

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
APRIL 26, 2012**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, April 26, 2012 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT: PRESENT:** Chairman Brian Murphy, Boardmember Ray Dovell, Boardmember Matthew Collins, Boardmember David Forbes-Watkins, Boardmember Mark Pennington, Village Attorney Marianne Stecich, and Building Inspector Deven Sharma,

**Chairman Murphy:** Good evening, everyone. We're here for the April 26, 2012 Hastings Zoning Board of Appeals meeting.

We have three cases on our agenda tonight. The first case is the application of Louis Zazzarino, 400 Warburton Avenue, which we've heard before.

**Boardmember Forbes-Watkins:** And before and before.

**Chairman Murphy:** Case number two, the application of Hudson View (2007) LLC, 665 North Broadway, for the replacement of an existing single-family dwelling with a new dwelling at that address.

And our third case is the application of Lester Sills and Karen Sokol, 2 Summit Drive, for the construction of a new garage.

Mr. Sharma, are the mailings in order?

**Building Inspector Sharma:** I'm informed all the mailings are, indeed, in order.

**Chairman Murphy:** All right, thanks very much.

**I. OLD BUSINESS – (Adjourned from Previous Meeting)**

**Louis Zazzarino  
400 Warburton Avenue  
(Adjourned from 3/22/2012 Meeting)**

**For View Preservation approval, a Special Use Permit per code for the addition of two stories and other needed alterations to convert an existing single-story building**

**at 400 Warburton Avenue into four (4) townhouses.**

- 1. Lot Area for four dwelling units: Proposed - 5,619.00 square feet; Minimum -Required 6000.00 square feet {295-72.1.D.(2)}**
- 2. Rear Yard: Existing & Proposed - 1.06 feet; Required - 30 feet {295-72.1.E.(1)b.}**
- 3. Side Yard: Existing & Proposed - 0.7/2.26 feet; Required - 12 feet {295-72.1.E.(1)c.}**

**Chairman Murphy:** Mr. Lerner, our first case, if you would be so kind. Thank you for all of your efforts in this case; your communication, your photographs all very helpful, and we appreciate it.

**Lanny Lerner, Lerner Architects:** Good evening. All right, well, the last time we met – it doesn't seem like a month already, but it is – I took all of your comments back to my office, especially Mr. Dovell's, about the size of this and to try to see if there was anything we could do to make this a little more agreeable, a bit smaller. What I ended up doing was reducing the height of the building by almost a foot-and-a-half.

At this point, we've taken out 2 feet 10 inches from our original proposal. That translates to about 9,000 cubic feet that is no longer visible at the top of the building. One of the suggestions that you had made was to eliminate two of the parking spaces so we could push the top addition back a bit more. I tried to do that, and what I realized was that because the site angle is fairly gradual pushing it back really doesn't change the view very much from up the hill.

So I pushed it back 2 feet, but I've decided to keep all eight spaces. As you know, we're only required to have seven spaces. I thought that was a major plus. Do you all have this drawing, by the way?

**Chairman Murphy:** Yes.

**Mr. Lerner:** You have a color photograph of this ...

**Chairman Murphy:** We do.

**Mr. Lerner:** ...which shows the location of the ribbon that's been lowered. It's now down almost 3 feet from where it was initially. I think if you focus on what you can see above that ribbon, nearly the entire river is visible. There's a building across Warburton, in here –

which I can't see on this, but you probably can on the color – that already obscures portions of that view.

The other issue was from No. 9 Marble Terrace, which is to the side where the big green shed actually obscures most of the view from that backyard. I assume you've all seen it, you've seen that shed, and you've seen that it's somewhat different than what it was described by the owner in terms of the view.

This drawing you also have, and this is a blowup of it. This is the current proposal for the elevation on the front, on the Warburton side. If you look at this and you compare it to what we initially proposed, which is this, I'm not sure you can tell the difference but this is quite a bit higher, over 6 feet higher. To make it a little simpler to show you, I've done a drawing that shows three different planes.

One is the wall of the existing building, which is up about 20 feet high. Ten feet of that, everything above this red line, will be removed. And everything that we're adding is set back 14-1/2 feet on the top level, and 16 feet on the second level. So what you see from the street is far less than what you see right now and, hopefully, it'll be a lot more pleasant to look at than what you see right now.

**Chairman Murphy:** And so, Mr. Lerner, how far, in terms of the front yard setback on Warburton ... how far have you pushed it back?

**Mr. Lerner:** An additional 2 feet.

**Boardmember Forbes-Watkins:** That's the second and third floor.

**Chairman Murphy:** Second and third, right. Understood.

**Mr. Lerner:** I think it makes a very large difference. We haven't talked too much about what you see from Warburton, which is what most people are going to. It's not going to be from above up on the top of the hill. It's going to be as you drive by and you see what's built there on the street level. If you take this entire mass out it's make a huge difference in terms of the wall that's built there.

If you look, this back elevation, the higher part was our original proposal, just so you can see for comparison. Not only is it a lot higher, but it was a lot wider. We pulled it all back in as a result this process of meeting with both the Planning Board and this board.

I'd like to talk a little bit about the view preservation ordinance also. The ordinance doesn't say that you can't build in front of someone who's up a hill from you. It doesn't say that you can't modify the view of someone who's up the hill from you. What it does say is you have to make an effort. You have to produce the least possible obstruction is what it says. I think we've gone a long way to doing that, and I think we've gotten there. I think we've got a project that is not a whole lot more visible than what's actually there already.

I hope you agree, and I'd like to see if you have any questions.

**Chairman Murphy:** Mr. Lerner, thank you. I happened to not be here last month, but I did read your submissions from last month, including the economic analysis. So I thank you for having submitted that, which we had earlier requested.

**Mr. Lerner:** Yes.

**Chairman Murphy:** I could certainly see, both from the photograph and passing by, the difference that it makes with the changes that you proposed. The draw is particular is quite helpful. So I'm certainly satisfied at this point, particular in terms of the height and the view issue. I was mostly concerned with the neighbor's view directly behind that structure. We wanted to make sure we took his interests into account, and I think you have, and made a very fair effort of it. Yet it seems also that you'll still have a viable development.

And pushing it 2 feet further back on the second level is also a good idea. I actually didn't appreciate it until you just showed me, the massing that's going to be removed from, essentially, the front street level on Warburton.

**Mr. Lerner:** Yeah.

**Chairman Murphy:** Which I do think makes a significant positive difference in what you and your client are proposing. So given all the work you put in, and all the meetings we've had, and having gone through the drawings, I'm very comfortable with what you've proposed at this point.

Let me turn it over to Ray, just because he had a lot of questions last time.

**Boardmember Dovell:** Well, I think you've been incredibly responsive in providing what we've asked for, from your pro forma, your developer's pro forma. And also extremely responsive with manipulating the section, which speaks to the height if this. Your diagram there in front of us, I think, really quite adequately represents what you've done. And looking at this, I don't see how you could take another foot out of this. You've minimized

everything. I think anything further would damage a perfectly nice project. And the view preservation you explained quite well, and I think it does represent a minimum disruption. So I'm satisfied with the result.

**Boardmember Forbes-Watkins:** I need one clarification. Back two or three meetings ago, there was an open space issue. Has that been settled, and resolved?

**Village Attorney Stecich:** I did make some efforts to find out what the intention was of that open space requirement, which was enacted within nine years ago. I spoke with Meg Walker, who was the planner at the time and was involved in the zoning amendments that created that district.

She said, "Well, you know, we didn't indicate that it had to be outside." So I guess it reads as it reads. She said, "We probably were thinking that the space had to be outside." From my review of the minutes, while it wasn't clear at all, there was something in there – it was months ago that I looked at it – that made me think they were probably thinking outside. Because they were probably thinking of projects that had outside space. This one obviously doesn't have any outside space.

So I think it's for this board to determine, on this application, is there – what is it? – *"suitably improved and usable recreation area and open space"* if you decide that the decks are suitable, usable area. Now, Mark Pennington asked me before the meeting, and he's right, it's really unclear whether this is intended for the public or not. And that, you got no sense of from the minutes, or Meg. But my guess would be that it was intended for the people who live in the building. Because Hastings is certainly not short on public outdoor space. And probably the thinking was, people in multi-family buildings don't have backyards to go sit out in so there should be some usable space.

So I think, on any one application, you check is this suitable outdoor recreation space. And since the statute doesn't say that it has to be outdoors, I think it would be within your discretion to decide whether this is suitable.

**Chairman Murphy:** Although the deck in the back certainly ... I mean, the deck runs all the way across on top of the parking, yeah?

**Mr. Lerner:** That's right. In the back and in the front.

**Chairman Murphy:** And in the front.

**Village Attorney Stecich:** I'm sorry, I didn't mean that outdoor. I meant not ground level space.

**Chairman Murphy:** Understood.

**Boardmember Forbes-Watkins:** It's important to have this clarified, or *un*-clarified in this case.

**Chairman Murphy:** Well, I guess it means we have a fair amount of discretion.

**Boardmember Forbes-Watkins:** And that's good.

**Village Attorney Stecich:** Clarified that you guys can decide.

**Boardmember Pennington:** And I think it's a fair interpretation of the language here, when it says there has to be "*usable recreation area or open space 100 square feet for each studio, 200 square feet for each bedroom.*" It suggests it's for the benefit of the occupant of that studio and bedroom.

**Boardmember Forbes-Watkins:** Right, it sounds like it.

**Boardmember Pennington:** So I think it's a fair reading of the language before us.

**Chairman Murphy:** Yeah, I agree. I would never read that to be taken as something for the benefit of the, quote, "public," given the tightness of our space in Hastings and the extent of all public spaces to go with the small lots that we typically find. So I think that's fine.

**Boardmember Forbes-Watkins:** I'd just like to commend Mr. Lerner on the work that's been done. I'm very impressed with what's been done here to take an ugly building and make a significant improvement and, at the same time, go as hard as you can to keep the vision situation within some reasonable bounds.

I would add one additional comment on that. If I were looking at the building as it stands, from Marble Terrace, it's ugly. It's an ugly pitched roof that is not particularly attractive to see. I think what would be here, in this, would be an improvement in and of itself. Not a river view, but definitely an improvement in and of itself.

**Chairman Murphy:** David, thank you.

Matt, did you want to weigh in, or are you good?

**Boardmember Collins:** Yeah, just a question which I think I know the answer to. And that is, is there anything else that changed in the proposal that is relevant to the decision that we have to make? Any other material changes from the last iteration?

**Mr. Lerner:** It's all about the [off-mic], and that's what changed.

**Boardmember Collins:** OK, I have no other questions.

**Chairman Murphy:** OK. Anyone from the audience wish to be heard at this point? Yes, sir, just please identify yourself again for us.

**James Stranges, 2 Marble Terrace:** I'm directly behind this warehouse that's proposed to go up.

I see this as a massive blockage of my view of the Hudson. I understand at the last meeting he explained that he had dropped it down a foot-and-a-half. Now, it's 4,500 cubic feet. Well, he's gone up 8 or 9 feet yet, and how many cubic feet is that? And that's going to be between me and a Hudson. And I do have a view of the Hudson. That view is going to be taken away, and this structure's going to avail themselves of it.

Also, we've been discussing seeing the view of the Hudson and the Palisades from Marble Terrace. We did talk about Warburton originally a number of times in the past about some three-story structures that are on Warburton. Well, if you go down to Warburton and you look at this warehouse, next to the warehouse you have Nature's Trail, which, for the last year-and-a-half, has not been maintained, is overgrown and is really dilapidated. My house is right next to the Nature's Trail, and I'm appalled at it, the structure of it. Also, I have a tree that's looming maybe 45 feet from the trail next to my house, with a lean-to towards my house.

