

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

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, September 5, 2019 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

**Chairman Collins:** Welcome to our September 5th, 2019 Zoning Board of Appeals meeting. We have four cases on our docket, which we'll get to in just a moment.

A couple of ground rules. We have two microphones. We have a standing mic right here and we have a portable mic over here by the building inspector. We just ask that if you're speaking you have a microphone in front of you so we can hear you. We have a remote transcriptionist capturing all remarks for the record. And the first time you speak just tell us who you are and, if you're a resident here, where you live.

With that as our preamble, we've got a full representation of the board. Buddy, how are we on the mailings?

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

**Chairman Collins:** All right, very good.

**AGENDA**

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

**\*\* Deferred Until Future Meeting \*\***

**For View Preservation approval as required under Code Section 295-82 and for relief from the strict application of Code Sections 295-79.D.1.b for the creation of a new greenhouse and exterior renovation at their property located at 100 River Street. Said property is located in the MW Zoning District and is known as SBL: 4.30-19-4 on the Village Tax Maps.**

**Variance is sought for nonconforming Rear Yard setback:**

**Rear Yard (to proposed greenhouse): Existing – NA; Proposed – 24 feet.**

**Required minimum – 60 feet {295-79.E.1.b}**

**Variance required – 36 feet.**

**Chairman Collins:** We will proceed in order. If I mispronounce names I really, sincerely apologize. But we will begin with case 13-19.

**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 – 5 feet; Required – 25 feet {295-69.F.1.(b)}; Variance Required – 20 feet**

**Side yard: Existing – 4.83 feet; Proposed – 4.0 feet; Required – 8 feet {295-69.F.1.(c)}; Variance Required – 4 feet**

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

**Chairman Collins:** Is it Katalin and Gabriel Ce?

**Gabriel Ce, applicant:** Gabriel Ce.

**Chairman Collins:** Ce, okay. Thank you for clarifying. The applicant is seeking view preservation approval, which I know from our minutes last time there was no discussion of ... did the Planning Board make a recommendation on view preservation for this?

**Bldg. Inspector Minozzi:** No. Did we?

**Village Attorney Brosy:** I don't believe we did.

**Bldg. Inspector Minozzi:** Hold on.

**Chairman Collins:** Well, while you're looking that up, the applicant is also seeking rear yard variance and side yard variance, and paving in a required yard. Is that correct, Mr. Ce?

**Mr. Ce:** Yes, that's correct.

**Bldg. Inspector Minozzi:** Use the mic?

**Mr. Ce:** Of course.

**Chairman Collins:** Okay. So then for the purposes of view preservation, are we tabling that until the Planning Board has made a recommendation? I assume that perhaps one of the reasons why the Planning Board has not made a recommendation is that there are competing proposals on offer.

**Bldg. Inspector Minozzi:** Because the variances for this particular project were slightly larger than we're used to seeing, the Planning Board has decided to table it to this board first – kind of go out of order a little bit – to make sure that all of the setbacks were going to be accepted before they went ahead and gave a recommendation on view preservation.

**Chairman Collins:** All right, that works. Buddy, is there something we can do about the tripod there?

**Bldg. Inspector Minozzi:** Yes. I didn't know if the first case was going to be presenting that way so we'll just move it right out of the way.

**Chairman Collins:** All right, very good. Thank you.

All right, the floor is yours.

**Mr. Ce:** I'm the owner of 280 Warburton Avenue. I want to thank the board to allow us to revise our application and come for our second hearing. My goal on this presentation here is try to respond to a handful of comments and homeworks we are charged on developing.

Last meeting there were some questions about some dimensions on our property so I prepared a quick – you know, using the survey – some overall dimensions just to show the overall size of the property is 132 feet and 7 inches long. And that's the (unintelligible) from Warburton to the Aqueduct. The face of our property is about 80 feet wide, and then there is that re-entrant (sic) about 76 or 77 feet from the avenue. And then it steps back about, you

know, 47 feet from what you can see here. The yellow portion documents, or the pictures, what's the buildable area according to zoning setbacks.

I was charged on showing an alternative study, a zone-conformed study, that places the addition within the setbacks that the property has. This study here shows ... sort of the graphics really don't represent what's existing, what's new. But if you are familiar with the plans I submitted – whoops, I'm sorry – in the past, this is an existing exterior stair and flanks the existing house here. In order to place the addition in a zone-conformed area, the way to connect the addition to the house would be through this long corridor that's about 33 percent of what I'm building.

I'm proposing to build a thousand square feet, gross square feet. This area, this (inaudible) area here at circulation, it's 30 percent of that. There is other implications with why we discarded this study when I earlier – my wife and I earlier – studied. One was, you know, the functionality issues. But also there would be accentuated a few view preservation issues since the addition now is placed on the side of the house. It's more visible from the avenue, also more visible from the Aqueduct, while what we are proposing places the addition on the back of the house, not visible from the street, or almost not visible from the street I should say.

The third item I want to point out is, there will be more soil disturbance, especially on the steep slopes. Our entire property is basically steep slopes, but what we are proposing there is only 60 linear foot of retaining wall. This scheme would have a really long and joggy (ph) retaining wall that's almost double of that; it's about 106 feet.

So this is the study we looked at on placing the addition in a zone-conformed area, respecting the setbacks as by the zoning code. And because of those three major items we ... you know, this condition doesn't really address our needs and doesn't create a contiguous, which is what we are aiming for. If the board was interrupting as I go through those chapters, please feel free to interrupt me.

I'm jumping then to ...

**Boardmember Renzin:** I have a question.

**Mr. Ce:** Sure.

**Boardmember Renzin:** On this one, can you remind us why you need that long pink strip and why you can't connect just where the two structures look like they could connect? And I understand there's a stairway there.

**Mr. Ce:** Sure. So this elevation here is the entrance to the first floor unit. We are adding to our second-floor unit so we need that stair to get up to the level where our entry door is currently located. It's in the back of the house. So we need to keep that stair to get to that level. Does that clarify, or ...

**Boardmember Renzin:** Yes, thank you.

**Mr. Ce:** Okay. In an effort to really respond to the board's comments in our last presentation, we took another pass in our application and we are able to squeeze and make the addition a little more compact; really fighting for inches to make – in an effort to make – the board more comfortable with the variances we are asking. Instead of a 21-foot variance on the rear yard we are able to get that to 20 feet. And also the rear yard variance, I believe, was a few inches more than what we have here so we are proposing a 4-foot variance on the side yard.

And this is revised floor plans showing this existing condition. This is the proposed addition, with the revised setbacks. That's how we are able to shape the back wall, really, to avoid the pinch point of being less than 5 feet on the back and work with our property line which is an odd angle, but trying to keep that offset by 4 foot from our side property line.

**Chairman Collins:** What is the rear yard variance that you are asking for?

**Mr. Ce:** We are asking for a 20 feet variance on the rear yard.

**Chairman Collins:** That doesn't match the e-mail you sent with the revised proposal. Since we are talking about a matter of inches, I've got the e-mail that you sent on the 3rd which says that ...

**Bldg. Inspector Minozzi:** It went from 4 feet to 5 feet.

**Chairman Collins:** Oh, I see. No, my bad, I was focused on the red on the "before." Got it. So you're asking for ...

**Bldg. Inspector Minozzi:** A 20-foot variance instead of 21 feet.

**Chairman Collins:** Twenty, okay. All right, got it. Sorry for the interruption.

**Bldg. Inspector Minozzi:** Sorry, I don't know if ...

**Chairman Collins:** No, no. You got it right. My eye was going to red, and that was last month rather than this.

**Bldg. Inspector Minozzi:** Well, I highlighted last month's, yes. Sorry.

**Chairman Collins:** Go ahead.

**Mr. Ce:** Anyhow, this is the footprint of the addition. The yellow hatch shows what's new construction. The hatch over the yellow portion shows what is encroaching into our yard setbacks: existing elevation down on Pinecrest, on the south side; without the addition, with the addition. Same thing from Warburton Avenue on the west side; without and with the addition. From the north and from the back, this is a diagram again showing the distance between structures. Again, the discussion we had last time is we are encroaching to our property line. But the distance between the structures, you know, surpasses what the zoning setbacks might imply.

Lastly what I want to show here is a furniture floor plan. I believe there are some questions after our presentation. One of the reasons why we need the addition in square footage is increasing family. And there's questions about the way we are organizing the floor plan of the proposed house. I thought it would be a good exercise to represent how we are laying out what we are calling as a family room, which is basically a big bedroom with two baths and a family area. I don't want to get into a cultural discussion, but it's how we foresee raising our kids in a common area instead of individually placing them in bedrooms with their own televisions and everything. That's how we envision raising our family.

That's what I have.

**Boardmember Dovell:** The family room is, in fact, a big, multi-purpose space that's going to serve as a bedroom and a playroom.

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

**Boardmember Dovell:** Okay. And then there's one master bedroom, or one bedroom ...

**Mr. Ce:** For the couple.

**Boardmember Dovell:** Right. You're very brave.

**Chairman Collins:** I read the meeting minutes. I was not here for the July meeting so I read the meeting minutes as it relates to this case. I want to hear from you why you think

this board should reward, or grant, this variance for the rear yard that is still awfully large and essentially building to the allowable envelope within this section of your property. Why should we grant this, and what's to prevent someone else who lives on any number of what would amount to hundreds of odd-shaped lots in Hastings coming and asking for something exactly the same?

**Mr. Ce:** Mm-hmm, sure. I think that was part of the discussion last time, but I'm glad to bring that up again. There is a history of this property on how the lot was subdivided. Which I guess, or I bet, there are several other properties in Hastings that have gone through the same process. Our property used to belong to our neighbor on 1 Pinecrest, and at one point it was sold separately – I think in the '40s. For one reason or another they make this odd shape with this corner, I guess, to keep the garage, which is this structure here as part of 1 Pinecrest.

Our house is from 1917, before any zoning ordinance. It was built right on the foot of Warburton and Pinecrest, totally off any setbacks. So the house is really located on a corner of the site that is ... any way to connect to the house, it's very specific to its place. I think one of the things I was trying to verbalize last meeting is that we don't think this application will set any precedent for another applicant to use as a precedent because it's so specific to this site.

I hope I was able to prove with this study – this floor plan study – that a zone-conformed addition to the house doesn't make into a house; it doesn't make into ... the house doesn't continue. It's almost you have two structures, separate, and you have a corridor connecting them. This house has been neglected for decades, since we bought. And it has been a two-family since it was built. We have the effort and we have the love for the house to keep its integrity as an architectural piece. It's a house that is recognized in the Village. Everyone we tell, you know, we live in the house with the red garage door/arched top by Pinecrest, most people recognize this house.

It's a compact house. We like the shape. We think the addition on the back will preserve that, the integrity of the house will be there. The addition will serve the purpose we want for the house. We'll keep our tenant downstairs, which we need for the property tax. We are willing to fight the hill and try to build the addition in a place where most people wouldn't want to. We are neglecting the river views we could gain from putting something on the side, but we are going to preserve a green corridor between the Aqueduct and Warburton Avenue so you can see greenery as you go down Warburton as you're entering Hastings.

