

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
OCTOBER 19, 2017**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, October 19, 2017 at 8:15 p.m. in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

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

I. ROLL CALL

II. APPROVAL OF MINUTES

Meeting of September 28, 2017

Chairperson Sullivan: We have minutes from last month, September 28th's meeting, 2017. Are there any comments on them?

Boardmember Bass: Yes. On the first page, where at the bottom it says "*Chairman Collins.*"

Village Attorney Whitehead: They do that all the time.

Chairperson Sullivan: Mr. Collins was not here, but thank you.

Village Attorney Whitehead: Mr. Collins chairs a different board.

Boardmember Bass: And then a picayune. On page 41, in my second paragraph at the bottom, fourth line near the right, where it says, "*What's there now then becomes a wall.*" Actually, that's OK. Leave that, I take it back.

Chairperson Sullivan: OK. Any other comments? I have some and my PDF is not showing them to me, but I'll tell you the significant one. Richard spoke, and it was attributed to the architect that was presenting. Let me find out where that was. Mary Ellen, I may just give this to you after the meeting. Unfortunately, it's not showing up, but there were one or two small things like that that I can add.

But the most significant one is the 10 West Main. The vote was noted as unanimously in favor of passing it on and I actually dissented, so that needs to be corrected.

Boardmember O'Reilly: I was not here.

Village Attorney Whitehead: Jamie wasn't here either.

Boardmember Cameron: You don't have enough people.

Boardmember O'Reilly: I was not here.

Boardmember Cameron: And I wasn't here. We could approve it, but it would be meaningless.

III. NEW PUBLIC HEARINGS

None

IV. OLD PUBLIC HEARINGS

Subdivision, View Preservation Advisory and Steep Slopes Approval – Application of Dean & Marie Wetherell, as per Village Code Sections 295-120, 295-82 and 249-4, for the creation of two nonconforming lots and a new proposed single-family dwelling on their property at 196 Warburton Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.130-139-17 & 18 on the Village Tax Maps.

Chairperson Sullivan: I need to apologize to Mr. Cleary. I was not able to attend your meetings. My request to come on Monday was in my "draft" box when I found it on Wednesday, so I apologize. But since the last meeting we had an opportunity – and I hope people took advantage of it – to go to the neighbor's site for view preservation.

Subdivision, we have some things to discuss and also for steep slopes. So I thought we would maybe start with view preservation, if that makes sense, just because we could maybe hear what people's comments were from having gone to the property, and then talk about steep slopes and then subdivision. Does that order make sense?

If you wouldn't mind doing the presentation, that'd be great.

Tomasz Lopinski, project architect: I'm just going to repeat what I stated last time: that we believe our project doesn't create an impact to the river view of surrounding neighbors, to views from the applicant, and above the Aqueduct. We're really leading up to a Planning Board judgment of what you have seen on the property.

Chairperson Sullivan: So do you have any photographs to show, that you took, or anything? That would be helpful.

Mr. Lopinski: I created this map with the viewpoints. There's five of them and we superimposed the mass of the building into the photographs from those points so we can see what they would look like.

Chairperson Sullivan: Did you take any photographs from the neighbor's yard?

Mr. Lopinski: Yes.

Chairperson Sullivan: OK.

Mr. Lopinski: So here is the photograph. The first one, on top, is the photograph from the corner of the house where Mr. Cleary has a window. He mentioned that may be some impact, but we believe there's no impact; he still has a river view right there. The bottom photograph is the view from the secondary upper patio. Also, there's a house superimposed with an outline.

Building Inspector Minozzi: It doesn't show on that screen.

Village Attorney Whitehead: Yes, it does.

Building Inspector Minozzi: Yeah?

Boardmember Cameron: We can see it.

Mr. Lopinski: There's the corner house, here's the wall of the house. Here is the west-north corner of the house, the post that's open, and the solid wall starts here at this line. Here is the wall of the house with a roof.

Chairperson Sullivan: One comment I have, the elevation of this side of the house right now you have a very steep gable and a gable springing from, I believe, the second floor,

correct, of the roof of the house? It's springing from the second floor line? Because it's not springing from the top plate.

Mr. Lopinski: It's not doing what? – I'm sorry.

Chairperson Sullivan: The gable of the house is springing from the second floor line, not a top plate.

Mr. Lopinski: Yes.

Chairperson Sullivan: When you look at it, you don't have a full wall and then the gable springing from the top of the wall. It's springing from the top of the first floor.

Mr. Lopinski: I'm a little confused. I'm not sure ...

Chairperson Sullivan: Maybe if we look at one of your drawings. OK, there you go.

Mr. Lopinski: This is the elevation.

Chairperson Sullivan: So the spring point of the main gable is from what point?

Mr. Lopinski: From the point of where the column is.

Chairperson Sullivan: Right. But is that at the floor level? How high is it above the second floor?

Mr. Lopinski: How high above the second floor?

Chairperson Sullivan: Yes.

Mr. Lopinski: Probably about 13, 14 feet.

Chairperson Sullivan: No, where it springs from, where it touches. It doesn't spring from a top plate because it's like a half-story.

Mr. Lopinski: Yes.

Chairperson Sullivan: OK. So where does it hit? What elevation does that roof start?

Mr. Lopinski: It probably starts at around 95, 95-1/2.

Chairperson Sullivan: So it's about a foot-and-a-half above the second floor, right?

Mr. Lopinski: Yes.

Chairperson Sullivan: What you're showing in your second floor, right now you have a dormer on the side which is over, I think, a master bedroom of some type, a master bath. But I believe you have, on the room that faces the front of the house, a bedroom. You're showing a bed up against this wall, which is a foot-and-a-half. So I believe you're going to need a dormer – extend that dormer – to make that room usable. And the reason I mention that is, that changes somewhat that edge of the house from the viewpoint of the neighbor.

Mr. Lopinski: No, I don't think so. I looked at it, and ... hold on, let me go to my front elevation.

Chairperson Sullivan: Look at the floor plan of the second floor. So when you zoom in on the top right.

Mr. Lopinski: Right? So it's probably about 4 to 5 feet inside. It's not that low inside of the building. It's about 5-10, 5-11 tall, so you can see the ...

Chairperson Sullivan: Can you zoom in on the elevation to point out where the floor levels are? Because I couldn't find the floor levels on the elevations.

Mr. Lopinski: (Off-mic).

Chairperson Sullivan: I just want to clarify this because it could impact what size wall is facing the north.

Mr. Lopinski: So, again, I have probably 13 feet inside, and about ...

Chairperson Sullivan: No, I understand.

Mr. Lopinski: ... 4 to 5 feet at the new wall.

Chairperson Sullivan: Can you pull up the elevation below so we can see it on the front? Can you show us where the second floor is on the front elevation.

Mr. Lopinski: Say again? – I'm sorry.

Chairperson Sullivan: Can you show us where the second floor is on the front elevation?

Village Attorney Whitehead: Where the balcony is.

Mr. Lopinski: It's right here, where the balcony ...

Boardmember Cameron: So how high is the fence?

Chairperson Sullivan: Railing?

Boardmember Cameron: Rail – 42 inches?

Mr. Lopinski: No, 36 inches.

Boardmember Cameron: So it's 3 feet.

Chairperson Sullivan: So 3 feet at the edges of the room, that room.

Mr. Lopinski: Right. Well, not really 3 feet. It could be a little higher than that. Again, this is still in a schematic phase, schematic design. Maybe some details were not worked out yet, but I still have time to work this out.

Chairperson Sullivan: You have a headboard of a bed against a 3-foot high wall, and my point is that at the end of the day that's going to get raised up and be a dormer, potentially, just like it is over the master bathroom. The only issue I mention is that that wall then becomes a little bit taller. And that's fine, but if that's the case that impact needs to be looked at from the neighbor's yard.

Mr. Lopinski: But we're not proposing a dormer there.

Chairperson Sullivan: I know. I'm just saying I think you're going to end up with one to make that room usable. Nonetheless ... all right, what's your suggestion?

