

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
JULY 28, 2016**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, July 28, 2016 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember David Forbes-Watkins, Boardmember Sean Hayes, Boardmember Adam Anuskiewicz, Boardmember Marc Leaf, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

**Chairman Collins:** Thank you for coming to our July 28 Zoning Board of Appeals meeting. We have four cases on the docket, which we'll dive right into. Before we get underway, Buddy, how are we on the mailings?

**Building Inspector Minozzi:** I've been informed by the staff that all the mailings are in order.

1. **Case No. 10-16  
Edmund & Nadia Mulaire  
9 Jefferson Avenue**

**Relief from the strict application of the Village Code Section 295-68F.1.a for construction of a new covered front entrance at their home at 9 Jefferson Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.80-74-1 on the Village Tax Maps.**

**Non-conformity details of the proposed covered front entrance are as follows:**

**Front Yard: Existing – 24.66 feet; Proposed – 26.83 feet; Required Min. - 30 feet {295 - 68F.1.a.}; Variance required – 3.17 feet**

**Chairman Collins:** I will apologize in advance if I get names wrong. We'll do our best.

A couple ground rules. For anyone presenting, we have one standing microphone and we're going to get a wireless mic. What we ask is that anyone who wishes to be heard – and we'll let anyone who wishes to be heard be heard tonight – make sure that you're speaking into a microphone.

For the first time that you present – or the first time you speak – just introduce yourself and where you live. We've got a remote ... I call it a stenographer, but that's not quite right.

We've got record keeping of all the minutes, we just want to make sure we capture your names for the record.

**Village Attorney Whitehead:** Mr. Chair, if you're not going to hear that application we should announce it first because they are here.

**Chairman Collins:** I want to question them before we do that.

**Village Attorney Whitehead:** OK.

**Chairman Collins:** Christina, are you presenting?

**Christina Griffin, project architect:** I'm representing Edmund and Nadia Mulaire. We're here because we're asking for a front yard setback variance. That's because they are planning to build ...

**Chairman Collins:** If you would prefer the wireless mic, we've got it up here. That'd be easier for you to get close to the monitor. Can everyone see the monitor OK?

**Ms. Griffin:** I jumped right to a blowup of the site plan. This is the existing house and we're in construction, building a new two-story addition. We have a permit for that and ...

**Building Inspector Minozzi:** Could I see that mic for a second, Christina? It doesn't sound like it's on. Thank you.

**Ms. Griffin:** This is a section of the site plan; this is in the R-10 zone. In the R-10 zone we're required to have a 30-foot setback in the front. We're planning to build a new entrance to the house. This is so we can have the entrance tie into a new enlarged foyer. The existing entrance comes into a very small, congested space. And the existing entrance is nonconforming. It has a setback of 24 feet 6 to the porch. The corner of the hold house has a setback of 24 feet 8. We're proposing a new front porch and steps, and this will have a setback of 26 feet 10 to the porch.

We gave you a few of these dimensions in case the setback to the stair was important. But this setback to the new porch is actually larger than the setback to the existing porch by about 2 feet 4. So we're actually reducing the nonconformity of the front porch. We're also going to have a larger set of steps, platform, and a widened area. I'll show you the elevations of the new porch. This is just showing graphically the portion of the proposed addition that is inside the front yard setback. This is our first-floor plan, and this is the new entrance that connects into this larger foyer. Existing entrance enters into an area that used to be just about

the size of the landing at the bottom of the stair, and we're removing this wall right now. This is the elevation. This is the original house; this is the addition. The existing entrance is here, and we're shifting it to the right.

**Chairman Collins:** You're centering it, it looks like, more or less relative to the new addition?

**Ms. Griffin:** Well, it does help to center the entrance and the foyer with the overall house. Actually, it just allows us some space at the bottom of the stair. You used to have to open the door, and you'd be right on top of the staircase. This is the side elevation. You can just see the new entrance, the new overhang, the new porch, and the new railing that we're proposing. This is the rear elevation. Actually, the roof has been constructed and we're close to completion of framing for the two-story addition.

**Chairman Collins:** Christina, I'm assuming that to comply with the front yard setback requirement you would have had to have made compromises elsewhere, correct?

**Ms. Griffin:** Yes, I can explain that. I was about to enlarge the floor plan, the first floor plan, so you can see how the house is laid out. This is the original entrance, and it's almost just a foot between the door and the bottom of the staircase so it's very congested. We added this addition so they could have more living area. It was originally just a small dining/kitchen/living room and we're opening up the house to have more comfortable living space. And very important, by moving the entry over we're able to have it more centrally located and we're able to remove this kind of inferior, congested space we have.

We looked at other ideas, even moving the staircase. But when you come up to the top of the stairs on the second floor there is a hallway, then there is the hall bath. There is no way we can move the staircase back without eliminating the hall bath.

**Chairman Collins:** I appreciate you walking us through the lengths to which you explored ways to minimize the variance request even more. As it stands, the new condition, if approved, would go into the yard even less than what you already have. It looks as if trying to engineer the design of the house just to fit the setback requirement would result in a lot of undesirable compromises elsewhere, from a design standpoint, interior and exterior.

**Ms. Griffin:** Yes.

**Chairman Collins:** In variance terms, this is a minor request. The condition after this project – presuming it were to be approved – would be better, from a variance perspective. I think this is a pretty easy one for me.

Does anyone have any other questions or comments?

**Boardmember Forbes-Watkins:** I'm just wondering why you're not putting a cover over the entrance. I have a feeling that a zoning board is going to hear from the owners again in a year or two or three, saying, "Gee, we have rain coming down on the people standing at the door, we should be covering it."

**Ms. Griffin:** There is a covering.

**Boardmember Forbes-Watkins:** Because it doesn't look like it in the drawings.

**Ms. Griffin:** It's shown in the ...

**Chairman Collins:** It's a different kind than we've seen before.

**Ms. Griffin:** It's kind of modern, and it's got cables holding it up. You can see more clearly in this side view.

**Chairman Collins:** It sort of looks like a suspension bridge.

**Boardmember Forbes-Watkins:** Yeah, OK.

**Ms. Griffin:** I think it's on the front, the rendering on the front.

**Chairman Collins:** You have something?

**Building Inspector Minozzi:** It was just the way I noticed it.

**Chairman Collins:** Does anybody else have any questions or comments on the Board?

**Boardmember Dovell:** So nothing is enclosed, Christina. It's only a canopy in the base of the stair; there's no actual enclosure that's in the area of the variance.

**Ms. Griffin:** That's correct. This is the entrance we're talking about. If you want to go back to the floor plan, to make sure, your question was all of the porch is open that's in the setback. The answer is yes. We're playing around with a new format. Everything is clear now. It's a little different, it's not a PowerPoint. It's different. So that whole entry, the porch is open. The portion that is by the 3-foot setback is completely open with a roof on top.

**Chairman Collins:** Ray, you have anything else?

**Boardmember Dovell:** No.

**Chairman Collins:** Any other comments from the Board before I open it up to general questions. Does anyone here wish to be heard on the case? Please step forward and, just again, introduce yourself into the microphone.

**Dave Alfandre, 45 Cochrane Avenue:** I'm in Hastings, and have a couple of questions that'll help me clarify my concern. The first is – and I don't know if this is right forum to ask it – what are the hours, the permissible working times, during the week, on the weekends?

**Building Inspector Minozzi:** It's 7:30 a.m. to 8 p.m. Monday through Saturday, and 9 a.m. to 5 p.m. on Sunday.

**Mr. Alfandre:** OK, so seven days a week they're permitted. And whatever that scope is, which it's heavy machinery or nail guns. There's no restrictions, OK.

Can you describe the percent increase in square footage to the structure, total?

**Ms. Griffin:** For the porch?

**Mr. Alfandre:** No, for the entire structure.

**Boardmember Forbes-Watkins:** It's irrelevant.

**Mr. Alfandre:** So the existing structure is X square footage, the finished house will be X square footage. What percent increase will that be; do you know that information?

