

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
OCTOBER 24, 2019**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, October 24, 2019 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember Joanna Berritt, Boardmember Carolyn Renzin, Alternate Boardmember Sashi Nivarthi, Village Attorney Amanda Brosy, and Building Inspector Charles Minozzi, Jr.

Chairman Collins: Ladies and gentlemen, thank you for joining us for the October 24th, 2019 Zoning Board of Appeals meeting. We'll get to our cases here a moment. We have three that are active on our docket tonight.

Before we begin, Buddy, how are we on the mailings?

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

Chairman Collins: All right, very good. So just a couple ground rules, folks. We've got two microphones – we've got the standing mic here by the podium, we have a handheld mic over here – so anyone who wishes to be heard tonight just make sure you've got a microphone in front of you so we can capture your comments for the record, which we are recording remotely through a remote transcriptionist. I would just ask that the first time you speak tell us who you are, your name, and your address.

I think we are ready to go. We'll go in order, starting with Case No. 09-19, River Road, LLC for 100 River Street.

**Case No. 09-19
River Road, LLC
100 River Street**

For View Preservation approval, as required under Code Section 295-82, for creation of a new greenhouse and exterior renovation at their property located at 100 River Street. Said property is located in the MW Zoning District and is known as SBL: 4.30-19-4 on the Village Tax Maps.

Chairman Collins: This is a view preservation approval request for the creation of a new greenhouse and some renovation on their property. The floor is yours.

Bldg. Inspector Minozzi: Mr. Chairman, just real quick, I want to let the board know that this has come a long way through the Planning Board. The building was lowered substantially from the initial application.

Chairman Collins: The letters indicated that.

Bldg. Inspector Minozzi: If the building had come in at this height I would have recommended a waiver, but since it already went through the process I couldn't do that anymore.

Chairman Collins: Okay. Actually, we'll get to that. I think you made the right decision, even under the circumstances of the lowered height. Do we have a recommendation from the Planning Board regarding view preservation?

Bldg. Inspector Minozzi: Yes, we do. We have a recommendation for view preservation, yes.

Chairman Collins: Okay, very good.

Now the floor is yours.

Bruce Bernacchia, property owner: My partner, Angelo Liberatore, is here, as well. Again, just here for view preservation, trying to get a little understanding of what the impact of this would be for any of the neighbors or any area nearby. It's adjacent to Harvest on Hudson and the garden on the south end of the garden next to the parking lot – parallel to the parking lot. The structure, at this point, is 16 feet high. It's the same height as the peak of the trellis and about half the height, or less, than the building itself. It'll be about 17-1/2 feet by 40 feet in length, and utilized for part of the garden and the whole farm-to-table experience that exists at the Harvest currently.

Maybe we want to just go through ... we also submitted a couple pictures with some heights. You can see it from the park, but it would blend in with the rest of the structures there. You can't really see anything or impact anything from, certainly, the neighborhoods above as you look down and you look quite a bit over the whole thing. But if there's anything specific that you'd like to understand about the property or for any other views that might give you a better indication of this.

Chairman Collins: I visited the property Tuesday night, I think it was, and I thought I saw in the drawings that there was some device that had been erected on the property to give some visual indication ...

Mr. Bernacchia: Correct.

Chairman Collins: ... where it would go. I didn't see it there, and so I had the manager on staff at the time walk me to where he thought it would be. He showed me ... first of all, I'll say the patio is entirely enclosed in arborvitae, correct?

Mr. Bernacchia: Yes.

Chairman Collins: And this greenhouse would exist in that patio space that's currently enclosed by the arborvitae.

Mr. Bernacchia: The arborvitae going to be replaced. They're kind of past their efficient useful life at this point anyhow. So that would all be replanted and, obviously, the structure and everything. There'll be new plantings in that area – I think 3-1/2 feet of buffer zone – between the parking lot and the building, the new greenhouse.

Chairman Collins: Okay. So that is why I thought the waiver would not be appropriate in this case because that arborvitae is, I think we have to see it, as a temporary installment, and with or without trees. Those are gone and suddenly, yes, there is an impact for people who are on the driveway there.

Mr. Bernacchia: Like I said, they'll all be replaced with new plantings.

Chairman Collins: Okay. And the plantings now are probably a little bit a shorter than the anticipated height? I don't think they're 16 feet high, however. They're pretty tall, but I don't think they're quite ...

Mr. Bernacchia: The arborvitaes as they exist?

Chairman Collins: Yes. Again, absent the framing we saw in the illustrations, I was trying to see ...

Mr. Bernacchia: Right. We took pictures and then took the framing down. But no, the arborvitaes are probably 14 feet high right now.

Chairman Collins: Yes, okay. So the buildings are a little bit higher than that. But you're right. From my assessment, there's no impact on the neighborhood which, of course, looks down from the hill onto the property. There's no vantage point I could construct where a viewer from up above would have an angle such that this greenhouse would intrude into the river, and certainly not the Palisades.

Mr. Bernacchia: Well, you'll see the trees. You may not even see the building.

Chairman Collins: Right, right.

Mr. Bernacchia: There's trees on the east side by the front entrance and they're quite a bit taller than the 16 feet.

Chairman Collins: That's right.

Mr. Bernacchia: But as you look at that, you barely see the building from that angle.

Chairman Collins: So the only impact that I could see would be if you were on River Road. And you've got some parking – there's some commuter parking – that's there. So if you went far deep enough down ...

Mr. Bernacchia: Now you're so low, the wall of trees and arborvitae on the east side disguise the whole thing, as well. But it's not intrusive.

Chairman Collins: I guess my readout on this is that I think this is not a significant obstruction. We have to apply – the wording is – the "least possible obstruction." There is some obstruction, so I guess I'd be curious to hear maybe a recap of what you agreed with the Planning Board and why this 16-foot high structure represents the minimum possible impact on the view. In other words, why not 12 feet or 14 feet?

Mr. Bernacchia: It is a growing structure to try and get height and ventilation, heating, and everything else. You do need some height. It is peaked in the middle so the parking lot side eave is 11 feet.

Male Voice: Nine-six.

Mr. Bernacchia: Nine-six. It was lowered a little bit from the initial plan, but the Planning Board's request was to maximize the barrier between the parking lot and the building. We increased that, got 4 feet. We'll have, you know ... you'll see maybe the peak of the new plantings, but you won't even see almost the whole south-facing wall and glass along that side. So it will be fairly disguised.

Chairman Collins: Mm-hmm. Okay, I don't have any other questions.

Mr. Bernacchia: Just the functionality of a greenhouse: it is a working greenhouse; there's growing tiers and sections there to max out where we can grow in there.

Chairman Collins: Okay, thank you. I have no further questions. Does anyone else have any questions for the applicant?

Boardmember Dovell: I only have one observation. We've had cases before where the physical mockup was not representative, ultimately, of what was built. I'm thinking of the one case that was back after construction had started. So my question to you is, has the mockup been ... you know, how was it ... was it surveyed, is it ...

Mr. Bernacchia: We went out and took the exact dimensions of the building, outlined that, and used the tape and everything else to try and give an indication of that without building a whole structure. But those are accurate. When you look at the tape and the high points and everything else, and the corner points on that, that's all accurate.

Boardmember Dovell: And that was surveyed out so the ground plane is an accurate representation of the ground plane.

Mr. Bernacchia: Yes, yes. That's right where it goes, yeah.

Boardmember Dovell: Okay, I don't have anything else.

Boardmember Berritt: That's what the images are for.

Chairman Collins: I'm sorry, Jo?

Mr. Bernacchia: The photographs are the most recent, yeah.

Boardmember Berritt: Yes, from the most recent ...

Chairman Collins: Right, okay. If there's nothing else from the board, does anyone in the public wish to be heard on the matter? All right, then does anyone wish to make a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Berritt, with a voice vote of all in favor the Board resolved to approve Case No. 09-19 for 100 River Street for view preservation..

Chairman Collins: Your application passes. Good luck to you on your project.

Mr. Bernacchia: Thank you very much.

Chairman Collins: Then our next case is a return of Case 17-19, 33 Elm Place.