Boardmember Cameron: I was going to let the rest of us speak for comments on view preservation.

Chairperson Sullivan: Yes, I was going to head that direction. Do you want to go ahead, Jamie?

Boardmember Cameron: Well, I don't need to go first.

Boardmember O'Reilly: I went to the site and looked at it. I mean, if you're asking me my opinion on the impact on view I think it's minimal from looking inside the house to the left side, which is what I think was of concern to the tenants of the place next door. I see minimal impact as far as view preservation is concerned: none from the rear no the Aqueduct, and I see no concern as far as that goes.

Where there is a possibility that they're looking to the left when they're in their living room looking to the left and across to the property, there's two evergreens in there.

Boardmember Cameron: Two cedars.

Boardmember O'Reilly: Two cedars which sit there, and they're going to stay there. I see no impact as far as ... minimal impact is the only way I can describe it; very minimal impact on view preservation.

Chairperson Sullivan: Thank you. Jamie, do you want to go?

Boardmember Cameron: Yes, I had the same reaction. Could you go back to that first picture you showed – the picture from the back corner of your neighbor's building – where you're looking there? In the top picture, that left-hand tree which is up against the building – the vertical line in the building – those trees just beyond it are two evergreens. So unless you're seeing an opportunity for a view farther to the south I think the tree is going to cut out anything you might see up to that point. The other trees lose their leaves in the wintertime, but those two evergreens I think are going to nullify any effect the house could have on someone's view looking at the Palisades above the water. So that was my reaction.

Chairperson Sullivan: Thank you. Eva?

Boardmember Alligood: Yes, I viewed it too, and I think it's unfortunate the neighbors would prefer not to have a wall next to their property. But now that it's been subdivided the way it has been, I think it's a buildable house. And I don't see a significant view impact either.

Chairperson Sullivan: Richard?

Boardmember Bass: I concur. I didn't see any view impact.

Chairperson Sullivan: OK. I think we'll maybe walk through all the conversations and then open it up for public comment. I thank you for taking the photographs and having them available.

Village Attorney Whitehead: Could you submit these, because these are not in the record. These were not submitted so we need to have them submitted so they're in the record.

Chairperson Sullivan: Thank you.

OK, next up I'd like to discuss steep slopes. We got some revised drawings from the conversation you guys had with the Zoning Board.

Paul Petretti, civil engineer: Good evening. I think the last time I appeared before you, you asked me to put those elevations together.

Could you go to the end? Right from the beginning, we decided we were going to design a house that would fit on the lot. The house we wanted to bring before the Board, it was kind of agreed that was a good idea. I think we've established that we're not going up the slope; we're utilizing as little of the property as possible. Also, the grades are not going to change; we're not going to change the grades. On the north side, there's no change in grade whatsoever. On the south side there is a little bit of a change in grade over here – just a flattening of the grade out to the street line – and that's there to accommodate the cover of a drain line that's being brought about the house.

We've tried to set the house back as far as we can due to statutory limit and use as little of that back slope as possible. The little bit of disturbance is here just for the work activity, and the limited disturbance of anything that's going to be built is about 8-foot-something behind the house. I think we've done the best we can to not disturb the slope.

Chairperson Sullivan: Do you want to bring up the plan to walk us through the area of the slopes and the different levels, and what you're disturbing and what you're leaving ... restoring?

Mr. Petretti: What we have here, left is the original grades in the topo. On the right is where the house is superimposed. Here's the slope categories: zero to 15, 15 to 25, and greater than 25.

Mr. Lopinski: I'm going to switch the table, yes? You want this?

Mr. Petretti: Why don't you go back. We'll go to the table in a minute.

Here we have the area that's being utilized for the house, and those are the footprints of the slope categories. Then here's our chart.

Chairperson Sullivan: And the orange describes what?

Mr. Petretti: This is the 15 to 25 and this is the zero to 15, and up there is in excess of 25.

Village Attorney Whitehead: But the orange is just the disturbance area.

Mr. Petretti: Yes.

Chairperson Sullivan: Thank you.

Village Attorney Whitehead: Any time.

Mr. Petretti: This is the disturbance area.

Chairperson Sullivan: All right. Your table, if you want to zoom in on that for a second, I just want to make a comment about it. What you've done is taken the lot – now it's 10 thousand-and-change square feet – and you broke it up into the three different categories. Buddy, correct me, and Linda jump in if I'm wrong. Typically we take the percentage – say the 19-13 for the 15 to 25 – then you can disturb 35 percent of the amount of that particular slope and 25 percent of the amount of the greater-than-25 slope. It looks like you haven't calculated what that number is.

I did the math, and it looks like if you have the 19-13 the amount of slope you can disturb is 669 square feet. Then the amount of the greater than 25 percent you can disturb is 15-hundred and change. So in that case, I believe you're over on the 15- to 25 percent and you are complying with the over 25 percent. That's just a point for us, if my math is correct. You know, looking at that first steep slopes category, are there any ways to minimize the disturbance since it appears to be over our threshold? It's not that you can't disturb it, it's just sometimes you look to mitigate that. So does that math make sense?

Mr. Petretti: I'll check it right now because I'm not sure (off-mic).

Chairperson Sullivan: You take the 19-13, which is the amount of the 15- to 25 percent slope they have and you get to disturb 35 percent of it at most, or least. I shouldn't say "most," but higher.

Village Attorney Whitehead: You also have to look at ... because, Buddy, we've now sort of refined what "disturbed" means ...

Building Inspector Minozzi: Right.

Village Attorney Whitehead: ... in terms of calculating that. It doesn't include areas where the vegetation is temporarily disturbed.

Building Inspector Minozzi: Permanently disturbed.

Village Attorney Whitehead: Right, it doesn't include temporary disturbance. We've clarified that just in the last month or two on our review of the code.

Chairperson Sullivan: Right. And the north side, in case there's an area where there's a fair amount of that, 15- to 25 percent. And if it's not really being disturbed and being brought back, then that can be taken out of the calculation. So I guess the point is, this needs to be looked at.

Mr. Petretti: OK.

Chairperson Sullivan: But that's the approach of the code is to look at the percentages of each category.

Village Attorney Whitehead: It counts if it's developed, paved or re-graded. But if it's just being stripped of vegetation, and there's soil erosion measures in place, it doesn't count.

Mr. Lopinski: If you go back to the drawing ... so none of this area over here is going to be re-graded. The tree will be taken down. If you go back to the elevation view, that's why I had gone through this. On the north side I'm not changing the grade.

Chairperson Sullivan: I want to suggest you use the mic. It's a very good pointer, but ...

Mr. Petretti: All right. So on the south there's some ... on the north I'm not changing the grade. The existing grade and the proposed grade are the same. I remember we had a discussion about that and that was brought to my attention that if you're going to mess around when you build a house, but you're not going to substantially change the grade – you're going to put lawn back – really, in your code, you've refined it.

Village Attorney Whitehead: It doesn't count towards that percentage.

Mr. Petretti: OK.

Chairperson Sullivan: If you do the protection.

Village Attorney Whitehead: Yes.

Building Inspector Minozzi: The chair is right: you're only allowed to disturb 478 square feet and that's not (off-mic).

Village Attorney Whitehead: But the code says the Board can grant a hardship exception on those percentages if the lot cannot be developed without disturbing more than the percentage limits.

Chairperson Sullivan: Correct.

Village Attorney Whitehead: So I think that's what you need to ...

Chairperson Sullivan: Yes, we need to just tighten up the numbers, make sure we're counting the right stuff, and then see where we land.

Mr. Petretti: OK.

Chairperson Sullivan: But that's just a comment, it doesn't mean we don't proceed and hear more about what you're doing. Thank you.

Mr. Petretti: So let's go back to the picture. You've got to build a house, you've got to put the draw in so that's going to be disturbed. We're disturbing about as minimum as you can, we're way below on the coverage, and we're way below on the development coverage as well as the building coverage for this particular lot.

