

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

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

**PRESENT:** Acting Chairman David Forbes-Watkins, Boardmember Ray Dovell, Boardmember Sean Hayes, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

**Acting Chairman Forbes-Watkins:** To get the meeting started, I'm David Forbes-Watkins. Our chairman, Matt Collins is out of town tonight. Now, there are a number of things that need to be said before we get started. First, anyone who's here for agenda item 36 Main Street, Arthur and Jessica Riolo. That is being deferred until next month. Therefore, there won't be any discussion of that case at all.

Secondly, there are only three of us here. That means that any approvals that are made by the Board must be unanimous because state law requires that a majority of the total Zoning Board approve any Zoning Board action. We are five, three must approve. Because of this, it is the option of the presenter to defer the vote until a second meeting if they so choose. In this case, we'll see how things go.

The third item is that Mr. Hayes has to catch a plane to Bogotá, Colombia tonight and will only be until 9 o'clock. Therefore, we are very brief.

With all of that said, the first question is are the mailings in order for the cases that we are going to deal with?

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

**Acting Chairman Forbes-Watkins:** OK, then let us proceed to Case 01-16.

**Case No. 01-16**  
**Travis E. Noyes**  
**324 Farragut Avenue**

**For approval, as required under Sections 295-60.B of the Village Code, to  
replace an existing dilapidated, nonconforming accessory structure (garage)  
with a new one at the same location and of the same size as the existing**

**structure, at their home at 324 Farragut Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.110-124-7 on the Village tax Maps.**

**Non-conformity details of the existing and proposed accessory structure (garage) are as follows:**

**Side Yard: Existing and Proposed – 2.67 feet; Required Minimum – 8 feet {295-68F.1.b.}; Variance requested 5.33 feet.**

**Rear Yard: Existing and Proposed – 5.9 feet; Required Minimum – 8 feet {295-68F.1.c.}; Variance requested 2.1 feet.**

**Maximum Height: Existing and Proposed – 21.8 feet; Required Maximum – 15 feet {295-68F.1.d.}; Variance requested 6.8 feet.**

**Acting Chairman Forbes-Watkins:** Please, in speaking to your case, or any questions that arise, speak into a microphone and identify yourself so the recorder can get appropriate information.

**Ed Marron, representing applicant:** We'd like to thank you for taking this time this evening to review our application tonight. We here to ask for relief from the accessory structure code to rebuild the same accessory structure in the same height in the same location. We are asking for relief of a side yard setback from 8 feet to 5 feet 3 inches; required rear yard setback from 8 feet to 2 feet 1 inches, all existing; and a height requirement of 21 feet, where 15 is required.

Again, everything we're asking for on the building was exactly the same height in the same footprints. We are planning on reusing the foundation and footings as best as possible. There are some places where it needs to be replaced, especially where it's below grade. We believe it would be a hardship to remove it into a compliant location, and therefore that's why we're here today.

We also have a hardship of the garage location and existing driveway – there's a rock ledge and wall here – because moving it forward into a compliant location would be very expensive and we would also lose our turning radius. So the cars would have to back out all the way to Farragut Avenue instead of turning around.

**Acting Chairman Forbes-Watkins:** It's a monster of a street.

**Mr. Marron:** It's a tough street.

With those two issues we're here tonight, and the third one height. The height, we can lower the building. The architecture doesn't allow it. It would turn a beautiful 1920s craftsman-

style home with a ranch style roof on the garage. So we'd like to leave it the same. We don't want to raise it. We do want to add two dormers to the front, and that was at the suggestion of one of the neighbors. We have given you neighbors' letters of accessibility, I guess, from the rear neighbor most affected right here and the neighbor from across the street. As you can see from the application, the building is well-screened from the road and far from the road. So the only impact – this is a garage here – would be this house. Like I said, we have a letter from the neighbor saying they have no objection.

Any questions?

**Acting Chairman Forbes-Watkins:** OK, thank you very much, Mr. Marron. Particularly for moving along.

**Mr. Marron:** I got the hint.

**Acting Chairman Forbes-Watkins:** We do have the letters of support from the neighbors. The one question I had when I looked at the building, there's no question the garage is a disaster and has to be replaced or redone.

**Mr. Marron:** That's good, right.

**Acting Chairman Forbes-Watkins:** That's without question. As a matter of fact, it should have been torn down a long time ago.

**Mr. Marron:** It's actually a complicated situation. Your law says any repairs over 50 percent need to establish their variances. I think that what's probably caused it not to get repaired for quite a long time.

**Acting Chairman Forbes-Watkins:** Anyhow, the only question really is the height of the garage. Locating in the same spot is perfectly logical, reasonable and desirable, I would think. But what utility do we see in ... the drawings I saw don't even show what you're going to enter into with the stairway that is to the ... I don't know whether it's south or north of the garage. But the side, you have a stairway. Where does it go, what does it do?

**Mr. Marron:** There's an existing door on the side of the building now that was accessed. The stairway had disappeared over the years. We propose a legal, compliant staircase.

**Acting Chairman Forbes-Watkins:** But what are you going to do up there?

**Village Attorney Whitehead:** What's the use?

**Mr. Marron:** Storage. The house has very ... it's an old house, no storage in the attic. The basement's very small, short and damp. So it's storage. It can't be anything else.

**Acting Chairman Forbes-Watkins:** No, that's the reason I asked.

**Mr. Marron:** No, it doesn't meet habitable code, it doesn't meet light and ventilation, it doesn't have the criteria to meet a living space. We intentionally made sure of that. So there's no avenue ... other than to blow out and put a full-sized dormer and larger windows in, this can't be a habitable space.

**Acting Chairman Forbes-Watkins:** Good.

**Boardmember Dovell:** What's the existing height of it now?

**Mr. Marron:** Exactly the same.

**Boardmember Dovell:** Exactly the same.

**Mr. Marron:** Everything is exact. The only thing we did add, at the discussion of a neighbor, is put two dormers on the front.