As you're entering Hastings, coming from Yonkers, this house is almost like a gateway ,although there's a few houses before. But there's this large stretch of green area on Lenoir

Preserve and Graham School that as you drive or you walk north you're in the woods. And then this house is the first structure we see, and we want to keep the house (inaudible) in greenery around. That's another reason why we chose to put the addition on the back.

**Chairman Collins:** Well let me ... I'm sorry, let me just finish up with this. I asked a question about precedent, and I'm not satisfied that you've answered it. Because in the context of hundreds of other homeowners who will all come in here and say exactly the same thing – "But my property's unique" – everybody's property is unique. So what about this would be defensible in the face of someone coming and saying, "I want to build to the envelope of my property line, you let it happen here. My property shape is unique, why can't I do it?"

**Mr. Ce:** Well, I think I exhausted the versions where I don't go that far. I mean, I think I exhausted the versions where I keep the house, the addition, within the property lines – or sorry, within the setbacks – that my property has. I can't respond on other properties or other projects that I don't see and why they're not compatible to this. I can respond to my property.

**Chairman Collins:** No, that's okay. But you seem to think – you've argued, you argued in the last meeting and you're arguing now – that this doesn't set a precedent that would set this board back in the face of another applicant that's asking for essentially the same thing. And maybe without the lovely design that you've presented.

I'm looking for a reason to look past what is an enormous variance, and a variance that's not arbitrary. It exists there for a reason; because we don't want houses that are built to the envelope. It creates – in hands of other developers and other property owners it starts to create – an impact on neighborhoods that I think this village has said they don't want.

**Boardmember Quinlan:** Matt, can I respond to that for a second?

**Chairman Collins:** Yes, please.

**Boardmember Quinlan:** Okay. Could you show the picture of the addition, you know, without all this other stuff? Keep going.

**Mr. Ce:** This?

**Boardmember Quinlan:** No, no, keep going. I'm not worried about the north/south, I'm just worried about the layout.

**Mr. Ce:** Oh, you want to see a floor plan?

**Boardmember Nivarthi:** The plan.

**Boardmember Quinlan:** Just keep going. Let's see. No, that's it, right? There's nothing else there but your house and the addition, right?

**Mr. Ce:** Right.

**Boardmember Quinlan:** Okay. Let me just ...

**Chairman Collins:** Just make sure you grab the mic.

**Boardmember Quinlan:** I went out to the property ...

**Bldg. Inspector Minozzi:** Hold on, Jerry. Hold on. Here you go.

**Boardmember Quinlan:** ... and I would suggest, if you're thinking about not voting for this tonight, you go to the property.

**Chairman Collins:** I walk by it every Saturday.

**Boardmember Quinlan:** Yes, well, you have to kind of go down to it because it's kind of weird. So what makes it unique is this, okay? I doubt there's any other property in Hastings that has this configuration. Also, the person that subdivided the house, in history, is up here, okay? And this is his property, and this is the retaining wall. And as far as I know he has no objection to this addition. And, in fact, I think he likes it because the house was a mess when Mr. Ce bought it and now it's going to be improved.

But more importantly, the interesting part is this is the Aqueduct over here, okay? Matt, you say you walk down. Now if you walk down the Aqueduct and you go south of this property you will see that every ... there's like two or three or four houses along the Aqueduct that have about a 4-foot backyard. So as one of the participants in the audience last week made that point, it kind of blends into the neighborhood. Those are beautiful houses right along here – big, beautiful houses – and they have garages and everything else, and they're all backed up right to the property maybe even less than 4 feet. It's within the character of the neighborhood.

**Chairman Collins:** We've asked applicants that present information about the character of the neighborhood and dimensions of the neighborhood that show that concentration of other homes that are out of step. And what I'm ...

**Boardmember Quinlan:** You could go see it yourself.

**Chairman Collins:** I walk by that house, I would say, once a month. On the Warburton side, and about three times a month, I walk by that house on the Aqueduct. So I'm familiar with the property. What I would say is ...

**Boardmember Quinlan:** Can I just make one more point?

**Chairman Collins:** I'll finish up, and then I ... the job of the board isn't necessarily to ... and we don't have to all try to convince each other. I want to direct your questions as much as possible to the applicant and come to your own conclusions. And in your own analysis, I'll be listening.

**Boardmember Quinlan:** This is my analysis.

**Chairman Collins:** I appreciate it.

**Boardmember Quinlan:** Thank you.

**Chairman Collins:** But we have asked applicants that have wanted this kind of variance to be granted, at this extreme, in both regular-shaped lots and quite commonly odd-shaped lots to present evidence to suggest that the changes they want to make are in the character of the neighborhood and in dimensions that already exist. So if that's what we're going to say makes us comfortable – granting an extreme variance in this case – I would ask that the applicant present evidence to that effect.

**Boardmember Quinlan:** Okay. I mean, I'm not going to object to that. He can have evidence and I'm sure he'll be glad to do it. But alls you have to do is walk down the Aqueduct and you can see it yourself.

Let me just make one more point. Again, the property is very unusual in its dimensions. And if you take a look at it from all the angles, and go through the yards and everything, you can see that it's a great addition. It really helps the view preservation if he was able to build a legal house there. Except for view preservation, it would block the view from the Aqueduct.

And as you see from the notes, last time I was very concerned about the extent of the backyard variance because it was so large. But for some reason, on this property, with the neighboring properties and with the only house that's going to be affected by this property, it seems to me reasonable.

**Mr. Ce:** If I could add to that, one thing that I think I didn't mention is the slope of the property. The addition, as you might see in this section, this is the lawn of 1 Pinecrest. The addition in the back will really look as a landscape feature. It's almost like the topography is dropping. It's almost like a bunker, if you will, because we will be digging this backyard. If you see – this is the current slope now – to put the addition there, I think I'm just going to say this again that I said last meeting. The main purpose – or not the main purpose, but the concept – of setbacks is preventing one property from collapsing into the other, allow fresh air to go by, allow daylight to go by.

Working with an 8-plus-12, which is what my zoning ordinance allows, right? – this 20 feet between structures – the addition is greater than that from any other structure. So I think what I said last time is that it conforms with the concept of yard setbacks, but it doesn't comply with the raw numbers of the yard setbacks that mine has.

**Boardmember Dovell:** The as-of-right solution that you had is really extreme with the corridor. You could have internalized the exterior stair going up to your unit and built off the side. Could you have not done that? I mean, there is a large open area between the stairs.

**Mr. Ce:** Here?

**Boardmember Dovell:** Right here, yes. That you could maintain one portion of that for access to the lower unit and build up in that quadrant rather than extending it out.

**Mr. Ce:** This quadrant here allows daylight for a bathroom window in the unit downstairs and also for the bedroom of the unit downstairs.

**Boardmember Dovell:** But that bedroom has exposure on three sides.

**Mr. Ce:** It's an open floor plan.

**Boardmember Dovell:** It wouldn't be, you know, terrible for that unit not to have ... to sacrifice the one unit – to sacrifice the one window – and were to make a complying design. You didn't look at that as one option.

**Mr. Ce:** No, I did, I did. You know, our wall would have to be along this dash line here, right? Because we can't occupy the entire quadrant. This is a 25 feet setback from our front yard, so that's where you'd enter.

**Boardmember Dovell:** And then build back to what is the edge of the pink line there.

**Mr. Ce:** Right. But then to enter you'd have, again, the space all lost for circulation. You went to have a vestibule, to have a stair. You can't fit a program on that space. You can feed more circulation, which is not what we want to do.

**Boardmember Dovell:** But it might have been a way to minimize a variance. Maybe it isn't perfectly as-of-right, but it may be an opportunity to minimize the required ... what you're asking for. You're asking for 5 feet; it might have been an avenue to explore to minimize the extent of the variance.

**Mr. Ce:** I understand. Again, I did ... we've been working on this project for quite some time, and there's a handful, or a bunch, of options that we looked at. I don't want to take the board's time in reviewing everything that we studied. I see the point. Maybe for someone else it would have worked.

**Boardmember Dovell:** And it would address Jerry's concern about maintaining that sight line through the site from the Aqueduct down to Warburton.

**Mr. Ce:** On this option.

**Boardmember Dovell:** By building in that terraced area there, and building out to the back to where you have ... to the edge of the pink line, and maybe a little bit beyond. But it could be an avenue to make a lesser variance scheme. We have an obligation to ask you these questions.

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

**Boardmember Dovell:** I think the design that you came up is quite creative, but it's a very large ask.

**Mr. Ce:** Right.

**Boardmember Dovell:** And is there a lesser variance scheme. You presented an as-of-right scheme and then you've presented a scheme is basically identical to what you had last time, although you've pushed it, you've shaved it back, a little bit.

**Mr. Ce:** Okay.

**Chairman Collins:** Carolyn, did you have something?

**Boardmember Renzin:** Yes. My concern here is along the lines of what Matt was saying about the precedent. We had another house on High Street where the envelope was weird, the property was strange, and the buyers who bought the property to renovate the house bought the property knowing that the property was weird, the envelope was weird, and it was going to be very hard to get the variances that they needed.

While your design is lovely, the view preservation is important. You've done a lot of good work and, in your opinion – and probably factually – this is the best living space situation to meet the needs that you have in your family in the second story. You did buy the house knowing that you were on this property with these constraints, and our job is not to say it's a beautiful design and therefore it's good versus it's not a beautiful design and therefore we can't. It's to say did you look at the least restrictive way to do what you need to do – what you need to do, not what you want to do – within the envelope, or the least amount of variances.

And so I'm having a hard time seeing the difference here, even though it's a lovely design. Especially with the argument about the view preservation, we're not looking at view preservation today and we haven't been asked to look at that. So we're not comparing what the view preservation would be as-of-right versus a view preservation today because we're not even looking at it. I'm concerned that we're not asking quite the right question.

I guess my question is – and I think it goes to both Ray's and Matt's – how can you tell ... please tell us why the new design that you've proposed is the least restrictive or the least impactful on the existing variance requirements for the Village as opposed to for the needs that you have for living in the house the way you want to, with the windows and the air flow and the open floor plan. To me, that's less relevant than the setbacks. I'm not sure if I'm being particularly clear, but that's where I'm struggling.

**Chairman Collins:** Yes, I think you're asking for evidence that the applicant has exhausted alternatives that satisfy the most – then let me back up – that had the least overall impact on your variance request. And what it looks like you've presented is one that's as-of-right, which Ray mentioned, but is so extreme as to really not be feasible. And you've gone back to, essentially, plan A with a 1-foot change in the rear yard. Have you really exhausted every alternative that would minimize the variance request?

**Mr. Ce:** In my mind, I have. I guess the board wants to see my sketches, and I don't know how many if I should come here next time, or if I will come here next time, or allowed to be. Again, we worked on this project for a long time. We looked at several versions. I'm a little frustrated that I cannot verbally describe why the option that Ray brought up wouldn't work on placing an addition on the lower patio.

