

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING
JUNE 22, 2017

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, June 22, 2017 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember David Forbes-Watkins, Boardmember Sean Hayes, Boardmember Adam Anuszkiewicz, Alternate Boardmember Denise Furman, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

Chairman Collins: All right, ladies and gentlemen, we're going to get under way. Thank you for joining us for the June 22nd meeting of the Zoning Board of Appeals. We have three active cases on our docket, plus a point for discussion on the proposed changes in the zoning code that are currently before the Board of Trustees.

Before we begin, I just wanted to offer up some clarification of framing what this board does and what our role will be in discussing specifically the zoning code language. This is the not the first time this board has received proposed language changes from the Board of Trustees related to our zoning code, and it's important that you understand how we're approaching it and how the Board of Trustees tasks us with doing this. I've prepared just a quick introduction, which I'll read, and then we can kick it off.

"As interpreters of the Village's zoning code and not drafters of the language" – which I think is an important distinction – "the Zoning Board of Appeals routinely receives and reviews proposed zoning code changes from the Board of Trustees. When that happens, the Board of Trustees asks the Zoning Board of Appeals to provide its comments" – so *our* comments – "as opposed to seeking public comment from residents."

"The Zoning Board then will discuss the language the Board of Trustees has proposed as the drafters of that language and provide input on how the Zoning Board might interpret the proposed code." In other words, how we might bring it to life in the instance when an applicant brings it before us. "At times, the Zoning Board will suggest changes to the proposed language in an effort to improve its application in practice and help the Village achieve its stated goals."

With that in mind, the Board of Trustees on Tuesday extended the public comment period to July 21. Our goal tonight is not to debate whether the Village goal is an appropriate one. Our goal tonight is going to focus on how we would interpret this code if it were in practice and how we might improve its application and, again, help the Village achieve its goals. So we're going to be focused very much on the strict language of the code. We didn't draft it; the Board of Trustees drafted it. So we are going to be talking very actively about how we

might improve the code or change the code and how it might actually work – I would imagine it working – for an applicant involved with this new code, this proposed code.

We are happy to receive public comment on it, but really only if it's additive in the framing of how I've described it. If you have an objection, for example, to the Village's goals this is not the right place to have that discussion. A way of sort of testing before you offer your comment – whether your comment is going to be in line and applicable to what our mission and mandate – is, if you find that, as a result of your thinking – or as a result of your opinion – the conclusion is the proposed language should be stricken and we should not adopt the code, then that's not going to be additive to our discussion. We're not here to weigh in on whether the code should be changed, we're not here to weigh in on whether the goal is the right one. Our goal is to figure out how we can make sure the language is optimized for whatever the Village is trying to accomplish.

If you have a goal that's focused on understandable concerns about whether this is the right thing for the Village to do please make your voices heard through the public comment period. That's what it's there for. I hope that's clear. We will get to our discussion of the proposed language changes after we've gone through the applications that are here, of which we have three and which we'll get to in just a second, Mitch.

Before we begin, Buddy, how are we on the mailings?

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

Chairman Collins: OK, very good.

Village Attorney Whitehead: I'm sorry, could I just add one thing to the Board of Trustees' public comment? They are going to be taking further comment in person at their July 11 meeting, then accepting written comments until July 21. Just to clarify, there's an opportunity to do both written and also to appear at the July 11 meeting.

Chairman Collins: Yes, thanks, Linda.

A couple of ground rules. We have two microphones. We have the standing microphone with the podium here, and we have a handheld microphone that's up here. Anyone who wishes to be heard will be heard tonight. Just make sure you've got a microphone. We've got a remote transcriptionist who's recording everything for the record so we want to make sure we hear your comment. When you do come to comment, just make sure you introduce yourself and tell us where you live.

Case No. 08-17
Tabi Realty, LLC
425 Warburton Avenue
*****Deferred to July 2017 Meeting*****

View Preservation approval, as required under Village Code Section 295-82, and relief from the strict application of code Sections 295-72.1.E(1a,b&c), 295-40.B(1&2), 295-41.A, 295-20C(2&4) and 295-29.A for the demolition of an existing three-family and construction of a new building containing three townhouse units on its property at 425 Warburton Avenue. Said property is located in the MR-O Zoning District and is known as SBL: 4.70-52-10&11 on the Village Tax Maps

Nonconformity details of the proposed construction are as follows:

Front Yard Setback: Existing – 0.2 feet; Proposed – zero feet; Required – 10 feet {295-72.1.E.(1a)}; Variance required – 10 feet

Rear Yard Setback (to Parking Structure): Existing – 53.4 feet; Proposed – 19.1 feet; Required – 30 feet {295-72.1.E.(1b)}; Variance required – 10.9 feet

Side Yard Setback: Existing – +/-50 feet; Proposed – 7.0 feet; Required – 12 feet {295-72.1.E.(1c)}; Variance required – 5 feet

Driveway Slope: Existing – 16 percent; Proposed – 15 percent; Required Maximum 12 percent {295-40.B(1)}; Variance required – 3 percent

Driveway Slope 3 percent/30 feet from Property Line: Existing – 16 percent/0 feet; Proposed – 3 percent/5.67 feet; Required Maximum – 3 percent/30 feet {295-40.B(2)}; Variance required – 3 percent/24.33 feet

Driveway Area: Existing – 500 square feet; Proposed – 1,506 square feet; Required Maximum – 960 square feet {295-41.A)}; Variance required – 546 square feet

Parking Space Size: Existing – N/A; Proposed – 8 feet 6 inches by 18 feet; Required – 9 feet by 18 feet {295-29.A)}; Variance required – 05 feet (width)

No Paving in a Required Yard (Parking Structure) {295-20C(2&4)}

Case No. 9-17
Dean & Marie Wetherell
196 Warburton Avenue
*****Deferred to July 2017 Meeting*****

For View Preservation approval, as required under Village Code Section 295-82 and relief from the strict application of Sections 295-68E & 295-68F.2.a.2, for the creation of two nonconforming lots and a new proposed single-family dwelling on their property at 196 Warburton Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.130-139-17&18 on the Village Tax Maps

Nonconformity details of the subdivision and proposed construction are as follows:

Lot width: Proposed – 65.76 feet average (Lot #1) & 79.09 feet average; (Lot #2) – Required; 100 feet (each) {295-68.E.}; Variance Required – 34.24 feet (Lot #1) & 20.91 feet (Lot #2)

Developmental Coverage (Lot #2): Proposed – 36.35 percent; Required – Maximum 35 percent {295-68.F.2 (a.2)}; Variance Required – 1.35 percent

**Case No. 12-17
Daniel & Robin Muskin
55 Dorchester Avenue**

For relief from the strict application of Sections 295-68.F.(1)(a&c) and 295-68.F.2.a.[1&2] of the Village Code for the creation of a trellis in the side and front setbacks at their single family dwelling at 55 Dorchester Avenue. Said property is located in the R-10 Zoning District and is known as SBL: 4.90-82-6 on the Village Tax Maps

Variances are sought for the following for the proposed trellis:

Front yard Setback: Existing – approximately 30.10 feet; Proposed for the trellis: approximately 25.4 feet; Required Minimum – 30 feet { 295-68.F.(1)(a)}; Seeking 4.6 feet variance

Side Yard Setback: Existing – approximately 24 feet total/12 feet one side; Proposed for the trellis – approximately 16 feet total/12 feet one side; Required minimum – 30 feet/12 feet one side; { 295-68.F.(1)(c)}; Seeking 14 feet total both sides variance

Building Coverage: Existing – 22.3 percent; Proposed with trellis – 31.3 percent; Required maximum – 25 percent; Seeking 6.3 percent variance.

Developmental Coverage: Existing – 35 percent; Proposed with trellis – 43.5 percent; Required maximum – 35 percent; Seeking 8.5 percent variance.

Chairman Collins: I apologize in advance if I get any of the names wrong. Mitch, I'll let you go ahead and introduce the case.

Mitch Koch, project architect: I'm the architect for the Muskings, seated up here. Very quickly, this is the property. You can see it's a relatively small property and the house is quite tight on it. The neighbor most affected would be at 65 ... is that 65, guys? The other way, 45. Sorry. Sixty feet approximately to their house, as the crow flies.

These are the drawings you received. I'm just going to review them. This was pretty much an explanation for the steep slope component that was at the Planning Board last week. We were approved to move on to you. This is a first-floor plan and this is a roof plan. What we're proposing to do essentially is to build a very small entry vestibule on the side of the house. If you study this – and I apologize, that it is a bit overlaid with stuff – there's an existing path there. We're enlarging it and improving it for the parents of the owners; building a walkway, a series of landings and steps to a less than 100 square foot vestibule; and basically bringing you into the house this way. Currently, you go in through the subbasement and then up to sort of the basement and then up to the house. We're definitely messing with that.

Part of what we're trying to do is build a trellis that, visually, will bring you around the side of the house. I have an enlarged plan that might be easier to see. This diagonal is my front yard setback, my side yard runs right along the house. The other side yard setback is actually mid-house. Our intention, and what we're seeking a variance for principally, is the addition of this 96 square feet. We are also proposing to build a deck in the rear, which conforms to the setbacks. This pink area here, even though we're showing it as encroaching, it's a permitted encroachment because it's less than 6 feet from the property line.

Then, basically, the elevations of the house would look like this. The notion originally developed with a three-model – something like this – to bring you up from the street. It's probably about 10 feet up to the front door. We're now beginning to explore some more finishes. A lot of our coverage is open trellis, in fact. This is construed as building, even though it's mostly not there. A trellis that's in the front is, alas, just a little bit too low to be cleared. It's 9 foot 7 above grade, pretty much. We're counting that against ourselves. But here would be that small vestibule. Seen from the side, you can see a vestibule and then the movement up the slope to this side door.

Lastly, just to review the numbers, we have an allowed building coverage of 25 percent and we're proposing to exceed that by 6 percent; 4 percent of that is actually the trellis, so that overage. Beyond that, we do have ... development coverage is high, but most of that again is our walkway, which is quite extensive.

I'm going to open it up for questions now.

Chairman Collins: So, Mitch, am I seeing it right that the addition with this 8 feet ...

Mr. Koch: Twelve feet, the other way.

Chairman Collins: ... and 12 feet on the ...

Mr. Koch: It projects 8 feet into the side yard.

Chairman Collins: Eight feet into the side yard, and 12 feet where? How are you thinking about the 12 feet?

Mr. Koch: North-south.

Chairman Collins: Oh, I see. All right, this is where your explanation helps because the shading on the drawings makes it a little bit ...

Mr. Koch: I apologize.

Chairman Collins: No, that's OK. I love the design that you've rendered here.

Mr. Koch: Thank you.

Chairman Collins: What other options did you consider, though, for solving the problem? You've got a considerable issue related to the slope here, clearly.

Mr. Koch: Right.

Chairman Collins: And I'm wondering what other options did you look at?

Mr. Koch: Well, we certainly looked at reconfiguring the existing entrance and rebuilding that – we're trying to avoid the path up from the driveway – or add an alternative for the parents. Frankly, the entrance being here comes from making what is currently a bedroom – it's sort of an upside down house now – putting the main living-, family room/kitchen on the main floor of the house so it would have access to the outdoors. The alternatives we looked at certainly were simple canopies, for example without an enclosure. We considered bringing people in to this lower level. I don't know if you can see it very well; I can probably expand it. That was unsatisfactory. Bear with me, sorry.

We looked at coming in here at the lower half of the split-level here and then coming. In Then we wouldn't necessarily have needed the vestibule. In the first place, they have two teenage kids. This is the playroom. That would have shot that. Then, this object being here actually draws you in in a way that having just an overhang or a canopy over the door wouldn't do. If I can just go back and refer to this image, the idea is that it's the open door and the golden light waiting for you at the top of the stairs of your half. It seemed to be a much more gracious way of entering the house; in the middle of the house rather than kind of adjacent to the garage door.

The issue is that we're able to manage the access a little bit better than they did before. It's not as steep. Both Dan's and Robin's parents are having trouble with it as it is, so if you look at our plan we have a series of short steps – three at a time, max – then sort of landing areas where they can rest, then three more and rest. So it's managed in that way in more of a gradual setting.

Chairman Collins: Do you have a railing there, too?

Mr. Koch: Well, most of this is at grade so we're following grade, you see. Yes, we will of course have a handrail at the stairs, by code.

Chairman Collins: Right.

Mr. Koch: But we just wanted to keep it simple right now, and it would probably just be a very simple iron element, or steel hand railing.

Chairman Collins: Mitch, can you zoom in on the picture in the lower right-hand column, specifically around the door?

Mr. Koch: Sure. Here, this one?

Chairman Collins: Yes.

Mr. Koch: I think I can. So landing at the top, door, side lights.

Chairman Collins: Am I reading that right that there's an overhang?

Mr. Koch: Yes, it's covered.

Chairman Collins: And how much of an extension is that over that last landing closest to the door?

Mr. Koch: That is about 5 feet of overhang, projecting towards the south.

Chairman Collins: OK. I ask because you, yourself, have worked on many cases that involve that shelter, especially from snow and rain.

Mr. Koch: The effort here is to not only make it inviting, but to make it safe and accessible the best we can.

Boardmember Forbes-Watkins: But to make it safe, your trellis is open, right?

Mr. Koch: Yes.

Boardmember Forbes-Watkins: You are not then keeping any coverage over all those steps and the area where ice and snow, et cetera will inevitably develop.

Mr. Koch: That's why he has a teenage son and daughter. The reality, David, is that I think it would be obtrusive to have a covered canopy the entire path.

Boardmember Forbes-Watkins: But I think you're going to be coming back to the Zoning Board rather soon saying it's dangerous to come up those steps on a winter's day. I think it's insanity to have that open space.

Mr. Koch: It is currently, obviously, dangerous now. I would propose that we will try this and try strategies to keep those clean; even ice melt or heating. I'm not even ... we haven't gotten that far into the weeds yet, honestly, about how we would strategize this. What I'd like to do is come up with a path and an image that works, then details such as that. I'm not convinced that covering all of those stairs is (cross-talk) ...

Boardmember Forbes-Watkins: Well, you can cover all the stairs 'cause you've got stairs all the way down to the street.

Mr. Koch: Exactly. You know, there is a garage and there's a good garage entry. It's a little less gracious. You can drive into the house and get out of the car there, but we are trying to bring people up from the street, like visitors.

Boardmember Hayes: Can I ... David, with all due respect – and I mean that – in this town, I think I would say conservatively there are 10,000 steps leading up to homes that aren't covered.

Building Inspector Minozzi: That's very conservative.

Boardmember Hayes: So I don't think there would be a compelling argument that there was a safety issue vis-à-vis other houses in the town.

(cell phone rings)

It's probably saying tell him to talk.

I actually would say it should be a stipulation or a condition of a variance, if we were grant one here, that it *not* be covered because I think that's a very different animal.

Boardmember Forbes-Watkins: That's interesting. That's an interesting point.

Chairman Collins: I think I'm compelled by the need the applicant has articulated, and I really like the design. I am concerned about the size of the variance that's been requested: to go from, essentially, 12 down to 4 feet on that side, if I'm right ...

Mr. Koch: Yes, that's correct.

Chairman Collins: And you mitigated that some by pointing out the distance from property to property, correct? Isn't this on the side of the house where you pointed out a 60-foot delta today?

Mr. Koch: That's correct.

Chairman Collins: So it's mitigated some but, of course, if that property owner decides they want to build into a permitted yard you can imagine the scenario whereby you've got dwellings that are closer than they are today. And that is a consideration for us, to imagine the houses enduring beyond their owners.

Adam, what do you think here, in looking at this? Do you see any other way architecturally the applicant can tackle this?

Boardmember Anuszkiewicz: No, I think actually it's done quite well. I don't have a problem with that. I think the way he's explained how you come in makes a lot of sense. I

think it would be nice if the trellis were covered because it would just provide more covered walk, but it's not a requirement in my view. So I don't have an issue with this at the moment.

Chairman Collins: Would you do plantings on that, at some point? Is the idea to train roses or something and go up?

Mr. Koch: Yes, that's the idea; wisteria or something predatory like that that you're going to be hacking away at in 15 years.

[laughter]

But grapes, whatever, we're showing it in the front. We're trying to establish sort of a more green area in the front and engaging the trellis with something more than just air.

Chairman Collins: Mm-hmm.

Boardmember Anuszkiewicz: The thing is, what's helpful about that is it signifies which way the entry is.

Mr. Koch: Very clearly.

Boardmember Anuszkiewicz: You come up to the house, the trellis adds a little bit of scale there. You clearly see which way to go.

Mr. Koch: Here was an earlier version, and it was an effort to scale the front of the house. I mean, it's part of a bit of a makeover anyway, but to create this horizontal line, a shadow line below, perhaps change of materials, you can see, and use it as a device, really, to bring you up.

Chairman Collins: Like I said, I think it's very attractive. My only hesitation on this case is that it's being squeezed into a yard that's challenging because of it's proximity to the property line, which the applicant inherited but is now getting really close. Can you go back to the ...

Mr. Koch: I just would like to say for the record that the neighbors immediately adjacent, at 45, have submitted a letter of support for the project.

Chairman Collins: Oh, good. Can you enter that, and I'll read it into the record? Thank you, that's great.

Can you go back to the view of 45 Dorchester ...

Mr. Koch: Yes.

Chairman Collins: ... relative to 55?

Mr. Koch: I think I can.

Chairman Collins: And 45 is to the left, as we're seeing it?

Mr. Koch: Yes.

Boardmember Forbes-Watkins: Where is the property line there?

Mr. Koch: It's actually right here.

Boardmember Forbes-Watkins: OK, it's not the grid.

Mr. Koch: No, I'm not quite sure. You know, this is one of the GIS maps, and anybody's guess. But this is definitely the Muskin's property; this is 55, here's 45, here's 65. And if they could just acquire this little tax lot here I think it'd be perfect.

Chairman Collins: This will be a quick read because I think, for the most part, these are the same letter but with different signatures, different senders.

Mr. Koch: They're all heartfelt.

Chairman Collins: Most dated May 25th.

"Dear Boardmembers,

"We reside at 45 Dorchester Avenue, next door to the Muskin family. We are writing to inform you that the Muskins have shared their renovation plans with us regarding the new entryway into their house and proposed rear deck and we approve of the plans."