**Ms. Griffin:** The total, no, because it's not (off-mic).

**Building Inspector Minozzi:** Christina, you got to use the microphone, please.

**Ms. Griffin:** I think the total is something like 3,200 square feet total, in the end. But the existing, I think, was ... you know, I don't have those numbers with me tonight because we're only talking about the porch. But I know ... original house, quite small, about 1,700 square feet, I think, the original house.

**Mr. Alfandre:** Original, OK. I don't have the math there, but somewhere doubling, 75 percent increase? The reason I bring it up is that there was sort of a checkered past to the

previous potential owners of the property, where they went before the Planning Board and tried to put in multiple structures and there were vigorous objections from many members of the community. Biggest concern was about drainage. So the reason I ask about the square footage is, is I'd like to hear a little bit more about the drainage plan. Because that will affect many, many neighbors. Why that's related here tonight is the actual porch, right? So that's additional, in parlance, impermeable surface. So there's additional square footage that's going to require more drainage, and I know that's a concern to people in the community. So if you could comment on that.

**Building Inspector Minozzi:** The hearing tonight is not about drainage or the addition. If you want to see anything about the approved plans you could stop down at the Building Department any time during the day and I'd be happy to show you the plans and everything that was presented to us for the building permit.

**Mr. Alfandre:** But if they're asking for a variance to build a structure past that, that includes information about how that's going to be drained, no?

**Chairman Collins:** It does, but as it relates to the code we deal with its proximity to the property line.

**Mr. Alfandre:** OK.

**Chairman Collins:** That's what they have to present and what we're here to evaluate. Not to say that drainage issues in general in any construction project aren't relevant and to be discussed, but their matter before the Board really only relates to the proximity of this addition to the property line. That's all we're going to vote ~~for~~on. Your question is certainly legitimate, but before this board it's not a discussion that's going to be relevant at all in the way we vote.

**Ms. Griffin:** I'd like to address it, though, because we have considered the drainage for that porch and we have drainage calculations. Those calculations tell us how many units we need. We already have four on the site, and that will take ... the ones that have been designed and are going to be installed will be used also for the drainage that is coming off that little porch. That's the additional coverage that we'll have with the new porch and the additional volume of water that we're going to take care of with this underground stormwater units.

**Boardmember Leaf:** Mr. Chairman, I have a question for Christina.

**Chairman Collins:** Yeah, go ahead.

**Boardmember Leaf:** Christina, isn't it correct that you're also removing the existing entrance before you're putting on the new entrance?

**Ms. Griffin:** That's right.

**Boardmember Leaf:** So is it fair to say that the amount of development coverage that is affected by the porch – which is the only thing which is not as-of-right – is a minimal change, if anything?

**Ms. Griffin:** Yes. In fact, we indicated on our site plan the area of the old porch, the steps, and the walk versus the new. The difference is only 49 square feet.

**Boardmember Leaf:** And the lot is like 50,000 square feet?

**Ms. Griffin:** The size of the lot is 52,789 square feet.

**Boardmember Leaf:** OK, thank you, Christina.

**Chairman Collins:** Does anyone else wish to be heard on this? Can I get a motion then?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuszkiewicz with a voice vote of all in favor, the Board resolved to approve Case 10-16 for a front yard existing 24.66 feet, proposed 26.83; required minimum 30 feet.

**Chairman Collins:** Unanimous. Congratulations, good luck.

**2. Case No. 11-16  
Maya Elbaum  
169 Warburton Avenue**

**Relief from the strict application of the Village Code Sections 295-55A and 295-68.F.1.a&c for a rear addition and breezeway on her single-family dwelling at 169 Warburton Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.130-138-7 on the Village Tax Maps.**

**Nonconformity details of the proposed addition and breezeway are as**

**follows:**

**Rear yard setback: Existing – 15.5 feet; Proposed to addition – 15.5 feet; Required minimum – 30 feet or 30%. {295-68.F(1)(b)}; Variance required – 14.5 feet**

**Side yard setback, one side: Existing – 5.03 feet; Proposed to addition – 5.03 feet; Required minimum - 12 feet {295-68.F(1)(c)}; Variance required – 6.97 feet**

**Extension of an existing nonconformity – {295-55A}**

*(Boardmember Anuszkiewicz recused)*

**Chairman Collins:** While we're getting set up here, as I understand it the Planning Board has not yet made a decision on view preservation. Is that correct? OK.

**Village Attorney Whitehead:** Do you want to just announce, Adam, that you're ...

**Chairman Collins:** I'll mention it. Our Boardmember, Adam, is in the notice area for this property and therefore is disqualified from voting on it. He's going to step down. There will be ~~found~~ four of us, which gives us enough to reach a three-person majority. I'll wait for the setup here to be complete. Are you all set? Take your time. I don't mean to rush you.

**Building Inspector Minozzi:** The mic there, please, Mitch.

**Mitch Koch, project architect:** We're ready to go.

**Chairman Collins:** Before you begin, we have an approach here I will call it, where we like the Planning Board to render its opinion on view preservation before we make a decision on variances. The rationale for it is that the outcome of view preservation, of course, can have a pretty significant impact on the variances that are requested. So while view preservation remains a variable that's in play it makes it difficult for this board to land on – or for that matter for an applicant to land on – a review of variances that ends up being valuable. Because it's still subject to change, depending on the outcome of the view preservation.

The question I had for you here is, if view preservation does not land the way you want it to should we reasonably expect a meaningful impact on the variances that you're going to request, or any impact for that matter. Because as soon as it changes, this time spent is not helpful.

**Boardmember Forbes-Watkins:** I have to add one thing; it seems to me. If for some

reason view preservation turns out to be a problem that we cannot approve, then anything that is approved for a variance in this situation has utterly no meaning. So I'm puzzled why or how we can deal with an issue when we don't have a controlling issue cleared, or at least clearable.

**Chairman Collins:** What do you guys think?

**Boardmember Leaf:** I'm not sure I understand the logic of it, David. I'd like to give you a chance to explain what you were thinking, but ...

**Boardmember Forbes-Watkins:** I'm saying that if we found that view preservation is a problem that is insuperable on the proposal, then anything that is proposed in the way of changing the variance, with respect to variances, et cetera is irrelevant.

**Mr. Koch:** And how would that be different from any other situation where there were different things that being approved?

**Boardmember Forbes-Watkins:** There's no difference. My thinking it very simply that in a view preservation situation if we found the view preservation problem was too insuperable to approve, whatever, then we would be in a situation where we couldn't approve anything.

**Mr. Koch:** Sure, I get that. And counsel, tell us if we're not allowed to have a back and forth in this way.

**Village Attorney Whitehead:** You can.

**Mr. Koch:** What I was thinking is that it goes the other way as well. Let's just say – and I'm not prejudging, I'm merely saying let's just say – that you could get three votes for the area variance. Then you might decide that you were going to do back to the drawing board and redo something, in which case you're going to change the view preservation as well. So knowing that helps you. I kind of think the more you know – you're the opponent, and you know more about either of the board is going to answer any of the variances that are being asked – you are better prepared to move forward.

I suppose it's true that if we had not yet already done the work and done the site visits and read the plans, that you might say, "Gee, it's a waste of our time." But if we've already read the plans, and we've already looked at the site, I think it's worth asking questions.

**Boardmember Forbes-Watkins:** I certainly don't see how we can vote on the variances if we don't know whether there's a view preservation problem that is going to cause a change in

the variance requests.

**Chairman Collins:** Well, I think in this case, though, that this case might be unique in the sense that because they're building into existing nonconformities. Let's just say the view preservation doesn't go the applicant's way, they have to reduce bulk and come down.

