

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
JANUARY 23, 2020**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, January 23, 2020 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember Joanna Berritt, Boardmember Carolyn Renzin, Alternate Boardmember Sashi Nivarthi, Village Counsel Amanda Brosy, Building Inspector Charles Minozzi, Jr., and Deputy Building Inspector Steven Stanislawczyk

Chairman Collins: We have four cases on the docket. We'll do a mic check. She's saying she's getting static from somebody. Can you just speak into your mic? (On phone) Okay, he's fixing those now. If it's still not good just give us a call back, we'll get it right. Okay, thanks Jen.

ZONING BOARD PROCEDURE

Selection of Zoning Board Chairperson for 2020

Chairman Collins: Before we begin, there's a procedural matter of selecting the chairperson for the Zoning Board for the calendar year. I'll let you go ahead and sort of guide that through the process.

Village Counsel Brosy: Really it's just a matter of somebody nominating a new chair, or re-nominating Matt. So can I have a nomination?

Boardmember Nivarthi: I nominate Matt Collins.

Village Counsel Brosy: Okay, and is there is a second?

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Berritt, with a voice vote of all in favor the Board resolved to approve Matt Collins as chairman.

Boardmember Berritt: Sorry, Matt. You got it.

Chairman Collins: Thank you very much.

So we've got that. Buddy, how are we on the mailings?

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

Chairman Collins: We'll take the cases in the order in which they're presented on the agenda.

Case No. 03-20
Ryan Kimber & Meghan Golden
0 Pinecrest Parkway
[Deferred Until Future Meeting]

For View Preservation Approval as required under Section 295-82 and relief from strict application of Village Code Sections 295-68E, 295-68F,1(a, b & d), 295-68F.2.a[2] and 295-19 for a new single-family dwelling on their prospective property at 0 Pinecrest Parkway. Said property is located in the R-10 Zoning District and is known as SBL: 4.100-95-41 on the Village Tax Maps

Non-conformity details of the proposed construction are as follows:

VP approval – {295 – 82}

Minimum lot width: Existing & Proposed – 90 feet; Required – 100 feet {295-68E}; Variance Required – 10 feet

Front yard: Existing – NA; Proposed – 15.83 feet; Required – 30 feet {295-68.F.1.(a)}; Variance Required – 14.17 feet

Rear yard: Existing – NA; Proposed – 15.83 feet; Required – 30 feet {295-68.F.1.(b)}; Variance Required – 14.17 feet

Height: Existing – NA; Proposed – 41.29 feet; Required – 35 feet maximum {295-68.F.1.(d)}; Variance Required – 6.29 feet

Development Coverage: Existing – 15.48 percent ; Proposed – 46.19 percent ; Required Maximum – 35 percent {295-68F.2.a[2]}; Variance Required – 11.19 percent

Street frontage: Existing & Proposed – 25 feet; Required – 70 feet {295-19}; Variance Required – 45 feet

Chairman Collins: We're going to start with Case 13-19.

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

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

Nonconformity details of the proposed construction are as follows

Rear yard: Existing – 35.25 feet; Proposed – 14.25 feet; Required – 25 feet {295-69.F.1.(b)}; Variance Required – 10.75 feet

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

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

Chairman Collins: I'm going to preface this by saying that the notice indicates that the applicant is here for view preservation approval in addition to several variances. The Building Inspector has informed me that this application is a strong candidate for our view preservation waiver so I'll ask the applicant to present the case for the waiver.

The way the waiver works, in case anyone's interested, is that rather than proceed to a full vote as with the other variances requested, the chairs – respectively of the Planning Board and Zoning Board – have sole discretion about whether to grant a waiver. We grant a waiver when there is very clear and unambiguous evidence that there is *zero* impact on the view; not a positive impact, not a negative impact. That whatever the applicant is requesting relevant to the view has zero impact. So that's what I'll be looking for in your presentation.

It's good to see you back.

Bldg. Inspector Minozzi: Also, the addition's no longer on. They took the addition away.

Chairman Collins: Yes, I saw that in the case. Are the variances then accurate, or no?

Bldg. Inspector Minozzi: The only thing we're going to be here for tonight is paving in a required yard.

(Boardmember Joanna Berritt recuses herself from the proceedings)

Chairman Collins: Okay, that's good to know. Sorry, one more thing. We're now down to four of us so it's possible a vote could go 2-2. Applicants always have the option to withdraw the application or defer it to a later date. I just plant that with you. It'll be your call to make when the time comes, and you'll know if it makes sense to go to a vote. We can do that, and we'll assume you do unless you say no, thank you. All right, that's enough for me.

Gabriel Ce, applicant – 280 Warburton Avenue: I'm the property owner of 280 Warburton. I thank the board for having me once more.

Since last fall and our last appearance in front of this board, we took another look at our project – my wife and I – and made a conceptual revision that significantly reduces the degree of variance we are seeking. Since our last hearing, we looked at several options again to reduce the degree of variance for the addition, and once more they resulted ...

Chairman Collins: I'm sorry.

Bldg. Inspector Minozzi: We have to interrupt the meeting for a minute. We're having a major problem with static feedback. We have to just check each microphone.

Chairman Collins: All right, I'm sorry.

Mr. Ce: I'll do the first one, okay?

Bldg. Inspector Minozzi: You good?

Chairman Collins: That was me then. My first act as chair of 2020 is to mess up the microphones. Sorry about that interruption. Please continue.

Mr. Ce: As I was saying, we took another look at several options to reduce the degree of variance required for the addition. But we are faced again with extremely insufficient layouts, or a limited footprint, that wouldn't address our needs nor justify the investment needed. Therefore, we are no longer seeking to build an addition to our house. Instead, we would like to extend our rear patio so it can be used during the warm months of the year as an extension of our living space.

The current patio, as you'll see in a minute, is too narrow to be functional. We'd like to extend the patio to comfortably fit an outdoor dining table and lounge seating, serving the upper apartment where we live. In order for it to work, it's fundamental that the patio remains directly connected to the entry of our unit so it can function as a extension of the house.

I prepared a quick slideshow just to show what we are petitioning here. The variances we're seeking on the rear yard is 14 foot 3 inches, and 4 feet on the sides.

Bldg. Inspector Minozzi: Well, now that we're only talking about patios there's no more variances 'cause there's no more addition.

Mr. Ce: Okay.

Bldg. Inspector Minozzi: We're just talking about paving in a required yard now.

Mr. Ce: All right, just an overview of the site. There was what zoning allows me to build in terms of required setbacks; that's shaded in yellow on this plan. The existing patio is shown here, and you see the odd shape. It has a small retaining wall that curves and secures some of the hillside here. This was probably built at the time the house was built, in 1917, by the condition of the concrete.

Those are some existing photos. I have a quick site plan here that shows you what the views are. This is if you are approaching the house. As you go up these stairs it looks down and this is what the patio looks like. This is if you are in front of our entry door looking towards the east, the hillside. You see our neighboring property and the retaining wall up there. This is another photo of the patio, and the picture is standing right in the middle. Then if you're standing towards the south side of the patio looking down, you see Warburton Avenue and the river. Other views here show the steep slope condition on the side of the property, again on the back. This is the view of the patio that was just done about two years ago (static).

We tried a few options that are as-of-right in terms of setbacks. This is an option that is between our buildable and the lot, but it's proven to be very inefficient and wouldn't really change our (static) situation. Most of the patio is used for (static). Then we looked at another version where it pushes the patio towards the side of the house and reduces the encroaching, but the remoteness from our unit makes this patio (static).

Chairman Collins: (Static) that looks fine. Oh, yes, it's broadcasting through the speakers here in the room. That's it. All right, we'll see if this works any better. You're doing the right thing, Jen, thanks.

Bldg. Inspector Minozzi: I'm really sorry about this.

Chairman Collins: I'm so sorry.

Mr. Ce: No problem.

So anyhow, this option of the side proves to be quite remote from our house. You know, it has more disturbance to the steep slopes and it requires a much longer retaining wall which, you know, has cost implications therefore.

So we landed on, again, adding a patio to the rear – or extending our rear patio – shaded in red here. That's what is encroaching from our setbacks. This is basically a 20-foot by 43- or 44-foot deck on the back that aligns with the terracing we started four years ago. The first tier we built in 2016; 2018, we built this patio. Then we would like, in 2020, to build the last tier to align with that edge, makes a house to be nestled in this patio. We could use more living space, again, during the warm months of the year.

