

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING
FEBRUARY 25, 2016

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, February 25, 2016 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

Chairman Collins: Welcome, ladies and gentlemen, to the February 25 meeting of the Zoning Board of Appeals. We have two cases on our docket: Case 16-15 for Arthur and Jessica Riolo; and then Case 18-13, where CCI Properties will be back to give an update on 32-34 Washington Avenue. Those are our two cases for the evening.

Because of Mr. Forbes-Watkins' residential proximity to 36 Main Street he will be recusing himself for this first case, which means we will have four Boardmembers for that particular case. And that means there is always a possibility of a 2-2, I suppose, that could happen. But we have the necessary quorum so we're good to go.

Why don't we go ahead and proceed.

Boardmember Forbes-Watkins: And I will go.

Chairman Collins: You can grab a seat and we'll call you back here when we're ready for 18-13.

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

Building Inspector Minozzi: The mailings are all in order.

Chairman Collins: OK, good. What we'll do is begin with 16-15. Just to set some ground rules, we have a remote stenographer who's capturing meeting notes. What that means is that at all times anyone who wishes to be heard please speak into a microphone. We have two of them, one in the standing mic here a portable wireless mic up here. We'll give everyone who wishes to be heard on any of these cases their due, but all we ask is that when your time comes speak into the microphone.

**Case No. 16-15
Arthur & Jessica Riolo
36 Main Street**

For the View Preservation approval as required under Section 295-82 of the Village Code for the construction of a rear bay window and rear covered porch at their mixed-use dwelling at 36 Main Street. Said property is located in the CC Zoning District and is known as SBL: 4.70-50-1 on the Village Tax Maps.

[Boardmember Forbes-Watkins recused]

Chairman Collins: Artie, the floor is yours. While you're getting set up, we're here for view preservation for your property at 36 Main Street. If you can just introduce the project, walk us through what it is you'd like to have done, that'll be great.

Arthur Riolo, applicant: First of all, thank you for the opportunity and good evening.

Building Inspector Minozzi: Before you get started, do you want to just give them the report from the Planning Board first?

Village Attorney Whitehead: Yeah, the Planning Board granted site plan approval and made a recommendation on view preservation for this application. They did make a change to the application, which I think Arthur can explain to you, to take off one of the proposed additions because of concerns regarding view preservation.

Chairman Collins: OK, good to know. Thank you.

Mr. Riolo: In fact, this is 36 Main Street. It is first floor and second floor. On the first floor there is a change at the first-floor level: access in the rear of the building. At present, there is a straight-run staircase without a landing. Unfortunately, a year ago my wife fell down the staircase and broke her finger so we're proposing to put a platform with a cover on it and a staircase.

Cable Access Director Corso: Double-check and make sure that microphone's on.

Village Attorney Whitehead: The mic's not on.

Chairman Collins: Yeah, we're checking that, Jen. Thanks.

Building Inspector Minozzi: It's on, you've got to hold it closer to your mouth.

Mr. Riolo: Sorry about that.

Chairman Collins: There we go, we hear you now.

Mr. Riolo: What we're proposing is a platform with a cover, and a staircase coming down the east side of the building. That's it on the first floor.

On the second floor, we're redoing in the existing space and changing the configuration of an existing kitchen and bathroom. There is an existing bay window on the rear of the building, and we're proposing to put a bay on top of that bay. The part that we have abandoned is, there was a proposed addition that was going to go over a first-floor one-story entrance. The Planning Board did not see it was a good idea to be doing that so we abandoned it. We changed our plans completely. We're accommodating – in the existing space – the same kitchen and bathroom, just reconfigured.

Chairman Collins: I see that's what the "omitted" was referring to now.

Mr. Riolo: Correct.

Chairman Collins: OK, got it.

Mr. Riolo: That was going over a shed roof – it's not happening, but it was going over a shed roof – of an existing one-story structure to the back of the building. We're talking rear and east, so southeast in the back of the building.

Chairman Collins: Right.

Mr. Riolo: There is an alleyway that I actually own, and there's an adjacent building. The tenants complained about light and air, so we abandoned that part of it. I think that's everything.

Chairman Collins: Can you walk us through what part of the view is compromised by the addition? Specifically from which vantage point, and what now is changing so the view is less as a result, or has changed as a result, of the addition.

Mr. Riolo: What would be changing on the first floor would be the structure, the platform, which has a roof on it. The neighbor to the east would see that, and it's a first floor so I don't know that views of the river are obstructed or the Palisades are obstructed. But they would

actually see that. The bay on the second floor is over an existing bay on the first floor, and there is a deck that is on the back of the building that is adjacent to us, to our building, number 38.

Chairman Collins: To the west?

Mr. Riolo: To the east.

Chairman Collins: The building to the east of you.

Mr. Riolo: We are to the west of that building.

Chairman Collins: OK, got it.

Mr. Riolo: The bay protrudes out 2 feet from the existing exterior of the building. It's a walk-in bay and it's from floor to ceiling. From the deck of the adjacent property there's a little bit of view that would be obstructed. I can only ...

Village Attorney Whitehead: And the Planning Board felt it didn't block the entire view. That's why they recommended it.

Chairman Collins: OK. And you're building this second-floor bay window ...

Mr. Riolo: Yes.

Chairman Collins: ... and bump-out – I'll call it a bump-out – flush with the first floor? In other words, does it go as far as the first-floor bay but no further, or does it ...

Mr. Riolo: That's correct. It's actually stacked ... it's a bay stacked on another bay.

Chairman Collins: Yeah, the illustration makes that, I think, pretty clear. But I wanted to just make sure there was no overhang; that it wasn't going further than the first floor.

Mr. Riolo: No, not going further.

Boardmember Anuskiewicz: It's very hard to understand how even the bay that you omitted would block anybody's view.

Mr. Riolo: I would agree with you, but that's ...

Chairman Collins: Well, maybe Linda can weigh in on that.

Village Attorney Whitehead: I'm trying to remember because it was a couple of months ago now, but I think it wasn't just view. It was light and air related to site plan approval.

Boardmember Anuskiewicz: I still don't understand it. I don't see that.

Village Attorney Whitehead: The Planning Board, most of them, were pretty adamant about having an issue with that. You can feel free to go back to the Planning Board for them and make the argument.

Mr. Riolo: No, no. Please.

Village Attorney Whitehead: Oh, we're done.

Mr. Riolo: We're comfortable with where we are. You know what? We want to get along with the neighbors. This is not about ... the Planning Board actually recommended conversation with the neighbors to try to get along with the neighbors. So I actually recommended, after meeting with Buddy, that maybe they should legalize the deck on the second floor, which maybe they'll be ...

Building Inspector Minozzi: Which we've had conversations about, and he was supposed to follow through with it. Hasn't followed through yet, so actually now that it's being brought fresh to my attention I will be following up with Mr. Gismondo tomorrow.

Chairman Collins: OK, well, we'll keep the conversation on this particular project. The use that you've designated for this increased space is a kitchen, is that right?

Mr. Riolo: That's correct. It's actually a little bit of an eating area in the kitchen. The bay would be the little eating area.

Chairman Collins: OK, and is this a space you rent out then?

Mr. Riolo: I do. I rent it actually to my brother-in-law, who has lived there since 2004.

Chairman Collins: I see.

Mr. Riolo: He is an architect. He actually did the drawings and is here with us this evening. His name is Thomas Nugent.

Chairman Collins: OK, great. I mean, obviously we're here to focus on the view. If I remember right from the drawings, it was a little bit difficult to quantify that impact on the view. It sounds like it's a little bit – couple feet, maybe – that's ... this doesn't appear to be a substantial bump-out. I mean, in terms of added bulk-out, how much added space have you pushed it out by?

Boardmember Anuskiewicz: How deep is the back?

Chairman Collins: Yeah, thank you.

Mr. Riolo: Two feet.

Chairman Collins: So it's a very minor incursion. Do we have any illustrations in here that can kind of get a sense of what the change, or view now is, that this is, or once this goes in?

Boardmember Dovell: It's just the blue marks that say "out."

Chairman Collins: And that's the first floor. The second floor sounds like that's the area where there is perhaps more of the view being compromised, but that doesn't help.