**Boardmember Dovell:** And that's just for curb appeal.

**Mr. Marron:** You can't see it from the road. I can't see what the curb appeal was, but it looks nice.

**Boardmember Dovell:** You're illuminating the storage area.

**Mr. Marron:** If it bothers you and gives you a sense of false security we are up to taking those out. It just looks nice.

**Boardmember Dovell:** It seems to add a little character to it.

**Mr. Marron:** It breaks up that long roof. But like I said, the foliage is unbelievable in the front of the house.

**Acting Chairman Forbes-Watkins:** Trying to get some character in a garage is not a bad idea.

**Mr. Marron:** Leaving the roof the height was the problem. When we brought it down, it looked like a 1970s ranch on a 1920s house. It was just one of these horrible things. We're not asking to make it bigger, we're just asking to put it back.

**Acting Chairman Forbes-Watkins:** Sean, do you have any comments or questions?

**Boardmember Hayes:** No, it seems completely reasonable to me. What you're talking about here is, it sounds like maybe even a dangerous building that's being basically replaced with something that's identical, maybe a little nicer, and actually more [unintelligible].

**Building Inspector Minozzi:** I've see the structure, it is a completely unsafe structure.

**Acting Chairman Forbes-Watkins:** When I went and looked at it, just to clarify, you could see the other side of the building through the garage walls. That's bothersome.

**Mr. Marron:** What happened is, over the years the grade had risen above the foundation. We're not planning on changing any of the grade. We're actually planning on replacing the foundation 8 to 10 inches above the grade.

**Acting Chairman Forbes-Watkins:** Any other comments?

**Boardmember Dovell:** Not from me.

**Acting Chairman Forbes-Watkins:** Normally we would ask if there are any comments from the audience, however, our audience is very slight. If there are no more, can I a get a motion? Oh, I have to give you the option first.

**Mr. Marron:** We'll take the option.

**Acting Chairman Forbes-Watkins:** You have the option of deferring because there less than ...

**Mr. Marron:** Yeah, I understand. That's fine.

**Village Attorney Whitehead:** You want a vote.

**Acting Chairman Forbes-Watkins:** Sean, can I get a motion?

**Mr. Marron:** Do you want to add to non-habitable space upstairs?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved to approve the variances requested in Case #01-16 to approve the replacement of the existing noncomplying garage with a new non-habitable one at the same location and of the same size as the existing structure, with the addition of dormers, at 324 Farragut Avenue.

**Mr. Marron:** Thank you very much.

**Acting Chairman Forbes-Watkins:** Thank you.

**Acting Chairman Forbes-Watkins:** Tear it down, get it done.

**Case No. 02-16  
Amy Falder & Ray Hyland  
115 Hillside Avenue**

**For relief from the strict application of the Village Code sections 295-68F.2.a [1&2] and 295-68F.1.a&c, for construction of a new rear stone patio and wood deck, at their home at 115 Hillside Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.80-62-26 on the Village Tax Maps.**

**Nonconformity details of the proposed Rear Stone Patio & Wood Deck are as follows:**

**Building Coverage: Existing 29.6 percent; Proposed 33.7 percent; Required Maximum 25 percent {295-68F.2.a[1]}; Variance required 8.7 percent**

**Developmental Coverage: Existing 48.9 percent; Proposed – 43.3 percent; Required Maximum 35 percent {295-68F.2.a[2]}; Variance required 8.3 percent**

**Side Yards: Side 2 – Existing: 2 feet; Proposed 2 feet; Required Minimum 12 feet {295-68F.1.c.}**

**Two Sides Total: Existing 6 feet; Proposed 6 feet; Required Minimum 42 feet {295-68F.1.c.}; Side yard one calculated as a front yard; Variance required 36 feet**

**Front Yard: Existing 2.19 feet; Proposed zero feet; Required Minimum 30 feet {295-68F.1.a.}; Variance required 30 feet**

**Acting Chairman Forbes-Watkins:** Is there someone here to speak to this? Please identify yourself.

**Ray Hyland, applicant:** I just want to thank the Board for hearing us on this variance, and I appreciate your time. I'm also here with my architect, James Krapp. He's helped us through the drawing process.

The variance we're looking for is to provide a deck. Really, as a homeowner and having two young kids, we really don't have a place ... it's a very small lot and actually nonconforming, the house itself. The variance you'll see is part of, really, getting something within that area. And it's about safety. There are some really steep slopes and slick bricks on the back of the house. We really want to get a safe place for our children to play. And we're on that curve of Hillside where the front of our house just doesn't make a lot of sense. We would let them play in the driveway, but it's very dangerous. It's a curve that I think is kind of a blind curve. The real goal here is to provide a safe area for our children.

We're looking to put a deck in that backyard that's really just to provide two different levels. One would be a small decking area, and then a lower level of retaining grass.

**Building Inspector Minozzi:** Just one thing on the variances. We didn't have to list developmental coverage because they actually reduced, but I felt you should see that so I put it in the listing anyway.

**Mr. Hyland:** OK, thank you.

**Acting Chairman Forbes-Watkins:** A couple of questions. Unfortunately, the snow made it rather difficult to analyze your backyard because it's just covered with snow.

**Mr. Hyland:** Right.

**Acting Chairman Forbes-Watkins:** So we have to assume some things based on your presentation as opposed to being able to see them. One thing that is not clear to me, having looked at it, there's a fence towards the back. Is that the backyard line, is that your plot?

**Mr. Hyland:** Yeah, that's essentially the property line ...

**Acting Chairman Forbes-Watkins:** So the entire area ...

**Mr. Hyland:** ... partially.

**Acting Chairman Forbes-Watkins:** The entire area then would be patio'd up to that fence? Is that approximately correct?