This is just an aerial photo showing our plot and its relationship to the neighborhood. You see that the area in red here is where we are adding this patio. You'll see, in a minute, some photoshop views, or photographs I have. Not quite visible from the street, not quite visible from the Aqueduct as there is a garage structure here that belongs to 1 Pinecrest. It doesn't really densify (ph), by any means, the neighborhood. It's a patio.

Lastly, I have a few elevation studies. This is existing, and the yellow shows the retaining wall we'll be building to secure the hillside. This allows us to extend the patio as we are proposing. This is the site elevation south, looking from Pinecrest, from Warburton Avenue, existing and proposed. The yellow is the retaining wall, and those two tiers are more like a landscape feature to allow some lawn to happen adjacent to the patio.

Views from the north, existing and proposed. Views from the east which, you know, is not very illustrative but shows from the back of the wall, if you will, what the height of the wall is in comparison to what it is now. Then just a few photos. This is a photo before – I think I showed this to the board previously – from 1914, just three years before the house was built. The house is nonexistent, and this is right after they developed Pinecrest. It shows 1 Pinecrest and some of the other houses that were built in Pinecrest back then.

I tried to, you know, match the photo. This is last winter, and it shows the house in its existing condition. It's barely noticeable, but you see that triangular piece is the edge of the retaining wall so it really doesn't impact the view from Pinecrest. The view from Warburton Avenue, the wall is pushed all the way in the back. You'll see the railroad tie landscape walls that we are planning to build along the north side of the property. Also the view from 1 Pinecrest if you are standing on the retaining wall you saw in the photo just a minute ago, looking down.

You see that, before, the addition would go over Warburton Avenue. The patio doesn't, so I think there is no objection to this view. Then views from the Aqueduct, existing and proposed. You barely would see the edge. You can still see the river views are unobstructed. I'm prepared to talk about those five points about the zoning variances. But after what Buddy was telling you, that this project doesn't really need a variance, I will stop here.

Chairman Collins: Okay, thank you. Obviously, for the purposes of view preservation the waiver candidate involves the retaining wall, if I'm correct. Right, Buddy?

Bldg. Inspector Minozzi: Mm-hmm, correct.

Chairman Collins: And I don't see any change at all in the view, so I recommend we grant the applicant a waiver. What that means is that my counterpart on the Planning Board will have to agree with me. Buddy will communicate all that to him. There's nothing more for you to do. But that will essentially take this off the application, as it's noticed.

Can you go back to your proposed rendering for the patio you had: the top-down, with the shading?

Boardmember Nivarthi: The plan.

Mr. Ce: Oh, you want to see the plan.

Chairman Collins: In the plan, yes. Thanks, Sashi. Yes, that's it. The application states it's approximately 200 square feet that's in a required yard.

Village Counsel Brosy: Right.

Chairman Collins: I was trying to see, on the plan, exactly how much of that is side yard versus rear yard. Maybe, Buddy, you know.

Bldg. Inspector Minozzi: I don't remember off the top of my head. The applicant's going to have to give us some calculations.

Mr. Ce: So you are asking about what's a side yard versus rear yard, and what flows into what?

Chairman Collins: Yes. Of the patio extension, it says – the notice says – it's approximately 200 square feet that's proposed to be paved in a required yard. So I'm trying

to understand where on your drawing is the paving in the required yard happening versus the yard that's perfectly okay.

Mr. Ce: This shaded area.

Chairman Collins: Just the orange.

Mr. Ce: The orange is 442 square feet, not encroaching on your required yard.

Bldg. Inspector Minozzi: So that's his increase then.

Chairman Collins: Okay. So that's quite a bit different then what the notice is.

Bldg. Inspector Minozzi: Mm-hmm.

Mr. Ce: I don't know where the 200 square feet came from.

Bldg. Inspector Minozzi: It came from when I was looking at your plans and trying to make heads or tails out of what you were showing us on all the different ones. It came from when you were putting the patio to the north there was a corner that was 200 square feet. That's the application I thought you were bringing to us tonight. So there was a little bit of confusion which application you were bringing to us tonight.

Mr. Ce: I think the application – and I have copies here – has a number here that shows ... and this is part of the drawings that were submitted and shows the rear patio addition encroaching. This is also the rear patio total size. Those are listed in all proposed site plans.

Bldg. Inspector Minozzi: No, it was just confusion on my part when I was reviewing your plans to rewrite the notice for the board. I got the two plans confused.

Mr. Ce: Okay.

Bldg. Inspector Minozzi: The one you have that looks like a lollypop sort of-kind of, that's the one I thought you were coming in with.

Mr. Ce: Oh, no. That's a study ...

Bldg. Inspector Minozzi: Yes, that one there. That's the one I thought you were coming in with, so that's where I got the 200 square feet from.

Chairman Collins: Okay. Amanda, a question for you. Since this is a significant difference relative to what is noticed, does that matter?

Village Counsel Brosy: I think it would matter, yes, because it's more than a 200 square foot difference. I mean, when it's a greater impact as a result of the change I would say that would seem to be the case.

Bldg. Inspector Minozzi: For just that? But this wasn't noticed in the paper. This is a come-back.

Village Counsel Brosy: So yes, it's an amended plan. Well, I don't know. I don't know how I feel about it because ... so it was noticed for the first time in the summertime?

Bldg. Inspector Minozzi: Yes.

Village Counsel Brosy: Okay. And this is ...

Bldg. Inspector Minozzi: So what we ended up doing was taking off all of the setbacks ...

Village Counsel Brosy: The yards, yes.

Bldg. Inspector Minozzi: ... and then we increased the paving in required yard.

Village Counsel Brosy: Mm-hmm.

Bldg. Inspector Minozzi: So we lost two major variances, and we ...

Village Counsel Brosy: Okay, so overall the impact is ...

Bldg. Inspector Minozzi: Overall, I think the impact is actually less ...

Village Counsel Brosy: Okay.

Bldg. Inspector Minozzi: ... than it was when it first came here. As I noticed it, I think it's less than as I noticed.

Village Counsel Brosy: Okay, I agree with that.

Chairman Collins: So we're okay to continue.

Bldg. Inspector Minozzi: Plus, like Amanda said, it's a revision of changes upon this board's notes from July.

Chairman Collins: That's true, yes. All that's valid. It's also the case, though, that we published this agenda through Village communications. This is what the public sees as what's on offer, and when it differs it's ...

Bldg. Inspector Minozzi: Of course.

Chairman Collins: And now, obviously, the patching of this is almost an entirely different bundle of things that we're going to be talking about.

Bldg. Inspector Minozzi: Well, being that Mr. Ce has to go to the Planning Board next month, if you feel more comfortable letting him come back – it's the next week – you wouldn't be losing any time. You'd be losing a week. If you want him to come back and renotice this as it is now we could do that.

Chairman Collins: I defer to counsel on that.

Village Counsel Brosy: It's just a week. I really don't think it's a major inconvenience to you and it would probably make the board feel a little bit more comfortable, like they've covered all their bases and making sure the public is fully informed as to your current application. I think it would be ...

Chairman Collins: That's your recommendation?

Village Counsel Brosy: Yes, if it makes you feel more comfortable.

Chairman Collins: Like I said, I'm sympathetic to the applicant because I don't know how much of this, if any, was the applicant's fault at all.

Bldg. Inspector Minozzi: No, this is the Building Department's fault. I take full fault for this.

Chairman Collins: Right. That's why I hate to hold ...

Bldg. Inspector Minozzi: But if he wasn't coming back next month to the Planning Board I would say, then, hands-down it's fine.

Village Counsel Brosy: Right.

Chairman Collins: Okay.

Bldg. Inspector Minozzi: But since he *has* to come back to the Planning Board no matter what, because it's still a steep slopes application ...

Chairman Collins: Right.

Bldg. Inspector Minozzi: ... we're only talking about a week later.

Chairman Collins: I would suggest, then – and I'll accept the recommendation – that we comment on this as if we're voting tonight, and provide any feedback we may have. Then in the event that the stars align you can come back for what will essentially be a procedural, no presentation required. We'll just revisit this and confirm the plan you're presenting at that time matches what we've commented on.

Mr. Ce: My only concern – and not that I'm wrong to decide – is that going to the Planning Board and ping-ponging back here is that once I go to the Planning Board I believe there is an escrow account that was created at the beginning of my application for the engineers to review my drawings.

Bldg. Inspector Minozzi: Yes.

Mr. Ce: And I would hate to trigger that, get the engineers' approval, then come back to the Zoning Board and get rejected because of the variances I'm seeking.

Bldg. Inspector Minozzi: It's the chairman saying that it's just going to be procedural at that point. It's just for notice purposes.

