

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
DECEMBER 5, 2019**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, December 5, 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 Jeremiah Quinlan, Alternate Boardmember Sashi Nivarthi, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

Chairman Collins: Ladies and gentlemen, thank you for joining us for the December 5th, 2019 Zoning Board of Appeals meeting, our last one of the year. We have a very busy docket so I'm going to try to get right into it.

I'll just lay down a couple of ground rules first. We have microphones, a standing mic here and a handheld mic which is up here on the dais. If you are speaking tonight we just ask that you have a microphone in your hand all the time so we can hear you. We have a remote transcriptionist that's capturing everything for the record. We want to make sure your comments are in it if you have something to leave with us. And when you do introduce yourself, just let us know your name and where you live. If I mispronounce any names in my introduction of the cases I apologize in advance.

Buddy, how are we on the mailings?

Bldg. Inspector Minozzi: I've been informed by my staff that all the mailings are in order, sir.

Chairman Collins: Okay, thank you.

I. DISCUSSION ITEM

Proposed Local Law M of 2019 – Senior Housing Definitions

Chairman Collins: I'm going to suggest that we get right into the cases and save the discussion for the housing law 'til the end.

Village Attorney Whitehead: We had originally put it first because the Village Planner was going to be here, but he ended up having a conflict.

Chairman Collins: All the more reason I think then to punt it to the end.

So then we will begin.

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:

- 1. Rear yard: Existing – 35.25 feet; Proposed – 5.0 feet; Required – 25 feet {295-69.F.1.(b)}; Variance Required – 20.0 feet**
- 2. Side yard: Existing – 4.83 feet; Proposed – 4.0 feet; Required – 8 feet {295-69.F.1.(c)}; Variance Required – 4.0 feet**
- 3. Paving in a required yard: Proposed – approximately 200 square feet; Allowed – None {295-20.C.(2)}; Variance Required – approximately 200 square feet**

II. AGENDA

Chairman Collins: Our first case for the evening is Case 19-19.

Case No. 19-19
Andrew Tucker & Rafaela De La Huerta
10 Maple Lane

Relief from the strict application of the Village Code Sections 295-70E.2.a&c with 295-55A, 295-70E.3.b and 295-20B.6 for an addition of a roof dormer and extension of an existing first floor rear deck and stairs on their two-family dwelling located at 10 Maple Lane. Said property is located in the 2R Zoning District and is known as SBL: 4.30-21-6 on the Village Tax Maps.

Nonconformity details are as follows:

1. **Prohibition against extension of nonconformity – with relation to front- and side yard setbacks for the roof dormer and first floor rear deck 295-55A}**
2. **Front yard setback: Existing – 5.6 feet; Proposed – 23.4 feet; Required – 30 feet {295-70E.2.a & 295-55A}; Variance required – 6.6 feet**
3. **Side yard setbacks to dormer: Each yard/total of both – Existing: side one – 1.9 feet/side two – 2.7 feet/Both – 4.6 feet; Proposed: side one – 1.9 feet/side two – NA/Both – 4.6 feet; Required: side one – 12 feet/side two – 18 feet/Both – 30 feet{295-70E.2.c & 295-55A}; Variance required – side one – 16.1 feet/side two – NA/Both – 25.4 feet**
4. **Lot Coverage: Existing – 44.9 percent; Proposed – 48 percent; Required – 25 percent maximum {295-70E.3.b}; Variance required – 23 percent**
5. **Deck projection into required yard side one/side two: Existing side one – 6.5 feet/side two – zero feet; Proposed side one – 8.6 feet /side two – 8.5 feet; Required maximum – 6 feet each {295-20B.6 & 295-55A}; Variance required side one – 2.6 feet/side 2 – 2.5 feet**

Chairman Collins: The applicant is seeking variances related to the prohibition against the extension of a nonconformity for the front- and side yard setbacks. This has been accurately noticed for the front- and side yard setbacks required and the proposed, as well as the existing, condition, as well as lot coverage and a deck projection into the yard. That is the preamble, go ahead and the floor is yours.

Gill Anderson, Baldwin & Franklin Architects: Hi, this is Annabelle Rolland, also from the office. The owner, Rafaela De La Huerta, is there and, unfortunately, her husband couldn't be here.

Chairman Collins: Okay, thank you.

Ms. Anderson: Like the neighboring properties on Maple Lane, the lot size of number 10 is smaller than permitted in district 2-R. As you can see here on the existing site plan, the house shown, hatched, is a totally nonconforming structure due to the front- and side yard setback requirements and also to the permitted lot coverage. In fact, some of the required side yards are 30 feet, and the large is only 25 feet wide. So the side yard setbacks overlap.

The existing two bedrooms on the attic floor have been in use for approximately 50 years, and the access stair is not up to the current code as a means of egress. In order to remedy this, a new dormer will be required to provide adequate headroom for a code-compliant stair.

As shown on this proposed site plan, the dormer would add to the existing nonconformities of the house at the front and west side yard setbacks, and also in coverage. We also propose a small rear deck which encroaches on both side yards, as shown here.

Bldg. Inspector Minozzi: Mr. Chairman?

Chairman Collins: Yes, sir.

Bldg. Inspector Minozzi: A very unique lot because the setbacks actually crisscross each other.

Chairman Collins: Yes, that was made very clear in the drawings.

Bldg. Inspector Minozzi: Which makes it anything ...

Boardmember Dovell: A negative house.

Bldg. Inspector Minozzi: Exactly.

[laughter]

Chairman Collins: That's the first time I've heard that term.

Bldg. Inspector Minozzi: The setbacks are kind of reversed, where you're not measuring in from the side but you're actually measuring from the middle out.

Chairman Collins: Right. Well, I appreciate that.

Bldg. Inspector Minozzi: Very strange situation.

Chairman Collins: But this exactly why we have zoning. It's a relief valve for exactly this sort of instance.

Bldg. Inspector Minozzi: Go ahead, Gill, sorry.

Ms. Anderson: Thanks, Buddy.

This photo of the front of number 10 illustrates the proposed dormer, which is shown here in yellow.

Bldg. Inspector Minozzi: This did get a view preservation waiver, by the way.

Chairman Collins: Yes, thank you. I was a part of that, but that's useful to add to the record.

Ms. Anderson: On this west elevation you can see the length of the dormer, which is set back from both the front and rear of the house for minimal impact. This drawing shows the existing and proposed rear elevations of the house. Here's the proposed site of the dormer and the proposed deck. At the first floor, the only access to the rear yard is via steps from the kitchen door. The proposed renovation includes a sliding door from the living room onto a small deck, with steps to the rear yard. This will extend over the existing steps, basement entrance, and concrete paving. That'll be shown in the next photo. The deck next to the kitchen door extends across the whole ... well, up to the circular stair.

In the final drawing that we are showing – the proposed plan of the rear deck and steps – the drawing shows an encroachment on both overlapping side yard setbacks in the area shown. I think if you have any questions, otherwise that's everything.

Chairman Collins: Okay. Well, thank you for the overview. The Building Inspector's framing of this property is a useful one because – and we're sort of in a parallel universe where there's nothing as-of-right that would be permitted here – in terms of the square footage of both the dormer and the rear deck, do you have the dimension on that just to get a sense of how much surface area we're talking about?

Ms. Anderson: Of the entire deck, or of what's required by the variance?

Chairman Collins: Yes, that which would be covered by the variance.

Ms. Anderson: Area A, we're extending by 80.45 square feet in the back.

Chairman Collins: Okay.

Ms. Anderson: Then the dormer is Area B, which is 112.5 square feet.

Chairman Collins: And the total footage of the home overall, roughly?

Ms. Anderson: It's on here. It's under "coverage," buh, buh, buh. Let me see, it's in here. Existing is 1,148 and proposed is 1,228.

Chairman Collins: Okay. So you're getting in the neighborhood of a 10 percent bump on the square footage inside the home for this.

Ms. Anderson: It's 0.31 percent. Well, yeah, the only extra area is the back deck as far as coverage ...

Chairman Collins: Oh, I see. Yes.

Ms. Anderson: ... because the other one is the dormer.

Chairman Collins: Right. I mean, this is a modest-size home and a modest-size proposed increase of area. You have really no choice but to come here for a variance. The dormer strikes me as perfectly in keeping – I mean both of these proposed additions strike me as being perfectly in keeping – with the character of the home and the neighborhood. There's nothing here that strikes me as being anything that would result in an undesirable change in the character of the neighborhood or, certainly, the home. These both seem like very modest improvements to me. And one that, as you explained in your introduction, is really necessary just out of pure maintenance and age of the home.

So I really don't have any objections to either of these two. As I said, they're modest and I think they pass sort of the five-factor review process we have with ease. So I don't have, really, any further questions or anything else that I'd like to know about the project. Does anyone else have any questions for the applicant?

Boardmember Nivarthi: Yes, I have one. Are you increasing the size of the living room, too?

Ms. Anderson: No.

Boardmember Nivarthi: You're just adding a sliding door to the existing living room.

Ms. Anderson: Yes. I believe, Buddy, you have a couple of letters from neighbors approving ...

Bldg. Inspector Minozzi: Yes, they were sent to the board already.

Boardmember Nivarthi: And I have no further questions.

Chairman Collins: Okay.

Boardmember Quinlan: No questions.

Chairman Collins: All right. Does anyone in the public wish to be heard on the case? Then does anyone wish to make a motion?

Bldg. Inspector Minozzi: Wait, you have one hand raised.

Chairman Collins: Oh, I'm sorry. Okay, you sure?

Then anyone wish to make a motion?

Boardmember Dovell: I'll make a motion, but I need a little clarification. It seems like there are a lot of variances listed here.

Bldg. Inspector Minozzi: They're all correct. We've gone over them and over them and over them.

Village Attorney Whitehead: You don't have to recite them all. You can just say "as set forth in the application."

Boardmember Dovell: I'll move to approve Case 19-19 for 10 Maple Lane for the creation of a nonconforming dormer and for a rear yard deck. Does that do it?

Bldg. Inspector Minozzi: Sounds good.

Village Attorney Whitehead: with the variances as are listed on the agenda.

Boardmember Dovell: The variances: "the one, two, three, four, five variances listed." Does that do it?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Quinlan, with a voice vote of all in favor the Board resolved to approve Case 19-19 for 10 Maple Lane for the creation of a nonconforming dormer and for a rear yard deck with the one, two, three, four, five variances as listed on the agenda.

Chairman Collins: The vote's unanimous, congratulations. Good luck to you on your project.

Next we will go to Case 20-19.

Case No. 20-19
Peter, Stephen & Roman Prysclak
60 Maple Avenue

Relief from the strict application of the Village Code Sections 295-70D, 295-70E.2.a,b&c, 295-70E.3.b and 295-36 for the documentation of the previous conversion of a one-family dwelling to a two-family dwelling, and the documentation of the previous removal, rebuilding and extension of the existing garage and nonconforming off-street parking, on their dwelling located at 60 Maple Avenue. Said property is located in the 2R Zoning District and is known as SBL: 4.30-22-14 on the Village Tax Maps.