Also, the other side of this proposed building structure that's going to be done is Donald Brown's storage of material that he takes from the roofs and accumulates until there's enough supply that he either has it carted away or has it taken away. And I don't see this being a desirable area for four townhouses. I haven't been privy to see what these townhouses are proposed to go for, but in this market and this area I'm sorry, I think this is just wishful thinking and the owner is just going to be putting himself deeper in debt. Right now, he's worried about paying the taxes and wants to do something with the building so that he can recoup. But I don't see this thing happening.

And actually, I guess more of my opinion should be directed at the preservation view law because I see this here as him benefiting. You know, just like in Florida. One structure is put up and they enjoy the ocean, and then the guy in front of him puts up a building and enjoys the ocean, and the guy before him puts up a building and puts up his opinion of you got a great view. Well, the view was supposed to be only a winter view. But I'm sure, when this structure goes up, they're going to propose this as you have a view of the Hudson and the Palisades. Which is pretty limited in this town, with all the structures that have been built up and done.

I commend the building that was put up at the corner of Division Street and Warburton because those trees being taken down and the building being limited on the height certainly gives Marble Terrace a great view of the Hudson and the Palisades. And that's what the River Towns are all about, isn't it? Us being able to see the Hudson and the river view.

And I thank you for your time.

**Chairman Murphy:** Mr. Stranges, thank you. We appreciate your comments. We like to think we've taken them into account, and we tried hard to reduce the massing. And we think the owner and his architect were very responsive. So I hope you'll find that it won't be nearly as dire on your view as you think it will. But thank you for your comments, and I appreciate that.

**Mr. Stranges:** Well, what I was trying to say, I guess, if I didn't make myself clear is, there's a very limited view that this here structure's going to have. One of the views that they're going to have, the two middle units are going to have what we used to call, I guess, back where I lived, "railroad rooms." There's only light from either end.

Now, the one end would be the view of the Hudson, which I'd be losing. The other view is going to be of my terraced land, that's undeveloped, and my building. And the two end units, one, like I said, is going to overlook the Nature Trail and the other one's going to overlook Donald Brown. So that's where I am.

I'm in a situation where I'm saying I want my view, and he's in a situation where the only view he's going to have is of the Hudson and the Palisades.

**Chairman Murphy:** Thank you.

OK, anyone else from the audience wish to be heard on this? Yes, please.

**Lawrence Houghteling, 9 Marble Terrace:** I'm Mr. Stranges's neighbor on Marble Terrace, lower down than he is. So my view will actually be more affected than his.

I just thought of something. It just occurred to me while this was going on. Which is that Donald Brown is going to be very affected, too. Now, Don should be in here. I mean, I have a feeling that after the people move in – if this goes ahead as it appears it will – that they're going to start getting angry at Don. He's right down the hill from me, and I like him very much despite the fact that he starts working at 6:30 in the morning. It's kind of an alarm clock.

But it seems like honest labor, you know, roofers working hard. In the rain, I can't believe it sometimes. I tease him. I go to the window on terrible days, and shout out, "What's the matter with you guys?" But Don is going to be affected by this. The people who move into the building are going to be affected by this.

And the other thing I wanted to say to Mr. Forbes-Watkins was, yeah, it's not a very good-looking building as it is right now but it's a real low building. Maybe Mr. Lerner's building's going to be better-looking. I'm not so convinced from the drawings. But it's going to be a lot taller, you know. And there's something to be said for a low ugly building that you can kind of ignore compared to a tall building.

**Chairman Murphy:** All right, thank you, Mr. Houghteling.

Anyone else in the audience on this application? OK, any last comments from the Board before we do motions?

**Boardmember Pennington:** Well, simply to clarify, I know this is very difficult for the owners who had their view affected. But I've walked the site, and we have pictures in front. To clarify, it does not remove the view. I mean, there is a view that remains. And the language of our code does not require that there be no impact at all; that there be the least possible obstruction. And I think through this long, tortuous process what we've seen is a very responsive architect who's addressed those concerns and has reduced the mass of the building.

So I think that he's done an adequate job, and I just wanted the record to reflect that there is some view remaining.

**Chairman Murphy:** Sure. Thank you, Mark.

I guess we need three motions, plus the view preservation.

**Village Attorney Stecich:** Four. You'll need one to grant a special permit. And then just to clarify, on the lot area – where it says minimum required is 6,000 – it's really 8,000. The minimum required's 8,000.

**Chairman Murphy:** Oh, OK.

**Village Attorney Stecich:** I mean, I think we knew that. We pointed that out fairly early on in the process. So the three variances, view preservation and the special permit. And I guess for the special permit, you just need to make the finding about the outdoor space and that there's a minimum of 500 square feet per unit, which there is way over that.

Oh, I'm sorry. One other thing you should do. Because this is not exempt from SEQRA, and he did submit an EAF at some point, you should issue a negative declaration under SEQRA before you do any of the other resolutions.

**Chairman Murphy:** So we just move to issue a negative declaration?

**Village Attorney Stecich:** That there won't be any significant environmental impacts, and therefore issue a neg dec.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, the Board resolved issue a negative declaration.

**Chairman Murphy:** The vote's unanimous, 5-0

All right, David, you want to take a shot at the motions so we can get through this?

On MOTION of Boardmember Forbes-Watkins, SECONDED Boardmember Collins by with a voice vote of all in favor, the Board resolved move approval of special use permit for the addition of two stories and other needed alterations to convert a single-story building at 400 Warburton Avenue into four townhouses.

**Chairman Murphy:** The vote's 5-0

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, the Board resolved approval of Case 26-11, lot area for four dwelling units – proposed 5,619 square feet, required minimum 8,000 square feet.

**Chairman Murphy:** The vote's 5-0.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, the Board resolved Case 26-11, move approval of a rear yard existing and proposed 1.06 feet, when the requirement is 30 feet.

**Chairman Murphy:** Five-0

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Pennington with a voice vote of all in favor, the Board resolved approval Case 26-11, side yard existing and proposed 0.07 to 2.26 feet, required 12 feet.

**Chairman Murphy:** Five-0.

And do we do view preservation?

**Boardmember Collins:** Not yet.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, the Board resolved approve Case 26-11 proposed building in light of the view preservation requirements.

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**Chairman Murphy:** The vote's 5-0.

OK. Mr. Lerner, thank you.

**Mr. Lerner:** Thank you so much.

**Chairman Murphy:** Appreciate it.

**Boardmember Forbes-Watkins:** Good luck.

**Mr. Lerner:** It's been an education.

**Building Inspector Sharma:** Now the work does being for this project.

**Mr. Lerner:** We still have to the Planning Board.

**Village Attorney Stecich:** You shifted the floor, right? You shifted a floor back? You've got to go and get amendment site plan approval.

**Mr. Lerner:** OK, thank you.

**Village Attorney Stecich:** It should just be ... here, you could use this drawing. I don't need it.

## II. NEW BUSINESS

**Case No. 10-12  
Hudson View (2007) LLC  
665 North Broadway**

**For the replacement of an existing single-family dwelling with a new dwelling  
at 665 North Broadway**

- 1. Front Yard: Existing - 35 feet, Proposed - 41.5 feet  
Required Minimum - 100 feet {295-71E.1a}**
- 2. Side Yard: Existing - 1.5 feet, Proposed - 8.5 feet  
Required Minimum - 40 feet {295-71E.1c}**

**Chairman Murphy:** Are we ready for our next case? Mr. Steinmetz, for Hudson View (2007) LLC. Welcome.

Let me just read counsel's memo into the record real quickly. This was regarding a Planning Board recommendation from the meeting the other night on this application?

*"The Planning Board recommended view preservation approval for the Hudson View LLC house and veranda on the conditions that:*

- a) the roof of the veranda be constructed of concrete of a color consistent with the Palisades, and*
- b) the be a, quote, 'green,' closed quote roof, with vegetation of grassy or Sedum plantings."*

So I just ask the Board to bear that in mind, and when I ask for a motion on view preservation those conditions should be stated. Mr. Steinmetz, just so I'm clear ...

**Boardmember Forbes-Watkins:** One clarification.

**Chairman Murphy:** Hang on one second.

Is that an accurate statement, from your perspective?

**David Steinmetz, attorney - Zarin & Steinmetz:** Yes, it is.

**Chairman Murphy:** OK, go ahead, David.

**Boardmember Forbes-Watkins:** Just for clarification, the notice for this meeting did not mention view preservation. We did have view preservation noticed to us when this first was brought to the Board, but then was deferred. So we should definitely vote on both view preservation and the side- and front yards.

**Chairman Murphy:** Right. OK, so noted.

**Mr. Steinmetz:** Good evening, Mr. Chairman, members of the Board. I'm representing Hudson View (2007) LLC. With me this evening, Mr. Michael Robinson, who works with the owners of the property. As the Chair indicated, we're here tonight in connection with both area variances and view preservation.

You'll remember, we were here awhile ago with regard to the neighboring property upon which a single-family home is currently under construction. This also is a single-family residential application, the concept being a home for the parents of the residents of the main house to be able to use as needed and on occasion.

We're here with regard to a site that currently has a vacant home on it. Some of you, I think, were referring to it earlier as the Freitag residence. It is a home that exists on the site quite proximate to the northerly property line. It's a preexisting nonconforming structure. What we are proposing to do, and what our clients would like to do, is to make use of the site, minimize its impact. And the site, just so that everybody's clear, on the site plan that I have before you you've got the railroad tracks here, south-north; Broadway out here. This is what I refer to as the lot that we here for previously before the Board with regard to the main house.

**Chairman Murphy:** That's the construction site?

**Mr. Steinmetz:** That's the site that's under construction. What I'm outlining here is the existing lot. It's frontage and it's westerly side. What we've noted here on the site plan also is Shandon House. That's our neighbor immediately to the east. Hastings Gardens, the co-op complex, immediately to our north, and that'll be relevant when I talk very briefly about view preservation.

On the site plan, which all of you received in your packets – you should have gotten material from us back in January, and then the resubmission most recently in April, which I'll talk about – we've got outlined, in a dashed line, the existing home on the site. That's a preexisting footprint because of its proximity to the northerly property line, as well as its proximity to the easterly property line.

What our clients wanted to do was achieve a single-family home with an open-air veranda, and to minimize the degree of nonconformity and to avoid having an adverse impact on the neighbors in terms of use. The house currently that exists there right now is 7,069 square feet. The proposed home is 5,759 square feet. The proposed home, as you'll see, is this gray area. What I'm gesturing to here, on I guess the southeasterly corner of the existing footprint, is an area that would be no longer utilized; a reduction in utilization of the preexisting area. Same thing along the north, and same thing along the northwesterly corner.

So the gray area is the resident's portion of the home, and this area running north-south is what we refer to as the "open-air veranda." The house, as I said, reduced in terms of square footage 7,069 to 5,759. Coverage on the lot would be reduced from 3,617 square feet, or 10.4 percent of the lot, to 3,363 square feet, or 9.7 percent. I didn't mention, the lot itself is 34,711 square feet, and we are in the MR-2.5 zone.

The height of the existing home. The existing home, the Freitag, if you've seen it – and it is pretty hard to see even if you go out ...

**Chairman Murphy:** I tried.

**Mr. Steinmetz:** I thought I heard some of you had tried. It's two stories, trust us. And Mr. Barnes, one of our neighbors, is here and he can validate that. It's a two-story home. Our clients are proposing one story above grade. So we've got a reduction in square footage, we've got a reduction in coverage, we've got a reduction in height.

We had an initial meeting in front of the Planning Board in January. We appeared in front of the Planning Board on view preservation and on the frontage of the site, and that was on January 26. We presented the application, and we had comments from the neighbors. We

have very important and insightful comments from Mr. Barnes and Mrs. Barnes, representatives of other. Residents of Shandon House appeared, some in support and were very pleased with the design. Representatives of Hastings Gardens appeared as well.

