

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING
JUNE 27, 2013**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, June 27, 2013 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember David Forbes-Watkins, Boardmember Sean Hayes, Village Attorney Marianne Stecich, and Deputy Building Inspector Charles Minozzi, Jr.

Chairman Collins: Welcome, everybody, to the June 27, 2013 Zoning Board meeting. Today, I'll just begin by saying that we are down one boardmember, Mr. Pennington, who's not here. Which means that we will have four voting members. And that means, if I'm not mistaken, that if anyone chooses to wait for a full complement of five boardmembers they may withdraw their application for today and postpone for our next meeting.

That being said, we have some changes to the agenda, I understand. Case No. 4-13, the Hastings-on-Hudson Affordable Housing Development will be postponed to a later date. And there may be some changes that we will encounter as we go, but with that being said we will start with Case No. 11-13, the Newington-Cropsey Foundation.

I. NEW BUSINESS

**Case No. 11-13
Newington-Cropsey Foundation
1 Cropsey Lane**

**View Preservation Approval for the installation of a standby generator
on the grounds of its property.**

Chairman Collins: Before we begin, Buddy, are all the mailings in order?

Deputy Building Inspector Minozzi: I believe all the mailings are in order at this time.

Chairman Collins: OK, all right. So Case No. 11-13 for view preservation approval for the installation of the standby generator on the grounds of its property.

Village Attorney Stecich: Mr. Chairman, a report on the Planning Board? The Planning

Board did vote to recommend view preservation approval on this application.

Chairman Collins: OK. Thank you, Marianne.

Village Attorney Stecich: And it also required site plan approval, which they got.

Chairman Collins: OK, very good. So do we have the microphone handy? OK, great. We've got two microphones, the portable one and the one by the podium there. And if you can just introduce yourself and speak into the microphone, please.

Sergio Dias, Suburban Sunrooms, Inc.: We're the general contractor. It's fairly self-explanatory. Adjacent to a building, we're going to be putting in a generator. It's 4 feet tall, give or take, so I don't think it's really going to have much of an issue in terms of view preservation. If you have any other questions?

Chairman Collins: I noticed the application came with some really helpful illustrations. Do you have something else that maybe you can just show, for the Board's sake, so that we can see it? From where I'm sitting, that's a little hard to see.

Boardmember Forbes-Watkins: That's hard to read, period.

Mr. Dias: Do you want me to describe the pictures?

Chairman Collins: Yeah, if you can just take us through what you're proposing to do and give us a sense of orientation – where it'll be – and talk a little bit more about the dimensions, that'd be great.

Mr. Dias: All right, so the generator is 74 inches wide, 34 inches long and 45 inches high. Now, this building here is ... if you look here, this is the view from the bridge above. You can look down on Newington-Cropsey. And this is the building where the generator's adjacent to. So the generator is going to be right about here in the middle of this brush.

Now, this is kind of a head-on view. We've marked over there, that's where the generator's going to be, adjacent to the deck in that building over there.

Chairman Collins: OK, I think it's pretty clear. Any comments, questions from the Board?

Boardmember Forbes-Watkins: My only comment is that this is the perfect example of why we need the change in the view preservation zoning rule.

Chairman Collins: Yes.

Boardmember Hayes: Agreed.

[laughter]

Chairman Collins: Yeah, that thought occurred to me, too.

Mr. Dias: I could understand you're doing a big initiative, but if the law says you have to do it...

[cross-talk]

Boardmember Forbes-Watkins: Nobody can see it, in order to have a view preservation issue.

Village Attorney Stecich: You're right for view preservation. I do point out, though, that it still would have required site plan approval. And, in fact, site plan approval was meaningful on this application because there was a condition put on when they can test it. Because there can be noise from generators.

Boardmember Hayes: Yeah, the noise I could see.

Village Attorney Stecich: Yes, yes.

Mr. Dias: Do you have any other questions?

Chairman Collins: Sean, any questions?

Boardmember Hayes: No. I went to the site, it's buried.

Chairman Collins: Ray, anything?

Boardmember Dovell: It's also pretty far removed from any neighbors. It sits down in the...

Mr. Dias: Oh, yeah. I mean, up from the bridge you can't see it. From the houses across you can't see it.

Boardmember Dovell: It's buried.

Boardmember Hayes: Even in the illustrations you had here that showed, I think, some of the ... you created what looked like just a space where you marked it off. And there are times where even though it's neon pink I had to go looking for it. I mean, I think that this is a pretty easy one.

Chairman Collins: Anything else that needs to be discussed here?

Boardmember Forbes-Watkins: Anybody in the audience?

Chairman Collins: Yeah, anyone in the audience that wishes to speak or ask a question?
OK.

Then can I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved [view preservation approval of Case No. 11-13, Newington-Cropsey Foundation] XXX.

Chairman Collins: None opposed, so it is unanimous. Congratulations, thank you.

**Case No. 12-13
Mobil Oil Corp.
1 Riverside Avenue**

View Preservation Approval for the changes to the chain link fence and other minor changes to previously approved plans for the ongoing groundwater remediation installation on their property.

Chairman Collins: That brings us to Case No. 11-13, Mobil Oil Corporation.

Boardmember Forbes-Watkins: There are two case number 11-13s.

Chairman Collins: Correct.

Boardmember Hayes: Let's look at the actual notice. This says "11-13," and they both say "11-13."

Deputy Building Inspector Minozzi: OK, we'll change that internally.

Boardmember Forbes-Watkins: It becomes "14?"

Deputy Building Inspector Minozzi: I would assume it would.