**Mr. Hyland:** The existing condition is brick.

**Acting Chairman Forbes-Watkins:** And you would be building a stone wall approximately at the same line as the end of the house. Is that ...

**Mr. Hyland:** Yes.

**Acting Chairman Forbes-Watkins:** All right. And then leaving yourself an entranceway. OK, does anyone have any questions on this?

It seems to me that the property you're dealing with puts you into a very difficult position to try and do anything much more than what you're doing. You have the great advantage of having, I assume, a park or parkland behind you that will not be built ...

**Mr. Hyland:** Yeah, that's Hillside Park. That's correct.

**Acting Chairman Forbes-Watkins:** ... which is a great advantage for you to, in effect, do something and not bother anybody behind you because there won't be anybody behind you.

**Mr. Hyland:** Just the deer.

**Boardmember Hayes:** I'm working on that.

**Mr. Hyland:** We have a feeder behind our house.

**Acting Chairman Forbes-Watkins:** I find it a perfectly reasonable proposal. Unless, again, there are comments or further questions from the Board I will ask again for a motion.

**Boardmember Hayes:** You have to give him the option.

**Acting Chairman Forbes-Watkins:** Yes, that's correct. You have the option, because there are only three of us here, to defer voting on this to another meeting. We must be unanimous with only three present because the law requires that a zoning board action represent the majority of the total Board, and the total Board is five. You have the option of deferring or proceeding, it's up to you.

**Mr. Hyland:** If someone does not approve can we reapply?

**Acting Chairman Forbes-Watkins:** You'd have to go through another application.

**Mr. Hyland:** Then I would presume to proceed.

**Village Attorney Whitehead:** Just for the record, to point out that there is no public present to be heard.

**Boardmember Hayes:** That is evident.

On MOTION of Boardmember Hayes , SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved to approve the variances requested in Case No. 02-16 for the construction of a new rear stone patio and wood deck at 115 Hillside Avenue.

**Acting Chairman Forbes-Watkins:** You're set.

**Mr. Hyland:** Thank you for your time.

**Case No. 18-13  
CCI Properties Inc.  
32-34 Washington Avenue**

**Relief from the strict application of Village Code Sections 295-18.B, 295-72.E.2, 295-20.C & 295-41.B, for the construction of an additional building containing five townhouse units on their property at 32-34 Washington Avenue. Said property in MR-1.5 Zoning District and is known as SBL: 4.70-53.11 on the Village Tax Maps.**

**Variations sought are as follows:**

- 1. Different uses on a single lot: Existing use – two-family; Proposed use – two-family and a multi-family dwelling; Permitted – one use {295-18.B}; Variance required for one additional use.**
- 2. Lot coverage: Existing – 12 percent; Proposed – 40.7 percent; Maximum Permitted 15 percent {295-72.E.(2)}; Variance required – 25.7 percent coverage.**
- 3. Paving and structures in required yards: Proposed – parking spaces for**

**existing structure in the required yard {295-20.C}; Variance required – four parking spaces in the required yard.**

- 4. Maximum width of curb cuts: Existing – one curbcut 10 feet wide; Proposed – two curbcuts 26 feet wide total; Maximum permitted – two curb cuts 24 feet wide total {295-41.B}; Variance required – 2 feet over allowable curb cut.**

**Village Attorney Whitehead:** Buddy, can you tell them to come in?

**Building Inspector Minozzi:** Christina, you're up.

**Village Attorney Whitehead:** Run, run, run.

**Acting Chairman Forbes-Watkins:** While you're setting up, let me again repeat the unanimity issue. We have only three Boardmembers here. Therefore, any vote tonight must be unanimous. If there isn't a unanimity we have failed to meet the state requirement of a majority of the Board voting for whatever we approve. I must also note that it is your right to defer such a vote to another meeting.

Christina, whenever you're ready to attack the equipment go right ahead.

**Village Attorney Whitehead:** Just to add one thing on that, a vote cannot be taken tonight on view preservation.

**Boardmember Hayes:** And has the Planning Board made a recommendation?

**Village Attorney Whitehead:** Yes, you should have, Sean, a copy of the Planning Board's written recommendation.

**Acting Chairman Forbes-Watkins:** You got it with your packet from last time.

**Village Attorney Whitehead:** I know, it was in last month's packet. I have a copy with me if you want to see it.

**Boardmember Hayes:** Because I wasn't at the last meeting. Thank you.

**Village Attorney Whitehead:** It's important, and it's helpful I think, that the Planning Board spent about seven months on this. They did some heavy-duty work on it.

**Building Inspector Minozzi:** Actually, overall, between the two initial applications, they

got about two years.

**Building Inspector Minozzi:** Andrew, how many do we have?

**Andrew Cortese:** About 13.

**Village Attorney Whitehead:** But this is a completely new plan.

**Building Inspector Minozzi:** Right. You guys came back with a completely new plan and that's correct.

**Andrew Cortese:** A lot of feedback received.

**Acting Chairman Forbes-Watkins:** OK, Ms. Griffin. Please.

**Christina Griffin, project architect:** I am representing [off-mic]. I wanted to give you a little ...

**Village Attorney Whitehead:** It's not on.

**Building Inspector Minozzi:** Is the mic on?

**Acting Chairman Forbes-Watkins:** Thank you.

**Village Attorney Whitehead:** We're getting yelled at.

**Building Inspector Minozzi:** It's not hung up. There you go.

**Ms. Griffin:** We were at the Planning Board for seven meetings, and went to the Zoning Board last time. We're back here again. This time I want to give you a little background because I want to explain why we ended up with five new units and revolution of the existing two-story building. I was the architect for this five-unit scheme, but previously there were other schemes done by another architectural firm. I just wanted to show you this layout. Because the submission that was made before I became involved was a 12-unit building, and that building was going to take the place ... it was going to ... well, they were going to reuse parts of the old building, but pretty much take most of it down. It was going to be three stories with 12 units. So four per floor, and there would be an underground garage and an open garage.