It became very clear to Michael, to myself, to our entire team that we had to take another look at view preservation and making sure that the Barneses and Shandon House were protected to the maximum extent possible. So what Michael did is, he had our architects go back to the drawing board and determine what modifications they could make. The good news is, they were able to reduce the elevation of the open-air veranda by 4 feet; that's both the roof and the floor. It's a covered veranda. Both would be reduced in elevation by 4 feet.

The length of the structure was reduced by 5 feet on the southerly end. And the reason that became significant is, Shandon House – which really became the neighbor with the most significant issue in terms of analysis of use ... Hastings Gardens, although it's over here, really does not have an impact in terms of view, let alone from the veranda. In fact, if anything there views out towards the Hudson and the Palisades were being opened up. This structure was going from two stories to one story, and we had no negative comments from the folks over at Hastings Gardens.

But what we did do is do an analysis of a number of views through the site. And with the cooperation of Mr. Barnes and Mrs. Barnes – we actually were on their property, we took photographs from bedroom windows and from the living room and from their veranda – we were able to, as I said, modify the height of the veranda itself down 4 feet, the length of the building 5 feet, and then the house itself we were able to sink in another 3 feet.

The net effect of all of that – as you discussed the standard on your last application – we believe that the design does cause, quote, "the least possible obstruction" of the views of the Hudson River and the Palisades. And I'm very pleased to say that at the Planning Board meeting that we attended last week, on April 19, our neighbor, Mr. Barnes was present. This was after we had conducted a quite comprehensive site inspection with Marianne, Deven, all of the members of the Planning Board, Mr. Barnes, Mrs. Barnes, residents of Hastings Gardens. Everyone came out to see what the impact was of this redesign.

What Michael and our team did was erect a mockup of the veranda. Since this is the point of view that had to be analyzed, they put stilts up in the four corners of the veranda, strung kind of a mesh about 1 feet in width all the way across. I'm pleased to say, and others can validate it, you could not see it unless you walked all the way to the westerly side of the Shandon House property and peered over at the end.

The net effect was, we received the support, the endorsement, of our neighbors. Our clients are happy because, to the extent that they're moving into Hastings and want to be productive community members and happy residents, they achieved a very amicable situation with Mr. and Mrs. Barnes and others. So the net effect was we think did obstruct views to the least possible.

**Chairman Murphy:** Mr. Steinmetz, does the property slope down there toward the river?

**Mr. Steinmetz:** That's an excellent question, Mr. Chairman. The property does slope dramatically, certainly on its western side. We do have an application before the Planning Board for steep slopes approval.

**Chairman Murphy:** OK, so the veranda's down on the lower part of that slope, but how high is it?

**Mr. Steinmetz:** How high off the ground?

**Chairman Murphy:** Yeah, roughly.

**Michael Robinson, Hudson View (2007) LLC:** Good evening, members of the Zoning Board.

It's difficult to say because of the change in topography of that slope. The veranda is, in fact, only going to touch the ground in two places. It's going to rest on two different piers – on at the northerly end just here, which will ...

**Timothy Barnes, 715 North Broadway:** [off-mic]

**Mr. Robinson:** On the northerly end, which will run in an east-west direction. It will be 12 feet in a west direction, and 1 foot in a north-south direction. And then there'll be one other pier toward the southerly end, which will be oriented in the opposite manner. So it'll run lengthwise, and it will also be about 12 feet in a north-south orientation, and then 1 foot in an east-west. That will go from the roof, below the roof, through the structure and then down to the ground, which changes below it.

The total height off of grade – I have to look at this – I believe is about ... I don't have the numbers. But it's significantly lower down in elevation from the veranda of Shandon House. And let me show you ...

**Mr. Barnes:** [off-mic]

**Mr. Robinson:** That would be great, Tim.

**Mr. Barnes:** I think it's 19 feet high at the southern end [off-mic] off the ground.

**Chairman Murphy:** OK. Mr. Barnes represents that it's about 19 feet from the southern end.

**Mr. Barnes:** Eleven foot within the structure and 10 foot below it.

**Chairman Murphy:** Below it, OK. So if you're standing in the veranda the roof is what?

**Mr. Robinson:** If you're standing in the veranda the roof is ... the top of the roof is 12 feet above you.

**Chairman Murphy:** OK.

**Boardmember Forbes-Watkins:** Twelve feet above ...

**Mr. Barnes:** Above the floor level.

**Mr. Robinson:** Above the floor level, that's right. Not above your head, discounting the person's height.

**Mr. Barnes:** Twelve feet above floor level.

**Mr. Robinson:** Here, we have a section through the site. Right here, you see Shandon House, cut through ... moving over here to the west, again, the existing train tracks. Here, we have in dashed outline – and I believe you all have copies of this – the elevation of the existing structure. And what you can see here in the sort of solid white, and then the pink-y area, is that the structure here has been lowered by more than a story. So relative to the height of the existing roof, it's substantially lower.

**Mr. Steinmetz:** Michael's talking about the difference in height here versus the difference in height of the existing [off-mic].

**Mr. Robinson:** That's exactly right.

**Mr. Steinmetz:** [off-mic]

**Mr. Robinson:** And then moving further to the west – and dashed because, of course, it would be sort of behind one in the section – is the height of the roof of that veranda. So here's the top of the roof of the veranda, the floor of that veranda dashed in here.

**Mr. Steinmetz:** Let me just add so everybody's clear, in terms design the veranda is a step down from the residents. So actually that's why Michael's got it, and if you explain that it actually sits at a lower height from the main living ...

[cross-talk]

**Mr. Robinson:** That's right. And, in fact, if it would please the Board I have a model showing the full house design and the structure of Shandon House in relation to each other. If we have time for that, I'll be happy to bring it out.

**Mr. Steinmetz:** If the Board needs that.

**Mr. Steinmetz:** Thank you. In terms of view preservation approval, in essence those are the facts. The facts are that we think we've secured neighbor cooperation and consent. We have made further efforts to reduce the height. And we do believe we impact to the least possible extent.

In terms of variances, as I said earlier we're in a preexisting nonconforming envelope. What we've tried to do is to stay within that preexisting nonconforming envelope and to further reduce it. As far as our front, or east, side frontage, the current setback of the Freitag home that's there right now, 35 feet 3 inches from the easterly property line. We're actually pushing that back to 41 feet 7 inches. We do not want to push the structure further to the west. As the Chair asked, the slope begins, really, where ... it begins to really drop off at the westerly side of the proposed home right now. So we're trying to avoid encroaching into the steep slopes area to the maximum extent we can.

Side yard. Our side yard issue is along our northerly property line. Currently, there's a 1 foot 8 inch setback off of the northerly line right in this section of the existing Freitag home. We are pushing that back to 8 feet 6 inches at the closest point. Again, we're trying to push back as much as we can. But we're trying to avoid taking the residence and sliding it into the center of the site, where we would be able to build it but it would have a far more deleterious impact to the neighbors – certainly the neighbors to the east – looking through the site.

I should mention – though you may have seen it some of the drawings – when Michael and I were talking about the open-air veranda, the veranda does have a roof, it does have a floor, it does have a railing – the railing is glass. We tried to design this, and the architects have

designed this to the extent of maintaining as much of an open view through the veranda. And as the Chair read at the beginning of the meeting, the Planning Board was quite concerned about the color and the nature of the materials, the nature of the materials and the color are designed to match – greatest effort was taken to match – the look and feel of the Palisades cliff on the west side of the Hudson.

In terms of the variances, so we talked about the front yard setback, we talked about the side yard setback. There's one little teeny section that we refer to as "the notch." I explained the notch in my written submission to you, but I want to just point it out. If you follow me along the southerly line of the Freitag property in the westerly corner here, the Freitag house actually comes this way and then notches up, in and across.

We've got a very small piece of the proposed home that would sit within the 40-foot setback to the extent of 1 foot 8 inches. So we are also, as to this small area of the living structure, requesting a 1 foot 8 inch side yard variance because we're sitting in that 40-foot setback.

**Chairman Murphy:** Now, Mr. Steinmetz, that essentially then helps allow you to keep the structure off to the north and out of the center of that site?

**Mr. Steinmetz:** That's exactly right. If we built an entirely conforming structure it would be not only unusually shaped, but it would be dead set in the middle of the site in here, where it would have a serious ... again, if we built to permissible height – because, remember, we can build two stories and 35 feet – we would be sitting with a very different impact situation.

**Chairman Murphy:** Right. And again, just point out Shandon House because my eyesight is not the best.

**Mr. Steinmetz:** No problem. Shandon House is right here, and it's view ... you know, Mr. Barnes' window literally shoots right through the site in this direction. Which is why, I explained, we eliminated this southerly several feet of the veranda. Because once that was eliminated there's really no visual impact for Shandon House and for the Colman-Freybergers, who also live in the Shandon House and appeared in front of the Planning Board.

In terms of nonconforming footprint, except for that 88 square feet sitting in the notch we're taking a nonconforming footprint right now of 3,499 square feet. That's how much is nonconforming in terms of footprint presently. We're taking that down to 3,366 square feet. So we're reducing the height, we're reducing the setbacks on the north and on the east, and we're reducing the degree of nonconformity.

So in sum, we're requesting tonight view preservation approval – which the Planning Board has already endorsed – we're requesting a front yard setback, we're requesting two side yard setbacks. And just to go full circle, we will be returning to the Planning Board with regard to the steep slopes application. That still needs to be completed.

**Chairman Murphy:** OK. Well, very comprehensive. Thank you. And really quite a stunning program.

From the Board first. David, do you want to start, or Mr. Dovell.

**Boardmember Dovell:** You're demolishing the existing house entirely, correct? It's being leveled.

**Mr. Steinmetz:** That's correct.

**Boardmember Dovell:** OK. So really, this form that says existing 35, there's nothing there. I mean, we're not talking about decreasing a degree of nonconformance because there's no ... there'll be no house there. So it's really a new structure on a vacant lot, correct?

**Mr. Steinmetz:** Yes. The pause is simply until we do the complete demolition of the basement area of the Freitag home, it's unclear whether there's any portion of a foundation or a footing or something that might potentially be utilized. For purposes of the application, I have no problem answering your question that we are rebuilding in the same location. I'm not sure if that's what you're driving at.

**Boardmember Dovell:** When with normally look at applications like this, when it's presented this way – with existing 35, proposed 41.5, these numbers – the existing is usually remaining. And in this case it's not remaining.

**Mr. Steinmetz:** That's true.

**Boardmember Dovell:** It is being leveled. So the extent of the variance is really greater than stated here, I think.

**Mr. Steinmetz:** OK. I respect your position. To the extent that I beg to differ is that we could be in front of the Board building in identical location and rebuilding the existing structure. What we've chosen to do in an attempt to be sensitive and to have what we think is a spectacular project that is sensitive to the neighbors is to do it in this fashion, where we actually reduce its impact, reduce its nonconformity, and reduce its footprint.

So I'm not sure I'm answering your question, but I do want you to understand that theoretically we would be able to rebuild the home exactly where it is, exactly to its height, and not require any variances whatsoever.

**Boardmember Dovell:** But what do you mean rebuilt it? Tear it down and build it again?

**Mr. Steinmetz:** Or renovate it, and ...

**Boardmember Dovell:** I don't think you could tear it down and build it again. I don't think the zoning would let you do that. You'd be requesting variances to do that.

**Chairman Murphy:** Yeah, I think once you tear it down you probably couldn't do it.

**Boardmember Dovell:** You can't do it.

**Village Attorney Stecich:** But if were to renovate it.

**Boardmember Dovell:** If he were to renovate it that's different, but he couldn't simply rebuild it the same place. So I would just argue that really the variances are greater than stated here. I can see the reason for them.

**Mr. Steinmetz:** Understood.

**Boardmember Dovell:** But you're not decreasing a degree of nonconformance. It's a whole new building on a vacant site, and I think that's the proper way to look at it.