Chairman Collins: All right, we'll call it 11-14, and if it needs to be changed in the record we can do that.

Deputy Building Inspector Minozzi: I'll make sure it gets changed [microphone aimed up in the air instead of facing speaker].

Chairman Collins: All right, Thank you, Buddy.

So Case 11-14, Mobil Oil Corp., 1 Riverside Avenue, view preservation approval for the changes to the chain link fence and other minor changes to previously-approved plans for the ongoing groundwater remediation installation on their property.

Village Attorney Stecich: The Planning Board on this one also voted to recommend view preservation approval, but on the condition that they remove the slats that are in that drawing so that it's an open chain link fence.

Chairman Collins: Oh, OK. All right.

Deputy Building Inspector Minozzi: One more thing, I'm sorry. You can't change it to 11-14.

Village Attorney Stecich: No, "13" is the year.

Deputy Building Inspector Minozzi: It's 12-13.

Chairman Collins: OK, Case 12-13. We got it right.

All right, if you can just introduce yourself and speak into the microphone.

Daniel Moran - ARCADIS, Chevron Environmental: Basically, all we did was we made the footprint of the fence larger. It was approved last year with a 25-foot by 75-foot footprint. We made it larger basically to make it easier for us to access the enclosure for maintenance. At the suggestion of the Board, we want to move forward without the vinyl

slats so we can get this put in as soon as possible. We've had reports of trespassing and people climbing on top of the enclosure, so we just want to get the fence in as quick as possible. If we decide we want to come back for vinyl slats, then we can reapply. But at this point, we just want to get the fence in. Included will be three-strand barbed wire.

Boardmember Hayes: And that makes it 9 feet?

Mr. Moran: I'm not sure exactly how tall. Give or take, yeah, 8 foot to the top of the posts.

Boardmember Hayes: Is that what was approved, with the barbed wire?

Mr. Moran: I don't think we discussed the total height.

Boardmember Forbes-Watkins: Razor wire.

Village Attorney Stecich: You mean at the Planning Board?

Boardmember Hayes: Yes.

Village Attorney Stecich: Yes, this exact plan was approved.

Boardmember Hayes: So they saw the razor wire.

Mr. Moran: Yeah, we do have elevations.

Village Attorney Stecich: Not only did they show it, they understood it. Because I remember at some point in the discussion somebody said don't you think it's enough of a deterrent to have this big fence and the barbed wire on top of it, or razor wire, whatever it is. So they did understand that.

Boardmember Dovell: What's the total – I guess we would call it – circumference, but how much chain link fence is going up?

Deputy Building Inspector Minozzi: It's 85 by 35, right?

Mr. Moran: Yeah.

Boardmember Dovell: And what is that you're guarding on the other side?

Mr. Moran: It's the groundwater mediation system. So what we do is, we pull groundwater

out, add oxygen to it and reinject it as the enhanced bioactivity in the ground.

Boardmember Dovell: Is that a permanent installation?

Mr. Moran: No, which is a good point. As soon as the DEC approves shut-down of that treatment plant the treatment plant will be removed and the fence will also be removed.

Boardmember Dovell: OK.

Boardmember Hayes: Is that the site that we approved a few months ago?

Boardmember Forbes-Watkins: Yeah.

Mr. Moran: Last year, yeah.

Boardmember Hayes: Eight months ago, OK. I thought so.

Boardmember Forbes-Watkins: Now, the driveway – the access road – that, too, gets removed at the end of the remediation period?

Mr. Moran: Yeah, it'll be covered.

Boardmember Forbes-Watkins: It goes back to earth.

Mr. Moran: Yeah, the DEC-approved cap. So that whole thing will be brought to topsoil to grade, and then seeded.

Boardmember Dovell: And about how long of a remediation process will that be, do you know? Is there a way of knowing at this point?

Mr. Moran: There's no way of knowing. This was one of the more aggressive treatment strategies. We're planning for 24 months to 36 months.

Boardmember Dovell: OK.

Mr. Moran: But obviously it's up to the DEC.

Boardmember Dovell: And by removing the slats, presumably anyone who'd be walking in the vicinity will have see-through to whatever they'd be getting with an uninterrupted view.

Mr. Moran: Yes.

Boardmember Dovell: OK.

Boardmember Hayes: I would only point out that I don't think it's possible to walk in the vicinity of this. Because it's all fenced for hundreds of yards, when I was down there today.

Mr. Moran: The closest you can get would probably be the Zinsser bridge.

Boardmember Dovell: They're obviously not wanting people to get close to it. The razor wire...

[cross-talk]

Mr. Moran: We have a lot of expensive equipment inside, and there's been children...

Boardmember Hayes: Well, the concerns are two-fold, I think: not only to their property, but also to someone getting hurt, falling off. I mean, especially if they're drinking or whatever.

Boardmember Forbes-Watkins: That may be the only reason they'd go there.

Boardmember Hayes: Exactly.

David, I can see it's a novelty. I mean, it hasn't been like this in over a hundred years. So I can see why you'd want to protect it. I certainly have no concerns or objections. I think the Planning Board's recommendation to remove the slats insofar as someone may be in the vicinity seems like a reasonable request, and I understand the need. And, good to know that there is a horizon for its removal.

Chairman Collins: Are there any other comments or questions? Any questions from the gallery? No? OK. So can I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved [Case 12-13, Mobil Oil Corp. view preservation approval for chain link fence and minor changes approved for the ongoing groundwater remediation, with the understanding that the slats will not be included in the chain link fence] XXX.