I'm not going to get these names – Mailer Hill?

Female Voice: Mulvahill.

Chairman Collins: And then it's the same from the residents at 65 Dorchester, 56 Dorchester, 60 Dorchester, and 160 Lincoln.

Mr. Koch: Yes. So those would be the properties across the street and in the back.

Chairman Collins: OK.

Mr. Koch: Thank you.

Chairman Collins: Denise, did you have anything on this?

Boardmember Furman: No. I guess my only question was – and I understand the safety issue and the steps – if you can go back and show where you're going to put the railing. I can't imagine, if the issue is going up steps, that you wouldn't need a railing.

Mr. Koch: You definitely need a railing.

Boardmember Furman: And where that fits in with your trellis.

Mr. Koch: Well, I would actually say a handrail would probably best be applied to the house. I can see just a simple black element. Just like zip, zip, zip, zip, like that, and probably just at each step perhaps.

Boardmember Furman: So it doesn't interface with the openness of your trellis.

Mr. Koch: No, no, I wouldn't want to do that. I wouldn't want to enclose it. It is really a grade anyway, so there's no need for one. We'd like to have place for them to sit down, with low walls at each of the landings.

Chairman Collins: OK, thanks for the explanation. Sean, did you have anything else?

Boardmember Hayes: No. My only concern, I wouldn't want to leave the leeway for the next owner to enclose that space. I think that would be a very different variance for me. The top doesn't bother me, it's the closing side.

Chairman Collins: Does anyone on the Board want to take a counter view on that?

Boardmember Forbes-Watkins: Obviously I have a counter view on that. I feel to preclude coverage would be really very, very detrimental to the long-term use of the space. I

think there's going to be a need for some sort of coverage. And to say that they are 10,000 or 20,000 steps in Hastings that are uncovered simply means there are 10- or 20-thousand dangerous steps in Hastings.

Boardmember Hayes: Fair enough. What I was referring to was the side. I mean, I don't mind the top, but I also don't think that we live in a world ...

Boardmember Forbes-Watkins: Oh, closer on the side would be ugly.

Boardmember Hayes: Yes, but I mean if we're going to have a debate about safety I also don't think it's OK to always say everything needs to be enclosed. Like there can actually be outdoor steps and we can clear snow. That's my thought.

Chairman Collins: I think it's more likely that if this property were to come back, either with the current or future owners, I think it's more likely you would see a filled-out addition on that side; that they would bump out that house and, essentially, the front door would come down. All the steps would move indoors entirely and you'd have a wider property.

Boardmember Hayes: Right, and that's not what we want.

Chairman Collins: Well, I don't know. I would not want to put a condition on it that says they can't eventually do that. I mean, I think if they want to extend their house that way that's one thing. I'm generally of the mind that I would not want to see a tunnel created out of these steps. You know what I mean?

Boardmember Hayes: Right, but that's a different variance if they want to bump it out more.

Chairman Collins: Yes, if they want to bump it out more for a variance ...

(cross-talk)

Chairman Collins: I'm fine with that. That's fine with me.

Village Attorney Whitehead: They're coming back here no matter what they do to it.

Boardmember Hayes: No, I think if we just gave this variance as is, without any conditions, they could enclose that, couldn't they?

Village Attorney Whitehead: No.

Boardmember Hayes: They couldn't.

Village Attorney Whitehead: No.

Building Inspector Minozzi: As is, without coming back here? No.

Village Attorney Whitehead: They'd be increasing the nonconformity. They would have to come back.

Boardmember Hayes: OK.

Chairman Collins: All right. David, anything else?

Boardmember Forbes-Watkins: No.

Chairman Collins: Does anyone in the public wish to be heard on the matter? OK. You OK to proceed to a vote? Can I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED Boardmember Hayes with a voice vote of all in favor, the Board resolved, in Case 12-17 to approve the variances as described in the agenda -- front yard setback, side yard setback, building coverage, and development coverage.

Chairman Collins: The vote's unanimous. Congratulations. Good luck to you on the project.

Mr. Koch: Thank you very much.

Chairman Collins: Yes, you bet.

Case No. 13-17
Ian & Rebecca Henderson
20 Villard Avenue

For relief from the strict application of the Village Code Sections 295-69,F,1,c&b, 295-69,F,2,a,2, to document the replacement of an existing dilapidated nonconforming accessory structure (shed) with a new, smaller one at the same approximate location at their home at 20 Villard Avenue.

**Said property is in the R-7.5 Zoning District and is also known as
SBL: 4.40-37-11 on the Village Tax Maps.**

**Non-conformity details of the existing and proposed accessory structure (shed)
are as follows:**

**Side Yard: Existing – 1 foot; Proposed – 2 feet; Required Minimum – 8 feet
{295-69F.1.c.}; Variance requested – 6 feet**

**Rear Yard: Existing – 2 feet ; Proposed – 2.41 feet; Required Minimum – 8 feet
{295-68F.1.b.}; Variance requested – 5.59 feet**

**Development Coverage: Existing – 51.8 percent; Proposed – 50.2 percent;
Required Maximum – 40 percent {295-69F.2.a.2}; Variance requested –
10.2 percent (Reduction – 1.6 percent)**

Chairman Collins: If you just, again, introduce yourself and we'll let you get underway.

Ian Henderson, applicant – 20 Villard Avenue: This is my wife, Rebecca Henderson, and we both live at 20 Villard Avenue. We're here, as you said, because we would like to put a shed in our backyard, in the back right corner. So we need a variance from the rule requiring it be 8 feet off the property lines, the back and side property lines.

Essentially, when we moved into the house – which was January of 2015 – there was a shed there already and we were also intending on using a shed in that space, just not that particular shed. It was a little beat up and run down.

Rebecca Henderson, applicant: Rusty and falling apart.

Mr. Henderson: We did work on our house when we initially moved in. So as we were doing demolition, that type of thing, we had the shed torn down at that time. We now have come to learn that had we put the shed back up within six months I guess that would have been OK. We didn't know about that, and we didn't do that.

We just recently started doing work on our backyard, and in the process of doing that we actually put up a shed. Then we found out that we were not to do that without a variance.

Ms. Henderson: Sorry.

Mr. Henderson: Yes, so now we're here.

We need the shed because we don't have a garage. We have three kids and have a lot of things like lawnmowers, bikes, tools, et cetera – the typical things you would have – and we

need a place to keep them. We need a variance for that back right corner because our backyard is pretty small and for it to be 8 feet off the side in the back it would be pretty much in the middle of our backyard, which currently has a big tree and also wouldn't make sense to go there.

Right now, in that same corner with the four properties that meet in that corner, the other three have garages. So it's the natural place for it to go. It's smaller than the garage, it's literally in the shadow of the one that's directly behind it. We have a neighbor here who has seen the shed and will attest to the fact that it's an improvement on the one that was there when we bought the house in 2015.

Chairman Collins: Sorry to interrupt. I think we can see that.

Ms. Henderson: I have pictures on my phone. I didn't realize (off-mic).

Chairman Collins: Well, that's OK.

Ms. Henderson: I have pictures if you want.

Village Attorney Whitehead: There were pictures submitted. The Board has them.

Chairman Collins: I'm looking at what appears to be a before and after, and before looks very different from the after. I mean, the one I would describe now almost looks like it has some qualities of a greenhouse.

Ms. Henderson: Yes.

Mr. Henderson: We painted it to match our house, and we tried to make it blend in.

Ms. Henderson: We tried to make it aesthetically pleasing. It's called a "solar shed," and you can actually grow fruits and vegetables in there, we can put our stuff in there, and we tried to going to get something that's nice and pretty and small. We didn't want something big because we don't have a big yard. We don't have much space anyway.

If we moved the shed where it should go it would kill our beautiful, 100-year-old, 20-foot tree. That's not really an option either. And we can't put it in the front, because I talked to Buddy about like all the places it could go and really there's nowhere else it could go. It can't be the 8 feet and 8 feet because our whole yard is only 25 feet by like 12.

Chairman Collins: No, you're definitely very constrained. The sequencing of this is, of course, not what we want to see.

Mr. Henderson: Right, we apologize for that.

Ms. Henderson: Yes.

Chairman Collins: Tell me, what were the dimensions of the old shed versus the new?

Ms. Henderson: The old shed, I don't have it unfortunately. You have that document. It was up like a foot or 2 bigger. I think it was 9 by 12. I'm so sorry, I didn't realize we were doing a whole presentation. The new one is smaller, and the setbacks are slightly larger than they were. The old shed, I think, was 9 by 12, 8 by 12.

Mr. Henderson: It was like 9 by 10 or 9 by 11, and the new one is 8 by 10. It's slightly smaller.

Ms. Henderson: Yes, the new one is like 7.7 by 10. We did the setbacks in a little more than the other one because we wanted to be able to go around it for us to either repair it or paint it, or if anything broke. So you can ... actually, from all sides a human can fit around it because we had to paint it to match the house. It was 1 foot from the side yard, now it's 2. And it was 2 feet from the rear yard and now it's almost 2-1/2. So it is a little bit in.

Building Inspector Minozzi: And you'll see the developmental coverage has dropped. I put it on here because this was ... if they were to come in beforehand that wouldn't have been on here. But since they didn't know and they came in afterwards now, I had to put that developmental coverage on it as well.

Ms. Henderson: So it did go down slightly. I mean, we're way over from the house when we bought it. It's more percentage than we're allowed.

Chairman Collins: No, you inherited a condition that put you over that limit anyway. You can see that it's a modest decrease, which is certainly evidence that what you've acquired in the new shed is smaller than what it replaced.

Boardmember Forbes-Watkins: Actually, there is no existing, correct?

Building Inspector Minozzi: There *was* an existing.

Boardmember Forbes-Watkins: There was, but there is no existing.

Village Attorney Whitehead: But with the development coverage it's over even just with the house. So there is an existing. It's not that number.

Chairman Collins: I think what we're trying to replicate here is if the applicant hadn't already replaced the shed this is what the request is for.

Mr. Henderson: That is correct, sir. That's exactly what we tried to do.

Chairman Collins: Well, you articulated very well your need here for some relief, some storage space. The previous owners of the property seemed to recognize that, certainly, by having a shed like this; a shed like this meaning similar dimension, same location, roughly, in the yard. I think if you were to try to engineer this to fit the code you'd have an absurdity.

Mr. Henderson: Yes, we agree.

Boardmember Forbes-Watkins: Cut down a tree to do it.

Chairman Collins: Yes, cut down a tree and drop it in the middle of the yard. That seems ridiculous unless you want that to suddenly not be a shed and it becomes, like, a playhouse. That's a separate conversation.

Ms. Henderson: It's beautiful, it creates shade, birds live in it. We'd rather get rid of the shed than get rid of the tree.

Chairman Collins: And that can take decades to replicate that. I respect that. Like I said, I object to the sequencing here, but I understand that there's no intention and I respect the need to have this storage space. You've clearly upgraded the facility so I can't see here, for me anyway, a reason to object.

Anyone have any comments or questions? Go ahead, Denise.

Boardmember Furman: I have two questions. One is, the shed that you've put in is right up against the property line.

Ms. Henderson: It's not against either property line.

Boardmember Forbes-Watkins: A foot off.

Mr. Henderson: No, it's 3 feet off.

Boardmember Furman: Next to it there's a structure. Is that your neighbor's structure?

Ms. Henderson: Yes. Actually, both. On that one side is the white garage, that's one neighbor's. Then behind us is another garage and their fence.

Boardmember Furman: So you're not overwhelming anybody's open view and light there. They already have similar structures cater-corner.

Ms. Henderson: And ours is significantly smaller than the other one.

Mr. Henderson: Yes, it's much shorter. It's below the height of their garages.

Boardmember Furman: I just have a procedural question. When you bought the property and took the shed down, who took it down? I mean, did you do it or did you hire someone?

Ms. Henderson: No, we did a huge renovation. We had a huge permit, but nothing we needed a variance for. But we did a huge gut renovation of the house, did a ton of demo, and had to remove it because it was a danger.

Mr. Henderson: We had people demo it.

Building Inspector Minozzi: It was in bad shape. I could see it.

Boardmember Furman: It's too bad 'cause that would've be a great opportunity to be educated about what the zoning code was and to know you had to do something rather than get caught in this out-of-sequence time period. It would be great if we could figure out how to better educate people, or let them know when they're taking things down there could be a problem they continually incur.

Mr. Henderson: Again, we apologize.

Ms. Henderson: Yes, we apologize that we didn't know.

Chairman Collins: I appreciate that. Fortunately, these sorts of things are relatively uncommon. And when they do happen they tend to happen kind of like this, where someone either don't think a shed needs that consideration ...

Ms. Henderson: We didn't do cement, it's not like on a foundation. It's just like floating so we thought it wasn't, I guess, a permanent structure.

Chairman Collins: No, I understand.

Ms. Henderson: It's an accessory structure, and now I understand the code, obviously.

Chairman Collins: Well, this will be your first time coming here and maybe not your last, depending on your ambition for the house. And now you have a sense of what this is like. David, did you have a comment or question? Adam, you good?

Boardmember Anuszkiewicz: I am.

Chairman Collins: Anyone in the public wish to be heard on the matter? Then can I get a motion, please?

On MOTION of Boardmember Forbes-Watkins, SECONDED Boardmember Hayes by with a voice vote of all in favor, the Board resolved the Approval of Case 13-17, for side yard, proposed 2 feet, required minimum 8 feet, variance requested 6 feet; rear yard, proposed 2.41 feet, required minimum 8 feet, variance 5.59 feet; development coverage, proposed 50.2 percent, required 40 percent, a variance of 10.2 percent."

Chairman Collins: The vote's unanimous. Congratulations.

Mr. Henderson: Thank you very much.

Ms. Henderson: Thank you so much.

Case No. 14-17
Andrew Novak
70 Southgate Avenue

For relief from the strict application of the Village Code Section 295-68F.1.a and 295-55A for construction of a new 2nd story addition and front portico at his home at 70 Southgate Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.90-88-2 on the Village Tax Maps.

**Variances are sought for Front Yard Setback and the extension of an Existing Non-conformity for a second-story addition and new front portico:
Extension of nonconformity front yard to Portico: Existing – 11.5 feet;**

Proposed – 11.5 feet; Required Minimum – 30 feet {295-68.F.1.a & 295-55.A}; Variance required – 18.5 feet

Extension of nonconformity front yard to second story addition: Existing – 16.5 feet;

Proposed – 16.5 feet; Required Minimum – 30 feet {295-68. F.1.a & 295-55.A}; Variance required – 13.5 feet

Chairman Collins: So if you could please, sir, introduce yourself first, then go ahead and present us your case.

Louis Maggiotto, Nobile, Magarian & DiSalvo: I represent Andy Novak, and he's here today. Elaine Monchak is Andy's architect. I've been representing Andy for a number of years and welcome the opportunity to appear before you now that Susan has retired.

Andy and his wife have lived in Hastings 14 years. They purchased 70 Southgate to add more room for their teenagers and to create a living space for Joanne's mother. The primary reason why we're here is, the house is currently area nonconforming. When it was built – and we believe it was 1916 – it was built 11.5 feet from the street, and today the requirement is, for this residential zone, 30 feet.

Andy is increasing the area of the existing floor. The existing condition was three full bedrooms and a full bath. The slanted roof's being changed to a flat roof. The high point of the slanted roof was 21 feet 9 inches, and it's going to be flat which could be a little smaller; the high point'll be 20 feet 9 inches. The increase in the whole house, to have a little space, is approximately ... Elaine, about 125 square feet? There are other technical issues to this application. There's a new roof over the second floor, which will come away from the house 3 feet. And there's a new entrance to the first floor, which will have a small roof protecting the entrance from the elements.

I respectfully submit no undesirable change will reduce the character of the neighborhood, nor will a detriment be created by the granting of this area variance. This is a reasonable way to proceed. Nothing the applicants are doing is substantial. There'll be no adverse effect or impact on physical or environmental conditions in the neighborhood or district. I respectfully request that Andy be granted permission to proceed.

Elaine's here to provide you as much detail as you'd like. But first, if you have any questions for me, or otherwise I'll turn it over to Elaine.

Chairman Collins: Yes, I think that would be appropriate. I'd love to have her walk us through the plan.

Mr. Maggiotto: Great.

Chairman Collins: Thank you very much for your presentation

Elaine Monchak, principal – Monchak A+D Design LLC: Hi. I have to apologize (off-mic) version of the project.

Chairman Collins: We like it old school. That's OK.

Village Attorney Whitehead: That's why the easel is there.

Chairman Collins: Go for it.

Building Inspector Minozzi: Elaine, you have to hold the mic to your mouth and you have to speak loudly and clearly, please.

Male Voice: (Off-mic).

Ms. Monchak: No, I'll put them up one at a time.

So as Lou said, the existing house is nonconforming. This is the front of the house. The front façade is 11.5 feet from the street. The garage, the existing garage, is actually on the lot line. So there is no setback whatsoever. In addition to that, there was an entry portico to the existing house that extended from the 11-5 façade forward 6 feet. So the front of that entry portico was 5.5 from the sidewalk.

Our proposal is to take off the front entry portico and take off the roof of the second floor, move the wall of the second floor at the same level as the face of this dormer – which is 16.5 from the street – build two stories, and put a flat roof on. The flat roof will be 1 foot lower than the ridge line of the existing roof. So the area of nonconformance is along here. We're not touching the garage except for aesthetically giving it a makeover. You can see the side of the house here with the sloped roof. The new proposal would just be a flat wall.

These are the back and the south side, so this area is actually the one of concern. As you can see, the face of this dormer is exactly where our second story wall will be, along the face of the new second story.

Chairman Collins: OK.

Ms. Monchak: The purpose of taking the existing roof off and putting the new flat roof on was to gain space on the second story to provide the client with an expanded second story that would enable him to have a spacious master bedroom suite, two children's rooms, and a second full

bath. As it is now, the second floor is housed all within the slope of the roof and is quite small and very awkward.

Chairman Collins: OK. The flat roof won't have access ... this is not a gateway to a deck, for example.

Ms. Monchak: No.

Chairman Collins: No, OK. Does the house have an attic currently?

