

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**ZONING BOARD OF APPEALS**  
**REGULAR MEETING**  
**OCTOBER 26, 2017**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, October 26, 2017 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

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

**Chairman Collins:** Hi, ladies and gentlemen. Thank you for joining us for the October 26, 2017 Zoning Board of Appeals meeting.

We have a very robust docket tonight. We have seven cases, two of which though we are unable to vote on because of some important procedural matters. Those are the last two cases on our docket. If we have time this evening for those cases to be heard then we will, but this board will not be in a position to vote on them.

A couple of procedural things I'll get out of the way right up front. We have two microphones for anyone who wishes to be heard, and I make this comment especially for anyone presenting tonight. We have the standing microphone, you can see, and our Building Inspector has a wireless mic up here. We just ask that if you are speaking tonight you make sure you have a microphone in front of you so our remote transcriptionist can pick up your comments for the public record.

Why don't we get the procedural out of the way? We good?

**Chairman Collins:** Linda, can we move forward first with the SEQRA proposal?

**Village Attorney Whitehead:** Sure.

**Chairman Collins:** This is purely procedural, but we do have three ...

**Village Attorney Whitehead:** Three notices.

**Chairman Collins:** ... SEQRA notices and, as a group here, I'm recommending we approve the Planning Board as the lead agency for SEQRA for these three cases. I suppose we should move forward to the motion.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes, with

a voice vote of all in favor the Board resolved the recommendation to approve the Planning Board as the lead agency for SEQRA for these three cases.

**Village Attorney Whitehead:** We will report back to the Planning Board.

**Chairman Collins:** All right, very good.

So with that, then, out of the way we'll begin with our agenda. Buddy, how are we on all the mailings?

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

**Chairman Collins:** All right, very good. Thank you.

We'll begin, then, with case 08-17, Tabi Realty.

**Case No. 08-17**  
**Tabi Realty, LLC**  
**425 Warburton Avenue**

**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 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 - 5 feet; Required - 10 feet {295-72.1.E.(1a)}; Variance required - 5 feet**

**Side Yard Setback (basement level only): 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 - 13 percent; Required Maximum 12 percent {295-40.B(1)}; Variance required - 1 percent**

**Driveway Slope 3 percent/30 feet from Property Line: Existing - 16 percent/0.5 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 - 1,472 square feet;**

**Required Maximum - 960 square feet {295-41.A}); Variance required - 512 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 - 0.5 feet (width)**

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

**Chairman Collins:** I'm not going to go through all the variances on request in our agenda, they've been noticed. Just a comment from me, and that is if I happen to mispronounce any names I apologize. I'll certainly do my best. Who's here to represent the applicant? You're up first, Christina.

**Christina Griffin, project architect:** I'm the architect for the residences at 425 Warburton. We're here for the second time in front of your board to present revised plans. We've been to the Planning Board twice since we saw you, and we've been working with our engineer and Hahn Engineering to focus on the driveway and safety issues we discussed at the last meeting.

The changes we've made since we met relate to the front yard setback. Originally, we had a zero lot line at the front, and now we have 5 feet. We did this to increase the sight lines when you come up to the driveway. We are still requesting this variance. I just want to explain because we need to keep the rear wall where it is to avoid any impact on view of the neighbors who live uphill from the property.

We have reduced the building by 627 square feet. They are now very tight three-bedroom units, about 1,560 square feet each. We have an open layout to make them comfortable and marketable. This 5-foot setback is the setback we feel would work best, given the layout of the building and visibility of the driveway. The other changes we've made are, we started with a 15 percent slope of our driveway and we're now at 13 percent, which is 1 percent over the 12 percent maximum so we need a variance for that. We also have added sensors and mirrors at the top and bottom of the driveway.

I just wanted to also go through the variances quickly to remind the Board that we're requesting eight variances; seven of the eight are related to providing parking for this building. That has been the major goal. Now that we're rebuilding – there's an existing three-family building – we're doing three new units but we're adding an elevator, handicapped-accessibility to each unit and parking spaces below the building. In order to build the garage below we need a side yard setback for a turnaround space – I'm sorry, Suzanne, could you go to the next ... I'm going to show you the site plan, yes.

This is our garage layout, and on the south side we have an extension that is just for the turnaround space for the garage. That's going to need a side yard setback. The rest of the building, above, meets the 12-foot minimum side yard. In the back, we have parking spaces, and those parking spaces will need a rear yard variance.

**Village Attorney Whitehead:** Christina, I'm sorry. Just to clarify, you actually don't need that variance. Buddy and I have taken another look at the language in the code.

**Ms. Griffin:** Oh, I see.

**Village Attorney Whitehead:** Because it's not a setback for the building, the code specifically refers to a yard extending to the closest line of a building. Since that's not to a building we've actually ... so you only need seven.

**Building Inspector Minozzi:** We've adjusted the agenda.

**Village Attorney Whitehead:** And the notice is correct. The notice does not include that one.

**Ms. Griffin:** That's good news because I know a few years ago that's the way we interpreted the code: as the rear yard only to a building, not to parking.

**Village Attorney Whitehead:** Right.

**Ms. Griffin:** I wanted just to mention the other variances we're looking for.. The size of the parking space, instead of 9 feet, 8 foot 6 – is because we want to minimize the size of the building. Eight-foot six is very common; it's the size of our spaces in the Boulanger Plaza parking lot. The driveway slope, as I mentioned, we need a variance for that because we're 1 percent, only 12. We need a variance for having a driveway in the side yard and that is because this is the only place for the driveway. We couldn't put it under the building or through the building without tearing down the first floor. It's very common to have driveways in the side yard.

We also need a variance for not having the 3 percent, 30 feet from the property line. But we do have 5.6 feet at 3 percent and the sidewalk is 14.4. You add that up, it's about 20 feet so we have effectively a car length at 3 percent at the top of the ramp.

I believe I have mentioned all the variances. I wanted to have Michael Mastrogiacous talk specifically about his study of the safety issues related to the driveway. He's here with us tonight, and I think this is important because we have spent a lot of time with him and Hahn

Engineering to try to come up with the best scheme for this site related to traffic flow and safety. Michael, would you like to speak?

**Michael Mastrogiacous, civil engineer:** As Christina stated, we did a lot of work together with Hahn Engineering and with Christina to lay out the driveway. We were able to achieve a 13 percent slope in lieu (ph) of a 15 percent slope. So that extra 2 percent actually gives us a better climbing and visual distance coming up the driveway as a vehicle moves up. As we come to Warburton Avenue we come down to the 3 percent. And by moving the building back, now we've increased our site distance, creating a safer exiting and entering of the property by vehicles.

With the addition of the site safety features as far as mirrors, visible alarms, things of that nature it's a very safe design. We don't see any potential of any accidents happening or anything like that. I think we've worked hard and come up with a very, very good design.

**Chairman Collins:** Can you speak to the issue – I think, in your exchange, your correspondence – with the Village Engineer specifically relating to the driveway width? And what have you decided between ... of the two options Hahn recommended, which of the two are you going with? Or are you going with something else?

**Mr. Mastrogiacous:** We're going with the 12-foot wide driveway.

**Chairman Collins:** OK.

**Mr. Mastrogiacous:** That is more than enough comfortable for a car to come up and down the driveway.

**Chairman Collins:** But not at the same time though.

**Mr. Mastrogiacous:** No, not at the same time.

**Chairman Collins:** OK. So Hahn mentions that though there have been instances where we have similar dimensions, he's not terribly specific but he writes that the police department shared that there were no reported accidents involving vehicles exiting or entering the driveways at those addresses. However, there were numerous accidents in front of those addresses as well as numerous complaints of driveways being blocked at those addresses. So can you speak to your plan to mitigate the concerns that are raised in the letter?

**Mr. Mastrogiacous:** Well, at the street line we do have a 16-foot wide driveway opening, two cars can be at the opening. So that creates a safer area. There may be other instances

where they've seen accidents at the street where the driveway's a little narrow; maybe they maintained the 12-foot driveway or the 14-foot, now you have an instance where you have one car blocking and another car can't get in. Our situation, we actually have 16 feet so we have a spot for two cars to be side-by-side for the first 20 feet. Basically, two cars can sit there, and then as one car exits the car entering can go down the driveway safely.

**Chairman Collins:** OK.

**Ms. Griffin:** Also, I wanted to show you this chart that we put up: examples, in the neighborhood, of driveway width. I could even pass that out. We did this for the Planning Board to find out what we have in the neighborhood. This is a list of one, two, three, four, five, six properties that have driveways that are 12 feet or less. They are for anywhere from three to six units. I actually personally went to each one to take a look at it and one of them did have these sensor devices: the townhouses just after the bridge. We are planning to do these sensors that will indicate whether a car's coming up and also mirrors to help people see pedestrians.

**Building Inspector Minozzi:** Now, I gave the police a copy of this list and this is the list of the addresses they did check for us that were mentioned in that memo.

**Chairman Collins:** Mm-hmm, right. Well, I think the police raise a valid concern: that there are accidents that aren't involved directly with exiting and entering. They are seeing a spike of accidents in front of the property, and they could be ...

**Building Inspector Minozzi:** No, it wasn't a spike. It's just accidents ...

**Chairman Collins:** Well, those are my words. It says there were numerous accidents in front of those addresses so I'll stick with what the police have said.

**Building Inspector Minozzi:** Yes.

**Chairman Collins:** My concern, without knowing it – and maybe you can take me through it because this speaks to my biggest concern about the project overall – you've alluded to a couple instances about sensors and mirrors. I think what distinguishes this property from those you list, I suspect, is the length of your driveway and the grade over which that driveway unfolds. It's a longer deed restriction over a relatively steep grade. I mean, you've done a nice job of reducing it.

What's to prevent a scenario where you have one car that's on they way down that drive and another ones that's then exiting at the same time? How are you planning to regulate that?

**Mr. Mastrogiacous:** You mean if you have one car entering and one car coming up.

**Chairman Collins:** Yes, imagine a scenario of a car's heading south down Warburton, makes a right to turn in ...

**Mr. Mastrogiacous:** OK.

**Chairman Collins:** ... and then another car is now coming up that driveway, heading to the east. You've mentioned sensors and mirrors, so I'm just trying to get a sense of how it works.

**Mr. Mastrogiacous:** Well, the traffic flow ... as you enter into the property, the directions say you turn right into the property. The curbcut is wide enough where when you turn in you have a clear line of sight down the driveway. You will see a vehicle coming up. So you have an instance to stop, allow that car to come by, and you could go down ... even forget about the mirrors and the sensors. Sorry, I'm without a microphone right now.

**Chairman Collins:** We've got one right here for you.

**Building Inspector Minozzi:** There you go.

**Mr. Mastrogiacous:** Thank you. OK, so as you come into the property this area here is big enough for a car to stop. It's not like you're going to be facing here and you don't see around the building. You can clearly see a car coming up, and it's not like you're going to be going down 40 miles an hour or 30 miles an hour. You're going to be going 10 ... well, yeah, we hope – 10, 15 miles an hour because you're entering in. Now you're slowing down so you're going probably about 10 miles an hour if you turn in. Somebody coming out, they're going to be going about the same – 10, 15, 20 tops. You'll see them. You'll know to stop and they'll come up outside of these sensors going off that there's somebody coming in both directions.

**Chairman Collins:** So the sensor that's to the west, that then lights up to notify cars in the parking facility that there's a vehicle coming down.

**Mr. Mastrogiacous:** Correct.

**Chairman Collins:** And it triggers at what point? What triggers the sensor?

**Mr. Mastrogiacous:** Well, there's a motion sensor on the building. I'd have to look at it. It'll probably be as soon as you start tuning into the property. We'd have to pick up the

sensor somewhere here. We don't want to pick it up where somebody's walking across – it's going to be going off every two seconds. But it'll be at a certain distance and a certain angle to pick up the car here, then it'll start lighting up.

**Chairman Collins:** OK.

**Mr. Mastrogiacous:** At the same time, if somebody does start coming up this light will start going off. So as you're coming in, you see that light going off, you'll know to slow down and wait – that somebody else is coming – and that's another notification.

**Chairman Collins:** And it'll be visible to north and south traffic.

**Mr. Mastrogiacous:** Correct, correct.

**Boardmember Hayes:** Can I ask, the car, when it stops, is the entirety of the car in the driveway past the sidewalk and the road? Or is it half on the sidewalk, half on the driveway?

**Mr. Mastrogiacous:** The sight distance was computed with pretty much most of the car being – I'd say, about 80 percent of the car being – on the property.

**Chairman Collins:** On the driveway or on the ...

**Mr. Mastrogiacous:** On the driveway.

**Boardmember Hayes:** Not on the sidewalk.

**Mr. Mastrogiacous:** Not on the sidewalk. The bumper would probably be on the sidewalk, but you still have a large enough area where people are going by. And as you're coming up you'll see clearly if somebody's walking by.

**Boardmember Dovell:** Where's the transition zone? That's at 3 percent? Where is that line?

**Mr. Mastrogiacous:** The threshold is right here.

**Boardmember Dovell:** So your rear wheels are on the 15 percent and the front wheels are on the 3 percent. Have you looked at the sight lines – the driver's sight lines – looking up?

**Mr. Mastrogiacous:** Yes.



**Boardmember Dovell:** Because looking over the hood of a car is a different matter.

**Mr. Mastrogiacous:** No, we've analyzed every situation and we still feel it's ...

**Boardmember Anuszkiewicz:** If you were coming up, why would you stop at that point?

**Mr. Mastrogiacous:** This is where the county tells us we have to design the sight line to.

**Boardmember Anuszkiewicz:** I understand.

**Mr. Mastrogiacous:** There's a certain distance back and a certain position in the vehicle.

**Boardmember Anuszkiewicz:** But if I'm driving up the ramp, what would cause me to stop at that spot?

**Mr. Mastrogiacous:** Stop sign.

**Village Attorney Whitehead:** Put a stop: "Look For Pedestrians"

**Boardmember Anuszkiewicz:** Is there is a stop sign? For one thing, I wouldn't be able to really stop there and be able to tell whether or not I could go out to Warburton Avenue because my view would be blocked by the vehicles. I'd have to actually pull a little bit further out, right?

**Mr. Mastrogiacous:** Well, yes, but you have to slow down in order to see who's walking up in that sidewalk before you could pull forward and see who's coming up or down.

**Boardmember Anuszkiewicz:** My point is, I don't think anybody's going to stop where you're showing it there because they can't see where they're going, which is Warburton Avenue. Unless you had a gate or a stop sign, then they would maybe stop.

**Mr. Mastrogiacous:** We could always put a stop sign there. That's not a ...

**Boardmember Anuszkiewicz:** Well, we talked about that last time that you said you would put a stop sign there. That's still not there, and it still looks like an unsafe condition to me.

**Mr. Mastrogiacous:** No, this is ... we've gone through this rigorously with the consultant. This is a very, very safe design.

**Boardmember Dovell:** Pulling the building back, previously the building was right on the lot line.

**Mr. Mastrogiacous:** Right on the property, correct. We pulled it back.

**Boardmember Dovell:** And that exacerbated that situation. By pulling it back it's alleviated a little bit, right?

**Mr. Mastrogiacous:** Yes. Now it's created a better sight line issue.

**Boardmember Dovell:** Well, let's just say if you're a pedestrian I'm more concerned about pedestrians on the sidewalk. You know, where are you ... how are you addressing that? You're coming up and you're stopping at that point because that's the point at which you can see in both directions.

