more space for us.

Thank you."

Chairman Collins: Thank you, Mr. Arrow. I have a question. Well, either one of you can answer this.

Mr. Arrow: Sure.

Chairman Collins: You had prefaced your remarks, or Mitch had prefaced your remarks, by talking about – no, you had said it – the need you're addressing. I just want to make sure I got right. You plan to occupy the first floor, correct?

Mr. Arrow: Correct. When we moved in we occupied ... we moved in, first, to the unit that was empty. Then the plan was to gently, over time, move into the first floor and then expand – create an owner's duplex – to the second floor, maintaining one rental income property.

Chairman Collins: And now the plan is to maintain two rentals.

Mr. Arrow: We would have to do that, essentially, yeah.

Chairman Collins: And you explained the economics of it. Can you summarize the goal you're trying to achieve with the increase as it relates to your living space, as you had said, by adding a second bedroom?

Mr. Arrow: Sure.

Chairman Collins: I think it would be helpful to just very quickly capture how large is the addition in terms of square footage and what are the specific goals this will satisfy.

Mr. Koch: As you can see, there's a dining area off the kitchen, and that is about 135 square feet. Then the rest of it is about 135 square feet and the rest of it is stair. The stair is proposed to go down and engage part of the basement. Because part of the plan is to make the basement part of, now, the first floor apartment instead of taking the second floor, incorporating part of the basement, and leaving part of the basement as storage for tenants. The stair here enables ... this is just a utility stair to connect from the basement, but it's also an egress. There is a hope, future hope, to have – if things work out well for them in the future – the second floor, too, down one- -- or just, now, it's a two-family home and the stair would go up to the second floor.

Mr. Arrow: But the reason it's a two-story stair now is because we would go ahead and take that back room from the second floor apartment. That would become like a second bedroom, essentially. The wall would be created – if you imagine, on the second floor here ...

Building Inspector Minozzi: You need to have a microphone so just take the mic from Mitch, please. Thank you.

Mr. Arrow: Sorry about that. On the second floor, if you put a wall here, it leaves the second floor unit intact as it is with a bathroom and kitchen, rentable, and provides that – albeit without a bathroom – as a bedroom. Then you have the first floor so it's kind of an owner's unit stairwell. Because the stairwell on the front of the building would service the second floor, the third floor as well as the tenants' component of the basement, which is where we'll move a utilities-shared space, too. If that makes sense.

Chairman Collins: But the first floor apartment today has two bedrooms?

Mr. Arrow: Do we have what it looks like?

Mr. Koch: I don't have a plan for the first floor apartment.

Mr. Arrow: It's a one-bedroom, however the living room is being used as a bedroom.

Chairman Collins: OK.

Mr. Arrow: The bedroom – I work from home, I don't take clients or anything like that, I work for the government, no one's driving – that currently serves as the second bedroom, I guess, on the first floor would be an office space. But it doesn't fit a queen-sized bed it's so tiny. However, the current tenants have a double bed in that. That could not be our bedroom, and then the living room we would like to have a legitimate living room where we have like a two couches facing each other situation. That would be nice.

Boardmember Anuszkiewicz: I have a question for you about where you sited the dining room. Does it have to be sited in that location? I know you were talking about the residential unit to the west. But, for example, I think you're taking a fair amount of sensitivity on the second level to not obstructing the view but on this level you're really building towards the Rockwoods. Are you allowed to ... is there some reason why you cannot have, say, for example, flipped that deck and dining room?

Mr. Koch: Yes, we looked at that. This is the only as-of-right zoning envelope we could fit in. This wall I'm indicating with the cursor is 10 feet from the property line. If we push the dining room thataway we need a different zoning variance.

Building Inspector Minozzi: When you apply for a single-family unit you have to have a 10-foot setback.

Village Attorney Whitehead: The addition does not require a variance right now. It's just view preservation.

Mr. Koch: Yes.

Boardmember Anuszkiewicz: OK, well, that clarifies that.

Chairman Collins: It's still a legitimate question. Both of these are going to need a zoning approval, they're just a different flavor of approval.

Village Attorney Whitehead: It's a view preservation.

Chairman Collins: One's view preservation, the other one, hypothetically, would be side yard.

Boardmember Anuszkiewicz: The other question is the hallway you're building – which is, again, part of this structure you're building so close to the Rockwoods – do you need that? You have the stair there. I see what that's providing, which is a way to the dining room from the living room sort of without going through the kitchen, although you really are going through the kitchen. Other than that, it seems you don't really need to pass through there because you can access the dining room through the kitchen and go up or down that stair from either end. You don't actually have to go around it.

Mr. Koch: You mean if I close this off and made it a 3-foot ...

Boardmember Anuszkiewicz: Well, I'm just saying ...