Case No. 17-19
Nicole & Patrick McNeil
33 Elm Place

Relief from the strict application of the Village Code Sections 295-69 F.1.c and 295-55.A for the construction of a second-story rear addition on their single family dwelling located at 33 Elm Place. Said property is in R-7.5 Zoning District and is also known as SBL: 4.40-35-14 on the Village Tax Maps

Variance is sought for side yard setback, with the extension of an existing nonconformity in relation to the setback of the existing dwelling

Extension of nonconformity in relation to the side-yard setback:

**Existing – 5.96 feet; Proposed – 5.96 feet; Required Minimum – 8 feet
{295-69F.1.c & 295-55. A}; Variance Required – 2.04 feet**

Chairman Collins: So maybe while we're getting set up I'll do my best to recap from the last meeting.

Alex Stojanovic, design architect: You've seen it from my last time around.

Chairman Collins: Yes.

Mr. Stojanovic: I'm the representative for Nicole and Patrick McNeil. We had, after last meetings, additional information to be brought to the plans that we submitted, to the presentation.

Chairman Collins: Well, it was really just to provide what the Village requires to meet the minimum requirement in the way of illustrations.

Mr. Stojanovic: The plans and showing the setbacks on the plans, and showing exactly what the ask was in the plan differently from the rest. Since that presentation that you have seen I got a phone call from the Building Department late yesterday and was made aware of the fact that there were some points in the submittal that you have seen which seemed a little off in some places. I was asked to review and make sure that everything was consistent and there were no discrepancies within the drawings because we added two sheets to the previous presentation so everything would make sense and they don't want to seem like we're trying to mislead the board with any one of our presentations.

We have now, actually, something that you have not seen before in what was submitted two weeks ago, or whatever the period was. One is in the floor plan itself. In the floor plan itself we had not shown the actual patio, which is right there, as a paved patio, and did not add that calculation into the overall coverage. One reason was – and I have the estimates here – because we had discussed with the client that we'll remove that patio, in any case, to blend in more with a non-permeable situation that they have now and do it more consistent with what he had done on the side here, which is a surface that is smoother to the look and looks better to what they want to do in general.

Those pavers that now exist there is this entire area around the dining room kitchen, where this wood bench – the L-shaped wood bench – is over there. And that will be removed. I have the estimate to show you that this is happening in the spring as part of the process that we will do afterwards. But that's why the calculation of the overall coverage was not correct; it wasn't included in the last time around, and we did it now.

Chairman Collins: I'm sorry to interrupt you. There's no variance that's been triggered or a need for development coverage variance here, right?

Bldg. Inspector Minozzi: No.

Chairman Collins: So this is just a correction in the plan.

Bldg. Inspector Minozzi: Mm-hmm.

Chairman Collins: But not one that impacts their request.

Bldg. Inspector Minozzi: Correct.

Chairman Collins: Okay.

Mr. Stojanovic: Right. And the second thing in terms of calculations while we are at the areas here is, as also brought to my attention, that we were going from the original survey that we were given that had to do with a change – the last change that happened to the property – which was including, here, an asphalted area and the addition that happened years ago. We had just copied whatever was on the survey in terms of square footage, and the ground floor is a smaller ... it's the area that was given there. We just repeated it on the second floor. But it turns out that the second floor does have a little protrusion up front on the second floor only that has a discrepancy towards the number. We corrected that as well, we recalculated ourselves from the plan we had rather than from the survey that was wrong.

Chairman Collins: Okay.

Mr. Stojanovic: Or if it wasn't wrong, it wasn't showing it correctly. So we changed that as well.

Chairman Collins: All right.

Mr. Stojanovic: We did more changes. Sorry, but we had a busy day today trying to correct and make sure everything is the way it should be because we definitely don't want to mislead anyone here.

On the second floor – and I'm going to go straight to the plan, if I manage ... sorry, I'm not good with this. We were asked two things here. On the second floor there was, in room number one right there, a washer/dryer and a sink. We had not represented that last time around because we were really focused on the bedroom next to it, which is the extension we are planning to do, or proposing to do. Which is part of, in red that you see here, the ask, which is the 18 square feet additional to what we need.

We now put this in both the existing right there, and the proposed second floor shows that laundry room. It's not a laundry room, really, just a washer/dryer in a room. Inside that, at the same time, we also brought in the ground floor plan, which is something that is already permitted for the ground floor redo of the kitchen and dining area that exists right there. That's in construction, has been permitted months ago. We added that and reformatted the drawing because there was no space previously to put this otherwise on the same sheet, since it's three plans now. We then also went ahead and changed some of these additional drawings that had questions in terms of what are we trying to represent here.

One of the big questions last time was about the fact that the 18 square feet we are asking would offset the balance of the density of the neighborhood. We went ahead and actually showed the 200 square foot radius around the house. And at the same time, we include, really, the entire neighborhood now to better show what the density looks like in this neighborhood, which is pretty dense as it is. But it has a lot of open spaces, as well. Our take is, the 18 square feet we're asking is not really a big offset onto any density that doesn't exist already. All the houses, or 90 percent of them, are not conforming to setbacks because they're from that era with a different zoning, obviously.

Chairman Collins: Or no zoning.

Mr. Stojanovic: Or no zoning at all, exactly. We don't think we're changing in any way the character or the density of the house. I think volume-wise also in terms of the massing,

there's plenty of historic precedent here that goes along with exactly what we're doing. Some of them were actually also granted not too long ago, so we're not setting any new precedent either.

Chairman Collins: I'm sorry to interrupt you again, but in your drawings you have some different color coding; interesting on your computer, I think. What you're showing as yellow I have as green on my drawing.

Mr. Stojanovic: And this was one of the changes today because one of the questions ...

Chairman Collins: No, no, that's okay. I know you recalculated some of this, but let's say for the purposes of your drawing that there's a pink shading you have, for example, to indicate on the back of the rear of 33 Elm Place. You've got what I assume is the existing first floor.

Mr. Stojanovic: Correct.

Chairman Collins: I'll call it the "bump-out," a little protrusion there. Are you showing us that these other shadings are also nonconforming? Is that how I should read it?

Mr. Stojanovic: No. I'm showing now one of the asks that I heard about this morning. The fact that in showing it all in the same color I'm not differentiating this two-story appendix because I also have to change the word to be clear that I'm not talking about additional existing additions to the houses. Because they're not additions in the sense like you granted, or they were done sort of historically there. But as a volume, architecturally, those were appendixes to a straight volume – be it a cube or a rectangle, or a square with the cube on it – so some of them are historically there from the beginning; some were added in retrospect.

It's part of the character of the neighborhood. Some are one story high, some are two stories high. What you see there, they're all shown the same way: one story or two. In this one today, in the last change, I'm showing the difference of which volumes are two stories and which volumes are one story so you really have a clear view of the fact that it's not about misrepresenting anything. It's just hard to clarify on such a small scale those kinds of details. It doesn't change anything to the character – which is really what we are talking about – of the neighborhood, or the density or the massing. But here you see the massing as two stories versus one story, as well.

Chairman Collins: And that's, in yours, the pink shading.

Mr. Stojanovic: Correct.

Chairman Collins: Those are all two-story?

Mr. Stojanovic: The pink is two-story and the red is one-story, and some have both. Some houses have a two-story which was added not too long ago – like the house next door, on 29 – and it has a one-story as well. So we're trying to represent, obviously, in this scale it's not like an easy representation to make. But we have in this, and we have it also ... we change it also in the original plan we had before, which was the photograph from the satellite picture to show the same. That's another change that we said.

We also changed the way of the naming. These are not existing additions, these are appendix volumes for the not one thing to mislead anyone about what they are. We're not talking about they were granted as an addition, or not. It's not really the purpose of what we're trying to show. It's more about, again, the density existing and the massing existing, as well as the free area around it.

Boardmember Dovell: You know, I'm more concerned about ... within your 200-foot radius of these houses, how many of them are noncomplying with regard to side yard setback?

Mr. Stojanovic: There we come to the next one. Let me show you. The next page, on the left-hand side, we have all the setbacks of the entire neighborhood – front, back and sides. You will see – I can enlarge it a little bit if that helps maybe, if I can manage to do this – most of the buildings are not conforming. Are you able to see that from there?

Chairman Collins: Not terribly well.

Boardmember Nivarthi: Not clearly.

Mr. Stojanovic: Hold on.

Chairman Collins: You do have room to zoom.

Boardmember Nivarthi: I think you might be pressing the right button.

Chairman Collins: Oh, I see. Yes.