Chairman Collins: Yes, we would essentially ... through the course of our review and feedback tonight, my goal would be to leave you with ...

Mr. Ce: I understand.

Chairman Collins: ... what you need to know about where this project stands.

Mr. Ce: Okay.

Chairman Collins: I really don't have any comment on the nature of what you're proposing. Given the overall dimensions of how much yard space there is overall, I don't think a 442

square foot intrusion, in the grand scheme of things, is unreasonable. And it, in my mind, would significantly improve the utility and your enjoyment in a way that is modestly done. What I mean by that is that the way you're envisioning executing your plan will be to ensure that your enjoyment of that patio space would have some privacy. As well as, anyone in the neighborhood who might be looking down at you would also, I think, enjoy some notion of privacy because of the way that you're tucking that, really, into the hill there.

So I don't have any objections to what you're proposing, but I'll invite my colleagues to ask questions or make comments.

Boardmember Dovell: I think it's really minimal, and I just hope it doesn't preclude you from doing an addition down the road. I thought you were very close last time to coming up with a really nice solution, and I hope maybe this doesn't preclude you from doing that in the future. But I think it's minimal and I have no problem with the plan as it stands, for 442 square feet.

Boardmember Renzin: I echo that.

Boardmember Nivarthi: I mean, considering the uniqueness of the plot you have and the terrain you have to deal with I think what you're asking for is very reasonable. Especially considering, you know, the multiple options you have presented. As Ray was saying, we hope – that is, I hope – this is not going to stop you from thinking of the additions you were talking about earlier.

Bldg. Inspector Minozzi: So stop in and see me, or call me on Monday – not tomorrow, on Monday – and I will advise you exactly how we're going to proceed next because now your wall has to go to Hahn.

Mr. Ce: Right.

Bldg. Inspector Minozzi: That was asked by the Planning Board last time, so we're going to continue on that path.

Mr. Ce: The Planning Board didn't see this. The Planning Board saw an addition. So we will talk on Monday.

Bldg. Inspector Minozzi: Yes, they're going to see this. We'll talk on Monday.

Chairman Collins: Before we completely dismiss this, if anyone from the public has come to speak on this particular project you're welcome to come forward. I should have mentioned

in my preamble that we have microphones here, and a wireless. Anyone speaking, we'll just ask that you make sure you have a mic in your hand.

Okay, seeing no one in the public, then we'll look forward to seeing you, hopefully, next month, Mr. Ce. Thank you very much.

Mr. Ce: Thank you.

Chairman Collins: Okay. Then, Jo, welcome back. We'll proceed then to Case 20-19.

Case No. 20-19
Peter, Stephen & Roman Prysclak
60 Maple Avenue

Relief from the strict application of the Village Code Sections 295-70D, 295-70E.2.a,b&c, 295-70E.3.b and 295-36 for documentation of the previous conversion of a one-family dwelling to a two-family dwelling, documentation of the previous removal, and rebuilding and extension of the existing garage and nonconforming off-street parking on their dwelling located at 60 Maple Avenue. Said property is located in the 2R Zoning District and is known as SBL: 4.30-22-14 on the Village Tax Maps

Nonconformity details are as follows:

- 1. Lot size and width for a two-family in a 2-R: Existing – 7,500 square feet/75 feet wide; Proposed – 7,500 square feet/75 feet wide; Required – 10,000 square feet/100 feet wide {295-70D}; Variance required – 2,500 square feet/25-foot width**
- 2. Front yard setback: Existing 16.75 feet; Proposed 16.75 feet; Required 30 feet {295-70E.2.a }; Variance required – 13.25 feet**
- 3. Side yard setback: Side 1 – Existing: Side 1 – 7.66 feet; Proposed: Side 1 – 7.66 feet; Required: Side 1 – 12 feet {295-70E.2.c}; Variance required: Side 1 – 4.34 feet**
- 4. Lot Coverage: Existing – 29.48 percent ; Proposed – 29.48 percent; Required – 25 percent maximum {295-70E.3.b}; Variance required – 4.48 percent**
- 5. Rear yard to accessory structure: Existing – 0.89 feet; Proposed – 0.89 feet; Required – 8 feet {295-70E.2.b}; Variance required – 7.11 feet**

- 6. Side Yard to accessory structure: Existing – 3.75 feet; Proposed – 3.75 feet; Required – 8 feet {295-70E.2.c}; Variance required – 4.25 feet**
- 7. Required off-street parking: Existing – two parking spots; Proposed – two parking spots; Required – 4 parking spots {295-36}; Variance required – two parking spots**

Chairman Collins: This is a legalization issue, with seven variances that have been requested. I'll just do my best to offer a quick recap while the applicant gets set up here.

As with any legalization – in other words, a project that is essentially already complete and now requires variances after the project's completion – our duty is to review that project as if it had *not* been built. That's the requirement. So arguments about how inconvenient or difficult it would be to retrofit a project to meet a requirement that may come down from the board we really have to disregard. We have to treat it as if this project were *not* standing. And obviously we hate being put in this position and we know applicants certainly don't like it when they're in this position either.

Secondly, we talked about really focusing on that garage space and exploring the possibility of essentially removing the seventh variance request related to parking. Right now that garage offers two parking spots, and the requirement is for four in this district. We see a large garage space there and wanted to understand why that space couldn't be used for a four-parking solution, therefore obviating the need for the seventh variance.

There's a lot more in the notes which I'm not going to go and rehash. But I think that's really the gist of what we really were hoping to get out of it, unless anyone has another version. Okay, great. So if you could just introduce yourself, to begin within, and then we'll get under way.

James Gibbons, Gibbons Engineering PC: Good evening, Mr. Chairman and members of the board.

Chairman Collins: Great. Thank you, Mr. Gibbons.

Mr. Gibbons: Mr. Chairman ... can you hear me?

Chairman Collins: Is the mic on?

Bldg. Inspector Minozzi: Is it on?

Chairman Collins: Yes, then it should be good.

Mr. Gibbons: Okay. You had mentioned the parking so I'll go to that piece of the presentation first. This is a representation of the garage as it currently exists. So what we had done, we had shown parking spaces that are legal parking spaces, 9 feet by approximately 20 feet, except for in the front they're existing as 19 by 9. Then we superimposed two additional spots in the back. We wanted to show the areas of interference, or encroachment onto the walls of the garage.

If we take out the bearing wall, and support it, we get over to this area. We show these spots here. We have an encroachment in the back in this storage room, and also have an encroachment here. The act of getting two cars in there would be somewhat difficult; perhaps getting one car in there is more feasible. We wanted to show the board the encroachment from the sides of a legal spot.

I think it's a good model for a parking spot because opening doors and closing doors you want to be able to get in and out of the vehicle as well. This is what we had proposed, and we do have structural work to remove this wall, this wall, and reinforce to open this up and then create the spots. But the spots don't seem to work.

Chairman Collins: Well, why wouldn't you just redo it, though. Again, our duty is to review this as if it doesn't exist, not as it does.

Mr. Gibbons: Yes.

Chairman Collins: So the fact that it's too narrow as it is right now is not ... we really, in my opinion, cannot factor that into our reasoning. We can't say to you, "Oh, yeah, the building – you're right – as it is makes this four-car solution inconvenient, therefore we're going to let this stand."

Mr. Gibbons: Yes, I understand. What we had proposed, since it looks like we can't fit two cars, we wanted to show that if we have a spot adjacent to the garage we can probably manage for three. That might make sense if we didn't have additional pavement. And we didn't want to affect the lot coverage issue by going back to the garage and creating a bigger space to increase lot coverage and add a further variance. Instead of that, we were considering that for the Zoning Board's consideration.

Chairman Collins: Right. But in theory, you could alter your garage dimensions to accommodate ... you're close with your design. You could widen it and therefore get four cars in there, accommodating both the depth and the width.

Mr. Gibbons: Yes, that's correct. The setback line for the accessory is here, so if we expanded the garage over in this area we would increase the problem with the setback as well. But in theory, sure, we could expand it and do the same over on this side. So we would have a setback variance and then, possibly – or actually – a lot coverage issue again.

Chairman Collins: Or we would just tell you to make it a two-car garage only and knock out the rest.

Mr. Gibbons: Yes, of course.

Chairman Collins: That's another way to play it. Your analysis also looked at – if I remember correctly – you said a 300-foot radius to other properties in this zone, correct?

Mr. Gibbons: Yes, Mr. Chairman.

Chairman Collins: I saw that in your application, but can you walk us through what you found?