Chairman Collins: Four-nothing. OK, thank you, Mr. Moran.

Mr. Moran: Thank you very much.

**Fay and Rosemary Devlin
555 Warburton Avenue**

**Renovations to 555 Warburton Avenue
Request for Extension of Planning Board Approvals**

Chairman Collins: Our next case, I do not see any representatives to speak on its behalf.

Village Attorney Stecich: Yeah, let me just tell you what this is. This is the Hastings House, you remember. I guess it was before you for view preservation approval. It was before the Planning Board for a long time, mainly for parking arrangements. They didn't move forward with it so their approvals expired. Once the building permit expired, their site plan approval expired as well. So they came back, and I think Christina's letter asked for an extension of the site plan approval.

Why it's on the agenda for the Zoning Board of Appeals I don't know. The only thing I can think of is that it also needed an extension of the view preservation approval. But if they're not here, we don't know. So I would suggest, rather than striking it from the agenda, that it be adjourned. So then they wouldn't have to re-notice it. And then if they do need an extension of their view preservation approval, they could come next meeting.

Boardmember Forbes-Watkins: I wasn't at the meeting where this was approved three years ago, but I remember thinking and being concerned about the use of the roof. And that was really the issue that I thought would have an impact on view preservation. I would like to hear again what is proposed for the roof in this.

Boardmember Dovell: There was a bulkhead, as I recall. They added a stair bulkhead, and there was a use.

Boardmember Forbes-Watkins: That didn't bother me, but the actual uses. They were planning, at that point, I believe some sort of recreational type of use. And I would like to hear again what that is before I...

Village Attorney Stecich: OK. But let me just caution the Board on it. The standard would be – if this thing were to be reviewed – has there been a change in the application, has there

been a change in the neighborhood, has there been a change from when you last approved it. There would have to be because it's called *stare decisis*: you have to stand by your previous decision unless there's been some change. So bear that in mind when you're looking at it.

Boardmember Hayes: Yeah, this isn't an opportunity to revisit necessarily, if everything else stayed the same.

Village Attorney Stecich: No. It's an opportunity, but it wouldn't be a good idea.

Boardmember Dovell: Marianne, you mentioned that if the neighborhood had changed around it, does this mean ... is it possible that a neighbor who maybe wasn't there at the time that this went in or was approved could come forward and...

Village Attorney Stecich: Say "My view would be affected"?

Boardmember Dovell: Yeah.

Village Attorney Stecich: Yes.

Boardmember Dovell: That might impact our thinking.

Boardmember Hayes: Just a query – just the lawyer in me – whether someone who buys a property and knows that something is going to look a certain way should then be able to take advantage of a loophole, essentially to increase the value of their property.

Village Attorney Stecich: Well, for the most part, and what the Planning Board chairperson advised the rest of the Board ... because on the Planning Board, I think only two members of the Planning Board were the same as had been on when they approved it before. It was, "Listen, there's been no change, we don't really have any option but to extend it."

Boardmember Dovell: So it really just expired. They're not coming back for any...

Village Attorney Stecich: No, no. They're not making any change. They're coming back with the exact same proposal. What happened was that things fell apart because the economy fell apart.

Boardmember Dovell: Right.

Village Attorney Stecich: And now I think maybe they're more comfortable.

Deputy Building Inspector Minozzi: The only thing that may be coming is, they may actually do away with the rooftop altogether.

Village Attorney Stecich: Which may be why Christina's not here. And then if they're not, then they don't need view preservation.

Deputy Building Inspector Minozzi: They didn't officially come forward with that.

Village Attorney Stecich: So that's why I'm suggesting adjourning it. And you should clarify with Christina, and if they still need view preservation approval then they'll be back next meeting.

Chairman Collins: Do we need to move for an adjournment?

Village Attorney Stecich: No, just say it's adjourned.

Chairman Collins: Ok, so we'll adjourn it.

III. DISCUSSION

1. Letter to Mayor & Board of Trustees From Comprehensive Plan Implementation committee (CPIC) Regarding CPIC Priority Group Recommendations

Chairman Collins: The next item on our agenda is described as a letter to the Mayor and Board of Trustees from the Comprehensive Plan Implementation Committee, or the CPIC, regarding its priority group recommendations. We have here Mr. Jim Metzger, who's the chair of the CPIC, to give us that update.

Jim Metzger, chair - CPIC: We were charged, by the Board of Trustees, to take the previously approved Comprehensive Plan, go through it, and prioritize the items that were identified in the Comprehensive Plan that the Village needs to visit and to incorporate as part of the planning process, in general. As part of our prioritization, the Trustees further asked us to go through and assign the equivalent of who would be a lead agency to effect the implementation of those various objectives and strategies that are identified.

So our seven-member committee put together a list, working with the existing boards and committees. And if there was an item that came up that we felt did not belong to an existing board or committee we said that an ad hoc committee should be empowered to look at this.

So the Zoning Board would be involved probably in very few issues. Because it's our understanding that the Zoning Board generally does not make policy, but they enforce policy. But there are certain items in the Comprehensive Plan that we believe would be important for your group to review and have some feedback as the Village proceeds with doing this implementation.

So that's all that letter was, was identifying the Zoning Board as one of the interested parties in several of these objectives and strategies; that you would want to be aware of them, and possibly weigh in on how they get implemented.

Chairman Collins: Mr. Metzger, can you talk at all about ... I know it's a common question on a lot of people's minds in the Village, but a sense of timing? Is there a horizon that you can point to where you think some of these issues may require Zoning Board input?