We looked at several options. This property has so many challenges: the house is pushed in a corner; the setbacks, as you can see, leave a 17-foot buildable area on the long strip where one would say is the most buildable space on the property. It's hard to connect to the house without making a separate structure connected through.

If I have to prove that through sketches I can do that. I can assure that several options have been investigated before we would come to the front of this board with an addition that requires 20 feet variances.

**Chairman Collins:** I think what I would encourage you to do in your sketches, rather than bring us back a volume to show that you've looked at all these things, is to consider this additional constraint. Your property already has lots of them. But consider the constraint which we're asked to look at, which is to approve the project that requires the least possible variance.

If you haven't approached your sketches with that as a constraint, then I would encourage you to look among the alternatives that you've considered in the past and see if you can pull forward one that satisfies that requirement because the state requires us to look at it that way.

**Mr. Ce:** I hear the board. I think I'm probably going to put the brakes on the application, then. It's not something that I want to continue investigating options. I'm clear on my mind that I have done that exercise, and we found a solution that would satisfy us to a very challenging property that will be extremely expensive to build and will probably hit us in the future with another increase of property taxes. And not building something that satisfies our taste and what we are after in terms of a program is not something that we'd be interested in.

Unfortunately this house, again, has been left as a rental and not being taken care of for so many years. And it seems that we are the first people who own the house where we need to put some effort to make it livable as a two-family property as it was originally designed and built, but livable in today's standards of what's living.

**Chairman Collins:** Well, you don't have to make any ... you're not making any binding decisions here. And I would hate to see you give up on something that feels to me there's room to grow, there's room to evolve this, in a way that satisfies what this board is required. And if you haven't already spent some time with the zoning code and understanding the five factors that this board has to consider and evaluate in proposals, I don't think you should – well, I'm speaking for myself – hear that what I'm saying is no, never.

What I'm saying is that I believe there are ways to satisfy this board's need to show that the applicant has gone through – that you've gone through – the steps needed to minimize the

variance and will still give you something that satisfies what you are trying to accomplish. I believe that. Obviously this is your time, your money, and your property. I wouldn't want you to come away from this saying, or thinking, that this is a dead end.

**Mr. Ce:** I hear you and I respect the opinion of the board, but that's where we got after several interactions, as we explained. I thought the board had asked me last time to present an option. I thought I had done my due diligence, which I was asked to do, and come here today with that study. But I wouldn't want to be coming back with another study, presenting and proposing options, when the question asked at the end will be how does that not set a precedent to future applicants. Because I can't really respond to that.

I can respond to what we are presenting here – what my property asks for or doesn't allow me to do – and I can't really know what other applicants will be asking for. So that question will remain unanswered no matter how many sketches I can bring here, on my view.

**Chairman Collins:** I'll end with ... I won't say anything further than what I said before, but I hope you give it some thought.

**Boardmember Dovell:** Well, what I can see is you're a very creative architect and you're capable of imagining things in a different way which is wonderful. What we're asking here to do is to look at a minimal – not a no-variance scheme, but a minimal variance scheme – that might take a slightly different configuration but give you what you're looking for. And I do think that looking at the patio area may be a way to do it which will give you what you're looking for, will preserve sight lines and steep slopes, and will give you the programmatic pieces that you're looking for.

I know that you're a creative enough architect to come up with a modified scheme that's not black or white, it's somewhere in between, that will explore a minimal, a lesser, variance. Not a no-variance, but a lesser variance. We're not saying no variance. We just have an obligation to ask you to look at that. And I would encourage you to come back. I think you will figure it out. You're creative, you obviously have the power to resolve this satisfactorily, and we would encourage you to come back.

We hate to see you give it up as a black and white issue of either I get what I want or leave. It's too nice of a property, it's a lovely house, and we would really like to see you succeed with this.

**Boardmember Renzin:** Yes. I would like to say that I love this design. I think it's beautiful, I concur with everything that Jerry said. I feel constrained by the factor that we have to consider, which is it has to be the least possible restriction on the variances. And I

don't feel like I have enough to go on with this because I feel like there might be other options.

**Boardmember Quinlan:** All right. Just before we leave, though, I think that it is the least possible plan considering the topography, considering the way the property is sticking way out – it's on a cliff – considering view preservation. And most of all, no one really has asked that this is within the character of the neighborhood. There are houses right next to this and all down the road that have the same exact problem of 3-, 4-, 5-foot backyards. It's not out of the character of the neighborhood.

And I think we need to be consistent. I would ask that maybe we could convince the other boardmembers if you would just ... you're an architect. Just draw us a one-sheet of the houses behind you – the guy that has no complaints, wants your house to be a better house, a nicer house – so his property will be more valuable. And that it's in the perfect character of your neighbor. Because if you walk down the back of the Aqueduct you will see that there are garages and houses that do not have anywhere near the property setback that we require now.

This house was built before zoning, way before zoning, and this would be in the character of the neighborhood. So if you could come back and just show us that maybe we could convince some of the other boardmembers that this is consistent with some of the other decisions that we've made here about peculiar properties and approved them.

**Boardmember Renzin:** Just one addition on that, and I hate to belabor the point. There's two different things in our obligations under what we're supposed to be considering for an area variance. One is: *"whether an undesirable change will be produced in the character of the neighborhood."* I'm absolutely happy and willing, and look forward to seeing, what these other houses are and how this fits in the character.

But then there's a separate one that says: *"whether the benefit sought can be achieved by some method feasible for the applicant to pursue other than an area variance."* And then another one: *"whether the area variance is substantial."* You've got a substantial variance and we don't know right now whether the benefits sought by you can be achieved by some method other than this extreme – relatively extreme – variance. Also, it needs to be in the character of the neighborhood.

So I'm conditioned with D and C, those second two. And I don't think just because it's in the character of the neighborhood that means that we don't have to look at other options. And I'm concerned about fairness because in other ... for other applicants, we have been very

strict with requiring folks to come back until they have gotten something that is as close to the as-of-right as they can do.

**Chairman Collins:** Or some combination of also what Jerry is saying ...

**Boardmember Renzin:** Or some combination ...

**Chairman Collins:** ... which is to say ... Jerry's contention is that there are lots of homes in this neighborhood that have dimensions that would resemble this, once complete. That may be true, but we ask the applicant to show that – to show exactly what that ...

**Boardmember Quinlan:** (Off-mic). And it's a very simple thing for you to do. You're an architect. We don't need a big plan. Maybe just show where the houses are and what the setbacks are in your neighborhood. It might be helpful. And just in response to the last member who talked, you have to see the topography of this lot. It's on a cliff, especially where the house is located. The patio that you're asking him maybe to rip up and put the addition on really fits. I think you probably put that patio on yourself some years ago. Correct?

**Mr. Ce:** It was, I think, one year ago.

**Boardmember Quinlan:** A year ago. And it's really a beautiful patio, and it fits, and it doesn't block anybody's view. Anyway ...

**Boardmember Dovell:** By the same token, the addition as it's currently configured is blocking all of the windows in the lower unit at the rear, isn't it?

**Mr. Ce:** No, there is no windows under here.

**Boardmember Dovell:** Underneath, in the lower unit.

**Mr. Ce:** There's no windows.

**Boardmember Quinlan:** There's no windows down there.

**Mr. Ce:** Those windows that you might see on the plan, they face a shed that our apartment overlaps. There's no windows there.

**Boardmember Dovell:** So the windows along this line.

**Mr. Ce:** I cannot see what you're ...

**Boardmember Dovell:** The windows along this line.

**Mr. Ce:** That's right. You can see there is a shed there.

**Boardmember Dovell:** Yes.

**Mr. Ce:** The first floor unit backed up with dirt.

**Boardmember Dovell:** So those aren't windows there.

**Mr. Ce:** Those are historical windows that are plaster on the wall, but there is no daylight or nothing coming from them. I thank Mr. Quinlan for the support, and I think when Mr. Quinlan stopped by my house – helped me understand the hardship we are dealing with – I would encourage the other boardmembers to stop by. I would be happy to walk around and show what we are doing and what that stair looks like, what the patio looks like, and what those windows on the back looks like.

I can show you inside the house if you want to see how odd the rooms are on the second floor. That they're tight. And it's a two-bedroom, but it's a 700 net square feet apartment. I think seeing in person might enlighten (sic) some of the boardmembers to understand what we are trying to fight with this application.

**Chairman Collins:** Thank you for the invitation. Sashi, did you have anything?

**Boardmember Nivarthi:** Basically it's going to be a rehash of what has been said, you know. I was really expecting something in between. This code-conforming, no-variance plan that you're showing was what you had shown us in the last month. I was expecting that there would be some compromises made, and what I'm seeing in this plan is effectively that you have compressed some dimensions along it. And that was not what I was expecting.

I was hoping, you know, that maybe you would come up with a (unintelligible) which is closer to what Ray was saying, which is, hey, pushing it towards the steps or some other option. But then I also walked by your property twice to see how it is. I saw how the patio is, I saw the stairs, and I can imagine it's going to take a lot of time and effort to reconfigure all that work that is done to the first floor.

So it is going to be ... I'm still hoping that is there any other plan between these two options that you have had which you considered but you could not execute. And if you explain the

reasons, Hey, here is option one, two and three that we looked at in design, and here are the reasons why you could not do it, and hence this is the best plan we can come up with, right? And as everybody mentioned, it is not a question of ... it's not the board's role to strictly enforce all the setback requirements, right? You are here because you need a variance. All we are looking for is the justification, right? And that's something which I've not got because between the last month and the current month I don't see too much variation in the plans you brought.

**Mr. Ce:** I thought the board didn't ask me specifically to change my plans. My recollection is that the building department charged on presenting an option to prove why a "zone-conformed option" – which I believe was the term used – wouldn't make it into a house. So that's why you're not seeing, you know, numerous (sic) variations of how the addition would look like if it's here, if it's there, if it's close to the stair. That was what I understood to be charged with during my last hearing.

**Chairman Collins:** Does anyone in the public wish to be heard on the matter?

**Douglas McClure:** I'd like to address building on that patio. I think ...

**Chairman Collins:** I just need you to step and speak in front of the mic and introduce yourself, sir.

**Mr. McClure:** I'm presenting a little later. But when you asked about building on the patio, one of the things that that would increase ... can you go to the elevation, front elevation? There. So that would bring ... right now, you have this lovely stepback, and the addition is far back. If you bring it up to the patio, that's going to have a much larger effect on that street. And I think that's something that you should consider when you're addressing that because not only would ... he's absolutely correct, it will take up a lot of circulation. It may pull the addition back, as you're hoping. But it's going to have a very big, massive effect on that façade and how it affects that street. I just wanted to point that out to everyone.

**Chairman Collins:** Thank you, Mr. McClure.

Yes, please. Go ahead.

