

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
JANUARY 25, 2024**

*Meetings held by the Zoning Board of Appeals are
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PRESENT: Chairman Jeremiah Quinlan, Boardmember Josh Heitler, Boardmember Richard Griffin, Alternate Boardmember Beth Haddock, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

I. CALL TO ORDER

Chairman Quinlan: So a couple things for people who haven't been here before. I'm going to call to order the Village of Hastings-on-Hudson Zoning Board of Appeals on Thursday, January 25th, 7 p.m. We have two cases on the calendar. One is for variance and one is for an opinion of the zoning board on the possible changing of the zone from commercial to residential at the end of Warburton. To the first application for variances, you can see we have four people here. You're entitled, at least in this case, for an adjournment if you'd like. You're going to need three votes in favor out of four, but you're entitled to come back in the next month and, hopefully, we'll have five.

There was some sort of performance, I think it was the middle school ...

Bldg. Inspector Minozzi: The middle school, yes.

Chairman Quinlan: ... at Hastings-on-Hudson. It was a musical, and two of the boardmembers have children that were performing at that. They did the right thing and they're going to see the children perform.

In that case, just so we know – and you can see it's not a big crowd here – the proponent presents their case. And if there's anybody in the audience or anybody through mail or e-mail that has commented either pro or con then Charles here will let us know there was for or against. If anybody wants to hear the whole letter or anything, we'll do it. Then the board's going to have some questions of the proponent. You'll have a chance for rebuttal, if you want, for any questions you ask or you want to make things a little bit clearer. Then we're going to have motions and vote.

As to the second case, it's just a recommendation to the board of trustees. You're going to present your case. If anybody has any comments for or against we'll listen to it, we'll ask questions. Then we'll have a motion, either up or down, and see where we go from there. Okay? Any questions? The first case here on the agenda is case number 01-24.

II. AGENDA

Case No. 01-24
John & Nancy Dodson
69 Lincoln Avenue

Relief from strict application of Village Code Section 295-20C(2) for legalization of a preexisting rear patio at their single-family dwelling located at 69 Lincoln Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.90-86-6 on Village Tax Maps.

Nonconformity details are as follows:

Paving in a Required Yard; Existing – 235 square feet; Proposed – 235 square feet; Allowed – None {295-20C.2}; Variance Required 235 square feet

Chairman Quinlan: The first time you come up to address us we need your name and your address for the record.

Kimberly Martelli, KTM Architect: I'm here on behalf of John and Nancy Dodson, homeowners at 69 Lincoln Avenue. Do you need my address? I'm located at 700 Fenimore Road in the Village of Mamaroneck, New York.

Chairman Quinlan: Okay, welcome to Hastings.

Ms. Martelli: Thank you so much. I haven't been before a zoning board in a long time. But I have been in the past, not in the river towns as much these days. We're over in Mamaroneck, Larchmont and New Rochelle. But happy to be here.

Chairman Quinlan: Good, happier to have you.

Ms. Martelli: John and Nancy were preparing to close out a building permit for a remodel and additions to their home. Upon doing so, the building department identified there was an existing nonconforming rear patio. Subsequently, they evaluated the requirements of a zoning variance and given the option to determine if they wanted to maintain it and seek a variance or remove it and restore the property to its conforming conditions.

The other goal is to keep the patio. It's been there a number of years, it's a brick paver patio approximately 200 square feet located in the rear yard. There's some additional nonconformances that are being addressed. There is a constructed treehouse that will be removed or has been removed. But they'd like to maintain the on-grade patio that does not create any additional impervious surface, whereas there's no additional runoff. Given it's a paver patio and stone dust it will not create a detriment to the neighborhood or the

neighboring properties. It's surrounded by a fence on both sides, it's well screened. There is minimal to no paving in the rear yard. There is a small pathway that leads from this little patio and a set of stairs to the backyard. All other conditions of the property are existing conforming, exclusive of this on-grade patio.