Mr. Metzger: I can, but I'm not prepared to do that at this moment. However, we'll be meeting with the Trustees this coming Tuesday, on July 2, where we'll be presenting our ranking of the priorities within the Comprehensive Plan. And so there are probably about 120 items that we've identified. Some of these items may be ongoing literally for generations. It's just the Village would have to change function. Without having the plan in front of me, and without presenting it to the Trustees and getting their approval, it would be hard for me to say at this point.

What we're talking about is not something that I think would require extensive meetings and months of research. It would be a matter of you sort of doing some oversight on some of the issues that have been identified. As an example, one of the things we talk about is rezoning some of the large tracts in the Village. For example, Reynolds Field is currently zoned for residential use, and that clearly is an issue for the school board wanting to do any work on the field, et cetera, et cetera. So it may be that your board would want to weigh in on how that property should be rezoned to be in compartment with its existing use. That's just one off the top of my head.

So I can't say there's going to be something that has to happen next week; it probably won't be. But over a period of time, issues will come up. The Trustees, as I said, are asking us to identify this as sort of 1 through 150. But the nature of the Comprehensive Plan is such that if you affect something in one part – for example, you're looking at a parking issue, traffic going onto the waterfront – that affects form-based planning on the waterfront. Which somebody from the Zoning Board may want to be involved in a committee that's looking at how the waterfront might develop. It would be talking about traffic in the downtown area.

So it's a comprehensive plan because everything is interlocked. That's why there would be a

lead group that would then identify other groups that would want to weigh in. For example, with traffic it may be the Conservation Commission would want to weigh in on potential pollution issues if traffic is getting backed up, and ways to move traffic through. The Safety Council would want to take a look at this – those sort of things.

So I can't give you a definite answer now, but after Tuesday we'll probably have a better idea on what order the Trustees want to start attacking each one of these issues.

Chairman Collins: OK. And at this point, I think as we talked right before the meeting, you don't have a specific request of the Zoning Board. This is more sort of a heads-up.

Mr. Metzger: It will come from the Board of Trustees based upon our recommendations. So our committee will not be empowering anybody. We're reporting to the Trustees. They will then direct various boards and committees to start dealing with the objectives and strategies that we've identified.

Chairman Collins: OK. Gentlemen, anything for Mr. Metzger?

Boardmember Forbes-Watkins: I have a comment, though, for the Board. I'm inclined to think ... obviously, what's coming here is very, very important to us as individual citizens. But as the Zoning Board, I'm not sure that we should be weighing in on policy and planning issues. We are here to judge the leader, and so I think we're the wrong group for this.

Mr. Metzger: I actually said that at the beginning of my talk just now. And, interestingly, when we were going through the Comprehensive Plan itself we interviewed members of pretty much every board and committee in the Village except the Zoning Board for that exact reason: because they did not have input into what they were doing, they would be reacting and enforcing, applying what we do. So I absolutely understand that. That's why I was a little confused when that agenda showed up.

But just to give you a heads up, as citizens you may want to weigh in on some of these issues. And I would hope that people throughout the Village would want to get involved in starting to work through the implementation of the plan.

Boardmember Dovell: I would have to agree with you, and question why.

Chairman Collins: Well, I appreciate the overview, and thank you for your service. I know this has been ... how long have you guys been at this, three years?

Mr. Metzger: Well, the Comp Plan was three years. We took a brief hiatus, and we've been

working on this implementation now for about seven months.

Chairman Collins: Well, thank you.

Mr. Metzger: Seriously, it's been a labor of love from every person that's been involved. There were 11 people on the Comp Plan committee and seven of us on the implementation. It's really been an extraordinary, in-depth look at how the Village functions, and identifying the issues that we believe we could work on to make the Village function even better.

And, in fact, one of the things we talked about is germane to what you spoke about earlier. To get together with the Building Department and local architects to discuss the way projects move through the Village so that at some point in the future you may not have to deal with the placement of a generator that's behind a building that no one will ever see. But there would be a short group that could look at that and identify it as a non-issue and free up some of your time to deal with the bigger issues that you deal with.

Chairman Collins: Well, that would be a good thing. All right, thank you very much.

**Fay and Rosemary Devlin
555 Warburton Avenue
(Continued)**

Chairman Collins: I see that Ms. Griffin has arrived for a case which is Fay and Rosemary Devlin, 555 Warburton Avenue. So I'm glad you're here. We zoomed on through the first couple portions of the agenda. So thank you for coming. If we can have you speak into the microphone, and just introduce yourself.

Christina Griffin, architect - 555 Warburton Avenue: I'm the architect who's been working on 555 Warburton for the past few years. I'm here to request an extension to the Zoning Board approval that we received, I believe, in December '09. We received approval for view preservation.

And what has happened is, I think when they finally got the approvals the recession hit. And then when we began construction in 2011 we did demolition work and had to put a whole new steel infrastructure in the building because the western wall was falling away from the building. So it was an unexpected surprise, and time and expense went into that and that took about a year. We broke the project into two phases. One was exterior upgrade and structural upgrade. After that, I think the owners were considering perhaps selling it. It's been on the market. They haven't been able to reach the price they think they need to recoup

the investment, so now they're thinking they might go ahead with it.

But in any case, they would really like to see if they can extend the approval, since there was so much effort that went into getting those approvals. If anyone on the Board remembers, it took two years and there was a whole parking analysis done, which was the main concern, I think. We finally came up with, I think, a nice compromise, where they reduced the scale of the eating establishment to a restaurant on the first floor, full kitchen in the basement. On the second floor is a wellness center, third floor is yoga studios, and the top floor would be a seasonal bar during certain hours. There was a very complicated parking management plan that was put together jointly with the neighbor, Chase Manhattan, so they could use their parking lot when the bank was closed. And also, they're only open certain hours.

