

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING & PUBLIC HEARING  
JULY 25, 2019**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, July 25, 2019 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Acting Chairman Ray Dovell, Boardmember Jeremiah Quinlan, Boardmember Joanna Berritt, Boardmember Carolyn Renzin, Alternate Boardmember Sashi Nivarthi, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

**Acting Chairman Dovell:** Welcome to the Thursday, July 25 meeting of the Hastings-on-Hudson Zoning Board of Appeals. A couple of things before we begin. First of all, is the camera operating? Do we have a camera? Yes, it's operating.

The mailings are in order?

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

**Acting Chairman Dovell:** Okay, we're going to begin with case number 11-19, 25 Devon Way.

**Case No. 11-19  
Mark & Diana Kozicky  
25 Devon Way**

**For relief from the strict application of Sections 295-68F.1.a, 295-40.A(1&2) of the Village Code, for a new garage and driveway addition proposed on their home at 25 Devon Way. Said property is located in the R-10 Zoning District and is known as SBL: 4.110-99-8 on the Village Tax Maps.**

**Nonconformity details of the proposed addition & driveway are as follows:  
Two Side Yards Total Setback: Existing – 63.05 feet; Proposed – 28.8 feet;  
Required – 30 feet {295-68F,1,c}; Variance Required – 1.2 feet  
Driveway Slope 3 percent/20 feet from front property line: Existing – NA.;  
Proposed – 14 percent/14 feet; Required – Maximum 3 percent/20 feet  
{295-40.A(2)}; Variance Required – 11 percent/16 feet**

**Acting Chairman Dovell:** Please state your name for the record, and speak into the microphone.

**Boardmember Renzin:** I need to recuse.

**Acting Chairman Dovell:** Okay.

[ *Boardmember Renzin recused for this matter* ]

**Christina Griffin, project architect:** I'm principal, CGA Studio. I'm here with Lizette Elias-Garcia – she is the project designer – and the homeowners, Mark and Diana Kozicky.

**Male Voice:** Hello, hello.

**Ms. Griffin:** Can you hear me?

**Village Attorney Whitehead:** Yes.

**Ms. Griffin:** Tonight I wanted to pass out our current scheme. We submitted a scheme that still needed two variances. With further study, we have gotten it down to just one, and we've reduced the driveway slope to 12.4 percent. So I just want to hand this out.

**Bldg. Inspector Minozzi:** You've got to go to "mode." It's HDMI-2, I believe. I don't know where the remote is. They hid it.

**Ms. Griffin:** It's on.

**Bldg. Inspector Minozzi:** It's on, but it's not on the right setting.

**Village Attorney Whitehead:** Well, we'll just all look that way.

**Ms. Griffin:** Shall we work with that?

**Village Attorney Whitehead:** Yes.

**Ms. Griffin:** Now, I wanted to go back and describe the challenges that we have with this property, starting with a Google Map image of the neighborhood. I hope that this more thorough, detailed presentation that we're going to give you tonight will help you understand the need for granting the variance and how we've really looked hard at trying to find the right

balance between our client's goals and the requirements of the Zoning Board and impact on the community.

If you see where the location of 25 Devon Way is, you see that this house, I think, is located on a street that comes off of Broadway. This street is 30 feet wide, pretty narrow, and the street leads only to single-family houses mostly with quarter-acre lots, some with maybe a little more. And it's actually a dead end street; very quiet, there's very little traffic, there are no sidewalks.

If we go in a little closer – Lizette, please – I just want to show you that the house is a very small split-level Tudor home and is 1,292 square feet. The house is pushed to the north, against the property line. It has a nonconforming side yard of 7.5 feet. It also has a nonconforming front yard. But you see there's all this greenspace in the back and to the left of it.

The driveway, right now, is to the right of the house, and we're going to show you some photographs. It's in that very narrow setback and is right across from the intersection. It dives down with a 20 percent slope, then you have to turn your car around 180 degrees to get into the garage. So this driveway is really not convenient, not useful, and in my experience most houses with this kind of layout people don't use their garages. They'll leave their car up on top, but won't go down because it's so much effort to try to turn your car around. Plus, there's a lot of paved area in the back.

This is the backyard. This is a huge blacktop area that we would like to remove. We want to remove the blacktop and make this into a green lawn as a play area for the children. You see there's an old door there. We feel that this probably hasn't really been used, for obvious reasons.

One of the goals of the project is to provide a useful, functional, convenient driveway and garage. We also want to expand the house because it's so tiny. So we're planning to expand the house on the west side, which is where the cursor's pointing right over here. This is where we have all this open space. Also, this is the only way we can expand the house and meet the front-, rear yard, side yard setbacks.

On this side of the house we would like to locate a two-car garage, and on top a family room. That allows us to actually span the very tiny kitchen that's there. Then that addition on the first floor is 418 square feet, and up on the second floor we're adding 140 square feet.

This is a view of the side of that yard. There's a slope going in almost like two directions here. But just to, I guess, the west of the house is where we want to put our addition. Which will be a family room and dining room extension, with the garage underneath.

I just want to show you more pictures of the neighborhood and the neighbors' properties because a lot of the topography we have in this property is similar for about three houses to the west. Let's go to the house next door, which is number 19 Devon Way, this house here. We measured the slope of that driveway and decided to look at the driveway from this side. I turned it around to look at the other way – it's the other one, this one – and this driveway slope is 13 percent. We wanted to show you what these driveways look like because we are going to propose a driveway slope of 12.4 percent.

The code requires a slope of 3 percent for the first 20 feet from the property line. One neighbor has 13. Let's go to the next house, this one. This is the front, then I turned around and approximated 20 feet from the property line. This is 11 percent. Then the next one is number 11 Devon Way. It's a 16 percent turnaround, the slope looking up. Today we're proposing that our new layout for the house will meet all the setback requirements and lot coverage. We need one variance, and that's to have a 12.4 percent rather than 3 percent slope, 20 feet from the property line.