**Boardmember Forbes-Watkins:** Right.

**Chairman Collins:** They'll still be here asking for the same variances because of the nature of the project.

**Boardmember Forbes-Watkins:** But the variance requests will be different.

**Chairman Collins:** I don't know that they will, as they're noticed. I don't think they're the same.

**Building Inspector Minozzi:** Not as far as setbacks. They're basically increasing an existing nonconformity for the major part of the addition, so even after view preservation, for argument's sake, they were to lower the roofline or take away the second floor and just rebuild the first floor it's the exact same variance.

**Boardmember Forbes-Watkins:** A bigger configuration.

**Building Inspector Minozzi:** Right, configuration variance on part of it anyway.

**Chairman Collins:** Yeah, it's possible that if view preservation doesn't go the applicant's they could go back to the drawing board and decide instead of growing up they want to try to find a way to grow out, in which case this whole project comes back in an entirely different way. That's possible.

Ray, what do you think?

**Boardmember Dovell:** I was just listening to what Buddy was saying. That it's an increase of an existing noncompliance. But if I'm looking at the plans, it's an infill behind it.

**Building Inspector Minozzi:** That's why I said that part of it.

**Boardmember Dovell:** Right, but it's increasing a degree of noncompliance is what it's doing.

**Village Attorney Whitehead:** It's going up, adding a second ...

**Boardmember Dovell:** No, but it's infilling.

**Village Attorney Whitehead:** There's an infill piece and there's a second story piece.

**Boardmember Dovell:** Right, but there are two pieces, both of which ...

**Building Inspector Minozzi:** Correct, Ray. Yes.

**Chairman Collins:** So, Ray, would you want to hear what these guys have to present?

**Boardmember Dovell:** I'm not certain whether we want to vote on it in agreement, but I think we could hear it. We could hear what they have to say and they can make the arguments for it. Then we can hold voting until another time.

**Chairman Collins:** Yeah.

**Boardmember Forbes-Watkins:** I'm perfectly comfortable with that. But I just want to make certain that we think in terms of the impact of view preservation on this.

**Chairman Collins:** OK, I'm in favor of that as well. I'll leave it up to you. I mean, this may not end in a vote. The question is, do you still want to present this knowing the variables that are still in play?

**Mr. Koch:** Yes, and thank you for taking the time to consider this. At this time, I want to point out that I don't understand the technical legalities of the cart coming before the horse. But I understand that you can, even on an advisory level, make a recommendation that's not binding, understood, to the Planning Board.

**Village Attorney Whitehead:** It goes the other way. The Planning Board makes the advisory recommendation and ...

**Mr. Koch:** All right, let me just propose to you that I think the view preservation aspect was postponed by the Planning Board because a neighbor came forward and said she had some objections to the project. Thus, they said, "Well, let's go to the site," and would I build a mockup to show exactly how high the nonconformance was, in particular regard to the neighbor's concerns. Since that time, the neighbor has actually come forward and has agreed to support the project. So that really changes things as far as I can see.

Secondly, as you can see from the photographic renderings it has a relatively small impact, the view preservation thing. I would just ask for you to take a quick look at it and we're going to move on. I'm going to try to be very brief because I know there are other people and I want to be considerate. But we did create the mockup ~~of~~ the roof in question. I sent it out, it's an e-mail. The neighbor's view really isn't being obstructed and the impact ~~is~~ minimal at least. I understand having a project next door is sometimes considered to be a negative, but in this case it's actually a positive in that neighbor has a letter she would like to read into the minutes and we can move off of this right away. Is this a good time for her to read it, or can I present it?

**Chairman Collins:** What I would like for you to do is let's get through the whole presentation, then we'll move to public comment.

**Mr. Koch:** Fine, all right. Just to review it – and I know you've all looked at the project – the house is on an unusual lot. It's got this long pointy piece that goes down the hill, steeply sloped hill down to the right of way by the train.

**Village Attorney Whitehead:** Can you turn that a little bit so people in the audience can see it?

**Mr. Koch:** Here's Warburton, here's the south side – the neighbors – here's the north side. The property line in the back, which is primarily what's in question I think, is here and is only about 16 feet from the existing corner of the one-story porch enclosure that's currently there upon which we would like to build. Basically, the project proposed is in two parts, and Buddy was kind of spelling it out. We would like to build over an existing first-floor addition which is so poorly built that we would propose to actually remove all or most of it and build the second one immediately over that. We're happy to demonstrate through surveys and as-builts that we're not exceeding the footprint of the existing addition.

**Chairman Collins:** Before you go any further, can you go a little bit deeper into what makes it so poorly built in the first place that it needs this?

**Mr. Koch:** Yes. Like a lot of back porch enclosures, it was once upon a time an open porch on a slab. Then they enclosed it, and then they pushed out a little bit further. So it's actually comprised of two separate additions with an odd sort of configuration of walls and no foundation to speak of. Long before the Elbaums bought, my wife and I explored it. And I think the term of art is "sketchy." It really wants to be addressed, made better.

**Chairman Collins:** In order to build up, would you need a proper foundation?

**Mr. Koch:** Yes, I would not feel comfortable without that. Obviously, probes could be made. But in general, these things have a very typical ... you know, once upon a time it was only going to be a porch, and then it was enclosed, and then somebody ...

**Chairman Collins:** Here we are, yeah.

**Mr. Koch:** That's part one, right. Notably, we're really close to the neighbor on this side so this is all existing noncomplying and we're very close to the rear property line. It's existing noncomplying, and so would the new work be existing noncomplying.

OK, let me just move on to part two and I'll talk about what I consider the extenuating circumstances.

**Boardmember Dovell:** Mitch, before you do that could you just take us through the setbacks; the front, the sides, and the rear?

**Mr. Koch:** Right. If you look at the map the existing house front sites within the front yard setback in the R-10 zone. The side yard is currently in the setback. And the back of the house is also in the setback area because this part of the lot is relatively small. Then to complicate this a little bit, the existing garage – which is a free-standing garage – is an accessory structure, so could be closer to the property line but doesn't really rise to the standard that we apply to accessory structures. That is, that it needs to be 10 feet from the existing house. It ain't, it's about 6 feet.

It was our wish, to make things more complicated for you, to actually join the house to the garage. In for a penny, in for a pound. Because this way, we could have a mud room; you can move from the garage; we are able to push back and perhaps create a little bit more kitchen. But now this makes the garage part of the principal structure.

**Boardmember Dovell:** But go back to the setbacks just for a second.

**Mr. Koch:** Yeah.

**Boardmember Dovell:** If I'm looking at your diagram correctly there's just this funny little trapezoid in the center which is actually the place you can build.

**Mr. Koch:** That's correct.

**Boardmember Dovell:** And that's it. To build something that complies, it's just this little wedge. It's a little space in the center.

**Mr. Koch:** Yeah, that's exactly right. Now just to kind of speak to that, the house is actually a great craftsman ... like really one of the nicest ones in Hastings. To mess up the front I would feel terrible, and I would like to think I'm not messing up the back. But the addition, this is the logical place for it. And the view of the river is obviously world-class, absolutely. I'm going to demonstrate that it would not be blocking anybody's view of anything. This is an opportunity. We have a family that's growing, and we're trying to add a bedroom, in short, OK? That would be here, and that would be a master suite some day when they get the money to actually finish.

That's the idea. I would just leap to the extenuating circumstances. I understand it encroaches in the rear yard, but I'm going to say, one, it's on top of an existing encroachment and, two, there is no way that any neighbor could build on that property in the back because it is pretty much a cliff, as everybody knows. The property ... I am not really sure who the owner is, but I do believe it's the right of way of the railroad. It's never going to be built on, and the fact that we are putting a second story over an existing first story – bear with me in this – affects no neighbor. And the spirit of the setbacks is that we are not supposed to encroach on our neighbors. But there's no way there would be a neighbor back there.

**Chairman Collins:** Buddy, do you know who the property owner is there to the river side?

**Building Inspector Minozzi:** Most of those parcels are a swatch of Village and then MTA. This particular one, I'm not sure if it's just MTA or the Village and MTA.