So we want to fulfill the conditions of the resolution that was issued by the Planning Board. I've reviewed that with them recently and made them aware that if we make any changes we'll be back to the Board, to all the boards. So we're here just to simply ask for an extension of that approval.

Chairman Collins: And there's no change to the plan. This is just you're resetting the clock and giving you time now.

Ms. Griffin: Yes. I think her business took a different turn, and right now I think she wants to partner with someone because it's just such a big building. But if there is any change to the use, we would be going back to the Planning Board. As of today, I don't know of any change to that use. I know she is working with another restaurant owner on doing the restaurant right now. And I don't know if she can move ahead with the wellness center, but if she doesn't we'll be back to the Planning Board for any changes to the plan.

Chairman Collins: OK. David, did you have something?

Boardmember Forbes-Watkins: Yeah. I'm recalling the discussions back when this came up the first time.

Ms. Griffin: Yes.

Boardmember Forbes-Watkins: And the only area that I'm a bit concerned about is, I don't remember precisely what we approved for the rooftop. It seems to me, just to put it in simple terms, the rooftop area is the only one where there could be a view preservation impact on the people, particularly up on Whitman Street.

Ms. Griffin: Yes.

Boardmember Forbes-Watkins: And so I just want to know what it was exactly that we approved at that time.

Ms. Griffin: You could pass these drawings around. We have a new stair tower. The stair goes up through the back northwestern corner to keep it away from the front façade. That was what we needed view preservation approval for. That gave access to the roof.

Boardmember Forbes-Watkins: Right.

Ms. Griffin: If you want to pass these around just to refresh your memory, you'll see this. This is the front elevation. And you'll see, in the next few pages, the site elevations that also show the new stair enclosure.

Boardmember Forbes-Watkins: OK. But what was the plan to have on the roof during this seasonal use?

Ms. Griffin: It's like a lounge bar, like an outdoor yoga and waiting place for people who want to go to the restaurant to go up there to have some drinks. No more than 50 people.

Boardmember Forbes-Watkins: And the bar was approved as a use?

Ms. Griffin: Yes.

Boardmember Forbes-Watkins: I remember there not being approval.

Ms. Griffin: And also there are conditions of hours of use, I believe. I think it's only during the daytime, in the resolution. I think they're only allowed to use it during the day.

Boardmember Forbes-Watkins: Ray, do you remember it? You and I are the only two...

Boardmember Dovell: I remember the bulkhead, I remember the outside use.

Boardmember Forbes-Watkins: That I remember, too, I just didn't remember precisely what it was.

Boardmember Dovell: The parapet heights are all fairly high, aren't they, around the roof?

Ms. Griffin: Yes, yes. We were able to just use those as the railing.

Boardmember Dovell: Use those as the railing, yeah.

Boardmember Forbes-Watkins: Not much now.

Ms. Griffin: There's also a waste enclosure on the side of the building, which was an item to review – which we're going to keep – on the northern end.

Boardmember Dovell: It would be nice to see it done.

Chairman Collins: Yeah, exactly. Sean, anything?

Boardmember Hayes: No. For me, it's a question that I think is section 295-111. Is that the right part of the statute, the code, for an extension?

Village Attorney Stecich: Well, I believe that's the expiration section. Just a minute. Yeah, that's on the expiration of approvals.

Boardmember Hayes: So it's basically whether they're reaching around.

Village Attorney Stecich: No, that's site plan approval.

Boardmember Hayes: But that's different.

Village Attorney Stecich: She's here for the variance, also. The notice is not...

Boardmember Hayes: Oh, it's a typo. Because it says site plan approval in the letter.

Village Attorney Stecich: I know. The notice on that was not clear.

Boardmember Hayes: OK.

Village Attorney Stecich: But if you go to 295-147 – expiration of variances – if they're not exercised within a year they lapse. So then she's just asking for an extension.

Boardmember Hayes: But what's the standard for an extension? What's the legal standard?

Village Attorney Stecich: Well, if they're asking for the same there is no particular legal standard. But you would ask have there been any changes since the past. And, assuming it's a reasonable amount of time, and there haven't been changes in the law or in the proposal or in the surrounding area, ordinarily it would have to be re-approved.

Chairman Collins: I think we heard that there's, at least at this point, not plans for a change. But if there are, then those plans will be submitted for approval.

Boardmember Forbes-Watkins: They have to come back.

Chairman Collins: So, Marianne, are we then ... it's not ... we're not granting an extension of the Planning Board approval.

Village Attorney Stecich: No.

Chairman Collins: We're extending approval of the view preservation approval.

Village Attorney Stecich: The view preservation approval, right.

Chairman Collins: All right. Any other questions, comments, guys?

Boardmember Hayes: No.

Chairman Collins: OK. So can I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved to approve the extension of view preservation approval for 555 Warburton Avenue.

Chairman Collins: It's unanimous.

Ms. Griffin: Would the extension be for the same 12 months that the Planning Board granted an extension, or is that separate?

Village Attorney Stecich: Yeah. Because it says if it's not used, if it's not exercised, within 12 months it expires.

Ms. Griffin: I see.

Village Attorney Stecich: So that's actually provided in the statute.

Chairman Collins: Thank you. Good luck. Boy, I do hope that comes to life.