**Mr. Steinmetz:** OK.

**Boardmember Dovell:** What is the ... and the view is the primary reason for locating the building at the edge of the property line?

**Mr. Steinmetz:** Absolutely.

**Boardmember Dovell:** So it's the view from the house to the edge of the veranda?

**Mr. Steinmetz:** The edge from Shandon House?

**Boardmember Dovell:** Is that what's been decided as the view corridor there?

**Mr. Steinmetz:** Clearly, the view corridor when you're out there is the view corridor in this fashion. Are you talking about view corridors from the neighbors, or from ...

**Boardmember Dovell:** Well, the house has been configured to minimize the disruption of the view of the Hudson. Is that what I understand?

**Mr. Steinmetz:** That's absolutely precise.

**Boardmember Dovell:** And just define the view corridor for me there.

**Mr. Steinmetz:** I just want to be clear I'm answering the right question. The view corridor for my clients, or the view corridor for the neighbors?

**Boardmember Dovell:** The view corridor for the neighbors because I understand that's ...

**Mr. Steinmetz:** The view corridor for the neighbors is ... and Mr. Barnes, again, feel free to confirm, when I visited Tim and Pam and sat on their veranda, which – this is their veranda right here – their kitchen is located in this section of the home, their living room is located in this section of the home. They have a series of windows here. It's a multi-story structure. They have the first and second floor of the home; the Colzman-Freybergers have the third floor of the co-op.

The windows on the westerly side all look out in this direction. When we were on the Barnes property, based upon the existing vegetation, even in a winter view you do not see the existing Freitag house even if you come up to the property. I mean, you could peer through and look down, and you'll catch a glimpse. But in view of the primary view corridor, it's really from here right in through this area. That's based upon vegetation.

If you look, there is ... everything that's represented on the site plan here is existing on-site vegetation. This has nothing to do with any additional vegetation that could go on either the Shandon House property or this property. This is existing condition, views coming right through the site.

**Chairman Murphy:** Would you like to hear from Mr. Barnes, Ray?

**Boardmember Dovell:** I'm just wondering. And the view is over the top of the veranda. The veranda being how much lower than the roof of the house?

**Mr. Steinmetz:** Maybe we should take out the photographs. Give us a moment. We'll go through as much of this as you all want. If we're giving you more than you're looking for, then please stop us.

While Michael's getting that out, what we did for the Planning Board and what we did during the site walk in terms of view preservation, here's our site. We took photographs from a number of different locations. I'm going to use this to just juxtapose with this. Here's, on the left-hand side, all existing condition and views. So these are all views that you've got right now of the Hudson River, the Palisades. In the foreground of these photographs is property owned and controlled by Shandon House.

**Chairman Murphy:** And those photographs are from Shandon House?

**Mr. Steinmetz:** Michael, every single one of these taken from Shandon House?

**Mr. Robinson:** They're all from Shandon House property, yes. I also, for what it's worth, met with the Hastings Gardens board [off-mic] to the north. They had no objections to this, and we looked at views from their site over that [off-mic], lowering the house. And we're opening up their views [off-mic].

**Mr. Steinmetz:** It's extraordinarily difficult to explain the view that one would get. Because if you even come up and look at each one of these photographs you will not pick up where the structure itself will be based upon elevation. If I could just have this one again.

**Boardmember Pennington:** Yeah, that was my challenge. That those proposed and existing photos look absolutely identical.

**Mr. Steinmetz:** They are. There's a barely perceptible – and we could walk – there is a barely perceptible change, but there was a slight perception. And that's why, at Tim's urging, we went back and reduced the veranda 4 feet, house 3 feet to minimize any possible exposure. And then by eliminating the southerly 5 feet we really eliminated it.

**Boardmember Pennington:** But could you just tell us, on the photos on the right what are we looking at that's different from what's on the left?

**Mr. Robinson:** To be clear, the photographs on the left were taken before this mockup structure that David Steinmetz described before was erected. This was a mockup of this veranda piece, given that that's the piece that was of concern [off-mic]. And it would be most visible from the house.

again, this is Shandon House here. Here, we're looking at the veranda. The living quarters of the house, the precipitous slope that we talked about before, the railroad tracks one would have to imagine and then the river beyond.

**Mr. Steinmetz:** And let me just interject so everybody sees – and the record should reflect – the model that we have before you is a model to scale, including topographically. So what the architects attempted to achieve, as Michael was showing you, is not only relative proximity distance of Shandon House to the structure, but also as it falls off. So in some respects, some of your questions are probably best answered if you were to get down and perceive the view from here over.

**Mr. Robinson:** What we did, in order to simulate the view of this mockup, was have contractor place – at survey points and up – four poles at the four corners of this veranda structure. And then around the top of those four poles we strung a 1-foot high piece of black fabric. And 1 foot is the thickness of this roof piece. We then went back to each of these views where we had previously taken photographs in the Barneses house and Shandon House property and re-photographed them. So on the right here, what you see is photographs that contain that actual surveyed mockup.

**Boardmember Collins:** May we see it?

**Mr. Steinmetz:** Absolutely.

**Boardmember Forbes-Watkins:** Yeah, you can see it.

**Mr. Steinmetz:** Just barely perceptible. I can show you what the architects ...

**Village Attorney Stecich:** It's easier to see on this one. It's right here.

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

**Boardmember Collins:** I can't see anything.

**Chairman Murphy:** Thanks, Marianne. I got it.

**Village Attorney Stecich:** Yeah, once you see it then you can sort of find it on the other one.

**Chairman Murphy:** And part of that is because you removed part of the southern end of that veranda.

**Mr. Steinmetz:** That's exactly right. By removing the southerly 5 feet, as I said earlier – it becomes a little clearer when you're looking at the photographs – the photographs are showing you the view shed through where that 5-foot southerly end of the veranda would be. By eliminating that, based upon the existing vegetation, topography we really felt like we completely maintained existing views.

**Boardmember Dovell:** So there's roughly an 8-foot difference the roof of the house and the roof of the veranda?

**Mr. Steinmetz:** Between the roof of the house ...

**Boardmember Dovell:** The roof of the house, which is at elevation 75, and the veranda, which is at 67. Am I reading that right?

**Mr. Steinmetz:** Proposed height and proposed height of veranda.

**Mr. Robinson:** Mr. Dovell, you said the roof of the veranda was at elevation 79.

**Boardmember Dovell:** OK.

**Mr. Robinson:** And the roof of the proposed house is at elevation 84.

**Boardmember Dovell:** Eighty-four or 87?

**Mr. Robinson:** The upper bar here is at 87.

**Boardmember Dovell:** OK.

**Mr. Robinson:** This is at 84. It slopes down as it moves to the south, and then this at 79. So this bar here ...

**Mr. Steinmetz:** The northerly section.

**Mr. Robinson:** ...the northerly section is at 87. The middle bar is at 84. And then the veranda is at 79.

**Boardmember Dovell:** So if you, for example, were to just flip the arrangement and put the house on the other side, it would be roughly a 10-foot increase in height that would be in the view corridor there.

**Mr. Robinson:** Roughly.

**Mr. Steinmetz:** More or less.

**Boardmember Dovell:** Putting aside the existing house for a minute, the side yard on the north end the requirement is for ...

**Mr. Steinmetz:** Forty feet.

**Boardmember Dovell:** ...is for 40 feet.

**Chairman Murphy:** Yeah, that's the big one.

**Boardmember Dovell:** That's the big one. So that's really putting most of the house within the required setback line, understanding that there's an existing house there now.

**Mr. Steinmetz:** We are reducing the degree of what's there from 1 foot. Currently it's 1 foot 6 inches off the northerly line. We're pushing it back 7 feet, so it would be 8 feet 6 inches off the northerly line.

**Chairman Murphy:** And do you know how far Hastings Gardens would be, approximately, from that? Their southerly line?

**Mr. Robinson:** I don't have it on the survey here.

**Mr. Steinmetz:** It's not represented here.

**Mr. Robinson:** Their southerly line?

**Chairman Murphy:** Their setback from their southerly line? Only because I couldn't get back there, so I can't see it.

**Mr. Robinson:** Got it. There is a roadway that separates that property from Hastings Gardens, then there's a little bit of lawn and then their buildings. So I would estimate – what is the average width of a road?

**Mr. Steinmetz:** Well, the travel-way is usually between 20 and 24 feet.

**Mr. Robinson:** I would say it's easily probably in a ball park greater than that.

**Mr. Barnes:** Well, a simple way to look at it is the existing structure ...

**Chairman Murphy:** Mr. Barnes? Sorry, you have to use the microphone. And just please introduce yourself.

**Mr. Barnes:** Two observations. The existing structure is whatever you said, a foot and 6 inches from the property line. That property line is a direct line that goes right along the southern border of Hastings Gardens. So there's no jog in that line. It's a direct line from the back of the existing structure all the way to Broadway.

**Chairman Murphy:** No, I understand that. I'm wondering how far ... how much space there is between the southern end of Hastings Gardens and where this house is going to be.

**Mr. Robinson:** And are these carports here?

**Mr. Barnes:** Yeah, that's [off-mic].

**Mr. Steinmetz:** Mr. Chairman, what I thought ... the reason I pulled this out, I thought this might be of some value. Again, here's our property, here's the existing Freitag, here's the 1 foot 6 inch setback off this corner, although it's a little hard to see because of the vegetation. This is Hastings Gardens, and these as I understand it are carports. The residential areas are somewhat further to the east. And to the north and east, there's your separation. The car parking area is back in here. Michael was referring to a travel-way that's in this location here.

**Chairman Murphy:** Is that to access the cars?

**Mr. Steinmetz:** The carports.

**Boardmember Forbes-Watkins:** And it also ... right at the southern border they have their waste disposal containers.

**Mr. Steinmetz:** That's correct. The thing that's probably ... I appreciate that comment. The thing that's probably closest to the Freitag home right now are dumpsters. So we are pulling back from the dumpsters, so to speak.

**Chairman Murphy:** And they're not your clients' dumpsters. OK, I get it. Thanks.

Go ahead, Ray.

**Boardmember Dovell:** So the little wedge of space that you have off the living room.

**Mr. Steinmetz:** The notch?

**Boardmember Dovell:** Yeah, the notch. That is the limit of the 40 feet? Is that what you're ... for the required side yard setback?

**Mr. Steinmetz:** Correct. This small section in here, Mr. Dovell, is in the 40-foot setback. This line right here, the southerly line of the proposed structure, measures 40 feet back.

So in responding to a comment or question you raised earlier, were we to build the structure entirely compliant as to the side yard setback it would all slide into this area here.

**Boardmember Dovell:** I'm still troubled by just the presentation of it. Because I have to say that once the house is demolished the entire house is being ... roughly the entire house is being built within the required setback. I just don't look at it as a ...

**Chairman Murphy:** That's the issue on this one.

**Boardmember Dovell:** You're building 40 feet; 90 percent of the house is being built within the side yard. It's not a renovation of an existing house. It's a demolition and it's a stripped site, and it's a new house. I think that the reasons for doing it the way that they're proposing doing are perfectly legitimate because they're ... it's preserving the site. You can see that topographically it works quite well to back the house to the side.

**Mr. Steinmetz:** If I may, because you're questioning the presentation. So let me make sure you do ... let me answer ...

**Boardmember Dovell:** I understand exactly what the presentation is.

**Mr. Steinmetz:** Hang on, if I may, with all due respect. I want to make sure you do realize on page three of my written submission to the Board I specifically calculate, and point out for the Board, the percentage setback variance I believe, Mr. Dovell, that you're referring to. I'm specifically saying, as to the front yard setback, that *"the project will result in a 6 foot 4 inch reduction in the nonconformity,"* which you've told me you disagree with me on. I hear that.