**Mr. Mastrogiacous:** Correct.

**Boardmember Dovell:** So your bumper is over the edge of ...

**Boardmember Anuszkiewicz:** It's in the sidewalk.

**Boardmember Dovell:** Right, it's on the sidewalk at that point.

**Chairman Collins:** Do you have a way of signaling to pedestrians before the car shows up? Do you have a plan to signal to the pedestrian that a vehicle is approaching?

**Mr. Mastrogiacous:** Somebody walking down, once you get closer the car's going to see and they're going to stop. You're going to see each other. I mean, we put sensors all around the building. That doesn't mean somebody's going to pay attention to the sensor.

**Boardmember Anuszkiewicz:** I think what we're saying is what we said to you last time. It doesn't appear to us to be a safe condition. And in light of that, I feel the 5-foot setback that you've ... I mean ... before there was no setback and we talked about how that was very dangerous. Now you've pulled it back to 5 feet which maybe addresses that a little bit, but in my view it's not enough. I think this project should be back at 10 feet because I think it's still a dangerous situation and you still need to do everything you physically can do to make it safe. Including pulling that building back another 5 feet.

**Mr. Mastrogiacous:** Well, let me do this. If we pulled it back another 5 feet it's still the same situation.

**Boardmember Anuszkiewicz:** But there's more visibility. There's more visibility for the pedestrian.

**Mr. Mastrogiaous:** It would be the same situation. You're going to be asking me, well, how to people know there's somebody speeding up the driveway.

**Boardmember Anuszkiewicz:** But they would have more of a chance to see it. That's the difference.

**Mr. Mastrogiaous:** I disagree with you. With all the codes – state codes, county codes – this is ...

**Boardmember Anuszkiewicz:** I'm not talking about codes. I'm talking about the people who live in this neighborhood. There's a coffee shop with a lot of pedestrian traffic directly to the south that's your neighbor. There's a bus stop right in front of this building where schoolchildren are queuing up every morning and every afternoon. This is an incredibly busy part of Warburton Avenue. You just heard that there's a lot of accidents on this stretch of Warburton Avenue.

At 8, 9 o'clock in the morning this is incredibly busy. And I think, therefore, if you want the variances you're requesting for this project – which are extensive – you need to do everything you possibly can to make that safe.

**Mr. Mastrogiaous:** And I respectfully disagree with your statement because that's what we've designed. Otherwise I wouldn't be able to put it on paper and put my seal and signature to it.

**Chairman Collins:** Well, I think there are a couple ways to resolve this that don't require changing where the lot line is. To me, it gets to you've clearly thought through a sensor and signaling for vehicular traffic. And it doesn't seem like a stretch too far from that to have something that is just as user-friendly to a pedestrian. Let's assume a scenario where you've got – as is often the case – distracted pedestrian, distracted driver in that neck of the woods. Is there something you can see here that's possible to offer a signal? Either the same signal and sensing (ph) system you use for vehicles that is made more obvious for pedestrians, or something that is just for pedestrian traffic?

**Mr. Mastrogiaous:** Well, I thought about putting an audible ... but now you have something else that's going off which might upset the neighbors to hear this beep like how

you have at a crosswalk. Now you're going to have your neighbors coming up and saying why did you approve this, it's driving me crazy every five minutes as a car comes up and you hear that beep, beep, beep.

**Chairman Collins:** Sure. So let's assume then ...

**Mr. Mastrogiacous:** In the morning and in the evening, would you like to be the person living next door hearing that go off?

**Chairman Collins:** I'll just say this. All the options we're going to talk about have some degree of imperfection, right?

**Mr. Mastrogiacous:** Correct.

**Chairman Collins:** So if you're blind having a visual sensor's not going to be much help to you.

**Mr. Mastrogiacous:** Right.

**Chairman Collins:** A beep would actually be a useful thing. So everything we talk about tonight's going to have some degree of imperfection.

**Mr. Mastrogiacous:** Correct.

**Chairman Collins:** What about something that is visual? Something that signals like a crosswalk. Is there some kind of crosswalk signaling that you could ...

**Village Attorney Whitehead:** Can pedestrians see that light?

**Boardmember Hayes:** I was going to say you can do a gate like you have at toll booths. I mean, I don't know if that's what we want in our town, but if we think it's dangerous and you want to prevent pedestrians then do what you have at toll booths and bridges, at least in the old days – they don't have it as often anymore – and you have a gate that comes down similar to a railroad crossing. Now, do we want the railroad crossing on Warburton in Hastings-on-Hudson? That's a different debate.

**Boardmember Anuszkiewicz:** It could be decorative, too.

**Boardmember Hayes:** You could have something like they do on Wall Street, where when a car comes up big buttresses come up. In fact, I know the person who makes all of those.

They're expensive. I'm not sure they're in keeping with the theme of the Village. And I'm saying this a little bit because I think we're going to go down a path that's going to end up having something we don't really want in the Village. In other words, I'm not sure – and I said this the last time we talked about this project – that we want to put a midtown Manhattan solution in the Village of Hastings-on-Hudson.

**Village Attorney Whitehead:** Remember, this is only three units.

**Boardmember Hayes:** I'm not talking about the size. That's not what I'm talking about. We are talking about a safety condition and how to mitigate the risk. My question, I guess, is how far are we willing to go to mitigate the risk, given the impact on what the Village will look like when the next one goes up that has a railroad crossing gate and the next one that goes up that has a railroad crossing gate. Now, what does Hastings look like?

**Chairman Collins:** Well, my answer to that is I would be satisfied with the equivalent of a crosswalk indicator, something along those lines. I would not advocate for a barrier because it feels like that can create other issues in itself besides the aesthetic.

**Boardmember Hayes:** That's true.

**Chairman Collins:** But as long as you're creating something that is meant for pedestrian, set for pedestrian eyes for pedestrians to see, then I will be satisfied that we've done ...

**Boardmember Hayes:** Then I'll ask a question I don't know the answer to. Is there anywhere else in the Village where we have done for a specific building other than a firehouse or a police station or other municipal building? Have we done it for a private residential development, put in a crosswalk? I don't know the answer to that. I'm asking.

**Boardmember Dovell:** What do you mean by "crosswalk?"

**Boardmember Hayes:** I think it's what Matt said, a crosswalk. Which I assume means some sort of (cross-talk) ...

**Chairman Collins:** No, a light of the kind you would see in a crosswalk.

**Boardmember Hayes:** Yes, a red-light, green-light type thing, and maybe a zebra crossing.

**Village Attorney Whitehead:** You don't get a zebra crossing.

**Chairman Collins:** I'm responding to what I think are very unique topographical circumstances that call for at least some discussion around what could possibly go wrong here. I think I'm with Adam that there's a lot that can go wrong here.

**Boardmember Hayes:** I agree.

**Chairman Collins:** And I think we can also solve for this in a way that doesn't send us down a path of turning Warburton into, you know, 37th Street.

**Mr. Mastrogiacous:** I mean, this light feature's at the corner so people walking in either direction is going to see that light go off.

**Chairman Collins:** Is it just a light, a red light?

**Mr. Mastrogiacous:** If you want it to be audible, as long as you don't start getting (inaudible). Then it goes back to what we just said: no matter what we do we're never going to ... you know ...

**Chairman Collins:** Again, I'm not on the audible thing. But I'm just saying could it say "don't walk" or "walk." I mean, a very simple thing.

**Mr. Mastrogiacous:** Again, somebody looking at their phone is not going to see that.

**Chairman Collins:** No, but you have ...

**Mr. Mastrogiacous:** A light flashing will kind of wake you up.

**Chairman Collins:** Yes, and if someone has earbuds in and can't hear a beep, I get that.

**Mr. Mastrogiacous:** Right.

**Chairman Collins:** But I think we would agree that taking some measures to communicate that there's a possibly of cars in the sidewalk is better than leaving it alone.

**Boardmember Anuskiewicz:** Matt, to that point I would say, first of all, like I said I would pull the building back another 5 feet to double the amount of view from the driver coming up the driveway before he has a full view. Then you would put a fence on the property line that's automatic, with a garage door opener in your car. You'd come up, you'd stop. First of all, you got to stop because you can't drive through a fence. You'd be looking,

you'd hit the button on the gate, and the gate would open. You'd see it was clear, then you would proceed.

**Mr. Mastrogiacous:** But here's the issue with that. If you have a fence along that front property line that's an obstruction of the sight distance because you're at the lower grade. This fence is only going to be about that high at that point.

**Boardmember Anuszkiewicz:** Well, without a fence in front of us to talk about I don't know if that's relevant. But there are open fences and there are closed fences. I'm talking about a physical barrier. I'm trying to answer Matt's question. I mean, the fact is that the zoning in Hastings doesn't allow this and you're asking for us to make variances to it to allow this. We're having a hard time with it. This is the third time we've reviewed this project, and we've said these things before. I don't see evidence here that it's any safety.

You've pushed it back 5 feet, which I think helps. But I'm not convinced – and I can't speak for everybody on this board, but I'm not convinced – that you've done everything you can to make that safe. I do think you should pull that building back 10 feet off the property line the way the code is written right now.

**Ms. Griffin:** I'd like to jump in.

**Chairman Collins:** Yes, go ahead.

**Ms. Griffin:** We've been working on this project for ... we started this a year ago, and we've been to nine Planning Board meetings. We have not taken any of these decisions lightly and have not rushed into them. We have looked at a 16-foot versus 18-foot wide driveway versus a 12-foot driveway. We have looked at these options. I have done a lot of research, and I know I can find a little miniature traffic light there for pedestrians to see. But if you go down this area there are so many driveways just like this, some for up to eight units.

**Boardmember Anuszkiewicz:** Not all with a coffee shop right there.

**Ms. Griffin:** Yes, right next to Antoinette's is a driveway.

**Boardmember Anuszkiewicz:** Not all right in front of a school bus stop. Not all of Warburton Avenue is as densely polluted as this either. If you head south you start to run into two-family homes that are separated from each other physically. Right in this area you have an apartment building – two apartment buildings. There's one of affordable housing units and then the other one on the south side of Division Street. This is the most complex

and tight part of Warburton Avenue. And I respect that you've been working on this for a long time. But it's not convincing us.

**Ms. Griffin:** Well, you know, I also lived at 433. I know the area really well. You know, if you look at the traffic report the accidents are on the street, not in front of the driveways. But all that activity isn't in front of this particular building. There is generally activity up and down the street. But I don't see a single traffic device on any of those driveways, and this one is only for three units. There are three units there now.

We are trying to provide parking – very important – which is getting cars off the street and making these better units. We need a driveway. We looked at 16 feet wide. The problem with that is, we would need another variance because we wouldn't have the 5-foot buffer. Plus, the house next door is right next to the property line so we wanted that green buffer. We see so many driveways that work with the one-way driveway.

I just want to point out that the slope of this driveway is 13 percent. We looked at neighboring driveways and we couldn't find one less than 16 percent in the area. I mean, there's so many that are very steep. This is not a steep driveway so it's not like you're going down and you can't see the car below because it's so steep. This is a very gentle slope.

**Chairman Collins:** So, Christina, you're saying this is safe as is. You're not concerned about pedestrian safety here?

**Ms. Griffin:** No, I'm not. I think it's a personal responsibility. Why are the other driveways – there's one on the south side of Antoinette's. Why is that unsafe? I think that's going down to how many units.

**Chairman Collins:** Which one? Can you point to it? Do you have it on your map?

**Ms. Griffin:** The left side of Antoinette's?

**Chairman Collins:** Do you have it on your map?

**Ms. Griffin:** Yes.

**Village Attorney Whitehead:** Nineteen, twenty?

**Ms. Griffin:** Nineteen; see this one right there?

**Chairman Collins:** Mm-hmm.



**Ms. Griffin:** Right there. How many units are in 20?

**Village Attorney Whitehead:** 415 Warburton.

**Boardmember Anuszkiewicz:** Well, I don't know if that driveway provides all the parking for those units though, does it?

**Ms. Griffin:** It does.

**Building Inspector Minozzi:** I don't know how many parking spaces are back there. I've never counted.

**Boardmember Anuszkiewicz:** It would be good to know.

**Ms. Griffin:** There's a parking lot in the back.

**Boardmember Anuszkiewicz:** Since it's right next to your site, it would be good to know that.

**Ms. Griffin:** There are four apartments back there.

**Village Attorney Whitehead:** And it's 8-1/2 feet.

**Boardmember Anuszkiewicz:** Well, we don't know how many cars are parked in there.

**Boardmember Forbes-Watkins:** I'm sorry, I have to interject. Christina, I'm really puzzled by your attitude towards pedestrians. I live at 45 Main Street, OK, and I come down Whitman in a car. If I weren't terribly, terribly scared of the stupidity of the pedestrians coming across, walking up Main Street, I'd be hitting somebody about every other week. People don't think when they walk across streets, and if it's a driveway they even think less. It's just stupidity, but it's true. Your attitude of, oh, it's nothing is completely wrong. I'm sorry.

**Ms. Griffin:** I'm sorry. Of course I care about safety. I just don't know, and I think we can consider a gate and a safety device. I don't want to give you the wrong impression because I've been in this village, I care a lot about the Village and I care a lot about safety. I'm sorry if you got that impression, but I just don't know how much we can do about that. If we feel that in this particular place we need to do something more than what's ever been done before I think we're open to it.

I started to talk about my research. You can get a miniature traffic light there, and if we all believe that's important I think we can definitely bring that into the project. I don't think we need one of those bars that go up and down, but we can do an attractive gate that is run by sensors or controls. I think if we feel that's important we can definitely bring this into the project and I'm sorry for that impression.

**Chairman Collins:** No, thank you for being open to it. I think you're certainly sensing where this board is zooming in. Though I think there will be some debate on the Board about what would satisfy the concerns about pedestrian safety, I think the pedestrian safety issue is issue number one.

You mentioned a moment ago a consultant that has weighed in on this project – did I hear that correctly – when it comes to safety?

**Mr. Mastrogiacous:** I've been talking to your consultant, Hahn Engineering. We've been discussing this all day and he never brought up anything about ... from my understanding in my discussions with him I felt he was OK with the slope of the driveway, the width of the driveway, and any exiting and entering of vehicles with respect to pedestrian and vehicular traffic.

**Chairman Collins:** I think he's silent on the issue in his letter. I don't remember him bringing it up.

**Village Attorney Whitehead:** Generally what he brings up are things where he has a concern. He didn't bring it up.

**Boardmember Anuszkiewicz:** I want to go back to the issue of the setback, not in relation to the parking at the moment. The 10-foot setback in your application – or in your letter to us – you say the reason for your request is to reduce the impact on views from neighboring properties uphill to the east. I think you probably remember that when we spoke to you about this last time there were people on the Board who felt that was the tail wagging the dog. And while the view of people who live a couple blocks away, up the hill, was relevant, it was not something we thought would be the guiding reason for why this building should be asking for a variance from the 10-foot setback.

I'd like you to address that, and I'd like you to actually maybe ... maybe you could refer to these photographs. I have to admit, when I reviewed them and I'm looking at the photographs, they don't really illustrate to me much view lost from these positions. We still

feel that, in any event, that shouldn't be an overriding issue here. But maybe you could explain why you feel it's so important.

**Ms. Griffin:** This is the one variance we're asking for because of view preservation. We had quite a few neighbors – probably about five of them – come to meetings. A lot of those meetings were about view. To satisfy the neighbors we decided we have to leave the wall on the back of the building where the existing wall is now, and that we wouldn't raise the roof any higher than it is. Given that constraint, we were not able to get reasonable-sized units to work – and I can show you the layout of that – without bringing the building forward.