Chairperson Sullivan: For us, in steep slopes, that's good news. But we don't take that into account.

Mr. Petretti: We're using the smallest footprint we possibly can of all the steep slope areas.

Village Attorney Whitehead: That's a question, really, again, if you're going over the percentage of what the Board has to look at is, is this a lot that couldn't be developed if you stuck to that percentage. I think because of where the steep slopes are ...

Chairperson Sullivan: I think that's something we'll need to see, but it's a difficult site to build on without touching steep slopes.

One thing in your grading plan that's very confusing is the fact that ... and this is the grading development plan, not here in the steep slopes. But I don't have the page in front of me, this one. What is difficult is, you have the existing remaining underneath the plan itself so it's hard to understand when you talk about not needing to do some re-grading on the south side to even see where that is.

And it's also difficult to understand what you're demolishing and removing from the site when it still remains. We just need to, I think, see that more clearly at some point. But if you could just explain what grades are being modified.

Mr. Petretti: This is a 75 contour, and this is a little bit of a dish. So that's 75, 74, 73; the bottom's about 72.50. In the profile you would see that we're filling in to get the driveway into the house; we're filling in front of the house right here. These grades are not going to be altered.

Chairperson Sullivan: Right.

Mr. Petretti: Not going to touch them. Otherwise, if we re-graded in that area then we'd be falling out of that definition.

Chairperson Sullivan: Understood.

Mr. Petretti: Over here we are bringing the grade up at the corner of the house a little bit because there's a drain line coming down here and a retaining wall in here. It's a low retaining wall. So this 75 contour, this contour, is going to pretty much remain the same. If you go to the profile you'll see the same thing: I kept it flat through here, I just brought the grade from there to there, to 75. There's not a lot of real re-grading in here except for the fact that you've got to put the drain line in there.

Chairperson Sullivan: So how are you showing that in your grading plan? Because you have the 75 contour running into the house up by that existing retaining wall. Where is the 75 coming out at the corner?

Mr. Petretti: Here's the 75.

Chairperson Sullivan: Right.

Mr. Petretti: I can't see that. If you went to the profile ...

Chairperson Sullivan: No, let's stay with the plan just because this needs to show what you're changing.

Mr. Petretti: All right, so the garage floor is fixed at about 75.5 and this grade is going to remain the same. This area from here to here is going to get filled.

Chairperson Sullivan: Right.

Mr. Petretti: That's going to get filled and that's it. Then this grade in here is going to pretty much remain the same.

Chairperson Sullivan: We need to see those grades. So next time this comes up ...

Mr. Petretti: I did it with spot elevations, I didn't do it with contours.

Chairperson Sullivan: If you could do it with contours because the spot elevations – given we have new and existing on top of each other – it's difficult to understand.

Mr. Petretti: We can do that.

Chairperson Sullivan: Thank you. That would be helpful.

Mr. Petretti: That's it.

Chairperson Sullivan: OK, any questions? Richard?

Boardmember Bass: I'm good.

Chairperson Sullivan: Eva, any questions about steep slopes?

Boardmember Alligood: No.

Chairperson Sullivan: Bill?

Boardmember O'Reilly: No.

Chairperson Sullivan: Jamie?

\

Boardmember Cameron: No.

Chairperson Sullivan: I have one more comment, just something to think about. The back terrace off the house, it looks like it's 3 or 4 feet below grade, the existing grade? I think you should rethink that in the sense that it almost looks like you're creating a very good place for runoff from that very steep hill to go into. And I don't know – given when you look at your sections through the house and through that slope you're creating just a swimming pool actually, potentially – if that's the best thing to do in this type of site.

Mr. Petretti: Well, I design a lot of retaining walls in my practice. What I'm going to be doing here is putting in substantial drainage around the building. Personally, as an engineer, I'm not concerned with it. I understand your comment: it's going up the hill, and I'm pretty sure I could deal with it. I have no problem.

Chairperson Sullivan: I'm more concerned about it coming in over the top of that wall.

Mr. Petretti: If you put a good filter fabric behind it and fill it with 1-1/2 inch gravel it's going to do down, then I'll have a drain at the bottom of the wall.

Chairperson Sullivan: Well, maybe we see that and we can ask our engineer to take a look at it. I just mean that as a sense that this is coming from my concern being it's such a steep slope.

I think one other thing we'll need for steep slopes is the requirement for a landscape plan. I don't know if you've looked into that at all because it often talks about showing where retaining walls and things are at. So take a look at that and see what you can provide for us.

The next topic is subdivision, which I don't know which plan you want to refer to.

Mr. Petretti: Go to the subdivision. That's the plat. We are showing the setbacks for the house on the subdivision plat. We don't always do that, but in this particular case we're doing it.

Chairperson Sullivan: What are we looking at here? This is existing?

Mr. Petretti: This is just a plat, just the lots.

Village Attorney Whitehead: It's on a survey base, which is the existing. You don't show the proposed on the plat.

Chairperson Sullivan: The proposed house.

Mr. Petretti: No.

Chairperson Sullivan: But you show the driveway you're proposing and the curbcuts?

Village Attorney Whitehead: That goes on improvement plans, not on the actual plat that gets filed.

Chairperson Sullivan: So you show the existing stairs and walls and things like that?

Village Attorney Whitehead: It's survey-based.

Mr. Petretti: What I'm showing here is the front, side setback to side setback. I'm not showing the rear setback because I'm setting the limits of disturbance on here. In lieu of setting the line all the way up to the top side lines, I think that's the best way to go about it. This way, the subdivision confines the footprint of disturbance, and that's a filed map so it's in the record.

Chairperson Sullivan: Why would we want the limits of disturbance on a subdivision plan?

Village Attorney Whitehead: It doesn't hurt.

Chairperson Sullivan: I'm confused.

Village Attorney Whitehead: Then it's public record for somebody to know in the future.

Mr. Petretti: Don't go up-down. That's what it says: stay away.

Chairperson Sullivan: I'm sorry because we did do a subdivision, but when I looked at the requirements – which are in the back of the code – for the preliminary plat and then the final plat it says, "*existing structures, existing streets, proposed arrangements of lot, site sketch,*" and I thought it mentioned topography, topographic data.

Village Attorney Whitehead: Well, it doesn't on the filed map. It goes on the plans you get with it, which you have.

Chairperson Sullivan: Right, but this is a preliminary plat line requirement.

Village Attorney Whitehead: Typically with a subdivision you get different documents. You get the actual plat, what's going to be filed in the county clerk's office, then you get the improvement plans that go with it.

Chairperson Sullivan: The construction plans.

Village Attorney Whitehead: And those show the topo and such, and show how the house can be built, the drainage.

Chairperson Sullivan: So what we are seeing now is the beginning of the plat.

Village Attorney Whitehead: That's what will be filed in the county clerk's office that creates the lot.

Chairperson Sullivan: And when we did the Farragut project, why did we have the driveway on the plat? Is that the final plat?

Village Attorney Whitehead: I wasn't here when you did the Farragut Parkway project.

Building Inspector Minozzi: The driveway on the Farragut Parkway project was the existing driveway on the plat.

Village Attorney Whitehead: And if there was an easement being provided you would show easements. There's no easements here.

Chairperson Sullivan: No, no, this is the one we're going to talk about with the extension on later today.

Village Attorney Whitehead: Oh, the plat itself doesn't show the driveway; we made them give us a plan.

Chairperson Sullivan: OK.

Village Attorney Whitehead: Sorry, I didn't know which Farragut project you were talking about. Originally they were talking about using the existing and having an easement. We told them they would have to show the easement, then they decided not to do that.

Chairperson Sullivan: Gotcha, OK. So this is the plat, then we will get improvement drawings ...

Village Attorney Whitehead: You have them. They're part of it – the steep slopes drawings – so you don't have to repeat. It's all one package.

Chairperson Sullivan: OK. Any comments on the subdivision, Richard?