Boardmember Anuskiewicz: It's not really a view of the Palisades or the river, so I'm not sure ...

Chairman Collins: This isn't even happening anymore.

Boardmember Anuskiewicz: No, I understand. But it's very hard to understand how to this project blocks anybody's view, from my point of view.

Chairman Collins: Buddy, what's changed here? I guess I'm trying to figure out whose view has been obstructed by this and to what extent.

Village Attorney Whitehead: The neighbors are here, so maybe you want to let them try to explain.

Chairman Collins: OK, we can get that.

Building Inspector Minozzi: Yeah, basically ...

Village Attorney Whitehead: It's minimal.

Building Inspector Minozzi: ... the neighbors, when it came to the two-story addition, I think it was more, like Linda said, about light and ventilation. It was kind of encroaching on their space. That was a much bigger deal to the tenants, and I'm sure they'll explain, than was the bay. They even said at that meeting, I believe, something to the effect that that's not so bad but this is really bothering us.

Chairman Collins: When you say that, you mean impact on the view.

Building Inspector Minozzi: The impact on the view of the bay window wasn't really an issue at all. It was the two-story addition that, in their eyes, was the big troublemaker. And the applicant did, without hesitation, remove it.

Chairman Collins: OK. Without having the benefit of understanding exactly what the impact on neighbors' would be, it seems like the only thing we have for sizing that up would be what the neighbors would say. We'll get to that.

I don't have anything further. This seems like a very modest addition. Again, we're here to only make a determination on the view, and I'm sort of feeling I need to hear what the neighbors say about that.

Boardmember Anuszkiewicz: The only other thing I would say that this is very sympathetically done. I think you really couldn't ask for a more contextual solution for expanding this home, and it's a very minor request, I think, that the applicant is making, in my view.

Chairman Collins: Yeah, I would agree.

Mr. Riolo: These are 1886 Queen Anne Victorians. There were four of them built, and Jessica and I own two and are very proud of them. We're trying to keep them in keeping ... this work that we're doing is trying to keep it in keeping with that vintage, that style and that character.

Chairman Collins: I think the design accomplishes that, from my point of view. Any other comments or questions from the Board?

OK, then we'll open the floor to comments or questions from anyone who wishes to be heard. Again, just speak into a microphone, please, and would you introduce yourself?

Caitlin Alexander, 38 Main Street: Hi, I live on the second floor. I'm the building directly to the east of Mr. Riolo's property. In terms of the view, several of the Planning Board

members were very kind, enough to take the time to actually come to my apartment and look at the view. They pretty widely agreed that the side extension did block part of the view from various places inside my apartment and my neighbor's apartment. They were also concerned about the very limited space already between the buildings. The first floor tenant, who's also here and can speak, was concerned about losing a substantial amount of sunlight in her apartment. The Planning Board was also concerned about that.

But this was very much a view issue. Again, like I said, they did actually come look at the apartment. The Riolos were kind enough to put out poles marking where the extensions were going to go so the Planning Board members were able to see exactly where everything was going to extend. The bay window does block part of my view. Before the bay window – basically from the door to my deck, which leads out from living room and from the deck – I looked straight down the back of the buildings on Main Street all the way to the Palisades and the river. So the bay window on the second floor is the only thing that's going to block that part of my view.

Obviously, I do have other views from that area, but it is blocking part of my view. The Planning Board members were a little bit more split on how concerned they were about that. The Chair of the Planning Board asked us to compromise and, again, I would like to be neighborly as well. I agreed that of the two things on the second floor the bay window was less of a concern for me. I'd also like to point out that the Riolos have actually already gone ahead and completed the construction of the bay window and the second floor without the extension. So even if you guys disagree it's kind of already done at this point.

I'm happy to answer any questions you have about the issues with the view.

Chairman Collins: Thank you, Ms. Alexander. Would you say that the impact ... there is some impact on the view. Would you describe it as a minimal impact, a moderate impact?

Ms. Alexander: If it was minimal I wouldn't have bothered coming to object. You know, I don't like being in the position of objecting, but definitely I felt it was substantial. I've lived in that apartment and in Hastings for more than 10 years so I'm a long-time resident. I use the deck in the apartment a lot so I definitely was very concerned about the impact. And again, I think the Planning Board members who came could see that as well.

Chairman Collins: OK, does anyone have other questions?

Boardmember Anuskiewicz: Can you explain? The deck is not legal?

Ms. Alexander: For the record, I would just like to say the deck has been on the building since at least a couple of years before I moved in. According to my landlord, it was built by a previous tenant and he did not know that the tenant did not obtain the proper permits. The only reason this has come up is – unfortunately Mr. Riolo has been a little disingenuous about this – because after the first Planning Board meeting when we objected to his construction plans he went to the Building Department and complained about the deck. I know that because I overheard a conversation he had with a member of the Planning Board in which he indicated he had done exactly that. My landlord, despite being tardy on it, is certainly willing to put in the proper paperwork and pay whatever needs to be paid to get the deck approved.

Chairman Collins: I guess it does beg the question that would this be an issue were it not for [cross-talk].

Ms. Alexander: The Planning Board addressed that, as well. And their feeling was, if you take the deck out of the equation it's actually a much bigger ... their construction is a much bigger impingement on my views because I have a lot less access to views. Right now, I can go out on the deck and stand and see the view. If you take away the deck and there's only a door, or probably a door replaced with a window there, it's a lot less view and their construction would be blocking a lot more if my view.

Chairman Collins: I see, OK.

Boardmember Anuszkiewicz: Be that as it may, it's an illegal deck. You can go through the process and obtain the proper permit for it, but you can also be told to remove the deck.

Ms. Alexander: Again, my landlord is going to see that through, and I'll remind him as well. But I know he expressed every willingness, again, to file whatever paperwork needed to be filed. We would not have brought up the deck at the Planning Board meeting. He was at that first meeting and is smart enough that if he thought the deck was going to be an issue or was illegal we wouldn't have mentioned it.

Boardmember Anuszkiewicz: So are you objecting to this proposal at this time?

Ms. Alexander: As long as the proposal is just for the bay window which, again, they've already built, and no extension on the second floor then, again, I agree to comprise. I'm certainly willing to stick with that.

Chairman Collins: OK, that's good to know. I took from you I think you had actually used the word that you wouldn't come here to object to this if you didn't think it was substantial.

Ms. Alexander: I'm sorry, I meant originally in the first place. I wouldn't have objected in the first place if it wasn't a big issue.

Chairman Collins: OK. No, I'm glad that's clarified. Anything further?

Boardmember Dovell: This is to legalize a condition that already exists. The bay exists now?

Village Attorney Whitehead: They have a permit for interior ...

Boardmember Anuszkiewicz: They have a permit for interior work?

Chairman Collins: But this part is done?

Building Inspector Minozzi: Not that I'm aware of. I mean, they're working on the house.

Mr. Riolo: We're working on it right now.

Boardmember Anuszkiewicz: You have a permit for the interior work.

Ms. Alexander: They started construction on the second floor and built out the bay starting the day after this topic was deferred from the previous Zoning Board meeting. The bay window is completely built out. They moved a window on the side and everything else. I think all that's left to be done is the siding on the outside and everything, and whatever they're doing inside. But the bay window has already been built out.

Boardmember Anuszkiewicz: It doesn't really exist because it's maybe ...

Village Attorney Whitehead: The permit was only for interior work.

Boardmember Anuszkiewicz: It wouldn't exist until the C of O was issued for it.

Village Attorney Whitehead: Right.

Chairman Collins: You're the owner on this. What exactly has been built out?

Mr. Riolo: What exactly has been built out?

Chairman Collins: What has exactly been built out? What exists here today now?

Mr. Riolo: If you went to the house right now you would see the bay framed and just clad in ... the windows are in, and just clad in not Tyvek but material. No siding on it as of yet.

Boardmember Dovell: So the work is done.

Mr. Riolo: There is a roof ...

Village Attorney Whitehead: If this board didn't approve it they would have to take it out.

Boardmember Anuskiewicz: Or modify it. I think he understands he's taking a ...

Village Attorney Whitehead: Right.

Mr. Riolo: There is a roof on it.

Chairman Collins: OK.

Village Attorney Whitehead: But if this board didn't approve it or modify it, he would have to comply with whatever this board does.