Ms. Monchak: No.

Chairman Collins: OK.

Ms. Monchak: And in addition – this doesn't have to do with nonconforming space – in the back they had a second story that was built over the lower level terrace. This had been built out. We're actually taking that all off and just creating an open deck. So we're removing all that habitable space on that floor.

Chairman Collins: Is the move to a flat roof really just to open up that second floor so you have more square footage? Is that the idea?

Ms. Monchak: Actually, if you look at the plans it creates quite a bit more space on the second floor. And it is also an attempt to turn the structure into a modern structure, which was the desire of the client aesthetically.

Chairman Collins: Yes, I mean, it very much changes the look and feel of the property.

Ms. Monchak: Oh, yes.

Chairman Collins: It's striking.

Ms. Monchak: Yes, the new house would be nothing like the existing one in appearance.

Chairman Collins: The square footage difference, roughly, in the roofing before and after. I ask this in the context of water collection and runoff..

Ms. Monchak: Wait, what was the question?

Chairman Collins: Well, how much bigger or smaller will the setup area of the new roof be, relative to the old one?

Ms. Monchak: Well, you can see on the floor plan – or let's look at the elevations, actually – the flat roof extends off the back façade 3 feet. The actual roof of the flat roof is three feet times 40; 120 extra square feet off the back.

Chairman Collins: OK, otherwise the same. So it's about 120 square feet larger surface area than the roof it replaces? Is that fair to say?

Ms. Monchak: Yes.

Chairman Collins: And I know you're not here for this, but just thinking about potential impact on the overall environmental condition of the property and then impact on neighbors – and maybe, Buddy, a question for you – is there anything you're here to talk about related to drainage?

Building Inspector Minozzi: No, because the code says their runoff cannot negatively affect their neighbor's property. So that's something we deal with during the permitting cycle.

Chairman Collins: OK, and you determine that in spite of the increased surface area of the roof, which means ...

Building Inspector Minozzi: The water could have somewhere to run where it can get absorbed into the ground without going on to the neighboring property or Village property. That's fine. If they can't, then they have to deal with drywells or whatnot.

Chairman Collins: All right.

Ms. Monchak: But the house will have gutters and leaders.

Chairman Collins: Sure, of course.

Ms. Monchak: We will address the water drainage issue.

Chairman Collins: I know that's one of the bigger challenges of a flat roof: is there going to be a little bit of a pitch to it, or will it really be ...

Ms. Monchak: Well, we can have tapered insulation and slope it to the gutters on the perimeter of the roof.

Chairman Collins: No, I think you said it. I think the design is really striking, and it's an interesting property to begin with so you've got some good bones there.

Building Inspector Minozzi: The best part of this whole project is, this house was in major violation of many different building and property maintenance codes. And since it's been sold, it's a breath of fresh air that someone is actually doing something with a house that was a mess, a true mess.

Boardmember Forbes-Watkins: It looks like it now.

Chairman Collins: It does kind of look that way.

Boardmember Furman: Because they can't go ahead yet.

Chairman Collins: Well, I think the desire – and let me just sort of frame this from my perspective on the Zoning Board – to open up that second floor, and the fact that it doesn't intrude more into the required yard than the existing structure does, to me makes this a very palatable project, irrespective of the Building Inspector's point of view on this. I think the applicant has a compelling need, the design is, to me, lovely, and I think in terms of the variance request this seems very modest to me.

Does anyone on the Board have questions, feedback? David?

Boardmember Forbes-Watkins: I'm passing.

Chairman Collins: OK. Does anyone in the audience wish to be heard? Please, if you could just step forward and introduce yourself through the microphone.

Rick Jones, 88 Southgate Avenue: (Off-mic) sent me. We're friends of Amy and Shane, next door, across the street.

Chairman Collins: Introduce yourself again for the microphone.

Mr. Jones: We're their next door neighbor, or just north of them. I was just saying to Andy that I already know his family because I know his sister, Amy, who lives across the street from us in 93 Southgate.

Male Voice: I think that's right.

Mr. Jones: With Shane and Luca and Finn. So welcome to the block, welcome to the neighborhood. I just had a question about the northwest corner there. We have a bunch of trees on our property, right at the edge there. Since the new roof's not going to be slanted anymore and the corner will be a little higher on those ends, are those corners in any way impeding the trees to the northwest? Do you know where the property abuts the next lot?

Ms. Monchak: It's actually quite a distance away.

Mr. Jones: Oh, great.

Ms. Monchak: So you must be here on this side?

Mr. Jones: Correct.

Ms. Monchak: Our roof and our house don't extend past the existing structural wall.

Mr. Jones: OK.

Ms. Monchak: So it's like 32 feet away.

Mr. Jones: (Off-mic).

Village Attorney Whitehead: Make sure you talk into the mic.

Ms. Monchak: That's staying.

Building Inspector Minozzi: Everybody has to talk into the microphone.

Ms. Monchak: We're leaving the garage as is.

Mr. Jones: That was all. Thank you.

Ms. Monchak: You're welcome.

Chairman Collins: Thank you, Mr. Jones.

Mr. Jones: See you around.

Chairman Collins: Does anyone else wish to be heard? Yes, sir, please come forward and just introduce yourself into the microphone, please.

Bruce Levy, 41 Southgate Avenue: I'm an architect, as well, and I actually represented the previous owner. But don't get me wrong. I'm here to actually support the applicant.

[laughter]

Mr. Levy: I represented the previous owner after he did many things without a permit, which is another issue I know you brought up to the Board of Trustees the other day. I fully support what you were saying. I have examples, whenever you need them.

Chairman Collins: We may take you up on that.

Mr. Levy: In any case, I represented the previous owner in trying to have him deal with his violations, and in the Village court as well. So I'm familiar with the house. What he did in the house – since he was not a great planner – is really create a mess inside the house in terms of the configuration, the layout, and everything else. The house did not work in any way residentially. I took a look at what they're proposing, and in my mind somebody getting a variance should have a hardship.

I think this property has a significant hardship because you come to the property and it basically drops vertically down. It has the two spots from the garage, fortunately, which I think is great because, really, in that area along Southgate we all park – if we don't have a garage – on one side of the street because you really can't park on two sides without causing an issue.

I'm further down the block where the street widens out, and I'm on the west side so my property slopes up and I have a garage under the house. In this case, keeping the garage as is, even though it's basically right up the street, that's fine. I think it's a difficult property to work with. I saw the plans in the building department, and what they're proposing bulk-wise is really not much different than what's there right now. I moved in in 1981 so I've been driving up and down the street for 30 years. I never objected to the house before and really don't think the bulk of what they're doing is going to be that significantly different.

It's a contemporary design, which is different than many of the houses on the block or even most of Hastings, but we're not an architectural review board here.

Chairman Collins: That's right. And it's hard to pin down the architectural character of the Village, isn't it?

Mr. Levy: Yes, it definitely is. And if more contemporary houses go up, whatever, I just want to say I have no objection, I'm in favor of this, and it will be a significant improvement to the value of the properties along the street.

Chairman Collins: Thank you, Mr. Levy. I appreciate it. Does anyone else wish to be heard on the matter?

Then can I get a motion, please?

On MOTION of Boardmember Forbes-Watkins, SECONDED Boardmember Hayes by with a voice vote of all in favor, the Board resolved the approval of Case 14-17, extension of nonconformity, front yard to portico, existing 11.5 feet, proposed 11.5 feet, required minimum 30 feet. Extension of nonconformity for the front yard to a second-story addition, existing 16.5 feet, proposed 16.5 feet, required minimum 30 feet.

Chairman Collins: The vote's unanimous. Congratulations.

Mr. Maggiotto: Thank you very much.

Chairman Collins: Thank *you*, sir.

Ms. Monchak: Thank you.

Chairman Collins: Thank you very much, Elaine.

DISCUSSION ITEM

[Proposed Zoning Text Amendment](#)

Full Environmental Assessment Form

Review of Proposed Senior Housing Zoning Text Amendment

Chairman Collins: We'll proceed to review and discussion of the proposed senior housing zoning text amendment. I see we have some pamphlets that I believe the Village, along with the Chazen group, has provided up front. If anyone here who's come to observe or participate in the discussion feel free to come on up and grab some of these papers. We asked the Chazen group to try to summarize the proposed changes and sort of capture a bit of a before and after view of what this would mean in terms of the zoning code. I encourage you to take it, and feel free to take it home with you after the evening is over.

Take your time getting set up. While you're getting ready, I would like to begin the discussion with some framing, or understanding, of a couple things. Number one, perhaps more specifics into the direction you were provided by the Board of Trustees regarding an outcome, or specific outcomes, that a revised zoning code would be designed to achieve. For example, the Comprehensive Plan makes mention of the Village's desire to accommodate

seniors as they may age out of their homes but want to stay in the Village without regard, again, to my position on whether that's a right goal for the Village or not.

One question I had is – now that the Village has stated that goal – in practice, how do we think about, from a planning perspective, actually meeting that objective? I'll give you an example of how I'm thinking of it. Is the goal to increase capacity for seniors, either a nursing home, independent living, or assisted living – and I'm totally making up the numbers – by 100 units? Was that in consideration? If not, then what outcomes did the Board of Trustees articulate to try to have the zoning code permit or accommodate? That'll be one thing I know I'll be looking for. And it will help for me to understand especially some of the more substantial proposed changes in the language, particularly around proposed density. As we think about applying the code in a way that helps the Village achieve its objectives, knowing more specifically what those objectives are I think would be useful. That's one area that I'll be keen to sort of lean in on.

Second is methodology. After the Village articulated its goal, based on the Comprehensive Plan, what methodology did the Board and the Chazen group draw upon for then what we see reflected in the language? Then, of course, I think it's really important for this board to be reminded, and for the public to know, that the code currently offers some accommodation for a more narrowly defined type of facility, and using language like a convalescent home, for example, that exists in our current code that we don't often hear used in the vernacular anymore. If you can also be mindful of, and help understand, a lot of what you've presented here about the before and the after, and really focusing on what's changed, I think these three areas of inquiry and discussion will head us down a productive path.

Caren LoBrutto, The Chazen Companies: Well, I thank you for giving me a heads up on your questions, and I hope the presentation I present helps to answer those. And, of course, I'll seek to answer any remaining questions that come after that.

I'm a senior planner with the Chazen Companies. We were retained earlier this year to assist the Village in developing a zoning text amendment that would expand senior housing options in the Village. The action was undertaken by the Board of Trustees to implement goals of the Comprehensive Plan; it's not related to any particular application. As you mentioned, convalescent care homes, homes for the aged, and nursing homes were the standard of care for many years. The senior housing industry has changed. We have assisted living and independent living. New York State regulations have also been updated to support these new uses.

Let's take a minute to look at the zoning. It'll probably be more helpful if everyone has one of these. If you're interested, they're up here. It's hard to see on the screen. Today in the

Village, nursing homes with medical care – so your typical nursing home – is allowed in the R-20 district by special permit on 20 acres. There's no permitted maximum density. This is obviously drawn for Andrus. You know, there's not that many parcels in the Village that are 20 acres. So just kind of marking that out a bit.

Chairman Collins: Before you go on – and I'm sorry to interrupt – density in this case ... just because we've got a wider audience, can you explain what density means in this context?

Ms. LoBrutto: OK, sure. With these types of facilities, they're regulated and licensed according to the number of beds there are, among many other things. That's why the density is general prescribed as a bed per acre. In this case, there was no prescribed permitted maximum density.

Chairman Collins: OK.

Ms. LoBrutto: You'll see the bulk and dimensional requirements are yards greater than 40 feet; building and structure coverage of less than or equal to 15 percent; and building and paved area coverage of less than or equal to 40 percent. The maximum height permitted was 2-1/2 stories, or 35 feet. And parking was required at one space for two beds, one space for employee, and one space for a non-employee medical practitioner or technician regularly practicing in the facility.

The next senior housing use that's permitted currently is a nursing home without medical care. These are allowed in the single-family zones, multi-family zones, limited office, and commercial office – all by special permit, as indicated here. The minimum parcel size is 5 acres. Here, they allowed five patients per acre, which I think you can assume a patient is a bed just for ease of understanding. It's the same bulk and dimensional requirements. And this is because your zoning resolution, as you all I'm sure are aware, waterfalls from one zone to the next. The R-10 refers to that there are 20, the R-7.5 refers to the R-10, and so forth. Maximum height permitted, for single-family two stories at 35 feet and 3-1/2 stories, is 40 feet. It's the same parking as required that I just mentioned previously.

Senior assisted living housing was established as a permitted use in the MUPDD district. That's on 7 acres, which I understand was the original parcel in its entirety, as conceived for the MUPDD district. Six dwelling units per acre, 12 beds per acre; required setbacks 35 to 50 feet; building coverage less than or equal to 30 percent; development coverage less than or equal to 60 percent; three stories, or 40 feet, is the maximum height permitted; and parking was not specified. It's specified during the approval process, but it's not specified in the zoning resolution.

Senior enriched independent living housing, also allowed in the MUPDD district only, with all the same restrictions as set forth in the senior assisted living permitted use. And finally, senior citizen housing is permitted in the MWB district, which is a district that exists on paper only. It's not a mapped zoning district so it's not an active zoning district. They were to allow 31 dwelling units per 2 acres of dry land – and there's a note there that explains what that is – setback 60 to 100 feet, building coverage of less than or equal to 25 percent, floor area ratio less than or equal to 0.725, open space required of greater than or equal to 50 percent, 65-foot maximum height permitted; and parking, two-thirds spaces per unit.

Village Attorney Whitehead: If I could just clarify a couple of things on some of the existing zoning. Obviously, when the MUPDD zone was created somebody thought about these uses, but they didn't look at the entire Village. As you know, there is only one MUPDD property in the Village and it's now developed for multi-family housing. That would be the Saw Mill Lofts property.

The MWB. Interesting, many years ago when they were looking at the waterfront they actually drafted zoning for the waterfront, and that's this MWB. But they never mapped it so the entire waterfront is still zoned industrial. That's, I think, the reference to this zoning district existing on paper only. There's actually no property in the Village that is zoned MWB.

Chairman Collins: OK, thanks for that clarification.

Ms. LoBrutto: Moving into the proposed zoning, one of the things we would do here is clean up the zoning code with respect to defined terms. We would be removing phrases such as "convalescent care homes" and "homes for the aged," and simplifying that to nursing homes. With regard to assisted living, we'd be removing the word "senior" from it and just leaving it as assisted living so we're inclusive of other populations that are in need of care.

Moving forward, in the R-10/R-20, multi-family residential 1.5, multi-family residential 2.5, multi-family residential office and multi-family commercial by special permit, assisted living housing would be allowed on 2 acres or more at 40 beds per unit. It would use the same underlying zoning bulk and dimensional requirements. As I mentioned for, say, an R-20 district, these developments would have to adhere to required yards of greater than or equal to 40 feet; building and structure coverage of less than or equal to 15 percent; building and paved area coverage of less than or equal to 40 percent. This density – as is height, as is parking – is all at the discretion of the Planning Board during the special permit approval process.

Village Attorney Whitehead: And site plan and SEQRA. They would also be doing a state Environmental Quality Act so they'd be able to factor in environmental factors as well.

Boardmember Anuszkiewicz: Are you saying the Planning Board established these density guidelines?

Ms. LoBrutto: Yes. No, I'm sorry, that's not what I'm saying. I thought you were going to say something else so my mind moved ahead. No, I'm not saying the Planning Board established this at all. What I'm saying is that this is a special permit – and I haven't mentioned this yet so I can understand if you don't understand it. That would be at the approval of the Planning Board. During that special permit approval process, and the site plan and associated state Environmental Quality Review Act, the Planning Board would have a discretion to consider whether maybe this site is not an appropriate site to be allowing for the maximum that could be permitted on the site.

Boardmember Anuszkiewicz: What sets the maximum that could be per-person on the site?

Village Attorney Whitehead: The zoning.

Boardmember Anuszkiewicz: I'm actually asking about the proposed zoning. What sets 40 beds per acre on 2 acres?

Chairman Collins: Well, that gets into the methodology question, correct? You're wanting to know like where does that come from?

Boardmember Anuszkiewicz: Yes. For example, why isn't it 4 acres?

Chairman Collins: I think that's a legitimate question.

Boardmember Anuszkiewicz: I mean, you're the firm that's presenting this. Is that your recommendation?

Ms. LoBrutto: I understand the question. It's in my presentation. If you'd like me to continue with the presentation, I'm going to get to that and I can continue going through proposed zoning as it is so we can kind of move out of this section and into the environmental review, the density methodology ...

Boardmember Anuszkiewicz: I don't care whether you do it later or now. I mean, I'd actually just like to know the answer to that.

Chairman Collins: What I would like to do is get through completion of the overview of the proposed changes, then get into how we got to the specifics of some of these proposed changes. I'd rather get through the articulation of all of them, and then we can get into how we got here.

Sean, did you have something?

Boardmember Hayes: We are going to talk about what the definitions actually mean at some point?

Chairman Collins: Yes, absolutely. I was trying to communicate that when I said I wanted to understand the methodology of how did these terms were devised and, really, for what purpose. What's the larger purpose we're trying to achieve?

Boardmember Anuszkiewicz: Well, that's kind of what I was getting at.

Chairman Collins: Outside of the Comprehensive Plan, which is directional and specific insofar as it's stating an overlying goal, but without giving a whole lot of detail about what's underneath it.

Boardmember Anuszkiewicz: I don't see this as related to the Comprehensive Plan, but I am interested in your first point which is the methodology: how we determine the density?

Chairman Collins: Right. Well, I think they are connected. The Village has stated that it does want to provide more accommodation to a senior population so they're trying to find the mechanics, through zoning, to permit that. Now the question is, why these mechanics? That's, I think, the question I have and I suspect others have, and we'll get to that.

The one thing, though, I would like to ask Linda if you could very quickly outline is, what it means to get site plan approval and SEQRA approval so we can just sort of again – for the purposes of broader understanding – know what "special permit" means.

Village Attorney Whitehead: OK. An application for one of these types of facilities – under the zoning, however it's adopted – would go to the Planning Board and they would have to grant site plan approval, special permit approval, and ... sorry, I'm going to grab my zoning code.

Chairman Collins: You want mine?