Mr. Koch: I think it would be very awkward to actually have to walk through the kitchen to the dining room to either go down or go up, depending on which way the stair is directed. I've been advocating that this connection – which I'm showing with my cursor – is the logical path to go through the house, this one not so much.

Boardmember Anuszkiewicz: I understand all the needs here and I think they're ...

Mr. Koch: You're looking for strategies to minimize the ...

Boardmember Anuszkiewicz: I'm trying to think of strategies that maybe you could think about that would lessen the impact on the ground floor. I think on the second floor you've done a pretty good job of minimizing the impact, but on the first floor it's difficult. Because the way the slope goes on the site, all the buildings as you go to the west, march out to the south. That's the way all these neighbors could preserve their view if they all respected that stepping in relationship to each other. They would maintain their view, and this is just fighting that a little bit. I understand why you had to do it, but I didn't understand that before you explained it.

Mr. Koch: Just apropos of nothing, the view from the side ... again, the view from the back, the idea is that it's in the spirit of an enclosed porch. Then finally from the corner ...

Boardmember Anuszkiewicz: I'm sorry. I guess I would just have another question relating to the Rockwood structure. Would they be able to add on to the back of their structure?

Mr. Koch: Absolutely.

Boardmember Anuszkiewicz: Are they limited in some way?

Mr. Koch: View preservation.

Chairman Collins: But their proposal would not impact the Rockwoods is what Mitch is saying, right?

Mr. Arrow: But also, since we're not one family, does the 10-foot setback work?

Mr. Koch: They have no 10-foot setback. It's a multi-family dwelling.

Building Inspector Minozzi: The Rockwoods have a mixed-use, and the applicant is a three-family or multi- dwelling so they fall under the same category. That's a zero lot line.

Boardmember Anuszkiewicz: And they don't have a rear yard setback or anything, the Rockwoods, going back?

Mr. Koch: Yes, a 20-foot rear yard setback is required in the central commercial district.

Chairman Collins: One of the five balancing conditions we look at is whether or not the benefit you seek can be achieved by some other means. That's what we're probing for, and I know you know that.

Village Attorney Whitehead: But that doesn't apply to view preservation.

Mr. Koch: The language of view preservation is to try to minimize the impact on view.

Boardmember Anuszkiewicz: Well, actually the massing strategies we're questioning you about would improve the views to the river.

Village Attorney Whitehead: Right.

Mr. Koch: I'm not arguing that.

Village Attorney Whitehead: Right, that was looking to open up the view, what you were suggesting.

Chairman Collins: And that's what I'm thinking as well. Specifically, the Rockwood's attorney has cited the five factors, and I hear what your saying, Linda, that those may be out of the scope for view preservation. Nevertheless, what I'm trying to ascertain is whether or not there is some other way to do this that, if we want to frame it around view preservation, achieves the desired outcome while at the same time achieving the absolute minimum impact on view. Maybe let's frame it that way, and that's what we're probing.

Mr. Koch: Yes, we have discussed some strategies when we met. Frankly, I think it would be – and I don't mean to tell you your business – Peter and Fran spoke. I mean, we had a meeting with them and they probably want to present their issues. But at that meeting we felt it would be best to have it in a public forum just so if we can strike the compromise I think everybody would be enthusiastic about that. So there are some strategies. You identified one, tweaking the stair. We can tweak the mass of the thing for sure. But we thought maybe the first thing was to present the core idea and see what you like, or what you think.

Building Inspector Minozzi: Mr. Chairman, to answer Boardmember Anuszkiewicz's question, where it does not adjoin a residential district – which this is the case here – the rear yard setback would be 10 feet to the ground floor and 20 foot to any floor above that.

Chairman Collins: OK, thank you. Thanks for checking. If you were to minimize the intrusion of the hallway towards the east, would that then enable the dining room also to sort of shift a little bit to the west and therefore take out some of the view that is now blocked? Did I explain that clearly enough?

Mr. Koch: Yes. There are several things that could happen. In the first place, I want to say that the stair hall itself actually has almost no impact on the view from Peter's space. It's really the dining room. Notwithstanding what Adam said, I think that stair hall could stay as is without any impact. The dining room itself, that's the salient corner that's really obstructing views. So to your point, yes, we push that back and obviously at a certain point it doesn't make sense. You want to have a dining room that accommodates a dining table. I just want to point out that the space is 13 feet long. It's not a large dining room, it's a dining area I would argue. At some point, as drawn it's 13 feet long and 10 feet wide, which is about – I don't want to say – minimum, but it's getting tight.

Chairman Collins: I really appropriated the view arc that you constructed. Looking only at the first floor, what percentage of the status quo view arc would be completely blocked by this construction? Just from the first-floor view.