Mr. Stojanovic: You see the newer actually that you were given from before. I mean, we did this on purpose just to show, again, impacts. Like you said, well, I don't know when it

changed for certain ones of these buildings. But yeah, nonconformity's part of the fabric of this neighborhood particularly, but not just this neighborhood. It's all over town, obviously, because some of the structures are so old that they predated zoning laws like that.

Chairman Collins: Yes, you can see in some of these illustrations if you wiped out, God forbid, the homes in this neighborhood and they were forced to build as-of-right. You could see some of the absurd structures that you would be required to build.

Mr. Stojanovic: Right. And I think it would change the character not just of this neighborhood, of the town, if we were to do that. Part of the charm of what these older towns have is exactly the fact that they have a history to them, and that builds character.

Chairman Collins: Well, yes. Some would say we just build livability. The alternative is nonsense.

Mr. Stojanovic: Yeah. So the other plan next to it is rather a plan where we try to show the open areas that exist. Again, because one of the major questions was that our ask in square feet would change, really, the density and the massing in such a way that it would be a negative impact to the neighborhood.

If anything, our area in the back – if you see between 33 Elm, which is this one here, and then Fraser, these two houses – this is a nice little triangle that opens up quite a bit; where there's no auxiliary structure that really impedes the garden there and it's quite open. There's some other open areas, as well, between the other houses. So we're trying to just mark ... there's plenty of open spaces between the houses. And if anything, this configuration of the five houses around us on the block have, actually, one of the wider open spaces within the entire block.

Boardmember Dovell: Now, you comply regarding building coverage and development coverage so it's really not ...

Mr. Stojanovic: Yeah, that's more like free, airy space in terms of because density was one of the questions and how it feels in terms of having an open space rather than not. And again, it's 18 square feet we're talking about.

So we called it also ... on the plan that you have I think we called it something else. We're just calling it "open areas" because that's what it's all about. It's not about coverage, it's not about previous coverage, it's not about built structure, it's just about what's open versus not. And we're not going into the detail of every single tree either, obviously, because those are

nature. It's more about what feels to the space as something that belongs to it, or not. And I don't think the 18 square feet in any way deters from that. I ...

Chairman Collins: I'm sorry. The square footage of the second floor, what's the total? I know you had to revise it.

Mr. Stojanovic: The total now ... see, this is when you come from Mac-world and you've never used any other system.

Boardmember Nivarthi: 152 to 1370, if I understand your ...

Chairman Collins: For the second floor?

Mr. Stojanovic: So we had basically, before, said that the first floor and second floor were the same, which they are not. So we are adding 118 overall, of which 18 would be the ask.

Chairman Collins: Right. So in other words, the noncompliance, if granted here, would amount to 1.3 percent of the square footage of the second floor. That's 18 divided by 1,370.

Mr. Stojanovic: Yes.

Chairman Collins: So 1 percent of your house on the second floor would be noncomplying.

Mr. Stojanovic: Right.

Chairman Collins: Okay.

Mr. Stojanovic: So those are really the ways we tried to explain a little better. Obviously, most importantly, Mr. Dovell, you had asked about this last time: the lacking of showing clearly what the ask is. You see it here in the plot plan – but you see it in the plans, as well – we mark now, in elevation and in all of the plans, what the existing setbacks are and what the required setbacks are; differentiating the areas in two different hatches, one with color – which is the ask, in red – so it pops out and it's clear to read in both elevation and plan on the next page over.

Chairman Collins: I'll bring it back to the five factors that New York State requires us to consider in weighing *"the benefit sought by the applicant against the potential detriment to the health, safety, and general welfare of the neighborhood or community."* We have five factors that we review, and I'm just going to go through my take on each of the five. And I encourage anyone else on the board to do the same before we open to public comment.

The first asks us to consider *"whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance."* And I think your demonstration of the existing nonconformities convinces me that it would be very difficult to see this as somehow an undesirable change when it seems, actually, to be in keeping with the character of the neighborhood rather than a violation of the character of the neighborhood.

Number two: *"Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance."* And I could construct a scenario in which you build the second floor addition over the first in a way that pops in so that you're built entirely as-of-right. But to me, that creates an undesirable change in the character of the home. It would be forcing, I think, a hardship on the applicant just for the sake of meeting the conditions called for in the zoning code. And the Zoning Board of Appeals exists just to prevent exactly that sort of thing from happening: from forcing a hardship, forcing an applicant to squeeze a project into a framework that, as this neighborhood demonstrates, was *never* intended to apply. We just saw it. I mean, the zoning doesn't work, as spec'd, in this neighborhood.

"Whether the requested area variance is substantial," and I would contend that 1.3 percent of the second floor's square footage being noncompliant is not substantial. *"Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district."* I think it's hard to see that. I don't think this has a notable environmental impact or physical impact above and beyond what any project would be. You're not going to be changing the amount of permeables or impermeable surface, drainage won't be affected. It's hard for me to see that, although the Building Inspector will do the work that needs to be done in order to confirm that. And the fifth one is *"whether the alleged difficulty was self-created,"* and that's not the case here.

I think this project passes the five-factor test, and I don't have any further questions.

Boardmember Renzin: I don't have any further questions.

Boardmember Berritt: I just have ... there are images of the back gardens where you've sort of shown different buildings, just in the back, in photographs – I don't know which ones they are – above that.

Mr. Stojanovic: Above that?

Boardmember Berritt: Yes.

Boardmember Renzin: If you keep going up.

Boardmember Berritt: Those, sorry: where you're showing the addition.

Mr. Stojanovic: Yes.

Boardmember Berritt: Those images there. Can you just talk through those so I have a better idea of what you're ...

Mr. Stojanovic: Sure. Here is a better rendering. Also, this was one of the changes that we did from last time just to better qualify the volume, not to try to figure out we're doing something that it's not. This is closer to what it should be. But here, we're trying to show that this building, for example, has a two-story addition right there.

Boardmember Berritt: Right.

Mr. Stojanovic: Plus a one-story attachment. This was the difficulty in showing the plan ...

Boardmember Berritt: Right.

Mr. Stojanovic: ... to really represent from above this two-volume. And then if you go back to this one here, it shows the two ... and it's kind of hard because the pictures were taken in the summer, where of course the leaves were so full. But it shows that the building's going back a couple of numbers. Three houses, at least have additions, as well, or volumes that protrude in and out of the front of the main envelope of the house, if you want to call it.

So that's kind of the character of what I'm saying: that this volume here ... first of all, the ground floor exists already and that was there, that's not going to change. So we're talking only about the volume added on top since the ground floor was redone. This was an opportunity to actually create a better space upstairs by extending on top of the existing without changing the footprint.

But the same is happening to these houses that follow, in similar ways. Obviously each house had a different kind of history, but a stepping in and out ...

Boardmember Berritt: Stepping in and out, yes.

Mr. Stojanovic: ... is not something that's out of character with the neighborhood or out of character with this block. You see them here, maybe, in this image from the satellite where

we show like here it's a one-story addition and this seems to be the original one. I went, actually, this morning to verify if the foundation of this addition seems to be the original one or not, and it seems to me that it's the original. It doesn't mean it has to be, but it looks like it. Here, this is our project. The addition was done somewhere in the '80s, I think, this protrusion that exists – one story now.

Here I'm not sure. This is a recent project, I know, but I'm not sure really what happened here in terms of which part is new, which part is not. But one is a two-story, one is a one-story. Here is a tiny protrusion, but still it reads as a volume adjunct to the main; as well, one story only. This one clearly shows, in the foundations, where the addition happened. Again, it's not completely with the volume. It's kind of strange that the volume reads almost compacted into the house architecturally from before. And you can't really read where it started or ends, but it's an addition for sure; it's two-story.

Here again is a one-story that has like a porch roofed area in the back that goes in with the roof that exists. But it is an addition, for sure. Now again, the most important thing is we're talking at the backyard of all of these houses, we're not talking about the front. The front is a very historic part of town, with these beautiful porches that really go around. Most of the houses have maintained these original porches and that lends to the character of the neighborhood, which is really historic and unique, I think, in Hastings. I don't think there are other neighborhoods where you have so many houses in a row with those beautiful porches that are open porches.

Boardmember Berritt: No, that's fine. I mean, I looked, I walked around yesterday, but I couldn't get a sense of the back garden because of the access.