**Village Attorney Whitehead:** But it's not a private property.

**Building Inspector Minozzi:** Oh, no. No, no.

**Chairman Collins:** OK, not there.

**Mr. Koch:** Just to sum it up, it's a perfect storm except that it's noncomplying. I mean, it's a wonderful opportunity for the family and it's a no-brainer. I mean, that's where anybody who could would put an addition, very simply, on top of that existing first floor. And, of course, our effort will be to open the first floor up and have a great view because the house is dark.

**Chairman Collins:** Why don't you walk us through the problem the family has today that this addition will solve. You mentioned, for example, a growing family. Why don't you tell us a little bit about the square footage of the home today, how many bedrooms it is today.

**Mr. Koch:** It's a three-bedroom home. The existing building coverage is about 1,155.

Actually, upstairs is approximately a 700 square foot footprint. We would propose to add about 250 square feet on the back end of that. Now, the issue with the existing is it's a three-bedroom home and they have two kids. They'd love to have room for grandma or an au pair to come stay, and there's no place. The idea would be to actually create a bedroom here, either a little laundry or storage room here, keep the bedrooms, and do a future master bedroom suite in the back. Of course, if I were going to have a master bedroom suite I would want it in the back, not on the street.

That's the gist of it. Downstairs, it's really an opportunity to kind of open it up. We would put a large load bearing structure, probably a steel beam, to open up from the existing dining room which is cast in the language of the mission room with wonderful plank rail and frieze running around the room. We would actually maintain that, but open up the wall. I don't want to like blah, blah, blah, but it's an opportunity really to open the house up to the river and to give them a much more modern living situation.

These things are a little bit weird. You enter the house, really, through the living room. When we do this we'll have an opportunity to make this a mud room area and enter the house more into the heart of it rather than through the formal living room. There's a few other moves we are going to be able to do if we can put this vestibule there. That is phase two, but it won't require any other zoning variances. That's just all interior work, but we're trying to pave the way to build the shell for them and then next year, hopefully, move the kitchen.

**Chairman Collins:** OK. Could the applicant have achieved a similar outcome – another bedroom and the additional benefits you described – by any other way that would have been as-of-right?

**Mr. Koch:** Absolutely not. Actually, Uri and I went and explored the attic with an eye to doing this, but it was already noncomplying. We'd certainly have other issues if we opened that up, not to mention no stair. This is really the spot and the only spot. Putting it up front would be doing a great disservice to the street and to the house itself. This was clearly the only way to do it and the only way to really help with the hardship the client has in this small house.

**Chairman Collins:** OK. Questions, guys?

**Boardmember Leaf:** Mitch, Ray talked about the building envelope and being that trapezoid. Obviously, if you look at it the one place where you could build as-of-right would be to the north. Did you look at that? For the record, that would've been a way of avoiding increasing the nonconformity.

**Mr. Koch:** Yes, we explored that. But the problem is the front elevation is set. It's bilaterally symmetrical, very clearly in the language of this type of house with huge manor columns. I guess you all went to see it. It's almost a little weird, but adorable. To build out here would be to shoot themselves in the foot, if you will. So we looked at it, but it just didn't make any sense.

**Chairman Collins:** When you say "shoot themselves in the foot," you mean ...

**Mr. Koch:** Well, it obstructs more view for people across the street. For the owners, I wanted you to remember that the stairs are on this side of the house. If we're now building an addition on the other side of the stairs it becomes kind of an oddball thing. You now have to go through another bedroom to go into it. So the logical place we came up with was back here.

**Chairman Collins:** In the back minimizes the view disruption and avoids having to reengineer the inside of the house purely for the sake of meeting ...

**Mr. Koch:** Right. Just to speak to that again, the idea that the owners are going to be living there – and this work is going to be sealed off and this work is going to occur while they're there – I don't want to call it painless because I've gotten in trouble by saying that. But it's outside at least, then there will be joining – a great joining – of the two spaces at some point down the road. But they don't have to live with all the mess.

**Chairman Collins:** Right, OK. That answer your question?

**Boardmember Leaf:** Thank you. That answers my question, thank you.

**Chairman Collins:** Ray, how about you? Anything?

**Boardmember Dovell:** I think you're really saddled with the shape of the lot here because of the oddity of its shape. I think by building where the existing addition was is a nice way to just minimize the impact that everyone currently perceives. I think it's sensitively done, especially the infill within the garage area; which doesn't seem to really affect anything, unless it's just MTA. You can't see it from the street, you can't see it from the neighboring properties.

**Mr. Koch:** Right.

**Chairman Collins:** I understand there's a letter to be read into the record. Is that correct? If you could just introduce yourself into the microphone and fire away.

**Teresa McMann, 165 Warburton Avenue:** Good evening. Last week at the Planning Board I voiced some concerns and objections which I believe have been addressed. We have met as neighbors and future neighbors and landowners and have come to terms of agreement, which we have drafted and signed, committed to each other, and will get notarized. The objections I had seem to be resolved from my place. Those objections had to do with a view of the river from a second story, potentially, which doesn't yet exist and may never. But I wanted to be assured of the value of my property should I leave it to my heirs whom may want to expand or sell it to someone who only wants to buy on the condition that they could expand it.

So I think the Planning Board made arrangements or are making arrangements to visit and see exactly what would have been involved. They're very welcome, you're welcome. But I think our letter will address some of the issues. Thank you.

**Chairman Collins:** OK, great. Thank you very much.

**Ms. McMann:** This is just a note that I have signed and it explains what we're doing.

**Chairman Collins:** Great. Thank you, Ms. McMann.

**Ms. McMann:** Then when the agreement is notarized we will submit that.

**Chairman Collins:** OK, very good. Thank you very much.

**Mr. Koch:** And lastly I'm going to make an appeal, now that I said I wouldn't, to you. If you can figure any way to bend the rules to expedite this on behalf of my clients, I know that next month I believe you're going to be on break. So this hiatus, if there is some way we could jump it because of the Planning Board.

**Village Attorney Whitehead:** They cannot vote on view preservation. They must have the recommendation from the Planning Board to vote on view preservation.

**Mr. Koch:** Fair enough, but you understand the situation now.

**Village Attorney Whitehead:** But I think you've gotten some feedback.

**Mr. Koch:** Great. Thank you.

**Chairman Collins:** Before we completely adjourn, does anyone else wish to be heard on

this? OK, very good.

**Building Inspector Minozzi:** Mr. Chairman, can you read the letter into the minutes?

**Chairman Collins:** Yeah, be happy to.

*"To Whom It May Concern,*

*"My intention to support Maya Elbaum, my neighbor's, application for variances and permission to add onto the residence at 169 Warburton is predicated upon the completion, signing and notarizing of the agreement between neighbors, which has been drafted and agreed upon by us and which is now in progress. This note is confirmation of my commitment to that agreement.*

*"Upon such completion, I also intend to notify the Planning Board Members of a withdrawal of my concerns/objections which I stated at the July 18 meeting."*

*Signed,*

*Teresa B. McMann  
165 Warburton Avenue.*

**Boardmember Forbes-Watkins:** I think it should be pointed out, Mitch, that although we are not meeting on the fourth Thursday of August we are scheduled to meet on September 8 or 10.

**Village Attorney Whitehead:** Eighth.

**Boardmember Forbes-Watkins:** So the amount of time there is irrelevant.

**Village Attorney Whitehead:** It's two weeks.

**Mr. Koch:** Terrific, OK. Thank you.

**Chairman Collins:** All right, thanks for the presentation.

**Village Attorney Whitehead:** And if any of the Zoning Board Members want to go out and look also, since they've got it set up for the Planning Board, just let Buddy know.