Nonconformity details are as follows:

- 1. Lot size and width for a two family in a 2R: Existing – 7500 square feet/75 feet wide; Proposed – 7500 square feet/75 feet wide; Required – 10,000 square feet/100 feet wide {295-70D}; Variance required – 2,500 square feet/ 25-foot width**
- 2. Front yard setback: Existing 16.75 feet; Proposed 16.75 feet; Required 30 feet {295-70E.2.a }; Variance required – 13.25 feet**
- 3. Side yard setback: Side one – Existing: Side one – 7.66 feet; Proposed: Side one – 7.66 feet; Required: Side one – 12 feet {295-70E.2.c}; Variance required: Side one – 4.34 feet**
- 4. Lot Coverage: Existing – 29.48 percent; Proposed – 29.48 percent; Required – 25 percent maximum {295-70E.3.b}; Variance required – 4.48 percent**
- 5. Rear yard to accessory structure: Existing – 0.89 feet; Proposed – 0.89 feet; Required – 8 feet {295-70E.2.b}; Variance required – 7.11 feet**
- 6. Side Yard to accessory structure: Existing – 3.75 feet; Proposed – 3.75 feet; Required – 8 feet {295-70E.2.c}; Variance required – 4.25 feet**
- 7. Required off-street parking: Existing – two parking spots; Proposed – two parking spots; Required – four parking spots {295-36}; Variance required – two parking spots.**

Chairman Collins: Again, I apologize if I mispronounce any names. This is for 60 Maple Avenue, and this involves the documentation of a previous conversion from a one-family to a two-family dwelling and the documentation of the removal, rebuilding an extension of an existing garage as well as nonconforming off-street parking for the dwelling at 60 Maple Avenue. There are seven variances listed here, I'm not going to go through all of them.

I will say, though, just as we're getting set up here – and our Village Attorney will correct me

if I get any of this wrong – that we are obligated to look at this project as if it were a new proposal. The fact that it's already standing has no bearing on how we evaluate this matter. I will have a question to lead off on that because of the cover letter that was submitted earlier today from Gibbons Engineering. It referenced a bit of history into the property file that the Building Department would keep on this address. I just want to make sure we are certain that even after this cover letter's been submitted that there was no permitting done for any of the things that are here.

Bldg. Inspector Minozzi: Nothing that's on the list, no; on the list of variances. Again, this is another case we spent a lot of time making sure everything listed here was correct, including multiple site visits, walk-throughs and investigations. It was a very difficult case to put together.

Chairman Collins: All right. Well, I appreciate your effort and thoroughness on that. I'm not going to be terribly interested in how did this happen. I'd really rather keep the focus, as much as possible on – with an eye for myself and our fellow boardmembers – the variances that are being requested here. And as much as possible to put out of our minds the fact that, unfortunately, this property is already here.

We hate this, and I don't think I need to dwell on the reasons why. With that, I'll invite you go ahead and, sir, and present the case.

Jim Gibbons, Gibbons Engineering: Good evening, Mr. Chairman and ladies and gentlemen of the board.

Mr. Gibbons: I'm the professional engineer with my company. My office is in Tarrytown, 1 Central Avenue in Tarrytown, New York. I'm here to present the case for 60 Maple Avenue.

Some background about the case. It appears that everything was in place in 1965. There was a building permit requested for the garage roof in 1980, so if a roof lasts 15 years it would also indicate that 1965 might have been the best year to define that the garage was in place. My clients are here tonight if we have any questions. Their father had purchased the house for the family in the early '60s, 1961, and apparently all this work was done by 1965.

There are two electric meters outside the house. I don't know the date they were put in, but they are older meters. There were building permits for the back addition. I'm not 100 percent sure of what that's for except that there is a rear addition that creates an egress type of stair system for the upper floors in the rear of the house. Now, that rear addition does not

encroach on the setbacks. But I'm going to point it out to the board, and I think that's what the permitting's for.

Chairman Collins: Buddy, why don't you hand Mr. Gibbons the microphone.

Bldg. Inspector Minozzi: Sure. Here you go, sir.

Mr. Gibbons: This area here, which is on page G-1 of my submitted plans, appears to be the rear addition that was filed for in a building permit. From my analysis, it looks like a set of stairs that just functions as a second means of egress. There's no plans in the file for a two-family, no documentation beyond that, but this is what we have in 1965. If we look over at the survey from 1954, which was prior to my client's purchasing the property, there's just a little hatch to get into the basement, but no addition. Then there's a metal shed that's documented in 1954. And the garage here – a CMU-type of garage – was added by '65.

If we look at the setback encroachments on G-1, we have shaded the area that the front yard setback doesn't meet and the side yard setbacks for the house proper, and the addition does stay within the setbacks. Then with the garage, we also have the setback area that is a problem. Up here, this is the existing property in 1954, and all this is out of alignment with the current setbacks.

We come to 1965, this is the property and the same setback problem exists for the house and the added addition is not an encroachment. Of course, the garage has the same kind of setback issues and it is larger, of course, than the metal shed back in 1965.

Chairman Collins: Mr. Gibbons, which drawing are you in right now?

Mr. Gibbons: We're looking at G-2.

Village Attorney Whitehead: Buddy, could I just clarify one thing?

Bldg. Inspector Minozzi: Uh-huh.

Village Attorney Whitehead: The front yard setback and the side yard setbacks that are nonconforming, are those part of additions that are being legalized, or were those part of the original house?

Bldg. Inspector Minozzi: They are part of the original house.

Village Attorney Whitehead: So those variances actually are not required.

Chairman Collins: That's right. Really, what you're talking about – and that's why I was asking about the drawing and digging into this – as I read it, it looks like we have ... I could get this wrong ...

Bldg. Inspector Minozzi: Go ahead.

Chairman Collins: ... but it looks like the garage has an extension of a nonconformity happening.

Bldg. Inspector Minozzi: Well, it's two things with the garage. It was rebuilt, taken down and rebuilt, and extended.

Chairman Collins: Right.

Bldg. Inspector Minozzi: That's the garage. The house ...

Boardmember Dovell: After the zoning went into place.

Bldg. Inspector Minozzi: We can't put our finger on a date.

Village Attorney Whitehead: It's different than the garage that's on the 1954 survey.

Bldg. Inspector Minozzi: The survey and the property card both call it a metal building – it's the CMU-and-wood building – and then it's been extended on top of that.

Chairman Collins: But really the Village doesn't have any proof one way or the other about whether or not some portion of that garage was built up or whether it was a total demolition.

Bldg. Inspector Minozzi: I don't have anything. We don't have any proof there were any permits pulled to do any of the work that was done on it. You can see, partially, an old structure when you go inside. They saved some of the old structure, so you could see some old and some new. Newer; not new, but newer. But that's the garage.

Getting back to the front yard and side yard setbacks, as a one-family it would've been conforming. As a two-family, they increase. So if we're doing a conversion to a two-family, now we're creating a nonconformity as far as setbacks. That's why the setbacks are listed. Even though it's the same house, it's different for a one-family than a two-family.

Village Attorney Whitehead: But it's the lot area and the lot width that are different, not

the setbacks.

Boardmember Dovell: They're the same, aren't they?

Mr. Gibbons: In 1959 this parcel here – a 25 by 100 foot piece – is indicated on the property card that it was joined to the preexisting house. So the structure was built in 1900, the addition 1965, the metal shed documented in 1954. But all this was built on a 50 by 100 lot during the days of the old zoning. I grew up in Hastings, I know the lots were a lot smaller. I just know the date when the larger lots came in, but it had to be before 2003, I'd say.

Chairman Collins: So I think we need some confirmation about whether the front- and side yard setbacks are needed from going from a one- to a two-family dwelling. Sounds like there may be some uncertainty there. I suppose we should just double-check to make sure, too, that the lot coverage is also in play here, although my gut would tell me it's more likely to be in play than the ...

Village Attorney Whitehead: Just because the garage was expanded it would've increased the lot coverage.

Chairman Collins: Yes, for sure.

Village Attorney Whitehead: So therefore I think the lot coverage is probably ... it's the setbacks that I question whether they need variances.

Chairman Collins: But is the lot coverage also ...

Bldg. Inspector Minozzi: It decreases for a two-family, yes.

Chairman Collins: Okay, it decreases for a two-family.

Mr. Gibbons: And the lot itself has to be 100 by 100 – 10,000 square feet ...

Chairman Collins: For a two-family.

Mr. Gibbons: ... and we have a 75 by 100 here.

Boardmember Dovell: For either, or for just a two-family?

Village Attorney Whitehead: It has to be bigger for a two-family.

Boardmember Dovell: Right. It has to be 10,000 square feet.

Chairman Collins: But the lot coverage maximum is smaller on a two-family?

Bldg. Inspector Minozzi: The percentage is ...

Village Attorney Whitehead: I'm getting it.

Bldg. Inspector Minozzi: I don't have it at my fingertips.

Boardmember Dovell: The chart you have on G-1 doesn't seem to reflect that, then. You're saying required maximum for one- or two-family, 10,000, lot width 100, lot coverage 25 for one- or two-.

Bldg. Inspector Minozzi: That's a single-family, then you go to two-family.

Boardmember Dovell: The chart doesn't reflect that.

Village Attorney Whitehead: Oh, okay.

Boardmember Dovell: What is it, Buddy?

Bldg. Inspector Minozzi: The front yard increases from 25 to 30 feet when you go from a one-family to a two-family, and the coverage goes down from 20 percent to 25 percent.

Village Attorney Whitehead: Because it anticipates a larger lot.

Boardmember Dovell: Right.

Chairman Collins: I see.

Boardmember Nivarthi: So it goes down from 30 to 25?

Village Attorney Whitehead: Yes, because it anticipates the 10,000 square foot lot, a larger lot.

Boardmember Dovell: Okay.

Boardmember Dovell: For the record, this chart does not indicate that. The chart on

G-1 does not indicate any of this.

Chairman Collins: Yes, the table there reads them both the same.

Boardmember Dovell: It's really misleading.

Chairman Collins: But the variances in the notice are correct. So if we take a step back and try to simplify this, the setback and lot coverage variances are required because of the change in the dwellings used from one-family to two-family.

Bldg. Inspector Minozzi: Correct.

Chairman Collins: The actual dimensions of the home were never changed. They didn't add on, but they went from one- to two-family.

Bldg. Inspector Minozzi: Correct.

Boardmember Dovell: Wouldn't that also include the lot size?

Mr. Gibbons: Except, Mr. Chairman, for the rear addition – that small addition which creates that staircase in the back ...

Bldg. Inspector Minozzi: Which was done legally. We have all the paperwork, the paper trail on that.

Chairman Collins: Okay, so that we're not ...

Bldg. Inspector Minozzi: No.

Chairman Collins: Okay.

Bldg. Inspector Minozzi: It's not even a question.

Boardmember Dovell: Is lot size now a variance required as well?

Village Attorney Whitehead: It's listed here.

Chairman Collins: Lot size width is listed up at the top. Then you've got the issue of the garage.

Bldg. Inspector Minozzi: That's probably, I think, the biggest issue.

Chairman Collins: Well, it has the most uncertainty attached to it because we can't establish – the Village can't establish, and I don't think the applicant knows – whether that was a total teardown. Maybe it's noble because of the survey and if it's exactly on the same footprint, but then again we've seen that could be a rebuild on exactly the same footprint.

Bldg. Inspector Minozzi: The only thing we have says "metal building," and it's not a metal building. That's what leads us to believe – or myself to believe – that it was a total teardown. Plus, when you go inside you can definitely see some sign of an older structure that used to be there. They left part of an older structure there and kind of built up around it. So with those two things, I'm fairly certain the building was demolished.

Chairman Collins: Okay.

Bldg. Inspector Minozzi: At some point. I can't tell you it was under their ownership or not, but at some point it was.

Chairman Collins: I'm inclined, as I said earlier, to treat it as an extension of a nonconformity for that reason because there is an element of uncertainty. And even now you say there are elements inside the garage you find as artifacts from the original.

Bldg. Inspector Minozzi: Mm-hmm.

Chairman Collins: You know, the line between a complete demolition and building onto an older structure can be hard to call sometimes.

Bldg. Inspector Minozzi: It is, definitely.

Chairman Collins: So I would feel, for the purposes of our evaluation of seeing this as an extension of a nonconformity, building out and basically increasing the nonconformity that's already there as opposed to imagining this as a structure that didn't exist and is being proposed for this location on the property.

Bldg. Inspector Minozzi: Okay.