Chairman Quinlan: Anything else?

Ms. Martelli: No.

Chairman Quinlan: Do you have any pictures? I'd like to take a look.

Ms. Martelli: Oh, yes. If you'd like I can bring it closer.

Chairman Quinlan: There's a microphone if you're going to want to walk around a little bit.

Ms. Martelli: I can do that, sure. So what was submitted with the application was just a visual reference on the left side so you can get a sense of what the look of the house is. This is a highly-perched property on a very rocky yard. There are two visuals of the backyard conditions. That green perimeter is, in fact, the wood fencing around the site. This is that treehouse to be removed, and sitting directly underneath it is a brick paver patio. Again, minimal impact to the neighbors, or *no* impact to the neighbors, but a beneficial small space of paving for the homeowners. There would be no site disturbance if it's maintained. Certainly if they wanted another patio they could build it in another location, but we'd be talking about adding some likely disturbance and maybe some hard impervious surfaces. I recommended to them this would be the best initial course of action: let's seek a variance first before you disturb any additional property.

Chairman Quinlan: Okay, can we take a look at that?

Ms. Martelli: Yes. And I assume this was submitted to the board with our application.

Bldg. Inspector Minozzi: Yes, it was.

Ms. Martelli: Very good.

Attorney Whitehead: The treehouse is coming down.

Ms. Martelli: Correct.

Boardmember Heitler: You said it's partially underneath the treehouse.

Ms. Martelli: Yeah, it's partially underneath. So if you look at the site it just sits directly in front of it. The reddish bricks blend in beautifully with the dirt.

Attorney Whitehead: It's hard to see it because they're red brick.

Boardmember Griffin: What is the fence and the structure on the far side of the treehouse?

Ms. Martelli: The fence itself? The materials?

Attorney Whitehead: The neighbor's house.

Ms. Martelli: It's the neighbor's garage.

Boardmember Griffin: The treehouse itself was flush against the fence that was (cross-talk) ...

Ms. Martelli: It's a few feet away.

Boardmember Griffin: Okay, but if you go out there you can't see the back of it.

Ms. Martelli: So if you look at the dashing on the site plan, that will show you the illustration of the footprint. It's almost a square.

Boardmember Griffin: Okay.

Ms. Martelli: Then you could actually see the outline of the neighboring garage that's nearby.

Chairman Quinlan: Josh, you have any questions?

Boardmember Heitler: I think you mentioned there were no other required variances, so that means that coverages ...

Ms. Martelli: Absolutely.

Boardmember Heitler: So this is just a matter of the fact that the existing patio happens to be located in a side yard setback. But otherwise (background noise) there isn't too much impervious paving, there isn't too much coverage.

Ms. Martelli: Correct.

Bldg. Inspector Minozzi: We've received no communications on this application either for or against.

Chairman Quinlan: I forgot to ask you, are the mailings in order?

Bldg. Inspector Minozzi: The mailings are in order, sir.

Chairman Quinlan: So when your clients bought the house was the patio there?

Ms. Martelli: The patio was existing.

Chairman Quinlan: And did they have any idea that it ...

Ms. Martelli: A nonconformance, no. In fact, when we started the project on the additions on the house we had a property survey from a land surveyor that did an okay job identifying the property and the building setbacks but did a weak job of identifying any other elements beyond the site. I actually spoke with Buddy – because I was unfamiliar with this zoning regulation – who brought it to my attention. We clarified what it was. But the initial survey that was filed – otherwise it would have been identified by buildings at the beginning of the application – did not accurately identify all other site structures beyond the building, the driveway, and the walkway. There were a significant number of identified areas, but this particular spot in the back corner wasn't detailed.

Bldg. Inspector Minozzi: Wasn't identified at all on the survey.

Chairman Quinlan: On the original survey when you bought the house.