The reason I'm bringing this up is because this plan was something that was not favored by

the Planning Board. There was also a petition that went out – and I just want to pass it around – the neighbors objecting to removing the two-family house. But I'm also showing this to you because this plan actually has 32.6 percent development coverage because it's a very compact building. The existing two-family building, there's a lot of square footage in that building. There are two 4-bedroom units. After the petition came about – and there was so much objection to having that building removed because it was an old rectory and had a lot of history behind it – Cortese Construction decided to go in a different direction.

I got involved – and I'm going to go back to the drawings we submitted recently – because I have worked on about 15 different properties in the downtown of Hastings, I helped write the design guidelines, and I did two projects on Warburton Avenue that won ANA awards. I really put a lot of thought into what I thought would really fit this neighborhood. We looked at coverage studies from the very beginning. Last time we were here we showed you one that was a study of 24 properties. Tonight I'm going to show you a broader study that we did that includes 117 properties.

Maybe I should start with the density study because there's a lot this tells us about what is the pattern of development in the neighborhood. This is a map – and I'll try to enlarge it a little – that shows the development coverage of 117 properties. So instead of 24 we've done 117 and covered three or four zoning districts. I'm going to get in close here because I just want you to see where the property's located. These two buildings are the buildings on 32-34 Washington. This is the existing two-family building and this is the proposed five-unit townhouse structure.

We decided to take a look at the development coverage of properties down on Washington, further down on Warburton Avenue, and on these little streets off of Warburton Avenue. If it helps at all, I'm going to pass this out. This should have been in your package. Do you have it? OK. The average development coverage of 117 properties is 45.5 percent. This includes properties in the MR-1.5, MR-O and MR-C zoning districts. Then we also have a more detailed study of each of these zoning districts starting with the MR-1.5 zoning district and including the Cropsey Estate, which we didn't include last time. We included everything shown on this map, which is – I think I have to get in close – 47 properties. Previously, we only had 24. We have an average – and this is a list of all the properties showing you the breakdown of how the study was conducted – of those 57 properties at 41.2 percent.

Then we did another breakdown of the MR-O zone in a similar fashion. This is a list of all the properties, and the average was 45-point something percent. As we keep going, we did one even of the MR-C zone, and that's 38 properties. This is the map showing the MR-C zone, which is further down on Washington Avenue and a few buildings on Warburton. This is the average of that, 57.2 percent. We felt it was really important we look hard at what is

the prevalent development coverage in the neighborhood. Last week, we were at 41.7, and now we're at 41 percent development coverage. You can see that's under the average of 45 percent of 117 properties. I'm going to go back to our site plan to show you some of the changes we made in response to comments and concerns last time.

One thing I wanted to mention is that the scheme I showed you done by another firm, 12 units, was only 32.6 percent development coverage, mostly because it was very compact and the parking was underground. When we kept the two-family building, this building has a lot of square footage for each unit – they're four-bedroom units – plus the parking for this building is outside. Part of our plan was to develop that so it would be more comfortable and has a turnaround so it's much safer when you back out of it. All that coverage, when you put the parking outside, adds to the development coverage.

The building coverage we have on our latest plan is 27 percent. Last time we were here the previous submission was 28.5 percent. We reduced the building coverage. We removed this section of building because it's in bad shape and doesn't really add to the quality of the interior layouts of these units. We put patios on the back of the units because, of course, we should have that in the plan. But we reduced the size of the porches. The porches are small just to try to reduce the amount of development coverage. We went from 28.5 percent to 27 percent for building coverage, and from 41.7 percent to 41 percent development coverage. So the development has not changed much, but we made sure that including the patios – with some reduction in the porches and the footprint of the building – we didn't go any higher with the development coverage.

I also wanted to show just simply ... this is color-coded coverage. It's just easier to see, plus I wanted to point out that there are certain items we put in because we were requested to do so by the Planning Board. We added a central stair down to the sidewalk on Warburton Avenue just so there'd be easier pedestrian flow, and we added a path going around the building. These are items that added to the development coverage. You know, this whole turnaround and this large parking area that gave us four spots – which is what's required in the code – does not exist at all. The dashed area is what's existing. There's a driveway with two spots here and maybe one here, but one has to move for the others to get out. This area became enlarged to make it safer and a more functional driveway turnaround.

These are things we added to our plans, and it did add to our building coverage. Without these items probably we would be maybe 2.5- or 3 percent less. This is the open plan layout. The only reason we sent you this revised plan is because it changed. We have a little bit less open space if you take away the space for the patio, open greenspace, but we're still way over the minimum that's required. We just wanted to make sure all the drawings are coordinated.

These drawings I'm going to go through quickly because they haven't changed. We essentially have a two-story building. When we started the project we had a usable space in the attic and a steeper roof. We actually lowered the roof to improve the view from properties uphill. This is not a usable space because it's only 5 feet high. The scheme I showed you way back with the 12 units was a full three stories; this is essentially a two-story building. The garage layout has not changed and the unit layouts haven't changed. The elevations have changed, and I'm going to reduce this a little bit. Once we added in the patios, we felt we needed to see if we can reduce the footprint somewhat. We still have small porches, but we eliminated the porch in the corner and felt, actually, that the rear yard is where people would probably congregate more anyway.

We have the same elevations, showing a traditional look. This is the rear elevation; it hasn't changed. We went through all the zoning studies. We already went through all those view studies last time, and we went through this with the Planning Board at seven meetings. This is just showing before and after. I want to point out that we haven't changed the rendering yet because we wouldn't have such large porches in the front anymore. Then actually we do have ... we did not submit this, but after submitting the latest plans we did take another look to see if there's any way we could possibly reduce the mass of the building even further. I'm showing you a scheme that we're considering.