Now, I would like to show you the as-of-right scheme. We're asked to provide that. I just want to remind you that our original submission needed four variances and we had a 17 percent slope. We submitted one with two variances, 14 percent. Then we actually went back, we reduced the size of the garage, we pushed the garage back a few feet, and we were able to lengthen the driveway and go to 12 percent. But the reason why we are proposing this is because one of the goals is to really have this beautiful greenspace in the back of the house.

Actually, there's a photograph we should show, if you have it, showing the greenspace that goes between the properties. I looked from Derry Lane in between the houses that are on Devon Way and there's just one yard after another with this beautiful greenspace. What we want to do is avoid putting the driveway and the garage in that greenspace if we can avoid it. That's one of the main reasons for the variance. We find we can't meet the 3 percent slope unless we push the garage and driveway into that greenspace. Plus, it's also going to need other variances.

Right now, I'd like to just turn this to Lizette, who prepared the drawings, because she's going to take you through the as-of-right scheme and then our latest proposal.

**Lizette Elias-Garcia, project designer:** Good evening. I'm going to, first, show you the as-of-right scheme that was requested to be presented today. In terms of as-of-right, it's truly just the 3 percent slope for the 20 percent. That's the only condition we were able to meet, and that was the main focus of our last meeting. This as-of-right scheme is part of the submission we made.

In this scheme, we're proposing a driveway of 1,523 square feet, which is over the amount allowed of 960 square feet. To do this, you would actually have to put the addition on piers over the driveway, drive under the addition to a garage that's in the rear yard, which causes many problems. We would go over the building coverage 26 percent; we would go over development coverage of 42 percent. We would need a rear yard setback variance, a side yard setback variance, and the driveway area will exceed the 960 square foot maximum.

This also, as you can see and Christina mentioned, it really cuts into the backyard. And even if we fill the existing blacktop we would still exceed impervious surface area, et cetera. So I just wanted to show you the scheme so you can see that, unfortunately, it's very difficult, and impossible, to meet that 3 percent the code requires.

After further review of the drawings, we really wanted to minimize the amount of variances. So from four variances, we're only requesting one. We pushed the addition that was butting out into the front setback. We actually reversed it and put it in the rear. This extends into the backyard only 3.7 feet and it doesn't need a rear yard setback. The submission we made, we had not changed the side yard. But when you push it back it ends up impeding in the side yard, so we actually reduced the size of the garage by 1.2 feet to avoid the side yard variance. This also allowed us to extend the driveway a little bit longer so we were able to meet a better slope of 12.4 instead of 14.

I just want to show you the floor plan so you understand what we're trying to do. We actually moved the driveway away from the house a bit, and did that so we can avoid the steep slopes that are right at the entry. This also allows us for a little bit longer of a driveway to get a better slope.

Above, this is the living room addition with a larger kitchen. As you can see, the existing living room is very small. Again, this is a split-level house so it's very difficult to do any addition. It was difficult to even bring the addition up to first floor level, which is something we had briefly discussed at our last meeting. We can't do that because it's a split-level.

**Acting Chairman Dovell:** Mm-hmm.

**Ms. Elias-Garcia:** So our garage is below this addition here, then we extended the deck above the garage. I just want to show you an elevation that shows the slope at 12.4 percent. The first 23 feet is actually the 12.4 percent, then the bottom 20 feet are 8 percent, which is the maximum allowed to be able to get the car into the garage without hitting the doors. As you can see here, this is where we bumped out the addition in the rear instead of at the entry.

**Ms. Griffin:** The current scheme requires one variance, and that is to the 3 percent sloped 20 feet from the property line. Just in summary, the changes from the original scheme was that we pushed the garage back into the rear yard, we reduced the size of the addition for the side yard variance. We increased the length of the driveway to reduce the slope. We reduced the width of the driveway to reduce the amount of impervious surface. And we want you to know that the 3 percent slope of the driveway is not feasible without putting the garage in the backyard, which will then lead to four variances and a building coverage of 26 percent and all the items Lizette just listed. I think there's a total of four variances that are required if we meet the 3 percent slope.

We put together a list of reasons we feel the variance should be granted. One is, the proposed functional garage addition and driveway will enable the homeowner to park off the public street. Note that residents from Derry Lane park their cars on Devon Way because their street is narrow, too narrow for off-street parking, which is adding to the need to provide off-street parking in the area. In fact, the homeowners tell me there are many people who park in the street who are not using their driveways and their garages.

Second is, raising the garage to street level or to almost street level to get the 3 percent slope would prevent expansion of the house, which is a very small home – 1,292 square feet. And the additions we're proposing will bring the house to 19-hundred square feet. It's still under 2,000 square feet. The only way to expand the house is to the west, which is where we want to locate the garage and the driveway which is also the only place for the garage and driveway.

The as-of-right scheme, we believe the intent of the code for 3 percent is based on providing sight lines of traffic along a public street. Devon Way is a quiet, dead end street leading to single-family homes on quarter- and half-acre lots. There are no sidewalks and minimal pedestrian and vehicular traffic. Next item: the removal of the old driveway will eliminate the safety hazard of having a driveway that opens onto an intersection, which is the intersection of Devon Way and Derry Lane.

Next is, we're providing off-street parking to allow for snow removal, especially during emergencies. We all know how important that is in the Village. Next item is, by eliminating the old driveway, which is 1,631 square feet – way over the 960 square foot maximum

driveway area – the blacktop can be removed and replaced by greenspace. Which will be, now, in the side- and the rear yards of the house.

Next item is, after we have explored various schemes to reduce the slope of the driveway within 20 feet of the property line and minimizing the reduction of the greenspace in the rear yard, we decided to push the garage into the backyard by a few feet, decrease the size of the garage in order to reduce the slope to 12.4 percent. This seems to be the best solution we can find that will provide a functional driveway and garage without reducing a significant amount of the backyard and greenspace.

The last item is, please note that the current scheme only requires one variance to the 3 percent driveway slope 20 feet from the property line. I hope you will understand and appreciate the need for this variance.