**Boardmember Forbes-Watkins:** I've been there, done that.

3. **Case No. 12-16**  
**Michael Curtis & Nancy DeNatale**  
**328 Warburton Avenue**

**Relief from the strict application of the Village Code Sections 295-69.F.1.a, 295-20.B.8 and 295-20.C.1&2, for the creation of a patio, stairs and retaining wall in front of their two-family dwelling at 328 Warburton Avenue. Said property is in R-7.5 Zoning District and is also known as SBL: 4.100-96-4 on the Village Tax Maps.**

**Non-conformity details of the proposed front patio, stairs and retaining wall are as follows:**

**Front yard setback: Existing – 25 feet; Proposed to patio – 6.66 feet; Required minimum – 25 feet {295-69.F(1)(a)}; Variance required – 18.34 feet**

**Retaining wall height: Existing – none; Proposed – 7 feet; Required maximum – 6.5 feet {295-20.B.8}; Variance required – 0.5 feet Paving on a required yard – {295-20.C.1&2}**

*(Boardmember Anuszkiewicz returns)*

**Chairman Collins:** Again, apologies if I get any names incorrect. The applicant is seeking three different variances here for front yard setback, retaining wall height, and paving on a required yard. As always, just make sure you have a microphone in your hand, if you please, sir, and introduce yourself.

**Jim Metzger, project architect:** Unfortunately, due to family issues my clients couldn't be here tonight. But I'm prepared to present the project to you.

**Chairman Collins:** The microphone's not on.

**Village Attorney Whitehead:** I'll tell you what I think Buddy was going to tell you, which is that the Planning Board has granted steep slope approval for this.

**Mr. Metzger:** And view preservation.

**Building Inspector Minozzi:** We got a view preservation waiver.

**Village Attorney Whitehead:** It was awhile ago.

**Chairman Collins:** All right. Oh, I remember. This has been September, October.

**Mr. Metzger:** It's been longer than that.

**Village Attorney Whitehead:** This application was here last year and then it went through some minor revisions, and then went back to the Planning Board.

**Chairman Collins:** All right.

**Mr. Metzger:** We've actually reduced the scope of the project from what it was originally. Again, for the record, I'm the architect on behalf of Michael Curtis and Nancy DeNatale who, unfortunately, couldn't be here tonight because of family issues. But I'm prepared to present the project to you.

We have an interesting situation. We're asking for two variances – three variances, actually – and none of them involve enlarging the house. We are doing all the work in the front yard of the house. This is a photograph of the house as it exists. It's directly across the street from the gas station, and next to what's known affectionately as "the dog park." The house sits up on a hill and is a little bit more than a full story above grade at sidewalk level. The house was built in 1954. The only thing that was added onto the house in that time was a carport that was put on in 1977, I believe. These stairs have been falling apart for quite some time.

Since the owners have the house, Nancy's parents – unfortunately her mother passed away, but her father has come to live with them – it's a two-family house, in nonconformance but existing, and is grandfathered in. There are two very small bedrooms in the house. What they would like to do is utilize the basement space as a master bedroom so Nancy's father could use one of the bedrooms upstairs. Then they have a small home office. Aside from that, there's a living/dining room and a kitchen. It's actually a rather modest house.

To accomplish what we wanted to do we needed to find a way to bring some light and air into the basement space, which is directly behind these stairs. The stairs needed to be replaced. This is obviously the steep slope we were dealing with at the Planning Board. What we want to do is remove the stairs, actually bring this wall in, and create a courtyard. You would come up a small flight of stairs into the courtyard. There would be a free-standing stair in that courtyard that would continue up to the porch. And underneath that stair

would be windows in a door going into the basement.

This sketch gives you some idea of what we're looking to accomplish. The retaining wall that we're talking about putting in, unlike most fences and walls that are called for in the code, actually doesn't go above the existing porch because we're excavating, not building up. So there is virtually no impact on anybody's view by building this wall. The reason it needs to be 7 feet, 7 foot 2 high – which is 6 to 8 inches above what the code allows as-of-right – is because in order to get this new plaza level to be able to go directly into the basement we needed to come down to this level. And to get up to the steep slope that's back by the porch we have that wall-in. And that wall actually steps down, following the slope. So at any given point it is only about this much higher than the land it's adjacent to.

What we're creating in here – and let me go to a better sketch which, I think, will give you an idea of what we're looking to do there – is this, which gives you a pretty good sense of what we're looking to accomplish here. We're looking to excavate an area that's a hair over 10 feet wide and about 20 feet long. In order to accommodate stormwater runoff, the steep slopes, and all of that we're putting in a semi-pervious surface in here. So we're containing all the water within the space we're creating here. We're actually reducing the stormwater runoff on the site by going from this concrete and stone stair to semi-pervious here. And actually in the driveway over here, which is some rough asphalt, we're actually going to put in what's called Gravel Pave which also will increase the perviousness (sic) of the site.

The stair is a freestanding piece. It'll be a piece of sculpture in the front yard that will go up to the existing porch. Below the front edge of the porch is where we're going to do the new addition. There's a very small bump-out, underneath, contained within this front porch, to get into the basement. What-week asking for is to take a stair that meandered up this slope, and allow us to create this courtyard, put a stair into it, and then build a retaining wall that affects nobody's view.

**Chairman Collins:** OK. Buddy, is there a way we can quiet them down a little bit?  
Thanks.

I think it's a very attractive design, and I like the innovative approach to solving for this problem of getting more light into that what I'll call the basement level. I don't know if that's appropriate.

**Mr. Metzger:** It is. It would actually be the basement level.

**Chairman Collins:** Oh, yeah. I think it's a really innovative and thoughtful design. And we're already clear of the views so I'm not even going to go there. We gave it the waiver so

that's fine, it's taken care of.

I think the part I struggle with on this project is the front yard variance request, where you're going from ... and I know it's to the patio, which ... on there, can you just point out where that edge is?

**Mr. Metzger:** It's where these blue dots are.

**Chairman Collins:** That's what I thought. To me, that's the one part of this project that stands out because you're going from a 25-foot existing, which matches the requirement, all the way down to less than 7 feet. Which is a substantial variance request, in service of a lovely project. But it is the part of the project I struggle with.

**Mr. Metzger:** I totally understand. If you look at the code as it's written, it's a construction in a front yard. What we're really doing is just creating a level change to get from the street up to the porch. That's how I was viewing and, quite honestly, I was surprised when I found out, well, we're viewing that as a construction. But I understood, after Buddy and I had the discussion. I understood why this is considered a patio.

We intend ... I don't know if you visited the site, I'm assuming you did. The owners are avid gardeners. While we show this for clarity, I can tell you this is going to be filled with plants and possibly a piece of sculpture. The idea here is not to create this concrete slab out in front of the house. It's to create a natural kind of garden space you would pass through in order to get up into the house. Instead of wandering through the garden in this zig-zag fashion that's existing, you'd come up into a garden here and then up a set of stairs into the house.

**Chairman Collins:** OK. Again, I think the design is lovely. If I challenged you to retain its functional usefulness in a way that minimized the variance request, how would you go about tackling that?

**Mr. Metzger:** It would be very difficult to do, and I'll tell you why. In order to get required light and air into the basement we have to have a certain amount of operable openings, windows and doors. If I go to the plan, this is the basement level and this is ... the front porch now is right here. This is the only place we have to put windows into this project. Originally when this was presented this was actually over the year. So we've reduced the size of that, and I reduced it to a size that allows me to have the absolute minimum amount of window and door area to satisfy the requirements for light and air for this to be a habitable room.

It would be almost impossible to reduce the size of this any further and still accomplish

creating a bedroom down here.

**Chairman Collins:** Would it be possible, though, to move the edge of the patio that is closest to Warburton and move that back closer to the house?

**Mr. Metzger:** Well, the problem with that is, I need a certain amount of run to the stair to be able to get from this level to the porch. The stair ends here. The stair from Warburton up to that level is here. I have basically the minimal amount of room you would need to get around this stair to be able to come and get into the basement.

**Chairman Collins:** What is that gap now?

**Mr. Metzger:** The gap now is a hair over 3 feet. It's maybe 3 foot 6. So to reduce that gap means you wouldn't be able to get around the stair to get into the basement. It would basically make this an enclosed courtyard as opposed to a space that enables you to move in and out of that basement area.