Another idea is that we keep the five units, but reduce it from four 3-bedroom and one 2-bedroom to three 3-bedroom and two 2-bedroom. That would reduce the size of one of the units. If we did that, instead of having our walk around the building we could have a central walk-through between the buildings. These would essentially be like a two-family and a three-family house. They would have that look. All up and down Warburton you see many examples of this, where you've got these alleyways between buildings.

**Acting Chairman Forbes-Watkins:** But that would require, then, a third building approval. You've got a variance problem to begin with of having two buildings on a lot. This would require a third, is that correct?

**Ms. Griffin:** Yeah, we haven't officially submitted this. We just toyed with the idea and want it to be out there for discussion.

**Village Attorney Whitehead:** It's not the number of buildings on a lot, it's the uses.

**Ms. Griffin:** I think so.

**Neil Alexander, Cuddy & Feder:** [Off-mic].

**Village Attorney Whitehead:** Yeah, that's not an additional ... yeah.

**Ms. Griffin:** I'd like to have Neil Alexander just sort of summarize the variances that we're requesting.

**Boardmember Dovell:** Before you summarize, I'm looking at your charts here. Can you just take us through ... you analyzed MR-1.5, MR-O and MR-C zones for lot coverage.

**Ms. Griffin:** Yes.

**Boardmember Dovell:** Could you just take us through the MR-1.5 zone coverage and averages that you have here?

**Ms. Griffin:** Yes, sure. I am rushing it because of the time. The buildings on the map are the buildings that are included in the study of 57 properties.

**Boardmember Dovell:** Right, so 57 properties in the MR-1.5 zone.

**Ms. Griffin:** All of these are in MR-1.5.

**Boardmember Dovell:** OK.

**Ms. Griffin:** The green building is the Cropsey building. I think it goes from green to red, red being the highest development coverage and green being the lowest. There are a few charts down here with a breakdown of all the different coverages [off-mic] – the number of buildings with difficult coverages. Then there's a chart here on the right that shows of all the properties that are over ... this graph is showing the number of properties over 50 percent lot coverage. That's the maximum by code, 53. But 53 out of the 57 properties are over 50 percent. Properties under 50 percent development coverage is four.

**Boardmember Dovell:** What is the average that you see coming down?

**Ms. Griffin:** That's on the next one, but this is just a summary of all the properties. This is the average: 41.2 percent. And our properties here are at 40 percent, so literally just under the average.

**Boardmember Dovell:** So that chart shows only MR-1.5, and that shows the average of those properties.

**Ms. Griffin:** Yes.

**Boardmember Dovell:** About 41 percent coverage.

**Ms. Griffin:** Yes.

**Boardmember Hayes:** But you have some major outliers in here that skew that average, correct? I'm looking here on this ... well, there's no page number – the breakdown of development coverage. Is that something I should be looking at? I see 70 percent, 70.5, 81 percent, 70 percent, 84.5, 77. So those are going to skew that average greatly.

**Mr. Alexander:** Well just to interject, there's also 1.1 percent and 3.6 percent and several under 23 percent, 28 percent, 25 percent skewing it the other way. Nine percent.

**Boardmember Hayes:** No, I wouldn't view it that way. Those ones that you said, it's 15 percent, right? So you're still talking about ones that are over ...

**Mr. Alexander:** Actually, our thesis is that 93 percent of the properties in the area are either legally nonconforming or already previously received variances to exceed 15 percent. Then, on average, we are consistent with what is the community character. Our request is essentially to have variances to be consistent with the community character.

**Boardmember Hayes:** Did you look into how many variances had been granted to these buildings to go over 40 percent?

**Mr. Alexander:** We have not made that request. You know, Washington Avenue is one of the older areas so a lot of these are ...

**Boardmember Hayes:** Grandfathered in, presumably.

**Mr. Alexander:** Right.

**Boardmember Hayes:** So, to me, that would be an important fact to look at the history.

**Mr. Alexander:** Yes, we'd love to see the FOIA results of that. But I think the case ... well, we can get to the case law in a couple of minutes about that. I don't want to jump ahead of Christina. She was going to some of your questions, but I did want to just jump in on that one aspect.

**Ms. Griffin:** I can say not in the MR-1.5 zone but across the street on the MR-O zone, recently we got a variance for over 50 percent coverage for 457 Warburton, and 453 had a

variance for being over 50 percent. That's another project I worked on. And 400 Warburton, was, well, something like 90 percent.

**Boardmember Hayes:** And those were all increases? Or was it something that was grandfathered and a change was being made so they were asking to stay at the same level?

**Ms. Griffin:** Two were increases, and the one that was at 90 was using existing foundation.

**Boardmember Hayes:** Right, the 90 doesn't count. The other two, what kind of increases were they, what kind of a percentage increase?

**Ms. Griffin:** I didn't bring the numbers with me.

**Boardmember Hayes:** Because that's important. I mean, if it goes from 49 percent to 50 percent I don't consider that meaningful. If you tell me it went from 49 percent to 70 percent, then that's meaningful to me. OK.

**Ms. Griffin:** I am trying to just kind of get to the heart of this because we have really tried hard to make this work. The five units help fund the renovation and restoration of the two-family house. So financially we were trying to stay without. I think Neil wanted to simply go through a summary of the reasons for why we should ...

**Mr. Alexander:** [Off-mic].

**Acting Chairman Forbes-Watkins:** You really need to identify yourself into the microphone.

**Mr. Alexander:** I was going to grab the mic from Christina, but that's fine. I can do it either way. For the record, my name's Neil Alexander. I'm a partner of law firm of Cuddy & Feder.