Mr. Stojanovic: Right.

Boardmember Berritt: It's good to see the sort of differences in what's going on there, so thank you.

Bldg. Inspector Minozzi: You know, he speaks of the front porches. About 2013 or 2014 one of the homes came in for a state variance because they wanted to redo the railings but wanted to keep the original height. So we had to get the state in to allow us to go with that 32-inch height instead of 36 just to keep the original look of the front.

Boardmember Berritt: Right.

Mr. Stojanovic: It's almost like a landmark provision in that sense. Which we don't have, which I think this neighborhood would require. Any renovation that happens, at least you'd

keep with the character because I think it does add to the architectural value of the neighborhood and of the town. I don't want to put one more layer ...

Chairman Collins: First things first.

Mr. Stojanovic: Yes.

Chairman Collins: Ray, do you have anything?

Boardmember Dovell: No.

Chairman Collins: Sashi?

Boardmember Nivarthi: No.

Chairman Collins: All right, does anyone in the public wish to be heard on the case?

Female Voice: (Off-mic).

Chairman Collins: Anyone who wishes to speak can speak. Come on up.

Andrew Bordwin, 40 Fraser Place: I came here, really, as a member of the neighborhood. We live in a spot, and have lived in that spot – I'm here with Gabby – for 18 years, and our property abuts the McNeil's. So we have a view of, actually, all the backs of houses running down Elm Place. You know, we've renovated our home; everybody that we know in the neighborhood at some point has removed their home. We all sort of accommodate each other. That's the culture of the neighborhood. It's a neighborhood I never want to leave.

So I'm sort of speaking more from, I guess, a cultural perspective in terms of what it takes to both appreciate the work that you're doing here – which is incredibly important – but at the same time acknowledge the fact that, you know, when you live in a community you accommodate each other and sort of act reasonably. And I have to say that we all sort of put up with each other's noise and we put up with each other's renovations. And there's nothing about this renovation, from our perspective at all, that we can find to be difficult in any way.

In fact, those who are objecting to this have, in their own time, done their own renovation, which lasted quite a long time and made a lot of noise. And that's ... you put up with it because you're a neighbor. That's really my only point, and I think it's important to remember that at a time when we're talking about 18 square feet, or 1 percent of the second floor. Just to put things in perspective. Thanks.

Chairman Collins: All right, thank you very much. Appreciate it.

Yes, please.

Nina Massen, 32 Fraser Place: I'm a neighbor of the Bordwins, and my property also abuts the McNeils. We share the lawnmower, so we have a vested interest in the maintenance of the properties, as I think my neighbors can attest. I spend a great deal of time in my stamp-size backyard, and I think I would be highly attuned to any kind of a change that impaired or altered the look and the sense of space and beauty of the backyard and the effort we all take, you know, to maintain that space.

Given that they, like myself, have this protrusion out the back, I can't see why completing it and adding a second story in any way impacts my ability to enjoy my backyard or the view or the neighborhood in general. So I endorse their efforts, and thank you for your time.

Chairman Collins: Thank you very much. Anyone else wish to comment? Yes, sir.

Brooks Ballard, 30 Elm Place: Just this past year we did a project almost exactly like this project. We went out the back over an existing one-story. Everyone in the neighborhood came by, everyone saw it, everyone loved it. At that point it was conforming, but it did not take anything away from the character of the neighborhood, I think. And I think the rest of the neighbors feel the same way. So thank you.

Chairman Collins: Thank you very much.

Angus Chen, 21 Elm Place: Good evening. Thank you for everything that you guys do to maintain the character of our town. We are also neighbors, three houses down, at 21 Elm: myself, my wife Meghan, and our family. I guess I just want to say that I think our house was actually maybe referenced a little while ago. We're very happy with our renovation. It's part of just factoring in the reality of today's living conditions and fitting into homes that were built in the early 1900's. It's just part of evolving as a culture and as a community, and we definitely appreciate that.

We briefly flirted with moving to a different home. Part of the calculus to us was whether or not we wanted to leave the block, the neighborhood. That was part of the home, that *is* part of the home. So we really support what our neighbors and friends are doing. If it helps them expand their life and make their life better, and keep them on our block as neighbors and friends for longer, we're very supportive of that.

I don't know if they've mentioned, but they have family – grandparents – that come in from Canada and stay for extended periods so I think this expansion will help with that. Ms. McNeil has a practice, too. She actually happened to fix my back with acupuncture a month ago. I went from zero mobility to 60 percent mobility in one hour, and I also provided a testimonial on her Web site.

[laughter]

But anyway, there's real needs here in today's modern life. I think in keeping with what Mr. Bordwin said, keeping it in perspective I think it's a relatively small change. So thank you.

Chairman Collins: Thank you very much. Any other comments?

Allan Krogsgaard, 37 Elm Place: I'm probably just to the east of 33.

Inga Reznik, 29 Elm Place: I'm the neighboring property to the west. I don't know if we can actually hook this back up to just see ...

Chairman Collins: You have something you want to present?

Ms. Reznik: No, there's something on this computer. Is that the ...

Chairman Collins: That's the Village ... is that the Village computer that you have there, Buddy?

Bldg. Inspector Minozzi: Yes.

Chairman Collins: He can get it fired up for you.

Ms. Reznik: We just need this. We just want to have (off-mic).

Bldg. Inspector Minozzi: Here you go.

Ms. Reznik: Great, okay. So this my house and this is Allan's house. We are the neighbors that are actually immediately abutting or adjoining next to the property, and we will present arguments that the extension will actually negatively impact us.

We thank you for giving us a chance to voice some of our concerns. We understand that the issue under review is a variance of about 2 feet over the allowed side yard setback, and this 2 feet is in the service of creating an additional 118 square feet of the upward extension. And

we understand that it's a small ask, as Mr. Collins pointed out: 1 percent of the second floor. But we are here to request a denial of variance because we hope it will discourage the second floor extension, which I think will have – we believe will have – a negative impact on our properties.

We do believe that this creates a precedent for development and an unpleasant massing perception on an already densely populated lot where even small changes to one property may produce negative, unanticipated consequences for others. Some of these negative consequences are a perceptually visually crowded space in the backyard. You've heard from neighbors who are not immediately adjoining to the space. Some neighbors live across the street and actually do not see the backyard at all. Other neighbors are two houses down and down the hill so they do not see the backyard. Some neighbors have significant distance between the two properties.

We are the properties that are actually immediately affected by the side yard setbacks, and they're really close. Some of this negative massing or crowding is looking outside in the backyard and looking at massive structures as opposed to landscape, a diminished natural light. And it consequently may increase resource consumption. We do believe that there are alternative solutions. As the letter by Mr. Stojnovich points out in the first paragraph, this says, "In the service of extending volume above the dining room, this will create an enlarged master bedroom." We believe there are multiple alternative solutions to create an enlarged master bedroom in this residence.

I don't know how to operate this computer, but as you could see from the second floor plan there's a whole bedroom dedicated to a laundry room. There is a large ... I don't know if we can do that.

Bldg. Inspector Minozzi: Alex, could you pull up the plan she's looking for? Okay.

Ms. Reznik: Okay. Sorry, I'm a math person, I can't figure this out. Okay, so this whole bedroom is basically dedicated to a laundry room. There is a sizeable addition that's also nonconforming that's a playroom. What is the new square footage for the second floor? This is a new number.

Chairman Collins: 1,370.

Ms. Reznik: 1,370 square feet. So this is all ... this building second floor volume is in the service of enlarging the master bedroom when, in fact, on the second floor alone you have a full bedroom devoted to laundry and a full playroom in a residence where two children are in middle school. So we believe, if you go by Mr. Collin's criteria, can the desired effects be

achieved by other means? Yes. We believe you can enlarge the master bedroom by not using a whole other bedroom as a laundry room or reconfiguring the space so it doesn't create a second floor addition.

We believe other means are present. If you look at the neighborhood and try to be consistent with the neighborhood, all of the houses here – one, two, three, four, five, six – without going into specifics, have either a master bedroom, children's bedroom, or guest bedroom on the third floor. So we all live in small, 100 plus-old houses and we all make effective use of space. We argue that there are plenty of other means to achieve an enlarged master bedroom by either efficiently using the available, sizeable second floor or moving the master bedroom or the guest bedroom to the third floor.