Boardmember Bass: No.

Chairperson Sullivan: Eva?

Boardmember Alligood: No.

Chairperson Sullivan: Jamie?

Boardmember Cameron: No.

Chairperson Sullivan: Bill?

Boardmember O'Reilly: Nor do I, no.

Chairperson Sullivan: My question was – and this was one lot, not a big subdivision – we have some drainage that's fairly significant to have in place for it to be a buildable lot. And we have a need to understand how the driveway will go through a retaining wall onto Warburton. Is there any concerns about having that in place or making sure that's in place? I mean, we know this is intended to go into construction – or that's what we've been told – but that plans could change. Is there any ...

Village Attorney Whitehead: Well, it's part of your steep slopes approval. Your steep slopes approval is specific to the stormwater management plan that's shown as part of that. Remember, a big part of your steep slopes approval is drainage.

Mr. Petretti: I filed a lot of maps, and I'm very selective about what I show and don't show.

Chairperson Sullivan: Good.

Mr. Petretti: We don't want to show too much. We have the construction plans, we have the steep slope, but then I did elect to show the drain line that's going to be installed because it's ...

Village Attorney Whitehead: Significant.

Mr. Petretti: You know, there's water coming down so there's some kind of right of passage of the water over it. I'm putting in a drain line and I'm collecting it, so to not show it would not be good.

Village Attorney Whitehead: Because there's stormwater coming from off-site.

Mr. Petretti: You know, there's some kind of right there of passage of water overland. So show the drain line.

Chairperson Sullivan: OK, thank you for the education, both of you. I appreciate it. I was just concerned because I know it's very important. So OK, I have no more comments.

If the Board's done, we can take public comment. Anyone like to speak to this application on any of the three topics that we've discussed?

Daniel Cleary, 200 Warburton Avenue: Hi, I'm to the north of the proposed development. We believe this environment will affect us economically in terms of the value of our property and will affect our lifestyle. And although the view from view preservation terms definitely is minimal from our actual home at the time, we believe it's more significant from the back of the property.

However, we do wish to thank the Board for coming to us and visiting our home, and giving us our chance to air our concerns. We'll respect the decision you reach. Thank you.

Chairperson Sullivan: Thank you very much.

Boardmember Cameron: I would just say that when you get there and sit on your property it's very nice to have this forest next to you. I understand how wonderful it is but, unfortunately, if the person next to you has property rights and they have enough to build a house – and they are at least the side requirement away from your property line – they actually have the right to build a house. Even though I commiserate with you and feel sad, you can't have a nice piece of property where you and your wife can enjoy, if you call it nature ...

Mr. Cleary: Yeah, I think also in terms of the secondary effects, as well. From where the proposed driveway is there's a car or something in there that obstructs the view. That certainly affects us, as well, but thank you for your time.

Chairperson Sullivan: Anyone else?

So what should we do? We have view preservation, one thing to discuss. Steep slopes, I think we need some more information to finalize, which is just getting the numbers worked out with Buddy and understanding what that might mean. And the subdivision. We can, I think, make a decision whether to move into the next phase, which is doing the final plat.

Boardmember Bass: I'd like to make a motion for discussion to approve all three items with the contingency that they revise their calculations. I'm not troubled by the application or the proposed development. I would like, as you pointed out, that the correct information is filed. But I don't think that's going to sway my decision one way or the other. I think it's a well thought out development, and I'd like to move this forward.

Chairperson Sullivan: I'd like to come up with some ways ... well, we have SEQRA, sadly, to address, which is something ...

Village Attorney Whitehead: You circulated your notice at the last meeting. Because your meeting was late you haven't had 30 days. So unfortunately ...

Chairperson Sullivan: Yes, we have to make sure we cover that topic and then ...

Village Attorney Whitehead: You could certainly do a view preservation and let them go up to the Zoning Board next week on view preservation. That doesn't need SEQRA.

Chairperson Sullivan: Then that would be done with. Then when they come back, we could complete the other items: the SEQRA, steep slopes, and the subdivision.

Village Attorney Whitehead: Yes.

Boardmember Cameron: I'd be in favor of that.

Chairperson Sullivan: All right, so that's the game plan.

Village Attorney Whitehead: So you'd make a motion on the view preservation.

Chairperson Sullivan: May I have a motion to send off an advisory on view preservation, as shown in the drawings we saw today?

On MOTION of Boardmember Bass, SECONDED by Boardmember O'Reilly, with a voice vote of all in favor the Board resolved to approve the view preservation advisory for the application of Dean & Marie Wetherell for the creation of two nonconforming lots and a new

proposed single-family dwelling on their property at 196 Warburton Avenue.

Chairperson Sullivan: Then we'll see you ...

Village Attorney Whitehead: You should have to come back one more time just to finish up the steep slopes, subdivision, and SEQRA.

Mr. Lopinski: Thank you.

Chairperson Sullivan: Thank you very much.

Next up is discussion items.

V. DISCUSSION ITEMS

1. [Request for Retroactive 90-Day Extension to Conditional Subdivision Approval – Application of The Admiral Farragut Memorial Building Association of Hastings-on-Hudson, Inc.](#) pursuant to the provisions of Section 295-120, for their property located on Farragut Avenue (aka 215 Farragut Avenue). Said property is in R-10 Zoning district and is known as 4.110-103-4&12 on the Village Tax Maps.

Village Attorney Whitehead: You approved this subdivision, I believe, in March. They don't have their health department approval yet and such, which is needed. It's always a conditional subdivision approval subject to them getting health department approval, et cetera.

Chairperson Sullivan: Correct.

Village Attorney Whitehead: I pointed out to them that conditional subdivision approval's only good for 180 days, and then it can be extended 90 days at a time. They have submitted a retroactive request for an extension, which you can grant.

Boardmember Cameron: So we can't give them 180 days?

Village Attorney Whitehead: They're not going to need it.

Boardmember Cameron: OK.

Village Attorney Whitehead: You can only give them 90 at a time, technically. It's the enabling statute, the Village law. It's not even your code; it's Village law.

Chairperson Sullivan: Any discussion on this topic?

Boardmember Cameron: No.

Chairperson Sullivan: So do we vote?

Village Attorney Whitehead: Just make a motion to grant a 90-day extension.

Chairperson Sullivan: May I have a motion to grant a 90-day extension for approval for Admiral/Farragut?

On MOTION of Boardmember Cameron, SECONDED by Bill O'Reilly, with a voice vote of all in favor the Board resolved to grant a retroactive 90-day extension to the conditional subdivision approval for the application of The Admiral Farragut Memorial Building Association of Hastings-on-Hudson, Inc., for their property located on Farragut Avenue.

Chairperson Sullivan: Slam dunk.

2. [Proposed Local Law C of 2017 – Amendment to Chapter 295 of the Zoning Code to add provisions relating to roof-mounted solar panels.](#)

Village Attorney Whitehead: Do you want me to give background on this?

Chairperson Sullivan: Absolutely. Please do.

Building Inspector Minozzi: I need some more time to write.

Village Attorney Whitehead: The Board of Trustees, as you know, are very supportive of installation of solar. They want to see solar in the Village. They want to make sure it's not an expensive, overly-lengthy process because the cost is already high and it just adds to the cost. Kathy, I know you had mentioned the model law. Actually, most of what I did here

came sort of out of the model law.

Chairperson Sullivan: Excellent. No better place for it to come from.

Village Attorney Whitehead: This model law covers a lot more. The Board, at this time, really just wanted to address the issue of roof-mounted solar panels because that's most of what you're seeing in the Village. You're not going to see a large-scale solar farm; you're not seeing a lot of ground-mounted. You're seeing primarily roof-mounted. I think Buddy has been treating them as a permitted accessory use, but we felt it was better to make very clear that in all zones in the Village roof-mounted solar panels are a permitted accessory use. We've defined them, which I kind of combined two different things because the model code breaks it into like six different definitions.