Chairman Collins: All right. Does anyone else wish to be heard on this? Again, if you could just introduce yourself, ma'am, into the microphone.

Ms. Victoria, 38 Main Street: I live in the first-floor apartment. It was really the main objection to the side extension on the second floor because it would block a significant amount of sunlight that sunlight that comes into my apartment. I would like to approach and show you the photo of the structure in the sunlight just to give you all an idea of what it actually blocks. Is that OK?

Chairman Collins: This is as it is today?

Ms. Victoria: This is why I objected to the side extension at the Planning Board meeting.

Chairman Collins: That's not a part of the plan anymore, right?

Ms. Victoria: I didn't know if I still had to explain that.

Chairman Collins: No. I appreciate your willingness and eagerness to be heard on it, but because it's no longer a part of the plan there's nothing really for us to see.

Ms. Victoria: That's perfect. Thank you so much.

Chairman Collins: Yeah, sure. Thank you.

I guess, Buddy, maybe I just need a refresher on this. The permit has been issued, the applicant is off to the races, and here we are talking about this.

Building Inspector Minozzi: The permit was issued for the interior work.

Village Attorney Whitehead: Not for the bay.

Chairman Collins: But the bay is in.

Village Attorney Whitehead: And if you don't approve, they'd have to take it out.

Chairman Collins: No, I hear you.

Village Attorney Whitehead: I guess whatever happened in the course of doing the interior with it, they framed out the bay.

Mr. Riolo: It would be difficult. The bay is cantilevered. So to do the interior work, to go out 2 feet, we actually came back 6 feet. We had to take the floor and the joists out, and we had to do framing for the bay. The answer to you is, I could've have pieces of wood sticking straight out and no side on the building and the whole building could be exposed to the weather that we've had over the past couple of weeks.

Now, there's something I need to say to you. I'm before you this month because of a glitch in the mailing – not my fault, but a glitch in the mailing – that postponed this for an extra month.

Chairman Collins: Yeah, I remember that. That was made clear.

Mr. Riolo: My nephew has returned from Japan, and he and his father are now living with us because they can't be living in their apartment. Yeah, the answer to you is yes, we did build the bay, OK? And I would take it out if I had to, but I'm kind of under the gun here. I don't know if there's sympathy in this, but ...

Chairman Collins: I think for my benefit it's useful to know the sequencing of things so we don't have applicants and homeowners who find themselves having walked into something

where there's a high level of risk, where they're going to have to unwind something or they're going out of order, quite frankly. I just want to make sure there's some control points in the process so we're not having things that end up being painful and expensive and emotionally difficult to unwind later because they've simply gone out of order. I just want to make sure that's not happening here.

Building Inspector Minozzi: You know, this is a very rare situation. We don't hear of this too much. But I understand. It's between us not being able to be heard last week and being under the gun I understand where he's coming from. It's certainly not the norm. That's why we gave him a permit for the interior work so he can get something going while this extended process was happening. It's certainly not the norm for something like this to happen.

Chairman Collins: Yeah, that's been my experience, too, insofar as I have a window – no pun intended – into the process.

Building Inspector Minozzi: And if something had to be changed, rest assured we will make sure that it's taken care of.

Chairman Collins: OK. Well, coming back to the case at hand, it's helpful to hear from the homeowners at 38 – or I should say the renters – and to hear that there's some impact, but no objection I think is what I'm hearing. So to me, I find this to be a very modest, sensible design and we're here to talk about view. It seems that though there's some impact, it's not a show-stopper.

Anyone else wish to be heard on this? Then could I have a motion?

Village Attorney Whitehead: Buddy?

Building Inspector Minozzi: I can't make a motion. I'd love to.

Village Attorney Whitehead: I can't do it. Hang on Marc.

Ms. Alexander: Sorry, can I just ask for clarification? Because I know all the original plans were still what was on the agenda, can I just ask for clarification that all you're approving is the first-floor work and the second-floor bay window, but not the side extension, correct?

Village Attorney Whitehead: The plans that this board has actually are marked "omit" on the other ...

Ms. Alexander: OK, that wasn't what was online so I just wanted to make sure. Thank you.

Chairman Collins: No, that's a good question. Thanks for checking.

Sorry, Marc, go ahead.

On MOTION of Boardmember Leaf, SECONDED by Boardmember Anuskiewicz with a voice vote of 4 in favor (Boardmember Forbes-Watkins recused himself), the Board resolved to approve Case No. 16-15 for view preservation as required under the Village code for the construction of a rear bay window and rear covered porch.

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

Mr. Riolo: Thank you very much.

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

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

- 1. Different uses on a single lot: Existing use - two-family; Proposed use - two 2-family and one 3-family dwelling units; permitted - one use {295-1 8.B}; Variance required for one additional use.**
- 2. Lot coverage: Existing - 12%; Proposed- 39.8%; Maximum Permitted – 15 percent {295-72.E.(2)}; Variance required - 24.8% coverage.**
- 3. Paving and structures in required yards: Proposed - parking spaces for existing structure in the required yard {295-20.C}; Variance required - four (4) parking spaces in the required yard.**
- 4. Maximum width of curb cuts: Existing - one curb cut 10 feet wide; Proposed - two curb cuts 26 feet wide total; Maximum permitted - two curb cuts 24 feet wide total {295-41.B}; Variance required - 2 feet over allowable curb cut.**

- 5. Maximum driveway area: Existing – 1,090 square feet; Proposed – 1,690 square feet; Maximum permitted - 960 square feet {295-41.A}; Variance required – 730 square feet**

[Boardmember Forbes-Watkins rejoins the Board]

Chairman Collins: Our second and final case 18-13, CCI Properties. While Ms. Griffin gets underway with the setup, I'll just go through a quick summary of what's being requested here today. The applicant seeks relief from several different sections of the Village code in relation to the construction of townhouse units at 32-34 Washington Avenue. The variances are a different use on a single lot, lot coverage, paving and structures in required yards, maximum width of curbcuts, and maximum driveway area.

Building Inspector Minozzi: Just to bring you up to speed real quick, though the split in the building one variance didn't change even though it's three structures now. Because it's still only two uses, that variance remained the same, the lot coverage variance went down slightly, and I believe everything else is the same.

Chairman Collins: When you say down slightly, you mean from the previous month?

Building Inspector Minozzi: From the previous submission, yes.

Chairman Collins: So 39.8 is accurate, but it was like 41.

Building Inspector Minozzi: Something like that, yeah.

Chairman Collins: I was not at the last meeting, I was out of town. I did read through the meeting notes, and just to level-set I wanted to ask David to give a synopsis of where we left off and what was understood to be presented, or shared, today.

Boardmember Forbes-Watkins: After some considerable discussion, particularly about coverage, we got to the point where it became evident that it was desirable and was suggested by Mr. Dovell that we pursue a split in the five-unit building from one into two units and one into three. We ended the meeting to wait for a return, hopefully for the last time.

We spent a lot of time on lot coverage. It seems to me, speaking from my own perspective on that, I think we've beaten that poor dead horse to a fare-thee-well. There is a substantial lot coverage variance between the zoning rules and the proposal, but I'm going to say this just from my own perspective: I think the zoning rules are stupid in this particular situation.

We have an area with very substantial lot coverage all over the place and a ridiculously small lot coverage limitation. I know where my vote goes on this particular one, and I'll leave it at that.

Chairman Collins: Well, I appreciate the synopsis and I certainly took that from the meeting notes. And I'll be the one to say that I certainly have concerns from the December meeting about lot coverage. The issue then felt to me like we were seeing a partial sample of the neighborhood and what lot coverage looked like, but an incomplete one. What satisfied me about the approach that seemed to be covered well in January was that the scope expanded significantly, including into other districts, to show how lot coverage was with a substantial radius around the property. That's what I really wanted to see; I wanted to see some thoroughness and making sure the applicant wasn't cherry picking ones that augmented the case.

Then the move to, now, two new structures as opposed to one whole unit. I guess, Ray, I would love to kind of hear a summary from you about why you thought that would be a good change. I mean, I have to say I love these new designs.