It is a third floor residence, and we believe that the combined square footage is over 3,000 square feet. If you look, by comparison most of the houses have around 2,000. So if you look at just immediately that block, that house is already significantly larger than larger houses on the block. It already has two nonconforming extensions. There is a first-floor dining room that's ...

Chairman Collins: I'm sorry, I'm going to cut you off here just to keep you on point.

Ms. Reznik: Yeah.

Chairman Collins: We have five factors. Are you familiar with them?

Ms. Reznik: Yes. Let me go through them.

Chairman Collins: Keep your argument just to those five. The size of the home is irrelevant to us.

Ms. Reznik: Well, the size is relevant to the point can the desired effect be achieved by other means.

Boardmember Dovell: But the size of the house is not an issue here.

Chairman Collins: Yes, that's not an issue. And there's a key word which you're omitting, which is "feasible" to the applicant. And the other thing which you need to know is that this isn't a scorekeeping.

Ms. Reznik: Oh, I ...

Chairman Collins: You may be right. For the sake of argument, you may be right that there is a feasible alternative for the applicant to pursue other than to seek a variance. But that does not invalidate ... this is not a scorekeeping. If it comes out 3-to-2 we do not have to say that this variance can't be done.

Ms. Reznik: I'm not keeping score. I'm saying that the letter is to enlarge the master bedroom, right?

Chairman Collins: But what they want to do with that space is irrelevant.

Ms. Reznik: Okay, that's fine.

Chairman Collins: They could want to build it and leave it entirely empty and it wouldn't matter.

Ms. Reznik: Well, it matters to us because it blocks ...

Chairman Collins: But it doesn't matter to the State of New York, and it doesn't matter to the Village of Hastings-on-Hudson in our evaluation of a property. That's why we really have to stay exactly on these five factors.

Ms. Reznik: Okay, yeah, I'll stay within the confines. So a detriment to ...

Chairman Collins: We'll let you speak in a moment, Alex. Let ...

Mr. Stojanovic: It's something that it would be easy ...

Chairman Collins: You have to speak in a microphone.

Mr. Stojanovic: Sorry. I'm sorry to interrupt, but this might make everyone's life easier.

Ms. Reznik: Yeah.

Mr. Stojanovic: We can build everything but that red part as-of-right.

Ms. Reznik: We know, we know.

Mr. Stojanovic: So I could do this and I wouldn't be standing in front of this board asking for this square feet.

Ms. Reznik: We absolutely know. And the reason we're standing here ...

Mr. Stojanovic: That's all I wanted to say.

Ms. Reznik: I absolutely know, and the reason we're asking not to allow this space is because we hope it will discourage the second floor addition. But we understand that even if this is denied you can still build the second floor addition. So in terms of desired effects, this can be reconfigured. In terms of detriment to nearby properties ... I don't know if I gave ... because the house is so ... and Mr. Krogsgaard's going to talk about this a little clearer. This is the view from his house. The volume will block this area from his kitchen.

Chairman Collins: The 18 square feet will block that area?

Ms. Reznik: The 118 square feet.

Chairman Collins: No, the 18 square feet is the only thing that matters.

Ms. Reznik: Okay, these 18 square feet ...

Chairman Collins: So in other words, if he builds as-of-right – which he's entitled to do without coming to us – you're saying that that picture would look substantially different?

Ms. Reznik: With additional square feet, or with ...

Chairman Collins: No, you're about to make an argument, I think ...

Ms. Reznik: Yes.

Chairman Collins: ... that there's going to be a detriment to the property.

Ms. Reznik: Yes, because the second floor ...

Chairman Collins: And I'm needing you to bring it back not to 118 square feet ...

Ms. Reznik: Okay.

Chairman Collins: ... but to 18 square feet, and show me how those 18 square feet that they want to build in a nonconforming yard will create a detriment to the property. Because that's what we need to consider.

Ms. Reznik: So taking this argument to the extreme, can they build just this? Because that's what we're talking about: Can we build just this? If this is all that's under consideration, this will block ... this thing is exactly what will block.

Chairman Collins: Now imagine the opposite of what you just said: it's not there, they build completely as-of-right ...

Ms. Reznik: Yeah. It's a little bit more natural light because it's farther ...

Chairman Collins: So you would not be concerned, in other words?

Ms. Reznik: I would be.

Chairman Collins: You would not see a detriment to your property that way?

Ms. Reznik: I would still see it. It might be less detriment, but it will still be a detriment. The closer something is to you, the less natural light in between. Can you see that?

Chairman Collins: Okay, I can see that. I'm struggling to see how 2 feet of it does that.

Ms. Reznik: Well, it's 18.

Chairman Collins: And you've got ...

Mr. Stojanovic: (Off-mic) buildings on the west side.

Chairman Collins: Alex, let her finish.

Ms. Reznik: We are presenting arguments together. Yes, my building is on the east side, and I don't know if you have the photograph that I ... if you look at the photograph, from my backyard ...

Chairman Collins: This one?

Ms. Reznik: Yes. Even the first floor structure looks pretty massive.

Chairman Collins: Yes, but that's not at issue here, right?

Ms. Reznik: So you're building the second ...

Chairman Collins: And if I'm right – I'm sorry – if they build as-of-right, your view is ...

the change in your view relative to the one that requires a variance is indistinguishable.

Ms. Reznik: You can see it from ... I see it ... I'm at the bottom at the well.

Chairman Collins: Right, but it would still be flush to the surface.

Boardmember Nivarthi: To the surface.

Chairman Collins: You'd still have this part of the house that would be obstructed.

Ms. Reznik: Yeah.

Chairman Collins: So again, you need ... I'm encouraging you to take your argument as to why these 18 square feet create a problem for you.

Ms. Reznik: Well, they create a problem for ...

Chairman Collins: For whomever.

Ms. Reznik: Yeah. And we're saying because it will block the natural light from the kitchen.

Boardmember Dovell: How far are you from the rear lot line?

Ms. Reznik: Which one? Which one of us?

Boardmember Dovell: I'm asking the applicant the question.

Mr. Stojanovic: (Off-mic).

Bldg. Inspector Minozzi: Alex, you have to speak into a microphone.

Mr. Stojanovic: I'm sorry.

Bldg. Inspector Minozzi: Here, you can take the portable if you like.

Mr. Stojanovic: I know, but I need to look it up because I'm not sure and I want to ... I think we're like maybe 35 feet. We are like 10 feet more or so from the setback that's required.

Boardmember Dovell: So your addition could extend further out into the rear yard.

Mr. Stojanovic: Oh, yeah, we could extend up to there; up to where the bench is.

Boardmember Dovell: Right. Which would create a significant obstruction.

Mr. Stojanovic: In terms of light and anything else, yes.

Bldg. Inspector Minozzi: Two stories.

Boardmember Dovell: That needs to be taken into account in your argument. He could go right to that setback line, which is an alternate solution but less satisfactory from spatial planning and certainly from a plan point of view.

Chairman Collins: And I would submit that this exactly why the Zoning Board of Appeals exists. Because if this valve didn't exist – the applicant were forced to build as-of-right – I contend you would have a property that you would like even less than the one that seems to be taking shape here because of what they would be completely permitted to do within the law.

Ms. Reznik: You mean if they bump out the first floor?

Chairman Collins: They built all the way to the property line in the rear.

Ms. Reznik: The first floor, we don't object. We have no objections to the first floor.

Chairman Collins: Right. I'm making a larger point about why zoning is important.

Ms. Reznik: Right. But we're saying also that massing and natural light is important, too, without impacting natural resources.

Chairman Collins: I respectfully disagree because I don't think you've made a compelling argument here as to why these 18 square feet would create ...

Ms. Reznik: Because if you literally build those 18 square feet up you are blocking the view and the natural light.

Chairman Collins: Right, but a view that would be blocked by an as-of-right situation. You have to compare this to an as-of-right construction, and the view would be blocked either way. And now you're arguing about a change in light which you presented as a subjective. You're making a subjective ...

Ms. Reznik: Well, it's not because less natural light means more artificial light, it means increased resources.

Chairman Collins: I have no idea whether or not that's true.

Ms. Reznik: Well, if we have an open ... are there architects on the board? Is there a difference between having natural light and having a structure right next to you?

Chairman Collins: I'm telling you that I disagree with you. The rest of the board may feel differently.

Ms. Reznik: Well, can we ask an architect if there is a difference between ...