Chairperson Sullivan: Well, they cover different types.

Village Attorney Whitehead: Then exempt them from the need for site plan approval, which is also out of the model law.

Chairperson Sullivan: Right.

Village Attorney Whitehead: In this case, they were also looking to exempt them from view preservation. They still need building permits, they still have to comply with zoning, all those other things.

Chairperson Sullivan: Where do they have the view preservation? I missed that.

Village Attorney Whitehead: It's section six of the level which amends the view preservation district to add a new subsection E. It says, *"Notwithstanding the requirements of subsection C above, view preservation approval shall not be required for the erection of roof-mounted solar panels."*

Boardmember O'Reilly: Linda, would that include the situation we had on Ridge Street on flat roofs?

Village Attorney Whitehead: Yes.

Boardmember O'Reilly: So there would be no opportunity to object to flat roof solar panels, no matter what?

Village Attorney Whitehead: That's what's proposed right now.

Boardmember O'Reilly: Yes, I question that.

Chairperson Sullivan: I'm going to give a bit of background, if I may. I was fortunate, I went to this land use leadership seminar which focused in on the ...

Village Attorney Whitehead: I'm doing the current one, which is on affordable housing.

Chairperson Sullivan: What was interesting about this is that there were a number of people from different parts of the county that were participating. Many people don't have view preservation regulations ...

Village Attorney Whitehead: Most.

Chairperson Sullivan: Most, and they were very concerned about not being able to have a say in certain types of installation. Now with single-family homes, they're probably concerned. But things like what we saw at Ridge – where there were combinations, or in certain districts in our view preservation – I would not want to give up the ability to be able to comment on it at certain points. But I think the missing link – and Richard brought this up, we got a comment from Ned Baldwin – what's in the model code was some kind of parameter that you can say that's what we've agreed upon.

I know the 18 inches, some people had suggested less for how high these things could project. That may be the 18. It's hopefully linked to the installation of these things, technically, as making them effective. But I think we should really look at that.

Village Attorney Whitehead: You can certainly make a recommendation to the Board of Trustees that you would recommend the exemption from view preservation only applies if the panels are no greater than 18 inches above the roof elevation, something along those lines.

Chairperson Sullivan: Maybe look to what this model code had.

Village Attorney Whitehead: The model code doesn't because it doesn't anticipate view preservation.

Boardmember Cameron: Right.

Chairperson Sullivan: What I meant to say is, they had what they called an "aesthetic parameter" of 18 inches.

Boardmember Cameron: You could run into a certain amount of problems. I was just up in Burlington a few weeks ago, and up at Shelburne Farms they have all these panels. And of course they have one of these panels that stands on a pedestal and rotates for the sun. I could see something like that on top of 45 Main Street, which would not be popular in anybody's thinking.

Village Attorney Whitehead: Still has to meet the maximum height under zoning. So it couldn't stick up above the maximum height under zoning.

Chairperson Sullivan: But that was a problem, I think, of certain projects where they've been significantly under the approved height but could come in without ...

Village Attorney Whitehead: On the 45 Main.

Chairperson Sullivan: One project we were looking at it was 35 feet, but the allowable is 40 so that means they have the right to build a 5-foot structure.

Boardmember Bass: That's why my concern was what are we really trying to accomplish here. If we're trying to make this as as-of-right as possible without review – and the review is for view preservation, not for aesthetics because that's now in our code – then having a maximum height limit protects that. I found the two hearings on Ridge Street painful.

Village Attorney Whitehead: Three.

Boardmember Bass: It was three?

Village Attorney Whitehead: Then the Zoning Board also.

Boardmember Bass: I must have missed one, but I didn't feel we were really accomplishing anything. We have a lot of discussion about it, but the impact was de minimis. We learned a lot about solar panels, but in terms of how we interpret the code and the views that was a silly exercise to make them go to that many hearings.

Boardmember Cameron: Well, that part was. The good thing we learned, or one of them, was the fact that they can change it so it doesn't reflect in other people's eyes. Which may not be covered by the law, but I think is an important thing. But the height is really the ...

Chairperson Sullivan: Can you find it?

Boardmember Bass: But your point is well-taken. Why can't we put in our regulations that it be the type of solar panel that's non-reflective.

Village Attorney Whitehead: They're all non-reflective now. The type of material they're using now, the latest technology, is all non-reflective.

Boardmember Bass: I wouldn't mind being redundant because we're covering the aesthetics without really covering the aesthetics.

Boardmember Cameron: In the definition you could put "non-reflective."

Boardmember Bass: And then we leave it to Buddy to interpret that.

Village Attorney Whitehead: Yes.

Boardmember Cameron: You can't wear sunglasses, Buddy, when you do that.

Boardmember Bass: Right. And if people are unhappy, they know where to go.

Chairperson Sullivan: All right, so I think you will find it, Linda, in *"Solar as an Accessory Use of Structure, Roof (inaudible) and Solar Energy Systems,"* number three. *"Panels facing the front yard must be mounted at the same angle of the roof surfaces, with a maximum distance of 18 inches between the roof and the highest edge."* I think it's the third page.

Boardmember Bass: Is that what Ridge Street had, 18 inches?

Chairperson Sullivan: Twenty-two.

Boardmember O'Reilly: At the highest; the highest point 18 inches.

Village Attorney Whitehead: And if they've got a flat roof ... on a sloped roof, they take advantage of the slope of the roof and they don't have to come off as much.

Boardmember Bass: OK.

Village Attorney Whitehead: But because they had to create a slope on the flat roof, I think they dropped it.

Boardmember Bass: They did drop it.

Boardmember O'Reilly: Yes. I have no problem with almost as-of-right when it comes to solar panels on a sloping roof. It's just that some of the flat roof ...

Building Inspector Minozzi: A flat roof is the biggest problem.

Village Attorney Whitehead: So maybe what you do is, you say except that if it's on a flat roof it shall be no greater than 18 inches above the roof. Maybe you don't need that on a sloping roof because they're not generally going to be ...

Building Inspector Minozzi: They're not going to be raised on a sloped roof normally.

Boardmember O'Reilly: No.

Boardmember Cameron: Well, why don't we just put the 18 inches for both because you could have a very slightly sloped roof.

Building Inspector Minozzi: Right.

Boardmember Cameron: We shouldn't anticipate what people are going to do.

Village Attorney Whitehead: But you're saying that if it's more than that it would be subject to view preservation.

Boardmember Cameron: Right.

Village Attorney Whitehead: Not that they can't have it. It would be subject to that if it's in the view preservation district.

Boardmember Cameron: Right.

Building Inspector Minozzi: That's very reasonable.

Village Attorney Whitehead: I've seen the comments, and that's why I came in sort of with that suggestion.

Chairperson Sullivan: The other thing, I think, is someplace – and I'll find it. In the section that has height of [courts] XXX, it talks about being able to put solar panels on to some degree. Let me share that with you.

Boardmember Cameron: One of the things I was intrigued by – and I know people are doing it – is the definition of roof-mounted solar panels talks about producing electricity for on-site or off-site consumption.

Village Attorney Whitehead: A lot of them sell the excess back to the grid.

Boardmember Cameron: Well, they are. They're selling it back or they're putting it in their car, which is consuming it off-site.

Building Inspector Minozzi: The guy that owns that inverted cable on Brandt Street, he sells back to the grid every year.

Village Attorney Whitehead: That's the way the metering is set up.

Boardmember Cameron: The only reason I'm bringing it up is because I know how this thing works. Do we need any protection for somebody using it *solely* for off-site consumption? In other words somebody puts a bunch ...

Village Attorney Whitehead: Does it matter? It still looks the same.

Building Inspector Minozzi: It's still the same point: you're still saving fossil fuel ...

Village Attorney Whitehead: Right, whether it's for that property or another.

Building Inspector Minozzi: Exactly. You're gaining by it or somebody else is gaining by it.

Village Attorney Whitehead: A lot of these systems, if you have a really good south-facing roof you can create more than your house requires.