Village Attorney Whitehead: No, I have it. It's right here. There's important language on the special permit in the zoning code. The special permit use, in land-user zoning world, is a use that's been determined to be appropriate for the zone, provided certain conditions are met. Your code sets forth specifically, in 295-86 and -87 – really, in -87 – what those things are.

When the Planning Board or, in some cases your board, is considering a special permit application some of the criteria talks about *"No special use permit shall be granted unless the special permit meets, in addition to all other provisions of this chapter, the following standards: the use shall be such a nature, intensity, size and location that, in general, it will be in harmony with the character of the district in which the property lies and with the orderly development of that district and will not be detrimental to the orderly development, use or value of adjacent landed buildings. The location, nature and height of buildings, walls and fences, the nature and extent of existing and proposed plantings, shall be such that they will not be detrimental, again, to the orderly development of the district, same criterias (sic) – and that the use shall not pose a danger to the health, safety and welfare, shall not create undue pedestrian or vehicular traffic hazards, and shall not include display or signs, noise, fumes, vibrations or lights that will hinder the character or the orderly development of the district in which the property lies, or for the use, enjoyment or value of adjacent landed buildings."*

In summary, it's really about when the Planning Board would look at the use, they would have to be satisfied that it's compatible in its size and in its nature with the existing development in the neighborhood. This also then ties in with the SEQRA review, which is intended to ensure that a board reviewing a matter takes environmental considerations into the consideration as part of their process. And ultimately, through that process, the board would have to find that the project would not result in any potential significant adverse environmental impacts or that they've been fully mitigated. That includes everything from traffic, community character, all the environmental issues – steep slopes, soils, erosion control. There's a whole series of environmental criteria, and visual, that would fall into that piece of the review.

So there's a lot that would have to be considered. Just because the zoning says the maximum density is this, in fact, in reality, most projects do not get approved at the maximum of any kind. That's sort of the way we all work when we start representing an applicant and you say to the client, "Well, what really fits on the site or works on the site, what mitigates the impacts on the site?" Because all that's going to be reviewed by the municipality. That's sort of what we mean by it sets a maximum – and there's a lot of factors that will come into play during the review process that could reduce that.

Chairman Collins: OK, that's helpful. I think it's useful, again, to understand to the point of what some of these definitions mean. That we understand what a special permit means.

Boardmember Hayes: Can I ask one other question?

Chairman Collins: Yes, fire away.

Boardmember Hayes: Is it currently in the zoning code that the Planning Board issue special permits, or do they come and comment on them with us, or make recommendations?

Village Attorney Whitehead: OK, the way your code is right now – and this is sort of a trend in land use – special permits are actually granted by this board ...

Boardmember Hayes: Right.

Village Attorney Whitehead: ... and they make a recommendation to you. It's been a suggestion that because it will tie in so closely with their site plan review, and that many of the issues are planning issues, just one of the proposals – and it's certainly something you could comment on – is that the Planning Board would issue the special permits for these types of uses. More and more codes are being revised to give special permit authorization – jurisdiction, if you will – to the planning boards because it's, in large part, a planning type of issue. The Planning Board isn't so sure they want it, I'll be honest with you.

Boardmember Hayes: But a permit is a legal document, right? I mean, I haven't been a lawyer (cross-talk) ...

Village Attorney Whitehead: But it's also tied in. The concerns that get looked at, that I just read off to you, are very planning-related.

Boardmember Anuszkiewicz: The problem is that the deliberations that occur in front of each board are very different. It's a board that is dealing with planning-related concerns granting a legal permit entirely different from what we do. I mean, we actually have a set of standards we have to gauge each request for a variance which involve a number of specific things that a planner doesn't look at.

Village Attorney Whitehead: But you wouldn't be applying those on a special permit. A special permit application doesn't have to meet those variance standards. You're not granting a variance.

Boardmember Anuszkiewicz: It doesn't matter because I'm not saying we would specifically review a special use permit the same way we would a variance. But the way our board is structured is such that we hear from the public and we hear from the neighbors, and we weigh all these things when we make decisions about it. Often times it's variances, but it could easily be density or character of the site or anything that comes in to special use permit.

Village Attorney Whitehead: The Planning Board does the same kind of deliberations. Even on site plan approvals they listen, they take public comment, they have public hearings, they take public comment, they deliberate, they balance.

Boardmember Anuszkiewicz: But they're also involved in the design.

Village Attorney Whitehead: Not really. The applicant presents the design.

Boardmember Anuszkiewicz: Well, the Planning Board is approving their design. The Planning Board gets involved on a design level. It's confusing to me. I mean, that seems like it's a conflict of interest.

Village Attorney Whitehead: If this board wants to make, as part of their recommendations, that the special permit authority be left with the Zoning Board then by all means do that.

Boardmember Hayes: I think we would, but let's just correct it on the record. I think you said – and now I'm looking at the code here online – that it's not ... you contradicted Adam about how one thinks about special permit. But in 295-87, first it says, in A, B and C: *"The use shall be of such nature, intents, size and location to be in harmony with the character of the district in which the property lies ..."* there's more. The next is *"location, nature and height of buildings ... they will not be detrimental to the character or (inaudible) of the district. The use shall not pose a danger to health, safety and welfare and shall not create undue (unintelligible) vehicular traffic hazards."* So that's the first three.

Then if you go further down, it says, *"Permit conditions, 295-92. "In issuing a special use permit, the Board of Appeals may impose any conditions it deems necessary to accomplish the reasonable application standards set forth in 295-87"* which I just read – and, *"to ensure conformity with all other requirements of the law, including this chapter. Such conditions may include, without limitation, the requirement of the special use permit be periodically renewed or (inaudible)."* So that says to me – I guess have license to practice – that all the legal tools we use to evaluate a variance we have the right to use to evaluate a permit. But maybe I'm wrong.

Village Attorney Whitehead: That's not what the law provides for.

Boardmember Hayes: That's not what that says?

Village Attorney Whitehead: No. The variance standards are specific to your review of a variance application. The law is very clear about special permits, and that a special permit is deemed a permitted use, provided the conditions are met. There's no tie-in between the balancing in the five factors that you're to consider in granting a variance to a special permit, by law.

Boardmember Hayes: I don't see anywhere where it says that, but OK. I mean, if you have a common law do you have a [quit case] XXX or something?

Village Attorney Whitehead: I can give you ... it's more than just a common law. I'll send you the law on special permits.

Boardmember Hayes: Well, I think that's what I'm looking at.

Village Attorney Whitehead: Not the enabling statutes.

Boardmember Hayes: OK. Yes, I would love to see that.

Chairman Collins: All right, this is something that is in the code for us to comment on later.

I'm sorry for the interruption. Why don't you go ahead and finish with the overview of the changes, then we'll go on.

Ms. LoBrutto: OK. I think we were still on assisted living housing under proposed zoning. We were talking about bulk in dimensional requirements. As it states, they would be the same as the underlying zone modifications by special permit possible. The maximum height permitted is suggested at 40 feet. This aligns with the multi-family zones, which have a maximum height of 40 feet and 3-1/2 stories. Minimum parking required is similar that required under the existing zoning, except that it asks to establish parking for employees during the peak parking period.

Next, we're moving on to senior enriched independent living housing. Would it be helpful if I read this defined term?

Chairman Collins: The one that's noted, number nine?

Ms. LoBrutto: Yes.

Chairman Collins: Sure.

Ms. LoBrutto: Senior enriched independent living housing is a defined term in your zoning resolution today. Category of senior housing in which senior citizen residents are provided with services that may include meals, housekeeping, shopping, transportation, social activities, and some personal care assistance, per the zoning resolution. I believe senior citizens are defined in the zoning resolution as being age-restricted; I think it's 55 and up, just as an aside.

These are allowed in the single-family zones R-10 and R-20; the multi-family zones 1.5, 2.5; multi-family office and commercial by special permit on 5 acres at 12 units per acre. Using the same underlying zoning for bulk and dimensional requirements, the maximum height would be 40 feet. Again, this aligns with the maximum height in multi-family districts; one space per dwelling unit, one space for an employee during the maximum shift or a peak parking period.

Moving on to the last category, nursing homes would be allowed in the R-20 zone by special permit on 5 acres or more; 40 beds per acre; the same as underlying zoning for bulk and dimensional, requirement of 40 feet maximum permitted height; and the same parking requirements as those for assisted living.

Chairman Collins: I'm sorry. So I'm clear on it, the adoption of the proposed zoning would replace these one, two, three, four, five categories of existing zoning, correct? It overwrites.

Ms. LoBrutto: Not quite. The MUPDD zones stay as they are, but now instead of senior assisted living it's "assisted living-housing."

Chairman Collins: The definition changes.

Village Attorney Whitehead: We actually gave you – and I apologize for its late arrival because it was not easy to do – a black line that shows what's actually being added to the existing code and what's being taken out. Just one thing on that. The reason the definition of assisted living, housing, and nursing home are changing is because we took the definitions that, basically, the state uses. Because both of those uses are regulated by New York State or the department of health, we thought it was appropriate to define them in the way the state defines them in their regulations.

Boardmember Forbes-Watkins: It's the only sensible way.

Chairman Collins: That is the vernacular that developers would use, residents would use.

Village Attorney Whitehead: And they'll have to be licensed by the state. You want the facilities to be those that are licensed by the state.

Chairman Collins: No, that makes sense.

I was going to suggest we move into some of the issues around methodology, but did you have anything else you wanted to take us through on this before we do that? Or is there something else you wanted to take us through?

Ms. LoBrutto: I'm just going to talk about the environmental review and then the density methodology, and then comments received.

Chairman Collins: All right, let's do that.

Ms. LoBrutto: It won't take much longer.

So a zoning text amendment is a type one action under the state's Environmental Quality Review Act. The Village is the agency undertaking the action so they are the lead agency, which makes them responsible for determining whether there is an impact here. They asked us to prepare an environmental assessment. We did, we provided it in April.

The analysis considered parcels of 2 acres or more in the Village, or multiple parcels under common ownership that would equal 2 acres or more. We came up with 25 sites. These were limited, or pared down, then to nine sites because of those, 25 several were school district-owned, Village-owned parks, cooperatives, condominiums, or institutions that seems to have significant impact on the communities such that it wouldn't be redeveloped.

The analysis considered the reasonable maximum case development scenario for the existing zoning, for the existing zoning as it applies to senior housing, and for the proposed zoning. This maximum-case development scenario used theoretical maximums. So, for instance, an entire lot is not building, right? In this instance, you have to provide parking. There are zoning, bulk and dimensional requirements that have you setting back, having to conform to permitted maximum height. They have lot coverage ratio and development ratio conditions. That's not to mention any site conditions, such as steep slopes. These large numbers you see

in the environmental review are large because they don't consider anything would otherwise diminish the building envelope.

Boardmember Hayes: Could I just have one clarification?

Ms. LoBrutto: Sure.

Boardmember Hayes: The nine sites, is that a finite universe? In other words, does that suggest there's no ability to aggregate other properties to create another site?

Ms. LoBrutto: No, not at all.

Boardmember Hayes: So you could do that. Could I go into one of the zones where this will be allowed and buy up enough houses to get a 2-acre plot and then be able to build a facility?

Ms. LoBrutto: Yes.

Village Attorney Whitehead: Potentially, yes.

Boardmember Hayes: No, I just want to know ... so it's not a finite universe.

Village Attorney Whitehead: We are looking at one change, which Caren will talk about, that does limit that to a large degree. But also, just so you understand that when you do a SEQRA analysis for a zoning change, the law says – and we've litigated this – you're not required to study, in detail, every development that could potentially be built. You're supposed to analyze the impact of the change in zoning, and it's impossible to predict every possibility of what could be built at some time in the future. That's why we've identified these nine sites – which actually is more than you really are required by law to analyze – as what are referred to as "soft sites," or those that are sort of most likely, under current conditions, to have the potential for redevelopment for one of these uses. They're certainly not all going to be done, but it was just sort of to look at.

Then, as Caren said, the site conditions were not taken into account at all. The analysis is really a worst case scenario – just taking this lot is 3 acres, then you could have this many beds – not taking into consideration the site configuration, potential for steep slopes, view preservation, having to actually lay it out with setbacks and parking and everything else. It's an extreme worst case scenario because it doesn't into consideration actual development rights.

Boardmember Anuszkiewicz: That doesn't actually define sites that would be suitable for these uses.

Village Attorney Whitehead: That's not what it was intended to do.

Boardmember Anuszkiewicz: What *is* it intended to do?

Chairman Collins: That, for me, is one of the puzzling aspects of the proposed language. And Caren framed it as a theoretical maximum. She's saying it in a different way. The challenge with that is that at the same time we then say what the theoretical maximum is actually is not theoretical. It's not possible.

Village Attorney Whitehead: Right, it would never get approved.

Chairman Collins: It would never happen.

Village Attorney Whitehead: It would never get approved.

Chairman Collins: Then the question is, could the language be tailored in a way that is more precise and therefore more useful for cases that are more likely to come? It feels like this is (cross-talk) ...

Boardmember Anuszkiewicz: Or could the density be changed because it's overwhelming for this community.

Village Attorney Whitehead: That's certainly a comment you can make to the Board of Trustees – that the density is too high. The Planning Board seems to be leaning in the same direction.

Chairman Collins: So tell me then – and you may be coming to this – you mentioned the density as a part of the methodology, and you've framed it as a theoretical maximum. There are a couple of areas, of course, when you look at the before and after that are striking. This is, again, where I really would like to link this back to some sense – and, Linda, maybe you know this, too – of what the Village objective is, as clearly or precisely as we can articulate it. Is it to create a range of potential capacity in the Village that's theoretically possible? When we see that we go from – in the case of a nursing home – the acreage for minimum parcels remains unchanged – five patients per acre to 40 patients per acre, actually a very substantial change – the question is, what's the purpose? What are we trying to solve for?

Village Attorney Whitehead: A nursing home without medical. Right now, the code has two different things. It has nursing home with medical care and a nursing home without. Under today's regulations, there's no such thing as a nursing home without medical care. You can almost kind of ignore that column because it's not an actual use in today's regulatory world. Really, what you have today is ...

Chairman Collins: The non-specified density?

Village Attorney Whitehead: ... what Andrus is.

Chairman Collins: What is the density on Andrus?

Village Attorney Whitehead: Do you know how many beds Andrus has?

Building Inspector Minozzi: No, I do not.

Chairman Collins: So let's ask that question and find that out.

Village Attorney Whitehead: I don't know, but we can find that out.

Chairman Collins: Since it's the only instance of existing – even though it's not specified in practice today ...

Building Inspector Minozzi: Betsy's usually at these meetings, too.

Village Attorney Whitehead: Yes, this is the first meeting Betsy has missed, actually.

Chairman Collins: So help us understand, then. When we think about taking the minimum acreage down to 2, and the density up to 40, help us understand where that ... where's that come from?

Ms. LoBrutto: We were tasked with assisting the Village in expanding senior housing options. Assisted living, nursing home – they're not just housing units. They have an operational component: personal care, medical care, rather extensive medical care in some instances. This adds to the cost. There's some level of density that's necessary in order to make this financial feasible as a model.

Boardmember Anuskiewicz: Do you have numbers to support that?

Ms. LoBrutto: No, not right at this moment. But from our experience working with developers of assisted living and nursing homes, these are the type of densities in this industry.

Boardmember Forbes-Watkins: But what are you working with? Is it the nursing home down on Henry Hudson Parkway that's 10 stories high and looks like an apartment building because it's in a bunch of apartment buildings? I mean, that's an example.

Village Attorney Whitehead: Well, that would not be allowed here.

Boardmember Forbes-Watkins: Of course it wouldn't, but it sets these types of numbers. That's the problem.

Village Attorney Whitehead: No, we actually did have – and we went back and forth with the Planning Board – examples of at least six or seven assisted living facilities on between 1 and 3 or 4 acres that ranged from 70 to 100 units. So they were right within this density range. They were in suburban areas. There are even some in this county that fall within those. Caren, I have to go through my e-mails to find those. But we can get you those. So if there are examples they were two stories. Remember, these are small ... they're not big apartments. They're not that big; there are a large number of these.

Boardmember Forbes-Watkins: But there are no standards as such.

Village Attorney Whitehead: No, there are no industry standards. One of the things, just to add to what Caren was saying, these are uses that the Board of Trustees ... you'll get your turn.

Male Voice: (Off-mic).

Building Inspector Minozzi: You need to speak into a microphone, sir.

Chairman Collins: No, no, no. Not right now. We're not going to open this up to public comment yet.

Village Attorney Whitehead: The Village Board wants to look at ways to permit these various different ... you know, chances are there's never going to be another nursing home built in this village. The demand in the market will limit what gets done. You have a nursing home. It's not likely that another nursing home developer is ever going to want to build a nursing home. But you don't have assisted living and you don't have senior independent living.

This is a heavily built-out community, there's not a lot of large parcels. If you set your minimum lot size too large you're not going to get these uses because you don't have those parcels. These are the kinds of things the Board wanted taken into consideration.

Chairman Collins: Right, that's some good context. But I still think, for the satisfaction of this board, it's a piece of input that I'd like to see. The same sort of examples of like facilities on like lots in like communities. To your point, we have very little context to go on because we have one facility like this. And when I say "like this," it's really not like a lot of the envisioned uses. Having that as a context – to say here are several examples of what assisted living looks like in communities that are of roughly the same population and size, and with the same lot – I know it's a lot to ask, but our community is such that it has less leeway for adding even the theoretical maximum that's been described here.

Again, I come back to what have the Trustees charged your group with accomplishing in the way of adding capacity for this population?

Ms. LoBrutto: The instruction was that they wanted to expand senior housing. There was no further prescription from there, and I certainly would not want to speak for the Village Board of Trustees on what was intended.

Chairman Collins: No, that's fair.

Ms. LoBrutto: The message I received was that they wanted to expand senior housing. In looking at what's available for development and the zones that are applicable to these types of uses and the costs that are associated with this, both through land and developing costs, operational costs, the ideas of bringing the fees per unit down by higher densities, the fact that these types of development have fewer impacts than others, that's how these density ratios came to be.