We looked at bringing the building backwards, but we actually had a layout where we had the building pushed backward more but found when people looked down at the building it would reduce their view of the Palisades and the river. We've actually made a lot of changes to these plans, and finally came to an agreement with the neighbors that the wall in the back would have to stay. If look at our layouts, this is, I think, where we are now. In order to get this to work, with our living spaces in the back, we also have an elevator that goes to each level which takes up some space. We felt we could not make a reasonable-sized unit work without having the building come into the front yard setback.

The change we made is, we reduced the building by 627 square feet and made the units tighter, as tight as we could, for three-bedrooms. I also want to point out, we had a lot of discussions with the Planning Board to make sure that the elevator went to each unit so there'd be incentive for residents to go down into the garage and not park on the street because they'd be able to enter the building and use the elevator to go up to each unit. If we lose another 5 feet, then I think it's impossible to make these units work.

**Boardmember Dovell:** What if you simply left the layout alone and just slid it back, Christina? What is the consequence of that?

**Ms. Griffin:** Suzanne, do you have the sight lines? I'll show you in a minute.

I'm not sure if that shows it, but this is where the building is currently, the old building. And, in fact, the old building, I believe ... is that correct, Suzanne, goes right up to the property line? The existing building's on the property line and ends here. If you brought this back, we've done this exercise. I don't know if I can explain it here because we did not bring the view preservation. The further back you go with the back corner of the building the more it reduces your sight line of the Palisades.

**Boardmember Dovell:** Understood, but set that aside for a moment. What are the other practical consequences of doing that? Is that the only consequence?

**Ms. Griffin:** Yes, there is a very big concern of reduction of property values because when you lose your view it affects property values. So it was a very serious debate.

**Boardmember Anuszkiewicz:** I just want to follow up on that because in the photos – for example, from the 13 Division Street porch – this building doesn't block the Palisades at all. I guess it potentially blocks a seasonal view of some water, but then there's plenty of other water you can see here. This does not support your request for this variance as it's written in your letter. I think where Ray's going is that maybe the reason you need the variance is because you can't fit the bulk you're trying to get on the site.

**Boardmember Dovell:** My question was, leave the bulk exactly the way it is and just slide the whole thing back. Are there any other practical consequences?

**Ms. Griffin:** Other than view, no.

**Boardmember Dovell:** Other than view there is none. Do you have any leeway in floor-to-ceiling heights anywhere? The cornice is going to be the issue, so it's going to be the back end of the building.

**Ms. Griffin:** The back end. You know, we've done this exercise. If you keep squeezing it, if we tangle these sight lines looking back, I don't know how to go back on that because we had worked with the neighbors and they were very concerned about this. That's why we decided to bring the building forward. The project's not feasible financially now if we want to build a garage to get the parking. You have to do a certain amount of units to make that work. There are three units now. They are smaller for us.

**Boardmember Anuszkiewicz:** Again, I don't see that it impacts the view. You don't show us like the view with the building in three different spots. I don't even know where the building's located vis-à-vis the front yard setback on that illustration. I think as far as the neighbors who maybe have been meeting in working sessions with the Planning Board and you to discuss view preservation, they're all noticed on this meeting. This is where we vote on this and where we grant this. So if it's important to them I would assume they're here.

**Chairman Collins:** How many of the other properties nearby are 10 feet back?

**Ms. Griffin:** I think we have a study of that.

**Chairman Collins:** I remember you did have a study of it, I just don't remember what the outcome was.

**Ms. Griffin:** This is a study of ... well, it was a study of just zero lot line of the front yard. Forty-two percent of the properties on this list of 38 properties in the MR-O zone have a zero front yard lot line. I guess you can just look at the shapes up there, the buildings, and you can see that a little less of than half of them are on their property line. Then most of them are just, I would say, up to 5 feet or so back.

**Chairman Collins:** OK.

**Ms. Griffin:** I don't have the information right now, but if you look roughly at the scale of that – because a lot of those lots are 25 feet wide – I would say I see 11, 10 and 9 Warburton looks like about 5-foot setbacks. Then 20 through 23 look about 4 or 5 feet.

**Chairman Collins:** OK. That squares with my expectation.

I guess I would need some convincing maybe from you, Adam, that if we ... let's just imagine we asked them to move this building back to 10 feet. How are we still not talking about resolving the safety issue, or still having some safety solution in place? Because at some point a vehicle's still going to crest onto the driveway. You can't see Warburton any sooner than that. I mean, you can move it back but it's not going to help them see Warburton any sooner.

**Boardmember Dovell:** Yes, it is.

**Boardmember Anuszkiewicz:** Of course it is.

**Boardmember Hayes:** Sure it is.

**Chairman Collins:** How?

**Boardmember Dovell:** Of course it is. You're pushing that point illustrated on his diagram further back so you're going to be able to see before the car crosses the lot line.

**Mr. Mastrogiacous:** No, that point has to be 7 feet off the property line.

**Boardmember Dovell:** But if the building is pushed back, when the car is at the lot line you have a greater visibility.

**Chairman Collins:** Not of Warburton you don't.

**Boardmember Hayes:** We're talking about the pedestrians.

**Boardmember Dovell:** I'm only talking about pedestrians. That's what I'm trying to do.

**Boardmember Anuszkiewicz:** If you have zero setback when you're pulling up you can't see anything until your windshield passes that line.

**Chairman Collins:** Well, that's because you're right on the driveway.

**Boardmember Anuszkiewicz:** You have zero setback.

**Chairman Collins:** You're right on the sight line.

**Boardmember Anuszkiewicz:** If you go back 10 feet then you get that view 10 feet before that. You've got 10 feet more of space between you and the side.

**Mr. Mastrogiacous:** That's just for pedestrians.

**Boardmember Dovell:** That's what we're talking about.

**Mr. Mastrogiacous:** I was doing sight distances on four vehicles on Warburton Avenue.

**Boardmember Dovell:** I believe pedestrians are the biggest issue, and it is really crowded over there with a lot of high school kids. It's a concern.

**Chairman Collins:** You guys have got it figured out and I haven't, but if you move this thing back another 5 feet I guess what I'm struggling to see is how does it change the angle.

**Boardmember Anuszkiewicz:** Look at the diagram. You see the arrows here coming from the car. He's got two arrows that define the view angle from the front seat of a car. Can you see that?

**Chairman Collins:** I just see arrows going straight forward.

**Boardmember Anuszkiewicz:** It angles out. Can you point to the view? That line and that line he's taken, right from the first point you'll be able to see to the south. If he backs that car up another 5 feet, that line – can you run your finger over the line on the south, the view line? No, the other one. That line now is further back. It won't cross the property line until further south, but you'll be picking up all that additional view.

**Chairman Collins:** But the elevation'll be down.

**Boardmember Anuszkiewicz:** That is something that has to be designed.

**Chairman Collins:** That's what I'm saying.

**Mr. Mastrogiacous:** This point is a fixated point, by code. It doesn't matter where this corner is building in. It could be back here. This is the point that's designed, not back here. Just because you move the building back doesn't mean you moved the design point back. This end point is fixated off the front property line.

**Boardmember Dovell:** But you have visibility on the sidewalk. The driver in that car will have greater visibility on the sidewalk, looking at pedestrians.

**Mr. Mastrogiacous:** Correct.

**Chairman Collins:** That assumes, though, that the level is the same does it not? If it's back, but down so you're below the grade for ...

**Boardmember Dovell:** The grade for the cars is going to be canted up a little higher, you're right.

**Chairman Collins:** It's not just a matter of moving it to the west because also it's moving down. This is my point: I'm reluctant to have them go back and solve for this if they come back and show this and, in fact, the sight lines haven't improved because now, instead of the car being back on the same grade, it's back and down and you're not able to see very much further.

**Mr. Mastrogiacous:** I think I have the solution. I don't mean to interrupt, but what we can do is have a camera mounted on the building looking both directions with a monitor as you're coming up. The sensor will go off, you can see in the monitor if pedestrians are coming up and down to stop the person coming up. That way it allows pedestrians to go by. That's how we could eliminate any possible interference with pedestrians going up and down the street.

**Boardmember Anuszkiewicz:** I guess that would be up to you.

**Mr. Mastrogiacous:** I think that's a happy medium.

**Boardmember Anuszkiewicz:** I will not support this with a 5-foot setback. I don't think the view preservation argument is valid, I am extremely concerned with the safety of

pedestrians, and I don't think we should be granting a variance from the front yard setback for a building of this size with the driveway like that at this location. So I won't support it. I can't speak for the rest of you, but that will not convince me.

**Boardmember Dovell:** I'm not troubled with the setback. I think it's in keeping with the character of the neighborhood. But I am concerned about the view of the car onto the sidewalk. I think that setback is an accommodation. The buildings on Warburton are, some on the lot line, some are pushed back. I'm less troubled by that. I think the only issue I have with this application is simply the kids on the sidewalk. And the fact that that bumper, in this diagram, is over the lot line where someone could be walking, where you have visibility.

**Mr. Mastrogiacous:** But that's per code.

**Boardmember Dovell:** I understand that, but there could be ...

**Mr. Mastrogiacous:** There's a certain buffer that you're allowed.

**Boardmember Dovell:** I understand. But if you go in and out of a parking lot in the city where buildings are on the lot line it's terrifying getting out because you're constantly in fear of ...

**Mr. Mastrogiacous:** But those drivers are at a 20 percent slope.

**Boardmember Dovell:** No, they're not.

**Mr. Mastrogiacous:** Their lot's steeper than this.

**Boardmember Dovell:** There's a transition zone on all those parking lots. I design them, I know how they work. There's a transition zone where you have the front wheels on it and not the back wheels. So I know how these things work.

**Mr. Mastrogiacous:** Every parking lot I came out in the city I was always nose out of the ground.

**Boardmember Dovell:** They weren't done properly. There was a transition zone required. This has got a little one with just your front wheels on it. But beside that, the only issue I have with the setback the way it's drawn right now is I'm not convinced about pedestrian safety. If that can be addressed I personally am OK with the setback at 5 feet. I think there is some neighborhood character issue and it's in keeping. That's my only concern.



**Mr. Mastrogiacous:** Like I said, we could set up a ...

**Village Attorney Whitehead:** Would the camera they just mentioned address ...

**Mr. Mastrogiacous:** You have the camera with a visual aid letting the vehicle know somebody's coming. They monitor. That way the driver will see that there's kids or pedestrians coming.

**Boardmember Anuszkiewicz:** Again, where the car is shown on that diagram is not where it's stopping.

**Boardmember Dovell:** No, of course not.

**Boardmember Anuszkiewicz:** That's a moving car, that's the first point where you have the view.

**Boardmember Dovell:** Right.

**Boardmember Anuszkiewicz:** I think that needs to be moved back as far as possible, and 10 feet is where our code sets it and I think that's where it should stay.

**Chairman Collins:** It's just that if you move that back, Adam, you're moving it down. You're doing it below grade.

**Boardmember Anuszkiewicz:** That's the only way I can see that you can improve the situation.

**Chairman Collins:** What I'm saying is, I don't know that it gets you the result you're hoping for. Because if you're further down ...

**Boardmember Anuszkiewicz:** Well, Matt, then you have decide for yourself if you can support this. But it's a safer situation than what's being presented right here. What other solution do you have that would make what they're showing any safer?

**Chairman Collins:** Well, while I'm sensitive to what you're saying about the pedestrian issue, I think the solution they're proposing makes me feel pretty good that they've got something that works. If they've got cameras and eyes on the sidewalk and who's coming ... by the way, that camera's going to provide a much better view and a better angle than anything you would achieve moving it back by 10 feet. Unless you have a solution for, as Ray put it, a "transition level" – which we can talk about and maybe require if we want to go

in that direction – I don't think you're going to get the benefit you're hoping for because I think this car is going to be significantly below grade if you move it back another 5 feet.

**Boardmember Anuszkiewicz:** I don't think you can say that unless you can show that with a drawing.

**Mr. Mastrogiacous:** We could do one more.

**Boardmember Anuszkiewicz:** I think you're just thinking that maybe it's that way, and I don't think we should be voting on something that's not right in front of us, like that.

**Mr. Mastrogiacous:** On top of putting that camera, we could put a set of gates turning into the driveway. That'll definitely slow it down and make somebody stop. You have to wait for the gate to open, and ...

**Boardmember Anuszkiewicz:** Why don't you do all those things and push the building back another 5 feet? What is stopping you? I mean, we cannot figure out ...

(cross-talk)

**Mr. Mastrogiacous:** ... more of these safety devices. Pushing it back doesn't do anything. You're not gaining anything by ...

(cross-talk)

**Boardmember Anuszkiewicz:** Excuse me, I'm asking the architect, OK?

**Ms. Griffin:** (Off-mic).

**Building Inspector Minozzi:** Use that microphone, please.

**Ms. Griffin:** Maybe you could see some of the videos. I think maybe the neighbors aren't here because they know we decided not to push that wall back. That was a major issue, that was what took so many months. I met with the neighbors. That wall coming back another 5 feet, that's the only way we can get ...

(Cross-talk)

**Boardmember Anuszkiewicz:** How were you able to convince them that their view would be blocked? Did you show them a drawing?

**Ms. Griffin:** Yes.

**Boardmember Anuszkiewicz:** Which drawing? Is it one of these? Can you convince us the same way?

**Ms. Griffin:** No, because we're not showing you the building rendering. We had the back wall further back.

**Boardmember Anuszkiewicz:** But you're asking us to give you a variance based on that. If you're not showing it to us we can't know that. That's the problem, it's very difficult.

**Ms. Griffin:** We thought we solved that problem. Now we have to go backwards. The neighbors have actually asked me has the wall stayed where it is. It was a very big issue to them. You may not think ... if you look at the videos maybe that would be helpful. We thought we solved that problem, and I felt we had the Planning Board's support with that.

The view preservation is taken very seriously. We're talking about safety now, but the view preservation issue was ...

**Boardmember Anuszkiewicz:** I can assure you that if I was somebody whose view is being impacted by this and I was worried about it I'd be here tonight. I definitely would be, taking it that seriously. And maybe we'll hear from some of them.

**Village Attorney Whitehead:** They've been told that it wasn't moving back. There is one neighbor here.

**Chairman Collins:** Yes, we'll hear from neighbors when the time comes.

**Boardmember Forbes-Watkins:** I'm deeply concerned about counting on cameras. Cameras can be broken, cameras can fail to function, and when that happens it tends to take a long time for them to be fixed.

**Chairman Collins:** That would be true, though, of any contraption and not a gate.

**Boardmember Forbes-Watkins:** Yes, if you're counting on contraptions you're ...

**Boardmember Hayes:** If the gate stops working it gets fixed right away because people can't get out of the parking lot.

**Mr. Mastrogiacous:** Well, that's why I was saying a combination of both. Do a combination of both.

**Chairman Collins:** So you're proposing a gate, and camera?

**Mr. Mastrogiacous:** A gate and a camera.

**Chairman Collins:** In my mind, I'm satisfied that you've accomplished what I think you can reasonably accomplish. And, Adam, your point about not knowing what it would be like moving it back 10 feet goes both ways; we don't know, we don't know if it would make you happier and we don't know that if it ... we don't know either way because, to your point, we don't have that drawing in front of us.

**Mr. Mastrogiacous:** And it'll definitely bring the driveway back even steeper.

**Chairman Collins:** Yes, we just don't know how much. I mean, we're speculating, I'm speculating.

**Mr. Mastrogiacous:** (Inaudible) 15- to 16 percent on the driveway.

**Chairman Collins:** Right. If we had a gate are you feeling better about it? Are you opposed to a gate and ...

**Boardmember Forbes-Watkins:** No, I'm not opposed to them. I simply feel that we're asking for trouble with stuff that has to operate 24/7. It's gonna break; it's not gonna work all the time and we're counting on it to work all the time. Ain't gonna happen.