Boardmember Cameron: Sure.

Village Attorney Whitehead: That's why Con Ed is set up to take some of that back.

Boardmember Cameron: Actually I was going down to section three which you put in here, where it's talking about the MUPDD district here. It has the words stuck in there, "... *in conjunction with any type of principal use that is permitted in a MUPDD district.*"

Village Attorney Whitehead: That's 'cause if you look at that district that language is used for every use. I tried to really mirror the existing language in the code.

Boardmember Cameron: Because the words "in conjunction with" after the words "MUPDD district" implies that you don't really know what the word above means. It means you could do it for both, but you're supposed to be doing it in conjunction with the principal uses permitted in the MUPDD district.

Village Attorney Whitehead: Maybe it shouldn't say "in conjunction with." I literally was mirroring existing language in that district, which is why it's only there and not in the others.

Boardmember Cameron: I'm just concerned about people putting up ... well, we did get one other comment – and you all saw it – from Ned Baldwin, who told us how ugly he thought they were. Now, I think we should go ahead and do them, but I can see somebody being very angry ...

Village Attorney Whitehead: That's subjective.

Boardmember Cameron: ... if they weren't using it on their own property but just selling to third parties.

Village Attorney Whitehead: I don't think you're going to see a lot of that.

Chairperson Sullivan: I don't think they can get that big to be worth it.

Boardmember O'Reilly: Well, technology's probably going to get ahead of us and they'll be putting in solar tiles.

Village Attorney Whitehead: Well, they already have them; they have solar shingles. They're a lot more expensive.

Building Inspector Minozzi: They don't produce as much ...

Village Attorney Whitehead: The technology isn't as advanced yet.

Building Inspector Minozzi: They're a lot more expensive and they look a whole hell of a lot ...

Boardmember Bass: Give it five years.

Village Attorney Whitehead: They've only been around for like five years and they've come a long way. The other thing is, some of your commercial properties is where you're going to get the bigger arrays, even rooftops.

Boardmember Cameron: The other piece I wanted to mention is that *"No site approval shall require (inaudible) solar panels."* That doesn't bother me, but the thing is that it's sort of a chicken and the egg. You know, we go through this entire site plan approval and squeeze and squeeze and squeeze and we get to where they aren't violating view preservation. And right after they start building, they say, "Oh, we decided we're going to put solar panels on top, too." I don't know what you ...

Village Attorney Whitehead: Well, we've talked about it with PTU. If you grant a site plan approval and view preservation, and you think it's a site where putting something on the roof would really be problematic, you could make that a condition of your site plan approval.

Boardmember Bass: That was the discussion on Nodine.

Village Attorney Whitehead: Right. Nothing could be put on the roof, including ...

Boardmember Bass: Solar panels.

Village Attorney Whitehead: Unless they can be like below a parapet.

Boardmember O'Reilly: Right.

Village Attorney Whitehead: I mean, that was the thing on Ward. We said they're below the parapet, you don't see them.

Building Inspector Minozzi: (Off-mic) and just like you said, that was a condition (inaudible). We've done it before.

Boardmember Cameron: OK.

Village Attorney Whitehead: And I think you can cover solar panels with that.

Boardmember Bass: Site plan is a big blanket for everything.

Boardmember Cameron: Well, I know once you've given up on it here you don't get ...

Village Attorney Whitehead: But if you put conditions in it, you know.

Boardmember Bass: But we'll be diligent.

Chairperson Sullivan: I think you want to look at this, too, just in conjunction with the law. Because under our height limitations [courts] XXX, it talks about on section two that *"No towers, belfries, penthouses and et cetera, cupolas, solar and wind energy devices,"* it says, *"receiving block homes and monuments and transmission towers. None can be erected on a building unless approved by the Planning Board after a finding by the Board that they are in furtherance of basic ..."* – the reasons why we have a zoning code. I think just double-check how that might interplay because it gets into conflict quickly. And it says, *"If approved, it can be screened in an appropriate manner."*

Village Attorney Whitehead: All right, I'll take a look at that.

Chairperson Sullivan: Anyways, that just needs to be jibed. Who would like to write a recommendation?

Village Attorney Whitehead: It sounds like it's a one-sentence ...

Chairperson Sullivan: And what do you think the sentence is?

Village Attorney Whitehead: Recommend that the view preservation exemption only apply if the solar panel extends less than 18 inches above the roof.

Boardmember Cameron: OK, and we should probably just say whether the panel's being mounted on a flat roof or a sloped roof, just to make clear that we're covering that.

Boardmember Bass: So moved.

Chairperson Sullivan: Let me just check one thing.

Boardmember Cameron: It's going to be in the minutes.

Village Attorney Whitehead: Yes, but the minutes aren't going to be ready. Their hearing is next week.

Boardmember Cameron: I'm just kidding.

Village Attorney Whitehead: Their hearing is Tuesday night.

Chairperson Sullivan: All right. And do we have anything about exceeding the maximum height? Was that an issue that these things could be put on ...

Village Attorney Whitehead: We haven't exempted them from zoning. We've just exempted them from site plan and now, in part, from view preservation.

Chairperson Sullivan: If they're over 18 inches then they have to go through site plan.

Village Attorney Whitehead: No, view preservation if they're in the view preservation district.

Boardmember Bass: And if they exceed the height of the building they have to go through a variance.

Village Attorney Whitehead: Yes, if they exceed the permitted height.

Building Inspector Minozzi: (Off-mic) 18 inches (inaudible) flat roof.

Boardmember Cameron: Not more than 18 inches above ...

Village Attorney Whitehead: Flat or sloped; more than 18 inches above either a flat or a sloped.

Chairperson Sullivan: I think the 18 inches should be also for site plan.

Village Attorney Whitehead: But for one- and two-family homes you don't have site plan approval.

Chairperson Sullivan: I know, but we have site plan approval if they're over 18 inches. We should see them just because we get into a situation where something's 35 feet and the actual limit is 40, and they could be 5 feet ...

Building Inspector Minozzi: Well, on a commercial dwelling wouldn't it be site plan approval?

Village Attorney Whitehead: The model code.

Chairperson Sullivan: Yes, because they make aesthetics optional. But I think if we think about a good distance for view preservation we should also think about it for site plan.

That's my opinion. It should be a reasonable tolerance for these things to operate above a building, but if they get bigger than that then site plan and view preservation come into play.

Village Attorney Whitehead: Where applicable.

Boardmember Bass: So you're saying if it's above your trigger site plan.

Chairperson Sullivan: Right, as well as view preservation. Because you want to set up a reasonable tolerance for these things to operate, but there are going to be black swans or whatever it is that come across. We don't want to have something happen because we allowed it.

Village Attorney Whitehead: It's not going to affect a homeowner.

Chairperson Sullivan: No, definitely.

Boardmember Bass: Can we do the other side of that coin? That we amend our site plan application so solar panels or any other rooftop equipment be shown on the site plan? Or is that already implied, or required?

Village Attorney Whitehead: It's already in. If you have like a new building coming in for site plan approval they have to show any rooftop.

Boardmember Bass: OK, we don't need to be redundant.

Boardmember Cameron: So if they were building a 35-foot high building at a 40-foot place, and they have a 3-foot ...

Chairperson Sullivan: Four foot, five foot?

Boardmember Cameron: Three foot. You want us to approve it.

Chairperson Sullivan: No, I'd like that to be not approved.

Building Inspector Minozzi: Applicable for site plan approval.

Chairperson Sullivan: Because you say there's a certain reasonable distance above the rooftop these panels can go, then if it's above that for whatever reason we should take a look at it.

Boardmember Bass: Not to go above that.

Chairperson Sullivan: I'm concerned with the 18, personally, since we went through Ridge Street and 22 and 24 were being tossed around. It seemed pretty reasonable we should make sure we're not doing something that doesn't make sense.

Village Attorney Whitehead: Yes, that 18 isn't too low. And, you know, you have to look if there is a parapet and it's below the parapet.