Boardmember Dovell: Well, we spent some time talking about a peculiar feature of the zoning. It relates to minimum lot area per dwelling unit, where the requirement is one unit per 1,500 square feet, existing 13,000 per unit. Proposed is 3,732 so they're well within the norm of that. There is a disconnect in the zoning where you're forced to have less lot coverage. It's an unusual situation here, where they're fully compliant with plenty to spare along the minimum lot area per dwelling unit. And then what Christina did the last time was take us through the examples only within the zoning this lot falls into. I think probably it would be good to refresh us that on that, Christina, of where we are with that within this particular zoning district, not the others.

Christina Griffin, project architect: On that note, should I go through it?

Chairman Collins: Just make sure you've got the microphone. Go ahead and, and note that I wasn't here for the last time. Marc, were you here for that?

Boardmember Leaf: No.

Chairman Collins: No, so you've got ...

Village Attorney Whitehead: And neither was Adam.

Boardmember Forbes-Watkins: We've got three new ...

Chairman Collins: The notes were available, we don't need to repeat everything that happened in the last meeting. But lot coverage was a significant question. You've come back with a much more thorough survey. I also know that Mr. Hayes asked for a data point about how much of this lot coverage was the product of having been grandfathered versus how this lot coverage is exceeding the zoning code and were approved by the Zoning Board. I don't know whether or not that data point was available.

Building Inspector Minozzi: That data is so hard to extract because our computer systems aren't set up that way. But Christina did do some homework.

Chairman Collins: OK, so I'll let you go ahead.

Ms. Griffin: I'll answer that question after I go through this. Since I've done work in so many properties in the area I have information but couldn't get it through to the Building Department, so I'll share that with you. What we presented last time was this study of 117 properties in the neighborhood. That included properties on Washington, Warburton and the MR-1.5, MR-O and MR-C zones. The average – and we have these graphs – of the 117 properties was 45.5 percent. We made sure we included the Cropsey Estate rather than saying that's an anomaly. If you wanted to see the MR-1.5 zone, we showed a study just of the properties in each of these zones. This is MR-1.5, with 57 properties now – it said 24 – including the Cropsey Estate. I have all sorts of charts. We also have a list of all the property cards.

Chairman Collins: Can you go back to the histogram? That thing right there, that bar chart.

Ms. Griffin: This one. I can blow that up.

Chairman Collins: What's that telling us there?

Ms. Griffin: This is the graph. These are the properties that are 40- to 50 percent, this is 30 to 40 percent.

Chairman Collins: Oh, I see. The X axis is capturing ranges of lot coverage, and the Y axis is number of properties that fit that description.

Ms. Griffin: Yes, the largest range is between 20 and 50. This chart shows that the lots that are over 15 percent – it's hard to read that figure there – about 90 percent. It's only a small

amount. Here it is: lots over 15 percent – I made a mistake – is 53 of the 57 lots, and lots under 15 percent is only four of the 57 properties.

Chairman Collins: I think it's also instructive to point out that even when you expand the lot coverage to allow for 20 percent lot coverage – which now you're outside of the zoning code – there is a total of six, and it really takes off in that 20- to 30 percent lot coverage range and then the 30- to 40-. So 27, or roughly half, of all the properties in the zone, in the district, are between 20- and 40 percent lot coverage. Which is right where you are proposing to be.

Boardmember Anuszkiewicz: And we don't know what percentage of that, to Sean's question, is grandfathered.

Chairman Collins: True.

Boardmember Anuszkiewicz: I appreciate all this, but this doesn't get to all the issues either. It's not simply lot coverage. At the first meeting, neighbors spoke eloquently about density and about adding five more homes to what is already perhaps the busiest intersection in Hastings. We also talked about the curbcut and the fact that you're going to be bringing cars out onto Warburton Avenue directly across the street from the Straub auto body shop and close to the intersection of Washington Avenue, which created a dangerous situation. While I understand David's point of view, I really think it would be a mistake for us to base our decision on this project based on this presentation.

Chairman Collins: I would agree with that. What I wanted to cover was the lot coverage question because this was an outstanding one we had. But I agree. Look, there are five points in the request for variances here and this was one of them. To me, I'm ready to say this zoning requirement for lot coverage is goofy; that once you look at all the properties and see what this is – the way the data has come out and recognizing that we're absent how many of these might have been grandfathered versus coming before the Board to get to this particular state – it's very difficult in my mind to hold this back for the lot coverage question.

Boardmember Anuszkiewicz: Well, there would have been other ways to address some of the comments we had at the first meeting rather than just lot coverage. For example, we still have five homes here. You could have come back with four homes and that would have addressed that issue.

I have a question about this 5-foot slot you've created. When you created that slot, did you actually take 5 feet out of the footprint of the building, or did you actually just keep the footprint the same and spread it apart?

Ms. Griffin: I reduced the size of one unit from three bedrooms to two bedrooms. I pushed it further north, but I also took square footage away.

Boardmember Anuskiewicz: So by how much did we reduce square footage on this from when we saw it the first time?

Ms. Griffin: The square footage, I know the two-bedroom unit is about 1,500 square feet total square footage instead of like 1,800. So 300 square feet. The footprint hasn't really changed because that walk is over the garage. That's why we really weren't ever to significantly change the coverage. But you know, that idea is not to try to get the coverage down as much as to try to make the building fit within the pattern of development that's in the neighborhood.

There's lots of these buildings that are two- and three-family houses with alleyways in between. I'll just show you – if we're finished with these density studies – that the average for the R-1.5 zone is 41. Sorry we jumped ahead here, but it's 41.2 percent. We actually put the effort into getting these studies for you, but then we went back and really looked hard at the development to see if we could reduce the coverage any more. We got it down to 39.8 percent. This is our current site plan.

Also, last time we were here – just a point I'd like to make – we showed the project done by a different architect. There was a project for many more units, and it was only 32.6 percent coverage. That's because even though we have seven altogether, a lot of coverage is eaten up by this parking area. We developed this parking area so this two-family house could have the four parking spaces it needs and a turning space so when they come out of the parking area they're facing the street and it's a safer way to leave. We also wanted to make sure the two driveways were apart so you would only have this one with the vehicular traffic for the five units and this area would handle the traffic and parking for the two-family house.

Boardmember Dovell: Your patios are all part of this coverage now.

Ms. Griffin: It is. We made sure that we also reduced the size. Last time, when you all weren't here, we showed a change in our scheme that had the patios. But we also reduced the size of the porches in the front. I have to reduce this so we can see the whole picture here. Hold on a second. All these porches are reduced, but the patios are actually a decent size. We have smaller porches in the front, but a bigger outdoor space in back. This porch to the right stayed because it is the access to these units. It's over the garage door, and we really wanted the look of a porch over the garage.

This is our new elevation. Instead of having four 3-bedrooms and one 2-bedroom we now have two 2-bedrooms and three 3-bedrooms. So we did reduce the size of the units. This is a roof now – this is a roof over the garage – and this is like a 6-foot alleyway between the units, which actually allows windows on each side so we'll get more natural light into the spaces.

This idea, it seemed like it was really to try to make the massing and the size of the building fit better with the pattern that's there because this is looking more like a three-bedroom next to a two-bedroom house attached building with an alleyway. These are three connected. If you look down Warburton Avenue you see a lot of that pattern going on.

Chairman Collins: Am I remembering right that there's a plan for some plantings and/or pruning of trees to line Warburton?

Ms. Griffin: Yes, from the very beginning, though, we planned to leave these trees and prune them. Why? Because it's just a screen, these are very big trees, and it's very nice. Also, there's the auto repair place across the street so we felt like it would be beneficial for not just the neighborhood, but the units as well for privacy, to have that kind of buffer. Plus, you know, Warburton Avenue is very active with a lot of traffic. It's good to set everything back and have that buffer. Actually, I designed 400 Warburton and those units have roof decks. The units are actually set back from the edge of the street. When you're up there, you really hardly notice the street. So the green buffer in the setback, I think, helps with that.

I just wanted to pass around some of the projects I found that were given variances for lot coverage. These projects, though, show ... these are the only ones I really could get data on for today's meeting. They're mostly in the MR-O zone on Warburton and Ridge Street. And most of them, except for 457 Warburton, were given variances before 2009 or whatever time period. When our code changed, the definition of structures now includes walks and steps and at that time it didn't. I have an asterisk next to those properties that received variances.