Mr. Koch: Probably 50 percent.

Mr. Arrow: And, Mitch, is it safe to say that's if you're standing against the building, not where the table was.

Chairman Collins: Yeah, you're in that sort of shaded part of the backyard there. I would guess it's probably some number less than that if you're at the window inside the first floor of Rockwoods behind the cash register counter; maybe it's a 40 percent occlusion.

Mr. Koch: You have to actually have (cross-talk) ...

Chairman Collins: You have to be right there, and I think there's a staircase that goes down ...

Mr. Koch: In the front.

Chairman Collins: I feel as if I'd seen, when I'd gone there as a customer, there's a staircase that I presume goes down to storage. So you'd be standing right at that window, and maybe from that window you're talking about a 40 percent blockage because you're a little bit higher.

Mr. Koch: Probably equivalent to what we've done right now.

Boardmember Anuszkiewicz: I would say if you left that stair hall the way it was, and you flipped the dining room and the deck, your plan would not be a negative impact other than you would need another variance. But you would be increasing their view from that window significantly.

Chairman Collins: It would still have to come for view preservation for sure.

Mr. Koch: And we'd have to get past Mrs. Rapoli.

Chairman Collins: Yeah, she might have something to say about your moving closer to her property.

Mr. Koch: Right.

Boardmember Forbes-Watkins: Which would be moving closer to the property, though, if you just flipped the deck.

Mr. Koch: Yes.

Mr. Arrow: We wouldn't be moving closer. We would just be adding to that which is already where it is. It extends south.

Boardmember Forbes-Watkins: What is the function of this deck? It's a very small area.

Mr. Koch: Just to go out and get down to the backyard. Frankly, that deck is a stair landing. I mean, really, to go out the door and go down to the backyard. But we wanted ...

Boardmember Anuszkiewicz: Actually, if you flipped it you would be giving direct access from the living room to the backyard, which would work better also.

Mr. Koch: Yes. Again, it was an effort – a very clever idea on the architect's part – to do an as-of-right plan. Because initially we had it exactly as you described it, with the deck on the

east side. But clearly, I've walked into a whole heap of trouble. That was an effort to avoid problems. So there you go.

Chairman Collins: It's an interesting question, though, and I think it's one worth having a discussion about it. There are tradeoffs either way. You have such a small footprint anyway, right? I mean, anything you'd want to do here is going to require something, I mean almost anything, anything of substance. In this little footprint you're sort of cozied in there as you are against these two properties to the east and the west. And with the view to think about there's no way you're going to come here without needing something done. To me, the very interesting question or debate is the tradeoffs. If you were to follow sort of the line of thinking that Adam is proposing here, you might significantly reduce the view preservation and significantly increase the need for a side yard variance to the west.

Mr. Koch: Yes, and to speak to Adam's point again it's a better relationship to the kitchen if the dining room could be right behind the kitchen instead of a jog. I got that. Again, it's my clever idea.

Chairman Collins: I kind of like it though.

Boardmember Anuskiewicz: But again, you wouldn't be making that side yard any worse, but you would be needing a variance for 10 feet because the existing is 6 foot 4. It still would be 6 foot 4.

Village Attorney Whitehead: It would line up with the existing.

Chairman Collins: It's the extension of the existing nonconforming. But I do like that idea, I'm drawn to that idea.

Boardmember Anuskiewicz: So that green area would increase.

Mr. Koch: Yeah.

Chairman Collins: The green part of the arc would increase substantially.

Mr. Koch: I don't have a drawing program here, but I would say we're saying that line would be approximately here so that arc would be ...

Building Inspector Minozzi: Increased 25 percent or so.

Mr. Koch: Yes.

Chairman Collins: I think closer to 30 so it's a significant give-back to the neighbors.

Boardmember Anuszkiewicz: To one neighbor. The other neighbor the building comes closer, but that's not her view side.

Boardmember Forbes-Watkins: That's right.

Boardmember Anuszkiewicz: That's what I mean about these properties need to all sort of step.

Chairman Collins: And didn't her letter primarily focus on the deck part of this project?

Village Attorney Whitehead: Because there was no variance. The addition didn't require a variance up against her.

Boardmember Leaf: But let's talk about the deck for just a second.

Chairman Collins: Yeah, go ahead.

Boardmember Leaf: So welcome to Hastings.

Mr. Arrow: Thank you.

Boardmember Leaf: You've explained your need for the first floor addition. Could you explain how the deck advances your program?

Mr. Arrow: Sure. The deck, that piece of the house, was something that really attracted us to it in the first place. Our tenant was using it as a deck so we currently have lawn furniture nailed into the roof, which is great. Then also the fire escape is there. So we thought railing, OK, push it out a little bit and then you have a nice little patio – which it's already being used for a patio – push it out a little bit further. Certainly we don't need to go all the way to the end, but it was, one, to provide a railing and then to provide an actual safe space to be out there and enjoy – or at least have that unit be able to enjoy – some outside space as well.