*"The applicant is required to obtain a 58.4 percent variance from the 100-foot setback requirement."* I make the same comment in the final paragraph, where I say, *"thus, the*

*project will result in a 7-foot reduction in the nonconformity." As to the side yard, "the applicant is required to obtain a 78.8 percent variance from the 40-foot." I make that point, members of the Board because my client and I fully understand that if you analyze this as a straight area variance we're asking for a 58 percent variance. As to the front yard, we're asking for a 78 percent variance.*

As to the side yard ... Mr. Dovell's comment it apropos, I understand it. And the only reason I'm saying what I am now is because I don't think we've improperly presented. I think we put out the percentages. But what I've done is, I've taken you, on the next page, through some case law that says, *"though the mathematical percentage of the variance may be substantial, the case law's quite clear that straight mathematics does not preclude the Zoning Board from granting a variance based upon appropriate facts and circumstances."*

Here, the facts and circumstances are the reason that we think it's important to take you through the history, and understand ...

**Chairman Murphy:** No, I think we get it.

**Boardmember Dovell:** I understand that.

**Boardmember Forbes-Watkins:** The question is, do we, in talking about this, speak of an existing or only deal in talking about the variance with the proposed. I think that Mr. Dovell's point is well-taken, and I think we should only deal with the question of proposed and forget about existing. Because existing doesn't exist.

**Chairman Murphy:** Well, it exists now, but it won't.

**Building Inspector Sharma:** By the way, the agenda does talk about interpretation.

**Chairman Murphy:** I mean, dealing with the front yard first – just so we can get to the issue – I don't think ... because of the nature of this site, and because it's such a large property and it's so far away to the west of Broadway, that even though, for example, the front yard setback, Ray, is ... the increase in the incursion that they're asking for is very significant. But I think given the way the property is situated, it doesn't bother me at all for that particular setback.

It's the side yard that's potentially problematic. One, because it's a really big ask. But I understand your points, which are very well taken, which is you're trying to accommodate the neighbor with the biggest view interest. And I asked about the slope because I know how it slopes down there; I just couldn't get to it. And so what they're ...

**Mr. Steinmetz:** If I could ...

**Chairman Murphy:** Hang on. Now let us argue it out for awhile. Just so I'm capturing the issue right, what he's saying is, look, because we're downslope we're trying to minimize the structure compared to what's there and capture, for the benefit of his client, a spectacular view down the slope without impinging on the Shandon House view. And apparently, from what I'm hearing because I've never been back there, Hastings Gardens is not going to be impacted in the view. So it's really a question of straight do we want to grant a variance of this size because of the uniqueness of this property and its location.

Let me ask a question, Mr. Steinmetz. Is this ... and, Marianne, you might be able to help me here. Is this property in an area that ... could it be subdivided?

**Mr. Steinmetz:** It's in an MR-2.5. It actually could be constructed with a multi-family residential structure.

**Village Attorney Stecich:** This is a multi-family zone. That's why it's so odd. These are usually big setbacks for single-family houses because the setbacks were written with multi-family buildings in mind. So it's a little odd. I think it was with the other house, too.

**Mr. Steinmetz:** Forty-foot side yards ...

**Village Attorney Stecich:** Remember that the zoning was written after the houses ...

**Chairman Murphy:** Oh, I know. After Hastings was built.

**Village Attorney Stecich:** No, I meant in this particular district the single-family houses really ... the zoning doesn't make all that much sense for them.

**Mr. Steinmetz:** A 100-foot front yard setback is unusual for a single-family residence; a 40-foot side yard is particularly unusual.

**Village Attorney Stecich:** Well, I think also the 100-foot setback was because most of the properties front on Broadway.

**Chairman Murphy:** It's east-west.

**Village Attorney Stecich:** And you wanted 100 feet from Broadway. This is just a funny lot.

**Mr. Steinmetz:** Mr. Chairman, if I may make one observation. Understanding the situation that you have before you in terms of the nature of the application and the magnitude of the variance, I would suggest that it's worth your while to consider mentioning that there is an existing structure for one simple reason. If I were in your shoes ... and I think, at least what I perceive some of you may be struggling with is the precedential-setting impact of any decision this board makes. And that's entirely appropriate and you should take that into account.

Granting a 58 percent front yard variance and a 76-78 percent side yard variance is highly unusual. I think in this case, based upon the facts and circumstances, it may make sense. And were you *not* to reference why it makes sense, then you do leave yourself exposed in the future were somebody to come in and say, "Well, you gave Hudson View (2007) a 58 percent variance." Well you did, because the alternative is we'll come ... you know, nobody wants today to do this because ...

**Chairman Murphy:** No, I understand. What you could do, as a matter of right is ...

**Mr. Steinmetz:** It would be unfortunate for the community.

**Chairman Murphy:** Is far worse.

**Mr. Steinmetz:** Exactly. It's unfortunate for the community. I believe the courts and the case law allows you to take that into account. The Aydelott decision out of Bedford and a few other cases say strict mathematics is not something that's going to preclude you from granting a variance in an appropriate situation.

**Chairman Murphy:** See, what I was concerned about, Ray, because I couldn't get back there to see – and I don't know what Hastings Gardens is – is because this is really close to the side yard, even though it's going to be less close than it already is, I'm interested in what's there. May I see your photographs, Mr. Steinmetz?

**Mr. Steinmetz:** Sure.

**Chairman Murphy:** So what I'm being told is there is a bunch of parking garages.

**Mr. Steinmetz:** So you all know – and Deven and Marianne can substantiate this – there were about five or six residents from Hastings Gardens who came to the March 11 site inspection with the Planning Board. So the neighbors most proximate to the situation were

all there, were all very much involved, and came out and saw the site, the location, the mockup.

There's nobody here from Hastings Gardens, am I correct? There's nobody here from Hastings Gardens this evening because they understand the application and are not concerned about an adverse impact.

**Mr. Barnes:** Our view, and Hastings Gardens view, is completely enhanced by this structure. Because it's taken a building that is twice as high and cut it in half. So if you have any of the most closely-contiguous property in Hastings Gardens or ourselves, we never had a view of the Hudson over this direction. We are going to gain a view over those directions we never had before.

The only thing on view preservation you have to consider is, as you come from this building the further up you get, or the further south you get or the future west you get, the more of this structure you see. But it's all relative. It depends on where you're standing.

**Chairman Murphy:** No, it's really not the view that's bothering us. It's the precedent of the side yard setback.

**Mr. Barnes:** But the justification of allowing the variance is you're enhancing everyone's view in the neighborhood.

**Chairman Murphy:** No, I appreciate that. It's a net positive from that perspective, there's no question. It's a question of how troubled we are by setting the precedent because it's ...

**Village Attorney Stecich:** Well, if I can help you.

**Chairman Murphy:** Help us, Marianne. Help us.

**Village Attorney Stecich:** I got out the zoning map for that district. It's kind of hard to see because the lines are faint, but I think they own ... this is Shandon House, these two. This is this lot. And these three lots are the owner.

**Chairman Murphy:** Plus these, I think, too. Right?

**Village Attorney Stecich:** Yeah. So the thing is, it's not a lot of lot. If you're concerned about the precedent, there aren't single-family lots in the MR-2.5 district. It's just Shandon House and theirs. You see? These are actually the lot lines, these light gray. So this must be Hastings Gardens.

**Chairman Murphy:** And that's Hastings House probably.

**Village Attorney Stecich:** And this is another. You see, this map shows everything. This is Shandon House, this is the lot they're talking about. I think all three of these are the lots you were in before.

**Mr. Steinmetz:** Correct. We have three lots.

**Village Attorney Stecich:** These three and a couple over three.

**Chairman Murphy:** So these can't be further subdivided. This one or this one.

**Village Attorney Stecich:** Well, I don't know if it could be further subdivided. I mean, if the building came down or something. But it's already developed as ...

**Chairman Murphy:** That's what I mean. It's set.

**Mr. Barnes:** There's no vacant property there unless they eliminated the co-op that's there right now.

**Village Attorney Stecich:** So it's odd to hear these one-family lots. I think we saw that in one other district recently.

**Boardmember Pennington:** I considered this to rights and written findings. Rather than the normal let the minutes reflect the deliberation of the Board we can set out a set of written findings.

**Village Attorney Stecich:** Yeah, a balance. Remember, there's five factors you consider. And you don't have to prove A, B, C, D and E. You weigh them against each other. Those are the five things you consider, and you balance the benefits of granting the variance against the detriment.

So even though one may really ... you know, you're right. It's very substantial, and that may be pretty heavy on the scale. But the question is, are the other three or four reasons, do they outweigh that.

**Chairman Murphy:** Well, yeah. And I think what Ray is saying, this is essentially a self-created substantial variance.

**Boardmember Dovell:** Yes. I mean, for example, you could completely sidestep this by leaving the existing perimeter wall against the lot line and build the house behind it. And then you could tear it down later on, and decrease the degree of nonconformance. You end up with the same thing.

**Chairman Murphy:** I understand.

**Mr. Steinmetz:** It would be a real unfortunate exercise, but you're right.

**Boardmember Dovell:** I see it all the time.

**Mr. Steinmetz:** Which is one of the reasons why I answered your question earlier that we don't know whether some portion of the structure may not remain. And based upon your definitions in your code, it really may well be an alteration.

**Chairman Murphy:** Well, look, our assumption is it won't remain and that's the issue.

**Boardmember Dovell:** That's the issue.

**Mr. Steinmetz:** Only because of the degree of the Board's deliberation, I feel compelled. There are two cases, both of which zoning boards denied variances because they were substantial. The boards reacted both in *Aydelott v. Town of Bedford Zoning Board of Appeals* and in *Beyond Builders v. Pigott* ... both cases involved big numbers. Boards thought, "Can't do this. This is too substantial." Both instances, the zoning boards were reversed. They were reversed because of the circumstances. *Aydelott*, the zoning board denial was annulled because, quote, "*a review of the record reveals that the zoning board was primarily concerned with the extent of the deviation from the standards established by the zoning code without considering the impact on the surrounding community.*"

Similar situation ... and that, by the way, is a Westchester County 2003 case. The second department, in 2005, same thing. Zoning board denied; court said the variances should have been granted since they were, quote, "*arguably substantial – there was little, if any, evidence presented that granting the variances would have an undesirable effect on the character of the neighborhood, adversely impact on physical and environmental conditions, or otherwise result in a detriment to the health, safety and welfare of the neighborhood.*"

Though this was by no means the essence of what we wanted to discuss with the Board tonight, I want to make sure that it's clear we absolutely 100 percent believe that this application minimizes the impact to the community. That's why, despite the fact that we're building a proposed ... or proposing to build a home with substantial variances, the only

neighbor I've got here is the closest proximate neighbor, who's worked cooperatively with my client and endorses the application.

So with all due respect, the record here is we're not having an undesirable impact on the community. In fact, the only one who spoke to it is Tim Barnes, who actually says were we to leave this structure at two stories and 1 foot 6 inches off the northerly property line we're having an impact on Hastings. Instead, we back it off the line – shrink it down, and build a more attractive and somewhat see-through veranda – we're not having an adverse impact. I absolutely understand you're struggling with numbers. I sit on the other side of the dais some nights during the week, as well, and I understand what it's like when a board has to deal with something that feels unusual.

I would suggest to you that you actually have a really unique case. I think you kind of know that. I absolutely agree with Mr. Pennington that something in the minutes ought to reflect that. I think, quite frankly, your minutes will reflect that this is unusual. You have an endorsement by your planning board as to view preservation. Why is that significant? Because this application really, if anything, is really about views. Proximity to Hastings Gardens: you know, thanks to the factual clarification, we're really closest to garbage dumpsters and cars. We're not close to people. The closest person is sitting in row three on the left-hand side, and we're not having an adverse impact on Shandon House.