**Chairman Collins:** So that's a no.

**Boardmember Forbes-Watkins:** I think I'm not OK with it.

**Chairman Collins:** All right.

**Boardmember Anuszkiewicz:** You know, it's also an urban design issue from my view. And I don't believe that putting a building at this point, on Warburton Avenue, right up against the sidewalk is the right way to go from an urban design point of view. I believe – and this is just my opinion – that the building should have been designed as three townhomes 10 feet back from the street with gardens in front. That's what our code asks you to do. Not the townhome thing, but it does require a 10-foot setback.

So from an urban design point of view I also am not in favor ... we talked about this last time. Your moving a building of this size up to the property line is urbanizing this portion of Warburton Avenue. And this is a small village, this is not – as Sean pointed out – Manhattan or Yonkers or Brooklyn. And if we grant this variance and we start moving these buildings into this 10-foot setback along this section of Warburton Avenue we are fundamentally changing the character of Warburton Avenue.

**Ms. Griffin:** I'd like to explain a little bit about what we went through with the Planning Board. Our original design was three townhomes, and we did look at putting the building back further than it is. We brought it forward because of view, and the Planning Board did not accept the townhomes. Our client's goal was to have townhomes. We very reluctantly changed this because of the parking problem on the street. The Planning Board recommended we have an elevator so each resident would have incentive to go into the parking space and then use the elevator rather than parking on the street and going into their unit because that's what's happening in the affordable housing project.

We've been through many different designs and ended up with this one because this is like a Rubik's Cube, there's so many competing factors. We could've shown you all those drawings, but after all these months the Planning Board seemed to like the idea of having very little or no setback. It is consistent with the neighborhood, it doesn't affect views, and the apartment one on top of the other allows us to have that elevator access for each resident, from the parking area.

You know, I just want to remind the Board we're trying to bring parking to the building and you can't have parking without a driveway. You know, there are certain basics we're simply trying to give to this property that it doesn't have now; there's no parking at all for this building.

**Boardmember Anuszkiewicz:** How are you going to treat that 5-foot zone between the building and the property line?

**Ms. Griffin:** You know, if you go down Warburton Avenue you see these 5-foot gardens can be really charming. They're just little plant beds and ...

**Boardmember Anuszkiewicz:** They are. They're about half as charming as the 10-foot ones.

**Chairman Collins:** But if you move this thing back 10 feet I don't think that's in keeping with anything around there.

**Boardmember Anuszkiewicz:** Can you go back to the drawing you have that shows all of Warburton Avenue in green and yellow? Just directly to the south of this development there are those four townhomes that are apartments 20, 21, 22 and 23; those are all 10 feet back. If you go to the north you can see 9, 10, 11 and 13; those are all 10 feet back. And our code – again, I've said this before on this board – is not just about looking around and looking at what's here before and justifies a variance. There are other issues here the code is meant to protect. There are issues of ...

**Male Voice:** (Cross-talk).

**Boardmember Anuszkiewicz:** Can you wait 'til I finish before you jump in? There are other issues the code is meant to protect. They're meant to protect greenspace on the street, light, air, all these things. These things are important. It's not just about looking around and saying, Look, there's another building on the street so I'm going to put mine there. Pretty soon everybody does that, and then what's the purpose of having the code in the first place?

**Chairman Collins:** When there's a ...

**Village Attorney Whitehead:** When it comes to the granting of a variance, the standard the Board is supposed to apply is a balance of the benefit to the applicant versus the impact on the community. The first thing you're supposed to look at in the five factors is the impact on the character of the community and if it's in keeping with the character of the community. So it is something to be considered in considering granting a variance.

**Boardmember Anuszkiewicz:** Right. And the other thing you need to look at is whether or not it demonstrated they need the variance.

**Village Attorney Whitehead:** No, there's actually no requirement for need.

**Boardmember Anuszkiewicz:** They have not demonstrated, in my view, that they need this variance. They can build this building 10 feet back, they can still have the parking and it will be a safer issue on the street. So to me it's a win-win to have a 10-foot setback.

**Chairman Collins:** I think what you're saying – which I think is factually correct – is how do we minimize the variance. They don't have to ...

**Boardmember Anuszkiewicz:** If we grant the variance it's our obligation to minimize it.

**Chairman Collins:** But it's not that they haven't proved they need one. That's not a part of our test. The test is how do we help them accomplish what they want while, at the same time (cross-talk) ...

**Boardmember Anuszkiewicz:** They can build the building and have the parking without having this variance in the front so why are you granting it?

**Chairman Collins:** Again, I'm going by what I see as a character of the neighborhood issue and I'm going by what I see as a ... there are a combination of factors here that are going to create an imperfect outcome for somebody. Again, we haven't been a party to some of the earlier view preservation issues, but I believe they're real. I don't think the neighbors were protesting a figment. And we know that there's never a more sort of fervent meeting than when we've got an issue where a building is going to be taking up some of the Palisades and the river.

So we can have that, but I'm not convinced that moving it back 10 feet will solve the issue you're wanting to solve, which is right, which is pedestrian safety. I'm not convinced that that gets us closer to solving for that. And I would trade ... there's no question I would trade wanting pedestrian safety in favor of view preservation, but I'm just not convinced it's going to get us there. And I think what they've presented to resolve pedestrian safety satisfies my concern, understanding there's always a risk that some contraption will fail.

Let me just pause to ask the question. You were about to say something, I think, maybe about what structures here are set back.

**Mr. Mastrogiacous:** I was just saying that if this is 25 feet, this is not 10 foot; this is closer to 5 feet if you look at (off-mic). It's 25 feet (off-mic) this way; it's closer to 5 feet.

**Chairman Collins:** So what's 23, 22 and 21?

**Mr. Mastrogiacous:** Those are probably about 5 feet – 5, 6 feet.

**Boardmember Anuszkiewicz:** I don't think, for the record, that these numbers he's throwing around we can agree to.

**Chairman Collins:** OK, I'm just asking. They've studied this and they're saying it's about 5 feet. We can certainly ask; we can find that out. It's very knowable.

**Village Attorney Whitehead:** Christina, your chart there doesn't have that, right? It just has which ones use their own lot lines?

**Ms. Griffin:** Yes, yes. We did this study for the Planning Board and they were comfortable when we had it brought to the front. We actually went to a lot of trouble. We redesigned the building so we could remove these square feet.

**Boardmember Anuszkiewicz:** The number of people who have zero lot lines and the number of people who have 3 feet (inaudible).

**Chairman Collins:** But it's a character of the neighborhood issue

**Boardmember Anuszkiewicz:** It's the physical properties of the neighborhood.

**Chairman Collins:** Right.

**Boardmember Anuszkiewicz:** And it is character of the neighborhood, you're right. Zero lot lines have more urban character, and the 10-foot setbacks have a more open and village character, that's correct.

**Chairman Collins:** They do, but also there's a consistency.

**Boardmember Anuszkiewicz:** And buildings that are designed as apartment buildings have a more urban character than buildings that are designed as individual townhomes with their own entrances.

**Chairman Collins:** That's correct.

**Boardmember Anuszkiewicz:** All these things are character issues.

**Chairman Collins:** Right, but I'm referring purely to the setback, not to anything else. I think if they end up being the only ... and I don't know this, but if they end up being the only 10-foot setback around them, I don't know, I think that supports the argument that the character of the neighborhood they're in, 5 foot fits right in regardless of whether you're building a townhome or apartment.

**Boardmember Forbes-Watkins:** The problem, though, is that the older buildings are the ones that are up front. The newer buildings, on an average, tend to be more set back they think. But to say characteristic of the neighborhood says it's characteristic of the neighborhood when it was built way back when. Newer stuff is more varied.



**Boardmember Anuszkiewicz:** Well, I don't agree with that. I mean, I think character is something that exists over time and character is established by the physical properties you use to define the street. If you bring everybody up to the curb, then that's like very New York City.

**Boardmember Forbes-Watkins:** That's Park Avenue.

**Boardmember Anuszkiewicz:** You push it back, you have trees. When you're walking along the sidewalk you don't necessarily see the façade of the building right in your face. There's foliage there, there's space to get shade; there's many reasons why, from an urban design point of view. There's a big difference between a zero lot line and a 10-foot setback on the street.

**Chairman Collins:** Let me propose a step forward here, and that is that before you spend any time thinking about going back to neighbors and moving your drawings back what I would recommend is that we get some input on what the change in the sight lines would be if this thing were moved back 10 feet and lowered by whatever the grade is. Because until that's resolved ... and I think you should also, you know, fill in some of the questions around the setbacks for the existing properties. But until that's resolved, my sense is – and correct me if I've got this wrong in reading the Board – that this board does not feel like it has the information it needs to address the safety concern. Is there anyone who disagrees with my characterization?

**Boardmember Dovell:** I mean, I'm not troubled by the lot line situation.

**Chairman Collins:** I am not either.

**Boardmember Dovell:** I think it's a comprise, it is set back, and I think there are 5-foot gardens that can be quite nice. And Warburton is a hybrid, it is in character with the character of the neighborhood. The only issue for me is demonstration that pedestrians are taken care of on the street.

**Chairman Collins:** Right. And I think that's where, Ray, if I'm right, you two would like to see what that would look like if this were moved back by 10 feet.

**Boardmember Dovell:** It would be interesting to see what it looks like ...

**Boardmember Anuszkiewicz:** Yes.

**Chairman Collins:** Yes.

**Boardmember Dovell:** ... what the effect is, and if there's any room to give on the rear elevation or floor-to-floor. I don't know what the floor-to-floors are. The floor-to-floor heights are ...

**Ms. Griffin:** (Off-mic).

**Village Attorney Whitehead:** Speak into the mic.

**Boardmember Dovell:** There are what?

**Ms. Griffin:** (Inaudible) 8-8 minimum. We're matching the shape and height of the building that's there. In fact, you know, we're 5 feet away from where it is now, back. If we bring the building in another 5 feet, keep the rear wall where it is, we cannot do these units. It's impossible. We wouldn't have enough square footage.

**Boardmember Dovell:** OK. No, I can see that; that that would damage your program. Practically, you can't go less than 8 feet. That's crazy. You know, there's nothing ... you've compressed the building to the degree you can. I think you've done that.

**Ms. Griffin:** We looked at other options.

**Chairman Collins:** Microphone, please.

**Ms. Griffin:** We have spent ... the reason why it took so long for us to come to you, I know the Planning Board wants to feel they're comfortable with the project before we come to you. So we started out with townhomes and shifted the front yard setback a few feet here and there. Because of so much opposition to any obstruction of view we matched the height of the building and the back wall, which is why we needed the variance in the front. They felt comfortable with coming right to the property line because it's consistent. But now we're at 5 feet, which I believe is still consistent with that neighborhood. If we come back more we can't make the units work, or we have to go back to going to view preservation review with all those neighbors again and push the building back.

**Chairman Collins:** OK, so I'm going to ask that we transition our part of our conversation to what we would like to see next time so you know specifically what it is we would like to see.

**Village Attorney Whitehead:** You want to take public comment first?

**Chairman Collins:** Yes, I will in a sec. I want to cover this just before the thoughts escape.

I'd like to know the results of an analysis of change in sight line, vehicle sight line, for the sidewalk in both directions, moving everything ... sliding everything back by another 5 feet. And recognizing that that will result in the vehicle moving below grade a little more than it is.

**Boardmember Anuszkiewicz:** Can I just say something? Why can't the 10 feet back be a flat area? Why don't you just push the ramp back, as well? Why does it have to be ...

**Ms. Griffin:** Then you have a steeper ramp.

**Boardmember Dovell:** Then you get a steeper driveway.

**Boardmember Anuszkiewicz:** But is there no room in the back to push this back?

**Chairman Collins:** I would say ...

**Boardmember Anuszkiewicz:** Not just the building, but push the whole parking lot back, too.

**Chairman Collins:** Let's have them ... my point is, take a look at it and come back and let us know what that then would look like. If you can show that this allows for ... and here, guys, I'm looking for your input. But I think what's we're looking for is that there's going to be a comfortable buffer between the front end of the vehicle and the west-most edge of the sidewalk so that a vehicle can come to a full stop, get a view of the sidewalk – pedestrian traffic in either direction – before then proceeding.

**Boardmember Anuszkiewicz:** Yes, and the best thing would be to have a 10-foot wide flat add at the top of the ramp. So the vehicle comes up sitting on the flat thing, he can see, and there's a gate that opens and he pulls out. That's about the safest condition you could ask for.

**Chairman Collins:** That's right. You're talking about a transition area, with a gate.

**Boardmember Anuszkiewicz:** Right.

**Chairman Collins:** That, I think, we would like to see. The other piece that would be helpful for this board is then to know if ... let's just assume that can be made to work, knowing it might result in a steeper grade to the west of this transition. Then the question is, since it sounds like you've studied it at 5 feet, can you bring us mockups of what that does to

the view so we can see then what exactly is the impact on the view? Getting a count of the setbacks of the properties in the neighborhood, more than just which is zero and which are greater than zero.

Is there anything else that I'm missing that we need to catalogue or that we'd want to see the next time? Anything else, guys?

**Boardmember Dovell:** No.

**Chairman Collins:** OK. I appreciate your patience. I know this is a slog, and I appreciate you coming back.

**Ms. Griffin:** It's a challenge.

**Chairman Collins:** It is a challenging one. This is a hard one, but I appreciate your professionalism. Before you go I want to make sure we invite anyone in the public who wishes to be head on the case to please come forward.

Yes, ma'am, if you can come to the microphone and introduce yourself, please?

**Cindy Travis, 427 Warburton:** I'm the existing 2-1/2 story building to the north. I'm also an EMT in the Village so I think about safety all the time now. I just wanted to point out a couple of things.

One, let me just clarify why I was raising my hand before. The driveway that was to the south – it's right at Irish Flats– that goes down by Antoinette's coffee shop, that is predominantly used by one person. There's a trailer parked at the bottom and I never see the car come up. When they do, they crawl. So it's not a parking lot for the building because I know the person who owns it and they don't let anybody park down there but that person's car. So it's not a public, fast-using driveway.

I'm going to make a suggestion that came from my husband via text; he's not here. If you clip the corner of the first floor story you would have an opening that widens your width up to the south. Then you have the cantilevered overhead second floor. Don't know if that would look good, but it might open up your view of the sidewalk without having to shove the building back.

We have a window lying on our house right at the edge of the building. Currently, the building is like right up against us. That old building that's currently there was built after our house, a long ... you know, a hundred years ago. So I appreciate they're trying to keep the

building line there. We have windows right there so if it does shove back a little we would want them to be able to show that we're not having a wall now next to our windows.

**Building Inspector Minozzi:** Suzanne, you have that view preservation picture from their window.

**Ms. Travis:** Then the only thing I was sort of a little freaking out about is the idea that there is going to be flashing going on when every car – six cars, right? – is going in and out of this driveway at night. We have a tenant below. I appreciate ... I would rather not have any sounds – no sounds, please. I don't want beeping going off because six cars going in and out of a driveway could be a lot of noise. I think there could be striping on the sidewalk, there could be ... because there are a lot of kids, lots of kids.

So I'm just throwing all those things out there and I hope they can resolve this 'cause we know it's gonna get built.

**Chairman Collins:** Thank you, thank you very much.

Does anyone else wish to be heard? Hi, Kathy.