Chairman Collins: That's my opinion. Others on the board may disagree, but I'm trying to find a way to process this in a manner that's squaring a bulky circle.

Boardmember Dovell: So this is considered an accessory structure, in any event. Are there

limitations on size for accessory structures? This looks like an enormous, in proportion ...

Bldg. Inspector Minozzi: No, there's no limit on size in an accessory structure. We just go by coverage.

Chairman Collins: Yes, max the lot coverage.

Bldg. Inspector Minozzi: In the Village of Hastings we do not have a maximum size on accessory structures.

Village Attorney Whitehead: There's a maximum height, but it's just that.

Boardmember Dovell: Right.

Boardmember Nivarthi: I think somebody from the public wants to comment.

Chairman Collins: Well, we'll get to that. Is there anything else, Mr. Gibbons, that you wanted to present on the case that you want us to know?

Mr. Gibbons: Just speaking with my clients earlier today trying to nail down the issue with the garage, apparently there's a retaining wall that is adjoining the Schnibbe property – the gas station property – and my client's property right at the garage. My clients indicated that in 1965 the wall was replaced by Schnibbe, and that may have also been part of the reason why the garage was reconstructed at that point, at least in part.

Chairman Collins: Okay, all right.

Mr. Gibbons: But I'll make myself available for any questions and I'll let the board discuss it.

Chairman Collins: Well, if we were seeing this as we should as an entirely new development – an applicant came before us and said we'd like to make this a two-family instead of a single-family – the questions I'd want to know is, okay, starting with the lot size and width how does this compare to other two-family dwellings in this zone. Do we have any data on that to show if this is in keeping with the neighborhood, or not?

Mr. Gibbons: There are two-family homes in the neighborhood on smaller lots. I did a conversion at 40 Maple about a year, year-and-a-half ago that was a two-, and we turned that back to a one-. I think that lot is a smaller lot.

Chairman Collins: But you don't have any documentation, a neighborhood documentation, to show – for the two-families that are just even in the notice area – what all their different lot areas and widths are you can present to us.

Mr. Gibbons: Not at this time, Mr. Chairman.

Chairman Collins: Okay. I think the setbacks, to me – the front yard and side yard setbacks – are less of a concern, in part because this kind of dimension is not uncommon in the Village. I've certainly seen much more severe. Even though the variance that's being requested here is substantial, both as a percentage of the requirement as well as a standalone raw number, the front yard setback is pretty substantial. The side yard setback variance is not that substantial, in my view.

The lot coverage, in spite of what my colleague Ray points out, seems like a substantially-sized garage, the coverage variance is not that big. Although again I would say the variance required is 4.48 percent points, and as a percent of the required maximum it's bigger than that. It's more like a 20 percent bump above what the required maximum is.

Then you've got, you know, the tricky issue of the rear yard accessory structure and the existing and proposed relative to the requirement. Again, this is where I think it might be helpful to think about this as an extension. If we were seeing this as a project where you had the existing metal garage – whatever it was before – and the applicant came before us and said, "Hey, look, we want to extend this, make it a two-car garage as opposed to a one-car garage – we don't want to demolish the old to do that, we'd like to just build on it, we think it makes sense" – I'd be inclined to want to have that conversation. I think, as a practical matter, I can see myself being on board with extending the garage to accommodate what is a more modern condition of vehicle ownership in the Village.

Bldg. Inspector Minozzi: Well, with this particular garage the extension was more of a common space. There's a wall between where the cars would park and this storage-type space. I mean, I would love for it to have been clear through because then you could have four spots inside. But that's not the way it's set up.

Chairman Collins: Well, that's relevant then. Again, we'd want to know what the garage is being used for.

Bldg. Inspector Minozzi: It looks like it was like a storage type area at one point.

Chairman Collins: If it were turned into a garage that could accommodate, comfortably,

two vehicles.

Bldg. Inspector Minozzi: Oh, it can accommodate two; it can't accommodate four.

Chairman Collins: Could it accommodate more if some of this configuration on the inside were changed?

Bldg. Inspector Minozzi: I guess if they had ... Mr. Gibbons is the engineer, but it would be major structural work because they're actually kind of like independent structures put together. So the rear wall of the garage, it looks like a structural wall and then it's just been bumped back more almost like a shed. But a nice shed; it's heated and stuff like that.

Chairman Collins: Is that right, Mr. Gibbons? If we said, Hey, we'd love to see you squeeze another car in this garage and reduce therefore the variance you're requested of two parking spots for off-street parking, is that possible?

Mr. Gibbons: It's possible, but the hardship is significant. In order to get four cars in the garage we would have to take out the first wall as you go from the garage doors towards the back. This is on drawing A-5. If we took out the partition we would have to put a steel beam in of significant size to span the full length of the garage, create a column system, new footings, and then put in all the framing into that. That would be a significant hardship for my clients.

Boardmember Dovell: Well, the fact is that your client has enjoyed the benefit of having a two-family dwelling that was illegal to begin with. So I find talking about hardship really hard to swallow, frankly. You know, they've enjoyed this without tax benefits or anything else – without tax consequences or anything else – and it was done blatantly, illegally. It couldn't have been done without a permit. The permit was never issued. So I think talking about hardship is really not relevant here.

You're looking for a waiver for two parking spots. I would propose to make it to park four cars in there rather than two, rather than three, because it's a big structure in the back; a big, noncomplying structure in the back that was added to without permit.

Chairman Collins: If this thing didn't exist and you came to us and said we want to build this structure we could have a discussion about how many cars it can hold as you've designed it, and then also said, But we also want to have this variance for this off-street parking, I think there'd be a very reasonable discussion to be had about whether we want to send you away to rethink your plan.

Boardmember Dovell: Especially if you tie this into the connection of conversion to a two-family dwelling ...

Chairman Collins: Right. Where you know you're going to need extra parking.

Boardmember Dovell: ... where you know you're going to need extra parking. So, you know, by granting this ... I don't think we would have granted this in this particular form.

Mr. Gibbons: I just signaled my client. I can put the four cars in there if that helps the process, create a plan to stabilize the garage, file a building permit for the steel work, and make it happen.

Boardmember Quinlan: Your client was (unintelligible).

Village Attorney Whitehead: Matt, just one thing to point out – and what you asked before about the other two-families in the neighborhood and the lot sizes is very relevant – it's also very relevant whether any of the other two-families have more off-street parking spaces.

Chairman Collins: Yes, we can look at that, although I think it's also relevant, given what they have proposed for this structure, that you've got a structure that ... again, we can have a conversation about how many cars this ... I guess I don't have that ...

Village Attorney Whitehead: You could also separate these variances, you know.

Chairman Collins: Yes, for sure. Sorry, sir?

Peter Pryschlak, co-applicant: I'm the owner, with my brothers. I just want to go back to you, Mr. Dovell. What you said – that my parents did it illegally, et cetera, et cetera – me and Buddy, we went through this. We're trying to do this all legit.

Chairman Collins: I have a feeling that ... excuse me, sorry Mr. Pryschlak. Speak into the microphone.

Mr. Pryschlak: My father had a piece of paper that said it was a two-family house, as far as being European, not understanding and speaking the language, okay? So we did have a document, 'til my mother even passed away, to say, Hey, that *is* a two-family house. We went through it with Buddy. I'm not discouraging anything, I'm just saying that's what it was.

Going back to the garage – going back with Schnibbe just to give a little clarification on that

point – the wall came into play because everything from the garage was coming in on my father's property. So back then, the Schnibbes they put up that retaining wall. My father, we took Buddy inside, we were in HUD; it was a steel building. As you went into the garage from the yard, in the wall to the left is all original. The beams are pretty much original, but my father restructured it. And the dirt that came over on Schnibbe's property instead of making that wall all the way down, they used the garage wall at that particular time.

So that's what we have in play. And as far as trying to put two more cars in the garage, you'll never fit it. Buddy was there, he knows the dimensions. That would never happen. If you're really concerned about two more parking spaces, the easiest way to do it is just to move to the right of the garage and you can put two more parking spaces there if that's what you're inclined to think to present this any further.

Boardmember Dovell: I'm just trying to put this ...

Mr. Pryschlak: No, no, and I'm just trying to help you out.

Boardmember Dovell: I'm trying to put this in the context of how this would be accepted by the board as a variance from conversion of a one-family house to a two-, and what we would be asking for in connection with that whether it's inside parking or not.

Mr. Pryschlak: Right. I apologize for interrupting you.

Boardmember Dovell: No, it's fine.

Mr. Pryschlak: I wasn't trying to ... I was just trying to give you little details from what ... we were kids back then. My father was European, he tried to do everything. And if you look at the shingles – we went over that with Buddy – the formation of the wood, everything, you can see it's original plywood. It was something that was done, whether it was when he got the permit.

Bldg. Inspector Minozzi: Everything was done a long time ago. This is old, very old.

Mr. Pryschlak: Yeah, this is not yesterday's ...

Bldg. Inspector Minozzi: It's just trying to get the paperwork in order.

Boardmember Dovell: What about the conversion to a two-family with the letter that ...

Bldg. Inspector Minozzi: I truly believe it was done in the early '60s, it just wasn't done

when tax assessment was done. In 1954 it wasn't a two-family.

Boardmember Dovell: And it wasn't filed.

Bldg. Inspector Minozzi: And there was nothing filed for it. That's the problem. It's a huge paperwork issue with this property and, unfortunately, as we all know there was a lot of things done on a handshake back in the day. I have a feeling we may be getting caught up in some of that situation now. I mean, I spoke to the Schnibbes and they back up what Mr. Pryschlak says.

I think this is just a paperwork thing right now. They want to do everything right and make everything correct. I think the biggest issue I have with this entire thing is not even the rebuild of the garage, it's the bump-out on the garage.

Boardmember Dovell: The additional storage room.

Bldg. Inspector Minozzi: Yes, the addition of the storage room. I think that's the biggest problem right now. I mean, they've had at least two families in that house since the early '60s. It's not like they're asking to add more off-street parking; it's been like that for 50 years.

Boardmember Dovell: What is the boiler for?

Bldg. Inspector Minozzi: Excuse me?

Boardmember Dovell: The boiler in the ...

Boardmember Nivarthi: In the storage room.

Mr. Pryschlak: That was just to heat up the garage. My father, in '79, had a massive heart attack. Instead of going up and down the steps, he would sit in the garage. That was his thing, his yard. If everybody walked around town here, they knew it. He had all the fruit trees, the flowers.

Bldg. Inspector Minozzi: He told me the same exact thing.

Mr. Pryschlak: That was their life. That was their life, and anybody can go there. Everybody admired that corner house.

Boardmember Quinlan: Could I ask a question? I don't know if anybody knows the answer. So did you pay taxes as a one-family or a two-family?

Mr. Pryschlak: My parents always had taxes until they passed away, then we got the tax bill when my mother passed away. We had to go back three or four years and pay back taxes. And they escalated, the taxes.

Boardmember Quinlan: Right, I can understand.

Bldg. Inspector Minozzi: I can explain that question, I can answer that question for you.

Boardmember Quinlan: How are you going to answer it?

Bldg. Inspector Minozzi: Because I know what the tax rolls are.

Boardmember Quinlan: So tell me.

Bldg. Inspector Minozzi: Okay. So on the original tax paperwork from the Town of Greenburgh it was a one-family. They were paying tax on a one-family building. When they had the tax reassessment a couple of years ago it was changed to a two-family on the tax rolls.

Boardmember Quinlan: About two years ago, right?

Bldg. Inspector Minozzi: Two or three years ago now?

Village Attorney Whitehead: Yes.

Bldg. Inspector Minozzi: It was documented as a two-family on the tax rolls.

Boardmember Quinlan: So from '65 to 2015, although two families were living in there they paid taxes as a one-family house.