Chairman Collins: These numbers would probably be higher now.

Ms. Griffin: They would be higher. The only one that was recent was 457 that has about 55 percent coverage, which is just practically across the street and then south on Warburton.

Chairman Collins: My sense is that at least I'm satisfied on the question of lot coverage. But Adam's right, we've got a lot of other substantial variance requests and we need to make sure we're as satisfied on all of them. I don't want to belabor the lot coverage issue. If someone else has a question about it let's continue having that discussion. But otherwise I think it's appropriate. I'm satisfied that we're ready to move on to some of the other issues.

Adam, I know you've got a point of view on this and you want to see answers on a variety of different topics. Where would you like to start?

Boardmember Anuszkiewicz: You know, I think I've expressed my point of view on this project. I think we're shoehorning development into a development that is very busy onto a street that's very crowded. I think we heard from neighbors – not at the last meeting, but the meeting I was at two meetings ago – and I feel there's too much density here. I do.

Village Attorney Whitehead: The density is half of what's permitted.

Neil Alexander, partner - Cuddy & Feder: As you know, this was a coordinated review under SEQRA and you're bound by the negative declaration that was adopted by the Planning Board. But more important was the analysis that went behind that SEQRA negative declaration, where we provided a traffic impact study and it was found that this would not have an adverse effect. Plus, two things you all may not be as aware of is, the traffic is being controlled from this specific house. When it's "traffic," you're talking about five new units, but it's right-hand turns out on both properties. If you think about that from a queuing and stacking and all other kinds of interaction questions, right-out and right-out as well.

Chairman Collins: When you say "right-out," you mean ...

Boardmember Dovell: Only a right turn.

Mr. Alexander: No left turns out. So you're going to go with traffic, you're not going across traffic.

Chairman Collins: That I understand, but what's to keep someone from turning left?

Mr. Alexander: Well, there's signage.

Boardmember Dovell: Just a sign.

Mr. Alexander: I mean, that's almost like Sharon Stone, going back to *Basic Instinct*: "You're going to harass me for smoking, right?" People are supposed to comply with the law. We make the rules on the presumption that people are going to comply, they're going to conform, and they're not out there to do things. First of all, there's also a [background noise] associated with it, you're not going to do that. But more importantly, it goes back to there was a vetted traffic impact study by the lead agency, and the negative declaration determination on the traffic issue, which is binding on you.

Chairman Collins: I'm not surprised. I mean, if you simply take a statistical view, by nature when you add, in this case, five to ten vehicles to – as Adam pointed out – arguably one of the busiest roads, the net percentage increase of traffic is very small. If you put these cars on a quiet dead end street that has no cars on it, adding ten makes a huge difference. But here – perhaps perversely because it's already a very busy street – adding in five new ones ...

Boardmember Anuszkiewicz: No, no, that's not how it works.

Chairman Collins: Yeah, it does.

Boardmember Anuszkiewicz: No, it doesn't.

Chairman Collins: The percentage increase is tiny.

Boardmember Anuszkiewicz: It doesn't follow that because it's a bad situation making it a little bit worse is what's the big deal. It makes it worse. It takes a bad situation and it makes it worse. Already that street, in the morning, is barely passable; there's school buses and children that are crossing the street to get on buses there all the time, and the business across the street that does the auto repairs has 50 cars constantly coming in and out of there and parked on the street. So the people in that neighborhood have to deal with that problem. We had the next door neighbor one property over from this explaining to you how she can't even park her car on the street anymore, when she was at the meeting I was at.

So it's not true that you can say it's already a bad problem and who cares, it can't get much worse. I totally disagree with that.

Mr. Alexander: Can I interject one aspect? We have a traffic impact statement prepared by a PTOE.

Boardmember Anuszkiewicz: We got your point.

Mr. Alexander: It was put into the record, and you have generalized concerns from the public at large who have no expertise in the area.

Boardmember Anuszkiewicz: Well, they happen to live there.

Mr. Alexander: I understand that, but ...

Boardmember Anuszkiewicz: And we represent their points of view.

Mr. Alexander: I know, but I have to represent my client's point of view as well.

Boardmember Anuszkiewicz: OK, we understand that.

Mr. Alexander: I'm not trying to proliferate the discussion. What I'm saying is, the lead agency was the one who took a look at it, was responsible to it. And you have your opportunity to comment in the SEQRA process. I think the unit count is completely decoupled from the coverage issue. We're not here for our unit count. I think it was pointed out very early that this is probably the least dense project from the standpoint of unit count for lot area that's been in front of the Board in an extremely long time as far as the multi-families. I can pull out the sentence where Christina qualifies that in her report. They're decoupled issues.

Boardmember Anuszkiewicz: Well, you know, they're all related issues. And the fact of the matter is that we have a zoning plan in Hastings and this building does not comply with it.

Mr. Alexander: I'm sorry, the uses ...

Chairman Collins: Make sure you use a mic, and if you want to just stand over there, too, that way Christina can do her thing.

Boardmember Anuszkiewicz: Whether or not you feel that it makes sense, we have a zoning plan in Hastings and this project doesn't comply with it.

Mr. Alexander: But that's not actually an issue in front of you. What's in front of you is the fact that the use issue ... the only aspect of a use issue that's in front of you is an area variance that's in front of you. And what it is, is the fact that there are uses that are permitted as-of-right on a property and we want to put two of those that are permitted in the zone instead of having all multi-family or all two-family or all single-family projects.

The issue here is not a use permissibility issue, it's an area variance issue. And it's the fact that we'd like to put ... instead of having an all multi-family project on the property, we're trying to honor it – if you go back to the 2013 application, and I know people have a lot of misgivings with it – and I think it also draws out the issue and the problem and the tensions within your code. So we came in with a project that was much more dense in 2013.

Boardmember Anuszkiewicz: You know, you had the opportunity to come back to us with a project that asks for less of a variance and you did not. You chose to come back and explain to us how you're justified in asking for this.

Mr. Alexander: We've reduced our coverage by 10 percent in the request, and part of what we presented last month – which we didn't discuss this much – is how much of that percentage – I'd say about 5.8 percent of the coverage – we've discussed is the result of a 2.8 percent associated with maintaining the house, of which you received 50 signatures on a petition to maintain the two-family house. It's 1 percent for the path, about another 2 percent for the porches and patios.

So we came in with an initial application that met the code in, actually, a much more significant compliant way. We were asked to not do an all multi-family project. We went and did that, honored that. And pursuant to code section 295-24(a) that whole parking area that was redone by the Planning Board we were actually considered legally nonconforming and didn't need to do that. That's part of what we're asking for on the coverage side, for sure, in the upper left corner.

We have looked at ... if you want to take a look at prong two – "alternatives and feasible projects" – we came in with an original project that we've walked away with which we then spent a year working with the Planning Board to get to this design that they found didn't have an impact. The variances we're asking for, particularly with the coverage issue – and I know we moved past it – is to be consistent with the community character. That's what the two- and the three- was about last time, as well, which is yes, operationally we need to keep the underground footprint in order to hide the parking. But aesthetically, above, we're giving you a feel that's more consistent with the pattern of what you want to point back to those residents who came in to speak.

They have twos- and threes- and ones- in their area, and we're doing twos- and twos- and threes- aesthetically. The fact of the matter is that because of the common parking the building in the right quadrant, lower right, is a multi-family because the parking's tucking under and it's all one structure. But it's going to read like a two-family next to a three-family.

Ms. Griffin: I'd like to say something ...

Mr. Alexander: Go ahead, sorry.

Ms. Griffin: ... to address the question of density ...

Chairman Collins: Christina, hold that microphone up.

Ms. Griffin: Because when Andrew Cortese came to me with this project the project was like a 12-unit building. I recommended we do this number of units because I felt it would fit. And also, we went through numbers with Andrew and we found out – and he felt that – in order to completely renovate the two-family house, which is very old and in disrepair, he feels he needs a certain number of units to do the whole project, to develop this property. You know, we agreed that we could reduce the three-bedroom to two, but to go under five the numbers don't work very well if you want to go and do a really great renovation of that building.

Chairman Collins: When you say "the numbers" you mean the finances?