Boardmember Leaf: Would that be common space for your two tenants, or just the top-floor tenant?

Mr. Arrow: It would just be the top-floor tenant, yeah.

Chairman Collins: My assumption, which I'll test here, is that the third floor deck would enhance the value and the rent you could get for that property because now you've added in a very nice aspect to this. Am I on the right track?

Mr. Arrow: Yes, those work together for sure. There's a chance we could have a family member move in there so it's not 100 percent restricted from our use. There would be utility for us. That's one of the reasons we're willing to foot the cost of doing it – and I don't know if Mitch explained – you'd actually have to build up the roof to be able to bear the weight. You gave us a potential cost of that and it's not insignificant. I don't think we could recoup it from additional rent for the meantime we have a paying renter in there. Then we just haven't thought long-term enough for which that investment would pay itself out upon selling the house at some point. I mean, I think it's kind of attractive.

Village Attorney Whitehead: It looks used anyway. So make it safer.

Building Inspector Minozzi: Safer, and make it a legal deck.

Mr. Arrow: Yeah. In fact, we went for a construction loan and Citizens Bank won't close on the loan until we have a railing up there because it's an egress.

Mr. Koch: You can see it's basically post up at the corners and maybe in the middle, then just frame across. It's pretty straightforward.

Mr. Arrow: But we could put the edges diagonal to increase the view line from the one west-facing window of the third floor apartment at the Rockwoods. We'd be fine with that.

Chairman Collins: I agreed with the way Mitch presented that. I actually thought the incursion was noticeable but modest. Certainly, when you put it in contrast with the first floor. The first floor, to me, I'm OK from a view preservation perspective. I'm OK with the third floor deck, and to me I see a clear enhancement to say nothing of the increased safety our building inspector mentioned. To me, the issue comes down to hard choices for the first floor and how can we get you what you very clearly articulated in a convincing way the need you guys have but, at the same time, is as respectful as possible to neighbors you're going to be living with for awhile. I think Mark's on the right track to ask about it, but I hope that answered your question.

Boardmember Leaf: Yeah, that answered my question. I guess I was thinking three-dimensional chess. If you were going to move for the variance to be for the downstairs. It would probably be a fair trade not to have a deck above the top, but that's maybe over-

thinking the case. I would like to know, though, if there are any other decks downtown, legal decks.

Mr. Arrow: Behind Tony's, right?

Village Attorney Whitehead: Legal?

Building Inspector Minozzi: Legal decks? Tony's is now legal.

Mr. Koch: There's a deck behind Chelsea, the apartments up there.

Chairman Collins: Mitch, speak into the mic.

Mr. Koch: There are several.

Building Inspector Minozzi: I forgot about the decks behind Chelsea's. Yes, that's right.

Chairman Collins: So the answer is yes.

Building Inspector Minozzi: Yeah, there are others. There's others legal and illegal.

Boardmember Forbes-Watkins: And 45 Main.

Building Inspector Minozzi: Sure, absolutely, 45 Main has lots of terraces.

Chairman Collins: David, did you have anything you wanted to ask about?

Boardmember Forbes-Watkins: I'm still just a bit bothered by the deck in the back next to the dining area. The drawing you show – if I'm not mistaken – doesn't really indicate the deck. Go back to the picture you had up before. Yeah, go back. Where's the deck?

Mr. Koch: Here's the steps, and the deck is in that zone back there.

Boardmember Forbes-Watkins: So that's the totality.

Mr. Koch: That's it, yeah. It's only about 4-1/2 feet wide.

Chairman Collins: You can see where the doors open.

Boardmember Forbes-Watkins: But that's blocking up the whole dining room movement to the west.

Mr. Koch: Let me go to the plan. Because the architect was so brilliant we had a way out on the other side, but after moving all the way to the east with the mass of construction there was no other good way to go out but on the side. It's kind of a Rubik's Cube of space in the back there so I didn't want to eat up more backyard, which there isn't much of. We actually explored could we extend the deck out over the cliff, and decided forget about it. This is the most minimal. You could nail a chair down to it.

Boardmember Forbes-Watkins: But if you want to barbecue out there you're going to have to put it in the yard anyhow.

Mr. Koch: Yeah, right.

Building Inspector Minozzi: That's correct.

Mr. Koch: That's what we learned.

Building Inspector Minozzi: No legal barbecues on the deck.

Mr. Koch: What you don't know you don't know, you know? Right.

Village Attorney Whitehead: Ten feet away.