Bldg. Inspector Minozzi: Correct. But you have to also remember, in the Village of Hastings – not that I'm a real estate person – single-family houses are worth more money than two-family houses. So they didn't necessarily pay less. I mean, again, I'm not a tax person, I'm not a real estate person, but they didn't necessarily pay less tax because it was a two-family. They may have paid more tax.

Chairman Collins: It's also possible, though, that with taxes we're sort of playing an unanswerable hypothetical. But I can certainly see that having documented a small metal garage in the back that has now been – I don't know – increased by somewhere between zero

and 100 percent ...

Bldg. Inspector Minozzi: Correct.

Chairman Collins: ... that would affect the assessment, regardless of its origin.

Bldg. Inspector Minozzi: Yes, the assessment would've went up on the property for sure.

Chairman Collins: So I think, again, that's arguing a hypothetical.

Boardmember Quinlan: I didn't know that. Those are honest questions. I didn't know the answer to it.

Bldg. Inspector Minozzi: Oh, yes.

Boardmember Quinlan: Could I just ask a few more questions before we go on?

Chairman Collins: Yes, please go ahead, Jerry.

Boardmember Quinlan: The garage, right? Right now I'm just trying the understand this. These are honest questions, I don't know the answers. You can fit two cars in there.

Mr. Pryschlak: That's correct.

Boardmember Quinlan: All right. Do you use it for two cars?

Mr. Pryschlak: Yes.

Boardmember Quinlan: Okay. And then behind the two cars there's a wall, and then there's a storage area but it's more or less a place where you sit around an oven and ...

Mr. Pryschlak: It's basically just like a room that you can sit. There's all kinds of ... lawnmower, there's all kinds of parts. My mother used it as somewhat of a greenhouse. All the plants that she had outside she'd bring it in for the windows, take care of them all winter long. That's really where the heat was. It was for the flowers. That was her love and that was the love of the house.

Boardmember Quinlan: And then your dad used to sit back there.

Mr. Pryschlak: And my father, once he had the heart attack it was hard for him going up

and down and he would just sit in the garage. He'd listen to his old music and just relax there.

Boardmember Quinlan: Were you born out of the house, I mean in that ... were you born when they lived there?

Mr. Pryschlak: No, I wasn't. I was born in Europe.

Boardmember Quinlan: Okay, and when did you move into the house.

Mr. Pryschlak: We moved in the house, roughly, in '61.

Boardmember Quinlan: Okay. And how long ... I don't want to know your age, it's not that important.

Mr. Pryschlak: I'll tell you. I'll be 70 this month.

Boardmember Quinlan: You'll be 70. Congratulations. Your birthday's in December?

Mr. Pryschlak: December 23rd.

Boardmember Quinlan: That's good.

Mr. Pryschlak: We grew up here, we went to Hastings High School.

Boardmember Quinlan: So have you lived in there your whole life?

Mr. Pryschlak: I lived there until I went in the Service in '67 in the Marine Corps.

Boardmember Quinlan: And then when you got out?

Mr. Pryschlak: When I got out we lived down here on Southside.

Boardmember Quinlan: And now you're back in the house.

Mr. Pryschlak: And now my brother's in the house. I'm up in Mahopac.

Boardmember Quinlan: Okay. Um, I have no further questions right now.

Chairman Collins: Okay. Jo, Sashi, anything you'd like to ask?

Boardmember Berritt: I don't have anything specific, no.

Boardmember Nivarthi: No.

Boardmember Quinlan: So are you trying to sell the house?

Mr. Pryschlak: Yes. We have a local individual that lives right down the street that would like to purchase it. And that's also why we're trying to make sure that everything ...

Chairman Collins: Well, you need it.

Mr. Pryschlak: ... is appropriate.

Chairman Collins: Yes, it's required. You need to do it in order to sell it.

Here's how I'm proposing that we proceed on this. I think there are two things that I'd like to see the applicant produce for the next meeting. One is a neighborhood analysis that compares width and lot area size. And to the extent that also yields some coverage analysis, because it'll be very easy to calculate ...

Boardmember Dovell: One versus two dwellings, whether those lots are single or ...

Village Attorney Whitehead: What's a one-family, what's a two-family, and the lot sizes.

Chairman Collins: Yes, there you go.

Boardmember Dovell: And lot coverages.

Chairman Collins: That's number one. And number two is, I'd like to see a proposal from the applicant that would show us what it would take to eliminate the parking variance request of two off-street parking spots. And I'm saying that because if the dimensions of this garage were proposed – and you came before us and said that we want to have this space and we want to have this room and we want to do gardening in it, we would like to just have it as a leader space – I think I would say to you can't have that. And also be asking for two extra spots to put cars on the street. I'd like to see a proposal from you about how to reduce that off-street parking variance.

Mr. Pryschlak: You're not going to ... I don't believe you're going to get it for four cars to park in the garage.

Chairman Collins: I would just say reduce. See what it would take to get one off or two off. Go back to the drawing board and sharpen the pencil on that.

Boardmember Quinlan: I just want to add one thing. I mean, you have the idea of parking the two cars next to the garage?

Mr. Pryschlak: That would be an option.

Boardmember Quinlan: But if you have to pave it, then you'd have problems with lot coverage.

Village Attorney Whitehead: Lot coverage would increase.

Boardmember Quinlan: Would increase because you're going to have to put concrete or something down there for the cars. That's going to be a problem with lot coverage.

Mr. Pryschlak: Aren't we entitled to something on street parking?

Boardmember Quinlan: I find it interesting ... Just personally, I'm not too concerned with the two spots because I don't think anybody else in the neighborhood probably has the two spots. I happen to know – I go through that street for a long time – there's a lot of two-family houses, three-family houses, et cetera, et cetera, et cetera.

Mr. Pryschlak: Yeah.

Boardmember Quinlan: And I doubt everybody has off-street parking. But having said that, we still go back to this kind of gigantic garage, whatever you want to call it – we'll call it a garage or structure, or accessory structure – is rather large for the property.

Mr. Pryschlak: Okay.

Boardmember Quinlan: So that's a problem.

Chairman Collins: That's right. It's the two of them combined.

Boardmember Dovell: Mm-hmm.

Chairman Collins: The fact you've got this very large garage structure, *and* they're asking for off-street parking variances. Those are the things I'd like to see.

Boardmember Quinlan: I mean, considering all ... let's see, let's count them up.

Chairman Collins: There are seven of them.

Boardmember Quinlan: Seven variances. It seems to me, from the comments of my fellow colleagues on the board, if that's your only problem you're pretty lucky and you'll be able to solve it.

Mr. Pryschlak: I appreciate, you know ...

Boardmember Quinlan: Really, seriously. I mean, that's just my personal opinion. So try to think about that because no one else has asked any particular questions about all the other variances, and I haven't either, because I think the whole street has all those problems.

Mr. Pryschlak: To be honest with you, you just have to go up and down the street. Lot sizes are not as ... I mean, my parents' house is one of the bigger lots on this whole block.

Boardmember Quinlan: Yes, I know.

Bldg. Inspector Minozzi: It is the biggest of the lots.

Boardmember Quinlan: And, I might say, I walk past there to go to St. Matt's a lot and have always admired your house and the trees.

Village Attorney Whitehead: But it would be helpful to the board to have that information in the record. They acknowledge that it's probably the case, but without having the actual information on what's a one-family, what's a two-family, what are the lot sizes. And to the extent you can figure it out, what are the lot coverages.

Chairman Collins: Correct. We ask that very routinely.

Village Attorney Whitehead: And if you want to see what else – who has parking and who has no parking and who has one or two ...

Chairman Collins: Sure, that's all relevant.

Bldg. Inspector Minozzi: And there's ways to create exterior parking spots with very little coverage, which we could talk about tomorrow.

Chairman Collins: Does anyone else wish to add a condition or a question for this applicant to consider in a return visit? All right, I want to make sure anyone in the public who wishes to be heard ... yes, sir. Please come forward and introduce yourself.

Tom Forbes, 4 Ridgedell Avenue: My wife Deirdre and I have lived around the corner from 60 Maple for 32 years, and we are under contract to buy this. The reason we want to buy it is, our daughter and granddaughter live with us and we want to give them their own space.

We currently live in a house that has *no* parking, so having two spots will be such a bonus, believe me. And, you know, we're very used to the off-street parking around there. The main problem in the neighborhood is commuters – or people, you know, shopowners – who come and park in front of my house. You know, you learn to live with it; it's not a big deal. So I don't think the parking is a major issue.

We like the extension of the garage as it is. I'm a writer. I hope to use one of those rooms to go back and write in. And I'd hate to see it try to be converted into a garage. I think it would be dangerous, actually. You've got two cars ... you know, you'd have to put two cars behind two cars, you'd have to pull one out in order to get the one behind it out. So I don't really see that as being a viable solution.

Other than that, I think, being in this neighborhood for all these years, we always pass Mr. Prysclak sitting out there, getting a big wave. He always had the smoke coming out of the chimney. It was always known to be a multi-family house. I think there's a paperwork issue here that didn't get resolved at some point, but everybody in the neighborhood knows it was a multi-family house, as many of them are and has been indicated. I know you need the actual dimensions, but that lot is a lot bigger than most of the two- and three-family houses in the neighborhood.

So thank you for your consideration.

Chairman Collins: Thank you. Does anyone else wish to be heard on the case? All right, then, I think ...

Boardmember Dovell: One other thing.

Chairman Collins: Yes, go ahead Ray.

Boardmember Dovell: Could we just show how the garages ... how you get into the garage?

Boardmember Quinlan: The doors are on the street.

Boardmember Dovell: So they're right on the street.

Chairman Collins: They're right on North Street.

Village Attorney Whitehead: On the side on North Street.

Boardmember Quinlan: They're on the side of North Street. There's two doors.

Chairman Collins: Anything else?

So I assume then, Mr. Gibbons, you'd like to defer to the next meeting rather than go to a vote now?

Mr. Gibbons: Yes, Mr. Chairman, I would request that.

Chairman Collins: Okay, very good.

Mr. Gibbons: We'll put together the items that were brought out. We appreciate the board's time, and happy holidays.

Chairman Collins: Yes, thanks. Same to you.

Okay, then we'll proceed to Case 21-19.

Case No. 21-19
Marek Fuchs & Lorraine Walsh
22 Elm Place

Relief from the strict application of the Village Code Sections 295-69F.1.b&c and 295-69F.2.a.1&2 for the addition of a rear porch and pergola and to replace an existing nonconforming garage with a storage shed in the same basic location at their single-family dwelling located at 22 Elm Place. Said property is located in the R-7.5 Zoning District and is known as SBL: 4.40-27-38 on the Village tax maps.

Nonconformity details are as follows:

- 1. Side yard setbacks to Rear Porch & Pergola: Each yard/total of both:
Existing – side one – 8.66 feet/side two – 2.66 feet/ Both – 11.33 feet;**

- Proposed – side one – 6.83 feet/side two – 2.42 feet/Both – 9.25 feet;
Required – side one – 8 feet/side two – 12 feet/Both – 20 feet {295-69F.1.c}; Variance required – side one – 1.17 feet/side two – 9.58 feet/Both – 10.75 feet**
- 2. Building Coverage: Existing – 30.26 percent; Proposed – 41.31 percent; Required – 30 percent maximum {295-69F.2.a.1}; Variance required – 11.31 percent**
 - 3. Development Coverage: Existing – 45.23 percent; Proposed – 49.94 percent; Required – 40 percent maximum {295-69F.2.a.2}; Variance required – 9.94 percent**
 - 4. Rear yard to accessory structure: Existing – .6 feet; Proposed – 1.5 feet; Required – 8 feet {295-69F.1.b}; Variance required – 6.5 feet**
 - 5. Side Yard to accessory structure: Existing – 2.33 feet; Proposed – 1.5 feet; Required – 8 feet {295-69F.1.c}; Variance required – 6.5 feet**

Chairman Collins: We're piling up, I think. Setting records for most variances required. There were 12 going into this one, and now ...