**Alex Stojanovic, 61 Pinecrest:** I think the one consideration that's really important – and I see where the board comes in to looking at all the properties in Hastings, like you mentioned, and how you apply the law – the one thing is that the setbacks are viewed, in plan, as a flat piece of land basically. That's what you're looking at. In this particular case, the topography is so incredibly steep that you cannot really look at this 20 feet as if they were flat in plan. It

doesn't apply geometrically in the same way; you have to almost look at it in the geometry like that, if you want. I don't want to suggest any design, but I think whatever he's done, if it's more like an earth roof that ties into the neighbor above.

First of all, they don't even see the house from 1 Pinecrest because it's way above it's so steep. And that's why they're not here tonight because there's nothing to object from their point of view: they don't lose view, they don't lose anything at all. But if you look at this ... can you go to the section with the addition? If you look at this as the continuation of the board, where he has the grass of number one overlooking it, and imagine this as being a green roof almost, it's a continuation of the same green going in.

So I don't think the 20 feet setback that he's asking for is really a setback in that sense as you could look at it on any property in Hastings. And we do have a lot of steep properties. This is not the only one. We are on hilly land, which makes it, for you, more interesting but also more challenging I guess.

**Chairman Collins:** Yes, yes.

**Mr. Stojanovic:** So in my ... as a designer – as an architect/designer also – it's a challenge. I think the design was incredibly solved and maybe the board would be helped with the justification of what the topography really dictates beyond the fact that applying the strict rule of setbacks in this case it's really a hard thing to do. It's not such a ... almost level, and there are many properties that are almost level, which is easier to say no, the setback is the setback and that's it. So my point of view.

**Chairman Collins:** No, that's helpful, Mr. Stojanovic. I appreciate it because those are the kinds of things that do start to position the property for its uniqueness and do make any kind of request for a variance defensible relative to what other property owners may come and ask for, whether they're on a steep slope or not. But that is the kind of thinking that I think helps to create a comfort that the board is not setting into motion something that could be exploited by people who don't have the kind of noble intention that you do.

**Bldg. Inspector Minozzi:** One thing the board did like about Mr. Ce's design last time around was that he built into the topography of land. And that was one positive feature that I think the board ...

**Chairman Collins:** There are a lot of positive features to the design. This is not something that ... like, I think Carolyn said it very well. This is not a ... we're not rejecting this out of any aesthetic concern.

**Bldg. Inspector Minozzi:** Right.

**Chairman Collins:** For the character of the neighborhood this is terrific, but the state tasks us to consider other things that we would hate to then have dangled in front of us for having neglected by people who don't come in with the kind of perspective that you have.

**Bldg. Inspector Minozzi:** Of course. That's why the board asked him to come with variations of it.

**Chairman Collins:** Yes, that's right. And of yours, Jerry's advice is spot on: a view of how this would, in fact, relate to other properties that are all around it. These are the kinds of things that really tighten up the presentation and I think help us feel like we've satisfied our obligations. Anyway, for you to think about.

Does anyone else in the public wish to be heard? If there's nothing else, then thank you very much.

**Mr. Ce:** All right, thank you.

**Chairman Collins:** All right, then we'll proceed to case 15-19.

**Case No. 15-19**  
**Kevin & Sasithorn Moy**  
**66 Edgars Lane**

**Relief from the strict application of the Village Code Sections 295-68F.1.c and 295-55.A, for construction of second-story master bathroom addition on their single- family dwelling located at 66 Edgars Lane. Said property is in R-10 Zoning District and is also known as SBL: 4.40-27-21 on the Village Tax Maps.**

**Variance is sought for side yard combined setbacks, with the extension of an existing nonconformity in relation to the total side setbacks of the existing dwelling.**

**Extension of nonconformity in relation to the total combined side-yard setbacks: Existing – 26.58 feet; Proposed – 26.58 feet; Required Minimum – 30 feet {295-68F.1.c & 295-55. A}; Variance Required - 3.42 feet**

**Chairman Collins:** There is a request for side yard setbacks. And really, we're talking here about the existing and the proposed are the same. It's just that they're building into a

nonconforming yard, hence the need for, basically, the 3-1/2 foot – just shy of 3-1/2 foot – variance.

We've got a portable mic there. Is that on?

**Bldg. Inspector Minozzi:** Just got to turn it on, Douglas. There you go.

**Mr. McClure:** I'm the architect for Kevin and Sas Moy at 66 Edgar's Lane. As you so rightfully said, the house is preexisting nonconforming in terms of setbacks. And there is an existing sunroom on the first floor. The client is proposing to ... we are proposing to build a master bathroom on top of that sunroom. We're not changing the setback, but because we're in a nonconforming situation we have to get the variance.

We looked at ... hold on a second. So the house, from the street, looks very grand. It's a lovely Spanish Colonial, or Mediterranean-style house. It's very spread out on the top of the hill. But it's actually a very small house. It's very narrow in its depth. And the upstairs, there is a bedroom, a single hall bath, and two other bedrooms. For a growing family, that single bathroom is a little small. And there's no real spot within the house to add a second floor bathroom. So it seems just very natural to bring it out over this existing sunroom. It allows us to continue the roofline, keep the house in the same style with the same stucco, the same metal windows, and really not affect the overall look of the house.

I think that's all I have to say.

**Chairman Collins:** Okay. How big is this bathroom in square footage?

**Mr. McClure:** Fifteen times 90.

**Chairman Collins:** And how much of it would be built into a nonconforming yard of that?

**Bldg. Inspector Minozzi:** Three-and-a-half feet by the width.

**Mr. McClure:** Yeah, 3-1/2 feet.

**Chairman Collins:** Three-and-a-half feet of width?

**Bldg. Inspector Minozzi:** And by the width, how wide is it, sir?

**Mr. McClure:** It's 14 feet ...

**Chairman Collins:** So about 52 feet.

**Boardmember Nivarthi:** Fifteen feet.

**Chairman Collins:** Yes, 52 feet. So you're talking about 52 square feet of ...

**Bldg. Inspector Minozzi:** Additional nonconformity.

**Chairman Collins:** ... additional space that is nonconforming.

**Bldg. Inspector Minozzi:** Because the first floor's already nonconforming.

**Chairman Collins:** Well, we've dealt in, like, inches, but this is maybe, top, 15 in my almost 10 years on the board for minimal variance. I see this as a minimal request.

**Boardmember Dovell:** I'm looking at your site plan A on SP-101.

**Bldg. Inspector Minozzi:** I have a set of plans here, sir. Here you are.

**Chairman Collins:** Trying to find that drawing, though.

**Mr. McClure:** At this time, 1 on SP-1.

**Boardmember Dovell:** SP-1.0, sorry.

**Mr. McClure:** Okay. Yeah, I do have that.

**Boardmember Dovell:** Your site plan shows it all within the setback line?

**Mr. McClure:** So the problem actually isn't the setback on this side of the house; the problem is the setback on the other side of the house.

**Bldg. Inspector Minozzi:** It's the combined setbacks of the two.

**Mr. McClure:** So the combined setback gives us the issue.

**Boardmember Dovell:** Got it.

**Bldg. Inspector Minozzi:** The other side is nonconforming preexisting. So the total of the two is nonconformity preexisting.

**Boardmember Dovell:** But the addition is within the setback line.

**Mr. McClure:** Correct.

**Boardmember Dovell:** Got it. You know, I think it's minimal. And it's done very well, it seamlessly ties into the house. I have no ...

**Chairman Collins:** I think Ray and I kind of landed on the same place. This is very minimal.

**Boardmember Renzin:** Agreed.

**Boardmember Quinlan:** Beautiful house, beautiful addition.

**Mr. McClure:** Thank you.

**Boardmember Quinlan:** Right over the sunroom.

**Mr. McClure:** There's nowhere else to go. They could've gone in the back, but I thought that would've been a ...

**Boardmember Quinlan:** But that would've been a two-story addition, right?

**Mr. McClure:** Right, which we did not ...

**Boardmember Quinlan:** And we would've had the same problem we had last time. We'd have more bulk and everything else like that. No, it's a great idea. Good luck.

**Boardmember Dovell:** Does anyone in the public wish to be heard on this? Okay.

Then if you have nothing further, someone wish to enter a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Nivarthi, with a voice vote of all in favor, the Board resolved to approve Case No. 15-19 for 66 Edgar's Lane for extension of nonconformity in relation to the total combined side yard setbacks; existing 26.58, proposed 26.58; required minimum 30; variance required 3.42 feet.

**Chairman Collins:** It's unanimous.

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

**Chairman Collins:** Congratulations. Thank you very much. Good luck on the project.

All right, we'll proceed then in order: Case 16-19.

**Case No. 16-19**  
**Michael Berger & Janna Rosenberg**  
**130 Euclid Avenue**

**Relief from the strict application of code Sections 295-68F,1(a) and 295-20C of the Village Code for additions and rear patio on their single-family dwelling on their property at 130 Euclid Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.20-12-14 on the Village Tax Maps.**

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

**Front yard: Existing – 30.08 feet; Proposed – 28.92 feet; Required – 30 feet {295-68.F.1.(a)}; Variance Required – 1.08 feet**

**Paving in a required yard: Proposed – 146 square feet; Allowed – None {295-20.C.(2)}; Variance Required – 146 square feet**

**Chairman Collins:** The applicant is seeking a front yard variance of about 1.08 feet and paving in a required yard. This is related to the addition and rear patio on their home.

Whenever you're ready, go ahead and introduce yourself and begin.

**Brandon Stewart, Michael Lewis Architects:** Great. I'm representing the owners at 130 Euclid Avenue, Michael Berger, who's here with us today, and Janna Rosenberg. Here's a view of the existing house. The owners are moving to Hastings from the city to be closer to family. And as part of that, they have three children. And as part of this move, they would like to do a couple of additions onto this house.

The reasons why we're here, as you mentioned are for a front setback variance of 13 inches of the first floor overhang, which we'll see soon. The lower level garage and basement foundation walls are at least at the front of the house where the setback line is in question. Those walls are all to remain. So the setback being sought – or sorry, the variance being sought – is only for the 1.08 feet overhang that occurs only at this upper level.

The other reason we're is, again, for a portion of paving that is being proposed in the rear

required yard. There's a net decrease of paving with the proposed improvements, but since a portion of the new paving occurs in that rear yard I guess there was a determination made whether or not we would have to apply for that variance. It was determined by Buddy and the Village Attorney that we should, in fact, apply for that paving variance.

Before we look at the proposed work, we'll just talk about a couple of existing site constraints which the board's very familiar with: with the steep slope of the site. As we approach the house – as you can see here, from the street – the driveway goes up fairly steeply and then you're confronted with the house which raises up two stories. One of the things we've tried to mitigate is that massive face appearing too monumental from the street. And the way we've proposed to do that is by adding this overhang to create a shadow line across the house that breaks up the top and the bottom portions.