Mr. Koch: So there it is. We are eager to make something work. I think there's got to be a compromise here that'll work.

Chairman Collins: I agree. I think we'll get there, too. In fact, I'm very confident we will get there. My guidance would be that we see the plan Adam was just sort of doodling out, where would essentially shift the dining room space to go over where the deck is now. So moving that to the west, then freeing up that corner there and having that be essentially the deck, as you have it now.

Mr. Koch: I'll just trot out the plan of October 6, I think. For sure that could work.

Mr. Arrow: And we're happy with that literally just being a way to get out. We're calling it a deck, but it's because the first floor is elevated so there's stairs leading down.

Chairman Collins: Right, it's a landing.

Mr. Arrow: A landing, yes.

Chairman Collins: And I think that's fine. I think it would be helpful, from our perspective, to see the two plans side by side and then be able to weigh the merits. But I also think it would be useful to give the neighbors something to react to. From this board's position, we want to find a way to help you accommodate a need that you've very clearly articulated. It seems to me we've landed on two feasible options. One is the one you presented, and another is an October variant.

Mr. Koch: Yes.

Chairman Collins: Then have a conversation around the tradeoffs, right? Again, I want to just say for everybody there is no perfect solution because of the unique properties of this location. But having a debate about the tradeoffs I think is a debate and discussion we should have.

All right, I want to assume all the members of the public who have come and waited this long, patiently – and thank you for that – may have something they would like to add for the record. I would like to invite anyone who wishes to be heard to just please come forward. Again, before you get into your remarks if you could just please introduce yourself. And if you're a resident here, then tell us where you live.

Matthew Pisciotta, Zarin & Steinmetz: I'm an attorney representing Peter and Fran Rockwood. I believe you received a letter from my office yesterday setting out some of our concerns. I'm not going to belabor those points because you obviously have then in writing before you. I'm very encouraged by what we've heard today. The Rockwoods, I believe they'd be the first to say they're interested in compromise. We've tried to engage the applicants a couple of times to come to a compromise. For various reasons those meetings never materialized but, with the Board's assistance, I really think we're getting where we need to go.

What we wanted to see is alternative plans, which is something I k the Board has talked about quite a bit tonight. I just want to make a few points here – and, again, I'll cut off a lot of what I was going to say because I think it's been covered already – and before I begin I just want to point out that we're aware the Planning Board actually issued an advisory opinion regarding the view preservation issue. The Rockwoods didn't appear at that because, again for whatever reason, the certified mailing that was supposed to go to them never arrived. They literally weren't aware of it until after that.

Building Inspector Minozzi: Let me speak on that, sir, before we continue. The certified mail was mailed to their house and we did get it back. Apparently they weren't home to receive it and never picked it up. We have the return certified mail with the correct address, and we have the proof of mailing. So for them to say that it wasn't mailed (cross-talk) ...

Boardmember Anuszkiewicz: Do they leave a notice?

Building Inspector Minozzi: That I don't know.

Mr. Pisciotta: It wasn't my intention to say it was never mailed or to cast aspersions on anybody.

Building Inspector Minozzi: I just wanted to clear the record for that, to make sure it was done properly.

Chairman Collins: I think all perspectives in this case may be true, right? In fact, I'm sure they are true. The neighbor did not receive it, at least not the way it was perhaps intended to be received. Yet we got proof of receipt.

Mr. Pisciotta: Right. I'm not trying to say that notice wasn't done properly. I think it was, it's just I would like to explain to why they weren't at the Planning Board meeting. So there's no negative connotation to that, OK?

As you know, Hastings is one of very few municipalities in Westchester that actually has a view preservation ordinance. It's also written into the Comprehensive Plan, it's written into the planning documents for the central commercial district. This is obviously something the Village has thought very much about and is important. Because of that, I commend the Board for what they've done here, working to find a compromise that preserves views wherever they're possible. I think that's in the spirit of what the ordinance requires. Basically that we look at the least possible obstruction of the view of the Hudson and Palisades. I've heard a couple alternatives, we'd love to hear more of those, see plans we can view side by side either in speak, private sessions with the applicants or before the Board, whichever you prefer. But I think we're getting where we need to go.

I just wanted to raise a couple points. First, on the second floor deck I understand it's been done in a way to mitigate the intrusion. And the chain railing is transparent, you can see through that, I understand that. but with the deck you're also getting the appurtenances that come with that deck: lawn furniture, barbecues, plantings, people.

Village Attorney Whitehead: No barbecues.

Mr. Pisciotta: Not barbecues. Plantings, people, Frisbees – probably not Frisbees – other fun and games. I'd like that written in as a condition, no Frisbees. My point being, though, that they're expanding their deck and, with that, they're going to expand the things that people put on that deck which has to be factored into how it's going to affect the view.