Bldg. Inspector Minozzi: Well, believe me I wrote them all. They took a long time to write.

Chairman Collins: There are 17 after this one. The applicant is seeking five variances related to side yard setbacks, building coverage, development coverage, rear yard to an accessory structure and the side yard to an accessory structure. And we're, once again, back on Elm Place.

Village Attorney Whitehead: Where you guys spent some time.

Chairman Collins: We've gotten to know your neighborhood.

Village Attorney Whitehead: I missed it all.

Boardmember Berritt: That's right.

Village Attorney Whitehead: I want a man to do Elm Place. Actually I think I might have been here for the first one.

Chairman Collins: I think you were here for the first.

Boardmember Nivarthi: Yes, I think you were.

Eva Bouhassira, project architect: Good evening. I'm an architect representing Marek Fuchs and Lorrie Walsh, who live at 22 Elm Place. We have an application that concerns area variances for the property.

I'm going to start by looking at the drawing A-002H, and H stands for the house. Just to give everybody an idea of the type of house, this is a single-family residence of Colonial style. It's located on Elm Place, which I understand has been at the board not long ago.

Chairman Collins: Just last month, actually. October.

Ms. Bouhassira: I'm hoping this will sort of freshen the board's memory. We set out firmly it was the environment. Elm Place, as you can see at A-002, has a whole bunch of single-family houses that were built in the early 1900s in the Colonial style. There's a couple of houses that are different, but most of them have sort of a two-story and attic style. And a majority of them have porches. They have front porches, side porches, Rembrandt porches, et cetera.

Twenty-two Elm has not changed in quite some time – and I don't know what happened here, but I'll ...

Chairman Collins: Buddy, we may need an intervention here. Oh, never mind. We lost the PDF for a moment.

Bldg. Inspector Minozzi: Oh, okay.

Ms. Bouhassira: The PDF (unintelligible).

Bldg. Inspector Minozzi: Sorry, I was thinking down.

Chairman Collins: That's okay.

Ms. Bouhassira: What's happening on this project is, we basically started by remodeling the kitchen. As you can see on drawing A-003, the house is a Center Colonial. It has a living room on the left and a dining room and kitchen on the right, or on the west side. The kitchen is very small, not very functional, and the truth is the size of the kitchen is not really going to change.

Behind the house there is a tiny little rear porch which enables an access to the backyard but is not really conducive to having a table, a chair, or any sort of a ... as you can see it right

there, it's really just sort of a passageway into the backyard. If you look at A-005 you will see that we're going to open up the kitchen and dining room and create a larger open space and, in fact, steal a couple of feet from the dining room to allow for the kitchen to become more functional. In conjunction with that, we are placing a new exterior door to get into the backyard.

The backyard is about 3-1/2 feet below the first floor of the house. I'm just going to quickly jump back to that picture, or a house picture. As you can see, there's about six steps that go down to the backyard. This is the view of the backyard on the west side. This is, again, typical for practically all the houses on the street. Some of them allow the inhabitants to sort of walk out of the house and spend time on the front porch or side porch or something like that. In this case there is only a tiny front porch which is sort of remote from the kitchen. There's a door into the dining room, but it's not really a spot that is large enough to have outdoor dining.

Back to the yard, we are proposing to build a back porch which is open, except it has a pergola to provide some shade because this side of the house faces the south. As you can see, in doing so we run into a couple of variances. One is on the east side of the house. The house, as you can see with the brown hatching, is already noncompliant. There's only about a couple of feet or so to the property line. If we're following the line with the new open back porch, then we are basically in need of a variance because we're still too close to that east side.

On the west side we currently have a little bit over 8 feet, which would comply as you can see. But we're running into about a foot because we are rebuilding the back staircase. Right now there is a BILCO staircase next to the little back porch. You can sort of see it in that photo. That is an exit from the basement. We would like to maintain the exit from the basement and therefore would create a passageway under the back porch to sort of come out sideways and then have steps that go up to the yard level so people can still walk out from the basement. For convenience, safety, and all those reasons, we would still like to maintain that. Therefore, we have a structure here which is really just a 3-foot high wall. It's not a full-height object, just a 3-foot high wall which is kind of a masonry railing.

This is one part of our application: the open back porch and the basement egress. Then there's a second part of this application which has to do with the shed. Just as many properties in this neighborhood, this lot has a one-car garage in the rear. You know, I could sort of go over it in greater detail – but if you quickly sort of glimpse that I think this was something that was discussed in the past here – almost every property has a little shed, or former garage now being used as a shed, and this property has that same structure. You can see it in this photo.

What happens is, the previous owners have done some work on this shed. Over time – if you look at this photograph – the shed actually started leaning sideways. If you look at this photo in the upper left and you see that shed is leaning, that is not an optical illusion. That is an actual physical condition of the structure. In a nutshell, it's a structure that would have to be rebuilt very substantially in order to just preserve the existing status. Because of that, we took it one step further.

We are proposing to actually rebuild the same idea in a slightly different shape. We turn the shed 90 degrees so as to allow more open- and greenspace in this yard and still keep it close to the southern and western lot line. We really don't want to move further from that corner than we already are because all that happens is we lose some of this open yard space. In this existing situation you see the brown-hatched area which is the nonconforming square footage. Then when you look at the new proposed shed, there is also a hatched area which is nonconforming but is just situated a little differently. It's the same, but not.

Boardmember Dovell: Is it a garage, or is it a shed?

Ms. Bouhassira: Up until now, technically this was a single-car garage. However, we don't want to maintain it being a garage any longer. The space that is existing at the side of the house is very tight and the house has a long driveway which allows for in-the-driveway parking. Therefore this former garage would now become a garden shed.

I have some elevations to show this proposal. If you look at this elevation you'll see that this here is the existing; the hatched area is the existing garage. There is a stone wall which separates his property from the next property, which is a house on Villard. Then on top of that stone wall is the neighbor's shed, then a solid fence. Then to the right of this garage is the western neighbor's shed. So there's actually three sheds right there in very close vicinity to each other. You can also see, here, this is the shed to west and this is the shed to the north. This is the existing garage, which now looks to become something like this.

This picture is also quite helpful because you can see there are all these sheds happening. In a nutshell, what happens is that here's another shed and another shed right there. So the relationship between all these objects, structures, changes a little bit but pretty much stay the same. It's still very important for the homeowners to have that shed because they are typically now used as garden storage, bicycle storage, sports equipment storage, et cetera. The owners own a kayak which they would like to store in there, which is that object that I'm showing there, et cetera.

I would also like to briefly talk about the heights.

Chairman Collins: Are the heights ... is there a height variance?

Ms. Bouhassira: No, there's no height variance but I'm just trying to say that this stone wall which I just pointed out – which is between this property and the Villard house – also happens to the east of the property. What I'm saying is, the main level of the house is about the same level as the neighbors' yards. In other words, right now it's sunken. And by building this new porch we're pretty much staying at the level of the other yards.

This is another reason why we're sort of reasonably confident that this is the right way to ... that this is okay and this is the right way to sort of extend this outdoor dining space because the structure will not be feeling raised, or towering over, the other yards. In fact, it's approximately at the same level as the other yards are, with the exception of the house to the west. But then there is no view of the yard to the west because there's that two-car garage which is completely ... which separates this property and the next property.

The height of the shed is proposed to be approximately the same as the old one, maybe just a tiny bit taller. We have reached out to the neighbors and they have expressed – the adjacent neighbors have expressed – support, and not having any objections to the plan. We have one e-mail we received from the opposite house that you see there, which is the house on Villard. That just came, really, within the last hour. Sort of last-minute we got feedback to this question, where the homeowners reached out to the neighbors and said we're doing this, this and that, are you okay with that. They responded, saying they don't have a problem as long as the change of the shed does not impact their fence and the light in their backyard.

Our backyard is kind of dark and dreary, so anything we can do to keep the sun is preferred for us. We are situated to the north of their property.

Chairman Collins: Okay, why don't you forward that letter to the Building Inspector.

Ms. Bouhassira: I can do that, yes.

Chairman Collins: Because we'll look at that and can figure out who sent it, et cetera.

Ms. Bouhassira: Yeah.

Chairman Collins: Is there anything else that's related to the variance? I don't want to cut you off, but I'm also sensitive to the fact that I think you've covered the issues that are relevant to the variances you're requesting. Is there anything else you want us to know?

Ms. Bouhassira: I think this is it.

Chairman Collins: All right. In looking at the drawings, the square for extension of the back porch and pergola – the part you've got with sort of the diagonal lines through it, which is an indication of its being built into the nonconforming yard – what is the dimension of that? Just the nonconforming part of the back porch and pergola?

Ms. Bouhassira: That can be seen right there, and the dimensions are 9 foot 7 times 15 feet.

Boardmember Nivarthi: 135.

Ms. Bouhassira: Yeah.

Chairman Collins: So 135 square feet, okay. And then you've turned the garden shed ...

Ms. Bouhassira: Yes.

Chairman Collins: ... by 90 degrees. And you're tearing it down and replacing it. So we are looking now at this L-shaped nonconformity there. Just on the math, I'm questioning how it is that the building coverage has gone up by one-third. Where is that coming from?

Ms. Bouhassira: It is the size of the pergola, the size of the back porch. The size of the back porch is what is adding the building coverage.

Village Attorney Whitehead: Not the 135 square feet. It's the entire ...

Chairman Collins: Thank you.

Ms. Bouhassira: Even though this is not an addition or something that would have closed walls, or roof, or ...

Chairman Collins: No, but it affects the coverage only. So that's all right, that answers my question.

Ms. Bouhassira: I would also say we are actually taking out this stone patio which then will no longer exist. That is a non-permeable coverage, and we're replacing it with a permeable coverage.

Chairman Collins: Okay. All right, that's good to know.

Boardmember Dovell: Is parking an issue here? I mean, this was a garage before, with a driveway that went to it I assume.

Ms. Bouhassira: We have the driveway. We have 31 feet in the driveway to the gate, which is available for two cars. And it actually is occasionally used for the two cars.

Chairman Collins: I think this is a very attractive proposal. I love the ... I happen to be very fond of what you've designed here.

Ms. Bouhassira: Thank you.

Chairman Collins: The increase in building coverage you're proposing here is substantial. Again, I'm very wary when I see the variance required is 11 percentage points. But you are asking for a one-third, a 33 percent, increase over what is allowable. And that's pretty substantial. You were already in existing nonconformity because the building coverage is already over the limit. Did you look at back porch and pergola dimensions that had a smaller overall footprint?

Ms. Bouhassira: Well, what happens is we're going 15 feet out from the house, which makes a lot of sense if we would like to have a proper outdoor table, barbecue and all that. We have discussed whether the portion in front of the living room is necessary, however what it does is two things. One is, it allows for a future possibly of having doors from the living room coming out onto the deck, which would make a lovely sort of circulation through the house and to the outside.

Also, given the architecture of the house, the back façade is symmetrical. If we have a back porch which goes partway it actually looks a bit lopsided. If we come across the entire rear of the house, the house kind of looks balanced.

Chairman Collins: Yes, I agree. I was really having ... I wanted you to articulate for the record the dimensions of the back. I mean, 15 feet of depth is really not that deep.

Ms. Bouhassira: Right.

Chairman Collins: Especially for accommodating, as you have shown in your drawings, what looks like a picnic table and maybe some seating. You're talking about not an excessive – in my mind an excessive – intrusion into that backyard for that porch and pergola. I also agree that chopping it off to make it not as wide as the back of the house would result in something that wouldn't be as pleasing aesthetically. I think there's bonus points here for its symmetry.

Ms. Bouhassira: I'm showing another rendering just, again, to make it more ...