**Acting Chairman Dovell:** Well, I think all of these have been really responsive to the last time we met. You managed to get rid of a number of the variances, which is terrific, without seemingly compromising the integrity of what you're trying to reduce. I think it's really responsive and have no problem with it as long as the town is okay with site lines off the ...

**Bldg. Inspector Minozzi:** Especially on this particular block.

**Acting Chairman Dovell:** I have no further comment. I think you've been very responsive, and I think it represents minimal variance at this point.

**Boardmember Nivarthi:** I concur.

**Boardmember Berritt:** Yes, I would agree with Ray. I think from the last time, when we were seeing if there was anything that could be done as-of-right, you've demonstrated that's not possible. The overall reductions, I'm fine with that, too.

**Acting Chairman Dovell:** Jerry, anything?

**Boardmember Quinlan:** Yes, I'm fine with it. Looks good to me. I have no problems with it. Small house, good addition, driveway's fine, and it all looks good.

**Acting Chairman Dovell:** If there are no other comments, may I have a motion?

**Village Attorney Whitehead:** Public?

**Boardmember Berritt:** There weren't any letters. Was there a letter?

**Bldg. Inspector Minozzi:** No, there was no further letters.

**Michael Goldberg, 19 Burnside Drive:** I have a question. I just became aware of this. I'm on the property that's behind it. I don't know anything about variances or anything. The only thing I will say is that I know when you add roofline – and, again, it's maybe not within the variance codes – that there's ... we have a significant water issue in this community, in this part of the community, many of them. I'm wondering if there are provisions for drywells and all when adding rooflines inside of this code.

**Bldg. Inspector Minozzi:** Yes, they have to handle their proposed runoff to a subterranean system or in a way that doesn't negatively affect any of the neighboring properties.

**Mr. Goldberg:** Okay, great. That's perfect. It looks good, then.

**Acting Chairman Dovell:** Anyone else?

**Village Attorney Whitehead:** It no longer needs the side yard variance.

**Bldg. Inspector Minozzi:** If you look at the agenda, the agenda has the updated numbers.

**Village Attorney Whitehead:** Well, no, because it no longer needs a side yard ...

**Boardmember Berritt:** Sorry, I'm looking at the wrong thing.

**Village Attorney Whitehead:** This is a revised plan.

**Boardmember Berritt:** There was just one variance.

**Bldg. Inspector Minozzi:** Sorry, new plan.

**Village Attorney Whitehead:** Could you just say it has to be in accordance with the plan submitted dated July 25, 2019 because that's the revised plan?

**Boardmember Berritt:** I'm looking at different documents.

On MOTION of Boardmember Berritt, SECONDED by Boardmember Quinlan, with a voice vote of all in favor the Board resolved to propose for Case Number 11-19, 25 Devon Way, for relief from the strict application of Sections 295-68F of the Village Code for a new garage and driveway in accordance with the plans dated July 25 for the driveway slope 3

percent, 20 feet from property line: existing not applicable; proposed 12.4 percent; required maximum 3 percent over 20 feet; variance required 9.4 percent.

**Acting Chairman Dovell:** Unanimous, thank you.

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

**Boardmember Quinlan:** Good luck.

**Acting Chairman Dovell:** Okay, we'll move to case 13-19, 280 Warburton Avenue.

**Case No. 13-19  
Katalin & Gabriel Ce  
280 Warburton Avenue**

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

**Nonconformity details of the proposed construction are as follows:**

**Rear yard: Existing – 35.25 feet; Proposed – 4.0 feet; Required – 25 feet {295-69.F.1.(b)}; Variance Required – 21 feet**

**Side yard: Existing – 4.83 feet; Proposed – 3.25 feet; Required – 8 feet {295-69.F.1.(c)}; Variance Required – 4.75 feet**

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

**Acting Chairman Dovell:** This is a fairly involved case, so if you could focus on going through the requests and variances one by one as you present it.

**Gabriel Ce, applicant:** Okay.

**Village Attorney Whitehead:** The Planning Board did hear this application last week and thought it was important to have you speak – as the variances are significant – to have your input on the variances before they did anything further. It requires, from the Planning Board, steep slopes and view preservation referral.

**Acting Chairman Dovell:** Okay, so we can't vote on this this evening?

**Village Attorney Whitehead:** Not on view preservation.

**Acting Chairman Dovell:** Not on view preservation, okay.

**Village Attorney Whitehead:** You can vote on the variances.

**Acting Chairman Dovell:** Okay.

**Mr. Ce:** I'm the property owner. I have with me my wife here, who is also an owner, Katalin Ce. We are here to present our house addition, and we have a few images here. They're all part of the package that we submitted. We arranged the order just to streamline the conversation of the board.

The introduction, we moved to the house in 2015. It's a two-family house; we live on the second floor apartment. There's a first floor apartment where we have tenants. Since then, we have been concentrating our efforts on repairing the house, fixing the roof, fixing the first floor unit for our tenants. And mostly doing site work, as the property is in a steep slope area. So we've been doing a lot of erosion control. Part of this project is to remediate the totality of the property – or, hopefully, to remediate the totality of the property – in terms of water runoff issues.

You know, our family is growing. As you can see, my wife is expecting our second son. Our family has doubled in size, as has our property tax since we moved in. The most logical solution would be to convert the house into a single-family, which is not really an afforded option for us at this point. And also the house was, as you'll see in a minute, built back in 1927 as an income property from our neighbor so has been always a second floor property. I was able to track down the records for two censuses and see that there was always two families living. And we think the density on that corner of the Village is a good thing to keep. In addition, adding a staircase to connect the two floors would, you know, eat a lot of very precious real estate that we are fighting to keep.

This is an image from 1914. This is pre our house. It shows the empty lot from Pinecrest. This house here is from a noted engineer who built 1 Pinecrest and then, in 1917, built out house, again, as an income property. The house belonged to him until 1947, when it was sold. Back then, as I was saying, the house was occupied always by two families. When I say two-family, I mean husband, wife, two sons – or two kids or three kids – not just a single person living. You know, as you can imagine a 700 square feet back then – under the living

standards that were then – you could afford that size of family. Nowadays our living standards are changed. You can't really afford just to have a single closet; you need to have a larger closet. We are not that type of people, but our family is growing and we need more space.