**2. Proposed Local Law No. 3 of 2013
Proposed Local Law No. 4 of 2013**

Chairman Collins: We have, aside from the minutes, just two more items: changes to proposed Local Law No. 3 of 2013 and proposed Local Law No. 4 of 2013. At least one of these, No. 3 of 2013, really seemed to be appropriate.

Boardmember Forbes-Watkins: That's our business.

Chairman Collins: Right on cue.

Village Attorney Stecich: Did you want me to go through these?

Chairman Collins: Yes, I do.

Village Attorney Stecich: OK. The first one was to add this provision to the view preservation law. What it says is that view preservation could be waived if the Building Inspector determines that it'll have no negative impact on the view and that appraisal is also approved by the chairperson of the Planning Board or designee of the chairperson, and the chairperson of the Zoning Board or a designee of the chairperson. So all three people would have to approve it. If any one person says, "You know what – I think it might affect it," then it'll have to come in for view preservation approval.

It was written very specifically so you don't have to convene, that three people don't need to convene. Just all three people need to review, and any one of the people says no then view preservation approval's required. I didn't want it to be a 2-1 vote because if one person thought it might affect the view then it might affect the view. So that's why it was written this way.

Boardmember Hayes: Can I take a step back, just because I've never sat up here when there's been a proposed local law? What is our role?

Village Attorney Stecich: Oh, yeah, I'm sorry. I should have explained that because it relates to what Ray said and David said earlier. Under the zoning code, any amendment to the zoning code has to be referred both to the Planning Board and to the Zoning Board for a recommendation.

Boardmember Hayes: So it's just a recommendation.

Village Attorney Stecich: Yes.

Boardmember Hayes: That's what I figured. We're not enacting law, OK.

Village Attorney Stecich: This one, I think, is kind of easy. The site plan approval, I'll walk through that. There was a little more work done on this.

Boardmember Hayes: No, I think this is great. I mean, it just feels like we've had a number of cases...

Boardmember Forbes-Watkins: Ridiculous.

Boardmember Hayes: ... if we think about Chelsea's, St. Matthews, the Newington-Cropsey Foundation generator.

Boardmember Forbes-Watkins: And even the...

Boardmember Hayes: Even the fence.

Chairman Collins: Yeah, the fence. I mean, those are all things that probably would not have...

Boardmember Hayes: The giraffe?

Village Attorney Stecich: Well, no, no, no, no. That's not right about the fence. I think the fence is really...

Boardmember Forbes-Watkins: I'd agree.

Boardmember Dovell: For view preservation?

Boardmember Forbes-Watkins: Yes.

Village Attorney Stecich: Absolutely. They came back with the plan with slats in it? I mean, if you looked at the photos there, there was such a difference in the photo of the chain link. There was a chain link fence – not that chain link fence – where you could look through and see the river and the Palisades. When you've got those slats...

Boardmember Hayes: But from where?

Boardmember Forbes-Watkins: From where, yeah?

Boardmember Hayes: I think that does matter. I went to the site, and it's a long way away from anything.

Village Attorney Stecich: But in any event, it wouldn't matter. Because if any one person thinks, hey, it could affect it ... and it's sort of like checks.

Boardmember Dovell: That strikes me as the right thing to do.

Boardmember Hayes: I think it's a great idea.

Village Attorney Stecich: Yeah. Generally what happens on those applications is they get handled really quickly. But sometimes people lose a month, and they have to go through the process and stuff.

Boardmember Dovell: I think it's a good idea.

Boardmember Hayes: I think one of the questions for us will be – and this'll be a question for you, I think, Matt – will you designate a person; will it be you, designate someone else, to sort of handle those issues to sort of make it more of a fine-tuned machine?

Chairman Collins: Yeah. Well, I hope that it starts to work. I mean, I would love to start to have the decision to make who reviews that, whether I do it or ask someone else to do it. But that would, to me, be a sign that the building inspectors are finding things that probably aren't things they don't think are going to need a formal review.

Boardmember Dovell: It's really availability, isn't it? Who's around, and who's able to go walk – which one of us.

Boardmember Hayes: Right.

Village Attorney Stecich: Yeah, I don't think it has to be the same person each time.

Chairman Collins: Right, I think we can probably tackle that based on availability and interest.

Village Attorney Stecich: Right.

Boardmember Hayes: So do we just then move for a recommendation? Is that what we do?

Village Attorney Stecich: Yeah, if you want to vote to recommend it. You might then just take a vote.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved recommendation to the Board of Trustees the Proposed Local Law No. 3 of 2013.

Village Attorney Stecich: And I'll write a memo.

Now on the site plan approval, let me walk through the changes on that. The biggest change, the overall change, is that site plan approval would not be required for something that's just happening inside a building. Because right now, the way the code's written, not any change inside a building requires site plan approval. It has to be an alteration. An alteration is defined as structural. But still, there could be something structural inside the building that doesn't affect the outside at all, and site plan approval doesn't make sense.

There was the one example. You would see more – and the Planning Board sees this sometimes – but there were people who wanted to make an even broader exception; you know, that if it's an outside thing that is determined to be insignificant. But the Board of Trustees didn't want to go that far. For instance, this generator. That was actually a really good example of why you just can't give discretion – not why you can't, you could – but why maybe it's not such a great idea to give discretion. Because Deven's thinking was you shouldn't need site plan approval for a generator. That was the Building Inspector. Other people think it's relevant.

I mean, actually a generator outside can make a big difference. David, you were on, and I think you were on, Ray, when we had the generator, a refrigerator, behind the Euro Deli. Maybe it was before. But it was outside, and it really impacts noise. It depends how close you are to people.