Ms. Martelli: That's right. When we had our recommended land survey they had their own survey. A lot of homeowners come to us with their own property surveys and we receive them as long as it's a licensed, certified land surveyor. When we do the as-builts we typically recommend our land surveyor. Or in case that surveyor had archived his business and sold the surveys to another land surveyor we brought in our own recommended land surveyor who did a complete study and actually added additional information that this patio appeared. He was able to identify it, and we filed our as-built.

Chairman Quinlan: Okay, so the pictures see it as kind of underneath the treehouse. What do they use the patio for?

Ms. Martelli: If you notice, they can actually come up that little pathway, paver pathway, to just have outdoor seating. There's no other paved surfaces outside besides this patio. So there's a small table and chairs on it, the bistro-sized table. They have three small to almost-teenage children now and it really is a great, usable backyard. The improvements we made have been to the interior of the house. We built a master suite for them some years ago and finished their kitchen remodel most recently.

Chairman Quinlan: So I'm guessing then they're going to put the house for sale and they want to clear this up?

Ms. Martelli: There's no urgency to move, no. Nancy and John and well established in the community, don't plan to go anywhere, and their kids have plenty more years of school.

Attorney Whitehead: It came up, I think (cross-talk) ...

Ms. Martelli: It came up to close out a permit.

Attorney Whitehead: They got the permit for the work they did on the house.

Ms. Martelli: Yes, no urgency. And we kind of waited awhile to see if they might change their minds, but we've been in touch and they finally said let's just do it; we'd like to see what the board thinks about this potential variance.

Attorney Whitehead: So the CO for the work done in the house can't be issued until this is resolved.

Chairman Quinlan: Well, thank you. I'm glad you're doing it now. Any other questions?

Alt. Boardmember Haddock: I'm just curious what the new materials will be for the new patio?

Ms. Martelli: Oh, it's not new. It's existing, to be maintained; it's a brick patio to remain. There's no intended additional work for improvements. They would just simply like to maintain it as is.

Alt. Boardmember Haddock: Okay, thank you.

Chairman Quinlan: Anybody have any questions?

Boardmember Griffin: Just to clarify the variance you're looking for, are you looking for that on two of the different sides? And if so, like what is it on each side? Just so I'm clear.

Ms. Martelli: Yeah, it would be identified on both, I assume, right?: because it's rear, because it sits in the rear yard setback, and it's also to the side 'cause it sits within the 12-yard setback. So the rear requirement minimum is 30. The very, very tip by the steps is 7-feet-8 inches away. And on the side where the minimum is 12 feet, the house sits inside this setback, as well: existing nonconforming, no work there. It's 8 feet away and the patio is 1-foot-3 inches, 1.25 feet away.

Boardmember Griffin: Okay. And on that side where it's fairly snug to the property line, is there anything on the neighboring property that would cause any sort of complication? I looked at this on the map and it's just on Lincoln Ave there. Do the neighbors have anything that's close by or anything that ...

Ms. Martelli: No, nothing significant in terms of structures on that side. Again, we do have a fence as our property line divider on that, as well. So there's a continuous fence on this side as well as at the rear. That's the wood fence line.

Bldg. Inspector Minozzi: It's a 6-foot fence, right?

Ms. Martelli: That's correct, yeah.

Chairman Quinlan: Okay, do we have a motion? Somebody's got to take a stab at this.

Attorney Whitehead: Did you ask for the nonexistent public [laughter]? You have to ask.

Chairman Quinlan: Thank you. There's no one here.

Attorney Whitehead: For the record.

Chairman Quinlan: Does anybody have to stay on the second case? Are you sitting there for some strange reason?

[Laughter]

Chairman Quinlan: I assumed, where you are. But maybe I shouldn't. So there's nobody here, and let's have a motion.

Boardmember Griffin: "Motion to approve case number 01-24, John and Nancy Dodson, 69 Lincoln Ave. Relief for strict application of village code strict application of Village Code Section 295-20C(2) for legalization of a preexisting rear patio at their single-family dwelling located at 69 Lincoln Avenue."