Chairman Collins: Do you have another point to make on the ...

Ms. Reznik: I was trying to make points, but I was interrupted.

Chairman Collins: Well, feel free to finish.

Ms. Reznik: So can we ... we are basically saying that this expansion will negatively impact our quality of life.

Chairman Collins: Okay.

Ms. Reznik: And we would like that to be taken in consideration. We understand that you may disagree, but we live next door and we know it's going to be impacted.

We also want to make sure there's a proper storm management system in place. We believe there are alternative solutions. We also believe that we were the ones who brought multiple inaccuracies to the ...

Chairman Collins: It's not relevant to the variances that are being requested. None of that affected any of the variances requested.

Ms. Reznik: But it is a fact for the board in terms of wanting to have accurate data for your review?

Chairman Collins: We have accurate data as it relates to the review of variances. Those haven't changed.

Ms. Reznik: A part of the variances zoning table?

Chairman Collins: As I said, none of the data that was changed – and I asked that question earlier for a reason – affects any of the variances that have been requested.

Ms. Reznik: You let multiple comparisons, right now ... one of the arguments for comparisons to other properties was two stories? Is that relevant?

Chairman Collins: Well, it was relevant for the purposes of establishing that there is unlikely to be an undesirable change in the character of the neighborhood because the character of the neighborhood is largely nonconforming.

Ms. Reznik: Okay, but is the character of the neighborhood influenced by the sizes of the houses? It should, right?

Chairman Collins: That's a factor.

Boardmember Dovell: Size isn't an issue because the lot coverage is complying, is it not?

Ms. Reznik: The lot coverage is not complying.

Bldg. Inspector Minozzi: The lot coverage is noncomplying, but they're not ... it's not relevant here because they're building on top of an existing structure. They're not increasing it at all.

Ms. Reznik: I mean, we're basically saying this is a densely populated area with small houses, and this is a large property and it's out of character for the neighborhood. And when you're making comparisons to other houses with large properties – some of the owners who spoke here about the two-story extension – these are the properties that, prior to extensions, were either 18-plus hundred square feet total or 17-hundred plus square feet total. And so we're basically saying this is not in character with the neighborhood because the two-story additions were done for the houses that are significantly smaller in size.

This is already a sizeable property. I understand we're talking a large sliver, but I also want to have a more holistic view of the neighborhood and there are small, small houses there. So you have a large property building more. We just want you to consider, again, the character of the neighborhood, and this is inconsistent with the character of the neighborhood because of the property size.

Mr. Krosgaard: Again, I just wanted to say thank you and also for explaining some of those points. Of course, we are not ...

Bldg. Inspector Minozzi: Please introduce yourself.

Mr. Krosgaard: I already did earlier.

Of course, we have the house right next to ... well, this can be done right over here. We enjoy our view from our kitchen window every morning and we enjoy our backyard here. What we feel is, this new structure is just going to add to the feel of being clogged. The house is already 2 feet closer to the property line than it really should be according to the new regulations, of course. That's really just what I wanted to bring up.

Also in terms of resale value, having someone come in and then seeing you have this huge wall right next to your backyard. Of course, I also really have a hard time understanding the need to do this. But of course we will respect everyone's wishes and what your decision will be. Anyway, I just wanted to concur to what the points were before. That's all.

Chairman Collins: Okay, thank you.

Mr. Krosgaard: And thanks to Buddy for having the time to see us yesterday.

Bldg. Inspector Minozzi: You're welcome.

Ms. Reznik: (Off-mic).

Bldg. Inspector Minozzi: Thank you for bringing it to my attention.

Mr. Krosgaard: Also, one thing just for a reference for you. These plans were also just uploaded and posted on the Web site a few minutes before 5 o'clock. Last week we only got the e-mail Friday at 5 o'clock. And then only six days later is when we are having the hearing, where I believe last time we were here you stated there would be plenty of time to review plans and notice would be sent. We could all have time to prepare for ...

Bldg. Inspector Minozzi: Notices wouldn't have been sent again.

Mr. Krogsgaard: No, no, but at least ...

Bldg. Inspector Minozzi: And every meeting is posted one week before, the Friday before.

Chairman Collins: Yes, I think that's a state rule.

Bldg. Inspector Minozzi: That's our standard.

Chairman Collins: A Village requirement.

Mr. Krogsgaard: Yes, I think it says in there 13 days.

Bldg. Inspector Minozzi: No, that's for the original.

Mr. Krogsgaard: Okay, thank you.

Chairman Collins: Okay, thank you Mr. Krogsgaard.

Yes, please go ahead.

May I speak again?

Chairman Collins: Yes.

Ms. Massen: I just wanted to make sure it was clear that the O'Neils (sic) have four neighbors, not just the two who were speaking; that the Bordwins and myself are, in fact, their neighbors. And I hope this panel will weigh equally our opinion because our properties do abut theirs.

The second point I wanted to make is that anyone who moves into "Frelm," as we collectively refer to it, understands that there is going to be a certain lack of privacy. When you purchase a house on those two streets you know what you're getting. You're going to have maybe 5 feet between yourself and your neighbor. We know what everybody else is doing, and most people don't even have shades or curtains on their windows. It is an extremely transparent neighborhood.

The point to be made is that that is an election. If you wanted privacy, if you wanted space, if you wanted sunlight flooding in, then Frelm was not the place to have bought in. We're on

each other's elbows and there are certain benefits to that. There are also certain drawbacks. And if it's that unpleasant, then perhaps a different neighborhood should have been the choice.

Finally, I do think it's somewhat outrageous to second guess how somebody, how a neighbor, wants to live their life. I would not suggest that somebody sleep in their kitchen because it might be warm from all of the appliances running or that a bedroom should not be allocated for a child but to an adult. These are highly personal decisions about how somebody wants to run their life, and I think it's a discourtesy to second guess somebody's plans on how to live within the privacy of the space of their own house.

That's all I have to say. Thank you.

Chairman Collins: Thank you. All right, if there's nothing further does anyone wish to make a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Nivarthi, with a voice vote of all in favor the Board resolved to approve Case 17-19 for 33 Elm Place, extension of nonconformity in relation to side yard setback: existing, 5.96; proposed, 5.96; required minimum, 8. Variance required, 2.04 feet.

Chairman Collins: The vote's unanimous. Congratulations, good luck with the project.

Mr. Stojanovic: Thank you for your time.

Chairman Collins: Yes, you're welcome.

Mr. Stojanovic: And your effort overall.

Chairman Collins: Good luck on the project.

Mr. Stojanovic: Thank you.

Chairman Collins: All right, we've got one more case to go so, folks, if you could quietly exit. Thank you.

Boardmember Renzin: Heartwarming. All going to go crazy. Do we need to like say anywhere in the record that the question of how ... that's not what that factor means – how your bedroom is ...?

Chairman Collins: All right, let me introduce our final case for the evening. It's Case 18-19.

Case No. 18-19
Marion Shohfi Trust
245 Farragut Parkway

Relief from the strict application of the Village Code Sections 295-68F.1.c & 295-68F2.a.2 with 295-55A for the documentation of the enclosure and expansion of an existing side porch at their home at 245 Farragut Parkway. Said property is in R-10 Zoning District and is also known as SBL: 4.110-109-13 on the Village Tax Maps.

Variiances are sought for Side Yard Nonconformity and Development Coverage for the documentation of the existing enclosed and extended side porch.

Documentation of the Nonconforming Side Yard Setback:

Existing and Proposed – 9.8/24.3 feet; Required each side – Minimum 12 feet, both sides combined – Minimum 30 feet {295-68F.1.c}; Variance Required – 2.2/9.7 feet. With Prohibition against extending an existing nonconformity {295-55A}

Documentation of Nonconforming Development Coverage:

Existing and Proposed – 40 percent; Required maximum – 35 percent {295-68F.2.a.2}; Variance Required – 5 percent

Chairman Collins: I was just before the Board of Trustees talking about the rare instances of legalization and here we go, right on cue. The variance required for the minimum side yard is 2.2 feet, and the total 9.7. Variance is 5 percent.

So, Mitch, how are you?

Mitchell Koch, project architect: I'm here with Laura Hill, who is the executor for the estate. I put that in the letter. Basically Laura's a neighbor, we're in the same firehouse, and we're friends from the Ambulance Corps.