**Chairman Collins:** It is like pulling on the yarn on a sweater, isn't it?

**Mr. Metzger:** I'm sorry?

**Chairman Collins:** It's like pulling on the yarn on a sweater that's starting to fray. As soon as you try to move one, the whole thing starts to change.

**Mr. Metzger:** A lot of this was budget-driven, quite honestly, but we really tried to minimize the impact and still be able to do what the client needed in order to be able to use the house with her elderly father.

**Chairman Collins:** OK. Does anyone else have questions about the project?

**Boardmember Anuskiewicz:** I have a question for the Building Inspector. Buddy, is the structure in the required front yard the wall, the porch, the stairs, all of the above?

**Building Inspector Minozzi:** Yes.

**Boardmember Anuskiewicz:** All of the above.

**Mr. Metzger:** No, the porch is not in the required frame.

**Boardmember Anuskiewicz:** So it's not the porch.

**Village Attorney Whitehead:** The patio and the wall.

**Chairman Collins:** And the stairs.

**Village Attorney Whitehead:** No, the stairs are permitted.

**Boardmember Anuskiewicz:** The stairs are permitted. So it's the patio and the wall.

**Chairman Collins:** Yes.

**Boardmember Anuskiewicz:** I think that makes this easier. Even though, Mr. Chair, you are absolutely aware it's a large area variance. But in terms of precedent going forward, the retaining wall is really a special case. If somebody comes to us and says I've got a retaining wall that's in my front yard it's a little different from saying I've got a portico, I've got a porch, I've got something else.

**Chairman Collins:** Right.

**Building Inspector Minozzi:** And the same with an entrance patio.

**Boardmember Anuskiewicz:** And the same with the entrance patio. So I think it does, it's a little unique and a little easier to accept, or swallow, in terms of a precedent. And it's really very attractive.

**Building Inspector Minozzi:** It's unfortunate the way our code is written that structure is everything. You know, it's a house, it's the walkway, it's the retaining wall; they're all structure.

**Boardmember Anuskiewicz:** Maybe it's not so unfortunate. Maybe it allows us to even talk about it.

| This has nothing to do with zoning approval, but are you really not going to have any railing on those stairs, and is that ...

**Mr. Metzger:** Oh, no, no. No, the stairs absolutely have a railing. In fact, this is the section through – this is Warburton Avenue. Of that small set of stairs, this is the patio we're talking about, such as it is. The stair that we're looking to do is going to be reminiscent ... this is a very beautiful, mid-century, modern house. It was designed by Martin Lowenfisch, who was a notable architect in the Village. In keeping with mid-century modern, what we're looking

to do is actually sort of a ship's type of stair that'll be done out of aluminum and stone. The idea is, because this is such a small patio the stair needed to be something special. So we're looking to do this as a sculptural piece. The infill on the stair for the railing I'm hoping to do with a mahogany frame, and then using copper plumbing pipe as the balusters. So it'll be a really decorative object sitting in that space.

**Boardmember Anuszkiewicz:** Thanks. I misread it, thanks.

**Chairman Collins:** David?

**Boardmember Forbes-Watkins:** I'm just very impressed. A clunky front entrance will be a lot nicer, a lot nicer. And I think it's a very good plan.

**Boardmember Dovell:** The only thing that troubles me about this application is the retaining wall itself, which is stepped. You know, that's what you're going to see from the street. You're going to be looking at that as you pass by. The treatment of that is going to be really important. Otherwise, it's going to look like a civil engineering project and not like a piece of architecture.

**Mr. Metzger:** I appreciate that, and I've discussed this with the client. The client happens to be a lapsed artist. In fact, Nancy's father, who's moving in with them, is actually a very well-respected artist. For budgetary reasons we're designing this as a concrete wall. And I can't tell you how difficult it is to find a contractor who will tell you they're actually going to pour a smooth concrete wall. Most of them are pouring foundations and pockmarks and things. The idea here is, this is going to become decorative in some way.

I know that is something I'm telling you and is not shown on the drawing. But I can tell you that these clients, if you take a look at the way they maintain their property they have no intention of leaving that as a 7-foot high concrete wall. That is going to be designed. Whether it's something as simple as a lattice growing plants, or something where we actually put some sort of sculptural piece on that, that wall will become a piece of art as opposed to just a concrete wall.

**Boardmember Dovell:** You'll have two walls now. You have the retaining wall against the garage.

**Mr. Metzger:** Right.

**Boardmember Dovell:** Then you'll have a second one, which is forming your kind of sunken porch.

**Mr. Metzger:** This wall will have the stair next to it. You'll never actually see that as a wall as you will see this wall. In fact, one of the reasons I wanted to do a very open stair as opposed to pouring a concrete stair – which is a less expensive way to go – is because I really envision the afternoon sun as it comes through the open treads of this stair, of casting shadows on this wall behind the stair. It's actually going to be something you will see the shadows moving along that wall during the day.

**Boardmember Anuszkiewicz:** I can think of another way to do it. I'm not saying I would ask you to do that, but I feel like you need the variance because you need the room for the stair option. That stair that have described so eloquently, which is going to be like a piece of sculpture, is really occupying that whole patio that you're making. Because it needs to come down so far to the west you're being forced to actually then add another set of steps to get down to the street. Which is creating more variance that you're asking for.

I mean, I think it's quite beautifully done, so ...

**Mr. Metzger:** Thank you.

**Boardmember Anuszkiewicz:** ... I'm not sure how to make this point. But, you know, there would be another way to do it which I think maybe addresses also the other point that was just made. If that stair, for example, were not in that space you would have created a courtyard there that could maybe be more usable to the father's apartment. Maybe he could sit there or something. And also, that stair – as beautiful as it is – is going to block a little light going back into the basement. Did you ever even try perhaps to enter ... instead of coming up from Warburton, to go into the driveway and then go up to the south. You would have to move that stair, then, to the south of that retaining wall.

**Mr. Metzger:** This actually uses a parking spot, and you can barely open the car doors in there. So to create a stair in there you would never be able to get past the car that's parked in there to actually do a stair in there.

The reason for the elevation of this, we did talk about – I mean, the client and I talked about – how the father might be able to use this. This patio is actually 6 inches below the grade of the basement. While yes, there is a small set of stairs here that you need to get there, at some point you have to get from here to here. And I wanted to do that at the front to create a space. One of the reasons we have the wall here, and that it's set back the way it is, is that you could actually have a chair and table out there. In the spring you could sit out and read a book and hang out. Because it's elevated off the street it gives you some sense of privacy.

There were a lot of things we thought about in terms of looking at this: how does this create a more private space on a public street, give us access between Warburton and this basement, and create something sculptural on the front of the house that would be an assess as opposed to, oh, look they put a new set of stairs in. I mean, clearly we were trying to avoid that scenario.

**Boardmember Anuskiewicz:** So the reason you can't come from the patio level to the street level, or to the driveway, is because you'd be taking away the use of the parking space out in front of the garage?

**Mr. Metzger:** That's right, in the carport. Actually, they have Nancy's father's car and their car, and they actually use that carport every day. In fact, they very often get into their car coming through the basement into the garage so they're not having to go outside to get in and out of the car. They use that carport.

**Boardmember Anuskiewicz:** I understand, I understand. These are the physical things that are required in the variance.

**Mr. Metzger:** Yeah, I understand.

**Boardmember Anuskiewicz:** I mean, they could be done differently, but it might impact the functionality of it, the parking. I understand that.

**Boardmember Dovell:** One thing that might diminish the impact of that retaining wall was, why didn't you think about pushing the stair over the retaining wall side and let that really be more of a landscaping element, and really freeing it up?

**Boardmember Anuskiewicz:** The wall becomes the stair, and it's not quite so ...

**Boardmember Dovell:** And then rather than having a stair and a wall, it's kind of one element.

**Mr. Metzger:** Well, I appreciate that and we looked at that. First of all, there's an existing stone wall here that we don't want to touch. So the access onto what we're creating with this patio is actually next to the wall for the carport.