Also I just want to kind of drive home the level of intrusion on the first floor.

Chairman Collins: Why don't you bring the handheld with you. There you go, make sure it's on.

Mr. Pisciotta: This is the view from the Rockwoods – from that corner.

Chairman Collins: When you say "the corner," are you talking about the window there above the stairs?

Mr. Pisciotta: Window above the stairs within the liquor store on the first floor. I understand there is still a view of the Hudson, but if you look I think it's pretty jarring seeing it like this. A large portion of their view is being taken there.

Chairman Collins: Let me just pause there for a second. Mitch, have you seen this and do you see it the same way as he rendered it? The way you understand it. Just come forward. I just want to make sure we're all agreeing on a matter of fact.

Mr. Koch: What's missing is the rest of the view to the south. That's a partial view directly west, but the sweep of the view is bigger than shown there.

Chairman Collins: OK.

Mr. Koch: That's all I'm saying. But in terms of that object as shown, that's approximately right.

Chairman Collins: OK, all right. I just wanted to make sure we were all in agreement about how this was situated.

Mr. Pisciotta: And I think that's an accurate way of saying it. There is some of the view that's not represented there, but a large portion's being taken and that's what we were trying to represent here. Again, I commend the Board for being sensitive to that. I think, for good reason, there's a very stringent requirement in your ordinance here and, frankly, we just think more study is necessary. The Board has helped outline some viable alternatives here, and

we're very interested in working with the Board and the applicants and Mr. Koch -- he's obviously a talented architect -- to get to a compromise that works for everyone.

So thank you.

Chairman Collins: OK, thank you. I would say, too, just as a matter of procedure, one thing I would suggest, Buddy -- as you and I talked prior to the meeting today -- I think once we -- presuming if we have -- an alternative to this that I do think it would be useful for this board to make a special visit to look at the two side by side. For that, we would require access to the property in ways that are a little bit unusual relative to most of our site visits. I think that is something (cross-talk) ...

Building Inspector Minozzi: We can definitely arrange it with the applicant and the Rockwoods, the tenants to the east. I'm not exactly sure how it would've worked pre the next meeting because you would need to see the drawings. Unless you wanted to meet on-site with the drawings, is that what you're saying, Mr. Chairman?

Chairman Collins: Well, it is. I'm just thinking that this is a conversation that would be harder to have if we were doing this in July because the trees will start to bring leaves out, obviously, again. The next meeting is February 23, the meeting after that will be near the end of March, then we start to get into a period where this starts to become a little bit harder to gauge. As soon as possible I want to see what the alternatives are like at a time when the views of the river and the Palisades are most (cross-talk)

Village Attorney Whitehead: You said you already have the plans. So you can submit it pretty quickly?

Mr. Koch: We can e-mail it tomorrow. I could do it tonight, actually.

Chairman Collins: I think if we're set up to then have a site visit prior to the February 23 meeting. Obviously I would encourage, though I can't require it, that there be some accommodation, too, for the neighbors to have a discussion around this before that meeting.

Mr. Pisciotta: Can I just clarify one point? Which plan will you be e-mailing? We've heard a few different alternatives tonight. So are there one or two specific ones the Board wants to recommend?

Chairman Collins: The alternative plan we are requesting is one that would move the dining room to the west and push that mass over where the deck, or landing, is to be flush with the western-facing wall there. It would then move the mass away from the Rockwoods,

which will then open up the arc of the view by what we think will be somewhere in the neighborhood of 25 to 30 percent.

Mr. Pisciotta: May it make sense to have the applicant prepare a couple of alternatives just so the Board has some other things to consider instead of getting locked in on that one-person, this-one dichotomy?

Boardmember Anuszkiewicz: To your point, I think they did. And to your other point about the deck, I heard the applicant say they would be willing to look at possibly pulling the railing back or reconfiguring it. And those are going to have a dramatic impact on the view from the upper floor. If it's moved back, for example if this is cut back to here, it's going to do the same thing up above and the dining room will be down below. It's going to just pull that railing back.

The other thing is a small point, but during the summer months when people are on the deck the view is obstructed anyway by foliage. So during the winter months people are really not using the deck when you're concerned about your view. Now I know people leave furniture and stuff out so is still a concern, but it's a little mitigating factor in terms of when you can actually use a deck. You really can't use it in the winter the same way you can in summer.

Mr. Pisciotta: Right, absolutely.

Boardmember Anuszkiewicz: You're not going to be having parties out there or, you know, whatever in the months when you actually have your view.

Mr. Pisciotta: Sure. Just to take a step back, I think what you just said about stepping the deck back makes a lot of sense. To clarify, would you want the applicant to prepare an alternative that both steps back the deck and also makes the change to the first floor we've discussed?