Another reason for the programmatic requirements pushing forward towards the front property line is, again, because of the sloped nature of the site. This project is also currently before the Planning Board for a steep slopes application. In trying to minimize the impact on the steep slopes to the rear, you can see this is the existing house shown with the proposed in dotted lines. You can see the portion that's pushing back into the hillside only occurs at a portion of the plan. And the bedroom side of the house is pressing forward 13 inches towards the front.

Here we can see the purple dotted outline on the existing site plan represents the current basement footprint of the building. You can see the front setback line just kisses that corner of the house. And here you can see that same purple dotted line, which is to remain, is the basement level still kissing the setback line. And this yellow outline represents the first floor overhang that's occurring above. You can see about 10 square feet of it in fringe across that line. The other portions of the overhang are as-of-right within the setbacks.

You can also see that we've attempted, with the various additions, there's an addition on the side being proposed, an addition at the rear, and the front overhang. You can see with these other additions we are respecting the setback lines at this corner, at this corner, and along this side, and the programmatic requirements made the house grow right about out to the extents that it can. And the spillover that occurred here, again, happened to be advantageous for breaking up the view of the house from the street.

And then this image will describe what I was talking about. This is the existing paved area in the required yard that's being removed, including a very nonconforming sunroom that sticks out the side of the house being removed. This purple portion is the proposed paving so, again, there's a net decrease in paving in the required yard. This whole portion here is being converted into a lawn to restore the site to a more natural state in that area.

**Bldg. Inspector Minozzi:** After speaking with Linda, because zero is allowed that's why they had to come in. Even though they're reducing the amount of paving in a required yard because they're building a small portion more, they had to come in for the second variance as well.

**Chairman Collins:** This is my gap in knowledge about the way our code is written, but is the issue that it's paving in a certain yard that's not required? Because lots of homes, of course, have patios that ...

**Bldg. Inspector Minozzi:** Yes, you're not allowed to pave in a required yard, period.

**Chairman Collins:** But that's in *any* yard.

**Bldg. Inspector Minozzi:** In any yard, except for walkways, steps, driveways.

**Chairman Collins:** So essentially, any patio project ...

**Bldg. Inspector Minozzi:** Correct.

**Chairman Collins:** ... as long as there was the notion to put something that's impervious down would require a variance.

**Bldg. Inspector Minozzi:** Yes. If it's outside of the building envelope, yes.

**Mr. Stewart:** We were surprised by that, too, but we're happy to show it. Also it might be worth noting that in the purple portion there's no portion of it that rises above grade. It's nestled into the hillside just enough, with the retaining wall wrapping around. So it's at or below grade in that entire purple portion.

Here again we can see – it's fairly faint, but you can see, barely – that curved setback line. You can see how it slices through the functions at the first floor. Again, I mention it's a family of five. And you can see all four of these bedrooms are very modestly sized. This is the master bedroom. There's dimension shown on there, on the plans that you have, as well, and their children's bedrooms, one, two and three; with these two children sharing a bath, this child with their bath, and then the master bath.

We tried our best to fit all of the function there. And given the site constraints and the things I mentioned earlier, we felt like this was a minimal ask for this portion of the building to spill over.

**Bldg. Inspector Minozzi:** Matt, this'll be another top five for you.

**Chairman Collins:** Yes, I was just going to ask.

[laughter]

You read my mind. I was just going to ... we really thought that was as low as it could probably go in this meeting, but you're going to beat him. How much square footage are you building into a nonconforming yard?

**Mr. Stewart:** I don't have that number, but the width of this is about 10 feet or so and the depth of it at its deepest is ...

**Chairman Collins:** Thirteen inches.

**Mr. Stewart:** ... 13 inches. But then it ...

**Bldg. Inspector Minozzi:** 1.08 into ...

**Chairman Collins:** So you've got about 1 foot nonconformity.

**Mr. Stewart:** Ten square feet of nonconformity. As you go out to the edges, obviously it tapers down to zero spilling out because of the curved setback line.

**Chairman Collins:** Good for you.

**Mr. Stewart:** And here, again, you've seen these as well. This just shows that shadow line. It's consistent along all three faces of the house but, again, the only portion that's in question is about this range right about here.

**Chairman Collins:** Where is your cursor again? Oh, I see. Okay, yes, got it.

**Mr. Stewart:** Just about in that zone.

**Chairman Collins:** That's where you're in the danger zone.

**Mr. Stewart:** Correct.

**Chairman Collins:** Got it.

**Mr. Stewart:** These are just the other views. And lastly, again, just the before and the after shot. There have been some comments made by the neighbors to the north, who are here today. And we had some discussions with them at the Planning Board meeting, after the Planning Board meeting. We went over there, and I'll let him speak to the concerns. We've tried our best to mitigate those. I think the owners also had a meeting with the neighbors.

I guess before we turn the time to the public, are there any questions from the board on what's been discussed so far?

**Chairman Collins:** Yes, can you walk me through – for the new proposed ... is it the bluestone patio that's in your drawing A-101?

**Mr. Stewart:** Yes.

**Chairman Collins:** From the retaining wall to the property line, what's that distance?

**Mr. Stewart:** To the property line, let's see. I don't think we had that dimension, but this dimension is shown; the required setback, which is – let's see ...

**Bldg. Inspector Minozzi:** Thirty.

**Mr. Stewart:** The required setback is 30, and it looks like it's about half of that, right? Are you talking about from this corner to the property line?

**Chairman Collins:** Yes.

**Mr. Stewart:** It looks like just maybe between 15 and 20.

**Chairman Collins:** Okay. And orient me, if you would, to the best of your knowledge about the property that would then be behind this one, and where their home is in relation to the property line. What I'm getting at here is the placement of that patio and likely impact – when action is out on that patio – what kind of impact, if any, it would have on the neighborhood.

**Mr. Stewart:** Great question. And we're in luck because that neighbor is also here: Gary Rosenberg, who happens to be Janna's, Michael Berger's wife's, father. He owns the property there. This was something that was brought up in the Planning Board, as well: what's the nature of that boundary, how much screening is there? Also there's a pool, and the site has been developed beautifully by the Rosenbergs over the years. There's heavy

plantings there, and trees, which have actually been shown in the Planning Board submittal. I wish we could show you that here, but there's heavy screening and planting there.

Truth be told, some sort of access is being talked about between them. The two families live next to each other. So at least for now, the hope is that there's a nice connection between the two properties. But in the event that one or both families would move, we're confident that the level of screening that's provided currently is very heavy. It's very difficult to see the pool and the patios from our site onto theirs as it currently stands.

**Chairman Collins:** Okay. I don't have any objections or concerns. My one area of objection was the patio and its possible impact on the surroundings and the neighbors who might have a concern, but I'll wait to hear from them. Just on the surface of it, I have no objections or concerns.

**Mr. Stewart:** One thing to note on that, as well. Remember, this entire portion here these are existing timber retaining walls. They used to contain a bluestone impervious patio, and a sunroom used to jog out here spilling into the required side yard. That used to be all hardscaped, which was even much closer obviously to that property – in fact, almost touching – and now that's being proposed to be converted into greenspace. So the hope is that overall, again, the net increase is of benefit.

**Chairman Collins:** Okay, thank you. Does anyone on the board wish to ask questions, or ...

**Boardmember Dovell:** No.

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

**Chairman Collins:** Okay.

Anyone in the public wish to be heard?

**Sebastian Fries, Bellair Drive:** We will be neighbors soon. We live on the property, I guess, adjacent to the left side of the building. Would it be possible to move this?

**Mr. Stewart:** Which?

**Mr. Fries:** Yeah, this is perfect. So that is the view from our side of the house to the existing house. And the one concern that we talked about was, as a result of the overhang we lose a part of the view or a significant part of the view that we have currently down to the

city, to the river, and to the Palisades from the sunroom. That is something that we discussed together, so I just wanted to bring that to your attention.

**Chairman Collins:** Are you satisfied with the outcome of your conversation?

**Mr. Fries:** I think we're having a conversation about a potential solution, so I believe at this point we've come to an agreement and we're happy to move on in case we can resolve this together. So we're hoping for that.

**Chairman Collins:** Okay, thank you, Mr. Fries.

**Gary Rosenberg, 124 Euclid Avenue:** Yes, please.

I certainly would prefer ...

**Chairman Collins:** Introduce yourself?

**Mr. Rosenberg:** We're immediately to the south. I certainly prefer the bluestone patio that they're talking about to the existing screened-in porch, which is much closer. In addition, from our house, from the level of our pool, we're looking at their roof. So they are substantially lower than we are. There is an existing backyard patio area that for the last 28 years since we've lived there the neighbors have had. They entertain out there – they've always entertained out there – and we don't think it'll be any different.

**Chairman Collins:** Okay. That's helpful perspective. Thank you, Mr. Rosenberg.

**Mr. Rosenberg:** (Off-mic).

**Chairman Collins:** Yes, you do

Okay, does anyone else in the public wish to be heard? Well, then if there are no other comments or nothing further from you, Mr. Stewart, does anyone wish to make a motion?

**Boardmember Quinlan:** Well, first of all I'd just like to say it's a modest ... it's a very minimal variance and it's a modest addition. And actually, in my opinion, it actually makes it less bulky because of the sunroom and the patio being smaller. I'm glad they can work out with the neighbor about the views, although it's not a view preservation district. So I think it's a modest addition. I'm aware of the house. The Coles were friends of mine for years, who moved out. And I know this doesn't count in the five things we're supposed to care about by the state, but it's nice to see our children coming back to Hastings.

**Chairman Collins:** Yes, it is.

**Boardmember Quinlan:** And you know, being able to live here, and the grandparents can appreciate their grandchildren and be close. I wish my kids could afford to do that.

**Boardmember Nivarthi:** I have one thing to note. Do you envisage the potential solution with Mr. Fries causing any changes in the variance that is being requested, or change in the plan?

**Mr. Stewart:** Um, no. And, in fact, one of the things we've discussed is that the portion of the addition that affects his view is within the confines of the setback. The portion that a variance is being sought for does not impact his views. So the things that we've talked about – a fence, we've talked about, certain things with the trees to perhaps improve their view of the river in other areas – those are the things that we're talking about that have been discussed; no changes to the footprint that you're seeing.

**Boardmember Nivarthi:** Thank you.

**Chairman Collins:** That's a good question. Okay, anyone wish to make a motion then?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Quinlan, with a voice vote of all in favor, the Board resolved to approve Case No. 16-19 for 130 Euclid Avenue: front yard, existing 30.08, proposed 28.92, requested 30, variance requested, 1.08 feet; paving in required yard, proposed 146 square feet, allowed none; variance required, 146 square feet.

**Chairman Collins:** The vote is unanimous. Congratulations, good luck to you.

**Mr. Stewart:** Thank you.

**Chairman Collins:** All right, we've got one more and that is case 17-19.

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

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

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

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

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

**Chairman Collins:** This variance is being sought for a side yard setback in relation with the extension of an existing nonconformity. And this is for the side yard. The existing and the proposed are both just shy of 6 feet – 5.96. There is a requirement of an 8-foot side yard setback there, so the variance that is being requested is 2.04 feet.