There's a letter in the Planning Board's file – and I'm happy to ask Marianne and Deven to make it part of your record – the residents on the third floor of Shandon House, the Colsmann-Freybergers, actually endorse the original version of the application, when it was higher and further south.

So in terms of what I think the five factors and the balancing, I think you've got your record that we're not having an adverse impact. And I'd ask you simply to take that into account.

**Chairman Murphy:** Mr. Steinmetz, thank you. OK, so let's see ...

**Boardmember Dovell:** The neighbors to the north have said nothing in any way?

**Chairman Murphy:** You mean Hastings Gardens? Well, no. They've had dealings with the applicant.

**Boardmember Dovell:** But they formally have not submitted any ...

**Village Attorney Stecich:** Not formally.

**Chairman Murphy:** Yeah, it wasn't in my package anyway.

**Village Attorney Stecich:** I don't think they even came to the Planning ... I don't know.

**Building Inspector Sharma:** I don't remember they came to any of the meetings.

**Village Attorney Stecich:** Some people.

**Mr. Robinson:** And they have sent e-mails. Lisa Zimmerman, one of the boardmembers from Hastings Gardens, has sent me an e-mail after I met with them saying that the board had no objection to our proposed plan. I'm happy to share that with the Board and make that a part of the record.

**Chairman Murphy:** OK. Matt, why don't we hear from you?

**Boardmember Collins:** So ordinarily this board spends a lot of time, at some point in the discussion, talking about landscaping. And it's usually our interest is in a net add landscaping to create some beneficial aesthetic effect. It actually occurs to me that landscaping in a certain place, as a result of the new human impact in this property, could end up having the biggest overall impact on the view.

If the new owners decide to plant trees in the area that's in that sight corridor, suddenly that has the potential ... at least during the ... if these are trees that lose their leaves, that has the biggest impact of all on the view. So can you talk about the landscaping plan here?

**Mr. Robinson:** We're still in the process of working with our landscape architect, Edmund Hollander, to figure out ...

**Chairman Murphy:** I'm sorry. Just identify for the record.

**Mr. Robinson:** I work with the owner of Hudson View (2007) LLC. The owner is still in the process of working with our landscape architect, Edmund Hollander, to figure out exactly what additional trees, if any, we would add to the site. However, we've already had extensive discussions Mr. and Mrs. Barnes, with Mr. and Mrs. Colman-Freyberger and with the Hastings Gardens residents that any type of planting we do would be reviewed with them and would take their views into account.

We, for the past nine years since we've owned that, have had a sort of landscaping agreement where we prune part of the trees and the Barneses prune part of the trees. So we are already working together to make sure that their views are not adversely impacted by landscaping.

And we'll definitely want to do that going forward. Maintaining good neighborly relations is crucial to what we're ...

**Male Voice:** [off-mic] take down a tree.

**Mr. Robinson:** That's right. I'm meeting with Mark Garron from Hastings Gardens, I think, in the coming weeks to talk about tree maintenance together.

**Chairman Murphy:** Matt, maybe what you're suggesting is just a type of condition to maintain the view corridor after the construction, that kind of thing.

**Boardmember Collins:** Yeah.

**Chairman Murphy:** Or at least maintain it subject to consulting with the neighbors, that kind of thing.

**Boardmember Collins:** Yeah, I think so.

The other ... at least when I walked the site, the other thing that I noticed is that there is ... it almost looks like jungle brush to the north of that property. There is a lot of I don't know what, but really tall, thick vegetation. So much so that trying to see – to the extent that you could – through or around this is an exercise in futility.

**Male Voice:** Are you referring to [off-mic] this vegetation?

**Boardmember Collins:** No, I was standing right in front of the existing structure. The contractor walked me in, and we got a ... and so I was able to really visualize what you're intending to do. And so is there ... I assume the landscaping plan will also be accommodating to the neighbors to the north.

**Mr. Robinson:** Absolutely, Mr. Collins. That's actually a bunch of very thick and dense bamboo that sprouts very quickly and is hard to control. But we do intend to remove that, in conjunction with the neighbors to the north. We're also in conversation with them ... I know they're very interested in clearing up some of the trees and overgrowth on their slope so that they can better enjoy their views. And we talked about sharing a landscape contractor or making something that was mutually beneficial along our property line.

**Boardmember Collins:** OK. I think we can add something in here that will address this to my satisfaction.

**Chairman Murphy:** Ray, would that be a positive from your perspective to have that?

**Boardmember Dovell:** Well, just looking at this thing from the ... if you could move that away from the model.

**Mr. Robinson:** Of course.

**Boardmember Dovell:** The model really does explain the rationale, the thinking. And it's very ... I think from the point of view of use of the site and, certainly, views it's a very sensitive and smart thing to do. But again, the only thing that troubles me – and I suppose, in a way, it's a technicality – is the extent of the side yard variance.

**Chairman Murphy:** Yeah. And I think our record reflects that the reason to do this would be because of the uniqueness and size of these sites.

**Boardmember Dovell:** Because of the unique condition.

**Chairman Murphy:** Which are unusually big for Hastings for a single-family dwelling, right? And the combination of the three or four lots, whatever it is, that the owner has makes it that much bigger. And because they're using the slope so significantly.

I mean, on the other hand, we've had this before, where you can really improve the view if you cut down all the trees. You know, that's not so good either. But that's not what we're hearing. So it's only the technical point of the size of the side yard setback.

**Boardmember Dovell:** Exactly.

**Chairman Murphy:** But I think, Marianne, unless you advise us differently, that our record has been developed pretty well here.

**Village Attorney Stecich:** Yeah. Although I think Mark's point is a good point. That once we have the minutes I'll write up a decision to go into the file.

**Chairman Murphy:** OK.

**Village Attorney Stecich:** And it'll reflect why this is unique and what factors you balanced, and how you came to whatever decision you come to and if you put any conditions on it. So the decision will be as of tonight, but I'll write it up and then you can sign it at your next meeting. I'll circulate it to make sure it reflects everything you want in it.

**Boardmember Collins:** I think to that point, I would just simply say, in looking at these five issues which we are asked to consider, I'm going to just go through all five quickly. Because to me, they are relevant.

As to the issue of whether this produces an undesirable change in the character of the neighborhood or a detriment to nearby properties, I think in my opinion the answer is no, it does not create an undesirable change. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance, I think the answer is technically yes but would create another detriment, a bigger detriment. So in my mind, the second point is satisfied.

Whether the requested area variance is substantial. I think we all agree that it is. Whether the proposed variance will have an adverse effect on impact on the physical or environmental conditions in the neighborhood or district. I think the answer is no. I think it's quite the contrary. And whether the alleged difficulty was self-created. I think we can imagine a scenario where they torture this project so that it becomes less self-created but would achieve the same outcome.

So I am comfortable and I'm satisfied with the circumstances. In my mind, this is, overall, a net benefit and I would propose that we approve this.

**Chairman Murphy:** That's fine. The only gloss I would put on it is that to me it's clearly self-created. But the self-creation is outweighed by all of the net positives.

**Boardmember Collins:** Yes, you're right. I agree.

**Chairman Murphy:** Which I think the applicant has been sensitive to. It comes down to we don't ... there's only so much control we have, right?

David?

**Boardmember Forbes-Watkins:** Even though I appreciate the concern about the degree of variance, I'm inclined to feel in this case that we're counting the number of angels dancing on the head of a pin rather than doing something particularly important. Therefore, I say let's go ahead and approve these, and stop gassing about it.

**Boardmember Pennington:** Goodness.

**Chairman Murphy:** Well, David, we're doing that. I should just reemphasize that I think Matt's condition is a good one about preserving the view corridor. So when we do the motion we should state that, subject to consulting the neighbors on the landscaping.

**Boardmember Forbes-Watkins:** And we also have this.

**Chairman Murphy:** And, Matt, your suggestion is a good. And Marianne's going to help us out there with some written findings. And I think Ray's concerns are adequately expressed.

So, Mr. Barnes, anything else from you on this? No. Anyone else?

**Mr. Barnes:** Thank you very much. [off-mic].

**Chairman Murphy:** Well, thank you for appearing here. We appreciate it. Anyone else in the audience wish to be heard on this one? No, OK.

All right then, we have view preservation, front yard, side yard. Actually it's two side yards.

**Mr. Steinmetz:** Correct.

**Chairman Murphy:** OK, anyone want to take a shot at this? Matt?

On MOTION of Boardmember Collins, SECONDED by Boardmember Forbes-Watkins with a voice vote of all in favor, the Board resolved in the case of 10-12 Hudson View (2007) LLC at 665 North Broadway, view preservation approval subject to the condition that the applicants consult with their neighbors to landscape in a way that preserves the view corridor, and subject to the Planning Board recommendation that the roof of the veranda be constructed of concrete of a color consistent with the Palisades, and that the roof be a, quote, unquote, "green roof," with vegetation of grassy or Sedum plantings.

**Chairman Murphy:** Five-0.

**Boardmember Collins:** Do I need to ... as I'm reading that aloud, should we omit the existing for the purposes of this?

**Village Attorney Stecich:** Yeah, I would omit the existing. Let me just suggest one other thing, Matt. That you grant the variance for this particular application because it's not an in-general 6 foot variance. You can't get a 6-foot variance and then go up.

**Building Inspector Sharma:** Only for what's proposed, and nothing more.

**Village Attorney Stecich:** But don't worry about it. If you just say it generally, and make sure that the written resolution reflects that.

**Chairman Murphy:** For the reasons reflected in the record.

**Village Attorney Stecich:** And as shown on this drawing; for the project shown on this whatever drawings are, and the date.

On MOTION of Boardmember Collins, SECONDED by Boardmember Forbes-Watkins with a voice vote of all in favor, the Board resolved in the case of 10-12, approval of the front yard proposed 41-1/2 feet, with a required minimum 100 feet for this particular case.

**Chairman Murphy:** That's 5-0.

On MOTION of Boardmember Collins, SECONDED by Boardmember Forbes-Watkins with a voice vote of all in favor, the Board resolved approve, in the case of 10-12, the side yard proposed 8-1/2 feet with a required minimum of 40 feet per the site drawings for this particular case as we have discussed it.

**Chairman Murphy:** Five-0.

**Mr. Steinmetz:** And then one more side yard as to the 38.4, the notch. You have two side yards.

**Building Inspector Sharma:** It's not listed in the notice, but that should be OK.

**Boardmember Collins:** It's in the application here?

**Mr. Steinmetz:** Yes.

**Village Attorney Stecich:** But it's within the same. No, they don't need that.

**Boardmember Forbes-Watkins:** That's not necessary.

**Chairman Murphy:** Oh, we don't need a separate motion? OK, so that's it. You've done the side yards?

**Mr. Steinmetz:** As long as the Board is comfortable, we had ... Marianne wanted to make sure that we addressed that notch. We had said, from the outset, as long as you're comfortable that's fine.

**Chairman Murphy:** OK. Counsel will write it up.

Mr. Steinmetz, thank you.

**Mr. Steinmetz:** Thank you all. Thank you for your time and patience.

**Case No. 11-12  
Lester Sills & Karen Sokol  
2 Summit Drive  
Construction of a new garage**

- 1. Front Yard for the garage: Existing: Not applicable, Proposed - 2.5 feet Required Minimum - 40 feet {295-67F.1a}**
- 2. Height of an Accessory Building with Flat Roof: Existing Not Applicable, Proposed-14 feet, Maximum Permitted 12 feet {295-67F.1d}**
- 3. Number and Total Width of Curb Cuts: Existing - One, 10 feet Wide; Proposed - Two, Total Width of 34 feet; Permitted - Two, Total Width 24 feet {295-41B}**

**David Robak, Robak Architecture LLC, Irvington:** Good evening, and thank you for your patience.

**Chairman Murphy:** Just give us one minute.

**Mr. Robak:** Oh, sure. No problem. There is also a land survey attached, which might be useful. My drawing is just a blowup of the site.