This is a quick overview of the existing floor plans. You can see on the second floor, where we live, we have two bedrooms, a kitchen, a small living room, a small bathroom, and two closets which, due to the gable structure of our roof, is really not usable. They're like 2 feet tall at the perimeter of the house. Then the floor plan of the fourth floor unit, which is an open space which we believe it used to have two bathrooms as it was leased as a two-bedroom before we purchased the house.

**Acting Chairman Dovell:** So that floor is the rental component?

**Mr. Ce:** Is the rental, yeah. So the addition is to maximize the second floor unit.

On overview of the site, exhibit number one shows this big grand foche, the perimeter of the property back when it was built. Everything belongs to 1 Pinecrest. Then the new shaded area here shows when the property was finally sold to its first owner in 1947. For one reason or another they made the lot look the way it looks, maybe to have direct access to the Aqueduct or I'm not sure what the reasons. But we have this re-entrant corner on the back of our property that, when you add the zoning setbacks, it really makes any construction quite challenging. This is the buildable area now, based on the setbacks.

You see that we have this very skinny piece here that runs east-west. It's about 17 feet. And a house on 17 feet, or an addition, is really like thinking of a shotgun type of property and quite remote from our own house. This would require a whole other variance of two structures in a zone that only allows for one structure. We looked at other options, whereas to add, next to the house – you know, being a zone-conformed option – but the connection to the existing house keep in mind that we enter our house towards the back.

So all the circulation is here. Consequently, our addition would be 30 percent corridors and would take most of our lot coverage on connecting and not really having a livable space. In addition to that, I want to bring to the board's attention that this is one of the few areas along the avenue where you have a straight connection to the avenue to the Aqueduct. Placing any structure here and blocking that I think would be ... we took that in consideration. We don't want to do that.

The house I see as almost a gateway before you get to downtown. Like, you go to the Lenoir Reserve (*sic*) and Graham School greenery. Then the house is this gate, and then from the

house on it starts the density; you know, the density until you get to downtown. The house is kind of covered in greenery and nature, and we start thinking maybe the best place is actually to put on the back. So it's tucked away, it's not quite visible from the street. You can still gradually ... the density houses can still gradually increase until you get down to Washington. On top of all that we also have huge steep slopes. The bottom of our property is that contour line 48, the top is at 96.

**Acting Chairman Dovell:** Could you go back to that just a second? So what's considered steep slopes here?

**Mr. Ce:** Everything that's pink.

**Village Attorney Whitehead:** The whole property.

**Acting Chairman Dovell:** The whole property except the little corner there.

**Mr. Ce:** So our proposed solution, again, this is the variances we are asking. We are required to have a 25-foot rear yard. We are proposing 4 feet, which is a large 21-foot variance. We are required to have 8 feet minimum side yard. Currently our house is noncompliant, or nonconforming, with the zoning because it was built before the zoning. We are proposing 3 foot 3, with a variance of 4 foot 9.

The scope of work, just looking at the existing right now, is removing a few trees in the back. They are all small trees, very young trees. There's no really mature, 50-year-old trees – they're all small – and a small concrete curb and patio on the back. Then followed by grading, and the house – the addition – is on the back of the house and is shaded on here. We engaged with our neighbors, especially 1 Pinecrest – the most affected by our addition – earlier on on the project to make sure that we are all on the same page. The agreement was that the addition will not over-pass the roofline of the existing structure. This way, it doesn't impact their view in any way.

As part of the project – as I was referring earlier – we have two pairs of two-tiers retaining wall, pressure-treated retaining walls, that are sized and engineered to secure the hillside. That will help also mitigate some of the soil erosion that the rain, like last Thursday we had, is quite accentuated in our site.

Another view of the floor plan. We are placing, in terms of the program, our entertaining and cooking portion of our house on the addition. So there is no tenants underneath, and the sleeping areas are on the existing house above our tenants to minimize disturbance. The shading diagram, the horizontal lines on the existing house, shows the existing encroachment

of the existing house. Again, yellow is new construction and then the shade over is the encroaching of the addition.

Same thing for the elevations: existing elevation from the south, looking from Pinecrest Drive, and then the addition on the back. Same thing from the front on Warburton: addition on the back, and the sets of retaining walls. Then from the north side: addition on the back. Here you can also see how we are tiering (ph) the retaining walls to limit the height to make the railroad tie with the retaining wall work.

Finally, the east elevation shows the back of the house where our entrance is. The dashed line is the lawn of 1 Pinecrest. You see that the addition does not overpass the lawn of Pinecrest so it's really not blocking the view.

Looking back on the original photo, we tried to pair our new photos with the originals. This is what it used to look like, and now how it looked like last winter. The existing condition, you see that the addition from this view and this public experience is quite negligible. You'll see a little corner on the back. Same thing from Warburton. This is going southbound on Warburton with the addition on the back, and also you can see the set of retaining walls. From standing on the lawn of 1 Pinecrest looking down, you see the addition does not block the river. It does block the avenue, which I see as a good thing.

Finally, a view from the Old Croton Aqueduct. The photos were taken during the wintertime so you can see the view through the trees and see that there is a river view from the Aqueduct. And the addition also not blocking the river view.

So finally, I just want to finish the final considerations here: this part of our application package, the letter of sentiment and reactions from both of our neighbors, 1 Pinecrest and 292 Warburton. We understand that what we are asking is a very large and atypical variance for the board. We're asking for a 21-foot variance on the rear, but by no means are we trying to overthrow the zoning here. But the thing I want to bring to the attention of the board is that looking back on what the side yards really are supposed to be – and I'm not trying to educate anyone, but more like a reminder – mainly, is to allow air movement, daylight, privacy, and safety in case of an earthquake or a fire so one structure doesn't tumble upon each other.