Building Inspector Minozzi: Right. I think this is going to be more towards people adding solar. If you're building a new building with solar I think we're going to be looking at the solar anyway.

Village Attorney Whitehead: Well, it's going to be part of the site plan if it's anything other than a one- or two-family.

Building Inspector Minozzi: I think this is really geared towards someone adding solar.

Village Attorney Whitehead: Existing buildings.

Boardmember Cameron: Now, one of the things you mentioned in one of our e-mails was getting people to remove old solar.

Chairperson Sullivan: Right.

Boardmember O'Reilly: Yes, "decommissioning" is what it says here. I think that's important.

Boardmember Cameron: So do we want to try to do that, or are we interfering too much and it'll happen naturally, or what about that?

Building Inspector Minozzi: I don't know. I only know of two in the Village right now that are totally obsolete and should be removed.

Boardmember Bass: They're not being utilized?

Building Inspector Minozzi: Single-family homes. I don't know.

Boardmember Cameron: So one of the things we say to people when they come for a new antenna in the town is, we always ask them to take down their old ones.

Building Inspector Minozzi: Of course.

Boardmember Cameron: The weight on the building and the space.

Building Inspector Minozzi: They have to take the older one down.

Boardmember Cameron: I don't know whether we can do that, I'm just bringing it up as a topic.

Chairperson Sullivan: Well, we can advise.

Village Attorney Whitehead: You're just making recommendations, writing a memo to the Board of Trustees.

Boardmember O'Reilly: That's what I thought was the interesting thing in the model: the decommissioning ...

Village Attorney Whitehead: Yes, and really you have to realize that the model law also talks about the larger types of systems, the large-scale systems, which you definitely don't want sitting somewhere if it's not in use.

Chairperson Sullivan: So we want the height limit for view preservation and site plan and we want to recommend decommissioning. And then what was the one sentence we had at the very beginning?

Village Attorney Whitehead: Well, now you've changed it.

Chairperson Sullivan: I know.

Village Attorney Whitehead: You recommend that the view preservation and site plan exemption only applies if it's less than 18 inches above the roof, whether a flat roof or a sloped roof.

Boardmember Cameron: And make sure you put in there that recognizing site plan approval does not apply to single-family homes.

Village Attorney Whitehead: Right. It would only be for site plan, just like the view preservation.

Boardmember Cameron: The Board of Trustees of will look at this and react.

Building Inspector Minozzi: So how does the ARB get triggered in this?

Village Attorney Whitehead: Well, doesn't ARB typically get triggered on a building permit application? You're still going to get a building permit application.

Boardmember Cameron: No, it's when we ask ...

Building Inspector Minozzi: Yes, but are they going to be commercial or multi-family? Is it going to be triggered no matter what, is it going to be triggered after 18 inches, is it going to be triggered just on site plan? How is it going to be triggered?

Village Attorney Whitehead: I think the Board of Trustees didn't address the ARB. I don't think they see it as much of an issue.

Building Inspector Minozzi: Because the ARB is an advisory board.

Village Attorney Whitehead: But it's not coming here. If there's a site plan approval there's a site plan approval, and it becomes the regular site plan approval process.

Chairperson Sullivan: Right.

Village Attorney Whitehead: So if it goes to the ARB as part of the site plan approval process, that's when it would go.

Boardmember Cameron: How about the downtown district because that goes directly to the ARB?

Building Inspector Minozzi: Anything that happens on the exterior of a building ...

Village Attorney Whitehead: And that's just on building permits.

Building Inspector Minozzi: If it's over 18 inches it doesn't matter for the ARB. Is that what we're saying here?

Village Attorney Whitehead: Yes.

Building Inspector Minozzi: OK.

Chairperson Sullivan: So the ARB will see it no matter what.

Building Inspector Minozzi: Will see it no matter what. I agree completely, 100 percent.

Boardmember Bass: And freestanding are ...

Village Attorney Whitehead: We're only addressing roof-mounted.

Building Inspector Minozzi: Yes, we haven't run into solar fields yet.

Village Attorney Whitehead: And you don't have a lot of land.

Chairperson Sullivan: Exactly.

Village Attorney Whitehead: That's a bigger project to tackle. There's more questions about how you want to deal with it.

Chairperson Sullivan: I like the one example they had of a carport.

Village Attorney Whitehead: Oh, if you look at our firm's Facebook page you will see a picture of the new carports that were just installed at Manhattanville College.

Chairperson Sullivan: I remember you mentioned something like that.

Village Attorney Whitehead: I will show you.

Chairperson Sullivan: So I think we have a plan, right?

Boardmember O'Reilly: Buddy, do you have to be involved in approving the installation?

Building Inspector Minozzi: Yes, of course.

Boardmember O'Reilly: Because of the weight and all that sort of thing?

Building Inspector Minozzi: The what?

Boardmember O'Reilly: The weight of solar panels.

Building Inspector Minozzi: Well, very early in the approval process we deal with weights.

Boardmember Cameron: Are we giving up on the hot water panels?

Village Attorney Whitehead: No.

If everybody wants to see them, these are the solar carports at Manhattanville College. We represent the college.

Chairperson Sullivan: So solar thermal is a different cat because it's contingent on, as Buddy was relaying to me ...

Village Attorney Whitehead: It's neat, isn't it? The carports?

Building Inspector Minozzi: It could be on the racking system. I know it was on ... I've never heard of it on a racking system. I've never seen it on a racking system here so I don't know if you want to include it or not.

Chairperson Sullivan: I think it's a different cat. I don't think it's the same type of stuff. This is creating electricity and basically using the sun as your hot water heater. So I think it's a different application altogether. I mean, it's got environmental benefits, but it's not ...

Building Inspector Minozzi: Because it's a much different system: it's a totally non-reflective system, it's very thin. They're only about this thin, about an inch-and-a-half. They lay flat on the roof on a very flat surface.

Chairperson Sullivan: They can lay flat on a flat roof.

Building Inspector Minozzi: This follows the same idea. It has to be at a certain angle to the sun for it to work, and it has to be sloped for it to work.

Chairperson Sullivan: For gravity's sake.

Building Inspector Minozzi: Well, it should be because it is pumped. But it does rely on some gravity top to bottom. I know Michael has brought up some stuff about how things are going in Europe. I don't know about here. I have *never* heard it or seen it.

Chairperson Sullivan: OK. I think it'd be worth keeping it as another topic, but that's just my ...

Boardmember Cameron: Along with wind turbines.

Village Attorney Whitehead: There's a lot more to deal with on this. This was trying to focus on one issue.

[3. Land Use Approval Task Force – Definitions (Continued)]

Chairperson Sullivan: The last thing I brought was my modified memo to the Zoning Board on the different advisories, just to back into them. Pass it down.

Boardmember Cameron: Could I get one?

Chairperson Sullivan: I brought tons, sorry. All it was was just to walk through the various recommendations from last month's meeting. Three Ward we're recommending view preservation; Nodine Place, just to make mention, we're circulating the lead. We recommend view preservation and we have no recommendation regarding the building coverage variance. Thank you, Linda, because your input was helpful. 10 West Main, the meeting, Richard ... use variance, and I have some stuff I wanted to share with you, Richard and team. I'll just mention we haven't started the view preservation.

I looked in the code. What I copied was the use variance clause from our code. A couple things that jumped out – and I don't know, Richard, if you ...

Village Attorney Whitehead: This is for them to make the argument.

Chairperson Sullivan: But I'm sharing it with us because there's a desire to make an argument to support it. The point, the biggest thing, was that it's related to the property in question, meaning the hardship of needing to not have commercial and wanting to have residential because the property is unique. And it does not apply to a substantial portion of the district or neighborhood, it's very special. It's not self-created in some ways to be consistent. So I just share this kind of to you, Richard, if you were going to actually ... if you want to I'd like to get this to Matt, the chair, by Friday or Saturday.