Chairman Collins: OK, so the Village didn't get that specific yet. I was hoping for that kind of input because it does help us understand what are we trying to aim for. Like how do we want to tailor the language to make it possible for the Village to achieve an objective. I don't argue with the stated goal, but when it comes to the rubber hitting the road it's helpful to know what are we aiming for.

Boardmember Hayes: I was curious. You said senior, right? For senior living? Can you repeat it, the goal?

Ms. LoBrutto: For senior housing. It's kind of a vague term to include nursing homes, assisted living, independent living.

Boardmember Hayes: But assisted living is different from senior, right?, because assisted living could be a drug rehabilitation center.

Village Attorney Whitehead: No, that's not assisted living. That's why we tied it into the state regulation.

Boardmember Hayes: Let's see, let's look here. What does it say?

Village Attorney Whitehead: That's why we tied it in to the state regulation.

Boardmember Hayes: *"Medication supervision, personal care, routine protective oversight."* So there's specific carve-outs that we're going to have in our code?

Village Attorney Whitehead: No, those types of facilities fall under the different regulatory scheme in New York State. They're not considered assisted living in New York State. They're licensed differently.

Boardmember Hayes: And that's going to be tied into our code explicitly?

Village Attorney Whitehead: Well, the code says it has to be a facility licensed by New York State as an assisted living residence. That's what the definition is.

Boardmember Hayes: OK. I think it'd be helpful for us to understand what that means because I know it doesn't mean just senior housing. That I'm sure of.

Chairman Collins: That's true.

Village Attorney Whitehead: Well, you could have somebody who had a stroke – somebody who's not technically a senior who has had an accident or a stroke and needs to be in assisted living – and can't be on their own.

Boardmember Hayes: I appreciate that, but that wasn't the stated goal. The stated goal wasn't people who can't take care of themselves and need to have a place to stay. Which I agree they do, but that wasn't the stated goal, right?

Boardmember Forbes-Watkins: The stated goal is seniors, right?

Chairman Collins: Senior housing.

Village Attorney Whitehead: But New York State doesn't regulate assisted living in that way, and assisted living is a common version of senior ...

Boardmember Hayes: But this isn't New York State. We had a goal in this town – it sounds like, if I'm not incorrect – to ensure that people who became, I guess, too old for their homes – which I think implies something about property tax, whatever that may mean ...

Village Attorney Whitehead: Or can't live alone. Assisted living is really not for people who can't live independently, or seniors ...

Boardmember Hayes: But you're reversing your argument. You're assuming assisted living when the assumption is senior.

Boardmember Forbes-Watkins: Yes.

Boardmember Hayes: Let's stick with the assumption: what's the stated goal, OK?, which is senior, right?

Ms. LoBrutto: May I just interject?

Boardmember Hayes: Yes, please.

Ms. LoBrutto: Again, I do not want to speak for the Board of Trustees. What I'm expressing to you is my interpretation of the exercise that was given to us. Having said that, I can completely appreciate your point.

Boardmember Anuszkiewicz: I think you clarified that the 2 acres is coming from the Board of Trustees. You clarified that. You said they believe they won't attract a developer to a site unless they can allow for 2 acres and this type of density. They don't believe they're going to get somebody to come in to this community and build an assisted living facility. That was the answer to the question.

Ms. LoBrutto: I don't believe I said that explicitly, but I appreciate your comment.

Boardmember Anuszkiewicz: That's what I got. Are you saying that's not true?

Village Attorney Whitehead: They didn't give that specific a direction. They said they want to encourage these types of uses.

Boardmember Anuszkiewicz: Somebody came up with 2 acres, and clearly that's Greg. Nobody wants to take responsibility for that.

Chairman Collins: I still think, again, if you've got examples that help show where the numbers come from. Clearly, you used something to arrive at this, and I believe there was a methodology.

Village Attorney Whitehead: Stuart had one e-mail where he listed a whole series of those.

Chairman Collins: Let's produce those, and I think that'll help then create some additional context, where right now it's hard to imagine it – the things we wanted to cover – and where does special permitting live, right?

Village Attorney Whitehead: Mm-hmm.

Chairman Collins: There's the density – and I'll just call it a methodology.

Boardmember Anuszkiewicz: Could I just follow up on that because you said it's hard to imagine that? You said at the beginning of your presentation that there were not any specific projects that were related to some of these recommendations. But, in fact, aren't there two specific projects already that we know about that are related to these recommendations? I mean, at our last meeting I think we had letters from two different potential developers – did we not? – that are looking at projects in this village that would fall into some of these zones, correct?

Village Attorney Whitehead: Yes, I think if you've read some of the information the Mayor has put out I can tell you sort of what the impetus was before Chazen was even retained for this. There had been an application made, and then from Andrus sort of an informal "this is what we think we'd like to do in the future." Not a specific application, a very preliminary idea. The Board of Trustees decided – remember, they had already started on Artis – to put it on hold, and said, "We've been talking about doing this for over two years now."

If you go back a couple years ago to some Board of Trustees meetings, they had talked about updating the senior uses, getting rid of the old convalescent homes, and putting in assisted living and some of the more current terminology. They said we want to do this not being driven by a developer, we want to do this on our own and not just reacting to applications that have been put before us. That's why it's now before you as a Board of Trustees action

and not something proposed by a developer. And yes, there's one definite project out there and one just sort of conceptual.

Chairman Collins: When I said I was having a hard time imagining what this density looked like, it's literally because we don't have these kinds of structures in the Village and can't drive by and see something that looks like this – at least not to my knowledge. By my math, one way of thinking of it – if we go to the right-most column under "existing zoning," the senior citizen housing – the 31 dwelling units over 2 acres of dry land is the maximum permitted density. That works out, if my math is right, to 15-1/2 dwelling units per acre; I know we wouldn't have half a dwelling unit.

Village Attorney Whitehead: But those are dwelling units, not beds.

Chairman Collins: I know, but I'm trying to do an equivalency of trying to think, well, how beds might be in a dwelling unit and if a dwelling unit could be two beds. Could be, or maybe more ...

Village Attorney Whitehead: Three beds.

Chairman Collins: ... you get to over 30 beds per acre under that scenario, which is what we're currently allowing. So to go from that to 40 is substantial, but it's not quite as shocking as going from five patients per acre to 40 beds per acre.

Tell me about the difference in the parking. It seems like the key addition, Caren, is the maximum shift language. What does that mean in practice?

Ms. LoBrutto: That there's a peak hour for parking so we would be seeking to establish parking for the peak-hour use versus an overabundance of parking that's not getting used. Like we want to establish parking that will be used in its entirety during the peak hour, and not have a bunch of empty parking spaces the rest of the time.

Village Attorney Whitehead: The employees aren't all there at once. So if we make one space per employee you would end up with parking spaces for employees who aren't necessarily there.

Chairman Collins: But is there really ... I mean, the language around parking is otherwise completely unchanged from where we are today, correct?

Ms. LoBrutto: Mm-hmm.

Chairman Collins: So the only thing that's changed is this notion of maximum shift. I'm just wondering what does that mean in practice.

Village Attorney Whitehead: If you don't say "maximum shift" – if you say "total" – then you're going to have enough spaces in the middle of the day for cumulative number of employees even though they're not all there then.

Chairman Collins: Oh, I see.

Village Attorney Whitehead: Its cumulative. The way it's written, it's cumulative. So we go to the maximum shift to make sure there's enough for when the most people are there.

Boardmember Forbes-Watkins: That makes sense.

Chairman Collins: That does make some sense. I just wonder, though, should the ...

Village Attorney Whitehead: You don't want to over-park, you really don't. Then you have extra impervious surface in the parking lot.

Chairman Collins: Right. That's creates huge environmental issues. No, you're right. But I'm wondering if it does create ... like do we have ... again, this is maybe it would be helpful to get a sense of how Andrus is configured currently. Do they meet code currently on parking? Do we know?

Boardmember Forbes-Watkins: Is Andrus the appropriate model?

Chairman Collins: It's the one actual data point we have. So, again, I'm trying ...

Boardmember Forbes-Watkins: Can we get data points, for instance, from (background noise)?

Chairman Collins: Yes, I'm fine with that. I'm trying to come up with something to compare a proposal to.

Village Attorney Whitehead: We can get you data points from other communities, and that's some of what has been put together.

Boardmember Forbes-Watkins: That would make sense.

Village Attorney Whitehead: Ardsley is interesting. Atria Woodlands is a senior independent living facility with supportive services. So they don't really have an assisted living thing, but they provide, for extra cost, the supportive services that turn them almost into having both independent and assisted living. In addition to examples of other facilities Stuart had put together for the Planning Board – Stuart Mesinger is another one of the planners at Chazen who's been working on this – he put together the list of densities in other municipalities. So we'll get you all of that.

Chairman Collins: I wonder, and this may be a stretch, you described a theoretical maximum – or worst case scenario, Linda, as you put it. And I'm wondering, is there such a thing as a most likely case scenario, given some modeling you've done, where we could get a sense of really what the likelier impact could be?

Village Attorney Whitehead: To do it for nine parcels would be a huge amount of work because we don't have topographic maps and all that information for all of it. You start really having to design a facility.

Ms. LoBrutto: You have to make a lot of assumptions. It's not impossible, but it is a much larger project.

Chairman Collins: Yes, it would be costly.

Village Attorney Whitehead: It's a big undertaking.

Ms. LoBrutto: I do have Stuart's memo, and I can go through some of the things in there that are useful with regard to other municipalities.

Village Attorney Whitehead: Those have the other densities, but not the other projects, right?

Ms. LoBrutto: It doesn't have the other projects, no.

Village Attorney Whitehead: So that's up to the Board. Actually, you have it. You have a memo dated June 13 that was from Stuart Mesinger and Caren. It was given to the Planning Board; it's one of the handouts.

Boardmember Forbes-Watkins: Was that the one we got just when we came in?

Building Inspector Minozzi: It's the one from Chazen, when you came in before.

Village Attorney Whitehead: That has information on the maximum density methodology and densities in other nearby municipalities. I know you don't have time to look at it right now, but it's there.

Boardmember Forbes-Watkins: OK. I want to pursue one of the things that impacts density, or bulk, of buildings. Why are we proposing 40-foot heights when, for instance, the R-20 housing is 35 feet maximum? What reason would we have for doing that?

Ms. LoBrutto: Well, as indicated, the proposed zoning text would allow for these uses within the multi-family zones, as well, which do have a permitted maximum height of 40 feet. Which I understand is not 35 feet.

Chairman Collins: I looked at it. I think the comparison is to multi-family homes.

Boardmember Forbes-Watkins: But we're talking about R-10/R-20 spaces at 40.

Village Attorney Whitehead: We could tie it to the height of the underlying zone. That could be another recommendation.

Boardmember Forbes-Watkins: It should tie to the underlying.

Chairman Collins: No, that's a good point.

Boardmember Forbes-Watkins: Yes, definitely.

Chairman Collins: I'm just taking notes on the things we either want to change or we have questions about. That's a good point.

Caren, is there anything else you think we ought to know? Did you come prepared with anything else?

Boardmember Forbes-Watkins: There's a lot we need to know.

Chairman Collins: We can take the conversation here in a couple different directions, and I think we should.

Ms. LoBrutto: I'm ready for you all to take it in whatever direction you'd like.

Chairman Collins: All right. I want to come back to the conversation we started on permitting, special permitting. I feel like we ought to have a point of view, if we feel like we

can come up with a point of view, about our recommendation, particularly since the Planning Board seems to be in neutral on it, perhaps.

Boardmember Anuszkiewicz: I don't think it makes any sense to have two different boards doing the same thing. So I think it should either be done by the Planning Board or the Zoning Board of Appeals, but not either/or.

Village Attorney Whitehead: Well, there's other special permit uses in the code. I don't know the last time this board ever actually approved a special permit, but there's other special permit uses in the code that, as written today, would come to this board. That's why we've added the either/or, because you would still have special permit jurisdiction over some special permits, but not this one.

The only other thing, it's fine if you want to keep it here. We're going to run into the same back and forth issues we're having with some other things right now because the Planning Board would still have to do site plan approval.

Boardmember Forbes-Watkins: Yes, that's good.

Village Attorney Whitehead: So it would go to two boards.

Boardmember Anuszkiewicz: Well, site plan approval the Planning Board does is a design function, where the site plan approval we do has to do with setbacks and buildable area.

Village Attorney Whitehead: They look at all of that as part of the site plan review. You look at it when it variances, when they're not meeting code.

Boardmember Anuszkiewicz: But if they're meeting code, there's no reason for the Planning Board to approve it. The Building Department can approve it. It's as-of-right.

Village Attorney Whitehead: No, it's not as-of-right. There's no such thing as as-of-right anymore. Anything other than a one- or two-family home has to do SEQRA, so there's always the environmental. There is no such thing as as-of-right other than for, really, a one- or two-family home.

Boardmember Anuszkiewicz: So you're doing that for the big projects.

Village Attorney Whitehead: Well, actually even one- and two-families, where they have steep slopes, those go to the Planning Board. There's a few of those in this town. Just because it meets the code requirements doesn't mean they can get site plan approval for

whatever they want to build. Under the site plan provisions of the code there's a number of factors the Planning Board can consider in looking at layout and everything else. Then also under SEQRA there's a number of things. It's not as-of-right. They do a lot of site plans that you don't see because they meet code.

Boardmember Anuszkiewicz: Yes, and we also run into problems where they've approved things that we see clearly as a problem, from health and safety issues to issues like density and architectural character. So I'd say that, right now, the system is not really working well.

Boardmember Hayes: I actually think there's a deeper issue with allowing the Planning Board to grant special permits. This may be just unique to Hastings because I have no idea how zoning boards and planning boards interact in other towns or villages. As far as I know, this is the only board that has term limits – isn't that correct? – in this town?

Village Attorney Whitehead: In this village, yes.

Boardmember Hayes: It seems to me that's meant to prevent many things, and to the extreme you might say corruption. The Planning Board does not have those limits, and you could have someone who ... and also getting stale, right? It's, I guess, my view – and I don't even know how you would describe this anymore, I sure wish I had only a couple years out of law school – that those term limits are there because we're making legal decisions, right? We're not elected like the Board of Trustees.

Village Attorney Whitehead: I have to tell you, I was not here when the decision was made to put term limits on the Zoning Board and not the Planning Board. There are municipalities that have no term limits for either, there's municipalities that have term limits for both. I find it kind of interesting that Hastings has term limits for one board and not the other but, again, I was not here when that was done so I don't know the origin of it.

Boardmember Hayes: Well, given that we have that construct in place – and it's probably not going away and I can't imagine our current mayor would get rid of it because he imposed his own term limit on himself – it seems to me that anything involving choices of law that doesn't fall to the Board of Trustees should fall here. I don't think it should be the Planning Board.

Village Attorney Whitehead: Well, the Planning Board already applies ... I mean, site plan is something that's set forth in the law. Your zoning code has criteria they're supposed to look at when looking at site plan approval, so I'm not sure where that ...

Boardmember Hayes: So they're making decisions and saying someone can do something outside of the law by doing the site plan? Because that's what we do.

Village Attorney Whitehead: That's what you do with variances.

Boardmember Hayes: That's right, that's what we do with variances.

Boardmember Anuszkiewicz: Yes, and optimally advise the applicant to do that. Then they come to us.

Boardmember Hayes: But they don't make the decision.

Boardmember Anuszkiewicz: No, but unfortunately they sometimes encourage the applicants to do that.

Boardmember Hayes: I understand that piece.

Boardmember Anuszkiewicz: Then it comes in here, and for various reasons – after we do our analysis and we hear from the public – we decide it should not happen.

Boardmember Hayes: That's right.

Boardmember Anuszkiewicz: That's not a productive process for the applicant. That wastes a lot of time and money.

Boardmember Hayes: But that's different from my point, which is they're not making a final decision on a change to the law, which is effectively what we do here. It sounds like the special permit is similar to that. It's not exactly the same, but it's similar.

Village Attorney Whitehead: It's not.

Boardmember Hayes: I think it is, I think it's similar.

Village Attorney Whitehead: I've been practicing land use law for 30 years. It's not.

Boardmember Hayes: It's not ...

Village Attorney Whitehead: A special permit is something that's permitted by the law, provided the conditions are met. It's very different than a variance.

Chairman Collins: Denise, what do you think here? Given the arguments on either side – and obviously we haven't had the Planning Board to present, although it doesn't sound like they're particularly keen to have it – how are you feeling about it?

Village Attorney Whitehead: That's what I'm saying. Just make your recommendation.

Boardmember Furman: I would agree that I would keep it at the Zoning Board only, except if I could be convinced that leaving it at the Planning Board would make the process more straightforward and easier for the applicant while not compromising anything on the integrity of the process.

Village Attorney Whitehead: The only reason it would make it easier and more straightforward for an applicant is, it would avoid the need to go to both boards.

Chairman Collins: David, what do you think? What would you prefer?

Boardmember Forbes-Watkins: I'd keep it here.

Chairman Collins: You'd keep it here?

Boardmember Forbes-Watkins: Yes.

Chairman Collins: Well, I think you can see the argument here is for keeping it and I really don't have a strong reason for breaking that. OK? So let's make that a suggested change. Guys, any other comments or suggested changes to the language, as proposed?

Boardmember Hayes: I'd want more information on what assisted living means under state statute because right now, like I said, when you read it without knowing, it could be a halfway house. I have no idea what that means. And by the way, not easy to figure out from the New York code online either, which I've been trying to do for the past 20 minutes.

Village Attorney Whitehead: The DoH Web site is not the best to maneuver around.

Chairman Collins: I wonder if it's possible for a village or a municipality to create a condition on top of the state definition.

Village Attorney Whitehead: I would have to double-check. You wanted, for instance, to put the word "senior" back in. It limits assisted living being for seniors. I would have to double-check if that is preemptive by state law.

Chairman Collins: We would just have to be prepared, under that type of narrow definition, to accept the consequence that if a 30-something year old suffers a stroke and needs assisted living it would therefore be prohibited from use.

Village Attorney Whitehead: Or early onset Alzheimer's.

Boardmember Anuszkiewicz: Why is it that we want to add assisted living to the code?

Chairman Collins: Well, because I think we're trying to find more ...

Boardmember Anuszkiewicz: No, but what is it about what the Trustees are looking for that requires assisted living?