**Planning Board Chairperson Kathleen Sullivan, 17 Wilson Place:** On the Planning Board, so I am here tonight to talk about this application again and want to address some of your concerns. We did start out with the townhome option – I should say the applicant did – and by working with them we determined the site didn't have the width to accommodate it and went to the flats. We have, I think just to your point Adam – the Planning Board doesn't – mind increasing development in this area. And we did see there were very few buildings that had a 10-foot setback and there was a variety from the zero lot line, as Christina had prepared the study. You know, showing us people going out themselves to take a look at what was there.

So we're comfortable with the zero lot line, even with the size of this building. Warburton's unique because it has a lot of different types of structures. We're actually, as a board, somewhat supportive of flats rather than townhomes, just as a matter of principal. That's just some context for you folks to know. We did review the setbacks, and we appreciate your concern and we feel it was an improvement. We had concerns, as I mentioned in my note to you, we were going to be looking at sort of assistive devices like what they've presented – signals and mirrors and that kind of thing – and we hadn't gotten to that point. But we do believe that would help make this very low-traffic parking area work better. There's only going to be three families, or three units, that will have cars coming and going. It's not like a

family, where people can say, Hey, I'm grabbing the car keys and I'm going out the door. There will be an ability to not have it be a high-traffic.

The issue, I think you'll find, the engineer we spoke to – but Westchester County is talking about with the sight lines – is looking to do sight lines onto the traffic, onto Warburton itself. But when it comes to pedestrians, as you push back 10 feet I would even now want to take a look at how much sidewalk you might see when you do that, on the plan. I don't know if you can show that, but if it pushes back 10 more feet you're really going to get maybe 4 or 5 feet more of sidewalk view from that point. I'm not sure you're gaining much at that point.

Speaking to any issues of view preservation, we did have a lot of turnout at their initial meetings. Christina's very good at working with the community. Many of those meetings did not happen with us, but we heard the results by people who were very aware of this project deciding not to come anymore because their needs were met. So I trust what she presents is an accurate depiction of what kind of compromises and accommodations with people in the neighborhood.

So we supported it. I shared that with you. We did not have a chance to look at Hahn's memo – it just was a matter of timing – but, you know, we certainly feel whatever direction you go vis-à-vis driveway widths or the variances we support you very much. And hopefully, if there are any questions, I'd love to answer them if you folks have anything.

**Chairman Collins:** Any questions for Kathy?

**Boardmember Anuszkiewicz:** Well, I thank you very much for giving us some background on it. You know, if we get 4 feet more of view that's 4 feet more of view.

**Chairperson Sullivan:** I know your point.

**Boardmember Anuszkiewicz:** And I would have to have, really, a diagram and a measurement to verify whether it's 4 or 8. But from my point of view, I mean today's not a good day for me because I was at a defensive driving class this morning. So, you know, I've seen a lot of bad things that happen with cars.

**Chairperson Sullivan:** Sounds like what you do when you first get your license.

**Boardmember Anuszkiewicz:** You know, any kind of measure you can take to increase the safety. I kind of agree with David, that relying on lights and things like that, that's just not as effective as having real physical characteristics that are designed in a way to make sure you maximize your view and everybody has a chance to take their time.

Ideally, a 10-foot pad behind the property line at the top of that driveway would be great because people coming up that ramp would stop right there with a gate. A gate doesn't make flashing lights so it's not going to shine in your windows. And it doesn't make noise. But it does stop cars dead; they have to stop.

**Chairperson Sullivan:** The thing – as I was listening to you talk – the other issue, is when someone's turning in and there's a gate. It's almost like when you have a driveway to a building or something like, where you have to have some kind of ...

**Boardmember Anuszkiewicz:** You push the button before you get there. You know, you push it from 80 or 90 feet away and the gate starts opening so it's open before you get there.

**Chairperson Sullivan:** I understand your concern about the dependence on some other type of technology, but a physical gate would maybe be a very good solution; sort of a very visible signal to everybody, people as well as folks that are driving cars. It's a good suggestion.

All right, thank you very much.

**Chairman Collins:** Thank you, Kathy. Thank you very much.

Yes, sir. If you could just introduce yourself into the microphone, please.

**Larry Nardecchia, engineer:** I'm a licensed professional engineer and I have no dog in this fight. But I've been listening to the discussion, and it seems like we've got two ships passing in the night. He's demonstrated the stopping sight distance and the sight distance for vehicular traffic both coming out of the driveway and going on the adjacent street. The part that might solve this problem is if we example the pedestrian sight distance and stopping sight distance. A pedestrian walking at 2 miles an hour is going to travel 4 feet before they could come to a stop. So if you look at this, the sight distance for the pedestrian to the vehicle is easily sufficient for that.

By the same token, if you're coming up a driveway at 5 miles an hour and your time is three-quarters of a second to stop you could stop in 8.8 feet. So when these numbers get thrown at the operation you realize both entities are moving very slow at this intersection with a very, very low probability of a fatality or a serious injury. It's when people don't follow either the 5 miles per hour or look where they're walking that you would have trouble. So I think the sight distance and the speeds for this work, and I think that's what should be demonstrated.

I think the most important thing is that it be designed for a reasonable person acting in a reasonable manner. There are crazy people and there are crazy drivers, but we do not require the designs to meet those; it's a reasonable person acting reasonably. I think what he's done, he's demonstrated the vehicular portion of it. I think if you saw some drawing or something they might be able to demonstrate that the pedestrian is relatively safe.

**Chairman Collins:** Thank you, sir.

**Boardmember Hayes:** Just one comment, just to get it on the record. Is it reasonable ... this is addressed to you, sir. Is it reasonable for an 8-year-old child to be running on the sidewalk?

**Mr. Nardecchia:** Your primary concern on sidewalks would be bicycles, and they're not allowed on the sidewalks, nor are skateboards. An 8-year-old child should not be running alone. There should be a parent around. That's one of those things; that's not a reasonable assumption to make a person do a design on.

**Boardmember Hayes:** I respectfully disagree.

**Mr. Nardecchia:** The harm that can happen – and the probability is slim – let's do that situation and you're coming up the driveway at 5 miles an hour. Your stopping sight distance – your stopping distance for three-quarters of a second – is going to be 8.8 feet. You have more than sight distance enough so I would say the car could stop and the kid could continue running across. That would probably be the most probable outcome.

**Boardmember Hayes:** But 8.8 feet will put you ... we're good.

**Boardmember Anuszkiewicz:** We're OK.

**Chairman Collins:** All right, thank you, sir.

Then if there's nothing further we're going to move on to the next case.

**Village Attorney Whitehead:** You're going to adjourn this to the next meeting?

**Chairman Collins:** The Wetherell case?

**Village Attorney Whitehead:** No, the one you've been talking about. You're continuing.

**Chairman Collins:** Oh, yes, we are adjourning 425.



**Village Attorney Whitehead:** Continuing to December 7.

**Chairman Collins:** OK, thank you.

The next case is then 09-17 Dean and Marie Wetherell.

**Case No. 09-17**  
**Dean & Marie Wetherell**  
**196 Warburton Avenue**

**For View Preservation approval, as required under Village Code Section 295-82, 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.**

**Chairman Collins:** We've seen this case a couple of times for area variances. We're now going to be reviewing it for view preservation. Again, as always, if you're speaking on behalf of this case if you could just make sure you've got a microphone with you and that you introduce yourself.

Whenever you're ready.

**Tomasz Lopinski, design consultant:** Yes, this is going to be simple, I hope. I'm the consultant for Mr. Wetherell, the owner of the property. At tonight's meeting we'll be reviewing the view preservation part of this subdivision application. We propose to build a single-family residence on a newly-subdivided lot which the Board already is familiar with. The proposed house is designed in respect to all yard setbacks and building height required in the zone R-10.

The property's located west of the Old Croton Aqueduct and is surrounded with one house on the north and another on the south, being a part of the typical neighborhood pattern. We believe the proposed structure doesn't create impact on river view of any of those surrounding viewers. The Old Croton Aqueduct is approximately 20 feet above the proposed house roof peak. The neighbors located north and south of the proposed house both have an unobstructed view, wide-angle view directly towards the river.

We did a series of studies of viewing points and some of them are presented here on our sheet. BP-1, these are views from A through E.

**Chairman Collins:** Yes, can you walk us through what each one is? And it would be helpful if you can zoom in. The thumbnails are small.

**Village Attorney Whitehead:** And you did get the memo from the Planning Board that they recommended approval on view preservation.

**Chairman Collins:** Yes, thank you.

**Mr. Lopinski:** View A will be from the Aqueduct. That's this view. This is a ghost of the house, this is the house of the neighbors, and this is the north neighbors and the neighbors south. We don't see any impact for the view here. View B is more from the south side. You can also see that the roofline is not interfering with the river there. View C is from the street, really, to illustrate the way the house would look from street level.

**Boardmember Forbes-Watkins:** I don't understand View C at all. If I look at View C, as you've outlined the house that goes on the property – and then I look at the picture you have depicted – the building is about 4 or 5 feet from the street. The depiction may be wrong, but if that is the view you want us to think about it's completely misleading.

**Mr. Lopinski:** Probably this illustration is not perfect. The building is 35 ...

**Boardmember Forbes-Watkins:** It's not perfect, it's quite deceiving. It leads one to think that you're talking about putting the building right at the street.

**Village Attorney Whitehead:** That's not looking towards the river or the Palisades, right?

**Mr. Lopinski:** No, it's not.

**Village Attorney Whitehead:** So it's not even really ... I understand what you're saying, David. I understand what you're saying, but it's not relevant for view preservation.

**Boardmember Forbes-Watkins:** It could very well be relevant for the private parties next door if the depiction, as shown in the picture, is as close to the street as ...

**Village Attorney Whitehead:** These, E and F, are actually taken from their property. So I think they'll give you a better ... when he gets to them.

**Boardmember Forbes-Watkins:** Fine, but I don't like to be presented stuff that is simply misleading.

**Chairman Collins:** You're saying that it looks as if the picture was taken from here?

**Village Attorney Whitehead:** That looks like the house is very close.

**Boardmember Forbes-Watkins:** C is here, and look at that. Look at that, it just does not make a presentation.

**Male Voice:** The house is going to go here.

**Chairman Collins:** I see what you mean.

**Boardmember Forbes-Watkins:** And the same is true of View D. Not quite as bad, but it tends to be the same. Because when you get to View E you can see that they're proposing a building that's back at the same approximate frontage as the next door house.

**Mr. Lopinski:** Even farther back.

**Chairman Collins:** That's the wrong point of origin.

**Boardmember Forbes-Watkins:** Don't give me garbage to work it. I'm sorry.

**Boardmember Anuszkiewicz:** I think maybe just the rendering's a little off. The site plan of the building is not right on the street, right?

**Mr. Lopinski:** No, it's 30 feet away from ...

**Boardmember Anuszkiewicz:** Yes, I think it's the way it's done.

**Chairman Collins:** Where the camera is situated does not match up with the map that was presented.

**Village Attorney Whitehead:** In any event, I understand exactly what you're saying that it's deceiving. But it's not relevant to view preservation.

**Building Inspector Minozzi:** C and D are not relevant at all.

**Village Attorney Whitehead:** They not looking towards ...

**Boardmember Forbes-Watkins:** Yes, but I'd like to ...

**Chairman Collins:** But we don't know. I mean, this is one of those situations where you have now an inaccuracy. You've got two views here being presented that are not being presented faithfully. I don't know how we can say they have no impact.

**Boardmember Anuszkiewicz:** Right, because then we have to wonder about the other ...

**Village Attorney Whitehead:** But you've got a site plan that shows you where the proposed house is going.

**Chairman Collins:** Right, but we don't have a rendering of the view for these two points representative of the site plan.

**Village Attorney Whitehead:** But the two points are looking away from the river. Let him finish with the other ones.

**Boardmember Forbes-Watkins:** Then that should not have been presented at all.

**Boardmember Hayes:** You're right.

**Boardmember Dovell:** Right, but View A and B I think may have a similar ... if you look at View A and B – which do look at the river, you could scroll down to them – it's hard to tell. Now it looks like View E that the house is further back. Well, it looks like it is a little further back. Is it further back?

**Mr. Lopinski:** Than the house at the north, yes.

**Village Attorney Whitehead:** For the record, did any of the Boardmembers go out there and see the mockup, the site to see the mockup?

**Chairman Collins:** I did not.

**Boardmember Forbes-Watkins:** No. I was there, but it was not there at the time.

**Chairman Collins:** But if A is correct in the rendering, the ghost house here – not my term – it's been pushed back. If it were actually further away from the camera it would actually mean less of an impact on the view.

**Boardmember Forbes-Watkins:** Yes. This makes it very difficult to make a decision when we're being given questionable information.

**Boardmember Anuszkiewicz:** I think on A it looks like the front of the house is lining up with the back of the house to the north, and on the site plan that's not quite the case. It does look to me like it's a little bit further back, although it is further back.

**Chairman Collins:** Yes, so if you move it forward it should be less of an impact on the view.

**Boardmember Anuszkiewicz:** From this view.

**Chairman Collins:** Yes, for A.

**Boardmember Anuszkiewicz:** If you move it more to the river it's going to block the river.

**Chairman Collins:** Well, then, isn't it going down?

**Boardmember Anuszkiewicz:** I guess I don't know.

**Boardmember Forbes-Watkins:** Well, we've got a shifting house. It's further back in one depiction and further forward in the other depiction.

**Chairman Collins:** Can we envision a scenario where the impact is made severe? All right, so we're all sighting ... we all can identify the ways in which this is not to scale or the object in the mirror is closer than it may appear kind of a situation. But I guess the question is, does it substantially change anything about how this board'll feel about the view preservation issue.

**Village Attorney Whitehead:** That's why I asked about seeing the mockup. The Planning Board – most of the Planning Board members – had seen the mockup and came in and made a recommendation (cross-talk) ...

**Chairman Collins:** This would be the time to do it. What I do appreciate – and which is so rare for view preservation cases – is they actually did it in the middle of the winter when the leaves are off the trees and when you have a real shot at seeing what this is going to be. Because when all the leaves are on the trees, Hey, no problem, no impact at all. So I do value that. Even though I think there's some inaccuracy here, I'm struggling to see a scenario in which once corrected this results in a view that would be objectionable.

**Boardmember Forbes-Watkins:** I don't have a view preservation problem with this proposal. I have a problem with the proposal the way it's presented [laughter].

**Building Inspector Minozzi:** Tomasz, do you have that other page you took from the neighbors' houses?

**Mr. Lopinski:** Yes, I also have View F and G from the property of the neighbors on the north. View F is the corner of the house where he has a bedroom window. And there was a suggestion that maybe we should ...

**Chairman Collins:** Do you want to go down a page, Tomasz? Page down?

**Boardmember Anuszkiewicz:** You can actually see the house in View C. You can see the house up above just off to the left of that house on the right. Do you see it, up the hill?

**Boardmember Dovell:** Oh, yes. There it is.

**Boardmember Anuszkiewicz:** That's the guy you're looking at on the Aqueduct. So a view from that house would show it.

**Boardmember Dovell:** Do you have photographs of the mockup?

**Mr. Lopinski:** Yes, I do.

We set two markers on the property; the first marker here, the second marker here at the peak. The first marker is presenting the height of this part of the roof and the second marker is presenting this height of the roof.

**Male Voice:** You want to zoom?

**Mr. Lopinski:** Right, these are orange flags here. These are on bamboo sticks so they're not super-visible, but these are those critical points.

**Male Voice:** Is that good for people? Whoop, I'm going to go down again, sorry. Do you want me to zoom in again?

**Mr. Lopinski:** No, I think that's OK.

**Village Attorney Whitehead:** The view from the neighbors'.

**Male Voice:** Oh, is that a page down?

**Mr. Lopinski:** I'll go to there.

**Male Voice:** Let me come down.

**Mr. Lopinski:** These two images are showing the view from the neighbor's house, the corner on the back where he has a bedroom window. There was a concern that maybe it's blocking the view so this is their presentation of the house. Actually, those lines are drawn over the sticks I installed, the markers. A second view is from the upper patio. There was also a concern that it may have an impact to the view.