Boardmember Hayes: But is the generator for when there's a loss of electricity, or for any time? Because if it's for loss of electricity it's a completely different analysis from, say, an air conditioner, from my point of view. You're talking about, max, seven days out of the year for an emergency?

Village Attorney Stecich: Yeah, except in order for them to work they have to go on once a month.

Boardmember Hayes: I know, but they go for like 20 minutes.

Boardmember Dovell: Once a week.

Boardmember Hayes: Once a week for 20 minutes.

Chairman Collins: Yeah, they are. They're noisy machines.

Deputy Building Inspector Minozzi: Once a month, but they're probably going to run more than that.

Village Attorney Stecich: Anyway, the point is it's really hard to write an exception that says there doesn't need to be site plan review for really minor things because who decides what's really minor. This came up around the time with the statues at St. Matt's. Those were pretty insignificant probably but, well, you can't just make an exception for statues because some statues are big.

Boardmember Forbes-Watkins: Yeah, those giraffes.

Village Attorney Stecich: Anyway, they decided, well, just try to make it better and at least not require people who are just doing interior work to come in. Wait, let me just say one other thing on that. I don't know if it's the whole Building Department, but Deven had recommended a committee be created that could decide that something was minor. Maybe along the lines of the view preservation waiver, although that's not a committee, it's a waiver. As a legal matter, I'm not comfortable doing that. Because site plan approval is governed by state law, by New York State village law. There's requirements in it.

Your view preservation law is just a Hastings creation. You can do whatever you want with it, within reason. But site plan is dictated by state law, by the New York State village law. And there's no provision in there. What it says is, you decide when site plan review is required. And there's no provision for another kind of committee waiving that approval.

The state law, though, does allow the Planning Board to waive certain requirements of site plan approval. Your site plan application has to have, let's say, 14 submissions. The Planning Board can waive the submission of a lot of those things if they deem they're irrelevant. But for whatever reason, when the law was written in Hastings the Planning Board was never given that waiver authority. So that's when you get to section two, that's

what that does. That says adding a section that says, "*The Planning Board may waive any of the required submissions if it finds that because of the special circumstances of a particular case that the information is not necessary to assist the planning board in making its decision, or that compliance with the requirements may cause extraordinary and unnecessary hardship.*" So if somebody was coming in with just a really small thing they wouldn't have to make all the submissions and get a survey.

Chairman Collins: Then it becomes a special circumstance.

Village Attorney Stecich: Right, right, right. OK, so that's a related change.

So site plan approval is required for any exterior work. It's also required for "... *the construction or alteration of a driveway or parking space.*"

Chairman Collins: I thought that was really good.

Village Attorney Stecich: Because right now it's not, and it doesn't make sense that it's not because that's really significant.

Chairman Collins: Yeah, I thought that was a really good change.

Village Attorney Stecich: So we put that in.

Then the reason three is in there – "*the alteration of a building in such a way as to create an additional dwelling unit.*" You could make a change inside the building that doesn't affect the outside at all that creates a second dwelling unit or a third dwelling unit in the house. A rec fee should be required in that because recreation fees are required for any new dwelling units created because every new dwelling unit generates a need for more recreation. And the rec fee is not just a fee like a building permit fee or any other fee. Actually, it's made either in site plan approval or subdivision approval. And that's also by state law.

State law permits these recreation fees to be assessed either in subdivision approval or site plan approval. So if you don't have site plan approval you can't require the rec fee. This is a way to make sure the Village gets its rec fees in all of the cases. So that's what that's about.

Then there was no change in B. Remember, there isn't site plan approval required on single-family houses. The way the code's written now, there's no site plan approval required on single-family houses. It turned out, when I sent these changes around for other departments to take a look at, that the practice in the Building Department had been not to have site plan review done on two-family houses either. The code required it, but I don't know why it

wasn't being done. So we decided that it should be. As a practice, it's been excluded; changes on two-family houses. So the Board was comfortable continuing that because in a lot of ways they're not. Except a two-family house – if somebody goes from a one-family to a two-family house – you have to get your rec fee.

So the exception for the two-family houses is only for "*reconstruction, alteration, renovation, demolition or enlargement,*" but not for the creation of a two-family house. Again, you would pick up the rec fee. So that's what the change in D is about.

And I'm sorry, the change in C just adds the driveway parking space or structure except for single-family houses being exempt from site plan approval. I think those are all the changes.

Boardmember Forbes-Watkins: The one thing I don't like is the exception for driveway and parking space on the single-family or two-family house.

Village Attorney Stecich: Though, David, they've never had to come in. On single-family houses you don't come in for site plan approval – driveway, whatever you do. So it wouldn't make sense to make them just come in for driveways. They still need to get Building Department approval. You know, it has to be reviewed – the curbcut or whatever. This is just that they don't need site plan approval.

Chairman Collins: And if they were skipping they would have to come to us for a variance.

Village Attorney Stecich: Absolutely. One thing you might be interested in. The Planning Board did recommend the view preservation change. And it recommended this change with one qualification. And that is in A-3, where it says "*... the alteration of a building in such a way as to create an additional dwelling unit.*" They didn't think that it would be a good idea to require that of an accessory apartment. Because the accessory apartment law was enacted to make it possible for people to continue to live in their homes. You know, older people maybe to live in their homes. That was one of the stated purposes of it was to make it economically feasible, or to make it economically feasible for people of moderate income.

You can't create an accessory apartment without getting a permit from the Planning Board. So it would be reviewed, but it wouldn't be site plan approval so you wouldn't assess the recreation fee. So whether the Board of Trustees accepts that change or not, I don't know, but that'll be part of the recommendation from the Planning Board.