What I wanted to was bring back all the information you'd received and bring it back to the legal standard under Village Law 7712-B, which while you're familiar with it I think there's a really important part to start at the top of the test, right? The top of the test is that, "*The Zoning Board shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community granting the variance.*"

So after essentially two-and-a-half years of review in various iterations there is ultimately an iteration that's before you that was settled into with the Planning Board. The Planning Board

adopted a negative declaration in accordance with SEQRA. It was a coordinated review, you were an involved agency, you're bound by that negative declaration. And that negative declaration found that there were no significant adverse environmental impacts associated with this project, whether it be traffic, stormwater, aesthetic or visual. They then went on to recommend to you – I understand it's a recommendation – that you approve all the variances for all the reasons they gave to you in that utterance and in that written document. They also recommended on the view shed, which I know we're not dealing with tonight because of the notice issue.

But ultimately what they said was there's no detriment to the community. The project has changed, it's been revised, it's evolved and therefore there are no significant adverse environmental impacts, there are no effects. There's no detriment, it's a balance. If there's no detriment, we're trying to put this building across the street from an auto repair shop on Warburton. On Washington, we're keeping the status quo. That's what we were asked to do. So there's no change there other than the investment to make the building look really nice again. So before you even get to the five prongs, that's our overarching thesis, is when you do the weighing there's no detriment. Therefore, the fact that the applicant has a benefit, well that's fine.

I think it's also really important, and in Christina's cover letter she noted that the development has a lot area per unit two-and-a-half times greater than the 1,500 square foot lot area required in the MR-1.5 zone. And at the same time, consisting of smaller units than 400 Warburton, Rivertown House, Warburton Avenue Townhouses, and Ridge Street. The coverage here is not an attempt to over-aggrandize the size or density of the project. The coverage is what's necessary in order to really keep that existing house, which you received a petition from 50 people to say please keep that structure; you meaning the Village as a whole over the course of the Planning Board and the Zoning Board reviewing the project.

Then let's also go to "*an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created.*" That's the first prong of the five, right? Our thesis, from these charts, has been that we wanted a study. We studied all 117 properties to give a general vicinity. And there are some pluses and minuses on both sides to that, and I'll gladly acknowledge them as we go through this. But when you look at the 1.5 zone, which is really the Washington Avenue neighborhood – right?, we're going this way – we're talking about that really was designed to think about that neighborhood. And we're asking for, essentially, the average of that neighborhood. We're asking for the pattern of development that exists, whether it was because of prior variances that were granted or because they're legally nonconforming or however they came into being. We're asking to be the community character. That's what we're asking to be.

When you turn the corner and you look at the MR-O zone – and the reason we did that was that's the property and it's going south on Warburton Avenue – what's the character there? You can see that in that situation, as opposed to 53 of 57 houses that are nonconforming which by variance or legally nonconforming in the MR-1.5, it's a little more even but the density there is 50 percent. That's what the code says. And even there, 15 of the 38 houses are either legally nonconforming for received variances. You can see they're really clustered south of us and opposite us, the most intense development. So again, what we're saying is the average here is 45.5; we're approximately 41. We're just trying to be consistent with the pattern of development that exists.

There is great case law on this subject. The appellate division, I found six cases right off the bat, without even blinking, on the subject. The best language of all of them is a very recent case. It's about decade old. It's called Crystal Ponds v. Prior. There, the court found it impermissible that the ZBA had denied the area variance where 52 of 100 homes in the immediate area were on substandard lots and the proposed area variance would have no impact on the adjoining properties. Similarly, more recently on Long Island in the town of Southold, the second department again in 2012 ordered the issuance of the requested area variances and noted – they didn't even remand it, they just ordered the variances – that in the immediate neighborhood of the subject parcel there were 11 lots that did not comply with the lot area zoning requirements in the same way the applicant had asked for it.

That's our belief. Our thesis is that we're asking to be the pattern of development, and the case law says what I just read. The next prong is, is there a benefit that the applicant can achieve by another method. That's part of going back to 2013 was, in August, to show you there was that design – which was a single building on the corner – with much lesser. That was, the community got into an uproar. We did a design charrette – I wasn't involved in the project – and sat down with the engineer. Mr. Cortese sat down with the community in an open house. That was how we started moving toward the design you see today, which was please keep this, please come up with another way, please reduce the number of units from 13 on the property – or 12 on the property total – to where we are now at seven; adaptive reuse of two, and five new ones.

Also, the Planning Board in their review, there's about 5.8 percent of coverage that really is attributable to their requests. There's about 2.8 percent, as Christina pointed out – and this is in her cover letter – that goes to the parking area for the two-family home because that's legally nonconforming the way it's is now. And to have the better turnaround and to have it all work better. There's about 2.8 percent of extra coverage in our request because of that area, in purple, at the top of the page. The central exterior stair and path that was asked for around, added about another 1 percent and the porches added about another 2 percent.

We're trying desperately. We heard everything that was said. I think it was Member Dovell who said last time there's going to be creep with those patios, they're going to happen. So we tried to come up with a way to not increase our coverage and give the patios ... which is to take down that part of that one-story building – we're trying to listen and trying to accommodate everyone. We did a lot of accommodating at the Planning Board, so a lot of it seems more minimal here. But we're trying to address all your concerns.

So is the variance substantial on the third project? Mathematically it may be substantial, but it doesn't have a large effect. This goes back to the fact, again, that our coverage isn't yielding density or number of units. They're decoupled. We're allowed more than 12 units, if you do the math.

**Boardmember Dovell:** If you do the math on the basis of lot area per dwelling unit.

**Mr. Alexander:** Exactly. They really are decoupled, the number of units, from the coverage. The coverage is to lay it out in a nice aesthetic way with the input of the Planning Board, and to get the circulation to get some level of privacy for each unit at the same time, and recognizing where they are in the Village on Warburton lower down. I appreciate how much time you're giving me to keep going here.

**Acting Chairman Forbes-Watkins:** I am concerned here. Frankly, I'm sitting here one of three. I know that you're going to have to come back, OK? And you're going to have to re-rehearse this same material next time around because the people sitting up here will be different and will not have heard your points of view. I might be willing to accept them *carte blanche*, but it's ...