On **MOTION** of Boardmember Griffin, **SECONDED** by Boardmember Heitler, with a voice roll call vote of all in favor the Board resolved to approve the request for a variance for the legalization of a preexisting rear patio at the single-family dwelling located at 69 Lincoln Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.90-86-6 on Village Tax Maps. Specifically, the variance approved was for paving in a required yard: existing – 235 square feet; proposed – 235 square feet; allowed – none; variance required – 235 square feet.

Chairman Quinlan: So it's unanimous.

Ms. Martelli: Thank you.

Chairman Quinlan: Thank you very much, and you're welcome here any time. You're well-prepared and we appreciate that, so thank you.

Nancy Dodson], applicant: Thank you so much, I appreciate it.

Bldg. Inspector Minozzi: Take care.

III. DISCUSSION ITEM

Proposed Local Law A of 2024

A local law amending the zoning map of the Village of Hastings-on-Hudson to rezone the parcel known as 623 Warburton Avenue to the 2-R Zoning District.

Chairman Quinlan: Welcome. Let us know who you are.

Kory Salomone, Zarin & Steinmetz: Our firm is at 81 Main Street, White Plains, New Rochelle. I'm here this evening on behalf of Mr. and Mrs. Wilson in connection with the zoning petition. Mr. Wilson and his son are both here with me this evening.

Procedurally, our petition was received by the board of trustees earlier this morning. They

scheduled a public hearing for February 6th and referred us to both the planning board and to your board. We appeared before the planning board last week, received a positive referral back to the board of trustees. Here before you this evening – and the property's outlined here, 623 Warburton – 0.24 acres of land currently in the CO, Central Office, zoning district. It's worth noting, back in the '60s it was previously residential, was rezoned to commercial. Mr. and Mrs. Wilson own 86 Maple Ave, which is just behind 623 Warburton. They purchased 623 in 2019 and demo'd the building at that time. Now they're seeking to rezone it back to a residential zoning district. Their plan would be to improve it with a single-family home. We believe it's compliant with your comp plan. As you saw in the package we submitted, we have several neighbors who submitted letters of support.

I'm just coming here to the zoning map. As you can see, it's surrounded on the north, the west and the southwest by a residential district so it would blend right in. It's the very tail end of your commercial district. The building that's just south actually faces on North Street so it kind of has its back to this building. It almost makes a natural separation between the commercial zone and the proposed residential here.

Chairman Quinlan: Okay, anybody have any questions? Richard?

Boardmember Griffin: No. I know you had a couple of curiosity questions.

Chairman Quinlan: I'm kind of interested in ... you want me to start while you're thinking?

Attorney Whitehead: Should I give my history?

Chairman Quinlan: Yes, please.

Boardmember Heitler: Her history was great last time.

Attorney Whitehead: You liked my history?

Chairman Quinlan: Maybe you answer my questions.

Attorney Whitehead: This comes from growing up up the hill. Before the mid-'70s ... can you go back one slide? You see how there's this strip in front of this property between the property and Warburton? Just so everybody understands, prior to sometime in the mid-'70's Warburton actually came straight from Broadway. So the lights were not there, it didn't curve in, go to the light, and then turn. It went straight, so Warburton Avenue was actually right up against ...

Bldg. Inspector Minozzi: Like this.

Attorney Whitehead: Right. And there was a triangle in the middle. I know lots of times people look at this and they go, Why is it so far off from the actual road? That would be why. Again, that comes from growing up up the street, up Edgar's Lane and walking down there all the time. And there didn't used to be a light. That's why there's sort of that odd configuration. They have proposed they would only use the southern driveway, so actually the northern driveway would go away and could become part of that greenspace again.

Mr. Salomone: Correct.