Mr. Gibbons: Certainly. On sheet G-3, what we did is listed some exclusions on the bottom left of the sheet. We know the houses in this area – in block 30.21 – are single-family houses. They fully comply with the parking lot coverage and all the issues we had discussed as needing to be explored at this meeting. In this chart, we ignore the commercial side of Warburton; we ignore the Maple Avenue apartments; and we look at the one-, two-, and three-families in this radius.

Essentially, what we have uncovered is that none of the lots have the size requirements for the actual lot size. Two-family houses need 10,000 square feet, and we're looking at 33-hundred, 38-hundred, 5,000 square foot lots. None of them at all – with the exceptions I've mentioned, and exclusions – meet the lot size requirements. Looking at that in terms of percentage, we give lot coverage percentages in the chart and see that none of those lot coverages are 25- or 30 percent; 30- for the single-family, and 25 percent for the two-family. The three-family, it's not listed in the zone, but those numbers are not near the 25- and 30 percent for the lot coverage.

We looked at that. Again, in terms of percentage, the lot area and the percentage doesn't meet the code. Looking at the parking requirements, we see that most of the homes – except for the exceptions mentioned, which are fine – 12 out of the 20 properties do not have the required number of off-street parking spots. Again looking at the radius – excluding Maple

Avenue apartments, the single-families, and the commercial corridor on Warburton – that basically, I think, answers the question to analyze, and I wanted to present that to the board.

Chairman Collins: Mm-hmm. In taking a step back and looking at this zone, it's a tidy little zone. This is not a big one. It's sort of tucked in and around others. By my reckoning, your analysis covers probably about half of the properties in it, plus or minus. But I'm wondering if there is any thought to analyzing all of them. Because in the grand scheme of things there aren't that many, and obviously here we're seeing about half of them; obviously, the half that are closest by distance.

Mr. Gibbons: Yeah, Inspector Minozzi had indicated in discussions for me to consider that. We do notice the same kind of effect occurs as you go down Maple Avenue, then you turn over by Spring Street.

Chairman Collins: Right.

Mr. Gibbons: So we would expect the same kind of ratios to exist, and we can put that together, as well, if required.

Chairman Collins: Yes, okay.

Bldg. Inspector Minozzi: It actually gets worse as you go south.

Chairman Collins: Gets worse, you mean in terms of the existing conditions.

Bldg. Inspector Minozzi: Off-street parking.

Chairman Collins: Yes, and the existing conditions for the lot coverage and size.

Bldg. Inspector Minozzi: You start having multi-families with no parking.

Chairman Collins: Right. That passes the eye test. We prefer seeing the data as opposed to relying on individual accounts of the neighborhood, but I think we'll come back to that. Remind me. The space in the garage that is currently not devoted to the two cars, if I recall correctly that's ... I'll broadly describe it as just general utility space that has been used for different purposes over the years, correct?

Mr. Gibbons: Yes, Mr. Chairman.

Chairman Collins: And if I recall correctly, there's been heating in there to allow for, I guess, leisure enjoyment.

Mr. Gibbons: That's correct. Peter had indicated that his father had enjoyed using that space in the later years of his life. I believe he had suffered a heart attack and didn't like to go in the house and walk around until the end of the day. So Peter indicated that was essentially a leisure space. There's a garden to the right of that that I think has existed as well. So that leisure type of enjoyment is what I understand, as well.

Chairman Collins: Okay, that's helpful. So typically, when an applicant is presenting a project and they've got this accessory structure like the one you've got here, there's some notion of use. You're telling us that your proposed uses for this accessory structure to have two cars in it, and then what? What's the rest of it for? Why should we consider, I guess, approving it?

Mr. Gibbons: The rest of it is storage at the current time, the proposed use would also be storage. I think the future owner of the property had indicated that he may ... I don't remember exactly from the last meeting, but had spoke for a few minutes about possibly storing stuff there or maybe some artistic work. I don't recall exactly, Mr. Chairman.

Chairman Collins: Okay.

Bldg. Inspector Minozzi: He's here with us tonight.

Chairman Collins: Yes, I'm aware. Again, I really, really ... I don't want us to talk about this – to refer to it or to make recommendations – based on the fact that it already exists. It doesn't matter.

Mr. Gibbons: I understand.

Chairman Collins: It *really* doesn't matter. So my struggle with this is that I see, in your proposed drawing, a way to eliminate a variance. Which is something that the state requires we consider: can this project be done in a way that does *not* require a variance? And I see, at least from what you've shown, a path to that outcome.

Mr. Gibbons: Yes, I agree.

Chairman Collins: Imagining a four-car parking solution, how would vehicle entrance and egress work? Would they go in – sort of you'd have two that'll go in – and then two that have

to come behind it in order to get the two out? The two in the back would have to back out? Is that the way they would work?

Mr. Gibbons: Yeah, the only way I envision it, Mr. Chairman, is if we expanded the garage. The spots would have to be in tandem for each apartment. The lower apartment would have to have two spots ...

Chairman Collins: Right.

Mr. Gibbons: ... one in front of the other, and they would have to communicate and coordinate the movement of the vehicle.

Chairman Collins: I see it. Okay.

Boardmember Dovell: What about the two-family aspect of this? Is this a preexisting condition, Buddy? On the certificate of occupancy is a two-family dwelling?

Bldg. Inspector Minozzi: No, that's what we're here for tonight.

Boardmember Dovell: Tonight. I mean, another way to get rid of the two variances is to make it a single-family home and then you have two parking spaces.

Chairman Collins: Right.

Boardmember Dovell: You get lot coverage. You would have a lot size issue, and you clear the parking. Has that been considered?

Mr. Gibbons: Peter, if you'd like to speak you have to come up and introduce yourself.

Peter Pryschrak, applicant: I am the owner, with my brothers. Okay, on the dimensions you have as far as extending the garage, with the right dimensions you're tearing everything out.

Chairman Collins: I know, but we ...

Mr. Pryschrak: No, no. I'm just saying.

Chairman Collins: We can't consider ...

Mr. Pryschlak: And I understand that. But also, me and Buddy went through paperwork where the certificate of occupancy for a two-family house was never recorded, for whatever reason. Not denying it, Buddy knows that. But it says here "two-family residence on this property, 1960-" – I got to take my glasses off – "1966". Then we turn around, we go back to that particular garage. Now we have a permit for that from the Village that my father had to take out to do the roof.

If you go look at the structure, that part of the garage – in '80, '82, whatever the permit was, which I can look it up here – was approved and stamped, and on it said "two-family house" and everything was legal. This document says "two-family house to comply with all regulations required," at that time, in '65. For some reason – not knowing – my father and my mother also believed it was a two-family house, okay? This document in the '80s says that garage probably is legal. They drew a diagram on the back. Doesn't show accurately, just a square because at that particular time all you had to do was show a drawing on a piece of paper and it was accepted and approved.

Why, at that particular time, and this document, it was never recorded we all know. Back then things were done on a handshake, whatever it may be. I work in a lot of towns, I relate to boards in different aspects. We have documentation that technically says we're okay. But we're going through this process to make sure that you people – and I don't mean disrespect – you, as a board, have complete, 100 percent documentation now of what was 40, 50 years ago.

I know you said everything is in the present, but to change everything to nonconform (sic), or to conform, you're changing the whole plot plan, you're changing the whole looks of the property.

Boardmember Dovell: I don't see how we can advance this without getting clarification on the legal occupancy. I just don't ...

Chairman Collins: I was going to say the same thing.

Bldg. Inspector Minozzi: I can clarify everything for you.

Chairman Collins: It feels like this is the wrong venue for what's going on. It seems like there's a fundamental disagreement between the applicant and ...

Bldg. Inspector Minozzi: His parents, thinking it was a legal two-family, presented it at that time to the Building Department as a two-family. It wasn't checked. In 1956 it was a single-family house. That's the paperwork we have, that's what was documented. All of a

sudden, in '62, they came for a rear porch addition, presented it as a two-family, wasn't checked – no documentation to back it up – and it became a two-family. It was just a clerical mistake because nobody did their due diligence at that particular time, apparently.

The roof permit is just for roofing. We don't check, ever – even today, in today's world, as strict as things are – the structure of that garage being roofed or the house being roofed. It's a roofing permit, and that's what he asked. The structure was re-roofed, never closed, and we closed it. It has nothing to do with the structure itself, it's just for the work that was being done on the structure.

So there's two parts. Both issues that Mr. Prysclak has brought up are quite troublesome. That's why I actually had to go ahead and rescind that C of O and issue a new C of O under a single-family house because there is *no* documentation to back it up. Now, it's been used as a two-family since at least 1962. When his parents bought the house, unknowingly – and obviously according to his parents, who aren't here any more ...