Ms. Griffin: Yes. So I don't want you to think that we're just trying to make little changes. It's hard for us and for Andrew to feel comfortable with a development project, overall project, including that building which, you know, the community wants to say ... there was a petition to save the building. Not only are we renovating it, we're giving it a decent parking area when there's all this like ripped-up asphalt there and no turnaround. So you know, that's part of the overall picture. And that's the reason why we haven't taken out a unit; we're trying to make it as tight as we can.

Chairman Collins: Christina, before you go further can you quantify the financial impact that would result in going to four instead of five?

Ms. Griffin: I don't have those numbers, exactly, tonight.

Village Attorney Whitehead: It's really not relevant to an area variance analysis.

Chairman Collins: But it's something that came up in the discussion I believe in the December meeting, Linda. Which was the applicant is claiming some hardship ...

Village Attorney Whitehead: But ...

Chairman Collins: Let me just quickly wrap up the point.

Village Attorney Whitehead: I'm just trying to protect you legally. By law, you're not required to show a hardship for an area variance.

Chairman Collins: Let me get to this, let me get to the broader point. Adam has stated this, and I think it's compelling. If we were to say to the applicant, "Look, the lot coverage is still too much" – and it's not just the lot coverage, by the way – "in fact, you've added another

unit. And now you've got more cars, more curbcut, wider curbcut – a lot of the other things that are here, more driveway space – that's needed." Could this applicant achieve the same outcome by having fewer units? And that is something we're allowed to ask.

Village Attorney Whitehead: No, because they don't need a variance for the number of units.

Chairman Collins: No, it's everything else.

Village Attorney Whitehead: It's the coverage, yes. So you can ask them ...

Chairman Collins: But it's everything else that follows. We're asking can they satisfy this in another way.

Village Attorney Whitehead: Right. And the driveway width can't change because it was the Village's traffic consultant that asked for that driveway width.

Building Inspector Minozzi: It was the county that requested it.

Village Attorney Whitehead: That's right, it was the county because it's a county road. So they insisted on having that driveway for two-way access to avoid stacking. That would be the same with fewer units.

Chairman Collins: Even if you put one unit there we'd have that.

Village Attorney Whitehead: One driveway for one building.

Chairman Collins: No, no, no. I say one additional unit. Like the old rectory building stays the same, but if you put one unit there we're saying

Village Attorney Whitehead: Well, they wouldn't be doing this for just one.

Mr. Alexander: Alternatively is the fact that you would take down the rectory building and keep the five-unit. Realistically that's what you would do. The driver here on the cost factor, you know, do I have numbers on my fingertips? No. But we all know that renovation and rehabilitation is going to cost more than coming up from the ground. And that's what the driver here is. The driver is that I'm sure the five units pro formas out really nicely. The extra, you're siphoning off from the five to actually do the rectory, which is what everyone wants which is what keeps the turn on Washington versus Warburton, right?

Chairman Collins: Yeah.

Mr. Alexander: So it's sort of basically if you want adaptive reuse.

Chairman Collins: Sure.

Mr. Alexander: The other issues have been addressed, I understand, by other boards, and I understand you all have to get comfortable and understand how they got there. I appreciate that and I acknowledge that. But that's the real driver here. I mean, if you really want to back it down to everyone it's that you've got the new siphoning off some of the top of the new to do the adaptive reuse. Which is what was requested when we came in with the original project, which was more in units in 2013 but smaller in coverage. That project only had – I don't know if Christina can pull it up – I'm guessing from my recollection, is that that project had one driveway, right?

Chairman Collins: Right.

Mr. Alexander: So it didn't need that variance, right, on the driveway issue. I'm sure the paving and structures for parking issue wasn't the same and we didn't have the width of curb. But it wasn't the project anyone wanted because ... truthfully, you can boil it all down to walk away from the five prongs and everything. That's what it comes down to.

Boardmember Anuskiewicz: You know, we have to balance it. If we are to grant a 25 percent increase in lot coverage to you, then we have to give it to everybody or we have to at least consider it. Which would substantially change the character of this, not just your project.

Mr. Alexander: Understood. First of all, Linda will tell you – I'm sorry, Attorney Whitehead, I apologize – that precedent is not an element of the five-prong test. Before you even get to the five-prong test, if you jump up to the top of Village law section 7712(b) the first sentence says: *"In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the community by such a grant."* It's a balancing test, but there actually has to be a detriment to the community. This is across the street from an auto facility. I mean, it gives a turn ...

Boardmember Anuskiewicz: I think you're disregarding all the other people that live in this neighborhood by making that statement.

Mr. Alexander: But I had people who came out, and you read the minutes ... I had three or four people come out last month and talk about how they want the project. So you have a controverted issue on public opinion, at best. And you have expert testimony, which is what the courts go by if you look at [Wiak] XXX and other cases like that. It's not generalized comments by the community at large.

Boardmember Anuskiewicz: Well, it's my opinion that the increase you're asking for does endanger the health, safety and welfare of the people that live in this area.

Mr. Alexander: We're asking for variances which ... I mean, look, I gave a series of appellate division second department cases where zoning boards of appeals were flipped after they tried to do denials of projects where applicants sought variances to replicate the existing condition in the community. The things they talked about when 11 of the surrounding lots are substandard and they asked for the same thing – "how can the Board not do it, when 51 out of 100 how could they do it?" And I can give you the case cites, your attorney has the case cites.

I'm not trying to make it adversarial. What I'm trying to say is, we have listened very, very distinctly to the Planning Board, we listened to the community, which was the precipitating factor in the change and the adaptive reused being proposed. We made those changes. We spent eight months to a year with the Planning Board to get all their recommendations and their neg dec. We came to your board.

Since being with your board, we have taken off the front porches in order to give you the patios, and even upsized the patios as per that comment. We tried to create a physical separation to get it to read aesthetically like a two- and a three-. We did a study of 117 properties that happen to back into our proposition that we are the community character, right? It could have been very different when we did it, but we did do it. And we've given you a list of four or five other variances in the past decade to 15 years that you've granted that are of the same size if not greater.

Chairman Collins: For the lot coverage issue.

Mr. Alexander: For the lot coverage issue. And we've been trying to address your concerns. Some of them have led to our pushing back where the facts have supported us, and some of them have led to accommodations by us where either the facts didn't support us or we thought it was the right thing and not an unreasonable request. We are trying to get to a conclusion.

Boardmember Anuszkiewicz: Also, it's disingenuous for you to say that you've bent over backwards when you initially came with this project to this board with a project that was wildly above anything that would be permitted for this site.

Mr. Alexander: The density was permitted. Again, we're two-and-a-half times the lot area required for the number of units being asked for; two-and-a-half times. It's a disconnect in your code. We could all go back to the fact of black-letter law. It's axiomatic that because zoning laws are in derogation of the common law any ambiguity has to be rendered in favor of the applicant and against the municipality who had the opportunity to draft it correctly to begin with.

I'm not trying to go back to the law here. I'm trying to say – and I'm going to hand it back to Christina – I have to make a record, too. Because we didn't submit the 20-page brief to you on the subject and I wanted to go over some of those points and how we hit the five prongs. I think it's also important to really remember any investment on this property – *any* investment on this property – will need, unequivocally, a lot coverage variance.

Boardmember Anuszkiewicz: I think it's also disingenuous of you to come in and tell us, and mention, that Zoning Board decisions have been overturned and then say you're not looking to overturn our decision. It's clear that you would be if we decided not to ...

Mr. Alexander: No, that wasn't ... I think that's a twisting.

Chairman Collins: I'm sorry, Mr. Alexander. Let me just move this onto a different pathway. Adam, I respect your position on this. I think what I would like to see this board debate – and have a healthy debate – is debating, arguing for, why this should be allowed to continue or arguing why it should not be. I think in the case of the traffic density an authority has weighed in on this. I don't have any quantifiable evidence or any reason to suggest that authority is incorrect. What I want to do, and I think the best guide we have, are the five criteria we have for determining whether or not to approve a variance. They're very useful in this case.

What strikes me as a productive discussion to try to argue this out and talk it out is the extent to which the applicant can achieve the same objective by some other means that reduce the nature and size of the variances that have been requested. That's why I'm pushing to see what other things can be accomplished to try to achieve the same outcome. I think what we're doing in a very satisfactory way is establishing for the record why, in fact, those things are not available to us.