Chairman Collins: Yes, I'm fond of the design. This is a neighborhood that is, as we talked about when we were looking at 40 Elm Place, one of these neighborhoods where it's sort of reach out of one window on either side, shake hands over the property line. Which is how dense it is.

Ms. Bouhassira: Yeah, exactly.

Chairman Collins: And that's part of the appeal of it. The side yard setbacks are not, to me ... they don't concern me, and the structure you're building in the back for the shed, the rebuild, I actually think is an improvement. The fact that you can keep cars on that driveway so they're not on the street is a good thing, but they're not here for a parking variance anyway.

Village Attorney Whitehead: Mr. Chairman, we've just been looking at the definition of "building," and we actually don't think that that deck with the pergola meets the definition of building. So we don't think it needs the building coverage variance.

Boardmember Dovell: So it would be development coverage.

Village Attorney Whitehead: Just the development coverage, but not building coverage.

Ms. Bouhassira: All right, thank you.

Chairman Collins: Do you want to give a rationale for that?

Village Attorney Whitehead: Sure. So the definition of "building" is "any structure having a roof supported by columns or by walls, and intended for shelter, housing protection, or enclosure of persons, animals or property." So I don't think a pergola meets that definition.

Chairman Collins: Agreed.

Bldg. Inspector Minozzi: I use it as the first part, but the second part doesn't apply.

Chairman Collins: I agree. So we've dropped, then, a variance request; we're down to four. And that takes, to me, the one that was the most obvious and extreme – if I can say that – off the table because of the lot condition and the existing structure relative to the lot dimensions.

Boardmember Dovell: So it becomes a 10 percent variance for development coverage only.

Chairman Collins: Correct.

Village Attorney Whitehead: The development coverage remains.

Boardmember Dovell: Yes, 9.9 percent for development coverage.

Village Attorney Whitehead: Right.

Boardmember Nivarthi: I have a question. What is the area you're adding by putting in the powder room?

Ms. Bouhassira: What is the area that we're adding for the powder room? That is 5 feet out. The hallway is about 6-1/2, 7 feet wide so I think we're looking at about 40 square feet.

Boardmember Nivarthi: Forty square feet, right?

Ms. Bouhassira: Approximately, yes.

Boardmember Nivarthi: So effectively, that 40 square feet is currently not building ...

Ms. Bouhassira: Yes.

Boardmember Nivarthi: ... which you are adding.

Ms. Bouhassira: We are adding that.

Boardmember Dovell: So there is an increase in building coverage.

Ms. Bouhassira: There is a small portion of that, yeah, that is a building, correct. Yes, you're right. All this is not a building, but this little part in fact is still a building, yes.

Chairman Collins: Okay. Well, then that would need ... if that's a build-out, then that would need to be restated for the purposes of getting a variance.

Village Attorney Whitehead: Because the existing was already nonconforming.

Chairman Collins: Correct. So that's an extension of a nonconformity.

Village Attorney Whitehead: So how many square feet is that?

Ms. Bouhassira: Well, I have to say that part actually is not inside the setbacks.

Village Attorney Whitehead: No, it's building coverage.

Chairman Collins: It's a coverage issue, not a setback issue.

Ms. Bouhassira: Correct, a coverage issue. Yes, that is. Yes.

Chairman Collins: We can do the math here quickly if you can give us the square footage there.

Ms. Bouhassira: Well, I'm going to call it 40 square feet.

Boardmember Nivarthi: Forty square feet.

Bldg. Inspector Minozzi: What's the overall lot size?

Ms. Bouhassira: The lot size is ...

Chairman Collins: The lot size is 5,050 square feet.

Ms. Bouhassira: Yes, correct. I should be looking in my ...

Chairman Collins: And the current building occupies 30.26 percent of that. So you could use that to determine the current square footage to add on whatever is about to get added.

Village Attorney Whitehead: An increase of about 0.8.

Bldg. Inspector Minozzi: Yes, almost 1 percent.

Chairman Collins: Okay.

Bldg. Inspector Minozzi: It's 0.8 percent.

Village Attorney Whitehead: So let's say it's going from 30.26 to a proposed 31.

Boardmember Dovell: 0.26.

Ms. Bouhassira: Yes, I think that's correct.

Village Attorney Whitehead: Call it 31.26.

Ms. Bouhassira: Yes. I think if you call it 31-1/2 or 32 that is definitely a safe number.

Village Attorney Whitehead: You want to call it 31.5 just to be safe?

Ms. Bouhassira: Yeah.

Chairman Collins: If we can get an accurate number I would prefer to have the actual number.

Ms. Bouhassira: It's 49 square feet.

Chairman Collins: All right, then let's do the math and get a precise number.

Bldg. Inspector Minozzi: Okay, hold on.

Village Attorney Whitehead: Buddy's doing it.

Bldg. Inspector Minozzi: What did you say it was, 49-what?

Ms. Bouhassira: 49 square feet.

Bldg. Inspector Minozzi: 49? Okay. It's 0.97 percent.

Village Attorney Whitehead: Call it 1-point.

Bldg. Inspector Minozzi: It's 1 percent.

Ms. Bouhassira: 1 percent, say.

Chairman Collins: Okay, so it'll be 31.26 is what the new is.

Ms. Bouhassira: Yes.

Chairman Collins: Okay. Does anyone else have any questions for the applicant?

Boardmember Berritt: The shed at the back, you're turning it sideways because ... what

was the thinking in doing that?

Ms. Bouhassira: Because of that new back porch. What happens is, if you ...

Boardmember Berritt: So just in terms of the spatial arrangement of the pergola and the new porch and that structure.

Ms. Bouhassira: Yes. Right now there's a certain distance from that back porch to the old shed.

Boardmember Berritt: Right.

Ms. Bouhassira: And then once that new back porch comes forward, then the space is too short.

Boardmember Berritt: Okay. And the letter that you referred to is from the people that that would impact on Villard.

Ms. Bouhassira: Those people, yes. Right, on the side of the upper northern end of Villard.

Boardmember Berritt: Right, okay.

Ms. Bouhassira: And, you know, I think what happens is, if their backyard feels a little dark it is because they have a really large house at the southern end of their backyard.

Boardmember Berritt: Right. And as you say, you're on the north anyway so you're not going to ...

Ms. Bouhassira: And we're on the north end so we're not really blocking it.

Boardmember Berritt: So their shed, there will still be some wall – a little bit of wall – before your shed's starting.

Ms. Bouhassira: Yes.

Boardmember Berritt: So you're not going to ... yes, okay.

Ms. Bouhassira: There's still a distance, yes.

Boardmember Berritt: Okay.

Boardmember Dovell: What's the percentage of variance required for lot coverage then?

Bldg. Inspector Minozzi: So lot coverage ...

Chairman Collins: The max is 30.

Boardmember Dovell: No, the percentage for variance.

Bldg. Inspector Minozzi: 1.26. Oh, the developmental coverage, or building coverage?

Village Attorney Whitehead: The development coverage doesn't change.

Boardmember Dovell: Building coverage varies.

Village Attorney Whitehead: 1.26.

Bldg. Inspector Minozzi: Building coverage is the variance; 1.26.

Boardmember Nivarthi: So regarding that shed, can you tell us like how close to the property line the existing shed is and how much it will be with the new ...

Ms. Bouhassira: Yeah. So the existing shed on the northern side is 0.6 feet from the property line. And on this side it's 2.4 feet.

Boardmember Nivarthi: Okay.

Ms. Bouhassira: What we're proposing is 1-1/2 feet on either side because 0.6 is nothing and 1.6 is a space where somebody can actually walk in for some checking-in maintenance and things like that.

Chairman Collins: And the required minimum of 8 feet ...

Boardmember Nivarthi: Eight feet.

Chairman Collins: ... would put you squarely in the middle of the yard.

[laughter]

Bldg. Inspector Minozzi: The backyard.

Chairman Collins: I'd be a really unpleasant place to put a shed.

Ms. Bouhassira: Yeah, it's just kind of a waste of space.

Chairman Collins: No, that's not in keeping at all with the character of the neighborhood.

Ms. Bouhassira: Right. Every lot that had this type of shed there, those sheds are right on the property line.

Chairman Collins: Yes, right at the corner.

Village Attorney Whitehead: And odd requirement for that neighborhood.

Chairman Collins: Well, we've got a few of those lying around.

Ms. Bouhassira: As you can see right there, you know, they are all like right at the lines.

Village Attorney Whitehead: That's the way they built them.

Chairman Collins: Well, I appreciate you documenting it as thoroughly.

Boardmember Quinlan: Instead of putting it in the middle of the backyard.

Boardmember Dovell: That's right.

Chairman Collins: All right. Jerry, do you have anything?

Boardmember Quinlan: No.

Chairman Collins: Okay. Does anyone in the public wish to be heard on the case?

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 No. 21-19 for 22 Elm Place for variances as listed, with the exception of building coverage. Building coverage, we move to approve existing 30.26 percent, proposed 31.26 percent, required 30 percent; variance required, 1.26 percent; otherwise, as noted.

Chairman Collins: It was unanimous. Congratulations, good luck you on the project.

Ms. Bouhassira: Thank you very much.

Chairman Collins: Thank *you*.

Okay. Moving right along, we'll go to Case 22-19.

Case No. 22-19
Ken Baum & Nicole Masson
15 Minturn Street

Relief from strict application of the Village Code Section 295-20C.2 for construction of a new rear patio at their home at 15 Minturn Street. Said property is in R-10 Zoning District and is also known as SBL: 4.20-10-10 on the Village Tax Maps.

Variance is sought for Paving in a required yard:

**Paving in a required yard: Existing Deck – 250 square feet; Proposed Patio – 650 square feet; Required Maximum – none allowed. {295-20C.2};
Variance required – 650 square feet**

Chairman Collins: This is a variance being requested for paving in a required yard. We also have several letters we received on this case, all in support of the applicant. I forget whether or not we read those into the record, since they have been submitted through the proper channels. I don't know that we need to.

Bldg. Inspector Minozzi: They're in the record.

Chairman Collins: I'll just simply note that there were several neighbors – four or five, maybe even more than that – who wrote in favor of the project.

So Mitch, the floor is yours, sir.

Mitch Koch, project architect: I'm helping Ken and Nicole with this project. The property in question, 15 Minturn Street, is, as you can see, very long and shallow: 84 feet deep, 250 long. There was an existing deck which has been removed, but we're trying to get that all legalized.

Basically they would like to put – and I'm going to zoom in – a paved patio in the back. And I'll show you some pictures in a minute, but in the corners of an existing drystack wall there are small trees. So we would inflect the paving to leave the trees there. Essentially, you can see in this very faint outline where the porch was – the deck, I'm sorry. I also want to point out that – and I don't know who drew this up – this 30-foot setback, actually we're entitled to a 28-foot setback because it's a third of the 84 feet.

That being said, this little zone in here would be an allowable encroachment. For what it's worth, approximately 75 square feet of their requested 650 square foot patio is allowed – an allowed encroachment – into the rear yard. That being said, all the other elements of the submittal were in conformance with all the coverage requirements for the property. Because it's quite a large property, actually.

Chairman Collins: Yes. I mean, your case is unique on our docket because it's only one variance required.

[laughter]

I'm curious about ... I mean, the only thing that troubles me about this, and any other request for a patio, is that our code allows for none, zero.

Bldg. Inspector Minozzi: Yes, that's the problem.

Village Attorney Whitehead: In a yard, yes.

Chairman Collins: In a required yard, okay. Well, where else are you going to put one?

Bldg. Inspector Minozzi: Right.

Village Attorney Whitehead: Well, especially where this lot is so odd-shaped.

Chairman Collins: Sure, and that would undoubtedly spark its own conversation. But here we have a case where our code says "no patios," none.

Village Attorney Whitehead: In a required yard.