**Mr. Alexander:** Well, we were hopeful that the three of you would accept them.

**Acting Chairman Forbes-Watkins:** I'm sitting here saying we're going to hear this again next month, and do I really want to ask this man – or any of you – to continue to repeat the same thing? I think it's kind of nonsensical.

**Mr. Alexander:** And I appreciate that. Jocularly back, we were hoping that the three of you were favorable tonight, we really were. We thought we had made a lot of accommodation. We all know that any investment on this property, any single new square foot on this property, needs a variance. And the building is the way it is.

You all know how development economics work. If you're going to make an investment, and your master plan is very clear about this area is your southern gateway and this is where you want new investment, right? ... and I believe there are two or three other developers in

the vicinity who are looking at this application, saying does the Village really want this investment. And your master plan says we do. So we're consistent with the master plan. Are we fully consistent with your code? No. But we were really hoping that the three of you would say yes tonight, we really were, and we've come back for that. It's been two-and-a-half years, and I know the other side of that is, so, what's another month. It's just ...

**Acting Chairman Forbes-Watkins:** The unfortunate ...

**Mr. Alexander:** And I know tall trees. So I'm looking for straw polls, not tall trees.

**Acting Chairman Forbes-Watkins:** The unfortunate thing is, I personally would feel bad voting on this issue tonight knowing that I have colleagues on this board who were really very, very intense about the density. Personally, I'm not. But I feel it would be really inappropriate to take a small section of the Board and vote on this tonight. I will not call for a vote.

**Mr. Alexander:** Completely heard. Can we take a few minutes more of your time and go slightly askew in a sense?

**Acting Chairman Forbes-Watkins:** Go ahead.

**Mr. Alexander:** And it's probably going to come back more to Christina.

**Village Attorney Whitehead:** Just again for the record, to clarify, they are not asking for a variance for density. It's for the coverage.

**Acting Chairman Forbes-Watkins:** The coverage, I know.

**Village Attorney Whitehead:** Their density is actually permitted.

**Acting Chairman Forbes-Watkins:** But that was a word that was coming ...

**Mr. Alexander:** And candidly, we're kind of short of thought at this point. We've been through so much and we've gone through so many iterations – with more units and much less coverage – because of the nature of it. We've gone through a lot of comment and feedback. I mean, you know your Planning Board. They have the best interest, as you do, of your village. That's why even Christina showed that central ... all basically the sketch with the central plan is all off of one foundation. So you still have the parking underneath would be the theory. You would just, instead of having the path on the outside you'd have the path in the middle. It reduces it, let's say preliminarily, back of envelope, by 1 percent. Can you go

back to that other one, I'm sorry.

**Ms. Griffin:** [Off-mic].

**Mr. Alexander:** Right. So by putting this here instead of having this around we wind up jettisoning about 1 percent, back-of-envelope calculation. We're just sort of out of ideas. We want to make an investment and adaptively reuse the two-family home as opposed to not making the investment. And you know, to make a reasonable return you're not looking at an institutional developer. Andrew can get up and tell you about all the wonderful projects he's done in the Village and the investments he's made. It's not like you have a nationally-traded, multi-family developer in front of you with 270 units. It's not 66 units up on 9-A. It's five units, really essentially, to adaptively reuse this – which the community said – instead of the original plan. We're just sort of out of thought

**Boardmember Dovell:** I think you ...

**Acting Chairman Forbes-Watkins:** Yeah, please Boardmembers.

**Boardmember Dovell:** I go back to this application from the beginning before Christina took it over, where it was the single building on the corner which was really not an appropriate response to the issues. The existing building is being retained. I think you're being very responsive, and the hardship here is in this equation between number of dwelling units per as a function of lot area versus the development coverage. So I see the quandary, and I think you've been responsive. I'd like to look at what you were proposing with splitting this into two pieces which addressed, for me, a little bit of the notion of neighborhood character.

**Ms. Griffin:** Yeah, I was hoping we could have a discussion about this because I really tried to see if there was some other option. We discussed the idea of maybe reducing the floor area. That's how I would make this happen ...

**Acting Chairman Forbes-Watkins:** Microphone.

**Ms. Griffin:** ... so there's only three 3-bedroom units. By doing that we can actually break them up so you have essentially a three-family house here and a two-family. This is something you see a lot on Warburton Avenue. You see quite a few of these, especially three-family with alleyways in between. I thought that might be a little bit more sympathetic to ... it's really not a matter of so much development coverage as much as character, massing. Maybe it fits in better with the pattern as well, separate from the issue of the numbers of development coverage.

**Boardmember Dovell:** How would you develop this further? This is just a sketch at the moment, so what are your thoughts about how this would be developed?

**Ms. Griffin:** One advantage to this layout is, we would get more light and ventilation into these units. And that's probably why a common pattern. And how would we develop it? We would still have small porches in the front, patios in the back, very similar. We wouldn't need that path around the building, which is kind of nice to have it more centrally located. I know the Planning Board really liked the idea of having some kind of circular pattern of pedestrian traffic. Because that way, walkability makes it so it's just easier to get from the back here to the front and get down into the downtown.

So how would we develop it? We would change the layout so we would have a two-bedroom unit on this side and a two-bedroom unit on the other side. We would change the floor plans.

**Boardmember Dovell:** To me, the breaking up of that mass it's easier to comprehend in terms of what you see in the local context. I think this is an improvement.

**Boardmember Hayes:** And I agree. Actually, I totally agree with you. That resonates.

**Boardmember Dovell:** I mean, you covered the parking. This helps with the character issues I have. I'm encouraged by what I see, and I'm also encouraged by the analysis, especially just looking at the M-1.5 zoning.

**Village Attorney Whitehead:** So, Ray, would you like to see them actually formally submit this alternative for next month?