**Alex Stojanovic, project design architect:** Can you see this?

**Chairman Collins:** Better. Yes, I can. Yes, go ahead, use the portable.

**Bldg. Inspector Minozzi:** Here you are, sir.

**Mr. Stojanovic:** Thank you.

**Bldg. Inspector Minozzi:** You're welcome.

**Mr. Stojanovic:** I'm representing my clients, Nicole and Patrick McNeil, who are sitting in the back. We have an ongoing project that was approved for the renovation of the kitchen and dining room, which is the volume in the back of the building facing the backyard which is existing there and had been renovated, I guess, at some point in the '70s from the design of the roof that has all skylights above. And that would be now removed for a real roof.

While we were in the process of this – which is in construction – the idea came, well, while we are renovating we might as well maybe think of improving the master bedroom above and just dodging out on top of the existing volume that exists and creating a master bedroom that is more conforming to today's standards of a master in the sense like bigger than the other bedrooms in the house.

The situation is that the side yard now has this 5.96 feet to the property line, and it's 8 feet that we need so we are 2.04 feet shy of that. For the continuation of the lines of the house, if I show you quickly the elevations it would require really a setback of 2 feet going back and

cutting through that, zigzagging into the façade, and creating a strange anomaly for a house that otherwise is pretty coherent and uniform and well-built and has an historic kind of value of that era that many of the houses on the street have with front porches and so on.

The request is for this 2 feet to be able to continue a façade in the back that is coherent and clean, have normal rooflines, and at the same time have, of course, the layout inside the bedroom that makes sense and not a zigzag within, as well. In terms of the square footage, you're going to ask me ...

**Chairman Collins:** That's exactly where I'm going to go.

**Mr. Stojanovic:** It's 20 because it's 10 foot long by 2; so 2.04 – so maybe 20 and point-something. Also, what I wanted to point out maybe is the fact that there are other houses in line on Elm Street that have, in the back, two-story additions as well that have been granted before at some point, whenever. That happened – I'm not sure – but, you know, it's not an unusual zigzag historically of what's going on. This is our property that has already a ground floor extension that protrudes, and we'd be just adding a top of that.

Maybe another thing to mention is that the other three houses that have an auxiliary building, I think their garage is mainly in the back – or these yellow dots. Even here is one. And this property has nothing in the back so it's really an open yard otherwise. And the setback for the rear yard is more than ... everything else is really conforming, so it's really those 2 feet that we are asking for.

**Chairman Collins:** Right, okay. Yes, it's another tiny, tiny one. You know, unlike the other projects we saw today, though, that have very, very, very minimal square footage encroachments, this one's unique because of the way the neighborhood is. There's density in this neighborhood.

**Mr. Stojanovic:** Yes.

**Chairman Collins:** So the properties are all ... I mean, I drove through it last night, and it's side to side to side to side. This is one of those where you feel like with long enough arms people could reach out their windows on either side and shake hands over the property line.

So that is a consideration and, I think, important to note. But that said, it is – as you point out – the project, if it were to be granted and completed, would be in character with many other properties in this neighborhood, where the request being made is so minor in the grand scheme of things. Walk me through, a bit, what the impact would be on the master bedroom in terms of net square footage added. You alluded to sort of making ... I think I heard you

say this is really bringing into line what a master bedroom would be in terms of the size. Did I hear you say that right?

**Mr. Stojanovic:** Well, yeah, because now the rooms above it's pretty much a square as a house. And so all the rooms are almost the same kind of 12 by 14, 12 by 15. There's no room that really kind of is considered – or you would consider now – as a master bedroom, where you have a king-sized bed that allows you to have, you know, a little more stretch. Which is maybe the more standard of nowadays design or living wishes.

**Chairman Collins:** Right, right.

**Mr. Stojanovic:** Not that we have to have these things, but living in the 21st century in Westchester I think people aspire. But it would also really give a different light. One thing maybe, it's not really anything to do with the variance per se, but this is the original window that exists now from the bedroom. We were sort of symmetrically adding one on each of the beds as an idea. But actually we would remove this window. In building, this is something I have to then speak with Buddy about. But the fact that we don't really need two windows so we create like a façade that is more anchored by these two windows.

**Chairman Collins:** Oh, I see.

**Mr. Stojanovic:** It's cleaner in that sense. Also because we get the window looking into the patio. We don't need that much window. You need walls, as well, to hang a painting or have more privacy also.

**Chairman Collins:** Right. Yes, there's more symmetry in this.

**Mr. Stojanovic:** Yes. That's from before, but that would change in that sense as well.

**Boardmember Dovell:** Do you have a floor plan?

**Mr. Stojanovic:** Nope.

**Boardmember Dovell:** Do you have a site plan with setback lines on it?

**Mr. Stojanovic:** I have a site plan.

**Boardmember Dovell:** Do you have a site plan with the required setback lines on it?

**Mr. Stojanovic:** No, I'm sorry I don't. But it's, from the survey, 5.96 and we need 8.

**Chairman Collins:** I have nothing further. I'd be eager to hear if any neighbors have come out tonight to talk about it, but I think for all the reasons already covered I feel comfortable with this.

**Boardmember Dovell:** It would be nice to see a floor plan. I mean, customarily we see floor plans with submissions and we see site plans with setback lines on them so we can understand the context of the neighborhood. Which I think, really this is an incomplete submission, in my mind. But, you know, I will hear whatever rationalization you have for it.

**Chairman Collins:** No, that's fair. It does not have those elements, and those are things that we get in every packet. I don't know, Buddy, if you have anything you want to comment on regarding that.

**Bldg. Inspector Minozzi:** This particular application came in while the designer was on vacation, and we kind of struggled a little bit to get it together at the last minute without the designer here. So we had a ... it's not our normal role as a building department to take these projects and kind of take it upon ourselves to come up the numbers and to have the spread sheets with the proper setbacks.

**Boardmember Dovell:** That's the applicant's responsibility ...

**Bldg. Inspector Minozzi:** It's the applicant's responsibility, but ...

**Boardmember Dovell:** ... to put together a complete submission.

**Bldg. Inspector Minozzi:** ... since the designer wasn't here, and the homeowner really wanted to make the meeting, we did the best we could without the designer being here.

**Boardmember Dovell:** No, of course you did. It's not a criticism of your work, Buddy.

**Bldg. Inspector Minozzi:** It's short things that it needs, and that's the reason why it is.

**Mr. Stojanovic:** And the issue's also, I should add – beyond the fact that it was really helpful to have the access for the timing – the fact is it's being built below. So it became kind of scrambled because it wasn't something we talked about. It became like a second thought after the construction started to the kitchen/dining room, which is being just renovated as an interior space with a new roof. But it became that, well, if now – because I didn't put a roof on it, we don't put on a roof all of a sudden for the small existing addition.

**Chairman Collins:** Right.

**Mr. Stojanovic:** So it was really a time constraint in terms of that, and that's my fault of not being around while this happened and juggling it from afar.

**Boardmember Quinlan:** Is it okay if say something? Ray, are you done?

**Boardmember Dovell:** I'm done.

**Boardmember Quinlan:** Over the weekend I was able to visit the site, and I met the applicants and I went around the back of the property. It was explained to me about the roof that was glass that was leaking into the kitchen, right?

**Mr. Stojanovic:** Dining room/kitchen.

**Boardmember Quinlan:** And how that's being improved and this addition's going to go right on top of it basically, right?

**Mr. Stojanovic:** Correct, on the same footing. So there's no change in footing.

**Boardmember Quinlan:** The massing, in my opinion, makes a lot of sense. And it's a modest ask. It's increasing the size of the bedroom. I can visualize what that's like. I haven't heard from the neighbors yet, I'd like to hear from the neighbors to see what their concerns are. But I do appreciate the view of what the backyards look like there and what the other additions are, and garages and stuff like that. So I think the backyard supports that addition and, at this point, I have no objections.

**Chairman Collins:** Any other questions?

**Boardmember Nivarthi:** There are a couple of neighbors who said they would like to ...

**Chairman Collins:** Yes, I assumed that they might be here. So if we've got nothing further then I'll invite them to come forward. If you'd like to, feel free just to come. We ask that you introduce yourself the first time you speak.

**Inga Reznik, 29 Elm Place:** Can I use those visuals?

**Chairman Collins:** Yes. If you do, then why don't you just take from Stojanovic the portable mic.

**Ms. Reznik:** Thank you. I don't have a fancy PowerPoint, I'm sorry.

**Chairman Collins:** That's okay.

**Ms. Reznik:** I just got the letter yesterday. The notice was delivered on Tuesday, and yesterday I received the letter. So I really apologize that I didn't have enough time to put this together I represent this property, but this misidentified. My property is not 31 Elm, my property is 29 Elm. I live in this, which looks like now a tiny house right next to this property that's in question. And Allan lives in this house, so basically we're two adjacent properties.

**Chairman Collins:** Got it.

**Ms. Reznik:** As my house is represented in, I think, five of these pictures, this is my house, this is my house, and this is my house. And so I'm just here to provide a different take which may not be apparent from this. If I can, I'll just read through this ...

**Chairman Collins:** Go ahead, yes.

**Ms. Reznik:** ... and Allan has much more sort of data so I'm just going to try to set it up. We would like to raise some concerns regarding the application:

We don't believe that the 33 Elm Place residence meets the criteria for use of land prohibited by the local zoning code. To our knowledge, no hardship has been demonstrated that requires the upwards extension of the already oversized nonconforming property on the overdeveloped lot. The owners of 33 Elm Place did not have a unique hardship that is not shared by other residents of Elm Place. The house is actually one of the larger properties on a pretty densely-populated lot:

[reading] *"The variance, if granted, we believe will contribute to the change in character of the block due to over-development, as you can see. This house was relatively recently granted a fairly significant extension, I think over 70 development. If you look at the data for 33 Elm Place, they're already sitting at 63 percent development"* – I don't know what the correct terms are, I think the zoning code is 40 so it's already a pretty overdeveloped lot.