If we imagine our site being a grid, the zoning code would allow us the structures to be 16 feet from each other if you take 8 feet from the property line of each one. The pinch point of our addition is over 26 feet. So, in a way, it conforms with the concept of required yards although it doesn't comply with the raw numbers of our required yards.

Anyhow, this is what I had prepared for tonight.

**Acting Chairman Dovell:** Thank you. Some questions. What is the depth of the lot through the short leg from Warburton back?

**Mr. Ce:** From here, all the way to ...

**Acting Chairman Dovell:** No, the short dimension to the ...

**Mr. Ce:** From here to there, I don't have on top of my head right now. But I want to say it's about 50 to 60 feet.

**Acting Chairman Dovell:** Fifty feet?

**Mr. Ce:** Yeah, I would say in that vicinity. Sorry, I don't have the numbers in front of me right now.

**Acting Chairman Dovell:** So what prevents you from attempting to make more of a lesser variance solution here? Could you just go over that? You know, why didn't you push the addition off the back and out to the north?

**Mr. Ce:** We did look at several options, and I can just go back to the slide that shows our allowable construction area. We did look at options that placed the addition here and placed the addition there. The issue, most of the time, is how to connect to the existing house. One thing, we like the geometry of the roof of the house. You know, it has a very interesting character. That's one of the main things why we bought the house. We wouldn't want to really damage the completeness of the house. Adding an addition that would have some sort of pergola or corridor wouldn't really make the addition functional.

**Acting Chairman Dovell:** But what you've done in your proposal is, you have a very nice little link between the existing structure and the new structure.

**Mr. Ce:** That's right.

**Acting Chairman Dovell:** Which is quite handsome. I think it makes sure that you maximize your windows all the way around. Why couldn't you have done the same thing building to the north and not to the east?

**Mr. Ce:** We have an existing exterior stair here that would place the addition beyond that. This would become part of the addition but, again, then we are using some of our lot coverage – which we don't have much – for circulation, and not much for the space we

needed.

**Acting Chairman Dovell:** So you're saying that you would've gone over in terms of development coverage.

**Mr. Ce:** Potentially. Potentially we will have to ask for a variance for lot coverage.

**Acting Chairman Dovell:** For development coverage.

**Mr. Ce:** Development coverage, yeah.

**Acting Chairman Dovell:** For the terraces.

**Mr. Ce:** Right.

**Acting Chairman Dovell:** I mean, it's a significant variance.

**Mr. Ce:** I understand.

**Acting Chairman Dovell:** And I think what's in its favor is that it's basically – if you look at the section – a landscape addition. Because it's buried, when you're looking down on it you're considerably under ...

**Mr. Ce:** Right, it's almost like a bunker.

**Acting Chairman Dovell:** Right. I wouldn't use that word, but ...

[laughter]

And the advantage that you get by doing this is that you create another outdoor terrace ...

**Mr. Ce:** Right.

**Acting Chairman Dovell:** ... above. But I'm still not convinced that you can't get the same programmatic elements that you're looking for in a lesser-variance scheme. We're charged with looking at the extent and the nature of these variances, and to try to challenge applicants to minimize the variance. That's what we're charged with doing, so I am not convinced at the moment that you have done that. I think the addition is very well done and I think that it's sympathetic to the character of the neighbor and especially to the charming nature of your house. But I'm wondering if you can't achieve this in another way.

**Mr. Ce:** Absolutely. I have some images of an addition that's placed on the back I could show now if the board would be interested. Because one of the aspects we're not talking about is view preservation. If the addition goes to the side – as you're asking, if there was an investigation – there is a view preservation issue that will raise ... the view preservation would be more concerned than what we are doing right now. I can pull the image right now if the board would be interested in seeing it. I imagined that would be a point of discussion.

Again, just starting from the same standpoint – existing, what we are proposing – this is if we are building a site addition because it would require almost like two floors site addition if we are to conform with the size of what's buildable for us.

**Acting Chairman Dovell:** Could you go back to the diagram that shows the as-of-right envelope? So what you're saying is that by doing that it's going to create a greater obstruction for view preservation.

**Mr. Ce:** Correct. If I can just flip through those images really quickly here, I have the same point of reference in this regard. This is if you are to add a third floor to the house, which is a whole other discussion. But we did explore it, and this is if we are to put it on the side.

**Acting Chairman Dovell:** But this diagram is really not relevant because this is way overbuilt in terms of building coverage and everything else. This is not an as-of-right envelope that you're showing here.

**Mr. Ce:** I guess what I'm showing is that this is talking about the square footage we need. I get that it's not going to be permissible, but this is the square footage we need on the side.

**Acting Chairman Dovell:** I don't think this is relevant.

**Mr. Ce:** Okay.

**Acting Chairman Dovell:** Because you're going to be over in terms of building coverage and over in terms of development coverage.

**Mr. Ce:** Okay.

**Acting Chairman Dovell:** I think what you've done is very ... it's very well done, and I think it serves your purposes very nicely. But again, we have to look at this in a way to try to minimize some of these variances. Right now, you're looking at significant rear yard

variances and side yard variances. We could be convinced, but I think you need to do some more due diligence here and explore a minimal variance scheme for this.

My personal feeling is that you've created a particular solution that works for you, but you haven't tried to minimize it; you haven't tried to minimize the yard variances. Now, you may do this and demonstrate that this doesn't work at all and you have to go back to what you'd originally proposed. But I don't think we have enough information to go on to say that this represents a minimal variance for your programmatic need, as well done as it is. I commend you for that. I just am not comfortable, at this point, in advancing this discussion.

I don't know. You've heard from me, I think you should hear from the other boardmembers at this point.

**Boardmember Nivarthi:** I think considering the shape of the lot – and basically, the hand you're dealt with – I think you've done an excellent job. But I have the same concerns. You're looking at it from the prospect of maximizing what you can get out of this. And is there any other way you can bring the variances down, especially towards the rear? Because one thing we need to be considering is, you're almost looking at 4 feet all around the whole rear section; a variance of 4 feet, right? That would be a significant amount and you would be kind of setting a precedent. Before setting that, I want to make sure that we have exhausted all the options.