Bldg. Inspector Minozzi: Well, one thing about this particular applicant that I really appreciate is that there was a huge paved area that was done illegally in the side yard that they removed.

Chairman Collins: Yes. He mentioned that, I think, in the case material.

Bldg. Inspector Minozzi: And I think this is a nice tradeoff, being that they had went ahead and took that out without being asked.

Mr. Koch: You can see the 1,350 square foot paved sort of basketball court was removed. I mean, I wrote in the cover letter that in a perfect world of course you would locate your patio here where there would be no ... it wouldn't be in a yard, a required yard. That, unfortunately, is in the wrong place because my kitchen is right here where I'm signaling with my cursor.

So you really want to be here. I mean, it's Murphy's Law. It's like the place where you would make an addition or make an improvement is always in the wrong place.

Chairman Collins: Do we have, in our code, any limitations on patio size ...

Bldg. Inspector Minozzi: Coverage.

Chairman Collins: ... in yards that are as long as their conforming yards?

Village Attorney Whitehead: Just development coverage.

Bldg. Inspector Minozzi: But that's it; that's the only governor on this.

Village Attorney Whitehead: Correct. It's just that it can't be in a required setback ...

Bldg. Inspector Minozzi: Required yard.

Village Attorney Whitehead: ... in a required yard.

Chairman Collins: Right, right.

Village Attorney Whitehead: So because of the shape of this lot.

Chairman Collins: Okay. Well, yes, I think it is useful to note that it's not a Village prohibition on patios, per se. It's where you put the patio. And the Village doesn't want patios in the setbacks because, you know, it can rightly be seen as completely eroding that setback.

Mr. Koch: I would like to point out that I think Hastings is unique in that restriction.

Village Attorney Whitehead: Yes.

Chairman Collins: You would actually know better than I.

Village Attorney Whitehead: I am not aware of it anyplace else.

Chairman Collins: Well, that's our code.

Boardmember Berritt: And we love it.

[laughter]

Boardmember Quinlan: And that's not the only unique thing about Hastings.

[laughter]

Chairman Collins: That's for sure. No, you're right.

Well, you know, when you have a case like this, where there is a proposal to build into the required yard, immediately my thought goes to how are the neighbors going to feel about it because they're the ones that have to live with it. But we have, as I mentioned in the setup, several letters in support of this project.

Mr. Koch: Specifically from the Berman's and the Steer's.

Chairman Collins: Yes, that's true. You mentioned there's a wall back there. You used a term I was not familiar with.

Mr. Koch: Let me show you a photograph.

Chairman Collins: You have a photograph? Yes.

Mr. Koch: I mean, it's ... oh, no. Stop.

Bldg. Inspector Minozzi: Oh, what'd you do? Oh, boy. Here we go.

Mr. Koch: Okay, bear with me people please. Nobody panic, Mitch.

Bldg. Inspector Minozzi: Ah, there you go.

Mr. Koch: Do you see this handsome little fellow over here?

[laughter]

Anyway, you can see that there's this low wall that borders the site. I mean, from a landscaping point of view it's a natural. I mean, it's contained, it's got the sidewall of an old brick garage. This, on the property, is the place for a patio, really. Unfortunately the property line is right in back, in the backyard.

Chairman Collins: You're not going to do anything with that fencing there.

Mr. Koch: No. That's certainly not to my knowledge. And I sort of talked about these trees in the corner. The idea would be to inset the patio a bit from the wall to ...

Chairman Collins: Right, to protect those trees.

Mr. Koch: ... allow there to be planting around the perimeter.

Chairman Collins: Do you know what the approximate distance is from the structure there and the neighbor, from the neighbor's ... that wall to that fence?

Mr. Koch: I would say it's about 25 feet. It's quite a lot.

Chairman Collins: Okay.

Mr. Koch: I may have ... I don't have that image – I could probably get it for you – but the house sits pretty far back. You can see it.

Chairman Collins: I'm trying to ... it's a little bit hard to dimensionalize (ph) that. But, I mean, again, the neighbors I believe have voiced their support for this. I think if I were the neighbor I'd want to maybe talk about some privacy screening, especially if the patio will increase activity in that part of the yard.

Boardmember Dovell: There's a deck there, right?

Village Attorney Whitehead: Yes, there was a deck.

Chairman Collins: That's for the neighbors, I think, to decide. And quite frankly, the

landscaping there will change naturally over time anyway.

Boardmember Dovell: But frankly, he's permitted ... you could, if you wanted, put a 6-foot wall there. That's a fence, right?

Bldg. Inspector Minozzi: Yes.

Boardmember Dovell: Six-foot ...

Mr. Koch: Six.

Village Attorney Whitehead: You could also sit out there whether there's a patio or not. The chairs are already there.

Boardmember Dovell: To Mitch's point, it's a natural place for it and it's contained with an existing wall, a garage, and a house. It's really the only place to put it.

Chairman Collins: Yes, I don't disagree. Does anybody else have any questions or comments for the applicant?

Boardmember Dovell: No.

Boardmember Berritt: No.

Chairman Collins: Okay. Does anyone in the public wish to be heard?

Paul Gates, 95 Circle Drive: (Off-mic).

Chairman Collins: Come on up and say so.

Mr. Gates: I support it.

Chairman Collins: What's your name?

Boardmember Berritt: Who are you?

Mr. Gates: I think my case is very similar.

Chairman Collins: Yes, but first name, last name and where you live.

Mr. Gates: I'm next on the docket. No, I just think it looks like a good idea, and sensible. It doesn't look particularly good now, and I think a patio would improve it.

Chairman Collins: Thank you, Mr. Gates.

All right, does anyone else have any questions? Does anyone wish to make a motion?

Boardmember Quinlan: I'll make a motion. There's only one variance.

Chairman Collins: Don't exhaust yourself.

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Berritt, with a voice vote of all in favor the Board resolved to approve the variance sought for paving in a required yard; existing deck, proposed patio 650 square feet; required maximum allowed; variance required, 650 square feet.

Chairman Collins: The vote's unanimous. Congratulations, good luck to you on the project.

Mr. Koch: Thank you all very much. I appreciate it. Thanks.

Chairman Collins: So we'll finish with Case 23-19.

Case No. 23-19
Paul Gates
95 Circle Drive

Relief from the strict application of Village Code Sections 295-68F.1(c) and 295-68F.2.(a).2 for a side yard accessory structure (free-standing deck) for property located at 95 Circle Drive. Said property is in R-10 Zoning District and is also known as SBL: 4.40-42-14 on the Village tax Maps.

Nonconformity details of the proposed Side Yard Accessory Structure are as follows:

- 1. Side yard setback: Existing – NA; Proposed – 2.75 feet; Required Minimum – 8 feet {295-68F.1.c}; Variance required – 5.25 feet**
- 2. Development Coverage: Existing – 37.38 percent; Proposed – 41.64 percent; Required Maximum – 35 percent {295-68F.2.a.2}; Variance required – 6.64**

percent

Chairman Collins: There is a side yard setback that is required, a variance for side yard setback, and a variance for development coverage. This is related to a side yard accessory structure deck that is being built.

Ed Elliott, project architect: Paul Gates is to my immediate left here. The property is at 95 Circle Drive just west of the park, Hillside Park. We're slightly to the left of that on Circle Drive.

What we're looking for is to add a patio to the left of the house in the area off the kitchen and the back deck, the deck being here, coming off into this. We've got a sidewall that goes along the side of the house, over behind the garage, and then down to the front and down a series of steps to get to the road. The driveway is in front of the garage, in this spot. We're looking at this area here – 6 feet off this plane on the house – to start the patio. The existing sidewalk already is 6 feet wide, and we were using that as our starting point.

There's an existing 6-foot high fence that goes around the property starting ... I'm going to go to a larger scale. The existing fence goes across in front of the sidewalk almost to the property line all the way to the backyard. And across the backyard is a 6-foot high fence in most places. The grade variance to the height of the fence is slightly different in different places.

Our proposed patio is going up against a rock outcrop in the back left-hand corner of the property. The rock outcrop actually goes through the garage, and is exposed in the garage partly back through the garage, so you have a sloping wall in the back of the garage. So this whole area here, if you dig down where the steps are from the deck you're only a few inches 'til you hit the actual rock outcrop. What's in this whole area – you can see the photograph on the elevation sheet – shows all the rocks that were taken out of there when they started doing excavation to find out what was there.

The pine tree that's immediately to the left of where we're proposing the patio, the roots have cracked some of that bedrock and we've now got boulders and small rocks; nothing really grows there. And we've got the tree roots, some of which are 8 inches in diameter, going through there. So what we're looking at doing is not so much building a deck now as to raising the ground level above the roots with some sort of retaining wall or retaining edge, and then building it up with stone dust to get an actual stone patio in there. We will have a partially porous surface, and the space between the individual stones will allow some drainage into the soil below there and get this massive pine tree some water.

We end up being very close to the property line, but we're not quite to the fence. We're staying at about 2-1/2 feet, I believe, at the closest point to the property line. We're required to be 8 feet in that zone. There's not really much else we can do with that spot on the yard. We can't grow grass. The tree and the rocks just won't allow anything to really grow there. So it's a natural spot coming off the deck onto a patio. It's a natural spot to do this, and we feel this is the right thing in the right place.

Chairman Collins: So it's been referred to in your presentation, Mr. Elliot, as both a deck and a patio. And I think I understand that, but you're talking about because of this uneven and very rocky terrain building something up above it that's stone and semi-permeable. Did I get that right?

Mr. Elliott: Yes.

Mr. Elliott: I think it became classified as a deck because we were raising it higher than the ground.

Chairman Collins: Right.

Mr. Elliott: But it's actually built as if it was a patio, except for a small retaining ... whether it's going to be timber or something to (cross-talk) ...

Bldg. Inspector Minozzi: Especially a deck more than a patio.

Chairman Collins: Yes, you explained it well. It's just that it's, for me, an unfamiliar construction approach, including the materials.

Mr. Elliott: I'm just trying to save the tree roots and still give us something underneath it so we're going high enough above the tree roots so the roots, as they grow, don't mess up the level of the deck after we do it all the time.

Mr. Gates, applicant: Can I just ... trees are really nice features so it's really important to save that. But I think originally it was some kind of like a rocky garden or maybe even a patio. I mean, there was so much rock under there that I think over the years the detritus from the tree is just a pile of dirt now.

Boardmember Quinlan: I was up there today. The side yard setback doesn't concern me because the neighbors have the driveway going right ...

Mr. Gates, applicant: That's right. It backs to a driveway.

Boardmember Quinlan: It's a dirt driveway or some such. It's not concrete or whatever; it's stone or dirt, that goes right along the side of your house all the way back. He's all the way back on the other side.

Mr. Gates, applicant: That's right. He's Mr. Smith. And she supports it.

Boardmember Quinlan: And she's all the way back on the ... that's the back of her on the other side of the street, isn't it?

Mr. Gates, applicant: Yeah, the front of her house goes onto Chestnut.

Boardmember Quinlan: Chestnut, right. So there's an old driveway that goes right on his side.

Mr. Gates, applicant: That's right.

Boardmember Quinlan: So there's nothing there to affect him, or her, or whoever it is.

Mr. Gates, applicant: No, no there isn't.

Boardmember Quinlan: So I don't have any problem with it.

Chairman Collins: Is it really true that it's an N/A for the existing side yard setback? Isn't there some existing side yard setback there?

Bldg. Inspector Minozzi: There's nothing there.

Village Attorney Whitehead: That's for an accessory structure. There's no existing accessory structure.

Chairman Collins: Oh, okay. Thank you, appreciate that.

Boardmember Dovell: So you walk down off the deck off the dining room to a stone walkway, then up another stone step.

Mr. Gates, applicant: Actually, terracing the deck patio from the rock outcrop in the back left corner, we're stepping down one step at that point ...