Village Attorney Whitehead: I was going to do a little more with what you sent and I didn't get a chance to do it yet. Also, were you going to pull some stuff from the Comp Plan?

Boardmember Bass: Yes, I meant to. I wanted to supplement that.

Village Attorney Whitehead: I mean, that's such a unique strip. The practical side of it is, you can't put a commercial use, or a retail use, on the first floor.

Chairperson Sullivan: Again, this is what we talk about in the code for use variances.

Village Attorney Whitehead: Well, this is the state law, the enabling voucher.

Chairperson Sullivan: So if you can peg stuff to this it kind of supports it.

Boardmember Bass: OK, let me take a look at it.

Chairperson Sullivan: But more interesting, the back page. That's the one person who voted against the parking limitations. In our code: *"On recommendation of the Planning Board, in order to preserve the historic or aesthetic character of the lot or surrounding neighborhood, the Zoning Board of Appeals may, without showing practical difficulties or unnecessary hardship, reduce by not more than 30 percent the number of off-street parkings required by this chapter,"* – provided they follow these two clauses, which are like why we want to have our community be a wonderful community, et cetera.

Village Attorney Whitehead: Can I just say that this ...

Chairperson Sullivan: Anyhow, I share that as a number.

Village Attorney Whitehead: This is a remnant that makes no sense because it's an area variance, and for an area variance you do not need a showing of practical difficulty or unnecessary hardship.

Chairperson Sullivan: Well.

Village Attorney Whitehead: So this is an old, old section that frankly, from a legal standpoint, makes no sense because that showing is never required for an area variance.

Chairperson Sullivan: So they may reduce without ...

Village Attorney Whitehead: They can give a variance for whatever they want.

Chairperson Sullivan: So this is just in the code because it's preserving the character of the neighborhood, et cetera. I look at that and I go, OK, so we're down 30 percent to 13 spaces, if my math is right. Anyways, for what it's worth I'd like to send stuff to Matt while they get their packages, which is Friday-Saturday. So if we could kind of correct, we can ship it off in one swell foop.

Village Attorney Whitehead: The agenda hasn't even gone out. We just finished the agenda today.

Building Inspector Minozzi: Just finished the agenda today and the package is going out tomorrow.

Village Attorney Whitehead: So we'll have to do some agenda-fixing.

Boardmember Bass: Why don't we communicate in the morning.

Village Attorney Whitehead: I can do that. I have an 11 o'clock call, and then I'm free all morning.

Chairperson Sullivan: So you can get me something later in the day and we'll just send it out to Matt.

Village Attorney Whitehead: Mm-hmm.

Chairperson Sullivan: Matt and the team.

Boardmember Bass: I have a question while we're on parking, not to make the meeting any longer.

Village Attorney Whitehead: Because Eva's sick and she needs to go home.

Boardmember Bass: How do we proceed on creating a parking ordinance that when we give relief to parking they contribute to a parking fund so we can then build new parking structures?

Village Attorney Whitehead: It has to go into the code. You could make a recommendation to the Board of Trustees. Now, I can tell you – because we went through this in another municipality we represented – they have a provision for payment in lieu of parking. And the zoning board used to give variances where people wouldn't have to pay. Because you got the variance, then you didn't have to pay. So you have to be careful how you draft it.

Boardmember Alligood: I feel that would be drastic to impose it on all projects because projects that I think potentially ... I think we should vote for relief from the required parking for projects where there may be reasons to not need the parking. So why are we forcing

them to build parking, even if it's somewhere else? I think we make the analysis that the parking is not required at the level the code is requiring.

Boardmember Bass: I hear you, and I think we should leave it to the Planning Board to make the recommendation whether the parking relief should get a variance or the parking relief should ...

Village Attorney Whitehead: But you can't tell an applicant they can't go for a variance, that they have to pay. They're entitled by law to go for a variance.

Boardmember Bass: Then we could recommend it be denied.

Village Attorney Whitehead: They could be denied.

Boardmember Bass: Other places have it, and our downtown is built out and it's very difficult to provide parking. The typical response is, well, less density. So we have parking become the tail that wags the dog? I think there should be an opportunity, an outlet, to have – in lieu of providing parking – a fund that then could build new parking; a deck over the Con Ed lot and create 30, 40 more spaces for the downtown, that's a reasonable thing to do.

Village Attorney Whitehead: And in contrast, some municipalities have, in their zoning, that in a downtown area you don't have to provide parking.

Boardmember Alligood: See, I don't agree with that. I mean, I don't know why we'd want a deck over the Con Ed lot. I think that would look horrible.

Boardmember Bass: Why? You have a nice pedestrian walkway on the western side overlooking the river, you extend the existing parking lot that's in front of ...

Village Attorney Whitehead: What happens if you're sitting outside of Maud's?

(Cross-talk)

Boardmember Alligood: What they're doing in Dobbs Ferry on the Saw Mill, you're looking into those garages. That looks terrible, I'm sorry.

Boardmember Bass: Well, you should talk to your husband. He and I are in agreement.

[laughter]

Village Attorney Whitehead: Maybe she doesn't always agree.

Chairperson Sullivan: I had an interesting conversation. I met with Barb, the Downtown Advocate, just to chat. She's interested in sharing – because she's very much in contact with different merchants in the town – and there wasn't a perception, from her perspective, that there was a parking problem, from the storeowners.

Boardmember Alligood: Right.

Village Attorney Whitehead: I think that's true.

Chairperson Sullivan: I mean, it was lovely to hear from her.

Village Attorney Whitehead: Because she's in touch with the storeowners, yes.

Boardmember Cameron: I think our biggest problem is that we can't get people to *use* their parking spots.

Village Attorney Whitehead: Can't get people to walk.

Boardmember Cameron: Well, that also. But they don't use their parking spots. Look at our affordable units on Warburton. I mean, that parking lot's empty ...

Chairperson Sullivan: My suggestion to her was ...

Boardmember Cameron: ... and they're parking in the streets.

Chairperson Sullivan: My suggestion to her was, when I go into a community I don't know I'm always looking for the sign, the blue sign, with the "P" on it, looking for where public parking is. That would be a nice addition in our community for people ...

Village Attorney Whitehead: Where you find it.

Chairperson Sullivan: Yes. Just to know where ... plan A doesn't work, where's lot B and C?

Village Attorney Whitehead: Wayfinding signs are becoming a very big thing.

Chairperson Sullivan: I'm not sure, Richard. Dobbs has the payment in lieu of parking.

Village Attorney Whitehead: Dobbs has a parking problem.

Boardmember Cameron: They do.

Village Attorney Whitehead: Much more so than ...

Boardmember Cameron: Well, they have (cross-talk).

Chairperson Sullivan: The last thing is that I'd like us to try to start tackling definitions. And I'll come up with a game plan when we start getting meetings that are a little bit light to address some of the top ones. Buddy's given me the top list from his perspective; I'll look at what we said. I think you two guys, Linda and Richard, are (inaudible) structures and buildings and ...

Village Attorney Whitehead: And coverage.

Chairperson Sullivan: ... coverage. So just a heads up. A little bit lighter, we're going to be looking to get these ...

Boardmember Cameron: OK, but could you do us a favor?

Chairperson Sullivan: Yes.

Boardmember Cameron: Could you actually send us which ones you want to deal with?

Chairperson Sullivan: Yes.

Boardmember Cameron: Trying to recall everything we knew about every one of them is very difficult.

Village Attorney Whitehead: Because there was a lot.

Chairperson Sullivan: That would be very unfair.

Boardmember Bass: For our next meeting I may be late or I may not be here at all.

Chairperson Sullivan: OK.

Boardmember Alligood: Actually, I will not be here.

Boardmember Cameron: I *will* be here.

Chairperson Sullivan: Good. So Kerry and Michael ...

Boardmember Bass: The pressure's on.

VI. ANNOUNCEMENTS

Next Meeting Date – November 16, 2017

VII. ADJOURNMENT

9:40 p.m.