**Boardmember Renzin:** I liked a lot of what you said, particularly the thoughtfulness of thinking about the impact on the Aqueduct by not building in that long slot. I do think that there would be an inclination to want to agree with you because it's such a well-done design, but we can't do that just because it's a well-done design. We have to do it because the as-of-right, or a more minimized variance scheme, doesn't work. So we need to see why that doesn't work before we can say this is the only way that it will work.

Even though you did a great job, sort of thinking through the design elements and the impact elements from the various viewpoints, that's not what we're charged with. We're charged with trying to make sure it's the least variance.

**Mr. Ce:** No, I understand. I guess I'm not really able to explain the process. We did look at those options, and I can bring those options to our next hearing – if I'm allowed to present that – to prove that those options were explored.

**Acting Chairman Dovell:** That would be very helpful.

**Mr. Ce:** Okay.

**Acting Chairman Dovell:** I think what is working in your favor is, you viewed this addition almost as a landscaping element. And I think that's going to really work in your favor in terms of preserving view corridors and minimizing the effect of the variance in general. Hopefully you can come up with something that's going to give you what you want and try to minimize this a little bit.

**Boardmember Quinlan:** I just want to go back because I don't understand. Go back to the picture – keep going, the whole picture – of the street.

**Village Attorney Whitehead:** The old one?

**Boardmember Quinlan:** Yes, the old one there. The old one, I don't understand that at all.

**Mr. Ce:** The house is not here.

**Village Attorney Whitehead:** His house wasn't there.

**Boardmember Quinlan:** Where is the lot? Okay, now go to the next one.

**Village Attorney Whitehead:** That's the existing.

**Boardmember Quinlan:** That's the existing house, the pink house or whatever it is. That's your house right there.

**Mr. Ce:** That's right.

**Boardmember Quinlan:** All right, so one of the problems that I have is we are just like blowing the backyard variance like it doesn't exist. I mean, 25 to 4 is just a huge variance. That's not even close. Unlike Ray, I'm not really ... the side yard I could live with because side yards are kind of weird in Hastings anyway.

**Village Attorney Whitehead:** It's going off the existing.

**Boardmember Quinlan:** The side yards are, in my opinion, kind of too restrictive to most neighborhoods. But the backyard is 4 feet instead of 25.

**Village Attorney Whitehead:** What's the setback to the existing house?

**Mr. Ce:** To the 1 Pinecrest house?

**Village Attorney Whitehead:** No, your existing rear yard setback.

**Mr. Ce:** Thirty-five.

**Boardmember Quinlan:** But other than that I agree with everyone else. The view preservation's important, and what your scheme does is really preserve a lot of views that otherwise would not be preserved if you go out to the north side.

So let's go back to the picture where you can see what your legal no-variance ...

**Village Attorney Whitehead:** Envelope.

**Boardmember Quinlan:** Keep going. Let me just ask you this.

**Village Attorney Whitehead:** Jerry, you need a mic.

**Boardmember Quinlan:** What's over here?

**Mr. Ce:** That's the slope.

**Boardmember Quinlan:** I know, but the whole lot is steep slope. Right?

**Mr. Ce:** Right. This is all ground cover, if you would call it that. There is no structure or anything.

**Boardmember Quinlan:** No, I understand. So this is the end of your house, right?

**Mr. Ce:** That's the patio.

**Acting Chairman Dovell:** The terrace.

**Boardmember Quinlan:** This is the terrace, no?

**Mr. Ce:** Right.

**Boardmember Quinlan:** Is this the house?

**Acting Chairman Dovell:** No.

**Mr. Ce:** That's a patio. The house is shaded in gray here.

**Boardmember Quinlan:** Oh, I see. So could you go out this way?

**Mr. Ce:** That was required, that we close an existing stair or demolish and do something else. It would be more involved, would require more construction.

**Boardmember Quinlan:** Would be more expensive.

**Mr. Ce:** Would be more expensive.

**Boardmember Quinlan:** That's the key. So this is the patio. Now where is the second story? Is it above here?

**Mr. Ce:** Right, the house is a unique volume first and second story.

**Boardmember Quinlan:** So you could build out here and you wouldn't be affecting the second story at all, right?

**Mr. Ce:** Well, I would have to connect somehow.

**Boardmember Quinlan:** Well, it doesn't have to connect to the second story.

**Mr. Ce:** That's what I mean.

**Acting Chairman Dovell:** That's where he is.

**Village Attorney Whitehead:** That's what he's trying to do.

**Acting Chairman Dovell:** The first floor is the rental unit, Jerry.

**Boardmember Quinlan:** Oh, the first floor.

**Mr. Ce:** The section can explain that if ...

**Boardmember Quinlan:** Oh, I see. And that's where, you know, you'd have to put it on stilts or something, I guess. Okay, I'm just coming to an understanding here now.

**Village Attorney Whitehead:** The more you understand, the more it makes sense.

**Boardmember Quinlan:** Okay, I have no other questions.

**Acting Chairman Dovell:** Anyone from the public?

**Boardmember Quinlan:** Let me just finish. You know, I really like the design, like everyone else does. But I don't know. Really, the back rear yard setback is a problem. And you probably didn't even know it when you bought the house but, you know, sometimes you have to live with what the yard looks like.

So I'll agree with Ray and say why don't we just see if you can minimize some way and still keep the integrity of your design. Come back, and we'll take a look at. And I'm not saying I won't approve your original design either because it has a lot of benefits. But that's what concerns me: the rear yard setback.

**Mr. Ce:** No, I understand.

**Boardmember Quinlan:** Why even have the zoning if we're going to blow it out that much?

**Mr. Ce:** I understand. I know the variance we are asking is something, again, no way we want to set a precedent for other projects. We want to make sure that the board understands the hardship of our site. I think one thing to consider is, there is no structure behind our site that we will be encroaching, even with the 21-foot variance. But I understand the concern of not granting a large variance.