Mr. Prysclak: No, they've passed.

Bldg. Inspector Minozzi: According to the account of his parents, they bought the house under the understanding it was a two-family, though it wasn't. We are here today – as I explained to the family – because we need to make this right. If you're going to call it a two-family and we're going to document it as a two-family, we're going to do it the right way. That's why we're here tonight.

Unfortunately, to convert this house to a two-family – because of the requirements of the 2-R district – requires a lot of variances. That's about the whole gist of the story.

Chairman Collins: I appreciate that. My take on this, as we stand now, is as follows: the applicant is presenting a case that, in fact, from a permitting standpoint and from a titling standpoint and what they understood – what the family understood the Village to know – is that it was exactly as the family has known that property to be since they've been in it. We have to interpret this based, if I'm not mistaken, on what the Village says this property is.

If the applicant has reason to believe the Village has got it wrong and they've got paperwork to back it up – and Mr. Prysclak's just shared some of that – I don't know why we're ... it feels to me like the applicant ... if I were in the applicant's position, and I've got two choices – I can either have a zoning board correct this through the lens of what the Village says this property is, not what you say it is – and that's door number one, door number two would be some sort of a legal remedy where the Prysclaks hire an attorney to say, "Wait, Hastings.

Actually, my client has reason to believe that this property is as they say it is, and here's our proof," and try to work it out through that avenue.

By the way, none of those options are great. But it feels like what we're doing is crossing those streams here. You're presenting us with paperwork which we cannot use in our factoring of this because we have to go by what the Village says this property is, not what you say it is. I'm just throwing it out there: Is this really the right venue? If you still believe, Mr. Prysclak, that this property – and understandably, I can see from the paperwork you have ...

Mr. Prysclak: It's just that's what we feel, but that's why we also talked with Buddy and figured this was the proper way to do it: come and present it to you, and go from that point on.

Chairman Collins: We can, but we cannot take what you've presented into consideration. We have to go just by what the Village says ...

Boardmember Dovell: If you want to go that avenue.

Chairman Collins: ... if you want to go that avenue. I think, if it were me – and, gosh, I'm probably the last person who should be offering any legal advice on this – I think I would first want to exhaust any legal remedy outside of the Zoning Board to determine what this property actually is, or isn't.

Boardmember Dovell: It could drop most of the variance requests if it were ...

Chairman Collins: And if you were to prevail in that case, then a lot of the things you would need here – and what we might suggest in the way of changes – in order to fulfill our obligation to the state and to the Village, using the five-factor analysis that's in our code – that could be significant for you.

Bldg. Inspector Minozzi: Do you want to meet ... do you want to go to private counsel?

Chairman Collins: I don't think we need to. I feel like this is an applicant decision to consider whether or not before coming to the Zoning Board of Appeals – and then having this board review it as if it were a brown site or a green site – we have to review it as if the structure doesn't exist. That's what the state requires us to do. Which means you would then be bound by what we tell you in the way of our review of the variances.

Rather than go through that process, I think I would first want to talk to a lawyer to say, "Hey, can we solve this disagreement on what this property actually is?" and maybe find way to look at it that way.

Mr. Pryschlak: But isn't that what this board does?

Chairman Collins: No.

Boardmember Nivarthi: No.

Chairman Collins: No, we don't do that. We have to review variance requests and view preservation requests based on what the Village tells us the property is, not what the applicant tells us it is. Our source of truth on whether it's a one-family or a two-family, or what the setbacks are, comes from the Village only.

Village Counsel Brosy: I think what the chairman is trying to suggest is that there could be some work you could do that would change the mind of the Village about what this property is supposed to be, which therefore would change the work the Zoning Board would have to do. It sounds like, just from what you said, there's at least a reasonable argument that you didn't know, your parents didn't know, you had proof. Maybe the Village needs to prove the opposite.

Chairman Collins: Right.

Village Counsel Brosy: Like, who knows what the burden is here. But it sounds like you have a reasonable position that probably – and we can't give legal advice – it might be something for you to consider getting legal advice and changing the Village's view of what this property is before coming to the Zoning Board.

Mr. Pryschlak: Okay. So in theory, you want me to go off the record even, get an attorney, go through a process there – or an article 78 or whatever they call it – and go through that procedure. Is that what we're talking about?

Village Counsel Brosy: (Off-mic).

Mr. Pryschlak: Oh, I don't know.

Village Counsel Brosy: I think what ...

Mr. Pryschlak: I know you're saying go obtain the attorney. I don't have a problem doing that. I have an attorney on retainer, that's not a problem.

Village Counsel Brosy: No, I just think what's being suggested is that instead of coming to the Zoning Board to attempt to seek variances on the assumption that this is a one-family house, and to change it to a two-family – which makes a heavy burden – I think members of the board are suggesting that if you were to seek an alternate route of attempting to work with the Village in terms of interpreting your permit you've had in the past ...

Mr. Pryschlak: Well, that's what I thought we were doing somewhat here.

Village Counsel Brosy: No, it's a different route, a different legal route. So it would be kind of like doing a look-back in the permitting history, the land records and property records, and kind of doing a comparison showing your evidence, the Village's evidence, and trying to come to a conclusion of why things are that way.

This board is moving forward based on one particular set of assumptions, and that's where you are now. You can continue to do that if you choose, but ...

Mr. Pryschlak: No, I can see I wouldn't have a chance at this point.

Village Counsel Brosy: But to be fair, although the board does have to consider applications de novo, because this site is existing and has certain conditions that are existing, I think that does go to the impact issue. It does kind of like soften certain impacts I think you can consider.

Bldg. Inspector Minozzi: And precedence in the neighborhood.

Village Counsel Brosy: Yes.

Boardmember Renzin: I think we can say fairly, though, if you were to come back here with a determination or agreement with the Village that in fact this was a two-family house instead of a single-family house that will be better for you. So we're suggesting it might be worth looking into.

Mr. Pryschlak: Okay. So what we're really saying is obtain an attorney, talk to the Village Attorney ...

Village Counsel Brosy: Right.

Mr. Pryschrak: ... and after they come up with some sort of decision, come back to the Planning Board.

Village Counsel Brosy: If you even need to come back.

Chairman Collins: Oh. We might not even need that.

Mr. Pryschrak: I want to make sure.

Chairman Collins: That's right.

Mr. Pryschrak: I'm not trying to critique it in any way. I just want to get it over with.

Chairman Collins: No, no, we appreciate your candor. Look, I know this is not the outcome that anyone here who has a stake in this case wants. I mean, what everyone would love to have is the quick and easy rubber stamp that says you're on your way. But we never operate that way, we can't operate that way here. I think you've received some good advice I encourage you to think about. And if you were to go and decide, with your family, that you really wanted to press on we can do that.

Mr. Pryschrak: No, no.

Chairman Collins: All right, fair enough.

Mr. Pryschrak: I do get it.

Chairman Collins: Good, okay.

Village Counsel Brosy: And I think, to be fair, I want to emphasize that no one is telling you to definitely go hire an attorney. Nobody's saying that.

Mr. Pryschrak: Oh, no, no. I don't want it to sound that way. I'm just saying I wish I would've known that ...

Village Counsel Brosy: That was an option?

Mr. Pryschrak: Well, pretty much as an option. We could've probably had this resolved months ago. That's all, but it's not a bad situation.

Village Counsel Brosy: I think it's maybe a good idea to coordinate it if that's an option you want to pursue. Coordinate with Buddy, then he can put in touch with Village counsel *before* you decide maybe you want to get in touch with a lawyer.

Mr. Pryschrak: No. I think, in all honesty – you know it, I know it – it's easy for the attorneys to collaborate ...

Village Counsel Brosy: Sure, if that's how you want to pursue it.

Mr. Pryschrak: ... get it squared away.

Bldg. Inspector Minozzi: Unfortunately I advised him to come in this way 'cause I thought this was the better route.

Village Counsel Brosy: Understandable. I mean, it is an option.

Mr. Pryschrak: All right, thank you.

Boardmember Dovell: Thank you.

Chairman Collins: Yes, good luck.

Mr. Gibbons: Mr. Chairman, could you adjourn this case? Give us time to speak with the Village?

Chairman Collins: Yes, we're not proceeding to a vote. So you can come back.

Boardmember Renzin: Somebody wants to talk.

Chairman Collins: Don't worry about that, your case will be good. If you need to come back you won't be starting from scratch.

Mr. Gibbons: Thank you for your time.