Village Attorney Whitehead: The trend in senior housing is ...

Boardmember Anuszkiewicz: I'm not asking about trends. I'm asking about our community.

Village Attorney Whitehead: Because it's a different kind of housing for seniors that is not currently permitted in your code.

Boardmember Anuszkiewicz: What does that have to do with people in our community?

Boardmember Forbes-Watkins: Any number of seniors can need assisted living at some point. I'm far enough along towards that to realize that I might need to go an assisted living facility.

Village Attorney Whitehead: Or you might have a parent.

Boardmember Anuszkiewicz: It's not free, it's very expensive.

Boardmember Forbes-Watkins: It's not a question of whether it's expensive or not expensive.

Boardmember Anuszkiewicz: Well, it is.

Boardmember Forbes-Watkins: It's a question if it's needed. And if, as a senior ...

Boardmember Anuskiewicz: I think it is a question of whether or not it's affordable because if it's not affordable then what difference does it make whether we need it or not? It's not going to be for this community if the people of this community can't afford to use it.

Village Attorney Whitehead: I guarantee there's people who live in this community who have parents in assisted living facilities outside the Village.

Boardmember Hayes: But I didn't see anything in here that limited the people who could be in the assisted living community to Hastings residents.

Village Attorney Whitehead: You can't.

Boardmember Hayes: Is that not legal? Like UBA can tell me that my kid would have to pay full tuition, and can make it much harder for my kid from New York to get in.

Village Attorney Whitehead: You would never get a facility built with that level of restriction because there wouldn't be enough of a market.

Boardmember Hayes: But that's a financial condition. That's not our problem.

Boardmember Forbes-Watkins: We've received a very well-pointed letter this past week from one of our neighbors pointing out that there are a lot of facilities in the county – some that people from Hastings might go to – and there are people who don't live in Hastings who might fit here better. Each facility would have its own special character, and they will select.

Boardmember Hayes: But that doesn't fulfill the edict of what we heard earlier, right?, the motivation.

Chairman Collins: Well, the motivation is to try to provide more senior housing options for ...

Boardmember Hayes: For Westchester?

Chairman Collins: No, no, for our residents. I think the feeling is that if you are a senior who is not ready for a nursing home but you do need assisted living, and your first choice is to stay in Hastings, you're out. That's not an option.

Village Attorney Whitehead: Or if you have a parent ...

Chairman Collins: So the Village, I think, has a compelling argument that that is an option it can provide for people who live here.

Boardmember Anuszkiewicz: Well, I think the way the proposed zoning is written it's way too open right now.

Chairman Collins: Is that because of the definition of what assisted living is?

Boardmember Anuszkiewicz: Well, that's part of it. There's also all these sites that have been identified. There's also the point that Sean brought up, which is that anybody can cobble together 2 acres to create ... I mean, you already have two projects ready to go. You have this project down at site number 23 and you have Andrus, and as soon as this zoning change is made we'll probably have two more. I mean, this is going to become like open to assisted living.

Boardmember Hayes: "The assisted living village."

Village Attorney Whitehead: Andrus isn't looking to do assisted living. There is a market control. I don't think you're getting that.

Boardmember Anuszkiewicz: We did have a letter.

Chairman Collins: Guys, I would say we're starting to get into the category where our commentary feels to me like public comment. If you have a problem with assisted living being in scope, then that is a conversation with the Board of Trustees.

Boardmember Hayes: The comment was that it was supposed to be for seniors, and that's not what the definition says.

Chairman Collins: But we can clarify that. I think, by and large, I would expect the result will be that most residents – if you were to canvas most residents who fall in the assisted living category – are probably senior citizens. But your point is taken. We may have a good debate about if the state's definition doesn't meet our satisfaction if we can layer our own qualifiers on top of it; how do we do it in a way that helps the Village achieve its objective. But I think we need to steer away for this board talking about should we do assisted living or not. That's a Board of Trustees issue.

Boardmember Hayes: But I don't think that's what Adam was saying. I think he was just saying that the requirement's so low ...

Boardmember Anuszkiewicz: My initial point to David was that it seems what the Trustees want is a certain type of business that provides assisted living for seniors. That's not necessarily for this community. It's going to be for people from all over. You can debate whether or not that's a pro or a con, but these decisions are not being made necessarily on behalf of this community. This is a business decision that's being made here, and assisted living housing is no different from a hotel. It's just a hotel with more medical care. It's a different kind of use.

You mentioned the one in Ardsley. That's a totally different site. Ardsley, as a community, is bordered by two freeways and has two parkways and a main thoroughfare going through it. These sites that are identified here are almost up on the river, and so far from the Saw Mill River Parkway anybody trying to get to these sites has to drive clear through the Village and back out again during rush hour.

Chairman Collins: Here's what I would propose. Either suggest language or ask questions that can get us to where assisted living helps to fulfill the Village's stated objective, or I think – if I'm following your argument to its logical conclusion – what I'm hearing you say is that assisted living may not belong in the code. If that's your position that's fine, but I think that gets to a sort of a strategic decision that's the purview of the Board of Trustees, not ours.

Boardmember Anuszkiewicz: I think on this density level – on two acres, 40 beds per acre – it's stressing this community a lot.

Chairman Collins: OK, well, that's fair game. And I think that's to the point where we do need to get some view of what is a norm. Because while some of this discussion was ongoing I did look at page two of the memo. The proposed density for Hastings is higher than everything except a little bit of what Dobbs has listed here in terms of beds, or units, per acre. And in some cases it looks like a pretty substantial delta, including in communities that have these services already. The question is, why are we in Hastings seeking to set a new higher threshold than what our neighbors have?

Village Attorney Whitehead: It's not higher, it's lower than Dobbs Ferry.

Chairman Collins: That's the exception. But Ardsley, which has one, is ...

Village Attorney Whitehead: Ardsley does not have an assisted living. It's an independent.

Chairman Collins: Well, it says "assisted living/nursing home."

Village Attorney Whitehead: That's the code. These aren't actual facilities; these are the code provisions. The actual facility that exists in Ardsley is a senior independent living.

Chairman Collins: Well, my point is I'm trying to come up with some comparison. You look at what Chazen has volunteered as a comparison, so it does suggest that what is on offer from the Board of Trustees would put us at nearly the high among the Rivertowns. I'm not saying that's wrong, per se. I'm just saying it needs some justification.

Boardmember Hayes: And just out of curiosity, in these examples are these all in single-family home residential zones?

Ms. LoBrutto: I don't have the exact information in front of me, but they range from single-family to multi-family commercial zones.

Boardmember Hayes: Because it's not apples to apples if it's not.

Ms. LoBrutto: No, and I think that's one of our points in this memo. There is no apples to apples correlation. You have to look at the place you are and what's appropriate. The Village has to decide what is appropriate for your densities here.

Chairman Collins: That seems like a relatively easier data point to pull if you could get your hands on how, for example, where Ardsley is placing theirs and are they similarly in single-family, multi-family, multi-unit, commercial or industrial.

Ms. LoBrutto: Sure.

Boardmember Forbes-Watkins: We know Ardsley is right along Saw Mill River Road.

Boardmember Anuszkiewicz: It's right in a commercial district.

Boardmember Forbes-Watkins: It's in a commercial district.

Chairman Collins: It'd be good, though. I think Sean's point is a good one: we should know what is the comp, as close as we can to what we have.

Boardmember Anuszkiewicz: To Sean's point, one recommendation we could make is that these potentially developable parcels don't happen in residential neighborhoods.

Village Attorney Whitehead: One thing we talked about with the Planning Board – and he provided some information on it – is, the idea to limit them to properties that front on a state or county road. That would eliminate possibilities in some of the residential neighborhoods.

Boardmember Anuszkiewicz: I think we should ban them from all the residential neighborhoods.

[applause]

Chairman Collins: Just a second. All of this is being recorded by a transcriptionist for the record, and unfortunately when you guys react like that it makes it hard for a lot of the discussion to be heard. Which, when we come back in a month to look at our notes, I want to make sure we're hearing all of it.

Boardmember Hayes: The minutes?

Chairman Collins: Thank you, sorry. Sean?

Boardmember Anuszkiewicz: I just said I don't think it should be limited to state roads. I think it should not be a use we have in residential neighborhoods.

Boardmember Hayes: In R-10 or R-20.

Boardmember Anuszkiewicz: Right.

Chairman Collins: If we did that, then the question would be how many developable lots would there be. Again, this gets to some sense of what is it the Board of Trustees is trying to accomplish.

Boardmember Anuszkiewicz: And why don't we have any developable sites on the waterfront for this? I mean, we have ...

Chairman Collins: Well, we haven't zoned that. That's coming.

Village Attorney Whitehead: The waterfront is zoned light industrial.

Boardmember Anuszkiewicz: Obviously, when the waterfront gets developed it's not going to be developed for industrial.

Boardmember Hayes: No.

Boardmember Anuszkiewicz: The zoning is going to change, and why would we create assisted living in residential neighborhoods when, in the near future, we may have sites directly on the waterfront that would accommodate the density a lot more readily?

Chairman Collins: I think it's just because that's too much of a black box right now.

Village Attorney Whitehead: Yes, the Village is going to be looking at zoning for the waterfront separately.

Chairman Collins: If you think this is interesting, wait 'til we get to the waterfront.

Village Attorney Whitehead: You'll get that one, too.

Boardmember Anuszkiewicz: You know, I don't see why we do the wrong thing now, when in five years from now it's a completely different situation.

Chairman Collins: Well, we can always amend it in five years. This is not writing it ...

Boardmember Anuszkiewicz: As I mentioned, there's already two projects that are lining up, queuing up, here so there could be other projects.

Chairman Collins: There could. You're absolutely right, there could be some. But in five years, if the Village decides the best use of the waterfront is to allow for assisted living, nursing homes, independent living that would certainly have an impact on the future character of the Village.

Boardmember Anuszkiewicz: That certainly seems like it would be a nicer site for assisted living.

Chairman Collins: I'm feeling a lot of people, though, are going to argue against putting any residential on the water.

Boardmember Anuszkiewicz: I guess we're speculating.

Chairman Collins: We'll find out.

Village Attorney Whitehead: Just to answer the other question – and Caren can address this – I think if you take the R-10 and R-20 out there are no other properties in the multi-family zones.

Ms. LoBrutto: Just one.

Chairman Collins: There's one?

Village Attorney Whitehead: There's some that meet the 2, but remember the other uses require 5 and there's nothing that's over 5.

Boardmember Hayes: That may be because ... I mean, you say you have the 2 so you're covered on the assisted living, right?

Village Attorney Whitehead: There's only one or two, I think.

Boardmember Hayes: But I thought the market could only withstand one.

Village Attorney Whitehead: But those property owners have to be willing to sell their property. Just because we say it's possible on that property doesn't mean the property owner wants to sell it.

Chairman Collins: Here again it would be helpful to understand what it is the Village is trying to accomplish because as you start thinking about, OK, well, if we wanted to exclude the R-10 and R-20 then that creates a new theoretical maximum number of units. Is that what we want? I don't know, I'm just asking the question. I don't think we know.

Village Attorney Whitehead: Reduces the likelihood that it's going to happen.

Chairman Collins: Well, yes, because there are fewer options.

Village Attorney Whitehead: And your existing nursing home is an R-20.

Chairman Collins: Right.

Village Attorney Whitehead: You don't want to make that nonconforming.

Chairman Collins: Say it again?

Village Attorney Whitehead: You don't want to make Andrus a nonconforming use, which you would if you don't allow nursing homes in an R-20. They would become a grandfather.

Boardmember Hayes: Why would that matter?

Village Attorney Whitehead: It limits them doing any work, even on the existing nursing home.

Boardmember Hayes: Without coming here.

Chairman Collins: Well, that's not the worst case scenario.

Boardmember Hayes: Yes, that doesn't bother me.

Village Attorney Whitehead: The idea of zoning isn't to create nonconformities.

Chairman Collins: No, I know that wouldn't be the intent, but I'm saying if it were byproduct they'd now fall into like 80 percent of the homes in Hastings.

Boardmember Hayes: Doing it for that reason would certainly constitute the tail wagging the dog.

Village Attorney Whitehead: It makes it a use nonconformity as opposed to most of the homes are dimensional nonconformity.

Chairman Collins: Oh, I see, yes.

Village Attorney Whitehead: Just one other thought on making assisted living limited to seniors. You also eliminate anybody with early onset dementia.

Chairman Collins: And those are things that I think need to be very carefully thought through. If the state doesn't offer some sort of limiting factor ...

Village Attorney Whitehead: These are not halfway houses. Those are regulated under a different ... they're actually regulated, I think, by the Department of Social Services.

Chairman Collins: True, but Sean's point is that if you read through the plain language of the text it doesn't exclude anything.

Boardmember Forbes-Watkins: It does include seniors.

Boardmember Hayes: It doesn't exclude me.

Chairman Collins: Yes, it doesn't exclude anything. It says people who ...

Village Attorney Whitehead: Well, it's not going to say "senior."

Chairman Collins: No, because there are people who need care who are not in the senior category.

Village Attorney Whitehead: I think it's more that those other types of things that Sean has mentioned are defined in other sections of the law, and that's something we can look at.

Chairman Collins: Yes.

Boardmember Forbes-Watkins: I have a procedural question.

Chairman Collins: Yes, sir.

Boardmember Forbes-Watkins: We have now identified quite a number of things where we would like some additional information. How are we going to proceed with making recommendations until we get that material?

Chairman Collins: How long do you think it'll take to get answers to some of these questions? Some of this, Linda goes to you.

Village Attorney Whitehead: Let me give you an answer I think will also help you because I know there's been some back and forth between the Mayor and the Planning Board chair about timing. The boards are not held to the same time frame as public comment. So July 21 is a public comment date. He's been discussing timing with the Planning Board because their next meeting is actually the day before that. Yours is the following week.

The Board of Trustees will be discussing all the comments and reviewing this at either their August 1 or August 15 meeting. That would certainly get you through your next meeting, but I think they would be looking for you to formulate any comments at your next meeting so they would have them for the purposes of their discussion. Their plan is that after they get the public comment and the Board's comment, then they're going to put it all together and start their own discussion.

Chairman Collins: I think the challenge in just imagining this is, if, on the docket, 425 comes back, for example, and 196 is on there it may ...

Village Attorney Whitehead: They're both likely, I think.

Chairman Collins: Those could be really long meetings, and I don't want us to be sort of limping into this discussion.

Village Attorney Whitehead: And you don't meet in August.

Chairman Collins: I think the answer is we'd have to have a special session where we get answers to these questions, then the issue is how quickly can we get these answers.

Ms. LoBrutto: I think we could get these answers to you next week.

Chairman Collins: Why don't we kind of follow the same approach we did last time, which didn't end up working, but at least it was the right idea. I think there were other reasons for that. I think if Mary Ellen can take the lead on reaching out, given people's schedules, and seeing when we can get back together with ample time for public notice.

Village Attorney Whitehead: The problem is you've got a holiday week.

Chairman Collins: I'll leave the scheduling to the experts. I know it's tricky because of summer.

I will invite anyone from the public who wishes to be heard on this. Again, remember that this is a very different thing than the Board of Trustees public comment period. We have to be thinking here – we are thinking here about specifically – as you've heard I think for our deliberation addressing language and implementation – if your comments start to veer in the direction of something that really should be heard by the Board I'll politely cut you off and invite you to speak to the Board of Trustees directly.

So if you could, sir, just introduce into the microphone first.

Kyle Mooney, 21 Pinecrest Parkway: Let me begin by saying thank you for your service. This is only my third meeting; I went to the Planning Board meeting, the Board of Trustees meeting, and now this meeting and it makes me thank you all even more just seeing the nights you put into these long meetings.

I'll try to be brief. First of all, the math that was handed out – just so we all know – is actually not the impacted land map. That's the screen overlay map showing the soft sites. I have the impacted land map, if I may approach.

Chairman Collins: Yes.

Village Attorney Whitehead: It's in the EIF that you all got.

Mr. Mooney: The impacted land map is roughly 10 percent of the acreage of this town, so 195 acres. The soft-site map, which is the map ...

Chairman Collins: Start over because everything you said between up here and there got lost.

Mr. Mooney: The impacted land map that is in the Chazen study I've handed you, that's the land that's impacted by this rezoning. That is roughly 195 acres of this village, which is about 10 percent of the Village. The map you have been provided by the Chazen representative is a screen overlay map. It does identify the soft sites that Chazen decided to include in their environmental analysis. Those soft sites represent about 40 percent of the impacted land. Again, those are the sites Chazen believes are most likely to be developed short-term.

Village Attorney Whitehead: Potentially.

Mr. Mooney: Potentially short-term. Potentially, I think all of them could be developed. Is that right?

Village Attorney Whitehead: Excuse me?

Mr. Mooney: That all of them could be developed, potentially? I didn't see anything in the law, though, about barring owners from selling the current properties. I didn't see anything in the Chazen report about people not changing their minds as to the uses. I didn't even see, frankly, anything in the Chazen report about Chazen approaching any of the property owners of the properties that were excluded and asking them about their intentions for those properties. So really, we're talking about the impacted properties and I think we can't act here on just hopes and prayers; we have to look at what's actually affected. That's the map you've got before you.

A quick point on dwelling units and densities that was raised earlier. I think the actual comparable here, in looking at the increase, is going from five to twelve people up to the 40 people, and not focusing on dwelling units. The reason I say that is because the definition of "dwelling unit" excludes the type of housing here that we're talking about. Those are individual units. It excludes nursing homes and other related type units. So that's a misleading comparison, the 30 to 40. The actual change you're looking at here is five to 12, up to 40.

I would ask, if it's possible, that we could make public this comparable information that Chazen has about other villages when they provide it, any other information they might have about where any of these numbers came up when the Board receives that if that's possible.

Village Attorney Whitehead: All documents they provide to the Village are public. They should be being put on the Web site. I don't know if the Village Clerk is still managing that.

Chairman Collins: Well, can we find out, Buddy?

Village Attorney Whitehead: Yes, I'll make sure they're all on the Web site.

Chairman Collins: Everything that's entered into this meeting is for the public.

Village Attorney Whitehead: I know the Mayor's intention, and the Board of Trustees, is to have everything on there.