Essentially, this house had an addition which was enclosing what was an existing nonconforming side porch probably 40 years ago. You know, it's lost in the mists of time.

The old building card shows a porch, the new building – oops, good work, Mitch – shows this. I highlighted the nonconforming part of the addition. We are trying to legalize the house so it can be sold as part of the estate. Laura's doing it on behalf of the heirs to the family. It's a very small nonconforming slice, and we've heard no negatives from neighbors.

So we're just hoping that the board will see fit to grant this variance inasmuch as removing the nonconforming part of the property would make a mess out of the kitchen and certainly make it impossible to egress the kitchen through the back door. I don't think I have any more to say.

Maybe, Laura, do you want to say anything?

Chairman Collins: I'm sorry if you had something to say. You're welcome to. I was going to ask a question.

Mr. Koch: Please go ahead.

Chairman Collins: The same question I asked before. Which is, you've got 36.3 square feet of nonconforming space. The total square footage of the first floor, roughly?

Mr. Koch: I think it's about 800 square feet.

Chairman Collins: So 36.3 divided by 800? That's 4.5 percent of the square footage of the first floor is nonconforming. Sorry, do you have anything you wanted to add?

Laura Hill, 241 Farragut Avenue: In 2005 we got permission to actually push our kitchen out the same way, and part of how I got the idea was walking by this particular house.

[laughter]

I've been living at 241 Farragut Avenue ... no, I got a permit; mine's legit. I've been living in my house since 2000 and I've been walking by this house with dogs. It's been there as long as I've been there so it was a great surprise to me that it was not permitted.

Chairman Collins: It almost always is to somebody.

[laughter]

Ms. Hill: That's all.

Chairman Collins: All right, thank you. You know, we have to review these as if they didn't exist, so we have to then put on the same five factors we have in every other case. So I sort of go back to the first thing that always comes to my mind: how large or small the variance request is. This is a small one. I think the one comment we have from a neighbor is that it's contagiously in keeping with the neighborhood, apparently.

Ms. Hill: Yes.

Chairman Collins: So it's hard to see how this, if it didn't exist but were on offer, would create a detrimental impact on the quality of either the environmental impact or somehow a detriment to the other property owners. It's not a large request, you know. And this is in the kitchen – it bumps out a little bit in the kitchen?

Mr. Koch: Yes.

Chairman Collins: So hard to imagine ... I suppose it's always possible to come up with some other scheme that would allow the kitchen to expand, but in this case I'll just say that it perhaps would have stretched feasibility if this didn't exist and you were charged with adding 36 square feet to the kitchen. You start playing a jigsaw puzzle game on the inside of the house which could result in more undesirable changes. So I'll just say that that's a tossup and maybe not feasible.

And whether this was self-created, I don't think so. It's always hard. I mean, we hate to see cases like this because it puts us in an unpleasant position. But I do believe, if we were speaking honestly, that if this came before us it would be pretty easy for me to live with. I have no further questions.

Boardmember Dovell: It's in an R-10 zone.

Mr. Koch: Right. I'm going to just jump in ahead of you, Ray. I mean, one of the things about the coverage, the issue, is that there's a driveway that goes to the back and that's all your development coverage right there. Otherwise, I mean it's conforming with regard to building coverage and it would be given a normal, or a smaller, driveway. That would not be an issue.

Boardmember Dovell: How wide is the lot?

Bldg. Inspector Minozzi: It actually loops behind the house.

Boardmember Nivarthi: Yes, that's what I'm seeing. Is that the actual lot size you have up there?

Mr. Koch: Yeah. Bear with me for a second and I'll get that. You guys might see it before I do, in fact. The lot is 60 feet wide and ...

Bldg. Inspector Minozzi: 110?

Mr. Koch: I think it's 110, yeah.

Boardmember Dovell: I think it's a minimal variance. It's a small lot for R-10. R-10 is at 10,000 square feet so this is significantly less than that. And the hardship is the width of the lot.

Mr. Koch: Exactly.

Boardmember Dovell: So I would make the case that there is a hardship and that this is a minimal response to it.

Boardmember Renzin: I don't know that hardship is an issue (inaudible) variance.

Boardmember Dovell: Not the right word, okay.

Boardmember Renzin: But I understand what you're saying.

Chairman Collins: Well, you could argue, though, that ... no, I'm going to take that back. I'd be belaboring the point. Okay.

Anyone in the public wish to be heard who hasn't spoken already? Then does anyone wish to make a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Renzin, with a voice vote of all in favor the Board resolved to approve Case No. 18-19 for 245 Farragut Parkway for documentation of a nonconforming side yard setback: existing and proposed, 9.8 feet and 24.3 feet; required each side, minimum 12 feet; both sides combined, minimum 30 feet; variance required, 2.2 feet and 9.7 feet. With prohibition against extending an existing nonconformity. Documentation of nonconforming development coverage: existing and proposed 40 percent; required maximum 35 percent; variance required, 5 percent.

Chairman Collins: All right, the vote's unanimous. I usually at this point say good luck on your project, but that's not here.

[laughter]

Bldg. Inspector Minozzi: Good luck on the sale.

Chairman Collins: Thank you.

Case No. 13-19
Katalin & Gabriel Ce
280 Warburton Avenue
**** Deferred Until Future Meeting ****

For View Preservation Approval, as required under Section 295-82 and relief from the strict application of Sections 295-69F,1(b&c) and 295-20C for a rear addition and retaining walls on the two-family dwelling on their property at 280 Warburton Avenue. Said property is located in the R-7.5 Zoning District and is known as SBL: 4.100-96-11 on the Village Tax Maps.

Nonconformity details of the proposed construction are as follows:

**Rear yard: Existing – 35.25 feet; Proposed – 5.0 feet; Required – 25 feet
{295-69.F.1.(b)}; Variance Required – 20.0 feet**

**Side yard: Existing – 4.83 feet; Proposed – 4.0 feet; Required – 8 feet
{295-69.F.1.(c)}; Variance Required – 4.0 feet**

**Paving in a required yard: Proposed – approx. 200 square feet; Allowed – None
{295-20.C.(2)}; Variance Required – approximately 200 square feet**

APPROVAL OF MINUTES

Meeting of September 5, 2019

Chairman Collins: I had a couple changes which I will offer up. First of all, for the case of ... in the review of case – I'm pulling up my meeting minutes on my phone – 33 Elm Place case, I believe. I was present and was indicated as the chairman. Ray went from Mr. Dovell to being the acting chairman. It's a minor thing, but it just should probably be only one chairman in force.

Bldg. Inspector Minozzi: Yes.

And then I believe – and I'm skipping ahead to it – that chronically, throughout that case ... I'm just pulling it up. I think Alex Stojanovic's name was misspelled.

Bldg. Inspector Minozzi: Whose?

Chairman Collins: It was spelled with two "A's," I think. Yes. His proper spelling of his name is S-T-O-J-N-O-V-I-C-H, and in the minutes it's spelled consistently "*S-T-A-J-A-N-O-V-I-C.*"

Bldg. Inspector Minozzi: Okay.

Chairman Collins: So those are my only two. Anyone else wish to offer an amendment on the minutes? Anyone wish to make a motion on approving the minutes as amended?

On MOTION of Boardmember Nivarthi, **SECONDED** by Boardmember Renzin with a voice vote, the Minutes of the Regular Meeting of September 5, 2019 were approved as amended.

Chairman Collins: Four-0.

DISCUSSION ITEMS

1. HoH Zoning 101 Presentation to Board of Trustees

Chairman Collins: I have just one other thing which I wanted to update the board on. Mayor Armacost asked me to give a presentation on zoning 101 to the Board of Trustees last Tuesday night, which I did. She brought up once again where we stand on making some important recommendation changes to the Village zoning code, specifically floor area ratio outside of ... we talked about the MR-1.5 change, reminded the board of that. She is a big fan of that, and the whole board appreciated that. But it sparked questions about where are we on extending that floor area ratio outside, beyond, that zone.

Boardmember Dovell: The outside of what zone?

Chairman Collins: I'm sorry, to all the rest of them instead of just ... I think right now it only applies to MR-1.5.

Boardmember Dovell: I think it should apply to every zone in the town.

Chairman Collins: I agree.

Boardmember Renzin: Mm-hmm.