Chairman Collins: Feel free to come forward. Yes, go ahead. And just when you come forward, please, if you could speak into the mic and say your name and your address.

Susan Roberts, Dobbs Ferry: (Talking to herself) "Okay, first speak into the mic. Lower the mic." Do you want a more specific address?

Chairman Collins: No, but you have no standing on this case. You understand that this is a Hastings case so residents of other villages have no standing to offer ...

Village Counsel Brosy: Do you have anything that the board can consider as far as the impacts of this variance? Because that's really all that would be helpful for this board.

Ms. Roberts: Okay. I had written you a letter previously, this week, pertaining to this case. The reason I did that was, after your December board meeting the Pryschlak brothers introduced evidence in a case that's pending in Westchester right now. They said that the 60 Maple Avenue property is actually three units. That's in their affidavit, which you have a copy of the case number if you care to look at it yourself.

The point I was trying to make – well, in addition, after having listened to this discussion a few minutes ago, in this particular case which you have referenced they've consistently – statement after statement, document after document – maintained that 60 Maple Avenue is, and was, a single-family residence. This is pending in court. That's an aside.

I came here, recognizing I don't have any standing. I came here to urge you either to not grant the variance or to grant it with contingencies. One, because the Pryschlaks have been enjoying using this property for three units all these many years in clear violation of municipal codes, and it's most likely been financially beneficial for them not to have to conform to them. Then second, due to the nature of our tax codes that have changed in recent years, multi-family properties have appreciated in value while the value of single-family residences has remained stagnant.

Chairman Collins: I'm sorry, can I ...

Ms. Roberts: I'm going on and on.

Chairman Collins: No, that's okay. I want to suggest that because the applicant has essentially withdrawn, deferred, their application at this point we're not going to be voting on anything. This case may or may not come back as is. We also encourage you, if you haven't already, and you continue to be present for these meetings, to understand how the state requires that we review the cases.

The State of New York offers a simple, fairly straightforward, five-factor analysis that zoning boards in the State of New York use to render judgment on variance requests. Things like tax implications associated with legalizations are out of scope for us. So while the argument may or may not be valid, quite frankly it's hypothetical anyway. We can't consider how much they may or may not have underpaid in taxes when we consider this.

So for a variety of reasons I would encourage you to hold off for now because we're not going to be voting. This case may come back looking like something different than it does today. If there's cause or reason for you to offer comment it may make more sense for you to come back then.

Ms. Roberts: Okay. Well, I get the impression that since I don't have standing that you'd prefer to have a resident of Hastings make these arguments?

Village Counsel Brosy: If they can make comments that relate to the actual impacts of the variance, then yes. But otherwise, I don't see ...

Chairman Collins: Right. Economic arguments, taxes, those are all things that are out of scope for us.

Ms. Roberts: I'm sorry, I made a comment about the tax. And that was just one consideration.

Chairman Collins: Right. I read the rest of your letter. I didn't actually see anything in there that a zoning board could properly take up as an input into rendering a decision on a variance. And since the case is essentially off of our docket right now, I feel as if our back and forth on this is probably not the best use of your time, or ours.

Ms. Roberts: Okay.

Chairman Collins: I would encourage you to track this, follow it. It may come back, depending on how their next step proceeds, in which case you'd be welcome to return. But right now I don't think this is going to be a very good use of your time.

Ms. Roberts: Okay, I understand. May I submit, though, this letter with the changes, the modifications?

Chairman Collins: Yes, that's fine. You can just give it to Buddy.

Ms. Roberts: And then in addition, the notes that ...

Bldg. Inspector Minozzi: Steve, would you just grab that, please?

Deputy Bldg. Inspector Stanislawczyk: Thank you.

Ms. Roberts: Okay, and then the notes in the court case where they consistently maintain that they owned a single-family residence. That's the only point for me to make. Okay, thanks for the time. Good night.

Chairman Collins: All right, yes, you bet. Thank you.

Okay, then we'll proceed to our third case, case 01-20.

Case No. 01-20
Christina Griffin & Peter Wolf
69 Hillside Avenue

Permission of reduction in the required depth of the front yard setback as per Village Code Section 295-20D.2 on the addition of a covered porch and front/side addition at their residence located at 69 Hillside Avenue. Said property is located in the R-7.5 Zoning District and is known as SBL: 4.80-62-22 on the Village Tax Maps

Nonconformity details are as follows:

**Reduction of front yard setback: Existing – 8.9 feet; Proposed – 9.1 feet;
Required – Uniformity of alignment {295-20D.2}**

Chairman Collins: This is actually a proposed reduction of an existing front yard setback of 8.9 feet to 9.1 feet, though it doesn't quite meet the requirement.

Bldg. Inspector Minozzi: This is a unique case, one we haven't had yet. This is almost like an average alignment case. It's not actually a variance we're going for tonight.

Village Counsel Brosy: This might be helpful for me to read the actual code language.

Chairman Collins: Sure.

Village Counsel Brosy: You're not going to be using the same five-factor test. So if you want me to do that, I can read it.

Chairman Collins: Yes, please.

Village Counsel Brosy: It's section 295-20(d)(2), front yard depth: *"If, on one side of a street with 250 feet of any lot, there is pronounced uniformity of alignment of the front of*

existing buildings, and of the depths of front yards that is less than the required minimum depth specified in this chapter, the Zoning Board of Appeals may permit a reduction in the required depth of the front yard for a new building on that lot or expansion of an existing building on that lot, provided..." – and here's the standard – "...that the spirit and intent of this chapter is met, and that the depth of the front yard shall conform as nearly as practicable to that existing on neighboring lots." So it's ...

Chairman Collins: Rolls right off the tongue.

[laughter]

Village Counsel Brosy: Yes, beautifully written. So if it conforms to the spirit and intent of the chapter, and if it conforms as nearly as practicable to other lots, then that's what you're judging it by.

Chairman Collins: Okay. I have a feeling all of this gets clear when we look at it.

Village Counsel Brosy: Yes.

Chairman Collins: Hi.

Christina Griffin, project architect: I'm the architect, and owner, of 69 Hillside Avenue. What we're planning to do is expand the house. And in order to do so – it's a very small house – we are asking for a reduction of the front yard setback. One of the main reasons is because there's a porch in the front of the house that now is so close to the driveway you can't enter the driveway with a car. So we'd like to move that porch over, but keep the same setback or very close to it. The existing setback to the front porch is 8.9 feet, and the proposed is 9.1. It's just slightly different because of this little curve in the property line in the front.

We also want to put an addition on the house, and that's going to have a 14.1-foot setback. Required front yard setback is 25 feet, however in this neighborhood there is a pronounced uniformity of very small front yard setbacks. This is an analysis of the houses within 250 feet of the property. There are six houses here. This is an aerial map. To the left is a view of all the front yards, looking down the street, how close they are to the sidewalk.

These are other photographs showing neighboring homes. The one to the right is 69 Hillside. This is the front porch we'd like to take down and rebuild just a few feet to the right. Then as you go down the street: 67 Hillside has a front yard setback, I think, of 3 feet; 65 is 2 feet;

59 is 12; 57 is 15; 53 is 3.5; and 47 is only 6 feet. I took an average of all the front yard setbacks, and it's about 7.2 feet.

We're asking for this reduction 'cause I feel this fits the intent of that code, and we're asking for a reduction because of the uniformity of having small front yards. These are our floor plans, just so you know what we're planning to do. The driveway's on the left, and with the existing porch we're really right up to the driveway. We want to push the porch to the right and add an addition to the house just to make it larger, a total of 21-hundred square feet.

This is our second floor plan. We would like to enlarge the bedrooms up there. These are our elevations, this is our new front porch. I have one other image that's fairly important I wanted to show you because I took a photograph of my car next to the porch.

Chairman Collins: Oh, Jeez.

Ms. Griffin: We have 2 inches there, and I don't feel I could possibly move the car into the driveway. So it's very important that we are able to move the porch. Actually, we love all the porches you see on the streets. We want to have a porch, but we want to take this down and just move it a few feet to the right so we have enough room to get into the driveway.

Chairman Collins: Okay. Is there anything else you wanted us to see?

Ms. Griffin: I just wondered, is that clear?

Chairman Collins: It seems clear. Thank you.

Ms. Griffin: Thank you.

Chairman Collins: I guess I want to get a point of clarification, and this is a new one for me. The code says that the Board of Appeals may permit a reduction in the required depth of the front yard. So are we here, then, to say that the required depth of the front yard for this property is now X, and it just happens to be exactly what it is, or what it would be under the proposal.