Mr. Mooney: I think it's important for this type of project because, frankly – and I apologize for taking the time here – I've only been here for five years; I've got two kids, I've got a wife. That's amazing that I choke up like that. The Hastings I know, the Hastings I moved to – and I've learned to live in it five years – is the Hastings I saw ... I apologize to you all ... is the Hastings I saw here earlier tonight. You were talking about sheds and how far from property lines they were. You were talking about birds living in a tree. You talked about that for about 20 minutes. The earlier project, I guess you were talking about steps and snow removal for 20 minutes.

I think – I don't think, I know – this is a very drastic change to the zoning of this town. Everybody on this board knows that and the other boards know that. I would ask if all this could be made public when Chazen provides this information. I'm not going to talk about Artis here other than mentioning it there, but that's what's really killing us; it's where do these numbers come from, where did 40 come from, where did 2 come from, where did the R-10 neighborhoods come from. No one's seen that, so anything that would shed light on that I think would go a long way for the community.

Chairman Collins: And we will ask those questions, Mr. Mooney. I think the question is a right one, and it's on the minds of everyone here: what's the origin of the numbers. We'll get those for the next meeting, hopefully one that we can get on the docket sooner rather than later.

Mr. Mooney: Thank you, Chairperson.

As to the proposed changes in the law, this was discussed earlier, section 10 of the proposed law amending 295-86. It's a proposal to change, as I read it, the approval of special use permits from the Zoning Board or the Planning Board. As I read it, it is not limited to this type of housing. It is an overall change to the special use permit process. I do believe that authority should stay with the Zoning Board for a few reasons. I think, first of all, I don't see why you would allow developers to choose their forum, choose their venue. I think there should be one venue. I also think there should be consistency, and that the same board should be looking at these decisions and applying the same standards the same way each time. I know this board thus far, and for several years, has been doing that.

Lastly, I think these special use permits – and when I say these special use permits, especially these ones we have coming up if this goes through – are very important for the public to be able to watch, be discussed, and to comment on. Again, with a thanks to all of your service, it's difficult for people to come to just the Zoning Board meetings, for example. To have to require people to come every single week to Zoning Board and Planning Board meetings to watch these unfold as very big projects changing the community I think is a hardship on the community.

The assisted living housing definition – that's section one of the proposed law – amending 295-5, I have serious concerns about this definition. First of all, we talked about how this was supposed to provide senior housing. In fact, what we've done is remove the word "senior" from the definition, or at least not include it. I would have to look back in my notes. Secondly, there was a discussion about how this was the same as the state definition. It is not.

Chairman Collins: I'm sorry to interrupt, Mr. Mooney. Which definition are you on again?

Mr. Mooney: The assisted living housing – it's 295-5.

Chairman Collins: Yes, we've got it. For those who are on the big table, it's also listed as definition number eight in the notes. Sorry to interrupt, go ahead.

Mr. Mooney: There's no reference to seniors. And again, whether or not that turns out to have been the goal of any of this I think that's an important issue to address. It is also not, in fact, the same as the state law definition. There was a reference to that. I believe the state law definition is Public Law Chapter 10, Part 1001. It is different than the definition you have before you.

As to the definition you do have before you, I have a few specific concerns. The first one is, there's a reference to "assisted living combining resident rooms, communal dining,

medication supervision, personal care," and so on. There's no indication as to whether it's got to have one of those, two of those, all of them – how many is enough? I think that ought to be clarified. Another part of that definition talks about "meeting the individual needs of persons, including but limited to ..." Again, I think there should be some clarity to ensure we don't have halfway houses, condominiums with common spaces, et cetera; another vagary in the definition.

Lastly, there's, for some reason, a definition to only one medical condition in here. There's a reference to "memory care accommodations for persons with Alzheimer's and other forms of dementia." I don't know why that's there. It's not in the state definition. But it's the only medical condition that's identified in this law so I think probably it ought not to be there or we ought to include all the conditions that would qualify. As to that definition, "memory care" is in quotes. I don't know why that is. We should look at that. Memory care is not a defined term in the code; we should look at that. "Memory care accommodation" is not a defined term in the code; we should look at that.

There's also a reference at the end of this definition applying to people "who do not need the skilled medical care provided by a nursing home or convalescent care facility." According to who – who is deciding that, how is that being decided?

Village Attorney Whitehead: New York State.

Mr. Mooney: There's no reference in here to New York State deciding that. And I'd like to be very clear. If assisted living housing is intended simply to incorporate that in toto in the New York State definition, that's what should be done. We shouldn't pass something that is *not* the New York State definition, suggesting it will just be interpreted like that and go off on a hope and a prayer.

Village Attorney Whitehead: This doesn't have to be licensed by New York State.

Chairman Collins: The only thing I would say, though – I think you'll agree with where I'm going with this – is that we may actually want to impose our own restrictions on top of what the state requires. There may be some instances where we feel as if the code could be worded more precisely in order for the Village to achieve its stated objective, in which case we might, if it's possible, layer our language or restrictions on top of what the state provides. That's one of the action points we followed up here. I would disagree with the notion that we should just simply take and copy-paste what the state says.

Boardmember Anuszkiewicz: But the state did not write this, though, right?

Chairman Collins: No. If the state has a definition for assisted living I'm not saying here I'm prepared to just copy and paste that into what our definition should be. Certainly not without seeing it, but I'm thinking we may want to layer on top of it additional language that helps the Village achieve what it said it's trying to achieve.

Mr. Mooney: I agree 100 percent with what you have said. There should be discussion as to what the definition is, but I think we will agree – or most of us will agree – that this is an absolutely terrible definition, an unworkable definition. And if you've ever been involved in any sort of a legislative or contractual dispute, this is a time bomb. And particularly when you've got a developer who's applying for a special permit and they're denied because it doesn't fit this definition, I mean good luck to this village, right? We should have a tight and clear definition so it's defensible in the future.

Chairman Collins: We agree. I think we agree on that. Linda, did you have something?

Village Attorney Whitehead: Yes, just one thing to point out. It does say it has to be licensed by the State of New York as an assisted living facility, which means it's got to meet the state definition and the state requirements or they won't license it.

Chairman Collins: That's good to know, but we don't know what those requirements are. I think for the sake of clarity – and especially as it relates to excluding certain things – what we're hearing loud and clear, we would not want to see it captured under that umbrella. We should know exactly what it is we're signing up for. So definition clarity, we're 100 percent on board with what you're saying.

Mr. Mooney: I want to turn now to section six of the proposed law, and those are amendments to section 295-67(b3) to (b7). These deal with, generally, the criteria that are going to be applied: the zones – the R-10 issue, R-20 issue – the 2 acres, the 40 beds per acre, and the 40 feet. Again, going back to what I said a moment ago, I'm going back to comments that have already been raised by Boardmembers. R-10 and R-20, and in particular R-10, is single-family residential. It's the most protected zone in this village, it is the most protected zone – single-family residential – in any village or municipality whose zoning code I am familiar with; probably all of them, I would imagine.

There are three permitted uses in an R-10. One is a house, one is a school, and another is a church or a place of worship. That's it; these are the most protected communities we have.

Village Attorney Whitehead: That's only the principal permitted use, not special permit uses.

Mr. Mooney: And what are the special permit uses?

Village Attorney Whitehead: There's a whole long list of them.

Mr. Mooney: There are two of them. They are schools, and libraries and museums. That is the end for R-10, OK? That's what you can do.

Boardmember Forbes-Watkins: Go to R-20.

Mr. Mooney: I would ask the Village Attorney ...

Boardmember Forbes-Watkins: Go to R-20. It's a cascading code.

Mr. Mooney: Correct, and the most restrictive is R-10.

Village Attorney Whitehead: R-20.

Boardmember Forbes-Watkins: R-20 is the most restrictive. That's the starting point, and it goes down from there.

Mr. Mooney: I respectfully disagree. We will look that up. That's why, for example, one can build a nursing home on an R-20 and not on an R-10. Regardless of which is more restrictive, I will tell you that special use permits – and we can look this up in the code – in residential allow for schools, libraries and museums. That's it. R-20 is slightly less limited. You can have a nursing home if you have 5 acres for the type of nursing home we're told doesn't exist, or if you have 20 acres for the type of nursing home we're told does exist and is at Andrus today.

We're opening the gates to these single-family residential. Again, we're going to be provided with, I guess, the information showing that others are doing this; that this is the trend, this is the norm, we have to do this. I haven't seen that – I haven't seen this letter – but in my brief review, and I urge the Board to charge the Village Attorney to provide this information to them – I looked at Dobbs Ferry, and Dobbs Ferry does not allow assisted living, retirement homes, or nursing homes in their residential zones or their mixed-density residential one and two zones with or without a permit.

I looked at Ardsley. Ardsley also prohibits retirement homes, nursing homes, and assisted living facilities in one-family residential districts, including R-1, R-2, and R-3. Irvington, nursing homes and assisted living are not allowed in all 1-F single-family residential homes. There are some exceptions to large plots on Broadway, but that's it. Some folks have heard

me say at the meeting – the Board of Trustees meeting – and I'll say it out loud: I looked at Yonkers, on a lark, so I could say we don't want to be like Yonkers, we want to be like the other towns. Yonkers doesn't allow it either. I was looking to see – and I found it, in fact – nursing homes and assisted living homes are *not* allowed in Yonkers, S-200 all the way through S-50 zoned.

So far as I could tell – and until we're provided this survey – we would be the only Rivertown that allows this use in all of our R-10 single-family residential zones. I think that's a problem. There was a question before about, well, what if we didn't do this. That would be a catastrophe, we couldn't support the demand. So I looked at that, and said, well, wait a second. Let's say we exclude the R-10 zones. Let's exclude them, let's be like the rest of the Rivertowns, let's be at least as good as the other Rivertowns. What are we left with? Well, according to Chazen, if we exclude all the R-10 zones we're left with roughly 57.6 acres of R-20 zones. In Chazen's numbers that would accommodate 2,304 people.

So I would ask does a village of 8,000 need more than 2,304 assisted living rooms? Again using Chazen's map, I think that would allow every man, woman and person over 65, and maybe over 55, to immediately check in to one of these facilities. There's not that demand there, we don't need that. I think if you go down from R-20 and take a look at what you're left with the same would hold true: you would have more than enough capacity to meet the demands without going in to these neighborhoods.

Chairman Collins: Mr. Mooney, I'm just going to try to nudge you back into a more constructive view of the specific language as it relates to the application of the zoning code. I understand where you're going, but the notion of what the theoretical maximum should or shouldn't be is something that's outside the purview of the Zoning Board.

Boardmember Anuszkiewicz: But I just want to say that what he just said is a recommendation that is within what we're trying to do here. In other words, we're discussing whether or not it's appropriate to have these uses in an R-10 district, so I think those points are ...

Chairman Collins: It is, but to talk about the possibility of adding 25-hundred to Hastings is absolutely not the Zoning Board's ... that is outside of the Zoning Board. We don't weigh in on that.

Boardmember Anuszkiewicz: Except that he's demonstrated that if we did restrict this type of development from R-10 and we put it in R-20 that we could more than accommodate the wishes of what the Trustees want.

Chairman Collins: We don't know what the Trustees want. My point is, I want to try to keep ...

Boardmember Anuszkiewicz: As far as we know they want to provide assisted living in this community.

Chairman Collins: But we have no idea what the numbers are. My point is, I want to make sure we're focusing as much as possible on the language, how it's interpreted, and how it might therefore impact the implementation. Not on getting into an issue of what should the number be. That's not for us.

Boardmember Anuszkiewicz: I agree with you, Matt, but this is going to come down to us making specific points of how we feel about these proposed zoning changes. And it helps, in my view, to have that kind of backup. These are clarifying these points for me, and I think it's going to make for a more compelling case – if we end up making one of these recommendations – if we have some of this background. That's all. We don't need volumes of it, but I think some of it is useful.

Mr. Mooney: And I would agree, it would be useful for me to know what the objective here was. That would be useful for me.

Chairman Collins: The objective for tonight?

Mr. Mooney: No, no, no. I could be more concrete in the things I'm saying to you if I have any idea of what the objective was or where the numbers came from.

Chairman Collins: I think we've got agreement on the Board here on that.

Mr. Mooney: I'll be brief then. On the 2 acres, the same thing, right? Well, let me take a step back. If the goal is to comply with the Comprehensive Plan, for example – we've heard a lot of that – the Comprehensive Plan talks about large tracts, i.e. some of the R-20 or bigger than 20 acres, and talks about, I think, five homes of five to 12 people. You'd be blown out of the water with one or two of these zones. So there's something else we're talking about, and it's difficult because, again, I don't know what that thing is.

So the 2 acres. Again, the consequences of this are drastic. Take two properties, for example. At the end of Pinecrest – some of us have stayed around for this meeting here to express our views on this very important point – the Saunders and the Susser properties are both roughly 2 acres. And they're included, actually, in the soft sites. At least one of them is on sale right now. They are in the middle of a residential neighborhood. They are on an

intersection at Route 9 and Pinecrest Drive that is, frankly, a very dangerous intersection. There is a Hastings police car parked there half the time I drive by at night, I would say. People drive by, you all drive by, the same car I do.

Those two homes could be razed tomorrow, and those two homes could be turned into a 188-person assisted living facility with 100 parking spots, 40 feet high. Is that really what this village needs? It doesn't line up with the demand, it doesn't line up with the character of the Village that this board is tasked with protecting, per the Attorney's comments.

Chairman Collins: Have you measured it out? I mean, do you know that's what could go there?

Mr. Mooney: That is what would go there.

Chairman Collins: And be as-of-right?

Mr. Mooney: Yes. The Saunders lot, for example, is 150 Pinecrest Drive. It's just over 2 acres – the math is not difficult – at 20 persons per acre, 92 beds could go there.

Chairman Collins: Right. But I'm just saying could it go there as-of-right.

Mr. Mooney: Yes.

Chairman Collins: What we heard earlier, when we asked the question could we go to, for example, a most likely case scenario rather than a theoretical maximum – which is the numbers you're basing these conditions around is a theoretical maximum – and when you talk about the development possibility of a single lot I'm asking if you have gone to the trouble of actually designing one. Because I think that's what you would need in order to know what could or could not go. Just because a lot has been designated, this is to me imprecise. I'm not saying this is a defensible drafting of the language.

Village Attorney Whitehead: It's also in the view preservation district.

Chairman Collins: Right. Our Village Attorney reminds us that because it's in view preservation it would require that no matter what you would have to come before the Zoning Board for approval. The question is, when you talk about this is something that could happen have you designed it? Like have you sketched it out to see it could be done?

Mr. Mooney: I have not sketched it out, but I want to be very clear. There should be no doubt about this: these are not theoretical maximums, OK? There's nothing theoretical

about this. The law that is before us says you can put 40 beds on an acre, at 40 feet. And if you can design the building ...

Chairman Collins: You can, but not in as-of-right way.

Mr. Mooney: Well, a special use way. That's what we're talking about.

Chairman Collins: All that has to be approved. If you spent time with this board you'd know there's no rubber stamping that happens here. That would all have to be subject to a very rigorous and high-threshold approval process. What I'm trying to get at is, when you talk about what you believe could go there have you like mapped it out in a way where you can see that this could go, as-of-right, in this property lot as defined, therefore not needing the kind of permitting we're describing. Knowing, by the way, it would need view preservation no matter what. Everything you're describing would have to come to this board.

Mr. Mooney: What I do know is that one thing can be built on that lot right now – three things: a playground, single-family homes, or churches. That's what can be built there.

Chairman Collins: In theory, yes.

Mr. Mooney: In theory you might not be able to build anything.

Chairman Collins: All of those would be subject to the same kind of restrictions.

Mr. Mooney: I see a home every time I drive by. So you can build at least one home.

Boardmember Anuszkiewicz: You know, I don't understand what I would whittle that number down to other than view preservation. Once it's an allowable maximum, it's going to fit the definition of a financial hardship for a developer. They're going to come in and we're going to twist their arm. What, are we going to them from 40 beds to 38? I mean, you know, once it's proposed – I mean, nobody's designed it yet – what are the tools you're going to wield that are going to bring that number down?

Village Attorney Whitehead: SEQRA, traffic impacts, environmental impacts, steep slopes, reservations.

Chairman Collins: We've said no to projects here that have come before us, and they have not been amended, they've been rejected. My point is, yes, they could come with a project that builds to the lot line, that has developmental coverage that's ...

Mr. Mooney: Through the ceiling, and that is possible.

Chairman Collins: They could come without, and it puts this board in the tough position of having to wind them back. But I don't think anyone here would say that it's a given the project as I described it would pass.

Village Attorney Whitehead: Just the traffic impacts ...

Boardmember Anuszkiewicz: Well, the time that I've been here I don't recall flat out denying a project. Every significant developed project I've been involved on, on this board, has through the process of compromise come out the other end and been built.

Village Attorney Whitehead: This project would go through a very different kind of review than just what you do because it would site plan and SEQRA. You don't typically do SEQRA, you're not following that, because most of the things you look are type 2s under SEQRA so you're not going through that analysis. I think, at this location, traffic impacts alone ...

Mr. Mooney: Well, could we exclude this location and take care of it?

Chairman Collins: That's one of the things we need to have a discussion around, and your input here is valuable. Know that we're not ready to say that's the right thing to do. Again, this is where we're all dealing with a vague goal. If we take out R-10 and we take out R-20 and it restricts the Village down to fewer developable properties is that a good thing, is that a bad thing? That's the debate we're having, but probably not at this board, by the way; that's for public comment with the Board of Trustees.

Mr. Mooney: I do want to end, though, with a point I think is right in line with the discussion of this topic: vagaries, and who's approving this, and how do we say no. As people around me know – I've said this until I am blue in the face – this is the baseline, right? Forty beds per acre, 40 feet high, and 2 acres. It's interesting politically, and I won't get into all that now because it's as though the Board of Trustees is lobbing a time bomb at the Zoning Board and/or the Planning Board. Because the developers – Artis on day one, others to follow – are going to come before you. Those plans are going to comply with those numbers, and you do not – absolutely do not – have the unlimited discretion to deny those plans or to make any adjustments you want. It doesn't exist.

Village Attorney Whitehead: Not true.