Chairman Collins: Buddy, I don't know how best to make that if the Village is looking for the math. Because I would imagine the floor area ratio we may want to tweak a little bit between the various zones in the Village ...

Bldg. Inspector Minozzi: Oh, absolutely.

Chairman Collins: ... and not have the – whatever it was – 0.4, 0.35?

Boardmember Dovell: Right. That was only an application of the MR-1.5, and every zone has to have its own particular floor area ratio that has to be studied. It's not an easy ...

Chairman Collins: Right.

Boardmember Dovell: What I assume the planner was doing. The Town Planner is working on that?

Bldg. Inspector Minozzi: I don't know. I'll have to ask.

Chairman Collins: The very asking me that question suggested that there's been some maybe break in communication, or this person involved in the planning hasn't come before the Board of Trustees recently.

Bldg. Inspector Minozzi: No.

Chairman Collins: And quite frankly, I had lost track of where we stood on that. So I wanted to bring it up here and see, Buddy, if you can follow through ...

Bldg. Inspector Minozzi: Sure.

Chairman Collins: ... and find out where they stand. I mean, we're ready to support it, but I think given the scope of work involved – just how much work it took for MR-1.5 – it would be a bit of a burden on this board to start doing that.

Bldg. Inspector Minozzi: So we're talking about the R-20, the R-10, and the R-7.5 as the

three you want to do right now?

Chairman Collins: Everything.

Boardmember Dovell: I think every zone in town have a floor area ratio connected to it.

Chairman Collins: Yes.

Boardmember Dovell: And that that has to be studied, you know, based on what the goals are of the zoning ordinance in town – what are the density goals – and these have to be carefully considered. It's a difficult thing to do.

Bldg. Inspector Minozzi: I'll have to speak with Linda and Patrick about it.

Boardmember Dovell: Yes. And I think it would be ...

Chairman Collins: It would normally ... I mean, I know you did a huge amount of work on it, but it would normally be tasked to ...

Boardmember Dovell: A professional planner would be the one to do it, and I think in connection with that they'd look at what other villages have done ...

Bldg. Inspector Minozzi: Which we have on staff.

Boardmember Dovell: Which you've got, yes.

Chairman Collins: So I think find out if you could, Buddy, where they are in the process.

Bldg. Inspector Minozzi: Sure, and I'll shoot the board an e-mail once I speak to Patrick.

Chairman Collins: That'd be great. Yes, that'd be wonderful. And if there is some input that we need, then I think we're happy to have that discussion. But we just want to make sure that they're not looking at us, and we're not looking at them, to do the work.

Boardmember Dovell: I thought Linda made that pretty clear, though.

Chairman Collins: I did, too, but again I was reacting to the question. I was a bit surprised to have it come up.

Boardmember Dovell: It's really an interesting thing because if you have ... I was just thinking about this this evening. If you have a case where you have an existing

nonconforming building for building coverage, let's say, and it's one story, that's permitting a pretty big ... you know, let's just say it's permitting a lot of floor area on it. They could build a second floor as-of-right without increasing the degree of nonconformance.

Bldg. Inspector Minozzi: Correct.

Boardmember Dovell: So really it should be something that's moved ahead because this can be abused pretty easily.

Bldg. Inspector Minozzi: Yes, you can get a ranch on Lincoln Avenue and make it a giant center hall Colonial on the same footprint.

Boardmember Dovell: Exactly.

Bldg. Inspector Minozzi: And be conforming.

Boardmember Dovell: Yes, and be conforming.

Chairman Collins: All right, you'll do the homework for us.

Bldg. Inspector Minozzi: Yes, sir.

Chairman Collins: Thank you.

2. Proposed Accessory Apartment Law Amendment

Village Attorney Amanda Brosy: You also have ...

Bldg. Inspector Minozzi: We have a discussion item.

Village Attorney Brosy: On the accessory apartments.

Chairman Collins: Oh, that's right. Thank you.

Bldg. Inspector Minozzi: Now, we realize that the Zoning Board does not really have anything to do with accessory apartments because the way it was R-granted by the Planning Board. But the Board of Trustees did want us to send you the changes in case you had any input.

Boardmember Renzin: I read it. I was like, Hmm, what does the Zoning Board do with that?

Boardmember Dovell: Good for a giggle.

Boardmember Renzin: I know, I was trying to be diligent.

Chairman Collins: You know, Linda gave an explanation.

Boardmember Dovell: I just think the pressure on taxes is getting so ...

Bldg. Inspector Minozzi: I know what it is.

Chairman Collins: What's the underlying question now?

Bldg. Inspector Minozzi: Because what happens is, when accessory apartments come before the Planning Board they're just about always approved very quickly, very easily, and without much input from any of the neighbors. Once in awhile you'll get a new neighbor that may not understand, and even though it's the eighth time it's come before the board this neighbor didn't realize it and has a concern about parking or something like that.

So what they want to do is, they want to not waste the board's time but not take away the public notice so they know it's going to be reviewed and kind of leave it up to me to take any complaints sent and weigh the validity of that complaint to see if it needs to go to planning, or not. Of course, with the attorney's tutelage, you know.

Village Attorney Brosy: And that renewal happens every three years so it's becoming a little bit burdensome.

Chairman Collins: Yes, we do remember that. That was the previous language; you had to get it re-upped every three years?

Bldg. Inspector Minozzi: Yes, correct.

Village Attorney Brosy: Initially the law was drafted in the '90s, and I guess the Board of Trustees wanted to allow accessory apartments. They thought it would be good for the Village, it would provide an affordable housing option and housing for senior citizens. But they were concerned what it would do to single-family zones so that's why they kind of put a lot of restrictions in the law initially. But now we've had, you know, 20-some years of experience and the Board of Trustees realizes they can kind of relax those restrictions. So

hence why they've changed the process a little bit, given the Building Inspector more authority now on renewals.

They've also changed a couple more aspects of the law. There used to be a part of the law that there could only be a max of 50 accessory apartments in the whole Village. They've taken that out now. And there was a square footage, or percentage, on the residence requirement.

Bldg. Inspector Minozzi: It used to be 25 percent, now it's 33 percent.

Village Attorney Brosy: Now it's just straight 33 percent. That's the total that can be taken up by the accessory apartment in the residence. The rationale there was that usually these apartments go into like a basement of a three-story home, so just make it 33 percent is easier. Though that prior thousand square foot, or 25 percent, had been getting a lot of variances anyway, so simplify it. So those were some of the changes.

Boardmember Nivarthi: Wasn't there something about 1994 being the cutoff, and that was also ...

Bldg. Inspector Minozzi: Oh, yes.

Boardmember Oaks: How many are there in the Village?

Bldg. Inspector Minozzi: Eighteen. It used to be about 30, but with the influx of younger, more not-blue collar workers they've chosen to get rid of their accessory apartments in their new homes. So we've lost quite a few in the last few years.

Chairman Collins: I have no comment one way or the other. Does anyone?

Boardmember Renzin: Interesting.

Chairman Collins: It is, yes.

Boardmember Nivarthi: Yes, I think it's time that the Village rationalizes some of these things, especially considering what Linda said last time. You know, this was based on what is way back – maybe 20 years back – about people building accessory apartments and then ... but it's not that big of a problem now.

Bldg. Inspector Minozzi: I mean, the law's still going to stay where you can't turn your garden shed into an accessory apartment, you can't turn your garage into an accessory

apartment. That's not changing. The basic laws are still there, it's just the approval process we're going to change.

Boardmember Renzin: I can't tell my mother that I'm not building an accessory apartment?

[laughter]

That's the only thing I care about.

Boardmember Nivarthi: And not your mother-in-law.

Boardmember Renzin: My *mother*, sadly.

[laughter]

NEXT MEETING

Next meeting date December 5, 2019

Chairman Collins: All right, then. Well, if there are no other comments we'll adjourn.

Boardmember Dovell: So the next meeting is December ...

Bldg. Inspector Minozzi: December 5th.

Chairman Collins: We do not have a November meeting because that falls during Thanksgiving.

Bldg. Inspector Minozzi: No.

Chairman Collins: So our next one will be early December.

Bldg. Inspector Minozzi: December 5th.

Chairman Collins: Very good.

ADJOURNMENT

ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
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On MOTION of Boardmember Nivarthi, SECONDED by boardmember Renzin with a voice vote of all in favor, Chairman Collins adjourned the Regular Meeting.