Bldg. Inspector Minozzi: I'm sorry, I'm not quite following you.

Chairman Collins: There's a lot of language here, but I'm going to get it down to the meaty part. It says *"The Zoning Board of Appeals may permit a reduction in the required depth of the front yard for a new building on that lot, or an expanding (ph) of an existing building on that lot."* And earlier in the test it references how if, on one side of the street within 250

feet of any lot, there's a pronounced uniformity of alignment. Which the applicant has shown: there's a pronounced uniformity of alignment in the front yard. My understanding, as I read this is that what we are saying is whatever the front yard setback requirement is – say, 30 feet ...

Bldg. Inspector Minozzi: It's 25 feet.

Planning Consultant Cleary: 25.

Chairman Collins: ... we could say, no, actually it's 12. In which case, here the applicant is proposing a setback of 9.1. So the variance requested would be the difference between what we say the new setback is as a result of reducing the setback? Because right now, the way this is noticed, it says there's an existing and a proposed, and there's zero required. But I think, as I read this, it's saying we may permit a reduction in the required depth of that yard.

Village Counsel Brosy: Right.

Chairman Collins: Which means that we get to say what it is. Instead of 25 feet it should be whatever we say it is.

Bldg. Inspector Minozzi: Well, it's the uniformity of alignment. So I guess that would mean whatever is the average alignment of those 250 feet, that's the number.

Chairman Collins: That's one way of doing it.

Bldg. Inspector Minozzi: That's how *I'd* take it.

Village Counsel Brosy: That's a little more complicated.

Bldg. Inspector Minozzi: Oh, sorry. I don't want to complicate things.

Village Counsel Brosy: No, it's fine if that's how you interpret it.

Bldg. Inspector Minozzi: That's how *I* was interpreting it.

Chairman Collins: I mean, it's the character of the neighborhood.

Bldg. Inspector Minozzi: Yes.

Chairman Collins: So we could certainly say the average of those properties roughly is – and I don't want to ...

Village Counsel Brosy: It's 7.2 feet.

Chairman Collins: So you could say in which case, then, if we say it's 7.2 feet then the applicant doesn't need a variance.

Bldg. Inspector Minozzi: No.

Chairman Collins: And they get to go home.

Village Counsel Brosy: But it does need your permission.

Bldg. Inspector Minozzi: It needs your approval. Not a variance, but your approval.

Village Counsel Brosy: No variance.

Chairman Collins: Right, we approve the reduction to ...

Bldg. Inspector Minozzi: To 9.1.

Chairman Collins: Does that then become binding for all properties in the neighborhood, or just this one?

Bldg. Inspector Minozzi: No, just this.

Boardmember Dovell: Just this one.

Chairman Collins: I think that's what we should do.

[laughter]

Boardmember Renzin: Good.

Boardmember Nivarthi: Buddy, on the rest of the addition to the building and everything, that conforms?

Bldg. Inspector Minozzi: She's all conforming.

Boardmember Nivarthi: Yes, it's only the front yard.

Bldg. Inspector Minozzi: It's just the front yard alignment.

Chairman Collins: So I would suggest that this board, in accordance with the averages that the applicant has provided for these eight or so properties in the neighborhood – where the average front yard setback is 7.2 feet – say that the required front yard for this house be 7.2 feet.

Village Counsel Brosy: Okay.

Chairman Collins: Then I think we're done. Obviously, we need someone – if we all agree that's the right way to go – to move and second. And then we would ... right? Isn't that what we would do? Because we're not approving a variance, we're saying the front yard setback is now this.

Village Counsel Brosy: No, you're not approving a variance.

Boardmember Nivarthi: Yes.

Chairman Collins: I don't want to rush it, so if anyone has another view.

Boardmember Dovell: Who wants to take a crack at the motion?

[laughter]

Chairman Collins: I would phrase it along the lines of, "I move that we reduce the front yard setback required for this property to 7.2 feet."

Village Counsel Brosy: In accordance ...

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Renzin, with a voice vote of all in favor the Board resolved the front yard offset for this property to be 7.2 feet, in accordance with the average front yard offset of all the properties within 250 feet of this location in accordance with building code of 295-20D.2.

Chairman Collins: Congratulations.

Ms. Griffin: Thank you.

Chairman Collins: Okay, we've got one more to go. For this one, I'm going to step away 'cause I'm in the notice area. So my colleague, Ray, will be serving as chair for this case and I'll be back for the wrap-up.

Chairman Collins recused – Boardmember Dovell acts as chairman

Case No. 02-20
Kevin Felix
31 Cedar Street

Relief from strict application of the Village Code Sections 295-68F.1.b and 295-20B.6 for the addition of a covered porch and an open deck at his residence located at 31 Cedar Street. Said property is located in the R-10 Zoning District and is known as SBL: 4.140-146-3 on the Village Tax Maps

Non-conformity details are as follows:

Rear yard setback: Existing – 18 feet; Proposed – 16.83 feet; Required – 24.93 feet {295-68F.1.b}; Variance Required – 8.1 feet

Deck projection into required yard rear: Existing – NA; Proposed – 7.16 feet; Required maximum – 6 feet {295-20B.6}; Variance required – 1.16 feet

Kevin Felix, applicant - 31 Cedar Street: Is there a dongle by any chance, for HDMI to USB?

Bldg. Inspector Minozzi: What do you need, sir?

Mr. Felix: I don't have an HDMI port on the computer. I saw somebody earlier using a dongle, but maybe it was their own.

Bldg. Inspector Minozzi: You're speaking a different language ...

[laughter]

Mr. Felix: A little converter for this.

Bldg. Inspector Minozzi: What do you need?

Mr. Felix: A USB.

Bldg. Inspector Minozzi: USB, we don't have.

Mr. Felix: I can just show you on the computer. Can I approach?

Bldg. Inspector Minozzi: Of course. Is it on your laptop, or is on a USB?

Mr. Felix: It's on my laptop. Do you already have, printed out, plans?

By the way, this is my wife, Marisa.

Bldg. Inspector Minozzi: The board received them electronically.

Mr. Felix: Okay. We're the owners of 31 Cedar Street. We've been there for about 4-1/2 years, we live there with our 8-year-old twins, Edie and Ben. We love the house, we love the neighborhood, we love everything about it except for this little deck we have that has been in a state of disrepair since we moved in.

We've been meaning to do something about it, but basically – and I'll show you a couple of quick pictures to give you an idea – it's a relatively small deck off our dining room. But also, it's already technically encroaching too much on the neighbor's property. Essentially, we want to rip this out and replace it with a screened-in deck which is just slightly larger. And then extend it to the right – an open deck portion – which requires two variances; one for the enclosed part and one for the open part.

Let me show you the overhead view. Basically, the deck as it is in terrible condition. We've had a few contractors look at it and say that rather than try to fix it it would just be worth replacing. But also, in the spring it gets covered in pollen, in the summer it's all mosquito-y, and in the fall there are acorns falling all over it. It's just really not a place that is really that usable.

By enclosing it with a screened-in – with screens – we think we'll use it all the time and it'll add value to the house. Our architect, Tom Haynes has put together drawings that should preserve the existing architectural integrity of the house.

Boardmember Nivarthi: We have access to those, if you can tell which sheet in that drawing you're referring to.

Mr. Felix: That's page 4.

Bldg. Inspector Minozzi: You don't have to show me. I've been involved with this intimately ...

[laughter]

... many times.

Mr. Felix: Here's some photos that aren't in there just so you can see ... well, actually I'll do this side first.

[laughter]

If you step out onto the deck and look to the left, those are our closest neighbors, the rear neighbors. So the rear neighbor's house can't even see this really. It's up a steep hill and there's a fence blocking it. Looking out to the right, the next neighboring property is far over there. They can barely see it also. Is there anything else I should make sure I say?

Marisa Felix, applicant: No. It shouldn't have any environmental impact. (Off-mic) try to keep it as minimal of a variance as we would need to get a livable little area. That would really help. And our neighbors ...

Mr. Felix: They're excited for us to have it, hopefully.

Ms. Felix: (Off-mic).

Mr. Felix: Replacing the roof and insulation.

Ms. Felix: (Off-mic).

Acting Chairman Dovell: In terms of the code, this is treated – even though it's a porch and not fully enclosed – as part of the building.

Bldg. Inspector Minozzi: Yes, because it's covered.

Acting Chairman Dovell: Because it's covered.

Bldg. Inspector Minozzi: Correct. The deck part is just a 1.16 projection.