**Boardmember Dovell:** Understood, but the stair could turn right in front of the court and could step up.

**Mr. Metzger:** Actually, we don't have room to do that, to turn the stair.

**Boardmember Dovell:** You have room right here to do it if you turned it this way.

**Mr. Metzger:** One of the things ...

**Boardmember Dovell:** Hold on just a second.

**Mr. Metzger:** OK, sorry.

**Boardmember Dovell:** If you turned it this way and came up this way, and turned the stair this way and then up, that would work.

**Mr. Metzger:** I appreciate that. One of the things we were trying to avoid, I don't know if you ... I'm assuming you did not use the stairs that are there. The stairs that are there now are like walking through a pinball machine. You go up a few stairs, hit a landing, you turn, you go up a few more stairs, hit a landing, you turn, go up another couple of stairs.

**Boardmember Dovell:** I understand that, but 50 percent of the houses in Hastings have that ...

**Mr. Metzger:** I understand that, but we're trying to avoid recreating what the clients perceived as a problem. And quite honestly, when you're coming up to the house, 99 percent of the people that are coming here are coming up to the front door, which is on the porch. What I didn't want is for people to come up onto this patio and then have to do this little zig-zag and then go up the stairs. I felt we wanted people to come up the stairs. And, in fact, the stairs create a level of privacy. This is me being the architect. They create almost a Venetian blind effect so that when you're in the door and you're looking out you're looking through all of those openings – 4 inches, according to code – but it gives you this privacy that when you're walking by the house you're not looking into a door that goes into somebody's bedroom. I felt it was a worthwhile thing to do.

**Boardmember Dovell:** What's the change of grade from the street to the top of that run of stairs, that first run of stairs?

**Mr. Metzger:** One second. The grade is at 101, and the top of stairs is approximately 106. So we're going up about 5 feet.

**Boardmember Dovell:** Five feet.

**Mr. Metzger:** Then from the patio up to the porch, the porch is at about 115. So we're

going up another 9 feet. This set of stairs is actually a full run of what you would consider a normal set of stairs, 13 risers. There's a comfort level also, when you're going up stairs, to have a landing about every 9 feet in elevation.

**Boardmember Anuszkiewicz:** I think part of the tricky things is that you're presenting to a couple of architects who are running through other scenarios.

**Chairman Collins:** But this is a part of why we do this. Because the debate helps to make sure that before we all raise our hands and vote one way or the other that we have asked the questions. And I know you understand this.

**Mr. Metzger:** I do.

**Chairman Collins:** And it's as much for the record that we do this, we probe, sometimes asking questions where the answers seem to be self-evident, so we all can make sure we've exhausted every other option except for that which requires a variance.

**Mr. Metzger:** Unfortunately there's no way to get up to this house unless we rebuilt which, as I said, nobody likes those stairs. They're just very uncomfortable to use. When you're carrying things, you're constantly trying to figure out if you're at a landing or not. This will be a much nicer set of stairs to use. And as I said, we knew going in we wanted that stair to be a sculptural object. I had to figure out how to do that and keep the cost down. We're going to be using out-of-catalogue aluminum pieces, I-beams. Like I said, we're going to be using copper plumbing tubing as balusters.

One of the directives the client gave me is to try and use off-the-shelf industrial items. Because that's what you would have done in the 1950s if you were doing something on a house like this. In fact, we're going to be replacing the railing on the existing house match the railing we're using on the stair.

**Chairman Collins:** Like I said, I think you've earned the respect of everybody up here for what you've proposed, and I think it would look lovely. But, Ray, I want to give you one last shot at this. I mean, you see a way for ...

**Boardmember Dovell:** Well, I just ... the thing that troubles me is looking at that retaining wall, which is a really an insignificant piece of structure. And if that could be somehow softened – either with running the stair against it, like 1 inch over, or with landscaping or something else – because it's quite visible.

**Mr. Metzger:** I'm really not trying to be flip here. And, again, the idea is I was trying to

present this the form that it would be built. But if you noticed, I drew things growing over the carport because, in fact, that's actually what's there. We have every reason to believe that whether this is grown as a green wall, whether it's done as sculpture, one of the things we talked about is that Nancy's father studied under Joseph Albers – those of you that know who that is – talked about the possibility of, when were putting the forms up for this wall, of actually putting pieces of wood, rectangles, in there ...

(Village alarm horn)

do you want me to wait for a second?

... but we would put something on the inside of that formwork to create a sculptural wall here. But until we get a contractor who can actually say, "I'm actually going to build you a wall," that discussion was too premature. But at minimum, we'll be creating something on that wall. It will not be a blank concrete wall. The owner doesn't want it, the architect doesn't want it, we don't feel it's right for the neighborhood. What someone may do in the future, I have no idea. But I can tell you that this client is going to do something artistic on that wall. It's not going to be a 7-foot high section of gray concrete.

**Chairman Collins:** We could condition the approval, right? on some treatment for that wall? We've done things like this before.

**Village Attorney Whitehead:** Yeah, but you're not really defining what the treatment is.

**Chairman Collins:** Well, we've done similar things, where we say plant a tree. We don't specify a tree, a bush, you know. There are things we could do to indicate this board's preference that we address ...

**Village Attorney Whitehead:** That is not be a blank concrete?

**Chairman Collins:** That it not be a blank concrete step.

**Mr. Metzger:** I don't believe my client or I would have any problem with you asking for us to make sure that wall has a decorative aspect to it.

**Village Attorney Whitehead:** Some decorative feature on the face of the concrete wall.

**Chairman Collins:** Yeah, we could weave that in.

**Boardmember Anuskiewicz:** Could that wall *be* a planter, steps planter, instead of just a

wall?

**Mr. Metzger:** I'm sorry, I'm not following what you're asking.

**Boardmember Anuskiewicz:** Could it be a stepped planter? I'm just trying to react to Ray's comment about it just being this big wall. If there were steps, and it had planting on it the same way you've indicated above the garage, everything ...

**Mr. Metzger:** Here's the issue. And I said this is ... we've really looked at a lot of these things. And yes, when we originally had proposed the project instead of the wall being here it was going to be here. And, in fact, the wall was going to come out and step in, and go in and step. So it was going to be a ziggurat shape, which would have been a lot nicer. But it was very expensive. And this tree is an incredible Japanese maple. We had two different arborists come in, and one of the contractors we were talking to does landscape work as well. They said we think we can save the tree if the wall is out here. As soon as we talked about moving the wall in here everybody's opinion is, oh, we'll be able to save that tree. That became a really critical part of reducing the size of it.

The problem with doing the stepping is two things. One, it creates additional expense. And two, it starts moving that wall closer to the potential root structures of this tree. The expense is a very big deal here, as it is on every project.

**Boardmember Anuskiewicz:** By the way, why do you say it has to be poured in place wall? From my perspective, maybe it's a little off-topic but it's not so difficult to build that wall out of CMUs and it's very easy to get high-quality skilled labor that does that in these parks. I'm only saying that, and I'm hoping you'll cover that wall and it won't look ... anyway, the poured in place is more complex and easier to do a bad job on. It's more common for that kind of a thing to get screwed up, and it's more expensive.

**Mr. Metzger:** We talked a little bit about doing prefab blocks and doing them as a step thing. The reality is that that was too conventional for me and for the client.

**Boardmember Anuskiewicz:** Stucco, and put something else on top of it.

**Mr. Metzger:** Like I said, something is going to go on the face of that wall and it may be a spectacular mural. Nancy's father may decide, "You know what? This is going to be my last piece of public art," whatever that might be. We're going to put something artistic on that wall.

**Boardmember Anuskiewicz:** OK, I just hope it's not the big concrete wall with the form

ties visible and all that. Because when you say poured in place that's a very different construction technique that doesn't make such a beautiful wall.