I'll answer any questions.

Chairman Collins: I thought the changes added value to the code. I thought they made the

code better. I was eager to hear the two-family addition. I thought that was notable for its presence there.

Village Attorney Stecich: I was surprised, too. But you may as well have the law of what's going on. That's what's been going on, and it's been fine.

Chairman Collins: Any questions?

Boardmember Dovell: I think it's sensible.

Chairman Collins: A question from the crowd. Yes, sir?

Mr. Metzger: As the owner of a two-family house – and that's how I can afford to live in Hastings – with the two-family house, which is now being included as required for site plan review, that is for doing only exterior work?

Village Attorney Stecich: No, no, no, no. They're exempt.

Mr. Metzger: But the two-family is officially exempt?

Chairman Collins: Right.

Village Attorney Stecich: Unless you're creating a two-family.

Mr. Metzger: I got it, OK. I got a little lost there.

Village Attorney Stecich: You can do exterior work on it that needs site plan approval.

Mr. Metzger: OK, thank you.

Village Attorney Stecich: Again, any of these things still need building permits. It's just site plan approval.

Deputy Building Inspector Minozzi: I just want to add, one of the reasons that was strongly felt about the two-family is because it mirrors the state code. The state code exempts certain things from single-family and two-family houses. And then three-family and more is different.

Village Attorney Stecich: And there's also other sections of the code that lump one- and two-family together. This is the one where it's not. So it also makes it less confusing, I

think.

Chairman Collins: Yeah, I think these are good changes.

Village Attorney Stecich: I mean, you could think of ways to go farther. You know, you can think of examples. But then when you try to write a law to fit that example it's very hard, you know. Think of the statutes; how would you write that, you know? But I would say that in situations like that the Planning Board always decides them as quickly as they can. I think it's a practical matter some of the requirements have been waived. But now, officially, they can be waived.

Chairman Collins: No, I think this is great. And coming at a time when it seems to me we might be getting back into a period of enough growth people want to do stuff on their homes. So that's a good thing.

If there's nothing further, then can I get a motion?

On MOTION of Boardmember Hayes, SECONDED by Boardmember Forbes-Watkins with a voice vote of all in favor, the Board resolved recommendation to the Board of Trustees the Proposed Local Law No. 4 of 2013.

Chairman Collins: Unanimous.

Boardmember Hayes: Oh, the minutes.

IV. APPROVAL OF MINUTES

Meeting of March 28, 2013

Chairman Collins: I was not here for the last meeting so I better not be in the minutes.

Boardmember Forbes-Watkins: Unfortunately, we have never approved the March 28 minutes. This is difficult because the only people who were present were Brian Murphy, Matthew Collins and myself. So there are enough of us here who can pass on this.

Village Attorney Stecich: You better all be for it, vote for it.

Chairman Collins: Do you have any changes to the March 28 minutes?

Boardmember Forbes-Watkins: I do, page 28 and page 40.

Chairman Collins: And this is for the March 28 meeting.

Boardmember Forbes-Watkins: March 28, yes.

Chairman Collins: *"So I understand that the affordable housing that's going back 'to' the Planning Board," not "tot."*

And Chairman Collins on page 40, the third line, "*March*" should be "*May*": *"Our next meeting will be April 25, 2013 and, unfortunately, it looks like I'm going to be out of town unless something changes, which I doubt. So, unfortunately, I will not be here, and it looks like I'm definitely not going to be here in" May, instead of "March."*

Those are the only changes I have.

Chairman Collins: Any other comments on the March 28 minutes?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Minutes of the Regular Meeting of March 28, 2013 were approved as amended.

Meeting of May 23, 2013

Chairman Collins: This is the meeting I did not attend.

Boardmember Forbes-Watkins: And who was at the May meeting?

Boardmember Hayes: I was there. I stumbled like crazy on my first motion ever, and I was hoping that got cleaned up in here. But I wasn't sure. It was embarrassing, and I was hoping it was cleaned up.

Boardmember Forbes-Watkins: We only have two people present, but there were only three at the meeting: myself, Sean and Mark. I think we can vote on it.

Village Attorney Stecich: I think so, too. It's not a substitute.

Boardmember Forbes-Watkins: I have one change, the very last page, the very last sentence: *"On MOTION of Boardmember Pennington, SECONDED by Boardmember Hayes with a voice vote of all in favor, Chairman Collins"* – who was not here – *"adjourned the Regular Meeting."* It was me. I did it.

Boardmember Hayes: It looks like I was spared.

Chairman Collins: All right, good. Let the record reflect "elegant motion."

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Minutes of the Regular Meeting of May 23, 2013 were approved as amended.

ADJOURNMENT

XXXXXX: May I commend you on your successful start, Chairman Matt.

Boardmember Hayes: This was a smooth runway.

Village Attorney Stecich: Buddy, do you know when the September meeting is? It's usually early.

Boardmember Forbes-Watkins: The 10th. Is that a Thursday? It's the second Thursday of September.

Chairman Collins: Because we have no August meeting, right?

Village Attorney Stecich: The second Thursday, September 12. So that's what it would be, September 12?

Boardmember Forbes-Watkins: Yeah, that's what it is on the Village calendar.

Village Attorney Stecich: OK, so July 25 and then September 12.

V. ADJOURNMENT

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On MOTION of Boardmember Hayes, SECONDED by Boardmember Forbes-Watkins with a voice vote of all in favor, Chairman Collins adjourned the Regular Meeting at XXX.