Boardmember Dovell: We asked that question a long time ago when there was one apartment building with 16 units. How many units were in it?

Mr. Alexander: We have that. I think it was 13 or 16.

Boardmember Anuszkiewicz: It was huge.

Boardmember Dovell: It was much bigger. I'm not sure if the extent of variances was greater or lesser with that scheme.

Mr. Alexander: It was different.

Boardmember Dovell: For density, they were compliant because I think you're allowed 17 units. If you simply take the lot area and work out the unit count they were compliant with 16 or 17 units. It would have been a big development for lot coverage. I just want to go back through some of the history, and that called for the demolition of that building.

Mr. Alexander: Right.

Boardmember Dovell: We challenged them at that time to say, look, we believe there should be some interest in preserving that building. We drove them away from one solution to try to come up with something else.

Mr. Alexander: Correct.

Boardmember Dovell: My feeling is, the applicant has been responsive to things we have talked about for a year, more than a year, on this project. I think what they've done with the parking is something we had suggested at one time: that the parking be driven underground. They're not asking for waivers on the number of parking spaces. I think they're parking all the cars you need to park, Christina.

Ms. Griffin: Yes.

Boardmember Dovell: So I think the applicant has been, actually, extremely responsive to our initial concerns, which date back a long time ago. From a single, inappropriate lump on this property, this is something that's much more nuanced, much more within character. I feel I have no problems with the lot coverage at this point because I think there is certainly a disconnect in the zoning ordinance between development coverage and maximum lot area per dwelling unit. Otherwise, you could have 17, 16 houses on this with a 220 square foot

footprint each. I mean, that's the kind of lunacy of the zoning and that's where we're headed with it.

Ms. Griffin: May I make a few comments?

Building Inspector Minozzi: Hold the mic to your mouth.

Boardmember Dovell: I think we talked about neighborhood character, with the original scheme, with a brick apartment building. We pushed toward something more in character. So I think this application has been very responsive to our concerns over time. I'm not troubled with the parking; I don't think we can opine on the ... or, excuse me, on the traffic. Sure, Warburton's busy, but you're looking at fewer units than you might be entitled to. I feel this application has really been extremely responsive and I'm more encouraged by it than I was initially.

Chairman Collins: OK, Christina, go ahead.

Ms. Griffin: I wanted to let you all know that I was the original architect for the building. I usually only do

Boardmember Dovell: You were *not* the original ...

Ms. Griffin: I wasn't the architect for the big building, and I usually only take projects if I believe in them. Actually, from the very beginning I had this idea in my mind that we might be able to do something like what you see at Cold Spring. Have you all been to that town?

Chairman Collins: Yes, I have.

Ms. Griffin: I've been going there for years. There were crumbling buildings by the waterfront and now it's all very much like this. There are attached and detached two- and three-family homes with alleyways in between. It was such a big development and it's more than this; it's, I don't know, about 20 homes. But it was done in a way that it really almost has the same charm as the old buildings in town, the way they did the porches and all the different materials. That was so inspiring to me. I lived on Warburton Avenue for two years, and I remember walking along the crumbling sidewalks. I remember one of the neighbors came out and said, Oh, the Village never does anything here. But I found when you get home ownership in the neighborhood you get people who are taking care of their right of way. I designed 400 Warburton. You should see that place, beautiful ...

Chairman Collins: It is.

Ms. Griffin: ... and the little plant beds out front. The idea is that these would be owner-occupied, which I think is a benefit. Plus, this area is crumbling. When I lived there, I found out that it's not the land of factory workers anymore. There are a lot of people who are very interested in developing these buildings, rebuilding them. There was even a mortality there. Some of these buildings are in terrible shape because they're so old and have been rentals for years. I think the neighborhood's slowly turning around, but it's turning around very slowly because of the extreme nonconformity you see. I have files on certain properties that are so thick, in my office, and had so many different people come and ask me what can I do with that property. I say, well, you need five variances, it's nonconforming, it's very difficult to get approval.

But another thing I want to point is, the Zoning Board does not have the benefit of that grueling review we had with the Planning Board and Hahn Engineering. Hahn Engineering does a great job, I think, representing the Village. I think the first memo's like five pages, then they get the second memo. This goes to the architect and engineer, and they ask many questions about the driveway width and the circulation and the sight lines and the traffic study. A lot of that information we went through with the Planning Board you don't have the benefit of. You were part of the SEQRA process so I guess you could have reviewed it. I don't know if you did, but there was a lot of analysis that went through the Planning Board.

I think this whole area, why are we redoing the parking here, is because it's part of a bigger picture. If you go into that parking area next to that house, the house has a lot of charm but it's in terrible shape. The parking area is really just dirt. There's a dirt area where some cars parked there. There's erosion going on, and it's not safe because you have to back out backwards. That whole parking area added a lot to our coverage number.

Mr. Alexander: Over 2 percent.

Ms. Griffin: Two percent, yeah. We couldn't put the parking under the building. If we did that we'd probably have to take down the building.

Chairman Collins: Yeah. Let me make my argument here for approving this case, and I encourage anyone here on the Board to challenge me on it. I'm with Ray in tracing the origin of this project back to its initial concept, with tear-down of the rectory and construction of, we'll say, somewhere between 12- and 16-person multi-family dwellings. It was very evident that the neighbors rejected that. The neighborhood made its opinion plain that that rectory had important historical significance and they wanted it kept, the first of a couple of – or maybe *the* key – moment in the shaping of this project. Because with the preservation of that building now a priority, it's return to usefulness gets us to a lot of what we have here.

The addition of these buildings is a step significantly back from the 12- to 16-residential structure, the design for which now is very much in keeping with the neighborhood

As I look at these variance requests, they are substantial. I will acknowledge that they are substantial. But they are predicated on the wishes of the neighborhood because of that critical decision that they wanted to see the rectory kept. My question to the applicant, could you achieve the same outcome through some other means, in my mind is answered I cannot see a substantial change to this project that would allow the applicant to achieve their stated goal without breaking some other part of this project that would result in some other objection. Whether that objection be meaningful or not I don't know, but it feels to me like they have threaded the needle here about as well as I could imagine. That's why I'm comfortable with where this project is.

David, what do you think?

Boardmember Forbes-Watkins: Well, I'm very much of the same opinion as you. I hate to, at this hour, bring up another point. But we have one issue we haven't even looked at yet, and that is view preservation. And it needs to be looked at. I don't think – and I'm going to step right to that – the view preservation issue is that great. I think the Planning Board pushed the building to a height where most of the building is simply taking the place of the trees that are already there in terms of view preservation problems.

I'm inclined to suggest that any approval of this project, however, include an insistence on maintenance of these trees, maintenance of this greenery. Otherwise things change quite substantially.

Village Attorney Whitehead: Just on that note also, they still have to go back to the Planning Board. The Planning Board did not do final site plan review because there were still some details to be worked out. That certainly could be a condition of your variance grant, but I think the Planning Board has also looked at that as something that would probably be a condition of their site plan approval. I think certainly as long as there's an auto repair place across the street the owners are going to want to keep those trees.

Boardmember Dovell: Speaking of preservation, if something could be worded into the resolution as well that the existing building be maintained as far as structural. I'm not sure if that's the right word for it.

Building Inspector Minozzi: I don't know if the Planning Board handled it or we have to handle it here – or actually the ARB. After it leaves this board it has to go into the site plan about the roof color so it's not glaring against the neighbors.

Village Attorney Whitehead: The Planning Board talked about that, too, about it not being a great ...

Chairman Collins: Reflective?

Village Attorney Whitehead: Yeah. And there are discussions now towards actually amending the Green Code to take out the requirements. There's a lot of discussion about that. Things have changed in the world of green building. In this part of the country, the use of the reflective roofs is not actually recommended because we do more heating than cooling.

Ms. Griffin: Regarding view preservation, I just wanted to let you know that we reduced the height of the building. There used to be a usable attic. You see this slope here, this is just really decorative because we flattened the roof out. Most of the roofs are pretty shallow and we do not have an area you can stand up in. It's only like 5 feet high, a storage attic. We talked about flat roofs and we all decided that we ... I met the Planning Board and we decided that the flat roofs probably would not be as attractive as the gable roofs. Then we reduced the length of the building by a few feet.