**Boardmember Dovell:** So these little outlines were done with those orange flags as a reference point.

**Mr. Lopinski:** Yes, yes, yes. Those orange flags, those bamboo sticks, were set by the surveyor in the location where the house is going.

**Boardmember Dovell:** The surveyor located those so these views are really showing the impact on the river.

**Boardmember Forbes-Watkins:** From the yard.

**Village Attorney Whitehead:** From the window of the one up above.

**Boardmember Hayes:** The county was noticed?

**Chairman Collins:** The county's been noticed.

**Building Inspector Minozzi:** The mailings went out, yes.

**Chairman Collins:** And the county was included?

**Building Inspector Minozzi:** Yes.

**Chairman Collins:** Well, inaccuracies in the ... some of the photography aside, I think it's hard to see anything other than a very minimal impact on the view.

**Male Voice:** I couldn't agree more.

**Chairman Collins:** So I'm inclined to support this.

**Boardmember Hayes:** The only view I didn't see – and maybe there is a huge slope so it doesn't matter – is the house that was behind.

**Boardmember Forbes-Watkins:** That's way up on ...

**Boardmember Hayes:** Is it way up?

**Boardmember Forbes-Watkins:** Way up on the Aqueduct.

**Boardmember Hayes:** OK.

**Chairman Collins:** It would look over the top of the whole thing.

**Boardmember Hayes:** Yes, OK.

**Chairman Collins:** Any other comments? Anyone in the public wish to be heard?

Can I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved to approve Case No. 09-17 for view preservation.

**Chairman Collins:** The vote's unanimous. Thank you.

**Mr. Lopinski:** Thank you.

**Chairman Collins:** Congratulations, good luck.

**Mr. Lopinski:** Thank you.

**Chairman Collins:** OK, then we'll proceed to Case 19-17 for Joan Dinowich. And apologies if I get any names ...

**Male Voice:** "Dinowitz."

**Chairman Collins:** ... pronouncing. Dinowitz, sorry. Thank you.



**Case No. 19-17**

**Joan Dinowitz**

**3 Ward Street**

**View Preservation approval, as required under Section 295-82, and relief from the strict application of code Sections 295-72E,1(c) & 295-72E,2, for the major renovations and additions on a single-family dwelling on her property at 3 Ward Street. Said property is located in the MR-1.5 Zoning District and is known as SBL: 4.70-54-3 on the Village Tax Maps.**

**Nonconformity details of the proposed construction are as follows:**

**Side yards: Existing side #2 - 32.4 feet; Proposed side #2 - 8.0 feet; Required - 12 feet (each side) {295-72.E.1.(c)}; Variance required - 4 feet**

**Coverage: Existing - 22 percent; Proposed - 26.3 percent; Required Maximum - 15 percent {295-12.F.2 (2)}; Variance required - 11.3 percent**

**Chairman Collins:** Again, as always, if you can just introduce yourself for the first time and make sure you're speaking into a microphone that'd be great. Thank you.

**Barry Poskanzer, Poskanzer & Skott Architects:** Thank you very much. I represent Ms. Dinowitz, who owns a house at 3 Ward. I'm learning the twisting and turnings through your boards and all your different requirements. We've already been to the Planning Board. We've had the help of Buddy and everyone in his office, as I'm sure you know, to get us through your paperwork.

The Planning Board has approved the information regarding drainage and steep slope approval we were requesting. We're here, of course, for view preservation and we have two minor variances that I'd like to just explain if you haven't looked at all the details, OK? The view preservation will explain itself when we go through those pictures to show the existing conditions and what's proposed. The two variances are, one, for a side yard on the south side of the property and the total coverage of building and deck. Those are the two. The side yard requirement is 12 feet to our south. It's facing the garage of a building immediately to the south that is slightly uphill from us, the site of that garage, and we're asking for a variance to allow a small arbor that covers a parking space to be 8 feet away rather than 12.

Let me show you the drawings. This is a series of photographs of the before and after that we're proposing. This is the existing house, and this is the proposed addition to it. We are, in fact, not changing the footprint of the existing house in any way. What we're doing is taking advantage of the space that's now in the eve of the second level, taking those walls

straight up so we can get more livable floor area in the house without changing the footprint in any way.

The second element is that there's a driveway and a garage that is a floor below on a very steep driveway, dangerous. We don't think we would like to do that so we've brought the parking area up to the street. I should mention that Ward is a dead end at this point; it's a paper street all the way to William but, in fact, is a dead end. The traffic is minimum and we're the last house. Immediately to our east is the old Chocolate Chips Studio that is now a condominium of apartments. We've been concerned with those neighbors, and they presented themselves a number of times at the Planning Board. Their issues regarding height and the rest of the things we were doing, we think we addressed. In fact, the Planning Board did too.

We're asking for a variance for this little arbor element that we're adding that allows the parking spaces to at least have some covered space, not a carport. It's just part of the architecture of the building we're proposing. We think the architecture clearly is a different statement than the one that's there. We are, in fact, using the building exactly as it is with the same floors exactly where they are. And the height of the overall new building happens to be equal, and slightly lower, than the peak of the existing. So our impact on view preservation is de minimis, I think. We'll show you some other photographs to describe that.

This is the front, this is the proposed front. The arbor we're talking about for covering the parking, and that minor variance is this element here. The views from the back of the building, I think, are not quite as important for this part of the discussion.

The second variance we have has to do with total coverage. The existing house is already over the allowable coverage of all the driveways and walkways, et cetera. What we've done is, we've removed a large section of existing driveway that used to take you down to the lower level. We put some of that back for paving up in the front where the new parking spaces are. But because of the steep slope we have a problem of utilizing the house because the main living level – which is the street level – is a full floor higher than the garden area in this space. It's a walkout basement in the back. To encourage use of the main living level we've added a deck space on that first floor, and that's the element that's shown right over here. That's level with the street. And it's that deck area that, in fact, puts us over the calculations for the lot coverage.

The steep slope has reared its head, as it does I think in every one of your properties that falls into that zone. We think we've come up with some nice solutions to accommodate it.

The floor plan and the existing footprint stays exactly the same as it has been before: the basement level, the first floor, and what is now the new full second floor. Presently it's a partial second floor with a lot of space lost under the eave. These are some of the photographs we took, generally, from around all view looking at the house as you approach it coming north on Ward which, in fact, is about the only way you can approach it. It's a two-way street, but it has nowhere to go on the north side. So this is, in fact, the most important, for our perspective, A, the design of the house as well as the impact it has on the neighborhood.

This is the driveway and the garage immediately to our south, which is where that variance request is being asked for. You can see the condition right here. The driveway, the present driveway that goes down to the existing garage in the basement, is now on the property line – or within a foot-and-a-half – almost all the way down the driveway. So even though we're asking for a variance for the little element that's hanging up above to cover the cars, it's as far away as the right side of this car is in that photograph. So it's a variance to your ordinance, but it's not really a variance to the activity that's been taking place on that property for many, many years.

We were then asked to do some view preservations. We took photographs from all three floors of the condominium to our east. My client is friendly with her neighbors, asked to go, and got inside and took some photographs from their balconies. We have pictures of the impact. This is the view impact. This is the existing house, that's the new house. This is the existing house right now with the mockup added on. This is the photograph that shows the same thing. This is the condition of the main view you'll see as you drive north on Ward. The impact of this, the impact of that, that's for you to judge.

**Boardmember Anuszkiewicz:** Are those retaining walls new that you're building there?

**Mr. Poskanzer:** Which, here?

**Boardmember Anuszkiewicz:** No, the next few down.

**Chairman Collins:** Right below it.

**Boardmember Anuszkiewicz:** Yes. Is that a new retaining ...

**Mr. Poskanzer:** Yes, there's a retaining wall so we have a high level to park at the street level, and then a garden level behind it.

**Boardmember Anuszkiewicz:** How tall is that retaining wall?

**Mr. Poskanzer:** I think from the high side ... the high side is just a railing. The low side, I think, is about 7 feet. That accommodates the grade change. The full floor, we're driving from zero to minus 9.

**Building Inspector Minozzi:** That's going to have to be within 6 foot 6 or it'll require another variance.

**Mr. Poskanzer:** I'm sorry, if it ...

**Building Inspector Minozzi:** It has to be within 6 foot 6 or it would require another variance.

**Mr. Poskanzer:** Then it will be 6 foot 6, I can assure you.

**Boardmember Anuszkiewicz:** You know, I mean, on your elevation it looks like it's more like 8 feet.

**Mr. Poskanzer:** If, in fact, the actual dimension is that we will break it in two pieces. Then it will meet the ordinance in not being in excess of 6 foot 6. There'll be no section of wall higher than 6 foot 6.

**Boardmember Anuszkiewicz:** But right now there is.

**Mr. Poskanzer:** No, now there's a small retaining wall in the existing corner when you wrap around that drive.

**Boardmember Anuszkiewicz:** OK, I guess (cross-talk) ...

**Village Attorney Whitehead:** No, you mean now on the plans. Yes, he can't give the building permit unless they've either reduced it or come back here.

**Mr. Poskanzer:** We don't want it that high either so ... it's not appealing to us from the user side to have that wall there.

**Boardmember Anuszkiewicz:** And the carport, the variance of the side yard setback is just for 4 feet of that structure?

**Mr. Poskanzer:** It's for 4 feet for the extension of this roof element. It's not even the posts. It's the roof element of that piece of architecture. I confessed to the Planning Board that it was more an architectural affectation to extend this carport to the south.

**Boardmember Dovell:** But your balcony is affecting lot coverage.

**Mr. Poskanzer:** Yeah, but that's included. We've included all that.

**Boardmember Dovell:** OK, but that is part of the variance.

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

**Boardmember Dovell:** Increasing the coverage.

**Mr. Poskanzer:** You bet.

**Boardmember Anuszkiewicz:** But the side yard variance is for this.

**Mr. Poskanzer:** Yes, right.

**Chairman Collins:** Yes, that side yard is just for the carport.

**Mr. Poskanzer:** All the walkways and deck on that south side fall well within the setbacks.

**Boardmember Anuszkiewicz:** And it's for two cars, right? Side-by side?

**Mr. Poskanzer:** And that's the reason it's that long. The dimension from the house, coming south, we would have made it shorter if we could've to get two car parking spaces. But we thought it was more important to get two off the street, on our property, and come to you for the variance.

**Boardmember Anuszkiewicz:** Right, understood. If it was just one you wouldn't need the variance.

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

**Building Inspector Minozzi:** But then he would need a variance for parking.

**Village Attorney Whitehead:** Then he'd need a parking variance.

[laughter]

**Mr. Poskanzer:** And do I want to be here for that argument about not having enough cars on my property? I don't think so.

**Chairman Collins:** Not in this village.

**Boardmember Dovell:** But that's quite a transformation of a little house.

**Chairman Collins:** You're not kidding.

**Boardmember Dovell:** But if you look at the plans it's a very ... you know, you're respecting the footprint of the original house and it's actually a very modest three-bedroom house at the end of the day.

**Mr. Poskanzer:** Yes.

**Chairman Collins:** That's a rarity before this board when you think about it. In fact, I can't recall it. Well, just something going up on it that was essentially fitting snugly exactly in this existing footprint and without any change to the view than what was already there. Size creep tends to ... and ambition tends to push these buildings out.

**Mr. Poskanzer:** And had this house rotted and dropped away somebody else would come in. My client liked this little house and thought we could ...

**Chairman Collins:** Oh, it's a sweet little neighborhood. That's a great spot.

**Mr. Poskanzer:** But had it rotted a little bit further, which it was on the brink of doing ...

**Chairman Collins:** It's on its way to doing?

**Mr. Poskanzer:** ... OK?, someone else would've come in and had a much larger series of variances, I suspect.

**Chairman Collins:** Oh, I'm sure that's a very distinct possibility. I mean, I look at this and I think you've got a very modest request for the side yard for a purpose I think this board favors. I know this board favors getting cars off the street. I think most of us would favor having the side yard variance discussion as opposed to the parking variance discussion. And the lot coverage increase is very minor – it's 3 percentage points – so a little bit more than 10 percent above where you currently are on a percentage basis. So this is, in my mind ...

**Boardmember Forbes-Watkins:** Which is amazing because the renderings make the new property much bigger-looking even though it isn't.

**Chairman Collins:** That's an interesting point.

**Village Attorney Whitehead:** I think it's the white.

**Chairman Collins:** I think you're right.

**Boardmember Anuszkiewicz:** What did you mean when you said ...

**Mr. Poskanzer:** Can I comment? Because you're absolutely right. It scared us even so that we went back looked at the Photoshop'ing and the matching of the new building on the existing house. It's, in fact, accurate, but whether it's the style of the drawing or something it feels much more imposing. But you are correct: it's a very modest little house, and that was what we were trying to do:: an interesting little jewel box rather than some big house. That was the intent.

**Chairman Collins:** And, again, it is so very rare to see that happen in this village and I think it's welcome. That's a part of the character of this village is that you have very diverse housing stock. And I think a lot of us here really put a value on having some modest structures in the Village. It contributes to its appeal.

**Mr. Poskanzer:** My client's reason for being in the Village.

**Boardmember Anuszkiewicz:** What did you mean when you said Ward Street is a paper street?

**Mr. Poskanzer:** There's a paper extension; "aper" meaning it's not built. It's on paper, it's on a map.

**Village Attorney Whitehead:** It's a mapped road.

**Boardmember Anuszkiewicz:** Paper usually means an unincorporated road.

**Mr. Poskanzer:** No.

**Village Attorney Whitehead:** No, it means mapped but not improved.

**Mr. Poskanzer:** So Ward Street is a street that goes and looks like it hits William and there should be a corner here. In fact, this is a steep slope. So the paper shows it as a street all the way through, but the reality is the paving stops here.

**Boardmember Anuszkiewicz:** The paving stops there.

**Mr. Poskanzer:** Right.

**Chairman Collins:** Yes, so it's really not a corner lot in the way you would otherwise expect it if you just looked at the map.

**Mr. Poskanzer:** But it is for zoning.

**Chairman Collins:** It is for zoning.

**Mr. Poskanzer:** Right.

Thank you. Are there any other questions that I can answer?

**Boardmember Dovell:** I think it's minimal, it's a minimal variance altogether. And I think it's very nicely done.

**Boardmember Anuszkiewicz:** Agreed.

**Boardmember Hayes:** I agree.

**Chairman Collins:** Does anyone in the public wish to be heard on the case? OK, then can I have a motion?

**Boardmember Forbes-Watkins:** OK, if I can find a piece of paper.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes, with a voice vote of all in favor the Board resolved to approve Case No. 19-17 for view preservation as well as for a side yard of existing side two, proposed 8 feet, required 12 feet; coverage, existing 22 percent, proposed 26.3; required maximum 15 percent. And view preservation approval also.

**Mr. Poskanzer:** Thank you.



**Chairman Collins:** The vote's unanimous. Congratulations and good luck to you.

**Mr. Poskanzer:** Thank you.

**Chairman Collins:** Thank you very much. Good luck.

Our next case is 20-17 for Pascale Vincent and Stella Rotiroti.