**Boardmember Dovell:** What is the construction of the wall in front? That's a stone wall?

**Mr. Metzger:** I'm sorry, this wall?

**Boardmember Dovell:** The retaining wall in the front.

**Mr. Metzger:** The existing wall?

**Boardmember Dovell:** Mm-hmm.

**Mr. Metzger:** It's a stone with mortar, and it's been there since 1954. In fact, it continues on this side of the site and goes over to the neighbor's property. It's in extraordinarily good shape.

**Boardmember Dovell:** Did you give any thought to perhaps wrapping that around and making that the face of the retaining wall?

**Mr. Metzger:** We did, and it became a cost problem. How do you create something nice that a client can afford? We all wish we had unlimited budgets. I mean, my client wishes they had an unlimited budget. We would probably be looking at a very different project. But this is where we are. When we started getting prices back also on the larger-sized project we realized we were going beyond the budget. That's one of the reasons it's taken so long to come back to you was we needed to redesign and then go back to the Planning Board and work all of that out.

**Chairman Collins:** All right, I'm going to propose that we invite anyone who would like to be heard on this. I have a feeling you're here for another reason.

**Mr. Metzger:** I appreciate your patience.

**Chairman Collins:** So do we.

OK. Then if there are no further questions from the Board, can I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuskiewicz with a voice vote of four to one, the Board resolved to approve Case 11-16,

for nonconformities: front yard setback, existing 25 feet, proposed to patio 6.6 feet, required minimum 25 feet; and the retaining wall height, existing none, proposed 7 feet with a condition that the retaining wall include decorative features; and paving on the required yard.

**Chairman Collins:** We have four in favor, one opposed.

**Mr. Metzger:** I appreciate the Board's comments. Thank you very much.

**Chairman Collins:** Congratulations. Good luck.

4. **Case No. 13-16**  
**Nate & Jacqueline Kessman**  
**59 Tompkins Avenue**

**Relief from the strict application of the Village Code Sections 295-68.F.1.a, for the creation of an enclosed portico entrance in front of their single family dwelling at 59 Tompkins Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.140-149-20 on the Village Tax Maps.**

**Nonconformity details of the proposed enclosed portico entrance are as follows:**

**Front yard setback: Existing – 32 feet; Proposed to portico – 26.5 feet; Required minimum – 30 feet {295-68.F(1)(a)}; Variance required – 3.5 feet**

**Chairman Collins:** While Mr. Metzger is taking down his drawings, we'll transition to our final case – our gratitude for your patience – 13-16 for Nate and Jacqueline Kessman of 59 Tompkins, seeking a front yard setback variance of 3-1/2 feet.

**Building Inspector Minozzi:** They're supposed to Skype someone in, but the person's not answering. Raf's been trying to get them for the last half an hour.

**Chairman Collins:** OK, is that going to get in the way of getting this done?

**Village Attorney Whitehead:** You can just explain what you want to do.

**Nate Kessman, applicant:** You all have copies of the plans. I'm the homeowner. We're asking for a small setback of 3-1/2 feet from the existing variance. There is a path that runs up from our driveway into the house. That path terminates on a cement pad, which is about 5-1/2 feet, at our front door. What we're proposing is to move a covered portico out to the

end of that existing cement pad, bringing the building out about 5-1/2 feet. Currently we have 32 feet from the property line street; we're proposing 26-1/2. And that 5-1/2 feet exists as a cement pad.

**Chairman Collins:** In the drawings, is the dotted blue line – if you can recall that – where the existing structure ends, here?

**Mr. Kessman:** I see it.

**Chairman Collins:** I'm not sure if I'm on the right page or not. This is the first page of drawings.

**Building Inspector Minozzi:** Raf just motioned to me that he can't get in touch with him.

**Chairman Collins:** OK.

**Mr. Kessman:** That's where the existing structure ends.

**Chairman Collins:** This blue line, OK. It makes sense.

**Mr. Kessman:** Yes.

**Chairman Collins:** I mean, it's sort of in line with that wall.

**Mr. Kessman:** That's exactly where the existing structure ends. That's correct.

**Chairman Collins:** OK, all right. You guys all see that?

**Village Attorney Whitehead:** Yeah, the site plan shows where it ends.

**Chairman Collins:** OK. So you're building a portico over a slab.

**Mr. Kessman:** Yeah, over a slab that's existing.

**Chairman Collins:** OK. And who do we have here?

**Mr. Kessman:** That's our architect.

**Chairman Collins:** All right. I suppose we're going to ... and this will be innovative, but we'll need the microphone by ... if your architect is going to speak we'll need the mic ...

**Village Attorney Whitehead:** Do you need the architect? Do you have questions for him?

**Boardmember Dovell:** I don't.

**Chairman Collins:** I don't either, but if the architect has something ...

**Village Attorney Whitehead:** Legally, for the record, it might be better not to try to ...

**Mr. Kessman:** I understand that, and appreciate it.

**Chairman Collins:** OK.

**Mr. Kessman:** Thank you.

**Chairman Collins:** Then I assume the need here is like many other residents in Hastings who tire of stepping out on a snowy or rainy day and immediately getting whacked by precipitation so they want the nice overhang over the front entrance. And to do that requires, then, a foundation.

**Boardmember Forbes-Watkins:** The foundation's there, according to the plan.

**Mr. Kessman:** Yeah, it's existing. We're going to build ...

**Chairman Collins:** Up for now, OK.

**Village Attorney Whitehead:** They're closing it, basically. It's enclosed.

**Chairman Collins:** Right, OK.

**Mr. Kessman:** It will match the existing aesthetic of the house. We're also doing some more energy efficient siding and windows, as well.

**Boardmember Leaf:** So the portico will be glass-fronted the way the current entrance of the house ...

**Mr. Kessman:** There'll be a door.

**Boardmember Leaf:** So your house has a door, and then a big glass panel right next to it, right? So are you also going to have that glass brought into the portico somehow, or

windows in the portico?

**Jacqueline Kessman, applicant:** There'll be windows above just like it is now.

**Boardmember Leaf:** I thought that was the original.

**Boardmember Dovell:** This is what you're proposing, right here.

**Mr. Kessman:** Yes.

**Chairman Collins:** We see a lot of requests like this. The fact that it's going to be fully enclosed is a little bit unique, but the intrusion into the yard is very minimal for a benefit that, whether it were enclosed or unenclosed, to me is pretty easy to understand. I think this is a pretty straightforward one.

You guys have any questions or comments for the applicant? OK.

**Boardmember Anuskiewicz:** I don't. It looks like it makes a very nice entry.

**Chairman Collins:** OK, can I get a motion?

**Boardmember Forbes-Watkins:** We're not going to ask for comments from the audience?

**Chairman Collins:** No, we're not.

**Village Attorney Whitehead:** For the record, just to show ...

**Chairman Collins:** OK, yeah. For the record, there's nobody here. Go ahead.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuskiewicz with a voice vote of all in favor, the Board resolved to approve Case 13-16, front yard setback, existing 32 feet, proposed for a portico 26.5 feet, required minimum 30 feet.

**Chairman Collins:** All right, the vote's unanimous. Congratulations, and thanks again for your patience.

**Ms. Kessman:** Thank you very much.

**Chairman Collins:** Good luck to you.

**Ms. Kessman:** Have a great night.

**Chairman Collins:** You, too.

### **APPROVAL OF MINUTES**

#### **Meeting of June 23, 2016**

**Chairman Collins:** All right, why don't we do a quick check of the minutes. Does anyone have any amendments to the minutes?

**Boardmember Forbes-Watkins:** I thought they were excellent.

**Chairman Collins:** The last several have been. I had none.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Anuszkiewicz with a voice vote of four to one in favor, the Minutes of the Regular Meeting of June 23, 2016 were approved as presented.

**Chairman Collins:** The vote is as unanimous as it can be, 4-nothing. Marc did not vote on them and abstained on the minutes.

### **ANNOUNCEMENTS**

**Next Meeting Date – September 8, 2016**

### **ADJOURNMENT**

Chairman Collins adjourned the Regular Meeting.