Chairman Collins: Yes. That's OK with you? Yeah, OK. Does anyone else wish to be heard on the matter? Yes, please ma'am. Just introduce yourself and where you live.

Diane Flood Taylor, 75 Rosedale Avenue: While I am not personally affected as an adjacent property owner – as Peter and Fran, Lisa who owns Chelsea's building, and Tony and his wife who own their property nearby and are unable to be here – I've been following this matter on social media. It's occurred to me there are a few points I'd like to make, actually. I'm a lawyer, I'm also a broker. I worked with the Riolo office since 2004 and I know that as the taxes were being reassessed unquestionably all of us were telling any prospective buyers in town that taxes would not be what were reflected in all the closing

documents or any of the documents that were prepared as people were looking at properties and closing on properties. Everybody was well aware of the fact that taxes would be escalating. We'd advise people to speak with both the tax assessors in Greenburgh and Hastings. There were some rules of thumb.

While I feel badly, and I know a smaller property in town from the 1800s was likely under-assessed in the time you purchased the property, I find it difficult to believe that you weren't on notice that the taxes would increase as they do, and have. I have friends that live in the property at 4 West Main Street on the first floor, a family that actually has two children; one of whom is in high school and friends with my daughter. So I'm sitting here and listening, and I'm stretching my imagination to understand why it would be difficult a young family to live there when a young family has lived there for eight years with two children. I don't understand.

The taxes, yes, have increased and I feel badly for you that that's the case. But to then embark on construction to bump out the side and bump up, for an addition of some dining space and a stairway, to then reinforce a roof to have a deck, I'm not understanding it, frankly. I'd love to know what it costs to do all that versus the need you see to increase the possibility of a rental in a space that, at the moment, you live in one space, people live on the first floor with two children, and the third floor was being rented out as an Airbnb for several months without any kind of regulation or registration or taxes collected for Hastings or for Greenburgh. Maybe these are facts you're unaware of, but I certainly, as I sat here, could not take this microphone and bring them for your attention as you deliberate on whatever your final decision may be.

I appreciate your service, and thank you for this time.

Building Inspector Minozzi: Mr. Chairman, the Airbnb is a moot point at this juncture in time because though it was used as an Airbnb the owners have been notified that it was an illegal and the ad taken down the night they were notified.

Chairman Collins: That's good to know.

Mr. Arrow: Can I just make a point?

Chairman Collins: Please. Yeah, fine.

Mr. Arrow: Thank you very much, Diane. I did have a little forewarning because this has been, as she mentioned, all over social media which has been very fascinating to watch progress over the last month. We were notified, indeed, that there was going to be a

reassessment. Our understanding was that, net, it was going to be a flat sort of adjustment. So taxes weren't necessarily going up, they were being shifted. We simply were not aware of the magnitude. So yes, we had some dry powder to absorb. That, however, we weren't aware of the magnitude.

Chairman Collins: You know what? I appreciate that may be a matter of interest, especially in debating the full texture and depth and dimension of this project.

Mr. Arrow: Could I get this on the record, though, just because there has been so much on social media and I know this is posted to the Internet and people can watch?

Chairman Collins: Sure. I'll let you speak, Mr. Arrow, but let me just say for the record I need to be convinced, or someone needs to construct an argument for me, to have the tax reality and what you and your husband did or didn't know and when you did or didn't know it. I would need someone to persuade me of something that I'm not yet persuaded of, and that is that it has really any bearing on the case.

Mr. Arrow: OK. I know there's this notion of self-inflicted – help me out.

Chairman Collins: Yeah, you're on the right track. But that, by the way, doesn't apply for view preservation.

Mr. Arrow: OK, all right.

Chairman Collins: So you don't have to worry about that as a line of argument because it doesn't apply to your case right now.

Mr. Arrow: And I would just say, for a matter of the record, there's a difference between renting a space and then actually carrying the full cost of such a home as 4 West Main. There's a very big difference, and then one's willingness to live in a certain square footage is obviously very much informed by the amount of cash that's going out of one's pocket and the tradeoffs, the personal tradeoffs, that are made for that cash going out of the pocket. I just raise that to people's attention. Yeah, thank you.

Chairman Collins: All right, that's fine. I would ask that we bring an end to that line of questioning unless, for some reason, it becomes relevant to either view preservation or zoning. Does anyone else wish to be heard? OK.

Then we will adjourn this case until, hopefully, our February 23 meeting. But that will be noticed and will be at the discretion of the applicant.

Building Inspector Minozzi: Before you move on, can I just ask the applicant one question?

Chairman Collins: Yeah, of course.

Building Inspector Minozzi: Mitch, will you be able to prepare a meeting with side-by-side plans for this board to convene at the applicant's (cross-talk) ...