*"We believe that the characters of our backyards are rapidly shifting because we are at arms lengths next to each other. So when we're in the back, previously, we were seeing greenery and now when we're in the backyard we're just seeing protruding extensions from the neighboring houses. So we believe that the benefits sought by the owners of 33 Elm Place can be achieved by another method feasible for them to pursue other than the area variance.*

*"If the extension of the master bedroom is an issue, we believe that the space that they already have can be better utilized. They are, at almost 300 square feet, already among the larger properties on this block. They already have four bedrooms and two-and-a-half bathrooms. They have an attic that has air conditioning and a full bathroom that can be configured as a master bedroom that's not currently utilized. One of the bedrooms on the second floor is used as a laundry room, and that can be so ... there are a lot of creative solutions without this extension.*

*"We do think that the variance, if granted, will negatively impact the quality of life and resale value of our adjacent properties because, as I said, there's a difference. Well, our properties are not indicated in the Broadway view preservation area. The overall being of the quality of our life, well-being, and property resale value are drastically different if the property was a kitchen or a bedroom overlooking greenery, and at sunset it now sort of overlooks the wall." I get it that we are not entitled to view preservation, but when you sell the house it's one thing for the buyer to, you know, see greenery and sunset. And the other ones for the buyer to come in will see the wall of the neighborhood house. So we are concerned about our resale value.*

*"The recent expansion of the neighborhood property potentially jeopardize ..." – so I guess it's the same point. "We believe, because of the strict zoning codes and this kind of rapid expansion, this sort of puts, for instance, some property like ours at risk for resale because we cannot sort of increase the property because we're trying to be compliant with zoning codes. So these properties are getting bigger and bigger and we kind of feel like we're getting to be a disadvantage.*

*"The block is small and densely populating (sic) and block ... so the backyard views are being blocked." We also, because again our house is this one that's used for some reason for justification of this expansion – "we just would like to give you some context that may not be obvious." Let me see, I'm just going to skip through some of the inconsistencies.*

By the way, our garage is misplaced. It should be here. There are three garages that are missing from this so this is not an accurate representation. So let's just go through the comparisons. *"Our house, this house and this house, have the same lot sizes."* It's almost exactly ... I mean, I don't have ... we checked. *"33 Elm Place that's seeking variance is already at 63 percent development, and we're under 43. 33 Elm Place is close to 3,000 square feet, and we're under 2-. 29 Elm Place, this extension that was used as justification was extended by a previous owner who ... which extension kept the house under 2,000 square feet. And the reason the extension was done is to allow an elderly, ailing, bed-bound person unimpeded same-floor bathroom access and aging in place. And no concerns are*

*present for occupants of 33 Elm Place.*

*"We did do extensive renovation on the house, but we reduced, actually, the footprint during construction. And it is my understanding from the data that 33 Elm Place seeks to increase the footprint. It appears that when you look at these pictures, our property is protruding vis-à-vis the 33 Elm Place, when in fact it's the other way around."*

**Mr. Stojanovic:** Well, these pictures show actually that it's not protruding (off-mic) ...

**Ms. Reznik:** Right, but you sort of use these pictures as justification.

**Mr. Stojanovic:** (Off-mic).

**Ms. Reznik:** Right, but this is the wrong perspective.

**Mr. Stojanovic:** It's a photograph.

**Ms. Reznik:** Right, but the reality is that when you stand ... so this is our house and this is the already existing ... whatever, the extension on the first floor.

*I'm just trying to see. "So we reduced the footprint; you're asking to expand the footprint. In addition to the fact that 33 Elm Place is already substantially sized for our block, they also have substantially-sized impermeable stone patio, complete with stone outdoor kitchen and stone steps and a blocked-up driveway. By comparison, we eliminated all non-permeable surfaces from the landscape and installed all permeable (inaudible) surfaces that either grab all the planting. So, again, this is already an overdeveloped property that just seeks further expansion. And the resources can be much better utilized." We both have families of four and we're on the same size lots.*

*"We also, as part of the construction, installed a drywell as part of the complex stormwater management system. We do not see a plan in place for 33 Elm to have a stormwater management. In fact, one of our concerns is the only side of our basement that gets flooded sits right on the border with Elm Place, a couple of feet above the grade above our property, and so we don't see a stormwater management in place."*

**Bldg. Inspector Minozzi:** That wouldn't be available at this point in time for this meeting, for this board.

**Ms. Reznik:** Okay. I'm just raising because I ...

**Bldg. Inspector Minozzi:** Just so you know that that's handled during the building permit process.

**Ms. Reznik:** Okay.

**Bldg. Inspector Minozzi:** And we always make sure that it's being taken care of.

**Ms. Reznik:** Yeah, I mean I wish I could be better prepared ...

**Bldg. Inspector Minozzi:** I just want to assure you of that.

**Ms. Reznik:** Right, right, right. That's good to know but, again, with less than 24 hours to put this together this is ... so the stormwater runoff is an issue. We looked – Allan and I looked together – through the documents in the Village electronic database to show the variance approval for the original first floor extension and we could not find it. Allan will speak more to that. There's a denial of variance for the previous owners for the first floor, but we couldn't find the approval for that.

I guess, I don't know, that's it for now. So I just want to thank you for your time and hearing our concerns. Allan has many, many more documents. I really ... we asked for this meeting to be postponed because I just got the letter yesterday. And I really wish I was better prepared, but we're just grateful to be here and for you to hear us. Allan will show you more data.

**Chairman Collins:** Okay, thank you.

**Allan Krosgaard, 37 Elm Place:** I'm on the other side of the building. I think I might be short one ...

**Chairman Collins:** That's all right, we'll share.

**Mr. Krosgaard:** I wouldn't mind sharing. Again, the letter, we also just received it Saturday. I understand the local post office might not have performed so well. There's one more here if you want. So yeah, I know we are running late here. But again, thanks for letting us being heard and we sort of have the executive conclusion I hope that we will all resist the 90 request for the variance due to these concerns that I'm listing below.

I consulted with a zoning lawyer, I consulted with the architect on Spring Street, Weinstein. And he referenced the overall guiding document and the criteria for variances that the Zoning Board of Appeals is using as a guide. So I put my comments on each of these points in that

guiding document. So if we look at paragraph 295-146(b), user variances, so: *"no use variance shall be granted by the board ..."*

**Boardmember Renzin:** Can I just interrupt?

**Chairman Collins:** This isn't a use variance case.

**Mr. Krogsgaard:** Okay.

**Boardmember Renzin:** Yes, this is an area variance.

**Mr. Krogsgaard:** All right. So but just wanted to make that change because when I went to the records – and you'll see if you go back in my paperwork there – on the B, it clearly says that the building permit was denied back in 1983.

**Chairman Collins:** How is that relevant now?

**Mr. Krogsgaard:** Because that was for the construction of ...

**Chairman Collins:** Are you saying that this ... all right, so you're contending that this project was built without a building permit.

**Bldg. Inspector Minozzi:** No.

**Mr. Krogsgaard:** Yeah.

**Boardmember Dovell:** You're referring to ...

**Bldg. Inspector Minozzi:** You never said anything to me about that. When you were in my office for 45 minutes why didn't you mention that to me?

**Mr. Krogsgaard:** Because, again, I got the letter on Saturday.

**Bldg. Inspector Minozzi:** You were in my office for 45 minutes. You found this information and you neglected to even mention it to me, and now I am ill-prepared for this meeting and answering your questions. I can't respond to this because I didn't know about it.

**Mr. Krogsgaard:** Okay. Well, I'm just presenting my point of view.

**Boardmember Dovell:** Are you referring to this document?

**Mr. Krogsgaard:** Yeah, B.

**Boardmember Dovell:** Peter Gisolfi's ...

**Mr. Krogsgaard:** No, the second page.

**Boardmember Dovell:** The denial of ...

**Boardmember Nivarthi:** Area C in the area variances.

**Chairman Collins:** About, "*the alleged hardship relating to the property in question is unique and does not apply a substantial portion to the district or neighborhood?*" Is that what you're saying with B?

**Boardmember Dovell:** This one.

**Chairman Collins:** Or B as use variance? You mentioned B, which B are you referring to?

**Mr. Krogsgaard:** B as the denial of the building permit.

**Boardmember Dovell:** Well, was that a variance case or was that just a denial ...

**Bldg. Inspector Minozzi:** I have no idea.

**Boardmember Dovell:** It doesn't say.

**Bldg. Inspector Minozzi:** First I'm hearing about it.

**Chairman Collins:** You're making a pretty serious accusation. That this home, that this property, has attached to it an illegal construction. That's what you've asserted.

**Mr. Krogsgaard:** I'm just saying that when I researched the records that's all I found.

And then also under A, "*The architect, back in 1983, sought a ground floor extension.*" It's talking about that's it's mostly glass.

**Chairman Collins:** Why is this relevant? I'm trying to get to the relevance of this case in front of us, and if you are saying ... if you are *not* saying that that is an illegal development, then it has no bearing and I would ask that you move on. It has no bearing. We can't ask

them to take that down. We're not ruling the presence of an existing ... of a house that if they did nothing we would not have to come and defend it.

**Mr. Krogsgaard:** No, no. I'm just saying that the existing nonconformity was squandered due to the design as it was. And now this depiction here also shows that it only goes up halfway to this window. But if you actually show and look at the profile view here, if you look at that picture, it only goes up to here. But it's actually going all the way up the roofline.

**Mr. Stojanovic:** Could it be another elevation, actually, you're looking at is this one? But the roofline (off-mic) ...

**Chairman Collins:** Alex, you need a microphone if you're going to speak.

**Mr. Stojanovic:** I need to correct this because obviously there is a misunderstanding. First of all, the façade is not being moved anywhere.

**Mr. Krogsgaard:** I know.

**Mr. Stojanovic:** That exists. If you live across you have seen it every day probably. It's always been here. The photographs, these are from Google Maps. I didn't make them. I don't do any digitalization other than the color ones to see. So I don't understand really repeating the same thing ten times. No, those are the same volumes that you see with other houses, by the way, not just your house. I can see one, two, three and they're all numbered on it in red.

So yes, your house is different because you're next door. No one said that your house protrudes more because clearly it shows ... that's why we have these two yellow lines showing exactly where the houses are. But the most important point is this is existing. We are building on top of something that ...

**Chairman Collins:** That's right. Alex, we're going to take a time out. We're going to take a time out because you're veering into territory that is not relevant to this board. We can't act on it even if you present it into evidence or make it a part of your argument. This applicant is not here for a development coverage variance, correct?

**Bldg. Inspector Minozzi:** Correct.

**Chairman Collins:** It doesn't matter. It doesn't matter.

**Ms. Reznik:** I have a question.

**Chairman Collins:** Yes, feel free to ask. But I don't want to belabor things that they don't have to defend.

**Ms. Reznik:** Okay. First of all, I just want to backtrack and say that we had 24 hours to prepare, right? So I wish we were better prepared, I wish we were informed well in advance so we had a chance to consult with appropriate professionals.

**Chairman Collins:** Right, I ...

**Ms. Reznik:** And so part of this is, you know, we're in a bad setup. I think ... I don't want to speak for Allan, but I think one of the questions is ... and we didn't have time to look through all the records. But what we found ... I mean, again, what do you do as a working parent with less than 24 hours to prepare?

But one of the things I think Allan is questioning is, if you have a structure – preexisting structure – to which the variance was denied, does it have relevance if you are now building on top of that structure.

**Chairman Collins:** If the variance was denied it would mean that a building permit was denied, which would mean that what you are saying is that this is an illegal development. And what we're saying is that there is zero evidence of that.

**Ms. Reznik:** That's fine. Can we see the ... is there a way for us to look at supporting evidence that ...

**Chairman Collins:** You're basically asking the homeowner to prove here that they had a building permit to do what they did or to do what the previous property owner did or some previous property owner did. I don't think there's any precedent for requesting that.