Attorney Whitehead: So as the applicant said, the planning board thought this made sense and was supportive of it. The board of trustees had some discussion, and generally the discussion has been that this isn't really the commercial part of the downtown, it's really kind of separate from it and maybe at this point that it be returned to a residential use. It's not likely an office building would ever be built there again. And for those who remember, the office building that was there was not the most attractive. So everybody has thanked them for taking it down [laughter].

Mr. Salomone: I could also go a little forward and show you a slide of ... so this was the office building that was previous ...

Attorney Whitehead: Lest you forget [laughter].

Mr. Salomone: That's what was there. Then I have one more. This just gives an example of the house the architect designed for us. You can what's superimposed is the previous building that was there.

Mr. Salomone: This helps with a question I had about the greenspace that's on the overhead map. Is that part of that public park?

Attorney Whitehead: Yes.

Mr. Salomone: It's kind of on the other side of the sidewalk.

Bldg. Inspector Minozzi: Yes.

Mr. Salomone: Okay, so that would not be part of this property. "No," right?

Attorney Whitehead: No.

Mr. Salomone: But I would say if you lived in that house you would be encouraged – or you would have a desire – to maintain that for you to make it look nice. Even if it's not yours, it's kind of your front yard.

Attorney Whitehead: But that's what's been recently developed with the Battle of Hastings monuments. I mean, they're a little further north than this, but it's that area, that greenspace.

Mr. Salomone: Yeah, that leads into that.

Alt. Boardmember Haddock: And because it's currently zoned commercial one cannot choose to just build a residence there?

Attorney Whitehead: Not in this district. The zoning district it is zoned today does not permit residential.

Alt. Boardmember Haddock: So it's prohibited.

Attorney Whitehead: Yes.

Alt. Boardmember Haddock: Thank you.

Attorney Whitehead: Otherwise they wouldn't bother to be here. They would just build it [laughter].

Chairman Quinlan: So the brown fence that's north of the house, what is that? Whose property is that? See the fence?

Attorney Whitehead: That's the proposed.

Mr. Salomone: That's part of our property. That's just part of the rendering.

Attorney Whitehead: The property drops off pretty steeply. If you look, the office building had a steep driveway that went down in the back and the parking was under. So the property's kind of steep.

Chairman Quinlan: I didn't get a chance to go through your property and look at the lot, but I was always curious. I remember when I figured it was that the owners of the house bought the house, then knocked down the building. I said, hmm, I wonder what they're going to do with it. That was 2019, and now it's 2024. So were these plans ... that's like

three or four years. I mean, what did they think at first? Because they built the fence right there at the property line. I would say just come and tell us ...

Andrew Wilson, 86 Maple Avenue: My wife and I bought the office building not exactly knowing what we were planning to do with it. We sort of had a 10-year plan, but it was for sale forever and it just kept getting more and more dilapidated. And then we found out that a school was looking at it to buy as a school. So we felt like we had to buy it so it didn't become a nursery school in our backyard. Then the tenants moved out and no tenants appeared to move in. So once it became vacant we decided to demolish it and then figure out what to do with the property. So a couple of years of mulling it over.

Chairman Quinlan: Okay, thank you.

Mr. Wilson: But I wanted to mention it's a very strange property because there's that 15-foot strip of grass to the left of the sidewalk. It's about 15 or 20 feet wide. Then there's a 10-foot drop. So that fence is there for safety because that's the only section of property that's at that height. The rest of the property is at the lower, 10-foot, height at the same elevation of Maple Avenue.

Chairman Quinlan: And how's the backyard of that house? Does it go down or is it flat?

Mr. Wilson: It's totally flat. Once you go down the 10 feet it's a totally flat yard.

Chairman Quinlan: But just out of curiosity, the backyard of that will have a 10-foot drop?

Mr. Wilson: There is, right now, a huge retaining wall right where that wood fence is. There's a 10-foot tall retaining wall that's like concrete this thick that the office building sat on. So that's why the lower property is flat and the upper property is flat but they're 10 feet apart.