**Chairman Murphy:** Just give us one second. Almost with you. We do this by audio recording.

So our final application tonight is 2 Summit, the application of Lester Sills and Karen Sokol for the construction of a proposed garage.

**Mr. Robak:** The project is a two-car garage. The owner presently has a one-car garage built in under the house. So, of course, he would like to expand it; tired of having his car outside exposed to the snow.

Due to the configuration of the property ... let me just back up. The property is surrounded by streets on three sides – Villard Avenue, and Summit wraps around.

**Chairman Murphy:** Yeah, it's almost like a corner lot really.

**Mr. Robak:** Yeah, it's very unusual. So anyway, due to the configuration of the lot there's a little strip of land back here that was really not much use for anything. It's pretty steep, about a 30 percent slope, all overgrown with bushes. So that was a good place to place the garage.

What we did was, we pushed it back as far up the street as we could. But there's a cliff there, a rock ledge. So it's pretty much pushed back as far as it can to be off the street. And that sets it ... even though the variance, we're only 2-1/2 feet off the property line, the short side of the building's actually about 13 feet off the street. And on the long side, about 20 feet off the street. Because the property line is set back and you have pavement.

**Chairman Murphy:** Can you say that again?

**Mr. Robak:** I was saying that the distance of the structure from the property line is 2-1/2 feet, but that the actual ... you know, the street line is way down here and the property line is set back off the edge of pavement quite a bit. So it's not as bad as it looks on paper.

**Chairman Murphy:** Yeah, I was trying to eyeball that when I ...

**Mr. Robak:** So this short side is about 13 feet to the edge of pavement, and the long side is about 20 feet.

**Chairman Murphy:** OK. But the actual distance from the property line is 2-1/2 on the short side?

**Mr. Robak:** Yeah, on the short side, 2-1/2 feet. And again, there's pretty much solid rock back here. So we pushed it back as far as we could.

**Chairman Murphy:** Yeah, it's a pretty steep slope up ... you're going into the hill, right?

**Mr. Robak:** Yes.

**Chairman Murphy:** And there's that stockade fence there now.

**Mr. Robak:** We're going to go beyond the fence about 2 feet.

**Chairman Murphy:** OK.

**Mr. Robak:** And there's pretty much solid rock back there. So it's back as far as it can be.

The structure's going to match the house in finish. The house is kind of like a Tudor style with natural stone finish, and we're going to try to match that. We're going to have a carriage-style garage door. And there's also elevations. We're going to have an overhang of the roof just to try to break up the box and make it a pure box. A little more detail, with some brackets.

And there is also a rooftop deck. This is also part of the design, in that there's a pool up here at this upper level. We kind of set this height of the rooftop deck to be somewhat cohesive to that design; not like a full story below it so it can be kind of part of that whole pool-terrace area.

**Chairman Murphy:** Charlie, we're having a hard time hearing.

**Mr. Robak:** So that's kind of how we set the height to be kind of relating to this existing pool-terrace up there.

**Chairman Murphy:** So is the rooftop deck the reason for the height variance?

**Mr. Robak:** Yes.

**Chairman Murphy:** And what's the proposed use for that? Is it decorative, or functional?

**Mr. Robak:** Oh, no, functional: a deck, terrace.

**Chairman Murphy:** OK. So is the concept to access that from the pool area?

**Mr. Robak:** Yes. To walk down. We actually walked the site. We kind of picked a rock where we thought it would be a nice place to be level to walk onto the top of the roof. If you

go down, down, down it's the difference between stepping from here down to here. It's kind of part of the same level versus going out in your hallway and walking down the steps to the first floor. It's different when it's a great distance. So at that level, it's very cohesive to this whole patio situation.

That's about all I have to say with this, I think. None of the neighbors oppose the project. We're not blocking anybody since it really is tucked into the hill. There's a house back here on Villard so they really won't even see this. And they're in support of the project. There are other garages further up Summit, to the north up Summit Drive, that are very close to the street. These garages are all over the place that are very close to the street.

**Chairman Murphy:** I mean, my big concern was the proximity to the neighbor's line, but when I went to look at it it's next to their driveway, which kind of then veers off to the left and goes up the hill so the house is pretty far away from it.

**Mr. Robak:** Yes, correct. The house kind of winds up. He's over here somewhere, yeah.

**Chairman Murphy:** So I mean, for me it was a question of why they needed the extra height. Because usually on the garages, we don't like to go above 12 feet. I guess I see, on the one hand, you're building into the slope so you're reducing somewhat the impact of the height, I guess. I don't know about that.

And the side yard, it's pretty close. But it's a big area, and the neighbor has a big area away from that. So it's lesser of an impact, I think.

**Mr. Robak:** I mean, we do meet the side yard setback for an accessory structure. I have 9 feet, and the requirement is 8 feet. So we actually do meet that. It's really this front yard setback.

**Chairman Murphy:** Yeah, it's front. And now that you've explained it to me, I understand why that is. So that doesn't trouble me as much.

**Mr. Robak:** And the height, we just miss it. There is a height envelope. I dotted it in. We just catch, on this side, the railing.

**Chairman Murphy:** So how much is above what would be permitted?

**Mr. Robak:** It's about 2 feet. And again, that's just the railing. And on this side it actually clears it because the grade is kind of tilting away.

**Chairman Murphy:** That's what I mean. On the angle that you've written with the grade, is it just that little front corner piece?

**Mr. Robak:** Yes, this is the 12-foot envelope that's parallel to the grade, that dashed line. So yeah, just this front corner on the one side, on the south side. And this side clears it. Because the ground is just higher, so measuring off the grade.

**Chairman Murphy:** Yeah, because it's a pretty significant slope.

**Boardmember Dovell:** What's the overall height inside the garage? What's the clear height?

**Mr. Robak:** It's going to be about 11 feet or so.

**Boardmember Dovell:** Why so high?

**Mr. Robak:** To try to get this rooftop deck somewhat nearer to this pool patio. Just so it's not, you know, 8 or 10 feet below it. Then you're just walking down, down, down. It doesn't seem to be part of that patio.

**Boardmember Dovell:** My feeling about this is that these little garages are ... I love them. They're all over Hastings. I think the zoning doesn't address it. It's too bad. But that they're part of the fabric of Hastings. You see them everywhere because of the hills.

**Mr. Robak:** Yeah, you have no other choice.

**Boardmember Dovell:** But the issue I have is they're usually tiny little structures just big enough to get a car in. And this seems really kind of grandiose. You've got these fancy doors and cornices on it. And it's much bigger than it needs to be to put two cars in.

**Mr. Robak:** Well, I mean, it's only 25 feet wide. It's kind of a standard width. The overhands are just to try to keep it from being a box.

**Boardmember Dovell:** But the height and the depth of it are ...

**Mr. Robak:** I think about 23 feet is a standard garage depth. We're about 1 or 2 feet beyond that. I think we're 24 feet. That's kind of standard. You know, 22, 23 feet is a standard depth.

**Boardmember Forbes-Watkins:** I'd like to ask whether any consideration was given to putting this on the left-hand side of the current driveway. You have plenty of room there.

**Mr. Robak:** In this area? Oh, sorry, in this area here.

**Boardmember Forbes-Watkins:** Yeah, off the current driveway.

**Mr. Robak:** Yeah, I think that would look really cramped against the house because that's kind of a grassy area, it's a nice lawn. And I think it would just look ... I don't think it would look well. And this little strip of land down here is just ... it's just going to waste. It just seems just a leftover piece of land that's not good for much of anything.

**Boardmember Forbes-Watkins:** The other thing I ...

**Mr. Robak:** And this is actually nice ... this is nice lawn area in here.

**Boardmember Forbes-Watkins:** The other question I have is, I was very disturbed by the utility pole that's sitting right on the curb about 4 feet from where you would be turning into the garage. That, you can't set back because it isn't on your property. Is that correct? That's on ...

**Mr. Robak:** Yeah, that's on, I guess, the Village or Con Ed, whoever sets the poles. I think it's ...

**Boardmember Forbes-Watkins:** It's unusual to have a utility pole smack on the curb.

**Mr. Robak:** I know, I know.

**Boardmember Forbes-Watkins:** And I'm concerned about people turning in and backing out into poles.

**Mr. Robak:** I think he's OK. That's one of the reasons I pushed it over in this direction. I mean, it's about ... I think it's about 6 or 8 feet away.

**Boardmember Forbes-Watkins:** Is it that far?

**Mr. Robak:** Yeah, I think so. Because the door is 8 feet wide. Actually these doors are 9 feet wide. It's almost like a garage door's length, about 8 feet. I did consider that. I did see that pole. I thought about that.

**Chairman Murphy:** I mean, the issue with the size, really, Ray is it comes down to the curbcut and the height. What bothered me more was the height request.

**Boardmember Dovell:** I think the height and the ...

**Chairman Murphy:** But you need the curbcut to ... you can see the curbcut so you can get two cars in there.

**Boardmember Dovell:** The curbcut doesn't trouble me. I just think it's too much. The whole thing is outside of the required setback, correct?

**Mr. Robak:** Yes.

**Boardmember Dovell:** So it's 100 percent ...

**Mr. Robak:** Well, the side yard is not. The side yard conforms.

**Boardmember Dovell:** The whole thing is ... you know, if you draw a 20-foot line, the whole structure is in the front yard setback, correct?

**Mr. Robak:** Yes.

**Boardmember Dovell:** One-hundred percent.

**Mr. Robak:** Correct. Yeah, the line is actually ... I drew it on here, this line here is actually 40 feet.

**Chairman Murphy:** We've had other applications with lots like this, where it's essentially a two-sided front, right? Because the front of the house ... because when you come into Summit the front is immediately on your right. And as you wrap around Summit, this is really on the side of the house.

**Mr. Robak:** Is there a chance we could call it a side yard?

**Boardmember Pennington:** There is an alternative location. It would be inside the 40-foot setback if you were to locate it adjacent to the existing driveway.

**Mr. Robak:** Oh, in here?

**Boardmember Pennington:** Right. I understand your point about the lawn. It's a beautiful lawn.

**Chairman Murphy:** Oh, I think that's a terrible idea.

**Mr. Robak:** That would. It's a beautiful house. I think it would really ruin the house.

**Chairman Murphy:** I think this idea makes more sense. As Mr. Dovell is, I'm a little concerned about the size. And I'm trying to see ... for me, it's ...

**Mr. Robak:** We can knock a foot off. Would that help? I mean, we'd almost meet the envelope if we brought it down a foot.

**Chairman Murphy:** Yeah, it would help me.

**Boardmember Dovell:** But the height inside is 11 feet? I mean, that's ...

**Mr. Robak:** Yeah, about. Again, like I said, we started with the rooftop deck. We set that where the owners wanted it.

**Boardmember Dovell:** So we're approving a garage and a rooftop deck.

**Chairman Murphy:** That's the problem.

**Mr. Robak:** Yes.

**Boardmember Dovell:** And that's what I'm having trouble with.

**Chairman Murphy:** Yes, I'm not so sure I'm in favor of that part of it. But if they can do it dropping the height to within what's permitted without the variance, well then they can do it.

**Mr. Robak:** It's a real bonus to the owner to have that deck somewhat near the patio level.

**Chairman Murphy:** Well, based on your dotted line paralleling the grade, why can't you drop it a foot and do something with the front to avoid the need for a variance there if it's really that small. Because I see what you're saying, right? You're telling me you only need a variance because that little corner exceeds the height.

**Mr. Robak:** For the height, yes. That could be done.

**Chairman Murphy:** So if you cut the height down a foot, then you could alter that and still get the benefit of a deck and not need a variance, which would be custom here.