We had a few neighbors here, and the one most affected was at the Planning Board a few times. We met with him at the site. I took pictures, I got into his tenants' apartments and took pictures at each floor. We even put up a mockup with ropes and poles, and the Planning Board went out to see that. So there was a lot of time put into that.

Village Attorney Whitehead: That was the owner of one of the homes on William Street that's right up above this. He actually said he did not want the flat roof when the Planning Board was looking at the flat roof alternative. It's not as attractive to look at from above.

Ms. Griffin: He's in the building right up here, right behind the units.

Chairman Collins: David, did you have anything else you wanted to add?

Boardmember Forbes-Watkins: No, not at this hour.

Chairman Collins: Marc, how are you thinking about it?

Boardmember Leaf: I've seen various iterations of this plan and I think it's getting better and better, and I feel very comfortable with it in its current state. I like the adaptive reuse of the old rectory. I think the variance requested for two uses on a single lot allows that and

also is in keeping with the character of the neighborhood. We've gone over lot coverage, so much I can only say I'm comfortable with the lot coverage where it stands.

The paving in the required yards, again, is for a good reason. It allows programmatic uses that are appropriate so I think that's fine. The maximum width of the curbcuts is something required by the county.

Village Attorney Whitehead: And again, it relates back to saving the rectory.

Boardmember Leaf: In the end, it relates back to that maximum driveway area.

Village Attorney Whitehead: Existing driveway.

Boardmember Leaf: Yeah, it's existing and much improved. I think it's a very attractive plan visually. Even though density may not be in front of us, I'm not bothered by density. I think densities can be a good thing in a town. I think having homeowners in this neighborhood will be very – you know, more homeowners will be very good for the balance of the neighborhood. I think that having more homeowners in this neighborhood will be very good for the balance of the neighborhood.

This is a neighborhood in transition. There are some problematic things about the neighborhood that I think will only be improved by having these buildings go up and have people live there, take care of them, and walk from there one way towards Antoinette's or the other way towards the Village and down towards the river. I think it's going to promote walkability. So generally I'm very comfortable with this project.

Village Attorney Whitehead: I think it would be helpful to just point out if you go through each of the variances you will see that some of them really relate solely to preserving of the rectory and the parking and driveway for the rectory. Then obviously it plays into coverage, as well. But really, the different uses on the lot ... the maximum driveway area, there are over 1,000 square feet of existing, which is already over. So the variance is really only for the addition over that, and even a lot of that is so they could add the turnaround and parking for the rectory. The width of curbcuts is solely because you have to have the two curbcuts because of the rectory. And the paving and structures in the required yards is the parking for the rectory.

Boardmember Forbes-Watkins: I have a very concern-ful (sic) question. I've been looking at the agenda as printed and published. I know we have to do a variance of view preservation review, but it not mentioned on the latest agenda.

Village Attorney Whitehead: Buddy, wasn't it on the notice because we had a whole discussion about that last month?

Building Inspector Minozzi: I redid the agenda for this meeting because I had to change the variances. And I forgot to put it on.

Village Attorney Whitehead: But was it in the notice?

Building Inspector Minozzi: It was in the notice; view preservation was noticed.

Village Attorney Whitehead: Because that was a problem we had at the last meeting.

Boardmember Forbes-Watkins: I know.

Village Attorney Whitehead: So I made sure when Buddy was doing the notice and putting it in the paper and putting it out there. I actually noticed that tonight, too, but it was not ...

Building Inspector Minozzi: That was a typo on my part when I was redoing the agenda ...

Village Attorney Whitehead: Just for tonight.

Building Inspector Minozzi: ... for tonight's meeting.

Village Attorney Whitehead: Right. So what's online, what's been published, includes it.

Building Inspector Minozzi: Mm-hmm.

Village Attorney Whitehead: OK, so you just updated this to update the variance.

Building Inspector Minozzi: That's correct.

Village Attorney Whitehead: So, David, I had that because we went through that last month.

Boardmember Forbes-Watkins: I know.

Chairman Collins: Adam, you want to have the final say here?

Boardmember Anuskiewicz: I just want to say, first of all, that I don't disagree with any of your well-reasoned points of view. I think each of the Boardmembers here has expressed

very eloquently how they feel about the project. I just don't feel the same. I do believe all the goals you all mention could be achieved with a slightly smaller variance. I do like the project, I just believe we should be maintaining more open space and should be a little bit more conservative about granting this kind of a variance. Because I'm concerned about the precedent that it sets. But I do respect your well-reasoned opinions.

Village Attorney Whitehead: Just on the precedent point, the fact that a lot of this relates to preserving the existing building helps make it not be precedent-setting because it makes it unique. That's an important factor to be in your decision so it doesn't create precedent in the future. You're never going to have another property with the same fact pattern.

Boardmember Anuskiewicz: Unfortunately in this area, this is one and only.

Village Attorney Whitehead: Right. And the size of this property is unusual in this area.

Chairman Collins: Well, I think that's what I was trying to get at by pointing out that the project hinges on the decision what to do with the rectory. Once that rectory decision was made to preserve it, it cascaded into motion a lot of other decisions, including a significant portion of the variances and their significance that we have before us.

Village Attorney Whitehead: OK. And that makes it unique.

Chairman Collins: Correct.

Boardmember Dovell: I think it's really a satisfactory result of a process where we achieved a lot: preservation of the rectory, addition of housing, and a solution for the parking which I think really is quite good – parking all under the building. We have no additional lot coverage because of more cars on the surface so I think it's a very satisfactory result. And I think the applicant has been very responsive over the last year-and-a-half or whatever.

Chairman Collins: Yeah, I think longer than that. But yeah, I agree. Does anyone else on the Board want to weigh in before I open it up to the rest of the floor for comment? Does anyone else wish to be heard on the matter?

OK, well, if there's nothing further may I have a motion please?

Village Attorney Whitehead: Can I just add a clarification on the trees? Because I think you're clearing out a little and pruning.

Boardmember Forbes-Watkins: Oh, pruning is fine.

Ms. Griffin: Yeah, [off-mic] look at it, and just for the health of the trees ...

Village Attorney Whitehead: A couple of them may come out to keep the others healthy. I just want to make sure that it doesn't ... it can't be read to say that every tree has to remain.

Boardmember Forbes-Watkins: No, because for ...

Village Attorney Whitehead: They have to maintain a screen.

Boardmember Forbes-Watkins: They'll fall eventually.

Ms. Griffin: [Off-mic] submitted a plan [off-mic] trees that would be removed to the Planning Board.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of 4 to 1 (Boardmember Anuszkiewicz opposed), the Board resolved with respect to Case No. 18-13, CCI Properties Inc., the approval of variances as listed in the agenda: items one, two, three, four and five. In addition, approval for building permit purposes of the proposal with stipulation that the trees planted in front of the proposed five-unit building be maintained to the maximum extent possible. And that the rectory building be renovated appropriately.

Chairman Collins: Four-to-one is the vote. Congratulations, thank you very much. Good luck to you on the project.

APPROVAL OF MINUTES

Regular Meeting of December 10, 2015
Regular Meeting of January 28, 2016

Chairman Collins: Before we adjourn, any feedback, gentlemen, on the minutes from the January meeting?

Boardmember Forbes-Watkins: We have the minutes of both December and January because we weren't able to pass on them. I have passed on minor typographical items from

both minutes for changes, but I recommend approval because they're basically typographical.

Building Inspector Minozzi: My secretary asked me to inform the Board that January's minutes, you received a copy of them with 2015 on them. The official version has been changed to '16.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Minutes of the Regular Meeting of December 10, 2015 were approved as amended.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Minutes of the Regular Meeting of January 28, 2016 were approved as amended.

ADJOURNMENT

Chairman Collins: Our next meeting – I love this by the way, maybe this was always here and just missed it – is March 24.

Village Attorney Whitehead: I will be on vacation, but I can have someone here.

Chairman Collins: That'd be good. We like to have some strength at the end of the bench.

Building Inspector Minozzi: We have some new cases coming in.

Village Attorney Whitehead: Just make sure I get them early enough that I can go over them.

Chairman Collins adjourns the Regular Meeting.