Attorney Whitehead: So it's basically the lower level of the office building and the parking lot.

Mr. Wilson: It was.

Attorney Whitehead: That's why it's flat.

Mr. Wilson: It was the parking lot.

Chairman Quinlan: But just my question is, the backyard of that house will have a 10-foot

drop?

Mr. Wilson: From this lawn.

Bldg. Inspector Minozzi: Why don't you show them the side elevation.

Mr. Salomone: Basically you're gonna enter on the middle floor at the upper height and exit on the lower floor.

Mr. Wilson: A lot of houses in Hastings have that.

Mr. Salomone: There you go: the side elevation here.

Mr. Wilson: The side view shows you have the ramp down, pretty steeply, to get from Warburton down to the level of Maple Avenue.

Chairman Quinlan: Okay, anything else?

Bldg. Inspector Minozzi: Yes. We have eight letters in favor of the rezoning, none against.

Boardmember Heitler: Are any of them the immediate neighbors?

Bldg. Inspector Minozzi: You had to ask me that, right?

Mr. Salomone: If you look at the properties that are highlighted in green, on this map are the ones of the neighbors that gave us letters of support.

Bldg. Inspector Minozzi: Oh, you have it highlighted?

Mr. Salomone: Yes.

Bldg. Inspector Minozzi: Oh, thank you for saving me that work.

Attorney Whitehead: And the blue, obviously, is their other property.

Bldg. Inspector Minozzi: So in answer to your question Josh, yes.

[Laughter]

Chairman Quinlan: Surrounded.

Attorney Whitehead: Thank you for having that.

Bldg. Inspector Minozzi: Thank you!

Mr. Salomone: I try.

Chairman Quinlan: Okay, do we have a motion?

Attorney Whitehead: You don't need a motion.

Chairman Quinlan: Okay, just a roll call?

Attorney Whitehead: You're agreeing to make a recommendation that you recommend the board ...

Chairman Quinlan: But I think we should just hear from everybody, whether they approve it or disapprove it. We'll go right down the line.

Boardmember Heitler: I have no issue with it. "Approve."

Chairman Quinlan: "I approve."

Boardmember Griffin: "Approve."

Alt. Boardmember Haddock: I have no issue with it.

Attorney Whitehead: Right, so we will do a memo to the board of trustees saying this board recommends they proceed with the zoning amendment.

Alt. Boardmember Haddock: Great.

Chairman Quinlan: Got it.

Mr. Salomone: Thank you very much for your time. Greatly appreciate it.

Chairman Quinlan: Yes, thank you. Good luck.

IV. ANNOUNCEMENTS

Next Meeting Date – February 29, 2024

Chairman Quinlan: So we have the next date in February.

Bldg. Inspector Minozzi: The 29th. There's a typo on the agenda.

Chairman Quinlan: Okay, that's what my next question was. So the next meeting is February 29th at 7 o'clock.

V. APPROVAL OF MINUTES

Regular Meeting – December 14, 2023

Chairman Quinlan: Let's see if we have enough people to approve December. I was here.

All Boardmembers: I was here.

Bldg. Inspector Minozzi: That's it, that's all you need. You just need three.

Boardmember Griffin: I just missed one.

Chairman Quinlan: Yes, you were here in December. So we have all four.

Bldg. Inspector Minozzi: Excellent.

Chairman Quinlan: Does anyone have any changes or corrections or anything in terms of the transcript?

With a **Voice Vote** of all in favor, the Minutes of the Regular Meeting of December 14, 2023 were approved as presented.

Chairman Quinlan: So we all approve that, 4-zip. I think that's the end of our business today so do we have a motion to adjourn?

VI. ADJOURNMENT

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

Attorney Whitehead: Good job!

Bldg. Inspector Minozzi: Nice.