Boardmember Dovell: And then stepping back up.

Mr. Gates, applicant: ... stepping down again to another level. So we're going up three steps and then down one to the main section of the deck.

Boardmember Dovell: This is the deck in the back. You're stepping down, and then you're stepping up.

Mr. Gates, applicant: Yes.

Boardmember Dovell: And then that's at the level of the pergola structure.

Mr. Gates, applicant: There's two different levels. The pergola's going to be one step down from the level you step onto.

Boardmember Dovell: So then you're stepping down into the pergola, okay? You wouldn't want to have too much to drink at a party at your house.

[laughter]

Chairman Collins: How much of this proposed accessory structure is being built into a required yard? It doesn't look like all of it.

Mr. Gates, applicant: About 40 percent of the total of the area that we're proposing doing is in the setback area.

Chairman Collins: All right, so how much is that, roughly? Like how many square feet are you building into the required yard?

Mr. Gates, applicant: Let's see. The patio itself is 244 square feet and it's about 40 of that, so 0.4 times ...

Boardmember Dovell: 15-point.

Mr. Gates, applicant: About a hundred square feet.

Boardmember Nivarthi: 96.

Chairman Collins: All right. Again, I asked for that math because that's a relatively modest intrusion. And as my colleague points out, when you look at this in context, comparing it to the neighbor that would be most affected by this, there's quite a bit of buffer

that neighbor will enjoy relative to the proposed insulation of this patio structure. It's certainly an improvement. When you show the photographs of what's currently there, it doesn't look ... I mean, talk about not wanting to get a little tipsy, right now it really would be a disaster. Add a little bit of rain, and now it's a disaster.

I think it's a handsome proposal, and I think it'll unquestionably give it a really substantial improvement to the applicant's use of the backyard for what is a relatively minor variance request, a modest variance request, in my opinion. That's all I have to say on it. Does anyone else have any questions or comments for the applicant?

Boardmember Quinlan: I have none.

Boardmember Dovell: I think it's quite handsome.

Chairman Collins: Okay. Does anyone in the public wish to be heard? I think we've exhausted the public.

All right, then if there's nothing further does anyone wish to make a motion?

Boardmember Quinlan: Okay, I'll make a motion. I'll take a stab at it, all right? So this is Case No. 23-19 at 95 Circle Drive.

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Nivarthi, with a voice vote of all in favor the Board resolved to approve the requested side yard setback – the variance required is 5.25 feet – and developmental coverage. And the variance required is 6.64 percent.

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

Mr. Gates, applicant: Thank you, everyone. Enjoy the holidays.

Chairman Collins: Yes, you too. Thank you so much.

III. DISCUSSION ITEM (Continued)

Proposed Local Law M of 2019 – Senior Housing Definitions

Chairman Collins: And we will go back to the start. Local Law M proposes some revised senior housing definitions. Are you here to speak to this?

Mr. Lichtiger, 161 Broadway: I'm here to listen.

Bldg. Inspector Minozzi: Please use your microphone.

Mr. Lichtiger: Sure. I'm on the Affordable Housing Committee. I'm the president of the Housing Development Fund Company.

Chairman Collins: And can you introduce yourself for the record?

Ira Lichtiger: Affordable Housing Committee.

Chairman Collins: I read through this, I'm sure my colleagues did as well. You know, I would like to know what, if any, model this new language is based upon. Is this standard code language for the way senior housing is today described, developed, and proposed?

Village Attorney Whitehead: If I could.

Chairman Collins: Is this a modernization? I'm just looking for a little background.

Village Attorney Whitehead: I could give sort of a little background.

Chairman Collins: Please.

Village Attorney Whitehead: And you may remember that there was an application a few years ago. First of all, this is before you because your code requires that any time the Board of Trustees is considering a zoning amendment it gets referred to both you and the Planning Board.

The impetus of this is, when the prior proposed zoning amendment for assisted living was taken off the table if you will, the Board of Trustees said, Okay, we think this was too much. We don't want to look at this yet, but we do need to update our code. So your code currently has language providing for convalescent homes with and without ... you know, it's old terminology. It's not terminology that's used today. And part of the concern is that an applicant could come in and argue, Well, that's what I am, because it's so vague and so poorly defined.

So the idea, what the Board of Trustees wanted to do and the purpose of this law, is to update

the definitions of the different types of senior uses. What it doesn't do is, it doesn't change where the uses are permitted, it doesn't change the densities or minimum lot sizes. That's a much bigger project.

Chairman Collins: Right.

Village Attorney Whitehead: That really, they would have to analyze in different properties and what the impacts of those changes would be. So I worked with Pat Cleary, who is the Village's planning consultant, to work on these. Pat pulled some things from other municipalities where he's worked. The assisted living and nursing home definitions refer to state regulations. Those are terms that are defined and regulated by the state, so it makes sense to reference the state regulations.

The continuum of care facility came about sort of another way, by adding it in here. The state does regulate what are considered CCRCs – continuing care retirement communities, CCRCs – under article 46 of the public health law. When the state adopted that, they did it in a way that's so over-regulated and restricted that at this point there's only about 12 of them in the entire state. And it was adopted in the '80s or around 1990, something like that. And some of them have even gone out of business because they were so over-regulated. Those were generally facilities that had, you know, an entrance fee and then they provided all levels of care.

So what you started to see in the market are what are sometimes called "look-alikes," and more recently have been using the continuum care facility nomenclature. And you're really seeing a lot of these. And I know too much of this because I've been looking at these for my parents and I know far too much about this. But many facilities are being developed today that have independent living so there's common dining and facilities and programs and things. But they also incorporate assisted living in a couple of different ways. Some of them you stay in your independent living unit but you can pay for the additional assistance, and some will have like floors within the facility that, you know, have more intensive staffing for assisted living.

So it's really a way to sort of let people stay. Go in when they're more independent, but be able to stay in the same facility. The true CCRCs also have to have the nursing home bed element; the look-alikes don't always have it. But we felt it was important to sort of acknowledge that those exist and that they're actually a good thing because they do let people go in independent, and stay when they need a higher level of care.

Just to sort of update you, another thing – which is not incorporated here because, again, we weren't looking at changing densities or minimum lot sizes or anything just yet – I think it

actually came from the Senior Committee. And the Board of Trustees has asked us, as they move forward into that next phase of looking at things like densities and minimum lot sizes, to look at what's sort of a newer trend in senior housing which has not been done around here at all. It's these smaller-scale shared facilities that have been done in some other places around the country which would require major changes to things like your minimum lot size and your density. But they may be something that everybody feels might fit better in Hastings.

Boardmember Dovell: Interesting.

Village Attorney Whitehead: So as we move forward, it really has nothing to do with this amendment, but just so you know sort of what the board is thinking as they go forward. And I think that's something that the Affordable Housing Committee, the Senior Council have all been supportive of. So those are some of the things that are going to be looked at going forward. But for right now, all this amendment does is bring the definitions in your code up to the current state of the world, the market, and regulations.

Chairman Collins: Okay.

Boardmember Dovell: All right, but then there's more in the back: the modified parking requirements and things like that.

Village Attorney Whitehead: Again, to plug in the new terminology where the old terminology was.

Boardmember Dovell: Okay, I see.

Village Attorney Whitehead: We didn't actually change the requirements.

Boardmember Dovell: I see. So this is just where it fits in.

Village Attorney Whitehead: It's plugging in the new words where the old words were.

Chairman Collins: I don't have any comment. I really wanted to know what you just explained, the origins for this and why the changes. You've given it the proper context.

Boardmember Quinlan: I have no comment either.

Chairman Collins: I don't have any comment.

Bldg. Inspector Minozzi: The Planning Board was in favor of it.

Village Attorney Whitehead: The Planning Board was in support. They had a couple of minor tweaks that they recommended and, I think, a typo.

Bldg. Inspector Minozzi: Yes, that was about it. It wasn't much.

Village Attorney Whitehead: So we'll be reporting that back. The Board of Trustees has scheduled a public hearing for their next meeting, which is the 17th. They had actually delayed it, knowing when your meeting was. They wanted to make sure that both the Planning Board and the Zoning Board had the opportunity to look at it before they held their public hearing.

Boardmember Dovell: All right, good.

Village Attorney Whitehead: So we will report back. I assume we can say you support it.

Chairman Collins: Yes, unless anyone has anything.

Village Attorney Whitehead: Okay, that's it.

Chairman Collins: All right, thank you for the presentation.

Boardmember Dovell: Where are with the other issues pertaining to the revisions to zoning?

Village Attorney Whitehead: You and Pat Cleary and I need to get together. Pat and I have, frankly, been dealing with this and a bunch of other things. So I'll be in touch.

Boardmember Dovell: They're still active.

Village Attorney Whitehead: Yes. And I think the two things ... and because you've been helpful so far, and you don't mind, we'd like to keep you in that loop.

Boardmember Dovell: Absolutely, yes.

Village Attorney Whitehead: One is the development of residential FARs and the other is the MR-2.5, similar to what we did with the 1.5 which you've already sort of outlined. And then Buddy and I have sort of another list of miscellaneous little cleanup things in the zoning code that will come to you, but I don't know they need that kind of input. Buddy and I, every

once in awhile we look at something and go, That makes no sense. On the other hand, if there's things you want to recommend the Board of Trustees look at – like no paving in required yards – you can always suggest them.

Boardmember Dovell: Right.

Bldg. Inspector Minozzi: You know, a couple times it came up tonight. You asked about maximum sizes for accessory structures and maximum sizes for how much for required yards. I think FAR's going to fix a lot of that. I think FAR is the key to our residential zoning code that is missing.

Village Attorney Whitehead: And so you know, and the Affordable Housing Committee knows, the changes to the accessory apartment law which you also did review have been adopted and are now effective.

Bldg. Inspector Minozzi: Matter of fact, there's only one case that got caught in the middle that has to come to planning.

Village Attorney Whitehead: And they were the last renewal the Planning Board will see.

Bldg. Inspector Minozzi: Yes, it's coming up actually. One got caught in the middle and we have to go because the mailings were already sent. But after that, we are clean and clear.

Village Attorney Whitehead: And I think the mayor – and I don't know if she's going to wait 'til after the holidays – but we'll be sending out an e-mail letting people know that as a way to sort of remind them that they can have accessory apartments. It's something the Village does want to encourage.

Boardmember Quinlan: That's great.

Village Attorney Whitehead: And it's something that both the Affordable Housing Committee and the Senior Council have supported because it helps both seniors and also provides affordable housing.

Mr. Lichtiger: That's been one of the main avenues of finding affordable housing in the Village.

Village Attorney Whitehead: So hopefully those changes which take away some of the restrictions and make that a little easier will help.

Chairman Collins: Thank you for the presentation.

We only have now the matter of the minutes.

IV. APPROVAL OF MINUTES

Regular Meeting of October 24, 2019

Chairman Collins: I e-mailed Buddy and Mary Ellen my comments on the minutes.

Bldg. Inspector Minozzi: We got them.

Chairman Collins: This one continues to stubbornly refer to Ray as "*Acting Chairman Dovell*," which he is, but you can't have a chairman and acting chairman duking it out on the same cases. But I think otherwise if I had any changes they're very minor.

Boardmember Quinlan: I wasn't there, so ...

Chairman Collins: You're off the hook.

Village Attorney Whitehead: And I wasn't there.

Boardmember Berritt: I sent my comments in.

Chairman Collins: That's right, you weren't here. So the four of us can vote on the meeting minutes, as amended. Can I get a motion to approve the minutes as amended?

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Berritt, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of October 24, 2019 were approved as amended.

V. ANNOUNCEMENTS

Next Meeting Date – January 23, 2020

VI. ADJOURNMENT

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Chairman Collins adjourned the Regular Meeting.