**Boardmember Quinlan:** Well, that's one thing that bothers me. I mean, we have our own ... everyone has their own ideas about how effective precedents are.

**Village Attorney Whitehead:** And it's different. When you look at precedent you have to look at the site and is there going to be another site with another existing ... the existing building is part of that, that's going to be exactly like this that it would create precedent.

**Boardmember Quinlan:** It doesn't have to be *exactly* like it. And in Hastings I would guess there are a lot of lots that are pretty peculiar since we were built out well before there was zoning. That's the problem.

**Mr. Ce:** And I'm sure they ask for different variances that I'm not asking here. Everyone has their addition.

**Boardmember Nivarthi:** Mitch, you would like to speak?

**Boardmember Quinlan:** Well, I'm finished.

**Mitchell Koch:** I'm a neighbor. I've watched Gabriel work on the project. I just want to remind everybody of the difficulty. The project really stems from the location of the existing structure, which is only 4 feet from the property line. To have a connection from the side yard, and to connect to it, it's clearly – without getting a very kind of tenuous, butterfly connection between two buildings – I think he's done a really good job. And I would remind everybody that 1 Pinecrest and the adjacent properties have virtually no rear yard anyway. I mean, they're very strange, unique properties with a steep slope that just ends at Pinecrest Drive. It wouldn't be out of character that he has no rear yard either, for that matter.

**Boardmember Renzin:** I think we need to see the weird butterfly, tenuous connection to see that that doesn't work.

**Acting Chairman Dovell:** I think there is a hardship. It's the pitch of the site and a narrowness through a portion. The confirmation of the site does present challenges. And we certainly want to see you succeed, but we think you need to do some more due diligence ahead of time.

**Mr. Ce:** Sure.

**Acting Chairman Dovell:** We could vote on it this evening, or we could adjourn.

**Mr. Ce:** In terms of my decision?

**Acting Chairman Dovell:** Yes.

**Mr. Ce:** Well, if I can come back to the next meeting I would ...

**Acting Chairman Dovell:** Yes, of course.

**Mr. Ce:** ... prefer that.

**Acting Chairman Dovell:** We don't meet in August.

**Village Attorney Whitehead:** But you meet in early September.

**Bldg. Inspector Minozzi:** September 5th, I believe.

**Boardmember Quinlan:** Yes. Thursday, September 5th.

**Village Attorney Whitehead:** I thought it was the week after.

**Acting Chairman Dovell:** Okay. It's very nice. I think you're going to get something that's satisfactory.

**Mr. Ce:** I appreciate that.

**Acting Chairman Dovell:** Thank you.

**Mr. Ce:** Right, thank you.

**Boardmember Quinlan:** Thank you.

**Acting Chairman Dovell:** The final case of this evening is 38 Windsor Road. And you have to recuse yourself.

[ *Boardmember Renzin recused from this matter* ]

**Case No. 14-19**  
**Rachel Thornton & Anthony Fischetti**  
**38 Windsor Road**

**For relief from the strict application of Village Code Sections 295-20C.2 and 295-55A for the reconstruction and extension of an existing side yard masonry patio for their home at 38 Windsor Road. Said property is in R-10 Zoning District and is also known as SBL: 4.110-108-25 on the Village Tax Maps.**

**Variiances are sought for an extension of an existing nonconformity in relation to paving in a required yard.**

**Extension of an existing nonconformity in relation to paving in a required yard: Existing – 84 square feet; Proposed – 190 square feet; Allowed – None {295-20C.2 & 295-55.A}; Variance required – 190 square feet (106 additional square feet).**

**Mr. Koch, project architect:** I'm here with Rachel Thornton. She and Anthony Fischetti own this property at 38 Windsor. As you can see, we're here specifically because there is an existing patio that they would like to rebuild which was built into the side yard. It's an on-grade patio. As everybody's been pointing out in this neighborhood, Shadowlawn ... well, I'm going to ... did I just do that? I'm sorry.

**Bldg. Inspector Minozzi:** Yes, I think so. I think it's your connection.

**Mr. Koch:** Stop squirreling around with this thing, right?

**Village Attorney Whitehead:** Yes, stop moving it.

**Mr. Koch:** All right.

There's a water issue, and basically the neighbors above are dumping water on their property. Part of this project is to gather this water up and put it into drywells. That's going to require rebuilding the existing patio, raising it a little bit, and doing a stormwater management scheme.

In addition to that, they would like to connect ... I don't know if anybody knows the property, but it was the model house for Shadowlawn. There's this charming pavilion up on the hill here that's connected by a pretty grand stone staircase that goes up there. The idea was to connect the patio to the stairs, and frankly that's not even part of the question. That's all as-of-right, but that's the big picture here.

The blue shows where the existing patio is in the side yard, and they would like to rebuild that patio as part of this project. The orange bits are where they would like to increase the size of the patio, part of which is in the side yard. And part of which you can't see, but on the east side of the house here this is where you access the backyard from the side of the house. Their garbage is back there. All the working part of the house – the kitchen, et cetera – is all in this zone here. That's the effect.

Rachel can speak to this a little bit better, but there is a very lovely retaining wall here. The idea was that the patio would butt against it and would help to kind of create an outdoor room. But it's in the side yard. They've submitted letters from the neighbors here to support the project. And the impact on site – on the neighborhood and, specifically on this neighbor – is minimal, as it's all on grade. It would be a native, like New York, bluestone on stone dust very nicely integrated with this site.

So that's it. I mean, it's not a very complicated request but it's about this patio.

**Acting Chairman Dovell:** Do you have photographs of this?

**Mr. Koch:** If you do, come up here.

**Rachel Thornton, applicant:** I don't think I do.

**Mr. Koch:** All right. There were neighbors' support letters that have been submitted and we'd like them read into the minutes if you need them to convince you.