**Mr. Robak:** Yeah, OK. That sounds reasonable.

**Chairman Murphy:** But I think Ray's point is ... well, I don't know. I mean, the only way the size is otherwise impacted, Ray, is in the curbcut. Because the only variance they need is for two cars. The width of the curbcut exceeds the permitted width of two curbcuts by 10 feet.

**Village Attorney Stecich:** But if it were smaller it would be less incursion in the front yard setback.

**Chairman Murphy:** But I think what he was telling me is he can't move it back any further.

**Mr. Robak:** I'm pretty much back as ...

**Chairman Murphy:** Well, if it's narrower, sure.

**Village Attorney Stecich:** I think what he was saying is if it's smaller you've got less stuff in the required setback.

**Boardmember Dovell:** Right.

**Chairman Murphy:** You make it a one-car garage. That's what I'm saying. You wouldn't need the curbcut variance and you wouldn't need the front yard. Or it would be less of a front yard incursion.

**Boardmember Dovell:** Or if you had a single door in the garage rather than two doors you could decrease the width, as well.

**Mr. Robak:** With the cost of building being so high, if you're building a one-car you might as well do two. It'd be kind of wasteful just to do a single-car garage.

**Boardmember Dovell:** Well, I think we're looking for minimum variance. Isn't that part of it?

**Chairman Murphy:** Yeah, of course. That's what we're talking about.

**Boardmember Dovell:** Minimum variance, you could make is smaller all around – height, width and depth – and still have it work for a two-car garage for two big cars. I think that's the issue. That these garages all over town are really small. And people do manage to get their cars in them, and that's what gives it the character. This is rather inflated for what I see around town as an example.

**Mr. Robak:** OK. It's a big property.

**Chairman Murphy:** Well, I don't know. It's a big yard, and that part of the yard, Ray, is not ...

[cross-talk]

**Mr. Robak:** And I'm doing ... I'm presently doing a 26-foot garage in Greenburgh that's ...

**Chairman Murphy:** Hang on.

**Mr. Robak:** I'm sorry.

**Chairman Murphy:** Let me argue with him.

**Mr. Robak:** Sure.

**Chairman Murphy:** You're right. It's big, and it bothers me that it's a little big. First of all, if you've cars, anything in Hastings to get cars off the street is a bonus, in my view, especially up there, especially in the winter. What didn't bother me is that the neighbor's really not going to be impacted because their house is pretty far up the hill and off to the left. Like you go in the neighbor's driveway and it makes almost a 90-degree left turn. It goes up. So it's not well-utilized space and it's got that fence there and all that stuff. I guess that's all going to come down, right?, the stockade fence, or that part of it.

**Mr. Robak:** Yes.

**Chairman Murphy:** Because you're building back?

**Mr. Robak:** A portion of it. This will remain over here.

**Boardmember Collins:** Well, they need the fencing for the pool, right? That will have to remain.

**Chairman Murphy:** Yeah, but he's going past that is what I'm saying.

**Mr. Robak:** This garage goes past about 2 feet.

**Chairman Murphy:** So part of that's coming down, and you're going to put it against the garage, right?

**Mr. Robak:** Yes.

**Chairman Murphy:** Basically this fence is going to be against the garage.

**Mr. Robak:** Mm-hmm.

**Chairman Murphy:** See, for me, it's really the height that bothered me. Because I know the front yard setback is pretty small, given where the lot line is, and that. And there's nothing there. It's a huge-area property, there's lots of visibility for cars coming around. It's really 13 feet from the curb. I think that's OK. I would like to see the height reduced and adjusted because I don't want to grant that variance.

**Mr. Robak:** OK, I think we could do that.

**Chairman Murphy:** The width – if it's a two-car garage – I mean, I always rely on Mr. Dovell's architectural training to see what's possible.

**Mr. Robak:** It's nice to be able to open your doors inside the garage. Otherwise, you're ...

**Chairman Murphy:** I know, right. So, for me, the point is, the legal question is, to accommodate two cars, 24 feet, you'd need that curbcut.

**Mr. Robak:** Yes.

**Chairman Murphy:** And you're not permitted two curbcuts with that amount. So it comes down to what's permitted: two cuts, total width 24 feet – and you're proposing two cuts with a total width of 34 feet.

**Mr. Robak:** Yes.

**Chairman Murphy:** So the question is, is that extra 10 feet a problem for people in this particular site location.

**Boardmember Forbes-Watkins:** It's because of two driveways.

**Chairman Murphy:** Well, yeah, but he could put another driveway in as a matter of right with a 14-foot curbcut and have a big one-car garage and a much smaller rood deck. That's not what the applicant wants.

**Boardmember Forbes-Watkins:** It doesn't make sense.

**Boardmember Collins:** And I'm with you on this ...

**Chairman Murphy:** That's a pretty big property. I mean, it's a lovely property. He's trying to minimize the impact on the garage, and get the cars off the street.

**Boardmember Collins:** Yeah, he's getting cars off the street. I like the aesthetic design, and I think it's really innovative the use of that rooftop to connect into the pool. It creates a sense of cohesion, and takes what's ordinarily kind of, I don't want to say throwaway space. But you rarely see it used the way that this is intended. And I think it creates a really nice sense of cohesion with the rest of the property.

So I'm with Chairman Murphy. If we can find a way to reduce the height I think you're a) going to be able to keep all of the functional benefit and the aesthetic benefit, which is considerable, in my mind. I really like the look.

**Chairman Murphy:** I mean, this is a 28,000-foot property, lot area. That's really big for Hastings.

**Mr. Robak:** More than half an acre, yeah.

**Chairman Murphy:** And the footprint of the structures are much less than what's permitted. So for me, now that you've explained the front yard setback issue, and given that it's, in my opinion, really on the side yard and it's set well off the street ...

**Mr. Robak:** I'd call it a side yard, really. That's a whole nother argument.

**Chairman Murphy:** No. Technically we have to treat it as a front yard, given the nature of the property. And because it's so far from the curb that doesn't bother me.

**Mr. Robak:** OK.

**Chairman Murphy:** What bothers me is the height, and I wouldn't approve that. But other than that, I can live with the a two-car garage on that size property in that corner.

And the other thing I was concerned about was the impact on the neighbor coming in to their garage. But I don't see that it's going to create a visibility problem, David, for the neighbor.

**Boardmember Forbes-Watkins:** No, I don't think so.

**Chairman Murphy:** And because the neighbor's house is so far up that hill and so far off to the north, I don't see how it has any impact on their views or their property enjoyment or anything else, or the character of the neighborhood. If anything, it's an improvement because it keeps the cars off the street. And that's a plus.

**Boardmember Forbes-Watkins:** What are the plans with respect to landscaping around this proposed garage? I must say that the current area that would be utilized is not the prettiest part of the property.

**Mr. Robak:** There's a lot of rock there so it's hard for plants to grow. But I think they were just going to plant some shrubs around the base of the garage, and try to plant grass and get that to take if possible. But there is some rock ledge popping up.

**Boardmember Forbes-Watkins:** You're going to have to cut some rock, too.

**Mr. Robak:** Yes, we'll be cutting some rock.

**Chairman Murphy:** Matt, you have anything else?

**Boardmember Collins:** No, I have nothing else.

**Chairman Murphy:** Mark, why don't you jump in.

**Boardmember Pennington:** I think under the circumstances it's the least-impact place to put a garage on a beautiful property. So with the other issues addressed, I think it can be made to work.

**Mr. Robak:** OK. So we'll just lower it down to meet that 12-foot envelope in height?

**Chairman Murphy:** I'm sorry. Say again?

**Mr. Robak:** We'll just lower the height of the building down to be within the 12-foot envelope?

**Chairman Murphy:** Well, we're going to vote on it. But I'm not going to vote in favor of the height variance so you need to adjust that.

**Mr. Robak:** OK, sure.

**Chairman Murphy:** But that still leaves my neighbor and my boardmember, Mr. Dovell, to weigh in.

**Boardmember Dovell:** I still think it's too big all around. I might be overruled in this, but I think that looking at Hastings as a whole I find it out of character.

**Chairman Murphy:** Well, I guess I disagree with you on this one, Ray, mainly because of the size of the property. It's a really big property, and it can handle a two-car garage down there. But I agree with you. Try to minimize it some, and the height we don't have to go for. We don't usually do that anyway. And so then it comes down to the width, right? And you either make it a one-car garage ...

**Boardmember Dovell:** No, I wouldn't suggest making it one. I think two is perfectly appropriate.

**Chairman Murphy:** Well then what would you do? I mean, talk to me. What can be done to accommodate that?

**Boardmember Dovell:** I just feel like the width and the depth and the height, especially the height, should be reduced.

**Mr. Robak:** Just one comment about the size is that because the building is retaining earth these walls need to be thicker. So they'll be about a foot thick. So we are losing ... you know, a normal wall wood structure is only 5 inches thick, and this'll be concrete and it'll be about a foot thick. So we are losing quite a bit of space, and that was part of the reason I made it a little bit bigger, all three sides, as a retaining wall.

**Chairman Murphy:** It's going to be steel-reinforced concrete with what, stone facing?

**Mr. Robak:** With a stone face, yes. So that, right there, adds about a foot overall in both directions.

**Chairman Murphy:** For me, I just wouldn't approve the height variance, Ray. And then he's got to do what he can do. But it appears to me that he can do most of what he wants to do anyway.

**Boardmember Dovell:** I'm all for getting cars off the street, the curbcut and everything else. It's the character that bothers me.

**Mr. Robak:** I mean, a lot of it is kind of submerged from the side.

**Boardmember Dovell:** I appreciate that.

**Chairman Murphy:** OK. Do we have anybody from the audience? Sean?

**Zoning Board member Hayes:** Ahh, it's my street. I'm not going to say a word.

**Chairman Murphy:** OK. Sean's recused, our alternate. Mr. Sean Hayes, in the front row.

**Mr. Robak:** He's in favor of it.

**Chairman Murphy:** Welcome to our Board meeting.

OK, any further comments from the Board? If not, why don't we have motions on these one at a time, please.

On MOTION of Boardmember Forbes-Watkins, SECONDED Boardmember Collins by with a voice vote of all in favor, the Board resolved Case 11-12, construction of a new garage, approve a front yard garage proposed 2-1/2 foot setback, required minimum 40 feet.

**Chairman Murphy:** OK. Number two?

**Boardmember Forbes-Watkins:** I'm not moving that one.

**Chairman Murphy:** Well, somebody has to make the motion and we can just not second it.

On MOTION of Boardmember Forbes-Watkins , not SECONDED Case 11-12, height of accessory building with flat roof existing not applicable, proposed 14 feet, maximum permitted 12 feet.

**Chairman Murphy:** That motion's denied.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, the Board resolved approve Case 11-12, construction of new garage, number and total width of curbcuts existing one 10 feet wide, proposed two total width of 34 feet, permitted two total width of 24 feet.

**Chairman Murphy:** That's 5-0.

**Mr. Robak:** Thank you.

**Chairman Murphy:** OK, thank you for your time, Mr. Robak. Appreciate it. Good luck with your project.

### **III. APPROVAL OF MINUTES**

#### **Approval of Minutes, Regular Meeting, March 22, 2012**

**Boardmember Collins:** I didn't get minutes. Did you?

**Boardmember Forbes-Watkins:** I get printed minutes.

**Chairman Murphy:** I didn't get any.

**Boardmember Forbes-Watkins:** You get them normally ...

**Chairman Murphy:** Do we have minutes? I didn't get any. Of course, I wasn't here so I can't vote.

**Boardmember Collins:** I didn't get them either.

**Boardmember Pennington:** Approved minutes from February.

**Boardmember Collins:** I didn't get any minutes for the March meeting.

**Chairman Murphy:** All right. Since we had no minutes from our March meeting we're going to adjourn and we'll see everybody next month.

**IV. ADJOURNMENT**