**Boardmember Dovell:** I believe it's the right direction, and it does address what you see within the M-1.5 district. That they're smaller blocks of housing. And I think it really addresses the notion of neighborhood character.

**Ms. Griffin:** I think that's what the conversation needs to be more about than just the numbers. Because you see with that first scheme is only 32.6 percent coverage and this is 41; that's 12 units. It's really a matter of design, you know. When you're trying to figure out what fits with the neighborhood it's not necessarily just those numbers.

**Acting Chairman Forbes-Watkins:** Do we want to ask for this design to come back this way?

**Village Attorney Whitehead:** Yeah, well, it sounds like two of the Boardmembers seem to feel it addresses ...

**Acting Chairman Forbes-Watkins:** I think it makes sense, given this. And I do know, from the discussions last time, that other Boardmembers were looking for ways to make this fit the community better. There's a good approach to that in this.

**Village Attorney Whitehead:** So it wasn't just the coverage number, it was the bulk of that building.

**Boardmember Dovell:** The bulk.

**Acting Chairman Forbes-Watkins:** Yeah, that's why density came in.

**Village Attorney Whitehead:** The massing of that building, and this breaks it up.

**Boardmember Dovell:** I think right now it's simply a slot between two buildings, and I think it could be – even at the risk of increasing coverage a tiny bit – developed architecturally that would make it a little more sympathetic to the area.

**Ms. Griffin:** Yeah, we can work on it.

**Boardmember Dovell:** You know, with a pergola going through it or something to soften its effect.

**Village Attorney Whitehead:** Not just an alley?

**Acting Chairman Forbes-Watkins:** There is a member of the audience who'd like to make a statement. We'll let you go ahead at this point.

**[Malcolm Beiling], 19 William Street:** Is this on? I own 19 William Street, I live there. My feeling is, as somebody in the neighborhood and listening to your discussions about the effect, I just think coming south on the bridge out of Hastings into south Hastings there, coming into my neighbor where we look at the auto shop full of cars one side and we look at a row of pine trees on the left-hand side which looks as if it's blocking an institution, I just think this will just change the area totally, which will be a total benefit I feel.

The street scene, it looks great. That is not the best picture. The 3-dimensional one was good. I just think it's very beneficial for the area. Normally, community people come along and criticize and say you're chopping trees down, we don't like it. I'd heard from talking to

people that it was a slow process and this wasn't happening. Just as an owner in the property, as far as value for my property, I've spent a lot of money on my property. With the block, I think this'll raise the block tremendously. I think it's a great project. I'm not about density and this, that and the other or the other things. But just for me, walking from the station every day looking at that I'd be very pleased. Just thought I'd come along and say that.

**Acting Chairman Forbes-Watkins:** Thank you very much.

Now, you're still talking about the trees being there.

**Ms. Griffin:** The reason for the trees being there because of the view.

**Acting Chairman Forbes-Watkins:** Right.

**Village Attorney Whitehead:** Not looking at the gas station?

**Ms. Griffin:** Right. So the plan, for now, is to keep them. And to prune them. They're very crowded and unhealthy, so to thin them out.

**Acting Chairman Forbes-Watkins:** It's a different view preservation that you're talking about.

**Ms. Griffin:** Right. But, you know, what's interesting is I've seen a lot of these ... you have a lot more home ownership going on in Warburton Avenue. If these are owner-occupied I think you'll see people maintaining properties better, and it could be really helpful in that way to improving the neighborhood.

**Acting Chairman Forbes-Watkins:** All right. Again, clearly – given the drift of this discussion – we're not going to go much further forward. I certainly hope that at the next session we can deal not only with the building but also view preservation, and try to put the whole thing together. I want to say one thing, personally. I think having the trees there is a massive good for this project because it keeps the character of the street just the way it is now. And that seems to be one of the issues that most of the people who've we've heard from are concerned about. The other thing is parking which, of course, we won't deal with.

Do we have any other comments for tonight?

**Boardmember Dovell:** No, I think the coverage analyses were very helpful.

**Boardmember Hayes:** It would be nice to know how many were variances.

**Mr. Alexander:** Yeah, and we would love to ...

**Ms. Griffin:** We'll get them.

**Mr. Alexander:** Sorry. Before you yell at me, we will call tomorrow and pull the records for, I guess, about a hundred properties.

**Village Attorney Whitehead:** I think you're going to find a lot of them are just older nonconforming. But they were saying it's still character.

**Mr. Alexander:** Mm-hmm. No, I understand.

**Acting Chairman Forbes-Watkins:** Right. We're going to call this an evening.

**Ms. Griffin:** Thank you so much. Appreciate your comments. Thank you.

**Mr. Alexander:** Thank you.

**Acting Chairman Forbes-Watkins:** Thank you.

### **APPROVAL OF MINUTES (Postponed)**

**Boardmember Hayes:** I can't vote on the minutes because I wasn't here.

**Acting Chairman Forbes-Watkins:** You can't vote on the minutes because you weren't here.

**Village Attorney Whitehead:** So we can't do minutes tonight.

**Acting Chairman Forbes-Watkins:** We can't do minutes.

**Village Attorney Whitehead:** Let's not do minutes tonight, but you can adjourn that application.

**Boardmember Hayes:** So do we have to officially adjourn.

**Village Attorney Whitehead:** Yeah, just adjourn it on the record 'til the next meeting.

**Acting Chairman Forbes-Watkins:** We're ready to adjourn. You can vote.

**Village Attorney Whitehead:** No, adjourn the application.

**Boardmember Hayes:** Adjourn the application that was said.

**Acting Chairman Forbes-Watkins:** Oh, OK. We officially adjourn the application.

### **ADJOURNMENT**

On MOTION of Boardmember Hayes, SECONDED by Boardmember Dovell with a voice vote of all in favor, Acting Chairman Forbes-Watkins adjourned the Regular Meeting.

**Acting Chairman Forbes-Watkins:** The meeting's adjourned.