**Ms. Reznik:** But if there's a precedent for variance denial but not for variance approval ... like I guess we're in a situation where we have the record of variance denial, but not approval. And so we're wondering if that's a typical situation. So if there are no records in the database that the variance was denied I don't think Allan would be raising this issue. But there is record of variance being denied and no record of appeal or approval following the denial.

**Chairman Collins:** It's a fair question. The Building Department is a reliable producer of the appropriate documentation to prove whether a property is legal or not. And

unfortunately, about once a year we deal with properties that need legalization. I don't want to put words in your mouth, Buddy, but I am assuming that right now the Building Department has no evidence to suggest that this is an illegal development.

**Bldg. Inspector Minozzi:** I'm not aware of any evidence that this is illegal at this point in time.

**Chairman Collins:** Is it possible that this was an illegal development?

**Bldg. Inspector Minozzi:** I could never say it's not possible ...

**Chairman Collins:** But how likely is it?

**Bldg. Inspector Minozzi:** ... because I haven't checked it. But how likely is it? Very *un*-likely. We have a very small percentage of additions, especially of this size, that could have ever been built in this time frame without anybody knowing.

**Chairman Collins:** Is it something that could be checked quickly, as in *now*? I mean, could you get down to the office and check it now, or would that be a waste of time?

**Bldg. Inspector Minozzi:** Just give me a couple minutes.

**Chairman Collins:** All right, we can proceed.

**Boardmember Renzin:** Before we do that, I'm a little bit concerned about sort of the ... not to be too lawyerly here, but like the burden of proof. So if, for example, there is no record of an issue with this house I'm concerned that people can come to other people in the neighborhood and say prove to us that your house is legal. And I'm concerned about that because you're asking Buddy to go and check because neighbors are making a contention that a house is illegal.

We need to understand whether they have the right to demand that, or whether or not it has to come a different way. So I just want to make sure before we ask ...

**Bldg. Inspector Minozzi:** My only statement would be I'll do whatever the board asks me to do. But this house was sold recently and nothing was flagged. And real estate, especially buyer's agents these days, go above and beyond their due diligence to make sure that everything in the structure is according to the property card and according to any approvals that are in the file. So I have a very strong suspicion that when I go downstairs I'm going to find some type of accuracy that this addition was built with approval; or not with approval,

but is documented.

**Chairman Collins:** I think we could use advice of counsel of this one.

**Boardmember Renzin:** Yes.

**Village Attorney Brosy:** Do we want to go into an advice of counsel session?

**Chairman Collins:** Well, I'll defer to you on that.

**Boardmember Renzin:** Yes.

**Village Attorney Brosy:** Okay.

**Ms. Reznik:** Can I just address your concern, if I may?

**Boardmember Renzin:** I think we need to go into advice of counsel.

**Village Attorney Brosy:** We should make a motion to do that.

**Boardmember Quinlan:** Yes, I'd like to make a motion to go into executive session for advice of counsel.

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Nivarthi , with a voice vote of all in favor, the Board resolved to adjourn for advice of counsel session.

*[ Board adjourns for advice of counsel ]*

*[ Board reconvenes ]*

**Chairman Collins:** All right, can I have a motion to come back into normal session?

**Village Attorney Brosy:** Regular session.

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Nivarthi , with a voice vote of all in favor, the Board resolved to come back into regular session.

**Chairman Collins:** We are back in regular session. All right, so here's where we stand. We are not going to consider the issue of the 1983 development. It's out of scope for this board. This board is tasked with reviewing projects that have been submitted to the required standards of the Building Department through the lens of five factors, which I'll ask counsel to go ahead and reiterate.

**Village Attorney Brosy:** Right. Per the village code 295-146, which outlines the variance requirements: "For an area variance there is a balancing test and the board must consider five different factors weighted against the detriment to the health, safety and welfare of the neighborhood or community by the grant of that variance. Those factors are:

*"1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

*2) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.*

*3) Whether the requested area variance is substantial.*

*4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district, and*

*5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the board but shall not necessarily preclude the granting of the area variance."*

And: *"the board is directed to grant the minimum variance it shall deem necessary and adequate."* Also, I wanted to note that you both mentioned view experiences. Again, not relevant here. And I think, Ms. Reznik, you mentioned the requirement of a hardship. That is a requirement for a use variance; it's not relevant for an area variance.

So those factors and the balancing of them is exactly how the board has to evaluate each area variance application it has before it.

**Chairman Collins:** We mention this because we are going to require the applicant to come back for the October meeting with the requirements for this submission which, according to our Building Inspector, not having the plans in relation to the setbacks we have an incomplete plan. That is a requirement and we do not want to set a precedent of things being able to come in without it.

While I recognize this was done hastily, it is something that is standard; we really have to have that. It will give neighbors an opportunity to take a step back, look at the case the way we *have to* look at it, and consider only the variances that are required and only the five factors that have been outlined.

I'll jump to one of the things that's been on my mind that is *out of scope* for the board, for example. That is when will construction be happening, what time during the day? This is a close-quarter neighborhood and people don't like, understandably, 7 a.m. hammering. I understand all those things. We often times get people who come here are bringing those sorts of things up. It's not relevant for what we will consider.

That's where we net out. Is it all clear? Does anyone have any questions? You do? No?

**Ms. Reznik:** No questions. (Off-mic) just wanted to ...

**Chairman Collins:** Use the mic.

**Ms. Reznik:** ... that you outlined. And that is the master bedroom can be achieved by more effective solutions – I outlined at least two – without extending the square footage. We believe that this will prevent ...

**Chairman Collins:** I would ask that you ... we're not going to proceed any further on this

**Ms. Reznik:** Can I just reiterate my ...

**Chairman Collins:** I would ask that you not, no, bring it back. We're not going to making any decisions tonight and so save it for when the applicant comes back with the proper plans in place.

**Ms. Reznik:** So we have to come back.

**Chairman Collins:** You don't have to. That's up to you. But we're not going to vote on this case tonight because the application is incomplete.

**Ms. Reznik:** Okay.

**Bldg. Inspector Minozzi:** You could see the new application online when we get it, or you can come into the office and see it. And you could submit an e-mail or a letter if you don't want to come to the meeting.

**Ms. Reznik:** Yeah. We appreciate the time, and we did ask that this meeting be postponed so all parties can be better prepared.

**Chairman Collins:** Well, you're getting it but not for the reason you asked for it, and that's

important to know. The applicant did everything except for a couple of elements of the plan which are essential. But they fulfilled their obligation, and the post office unfortunately – in this case and in others – has failed to deliver the things that neighbors require. That is why, however, the Village publishes the agenda at least a week prior to when the meeting actually happens. It's also why we publish in *The Enterprise*. So we give the Village ...

**Bldg. Inspector Minozzi:** Actually 13 days.

**Chairman Collins:** Thirteen days, so almost two weeks prior to every meeting these things publish. And I would encourage all members of the community to subscribe to the Village e-mail so they receive ...

**Bldg. Inspector Minozzi:** And they're always published in *The Enterprise*.

**Ms. Reznik:** Yeah. And we do ... it's August.

**Chairman Collins:** I hear you. I'm just pointing out that the applicant has done what they felt they had to do.

**Ms. Reznik:** Right. And one of the suggestions that maybe the timeline can be revised because we are dealing with an imperfect system. And maybe there can be, I don't know, four-week prior notification. But that's not ...

**Village Attorney Brosy:** Not for this board.

**Ms. Reznik:** Right. Because we can't impact the post office, but I think as a community we can make rules that, you know, facilitate everybody's preparedness. All right, thank you.

**Chairman Collins:** All right, thank you very much.

**Bldg. Inspector Minozzi:** Call me tomorrow.

**Chairman Collins:** All right, thank you.

Okay, then I would recommend we proceed to review of the minutes.

## **APPROVAL OF MINUTES**

**Regular Meeting of July 25, 2019**

**Chairman Collins:** I was not here for the July meeting so I'll be sitting this one out. I did read a lot of them and they were helpful. Does anyone wish to make any amendments to the minutes for July?

**Boardmember Dovell:** No.

**Boardmember Quinlan:** No.

**Chairman Collins:** Were all of you here for the July meeting? Am I the only one who wasn't?

**Boardmember Nivarthi:** I was.

**Chairman Collins:** Okay. Does anyone then wish to approve the minutes?

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Renzin, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of July 25, 2019 were approved as presented.

**Chairman Collins:** That's 4-4 and one ...

**Boardmember Nivarthi:** Absent.

**Chairman Collins:** Present here, absent then.

### **NEXT MEETING DATE**

**October 24, 2019**

**Chairman Collins:** The next meeting is end of October, yes?

**Boardmember Quinlan:** I think it's the 24th, right?

**Bldg. Inspector Minozzi:** Have it front of you? No? I'll get it.

**Boardmember Renzin:** I don't.

**Bldg. Inspector Minozzi:** Sorry, I was ill prepared for that question. I'll get it for you right now.

### **BOARD DISCUSSION**

**Chairman Collins:** Could we just talk for one second about this last application?

**Bldg. Inspector Minozzi:** That would be October 24th will be our meeting.

**Boardmember Quinlan:** Just before we do that, I will not be here on the 24th.

**Boardmember Nivarthi:** I will be here.

**Boardmember Quinlan:** You'll be here, thank you.

**Boardmember Renzin:** When is the date?

**Bldg. Inspector Minozzi:** October 24th.

**Chairman Collins:** When do you start?

**Boardmember Renzin:** October 21st.

**Chairman Collins:** Oh, that's a Monday.

**Boardmember Renzin:** First week.

**Chairman Collins:** Yes, I think we can talk about that last case unless you want to do it off ...

**Chairman Collins:** Buddy, when working with the applicant I've never – we've never – in my experience approved anything without floor plans. So it's not just ...

**Bldg. Inspector Minozzi:** Yes, I have the list.

**Boardmember Dovell:** It's not just a site plan. And his drawing, A-100, needs to be completed. I think those were the ...

**Bldg. Inspector Minozzi:** What do you mean by "completed," Ray?

**Boardmember Dovell:** I think that there were a number of missing structures in the back

**Bldg. Inspector Minozzi:** He said he just took a picture.

**Chairman Collins:** I think they're there, they're just obstructed by trees.

**Bldg. Inspector Minozzi:** Covered by trees.

**Boardmember Dovell:** Obscured by the trees, okay.

**Bldg. Inspector Minozzi:** Maybe a line drawing instead of a picture. Okay.

**Boardmember Dovell:** Maybe a line drawing, yes.

**Bldg. Inspector Minozzi:** Yes, got you. I'm going to give him the checklist laid out by this board a few years ago, and I apologize that we didn't have that opportunity.

**Chairman Collins:** No, that's okay. I think you certainly have the power and our blessings to turn away even nice people who are well-meaning but don't have ... if they don't come prepared to have it all, then we have to send them back.

All right, so this was a good one.

## **ADJOURNMENT**

**Chairman Collins:** We are adjourned.