Acting Chairman Dovell: So the variance they're requesting is really only for the interior, the enclosed portion of this, which is the hatched area?

Bldg. Inspector Minozzi: There are two variances. There's one for the closed porch and one for the deck.

Mr. Felix: The one for the deck is just that little sliver along the top.

Bldg. Inspector Minozzi: The covered deck, they're asking for another 1.17 feet. On the deck projection they're asking for an additional 1.16 feet.

Acting Chairman Dovell: So for the proposed screened porch portion, what is the area of the variance you're asking for? Has that been calculated?

Mr. Felix: Yes. The area for that variance is 110.41 square feet. That's the area of nonconforming rear yard setback.

Acting Chairman Dovell: Right. And the area of the deck – the unenclosed deck ...

Mr. Felix: The unenclosed deck? Let's see. Of the variance you mean, or ...

Acting Chairman Dovell: The variance, only the variance portion.

Mr. Felix: 8.38 square feet.

Acting Chairman Dovell: And for the enclosed porch portion, the encroachment is ...

Bldg. Inspector Minozzi: 1.17 more, which would be – and I'll have to do the math – 24.93 required.

Acting Chairman Dovell: Right. But it was unenclosed prior to that. So the gray area is enclosed porch, which was not enclosed before.

Mr. Felix: Right.

Boardmember Nivarthi: (Unintelligible) area that's required for variance.

Acting Chairman Dovell: So the entire gray area is a wholly new encroachment because it ...

Bldg. Inspector Minozzi: It's 8.10 feet for the total area they're asking for, with the old and the new together. I don't know what that square footage is.

Acting Chairman Dovell: Okay. That's what he said: 110.41.

Mr. Felix: For the enclosed area.

Acting Chairman Dovell: Well, it's a porch. It's a porch, but it's not part of the building, per se. It is screened, not fully enclosed. And the height of this enclosure is the height of the existing house, correct?

Mr. Felix: Right, at its highest point.

Acting Chairman Dovell: So it is a fairly major variance that's being requested in area. But in terms of character, and in terms of effect on the neighborhood and your neighbors, it does not seem like an onerous ask. I don't see a problem with this. I think it's minimal to the degree that you need a useful space, and I think it's positioned in the property so it does represent a minimal effect on the neighborhood, notwithstanding the 110 square feet. So I don't have an issue with moving this forward. I'm willing to hear others.

Boardmember Nivarthi: I'm looking at sheet A-4, and the existing deck currently is the hashed lines, correct?

Mr. Felix: Yes. The white hash lines?

Boardmember Nivarthi: So the area currently put in as "grill," does that exist or not?

Mr. Felix: Not as a deck. It's just sort of some greenery. That would become the new unenclosed deck.

Boardmember Nivarthi: So, effectively, you're going to expand a porch to cover all that area that is laid out.

Mr. Felix: Yes, and slightly more than half of that porch would be covered.

Boardmember Nivarthi: And then half of it would be covered.

Mr. Felix: Yeah. And we've no flat land on our property at all, so right now we don't really have any area for a grill or anywhere to sit outside without falling down.

Boardmember Nivarthi: I'm trying to understand how we are computing the area of the nonconforming overall because when I look at it you have close to almost 25 feet of deck that you're adding. You're 14.3 plus 10.6. Lastly, what I would say is maybe starting 6 inches at one end to almost 3 feet to the other end.

Mr. Felix: Of that hashed, nonconforming area?

Boardmember Nivarthi: So the hash is only up to ...

Mr. Felix: I think that is more like a foot on the wider end.

Boardmember Nivarthi: On the wider end, okay.

Mr. Felix: 1.16 feet.

Bldg. Inspector Minozzi: These variances are to the widest point, to the worst point, of the encroachment.

Boardmember Nivarthi: Yes, that's what I was looking at. The 1.16 is here, so that's what I'm trying to understand. Is it 1.16 here?

Bldg. Inspector Minozzi: No, it's more there. They're different.

Acting Chairman Dovell: Enclosed.

Boardmember Nivarthi: Exactly, and that's what I'm asking. So what is the variance required at the end?

Bldg. Inspector Minozzi: Well, you have to understand that it's that different type of variance. We're not talking about a setback variance for the deck, we're only talking about a setback variance for the porch.

Boardmember Nivarthi: The porch, okay.

Bldg. Inspector Minozzi: The deck is just an intrusion into the setback.

Boardmember Nivarthi: Got it.

Bldg. Inspector Minozzi: Because you're only allowed to intrude 6 feet, and they want to intrude – at the worst point – 7.16. So they're kind of two different kinds of variances

because they're two different types of structures and they're handled differently under our code.

Acting Chairman Dovell: And the covered porch is 110 feet, the unenclosed portion is 8.36 square feet.

Boardmember Berritt: I mean, I don't feel like you have too many options to move it anywhere else. This is the area you're going to want to have off the kitchen and off the dining room to have the space. And I think from looking at the photographs that you've presented of the neighboring properties it's okay in terms of the way it's going to sit in there. It's below the neighbor behind, which was one of the concerns when I looked at it earlier. But I didn't realize the difference in height.

Boardmember Renzin: I don't have anything to add. It seems okay to me.

Acting Chairman Dovell: So may we have a motion?

Boardmember Nivarthi: Maybe put the case number and everything, correct?

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Renzin, with a voice vote of all in favor the Board resolved to approve Case 02-20, 31 Cedar Street, nonconformity as submitted variance for front yard existing 18 feet, proposed 16.83; required 23.93 feet, variance required 8.1 feet; and deck projection into required yard, reasonably existing, currently not applicable, proposed 7.16; required maximum 6 feet; hence, variance required 1.16 feet.

Mr. Felix: Fantastic. Thank you.

Ms. Felix: Thank you so much.

Boardmember Renzin: Enjoy your new deck.

Mr. Felix: Thank you, we will.

[Chairman Collins resumes board chair]

APPROVAL OF MINUTES

Regular Meeting of December 5, 2019

Chairman Collins: Just a couple other items for us to take care of. Any amendments on the minutes for the December meeting?

Boardmember Nivarthi: Yes, I sent them to Mary Ellen.

Bldg. Inspector Minozzi: Okay.

Chairman Collins: Yes, I saw that. Thank you for doing that. I also sent over my markup.

Bldg. Inspector Minozzi: I just saw it, yes.

Chairman Collins: Anyone else have any amendments to the meeting minutes? All right, so can I get a motion to approve the minutes as amended?

On MOTION of Boardmember Nivarthi, SECONDED by Boardmember Berritt with a voice vote of all in favor, the Minutes of the Regular Meeting of December 5, 2020 were approved as amended.

Chairman Collins: The vote stands.

DISCUSSION

Boardmember Renzin steps down from ZBA

Chairman Collins: The last thing I need to announce is that after how long, how many years ...

Boardmember Renzin: Two years.

Chairman Collins: ... Carolyn is going to be stepping down from the Zoning Board.

Boardmember Dovell: Tell us it's not true.

Boardmember Renzin: New job. It's killing me, guys.

Boardmember Dovell: She let Niki and me know. And it makes a ton of sense, she got a job that has a lot of unpredictable travel. We talked about cloning procedures, but that seemed impractical and maybe a little illegal.

Boardmember Renzin: Trying to get my husband to do it.

[laughter]

Bldg. Inspector Minozzi: So Sashi, you ready to step up?

Boardmember Nivarthi: Yes.

Chairman Collins: So everybody knows, first of all thank you very much for your service.

Boardmember Renzin: It's been a pleasure.

Chairman Collins: As I noted for Carolyn, she has a skill set that we love to have here but also sort of the retail bedside manner this job requires. So thank you so much for your service. We're going to miss you.

Boardmember Renzin: It's been my pleasure.

Chairman Collins: I don't say that without regrets.

Boardmember Renzin: I know, we're a tough bunch.

[laughter]

Chairman Collins: So the procedure for finding a replacement begins. It's ultimately a Board of Trustees appointment, but I know the board would welcome candidates if we have them. I'd like to have an attorney. It's a valuable skill to have on the board. So if any of you have candidates, people you think you'd like to put forward, please let me know. I'll be happy to answer any questions they have. And then ultimately, if they're game, pass it along to Niki, the mayor, and the rest of the board for consideration. I think the same process will probably go for you, Sashi. There's nothing that says you *must* step up.

Bldg. Inspector Minozzi: I was just teasing him.

Chairman Collins: But if you are interested – you don't necessarily have to say so now – and if you'd like to be among the full-time members of the board, let me know that.

ADJOURNMENT

Chairman Collins adjourned the Regular Meeting.