**Acting Chairman Dovell:** Did you submit photographs with this?

**Mr. Koch:** There are some photos, yes, but essentially I didn't bring them as part of this package. The back is a raised hillside, wooded. There's a copse of trees and shrubs that separates the neighbor's property from their property. Otherwise, their lawn is ... you know, this is all lawn, this is all wooded, this is a line of shrubbery.

**Acting Chairman Dovell:** Where does this put development coverage in terms of percentage now?

**Mr. Koch:** The coverage is not an issue here at all.

**Acting Chairman Dovell:** I just wondered where you were in terms of percentage.

**Mr. Koch:** Bear with me for a second, please. Development coverage, which is what we're talking about, they're allowed 35 percent. The existing is 25 percent going up 4 percent, so that's not a significant impact and we're well below the maximum requirement. It's really the fact that everything – unlike how we would like it to be in a perfect world – every property, would be divided. But the property, the house, was built on the side of the lot and thus the patio's on this side and it is what it is. It always seems that it works that way.

**Acting Chairman Dovell:** Well, I think it's minimal in character, and I have no objection to it.

**Boardmember Nivarthi:** What's the height of the retaining wall on the east?

**Mr. Koch:** It's about a 3-foot wall, something like that.

**Boardmember Nivarthi:** So the extension of the patio would butt against this ...

**Mr. Koch:** Exactly. Actually, it would sort of engage it a little bit just to finish nicely against it.

**Boardmember Nivarthi:** And does it grade towards the front of the house?

**Mr. Koch:** No, it's a little bit on the side. But it's really for access to garbage and that sort

of stuff that's kept around the side. There is a fence that closes off the backyard for the kids.

**Ms. Thornton:** The side yard is ...

**Bldg. Inspector Minozzi:** You have to speak into the microphone.

**Ms. Thornton:** I'm one of the owners of 38 Windsor. The side part that engages the patio is going to be more just stepping stones on the side of the house.

**Boardmember Nivarthi:** All right, thank you. I have no further questions.

**Boardmember Berritt:** I have no problem with this.

**Boardmember Quinlan:** I have no problems, I have no questions.

**Acting Chairman Dovell:** Anyone from the public wish to be heard? May we have a motion?

**Boardmember Berritt:** Someone else can do it. I mangled the last one.

**Village Attorney Whitehead:** This one's easier.

**Boardmember Quinlan:** Go ahead, please.

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Berritt, with a voice vote of all in favor the Board resolved to propose for Case Number 14-19, 28 Windsor Road, seeking relief from the strict application of the Sections 295-20C.2 and 295-55A of the Village Code, seeking a variance existing – 84 square feet; proposed – 190 square feet of covered patio; Variance required – 190 square feet (106 additional square feet).

**Mr. Koch:** Thank you.

**Boardmember Quinlan:** Good luck.

[laughter]

**Ms. Thornton:** Thanks.

**Acting Chairman Dovell:** I guess we have the minutes to talk about.

**Bldg. Inspector Minozzi:** Yes, sir.

**Boardmember Quinlan:** I wasn't here.

**Village Attorney Whitehead:** Well, there's May and June.

### **APPROVAL OF MINUTES**

**Regular Meeting of May 23, 2019**

**Regular Meeting of June 27, 2019**

**Boardmember Quinlan:** Could I just take a look at them for a second?

**Village Attorney Whitehead:** Buddy, you have the minutes?

**Acting Chairman Dovell:** Sashi, did you read the last two sets of minutes?

**Boardmember Nivarthi:** Sure, I could read the minutes.

**Boardmember Berritt:** Did you read the minutes?

**Boardmember Nivarthi:** Yes, I read the minutes.

**Boardmember Berritt:** Even though you weren't there it said you'd had a comment in the last one.

**Village Attorney Whitehead:** Said he had a comment? He wasn't here.

**Boardmember Berritt:** I know.

**Acting Chairman Dovell:** Any comments on the sets?

**Village Attorney Whitehead:** Yes, Sashi wasn't here.

**Boardmember Nivarthi:** I wasn't here, but apparently I made a comment.

**Boardmember Berritt:** That was impressive.

**Bldg. Inspector Minozzi:** What page is that?

**Boardmember Berritt:** I sent to Mary Ellen.

**Bldg. Inspector Minozzi:** Oh, you did? Okay, very good.

**Acting Chairman Dovell:** I had no comment.

**Boardmember Quinlan:** I'm fine with them. I was just more interested in the case I *wasn't* here with last time.

**Acting Chairman Dovell:** That was a long one, Jerry. So make a motion?

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Nivarthi with a voice vote of all in favor, the Minutes of the Regular Meeting of May 23, 2019 were approved as presented.

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Nivarthi with a voice vote of all in favor, the Minutes of the Regular Meeting of June 27, 2019 were approved as presented.

## **ANNOUNCEMENTS**

### **Next Meeting Date – September 5, 2019**

**Village Attorney Whitehead:** The next meeting, I thought it was the week after. But Buddy tells me it's the 5th.

**Boardmember Nivarthi:** September 5th?

**Boardmember Renzin:** I won't be here.

**Boardmember Berritt:** I'm away.

**Boardmember Nivarthi:** I'll be here.

**Acting Chairman Dovell:** I'll be here.

**Boardmember Quinlan:** And I'll be here.

**Village Attorney Whitehead:** Amanda will be here. I won't be.

**Boardmember Renzin:** You're going somewhere again?

**Village Attorney Whitehead:** My niece's wedding is that weekend and I have to actually pick up my niece and her husband and baby at the airport that night. My other niece.

**Bldg. Inspector Minozzi:** Yes, it's definitely the 5th.

**Village Attorney Whitehead:** So unless someone else picks them up at the airport.

**Boardmember Renzin:** It was a Shadowlawn bonanza.

**Bldg. Inspector Minozzi:** Motion to adjourn, sir?

**Boardmember Berritt:** Because we can't go anywhere until you do it. You'll keep us hostage all night.

### **ADJOURNMENT**

On MOTION of Chairman Collins, SECONDED by Boardmember Quinlan with a voice vote of all in favor, Chairman Collins adjourned the Regular Meeting.