Case No. 20-17

**Pascale Vincent & Stella Rotiroti**  
**70 Rosedale Avenue**

**Relief from the strict application of the Village Code Section 295-69F.1.c and 295-55A for a rear addition to their home at 70 Rosedale Avenue. Said property is in R-7.5 Zoning District and is also known as SBL: 4.80-73-13 on the Village Tax Maps.**

**Variances are sought for Side Yard Setback and the extension of an Existing Nonconformity for a rear addition.**

**Extension of non-conformity for rear addition:**

**Existing - 6.89 feet; Proposed 6.89 feet; Required Minimum - Two sides totaling 20 feet, each side minimum 8 feet {295-69. F.1.c & 295-55. A};  
Variance required - 1.11 feet**

**Building Inspector Minozzi:** Do you want electronic again?

Yes.

**Boardmember Dovell:** Matt, I'm in the notice area on this one so I should probably recuse myself.

**Chairman Collins:** Yes, you should.

**Boardmember Dovell:** OK.

**Chairman Collins:** Thanks for letting us know.

*[Boardmember Dovell recused for this matter]*

**Chairman Collins:** you want to go ahead and get underway while we're waiting for the computer?

**Christina Griffin, project architect:** Sure, I could explain. I'm the architect for this renovation and small extension. We are seeking a variance to the side yard setback to extend a nonconforming wall of the house. The existing house has a side yard setback of 6.89 instead of 8 feet. We are just simply asking for a variance for this very small piece. You see that piece there that is shaded. It's 3.6 square feet.

**Chairman Collins:** Oh, I see. Right at that corner there?

**Ms. Griffin:** Yes. And if we look at the floor plan, the second floor plan, I'd like to show you that what we are planning to do is to replace the shaded area that's in pink. That's an existing staircase that has very steep 9-inch risers. We want to replace it with a code-compliant staircase that's more comfortable, with 7-3/4 inch risers, 10-inch treads. In order to do so we need to extend a piece of the nonconforming wall.

This is the second floor and it overhangs the first floor. On the second floor it's the current size you see here. Then if we go down to the first floor ...

**Chairman Collins:** Do you have the wireless with you?

**Building Inspector Minozzi:** Oh, here you go Christina.

**Ms. Griffin:** On the first floor, the house ends here. On the second floor the house is cantilevered over the first floor. We're extending the house out this way, where it does meet all the setbacks. But just in that corner, in that shaded area in yellow, we need a variance just so we can extend that nonconforming wall so we have the clearance for our new staircase.

**Chairman Collins:** It's tiny.

**Ms. Griffin:** Yes.

**Chairman Collins:** You need a 1-foot variance, 1.1.

**Ms. Griffin:** 1.1, I think.

**Chairman Collins:** In the application, I think you document more about the importance of having a code-compliant staircase, especially for the applicants.

**Ms. Griffin:** It's a very difficult staircase and we would like to make the house more comfortable for them.

**Chairman Collins:** Yes, the need is transparent. And this is such a very, very minor intrusion, all for a good cause. I have nothing to add on that.

**Boardmember Anuszkiewicz:** No, I think it's cleaning up a problem.

**Chairman Collins:** That's right.

**Boardmember Anuszkiewicz:** Solving the problem there.

**Chairman Collins:** David?

**Boardmember Forbes-Watkins:** I'm fine. I'm not bothered by it.

**Chairman Collins:** Anyone in the public wish to be heard on this case?

OK, could I have a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved to approve Case No. 20-17 for the extension of a nonconformity for rear addition; existing 6.89, proposed 6.89, required minimum two sides 20 feet, each side minimum of 8 feet, with a variance of 1.11 feet.

**Ms. Griffin:** Thank you.

**Chairman Collins:** The vote is 4-0. Thank you very much. Congratulations, good luck.

Moving right along, for the final case we're going to actually have to vote on this evening is Case 21-17 for Pascale LeDraoulec – and, again, I'm sure I'm getting that wrong – and Dan Markham.

**Pascale LeDraoulec & Dan Markham**  
**56 Sheldon Place**

**Relief from the strict application of the Village Code Section 295-68F.1.b and 295-55A for the conversion of an open porch to habitable space at their home at 56 Sheldon Place. Said property is in R-10 Zoning District and is also known as SBL: 4.20-10-6 on the Village Tax Maps.**

**Variances are sought for Rear Yard Setback and the extension of an Existing Nonconformity for conversion of an open porch to habitable space.**

**Extension of nonconformity rear yard open porch:**

**Existing - 23.5 feet; Proposed - 23.5 feet; Required Minimum - 30 feet {295-68. F.1.b & 295-55. A}; Variance required - 6.5 feet**

**Daniel Markham, applicant:** Thank you, you're absolutely correct. We're extending a pantry space to give us more pantry, essentially, in a kitchen renovation that we're doing. By bumping out the house in this small back porch area we'll get the extra pantry space and get a little mud room area as well.

Mitch Koch is our architect. I believe he submitted materials.

**Chairman Collins:** He did, that is correct.

**Mr. Markham:** If he didn't I have ...

**Village Attorney Whitehead:** He did.

**Mr. Markham:** OK, great. I do have a letter from our neighbor who'd be the only neighbor who would be seeing this, which I can share with you.

**Chairman Collins:** Yes, please do. I'll enter it into the record, thank you. I'll read this when we get to the section on the public comment.

**Mr. Markham:** Thank you.

**Chairman Collins:** And these copies are the same? Thank you. I love the thoroughness, thank you very much.

I think I have found the relevant drawing here. At least on my PDF it's page six. What I'm seeing here almost looks like a blue-shaded photo negative of the original back porch, which

I can see was open, then a picture entitled "Work in Progress" which shows that porch space being enclosed.

**Mr. Markham:** This, which is the survey ...

**Building Inspector Minozzi:** Is that in the packet, Buddy?

**Building Inspector Minozzi:** I don't know if that survey's in the packet.

**Mr. Markham:** Oh, the blue is the as-built form blueprint.

**Building Inspector Minozzi:** I have it right here. The survey I have in the packets in this one.

**Chairman Collins:** Yes, we do have that one. But is this project already started?

**Mr. Markham:** The kitchen renovation is started, yes.

**Chairman Collins:** If I'm reading this correctly, it looks like the enclosure of the porch has already begun? Am I seeing that correctly, Buddy?

**Building Inspector Minozzi:** Yes, I believe it has. I think it was framed out already.

**Mr. Markham:** The work has begun.

**Building Inspector Minozzi:** It was an open porch that they were converting to a closed porch, and since they're doing an interior renovation he did go ahead and start.

**Chairman Collins:** We generally don't encourage that sort of thing.

**Mr. Markham:** I understand.

**Boardmember Dovell:** But we've noticed it has happened from time to time.

**Chairman Collins:** From time to time that has happened.

[laughter]

**Building Inspector Minozzi:** Once in awhile, it has.

**Village Attorney Whitehead:** At least he's here before it's done.

**Chairman Collins:** That's true.

**Building Inspector Minozzi:** I did tell him that if anything with south it would have to be removed, and he completely agreed.

**Mr. Markham:** And he notified us of that.

**Chairman Collins:** I mean, really you're getting more usable living space. This does not change in any way the footprint, really. In fact, some might argue that having a closed-in porch is something some people in the neighborhood might actually prefer, which might have brought upon the letter that we've received. Because it is building on an existing nonconformity – and, in my opinion, achieving a benefit not only to the neighborhood but also arguably to the neighborhood – I have no objection to this.

Any comments?

**Boardmember Dovell:** No, I think it goes in the minimal variance hall of fame.

[laughter]

**Boardmember Hayes:** But behind the last one. You missed out.

**Mr. Markham:** Minimal to some, but very great impact to us.

**Village Attorney Whitehead:** I think the last one beats it.

**Chairman Collins:** Didn't we have one that was like under a foot one time, that we had like an 8-inch variance or something like that?

**Building Inspector Minozzi:** Yes.

**Village Attorney Whitehead:** You've had some pretty minimal ones.

**Chairman Collins:** That might be the goat.

**Boardmember Hayes:** Yes, do this.

**Boardmember Dovell:** Mitch's letter was very informative.

**Chairman Collins:** OK, then I'm going to read this letter into the record and then I'll open it up to any public comment. This letter is from Helen Gredd and William Smith of 46 Sheldon Place in Hastings and it's dated October 24th, sent to the Zoning Board and me, and it reads:

*"Dear Mr. Collins,*

*"We live next door to Pascale LeDraoulec and Dan Markham and we write in enthusiastic support of the application they have pending before the Zoning Board of Appeals for conversion of a small open porch to habitable space at their home at 56 Sheldon Place.*

*"As we know from the application we made some 15 years ago in connection with our own renovation – which likewise included a minor extension of an existing nonconformity – one of the criteria that your board typically considers is whether an extension of the nonconformity would adversely impact neighboring properties. We therefore write to share our view that it would not.*

*"To the contrary, we believe that the proposed conversion of an essentially unusable open back porch to an integrated portion of the existing structure would enhance not only the structure but also our view of the structure from our back and side yards. In the brief time that Pascale and Dan owned 56 Sheldon Place, they have made welcome enhancements to the you in the form of plantings and an elegant patio. The proposed enclosure of the porch is yet another enhancement, and we urge its approval.*

*"Sincerely yours, Helen Gredd and William Smith"*

**Chairman Collins:** Nice letter. Does anyone else wish to be heard? OK, can I have a motion please?

**Boardmember Forbes-Watkins:** Sure.

On MOTION of Boardmember Forbes-Watkins, SECONDED Boardmember Hayes by with a voice vote of all in favor, the Board resolved to approve Case No. 21-17 for extension of the nonconformity rear yard open porch; existing 23.5 feet, proposed 23.5 feet, required minimum 30 feet.

**Chairman Collins:** The vote is unanimous. Congratulations, good luck to you.

**Mr. Markham:** Thank you very much.

**Chairman Collins:** I'll pass that letter down to enter into our record.

**Village Attorney Whitehead:** Oh, I have it.

**Building Inspector Minozzi:** We got it.

**Chairman Collins:** Very good.

OK, we are going to go as far as we can go. What I am going to, though, do here is adjourn this. We will not hear anything new after 11 o'clock. That's what I'm going to put forth because, A, the next two cases on our docket we are not able to vote on and in my experience the quality of the dialogue and the decision-making is not nearly as sharp after 11 o'clock anyway.

We'll go ahead and take a look at Case 22-27. This is P as in Peter, T as in Tom, G as in goat Development LLC for Zero Warburton Avenue.

**Case No. 22-17**

**PTG Development, LLC**

**0 Warburton Avenue (aka Nodine Street)**

**View Preservation approval as required under Section 295-82, and relief from the strict application of Section 295-72.E.2 of the Village Code for the construction of a new building containing six (6) townhouse units on its property at 0 Warburton Avenue (aka Nodine Street). Said property is located in the MR-1.5 Zoning District and is known as SBL: 4.100-94-7 & 8 on the Village Tax Maps.**

**Nonconformity details of the proposed construction are as follows:**

**Coverage area on a lot: Existing - Undeveloped; Proposed - 37 percent; Maximum allowed -15 percent {295-72.1.E.2}; Variance required - 22 percent coverage of the lot.**

**Chairman Collins:** This is coming before us for a lot coverage and view preservation. Linda, just for the benefit of the Board we're not able to vote tonight because ...



**Village Attorney Whitehead:** The Planning Board just agreed earlier tonight to them being lead agency for SEQRA review. Because of the timing of their ... their September meeting was a week later than usual because of the Jewish holidays so indicated their intent to be lead agency at their September meeting. They're supposed to wait 30 days after that before they can make their determination of significance. They didn't have 30 days between their meetings because the September meeting was late so they have not yet been able to make their determination of significance.

However, they have referred this to ... they made a recommendation on view preservation. They are not going to do anything more in terms of changing the plan until they know if you grant the coverage variance. So the plan is what the plan is, for your consideration. You just can't vote. Even knowing it has to come back – and this is something you might not be approving in one meeting anyway – I think probably the most helpful thing would be if you all ... they're going to do a short presentation, I think. And if you could give them any questions you have that you might want additional information from them before they come back to you on the December meeting, at which time you would be able to vote.

**Chairman Collins:** OK, thank you for the background.

**Village Attorney Whitehead:** And I'll repeat that for the next application.

**Chairman Collins:** A procedural question for me, and I know it's come up before. But can you remind us, where does the Architectural Review Board fit in?

**Building Inspector Minozzi:** It's part of a Planning Board procedure.

**Village Attorney Whitehead:** Their site plan.

**Building Inspector Minozzi:** Before they can grant final site plan approval it has to go to the Architectural Review Board, get their approval, and then come back to the Planning Board for final site plan approval.

**Chairman Collins:** I see, OK. Thank you.

**Building Inspector Minozzi:** No problem.

**Village Attorney Whitehead:** And what you have, you do have a recommendation on view preservation. The Planning Board and the applicant spent a huge amount of time looking at view preservation. The applicants also, as they'll explain I'm sure, made a number of

changes to the plan during this time. Again, the two things it needs from you are view preservation and a coverage variance in the infamous MR-1.5 zone.

**Chairman Collins:** Yes, here we are again.

**Boardmember Hayes:** Here we are again.

**Chairman Collins:** OK, why don't we go ahead and get underway. Sir, if you could just introduce, please.

**Village Attorney Whitehead:** And feel free, at the same time, to make a recommendation to the Village Board that they amend the coverage requirement.

**Chairman Collins:** Yes, we'll get to that.

**David Steinmetz, Zarin & Steinmetz:** Good evening, Mr. Chair, members of the Board. I, too, would love to get into the variance hall of fame here in Hastings. I appreciated your last matter.

We know it's late. We have quite a bit of information; we're going to try to do a brief presentation, and we'll obviously follow your lead. Linda did a nice job of summarizing. Just so you realize, with me this evening – Mr. Lou Brutto, our client; Christina and Suzanne from Christina Griffin; architects Jim Annicchiarico from Cronin Engineering, our project civil engineer; and my colleague Katelyn Ciolino – all here tonight.

We're pleased to be here. We're here with what we think is a very exciting on 0 Warburton, six residential townhouse units that Christina and her office have worked very hard with Mr. Brutto – who is a local guy and a local developer – trying to do something very unique on a challenged piece of property. I don't know how many of you have had a chance to get out and see it. Lou spent a great deal of time and effort trying to erect mockups not only of where the building would go – it's two phases, or two sections – but it's height, et cetera.

The site right now is kind of a dilapidated, unattractive, contractors' yard, heavy equipment storage, completely inconsistent with the surrounding area. We're here tonight, as Linda indicated, for view preservation, for a coverage variance in the 1.5. And while we understand the SEQRA status, we definitely would love to come away tonight with some feedback for Mr. Brutto.

The project itself, I think you have reviewed our letter. We tried to give you a fairly extensive and clear, hopefully, submission: six townhouses on 0.4 acres in the 1.5. We

believe the site as it exists now is completely inconsistent with the surrounding area, the neighborhood, the community, and the zone. We're proposing three 2-bedroom units approximately 1,667 square feet to 1,790 square feet; three 3-bedroom units 2,000 square feet – a little bit larger. And what you can see from the rendering that Christina has presented this evening, they're trying to do something that is open, airy, interesting, with a lot of light and air coming in through the windows.

A fair amount of discussion took place with the Planning Board about why this is a three-story structure. It's quite easy to understand from our vantage point. We're going to talk to you about view preservation. There are some magnificent views of the Hudson River that are important here in Hastings. They're important from this property, and that third story as it's designed allows folks to have a small area upstairs, an outdoor deck space they can go out to, and views of the Hudson River.

The essence of our application is that despite the fact that this building and these units would be in front of the Aqueduct it does not – it does not – impede views in an unreasonable fashion. We think that our visual analysis that we did ... hopefully you did get the videos that we tried to submit.