Village Attorney Whitehead: It's not a meeting.

Building Inspector Minozzi: I'm sorry, not a meeting, a site visit with the side-by-side comparisons in a relatively short amount of time?

Mr. Koch: How does next week sound?

Boardmember Anuszkiewicz: I could do it. Not Monday and not Wednesday, but I could do it.

Village Attorney Whitehead: Do you need ... do you want to go into the apartment, or just the first floor?

Chairman Collins: I actually would like to go to the third floor apartment and I would like to go to the backyard of the Rockwoods and to this window view when we've got something. But know that what I'd be looking for is a mockup that is as thorough as this one is so we could get a side by side. In fact, if you could do an overlay. You've been doing this, certainly, longer than I can even imagine so I'll leave it to you. On the presentation layer you're the expert. But I'll want to see something that allows us to compare.

Building Inspector Minozzi: And, Mitch, we couldn't do it all at one time with the rules and regulations. So we would have to split it up, some of the Board at one time ...

Village Attorney Whitehead: Well, they can if they're just observing. They can't talk about it. I don't know if the Board can all do it at one time. I know everybody's schedules are probably not ...

Mr. Koch: Who would I coordinate this with?

Building Inspector Minozzi: Me.

Village Attorney Whitehead: Buddy. And for the Rockwoods should we push that he coordinate with – for getting into the site – your attorney, or you directly?

Mr. Koch: Peter.

Village Attorney Whitehead: OK, with Peter directly.

Chairman Collins: Fine. So let the record reflect that we'll deal directly with Peter on that one, right?

Building Inspector Minozzi: OK, thank you.

Chairman Collins: All right, thank you everybody. Really appreciate it, thank you.

Ladies and gentlemen, I'm sorry. We're still in session. If you could take you conversation outside, please, thank you. Thank you, guys.

APPOINTMENT OF NEW CHAIRMAN

Chairman Collins: Why don't we go to the minutes for the December meeting. I submitted my comments to Buddy. I think the most egregious error I saw there was that the former chairman of the Planning Board somehow got into our meeting in December. I didn't see him, but that was remarkable.

Boardmember Forbes-Watkins: I thought that was quite nice.

Village Attorney Whitehead: (Cross-talk) on a chair?

Building Inspector Minozzi: Oh, yes. Omigod, I forgot all about it.

Village Attorney Whitehead: You were supposed to vote on a chair tonight.

Chairman Collins: Yeah, Chairman Cameron.

Boardmember Forbes-Watkins: Chairman Cameron.

Chairman Collins: Chairman Cameron was in our meeting in December.

Village Attorney Whitehead: Wow, I missed that.

Chairman Collins: Did you miss that? It's like where's Waldo.

Building Inspector Minozzi: You're supposed to vote tonight on a chair for this board.

Chairman Collins: Can we do that?

Village Attorney Whitehead: Yes.

Chairman Collins: All right, how does that work?

Village Attorney Whitehead: Someone nominates someone, you make a motion and you vote. You elect your own chair.

Boardmember Forbes-Watkins: Yeah, but when did we have to change? I mean, I've been around for eight years.

Chairman Collins: We did this last year.

Building Inspector Minozzi: You don't have to change.

Boardmember Forbes-Watkins: You weren't voted on last year.

Chairman Collins: No, I've been chair for a couple years.

Village Attorney Whitehead: But you did vote.

Chairman Collins: We did this a year ago.

Boardmember Forbes-Watkins: Are you still good enough to continue?

Chairman Collins: I'm fit enough to continue. I am the fittest chairman that this board has ever seen.

Boardmember Leaf: That might be true.

Village Attorney Whitehead: Wow, I wouldn't let all the former chairs hear that.

Chairman Collins: Sorry, I had to indulge that. You gave me a great opening. But I would be interested in retaining.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuszkiewicz with a voice vote of all in favor, the Board resolved the continuation of current chairmanship.

Village Attorney Whitehead: You win. You won both the popular and the electoral.

Building Inspector Minozzi: OK, now we can do the minutes.

APPROVAL OF MINUTES

Regular Meeting of December 8, 2016

Chairman Collins: I sent over my redline about former Chairman Cameron making it into our meeting. Anyone else have any remarks on the minutes?

Boardmember Leaf: I wasn't here so I just abstain.

Boardmember Forbes-Watkins: I have one very simple comment.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuszkiewicz with a voice vote of all in favor, with the abstention of Boardmember Leaf, the Minutes of the Regular Meeting of December 8, 2016 were approved as amended.

ANNOUNCEMENTS

Next Meeting Date - February 23, 2017

Boardmember Leaf: Just for you planning purposes, I can't be here February 23.