Mr. Mooney: Excuse me, it is true. The discretion of this board for the special use permit is prescribed in section 295-87: there's got to be a SEQRA, then you've got to come up with the denials or an alteration under 295-87. Those were read out earlier, and they're rather vague. It's very difficult to deny and control a developer, particularly a well-heeled developer, who comes in with their own Chazen report. And what's it going to say? Is it going to say that it's a catastrophic traffic incident at the intersection? Is it going to say it's out of character with the Village? My money's on no. My money's on a well-heeled developer – you're going to see Artis soon – coming in with their own glossy Chazen report, and telling this board, Hey, no problem, no adverse impact.

Then the one after that: Well, we've increased the baseline so now it's even a smaller delta, no adverse impact. We're going to have a stack of these glossy Chazen reports on this desk here. Little we can do to stop them, and all around us we're going to have this development in a town that we don't recognize anymore. We think you can stop these people and that it's easy? It's not. Go into ...

Female Voice: (Off-mic) a lot of money.

Chairman Collins: I would simply say, Mr. Mooney, I want to wind it down because I know there are other people here. Just know that there are very few properties that ever now can be developed in Hastings that don't, in some way, require a variance. Everything we've described here would at least require view preservation approval and the SEQRA process.

Mr. Mooney: I just want to add one thing, OK? I'm sorry, I know a little bit about this. I've worked, frankly, with Ms. Whitehead's partners to challenge a ZBA decision, OK? It happens all the time. Ms. Whitehead's been on the other side of it, as well, OK? What happens is, you present your plan to a zoning board – whether it's here, or in that case it was Mamaroneck – and the zoning board looks at the law they have before them. No easy way to deny this, so they come up with reasons, OK?, and they make a denial.

What happens is what happened in that case. It's what happens every day. The developer, oddly enough, doesn't turn around and walk away. The developer files an article 78 petition in New York State court. The developer seeks to set aside the decision of the zoning board – suing the zoning board and the village – under article 78 for exercising effectively an arbitrary and capricious decision. And the developers win. They win a lot.

No one's going to take my word for it, but perhaps Ms. Whitehead could search article 78 in New York State court for the past 10 years so we could do a win-loss report on how many times the developer wins and how many times this board wins. The board doesn't always win, and when the board loses – or even when it wins – that's after spending hundreds of

thousands of dollars, maybe a million dollars depending on how long it goes, whether it goes up on appeal, of limited budget funds we don't have.

I've taken more than the time I should have. Again, I thank you for your patience. But this is an important decision for me, it's an important decision for the people of this town, and the time is now for the Trustees to set the right benchmark and not lob this decision to you on a hope and a prayer. Appreciate your time.

Chairman Collins: Well, take that to the Board. Take that to the Board of Trustees.

Does anyone else wish to be heard?

Karen Gold-Sherman, 10 Riverpointe Road: You'll let me know if what I'm going to say belongs here, OK? One of the things I want to bring up is that I've been in the Board of Trustees meetings and I've been at the Planning Board meetings. One of the things that has been brought up for seniors is really looking at some of the cutting edge things that are going on in all of the United States, all over the world, which is group living which is very different than senior housing. People got people on the board, got excited about it, people in the community were excited to hear about this. And that there's none of this in the planning; that as a possibility, it's all things that are much more developed. That kind of housing seems like it would be so appropriate for our community so people can age in place and get the care they need. There's so many creative solutions out there that are being done all over, and it's not in any of this. That's one thing.

The other thing I want to bring up is that I've been exposed to a lot of senior living. My mother was in an assisted living facility – two different assisted living facilities – here in Westchester. I've spoken with the director who's been a part of ... she's on the geriatric board here in Westchester. The facility she's the director of now has 7-1/2 acres. It's off the road, very set back; 115 beds, 139 employees. One of the things, if you look at the parking spots that are the restriction of all the mandated parking, it actually doesn't make sense for the need. Because if you think about all the employees that are in an assisted living facility – or I'm just going to say it, a memory care facility – who's there? You have the engineers, housekeeping, dietary, waiters and waitresses, aides, nursing care, all those employees. Then you have the vendors coming like psychiatrists, hospice workers. You have recreation and things they do for the residents in these facilities. What's not mentioned at all are visitors, families, companions.

In something like a memory care facility, where you have more visitors coming, when you look at the number of parking spots that are needed, it's way, way more than what's being ...

Chairman Collins: Well, I'll just point out – and I'm sorry, Ms. Gold-Sherman – that really, for all intents and purposes, the parking requirement that's on offer is the same as what applies at Andrus. It's almost exactly the same language.

Ms. Gold-Sherman: It's 2 to 1.

Chairman Collins: Yes, which is what applies today at Andrus. That's what they live with.

Ms. Gold-Sherman: But Andrus is not a memory care facility.

Boardmember Anuszkiewicz: And they're not on 2 acres.

Ms. Gold-Sherman: I think it's important to make distinctions. When I spoke to this director of the facility, she said you need way more people, way more parking.

Chairman Collins: What should we be looking at? What should it be? Based on what she said, how should we recommend back to the Board that they revise the language?

Ms. Gold-Sherman: Well, she was saying if you have 80 people in a unit you're going to have more than 50 people per shift. Then if you have vendors and you have families, in the place like this where it's going to be for wealthier people, this isn't affordable senior care we're talking about, right? That you're going to have people that are going to want companions with the people that live there 'cause they could afford it. In something like a memory care facility, you think about a movie like *The Notebook*. People want to be with their loved ones. Do you get that?

Chairman Collins: I believe it, I'm just trying to figure out what should it be?

Boardmember Anuszkiewicz: I'll help you with that.

Ms. Gold-Sherman: You should have a hundred people.

Boardmember Anuszkiewicz: What's she's saying is what we said at the beginning, which is the way this is written here doesn't work.

Chairman Collins: What should it be, Adam?

Boardmember Anuszkiewicz: Well, the 2 acres should be 4 minimum.

Chairman Collins: No, the parking.

Boardmember Anuszkiewicz: The parking needs more acres. You cannot build 40 beds per acre on a 2-acre site in an R-10 or an R-20 neighborhood for the reasons that are being listed right there. You'll have cars all over the street is what she's saying.

Chairman Collins: But according to what I'm reading here, one space for every two beds, that's 20 on a 40-bed per acre.

Ms. Gold-Sherman: Right.

Chairman Collins: Actually, that's 80 beds over 2 acres.

Ms. Gold-Sherman: It would be 40 parking spaces.

Boardmember Anuszkiewicz: It's almost 1.5 cars per bed in employee parking.

Chairman Collins: Let me finish. Under the way this is modeled, if I'm reading this right, you've got 40 spaces for the beds, plus ...

Village Attorney Whitehead: There's industry standards.

Chairman Collins: I know, but the problem is we don't have those.

Ms. Gold-Sherman: What she said, she said to me you need a hundred spots.

Chairman Collins: According to this, it would give us at least 90 – according to the code – as I'm reading it. Because it would give you 40 beds – assume the max, right – 40 beds per acre, or 2 acres is 80 beds. This is saying one space for every two so that's 40 right there. Then it says one space per employee during the maximum shift. How many employees did you say?

Ms. Gold-Sherman: Fifty, 50 employees.

Chairman Collins: So 40 plus 50 gets you to 90, and then there's one space per non-employee medical practitioner or technician regularly practicing in the facility. So the question is, if that's insufficient – right now, again, in the absence of any authority – we don't know what it should be.

Ms. Gold-Sherman: Well, she was suggesting you need at least a hundred spots.

Boardmember Forbes-Watkins: That sounds very close to what (cross-talk).

Chairman Collins: I think we're close.

Ms. Gold-Sherman: I didn't read that that way; I read it differently.

Chairman Collins: Should I be reading it as additive?

Village Attorney Whitehead: Yes.

Chairman Collins: OK. So that's really helpful because you have now again something we haven't yet seen, which is real world context for what this ought to be.

Ms. Gold-Sherman: The other thing I'm going to bring up, then – and I don't know if this for here at all – is if there is an assisted living facility it has a social model. It's not a medical model, it's a social model. In a social model, when there's – and I found this with my mother – a fall, any time, you have to go to the emergency room. Any time somebody has a fever, even though there's a nurse in place, they have to go to the emergency room.

So I look at the burden that puts on our police and our ambulance. And I'm going to say, personally, a month ago I thought I had a heart attack. The service I got from the Village was incredible. My blood pressure was – you know, I meditate, I do all this stuff – 220/112. It was horrible. They came right away and I got the services I needed. What this would require in a facility like this, there's an ambulance there every other day.

Chairman Collins: That's definitely a thing to take to the Board of Trustees.

Ms. Gold-Sherman: OK.

Chairman Collins: For us, that will fall outside of zoning. But I'm glad to hear you're OK.

Ms. Gold-Sherman: I'm OK, I'm OK, and the service was great. But I know we want this for the people in our village.

I guess the other thing to say is that when we look at housing for seniors and people to house in place, there's no mention here about affordability and what that would mean for the residents in this community. That's not mentioned here at all.

Chairman Collins: It's a good point.

Boardmember Forbes-Watkins: Affordable housing folks.

Chairman Collins: The Town of Greenburgh actually made that comment in its commentary.

Village Attorney Whitehead: Westchester County.

Chairman Collins: Was it Westchester County? I'm sorry. Westchester County provided commentary and made exactly the same point.

Village Attorney Whitehead: And your affordable housing board.

Chairman Collins: That input has been received, but I'll make a note of it.

Ms. Gold-Sherman: Yes, because to know that a facility like Artis is proposing is \$10,000 a month. It's private, totally private pay. OK, thank you.

Chairman Collins: Thank you.

Lisa Konstadt, 33 Jordan Road: Hi. I hope I can make sense at this late hour without having eaten dinner. I'm sort of surrounded by all the red on the map. The way this is written, the first thing I just want to say just very briefly is that anyone who lives on Jordan Road or Tompkins or James Street knows how bad the traffic is already there. So that's a big concern for us in that neighborhood. All the other concerns people have brought up about taxing, the ambulance and all that, that's a big concern as well.

The other concern is that I don't think a lot of people really understand or know what's going on with this. I think the public needs more information and more time to find out the specifics of what's happening with all of this. A lot of people I've spoken to say, "Oh, yeah, I've heard about something. I heard it might affect our village badly, but I can't go to the meeting 'cause it's graduation tonight." I'm just kind of urging ... I don't know what your role would be in that, but I'm just saying that a lot of the public doesn't really understand what's happening here. I think before anything is recommended to the Board of Trustees you will get a lot more public comment if a lot more people are informed about what's happening.

Chairman Collins: Thank you.

Dr. Todd Schiffer: I'm class of '81, graduated 36 years ago tonight.

Chairman Collins: Happy anniversary.

Dr. Schiffer: Thank you. Anyway, to just tie it all together, I grew up at 31 Jordan Road and now live on 80 Pinecrest Parkway for the last nine years. I'm a doctor. As you can see, I am covering Phelps right now. That's why I'm dressed the way I am. I just wanted to say I'm not an attorney, but I am a concerned citizen. I think a lot of very good points were made, and we really do appreciate all of your service. But just to simply state, very concerned about the scope of what's on this map is that there are too many of these potential properties that could be developed in some of these potentially nefarious ways; potentially overwhelming to the town, by what a lot of other people discussed this evening.

I think it's really very important for this board to help rein down to the number of properties that are potential areas for something like this to happen. That was really just main point to tie that all together. Thank you all for your time.

Chairman Collins: Thank you, Dr. Schiffer.

Alex Stojanovic, 61 Pinecrest Drive: I just want to make a brief comment on the map itself that shows the nine properties that were actually taken into consideration as the final ones that possibly could be looked at. Numbers 22 and 21, which were mentioned before by Kyle, I could easily imagine as an architect how you could develop those, even using the structures that are on those properties now, incorporating it into a very interesting-looking project that would easily fly with you. Maybe not all the environmental issues would be easily approached, but architecturally those two properties actually fit a nice high-end place for aging that people with a certain amount of money could afford. I don't think the view preservation would be stopping an approval by you. I could make a very compelling architectural case for it.

Chairman Collins: I'm sure. That's the easy part.

Mr. Stojanovic: That's the easy part, exactly. As well as these properties, I think there are many others. The interesting second part about the map itself is why didn't the study look into properties that maybe were in more dense areas and not necessarily all these residential areas in the center of town. These are definitely viewed as space for more density, let's say where Citibank is or the supermarket is. These could be built up, where we already have density like Five Corners. There are other ways of approaching this whole thing. It's not because of you, but because of the scope given to them as consultants. It's obviously not correctly defined or not easily narrowly defined. You were given whatever information you were given.

I think the town should look at the zoning in general. There is a place for density, for sure, but done in a way that really goes with the character of the town, goes with the general Comprehensive Plan idea which states different things than we read here in this language. It should be reflected into that. The Comprehensive Plan is really our guideline, and this is a certain lack of vision within this language. But it's scary. Thank you for your time always, and goodnight.

Chairman Collins: Thank you, Mr. Stojanovic.

Mr. Mooney: I apologize, there's one thing weighing on me. There was a comment earlier, and I think it goes to the gravity of the decision before us right now. There was a comment earlier to the effect that we can undo later what we do tonight.

Chairman Collins: Yes, I made it. In five years, very specifically the context was if – and this is if, a bunch of ifs, which is why I'm reluctant to go down this path – if the Village were to zone the riverfront for residential – big if – then we could, because that decision will come here, too, carve out a permitted use to allow for satisfying the Village's goal. But all of that is so hypothetical that I feel we'd be wasting a lot of time talking about how that might happen. We're not.

Mr. Mooney: I think that's right, but the point I wanted to make is this. I'm going to raise it, I don't know the answer, this is not my area of law. But the question is this. If a developer bought a plot of land with certain rights attached to that land, does this board or does this village have the legal authority to take away rights from that developer vis-à-vis that plot of land. I don't know whether that's a Fifth Amendment issue, I don't know whether it raises an issue, but before we assume we can undo what might be able to be done it's an issue that's demanding a researched legal response. Thank you.

Village Attorney Whitehead: That's a basic tenet of land use law. The police power gives the municipality the right to regulate development. There is no such thing as as-of-right. That's what the SEQRA laws are for, and site plan and special permit, all those other laws. Nothing is as-of-right, and you are not taking away someone's right. They buy it subject to regulations, including SEQRA and including steep slopes and including view preservation and zoning and all those other things. They buy it subject to those and with knowledge.

Mr. Mooney: If that's been looked at ...

Village Attorney Whitehead: That's a very short version.

Mr. Mooney: ... that we've put on the Web site or if that's been looked at, or if there's even a case.

Village Attorney Whitehead: You know what? There's books written on it.

Mr. Mooney: If you could maybe e-mail me a book or a case or a statute, I can leave you my business card and that'd be helpful. Thank you. I think, as the public, that's something we're entitled to know. Thank you.

Ms. Gold-Sherman: I also have another point just related to this. It'll be very brief. Which is, one of the things I'm curious about is let's say 2 acres is deemed and that's the size of the plot. What condition does that 2 acres mean? If you have to blast a tremendous amount of bedrock of that 2 acres, is it 2 acres of somewhat usable space? Are there any parameters that you can put in once you decide the size of what's permissible (sic).

Chairman Collins: I'll just speak to the zoning code. There would be the application of permitted yards: a front yard requirement, side yard requirement, rear yard requirement, developmental coverage, lot coverage, building height, view preservation, and all of those. By the way, these are all things that exist in the current code so you can look them up, and these are all things that would be required of a developer to sort of stay within the lines. If they fall out of that, it's not to say they can't go forward with their project but they would have to come here for approval first.

Ms. Gold-Sherman: I guess my question is, is there anything in the zoning laws that allows you to take a plot of land that doesn't have that and do a whole lot to it to make it do that?

Village Attorney Whitehead: The steep slopes law and SEQRA. The Village has a law that regulates development on steep slopes. And also SEQRA, the State Environmental Quality Review, the Board would have to review the environmental impact, including things like blasting and rock removal, re-grading. The impacts of those things would be considered as part of the review of the application.

Ms. Gold-Sherman: Does that review entail what it will do to the neighbors while that's going on?

Village Attorney Whitehead: Yes, it's a review of the impacts.

Building Inspector Minozzi: Environmental impacts.

Village Attorney Whitehead: Environmental impacts of the project.

Ms. Gold-Sherman: OK, thank you.

Chairman Collins: Yes, that's a great question.

Joshua Konstadt, 33 Jordan Road: As a layman, not knowing all the legal intricacies, I just had a quick question. My concern is that we have waterfront development and zoning going on and it's seen as a discreet project. If the objective of the town is senior housing, and we have this opportunity to rezone a fairly large section of land, why would we be looking at impacting residential areas and potentially disrupting their character with this rezoning. It seems to be that there's no need to change what's already there, when we have the opportunity and free land and we're looking at rezoning the waterfront as well. Like why are they seen as discreet endeavors?

Boardmember Forbes-Watkins: Good question.

Chairman Collins: That's a very good question. I think it's a good question for the Board of Trustees. They haven't – at least not to me or anyone on this board – tipped their hand about what they're thinking about for the riverfront.

Village Attorney Whitehead: They haven't started. They're doing sort of a feasibility analysis first. The waterfront is not going to be developable for probably close to 10 years, and then there are FEMA regulations and floodplain regulations that are probably limit things.

Mr. Konstadt: None of this is short-term, right? I mean, we have to take them together. I still don't understand the urgency to get this in with all the potential disruption and potential impact, and all the serious questions that were raised about definitions and discrepancies between our definitions and the state definitions. Like I said, I'm the layman here but, again, we have two long-term objectives: developing the waterfront and building more senior housing. Again, there's synergy there.

Chairman Collins: Yes, that's a good question. I'll flag it and we'll put it before the Board for clarification. Anybody else have any other questions or comments?

APPROVAL OF MINUTES

Regular Meeting of May 25, 2017

Chairman Collins: I had no changes.

Boardmember Forbes-Watkins: I had one. I'll give it to them.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Minutes of the Regular Meeting of May 25, 2017 were approved as amended.

ANNOUNCEMENTS

Next Meeting Date – July 27, 2017

ADJOURNMENT

Chairman Collins adjourned the Regular Meeting.