**Building Inspector Minozzi:** No, I couldn't send those videos out.

**Mr. Steinmetz:** I had a feeling that ... OK, so ...

**Chairman Collins:** Can you show them here?

**Mr. Steinmetz:** We certainly can show them this evening. If you'd like, we're happy to cut right to the video. So let's do that. It'll put it a little bit in context. So while Suzanne is taping that up, we spent a fair amount of time with the Planning Board trying to get the most accurate representation of a visual analysis. I've never actually been told by a board to do the analysis predicated not on just an average individual, but on an average female at eye level. We actually shot the video and did our photo representations predicated on 4 feet 11 inches so we could get ourselves to the eye level of an average woman walking on the Aqueduct.

**Boardmember Anuszkiewicz:** Well, it makes it gender-specific.

**Village Attorney Whitehead:** Average height is less.

**Mr. Steinmetz:** You can ask Planning Board Member Cameron, who specifically gave us the height of an average woman who would be smaller than an average man.

**Village Attorney Whitehead:** They didn't want them taking it too high; they wanted them taking it lower.

**Chairman Collins:** Yes, that's really low. I mean, I think the average of a woman is more like 5-4.

**Mr. Steinmetz:** I've been doing this a long time, I've done a lot of visual analyses and photographic representations. I've never had anything quite that conservative, but we did it. Mr. Brutto took great effort to make sure.

So, Suzanne, why don't you roll that.

[video plays]

We're going south along the Aqueduct Trail. You can now begin to see the mockups.

**Boardmember Hayes:** The sheets?

**Mr. Steinmetz:** Yes. You want to freeze it for a second? What we believe this shows is, in one of the clearings – and admittedly, Mr. Chairman, we're looking at deciduous trees – you talked earlier, one of the Boardmembers talked earlier, about deciduous versus non-deciduous trees and representations. This was taken during a time when the deciduous trees were in bloom obviously. But what this, to us, indicates is that during a portion of this view – where you're between the trees at their larger separation, because there's an awful lot of vegetation immediately east of the site – in this particular area one can see the river and the Palisades in the distance.

There are a significant number of structures that are currently already impeding views. And our site, we believe, would not be impeding views of the Hudson River in any significant fashion. It might impede views of some of the other structures.

**Chairman Collins:** Well, before we go on, though – can we pause this for a sec just so I don't miss anything? – I mean, we have the waiver process that we deploy when it's the case that there is no impact on the view. You've used words like "no significant impact." Does this impact the view, or not?

**Male Voice:** Does.

**Chairman Collins:** It does?

**Village Attorney Whitehead:** The original plan did more.

**Building Inspector Minozzi:** Yes, it's been reduced.

**Village Attorney Whitehead:** The height has been lowered. When it first came to the Planning Board it was higher and there was a greater likelihood.

**Chairman Collins:** OK, so you're seeing that there's an impact on the view. I haven't seen it yet. I guess my follow-up question is, you're talking about a flat roof structure?

**Mr. Steinmetz:** Correct, with actually ... as a result of some of the modifications in the design the roof is designed to actually slope down so ...

**Chairman Collins:** Towards the river?

**Mr. Steinmetz:** Towards the river. It's basically traveling along with the line of sight. We do have – as you may have seen in the materials submitted – an engineering line of sight sectional analysis done at 95, 90 and 85 degrees.

**Chairman Collins:** So the sheets that are up here look to be ... they actually look to be angled. It looks like it's angling down from the north to the south.

**Male Voice:** They sagged.

**Mr. Steinmetz:** Mr. Chairman ...

**Chairman Collins:** So should the left be higher or the right be lower. I assume the left should be higher than it is?

**Building Inspector Minozzi:** Correct.

**Mr. Steinmetz:** It's not an appreciable distinction, but you're absolutely identifying that is a fair, specific point: they are sagging. If you go out there you can actually see the tops of the metal wires at the actual appropriate height, but the sheets that were attached began to pull down and create a bit of a sag.

**Chairman Collins:** OK, where do you see the view being impacted?

**Building Inspector Minozzi:** Between the buildings. Between the buildings on the other side of Warburton Avenue.

**Village Attorney Whitehead:** See, here it's blocked

**Building Inspector Minozzi:** Not in this particular view, no.

**Village Attorney Whitehead:** Yes, there's a couple of spots where there's a break between the existing buildings and there might be some (cross-talk) ...

**Mr. Steinmetz:** If we can run this, and then run another video coming the other direction, slightly different angle and you'll pick up a little something more. And while we're doing it, Mr. Chairman, I want to hit your comment about waiver. Section 295-82 of your code does not mandate a prohibition against any view interference obstruction. The legal standard, as I think this board is well aware, is achieving the, quote, "least possible obstruction of the view of the Hudson River and the Palisades." To me, to our team, there's a reasonableness standard built into this. This is not an absolute impediment on any view obstruction.

And, quite frankly, we view – *I* view – your preservation, as a land use professional, as actually having two very important sides. You're one of the few communities – as I discussed with the Planning Board – that actually has view preservation. Lots of communities along the Hudson River have the Hudson River and the wonderful bounties it provides, but they don't protect the views like you do. The reason you do is not only so folks living around a property being developed would be impacted, but somebody that actually wants to realize that view should be protected in trying to realize that view. Zero Warburton has magnificent views of the Hudson River. That's exactly why our client has proposed a design along the lines he has so he can take advantage of that which this village has spent a lot of time and effort, tonight and other nights, trying to protect.

What you see here ... just stop that for a second. I wanted you to understand because ... no problem. The tape measure, again just to underscore the point, we did this because Mr. Brutto was specifically directed the height at which the camera had to be working. So that's what that's doing there so that you folks understand that he took it quite literally and quite seriously in running through this analysis. Quite frankly, Mr. Chairman, I believe a more reasonable analysis under your code would allow the analysis to be conducted at 5-3, 5-4. There's nothing outrageous about doing that. But we're down 6, 7 inches.

Go ahead.

Again, a tremendous amount of vegetation. Though deciduous, there's an awful lot of trees. Even with leaves down there's a lot of wood, there's a lot of bark in the way. This is not a

clear area of your Aqueduct Trail. There are many other areas that have far more separation. We finally start to peak through here.

**Boardmember Dovell:** I have to say the sagging of that is really disconcerting. I hear what you're saying, but you're looking at the 30-degree angle in the sag of that thing. It would really be useful to see, in that view, where that is a straight line.

**Chairman Collins:** I think you're right. You know, it's just ... it's too ... I thought this was the pitch of the roof that we were looking at, but it's ...

**Village Attorney Whitehead:** He needs to show the other drawing.

**Mr. Steinmetz:** So we're going to have to show the drawings of that.

**Louis Brutto, applicant:** Could I just speak to that for a second? We put up story poles and, obviously, had the corners of the rope at their proper elevation. The tarps were a further visual representation through the ropes because the ropes were a little hard to see. If you were to go out to the site today the ropes are much more in line with the roofline of the building, with a slight sag but obviously not with the sag with the weight of the tarps as they stand now. The ropes have tails that drop down at the view corridor between the two towers of the building.

While I agree with you that if I could've made the ropes perfectly straight and had that much tension I would've. If you were to look at it just with the ropes without the tarps on it you would see a much straighter line and a much cleaner vantage point of where the representation of the roofline of the building is.

**Mr. Steinmetz:** Let me try one other thing that might help. While trying to do this representation, with, you know, yeoman's effort in trying to do it, there were two critical facts. One, the highest point of the roof – the highest point of the roof – is below the Aqueduct Trail. So the highest point of the roof is below your feet, if you're standing on the trail. Secondly – and, Jim, I think I'm going to take you out of line, let's do it here if you would. To me, from an empirical standpoint, while this is a nice effort to try to bring it to life – and I encourage you all to go out there – the engineering line of sight analysis that we've done really is more precise and allows you to understand, even at 4 foot 11, that there is a clear line of sight over the roof of the building.

**Jim Annicchiarico, Cronin Engineering:** Hi, good evening. If you go to – Suzanne, if you would – the sections through the site, these sections basically show the Aqueduct, the elevation of the Aqueduct, which is at 151 and about 1/2. It shows the highest point of the

proposed buildings, which is essentially 150 feet. The Aqueduct is about a foot-and-a-half higher than the highest point of the buildings. When you look from the various ... and we have five different sections through, but this one is just section A, the most southern section through the buildings. And that will show the line of sight, at 90 degrees, being well above the buildings and no obstruction from any other buildings, even to the west of us or on the west side of Warburton.

If you look, you'll see that the 85 percent line of sight still clears our building, but begins to ... or actually just clears that building, too. As you go further north you'll see that that 85 percent line of sight actually clips a few of the buildings to the west of us.

**Mr. Steinmetz:** And those buildings that we saw in the video which clearly are obstructing views of the Hudson River from the Aqueduct.

**Mr. Annicchiarico:** So essentially, the views that – as it was stated a little bit earlier – are being interfered with or obstructed slightly are actually the views between the buildings to the west of us. The actual Palisades are not, I don't believe, obstructed at all.

**Boardmember Dovell:** It was calibrated to hit the tops of the larger buildings across Warburton.

**Mr. Annicchiarico:** The 85 percent line of sight?

**Boardmember Dovell:** Well, the building at 380 Warburton and 382 Warburton. So the angles and the height of the building were calibrated to (cross-talk) ...

**Mr. Annicchiarico:** Yeah, our building ...

**Boardmember Dovell:** Hit the top of that, of the existing buildings across the street is what you're saying.

**Mr. Annicchiarico:** Well, what I'm saying is the view, the 90-degree view, is unobstructed by any views. The 85 percent view is still unobstructed by our building. It is, however, obstructed by some of the buildings to the west of us.

**Boardmember Dovell:** Right.

**Mr. Annicchiarico:** So anything below that, as you begin to look further and further down, you're obviously not even seeing the river.



**Mr. Steinmetz:** Just to make sure there's no disconnect between us, you used the word "calibrate." We didn't calibrate the angle; we actually analyzed ... we were asked to analyze the angle.

**Boardmember Dovell:** That's what I meant.

**Mr. Steinmetz:** OK, I just wanted to make sure you ... we didn't adjust it to ... we did a careful, objective analysis, and that's what it would run.

**Chairman Collins:** I think we're ... well, I encourage everyone to go out and see the property. I walk by that every Saturday morning. I'm satisfied with your view preservation.

**Mr. Steinmetz:** We were very pleased, after a great deal of time and effort the Planning Board spent on it. A majority of the Planning Board did conclude that there was no adverse interference to the views. At the Board's pleasure, I'm happy to move on to the variance aspect of this for the sake of time. If you want to speak more about view preservation we're happy to do that as well.

**Chairman Collins:** Does anyone want to continue a discussion on view?

**Boardmember Forbes-Watkins:** The only thing I want to say about view preservation, if you walk along the Aqueduct and look out where that proposed set of buildings will be you're seeing a garbage pit.

**Chairman Collins:** That's correct.

**Boardmember Forbes-Watkins:** And what you'd like is something nicer, and that's better.

**Mr. Steinmetz:** We genuinely appreciate that. One last comment. I would be remiss if I didn't say – Linda kind of touched on it – just so your board is clear, after the original application was filed and comments were received from the Planning Board Mr. Brutto and the design team reduced the height of the building by 5 feet 2 inches, created an enlarged corridor at the building center. There's a separation that you can see in that rendering right there. They opened up those two sections of the building to 10 feet at the first- and second floor and 20 feet at the third floor; a 2-foot increase between these buildings. That was specifically done to try to create more of an openness.

Mr. Chairman, unless you have an objection I want to go forward to the area variance.

**Chairman Collins:** Please do.

**Mr. Steinmetz:** I don't think I have to tell this board that the residential 1.5 zoning district in the Village of Hastings is a rather restrictive coverage standard. I know your board has addressed this many times. My staff and I have reviewed minutes from a number of different meetings. I myself forgot that I had been involved in a matter in front of this board – I hate to say, 17 years ago – involving that issue. But it comes up, obviously, more often than not. I'm not here tonight to talk about pitching the Board of Trustees to change the 15 percent coverage variance because that's not my job, that's not what my client's application is. This board is here ... as you all know, you're empowered to vary a bulk criteria. Zoning is in derogation of common law property rights. That's the express purpose of ZBAs. When an applicant has an issue with existing zoning, you don't have to go to the legislature and say change the law; you can take it on a case-by-case basis.

In this case, the townhomes were designed to be maximally compliant with zoning requirements. They were designed to be functional, marketable and attractive. In doing that it required they achieve a certain size in terms of floor area and living space and functionality. One of the key functionality issues – and I think you talked about it on one of your earlier matters – is the ability to have adequate parking, safe parking, and maybe not have parking all outdoors. In order to get the parking and make this building parking-compliant – and not here tonight for any other variances, we are parking-compliant – the parking had to go underneath or inside the building, the building had to be economically viable, and the units had to be competitive with the marketplace.

Christina, her staff, and my client concluded that this was a way it could be done. However, it bumps our coverage up from 15 percent to 37 percent. The interesting thing – and I was surprised when I asked for this information – not only did Christina have it, she had it immediately, and she seems to have a lot more. The board that we have here, to my left, to your right – and I'm going to take the other mic.

**Building Inspector Minozzi:** Yes, it's right there on the table. Just make sure it's on.

**Mr. Steinmetz:** The board we have here – I do these kinds of boards in front of lots of different zoning and planning boards – I don't usually get the results Christina was able to reveal with Mr. Brutto.

**Village Attorney Whitehead:** Would you rather have it over here?

**Mr. Steinmetz:** I'm gonna do this. Will it be more easy for you over here?

**Boardmember Hayes:** Yes, I can't see it there at all.

**Mr. Steinmetz:** You should have gotten this in your packets, and we talked about this in our information. This is our site, with a proposed 37 percent coverage. Now, I absolutely understand that every application needs to be judged on its own merits. But in analyzing the character of the neighborhood – and I don't need to tell this board how important character of the neighborhood is, the first standard – understanding what surrounds us is critical. What surrounds us is a predominance of noncompliance. What surrounds us is a predominance of gross noncompliance. Sixty-one percent coverage, 33 percent coverage, 60 percent, 63 percent coverage, 50 percent, 53 percent, 75, 32, 30, 93.

Not one of the properties surrounding this property – not *one* of the properties surrounding this property -- is zoning compliant. In fact, they're all at least 100 percent in excess of your coverage. So as a land use practitioner, it tells me the pattern of development in this area is not in accordance with your existing zoning. I know I'm asking for a variance, I know I'm asking for a variance from 15 to 37. For me, it's not a big lift; it's not empirically a big lift, it's not factually a big lift, and it's not legally a big lift when I analyze what I have around me.

In addition – and I completely understand that every case, again, has to be judged on its own merits – it is legally relevant that you have wrestled with this issue before. It is legally relevant, and we pointed this out in our materials, that you had different matters: on Ridge Street, on Washington – 32-34 Washington and 52 Washington, you have granted coverage variances. The facts and circumstances surrounding this are not significantly, if at all, appreciably different from those circumstances. We think we are adding to the community, doing something that's an improvement, creating functionality. We're going to make it livable, we're going to make it marketable.

Let's look at our five factors very briefly. Undesirable change in the neighborhood? I think Mr. Forbes-Watkins made my argument. You can live with that contractor's yard and you can try to go enjoy this wonderful, valuable thing you have called the Aqueduct, and go walk along the Aqueduct and look out onto it. I don't want to demean Mr. Brutto, his business, and the property he currently owns, but it doesn't look too good. You deserve something better.

Feasible alternatives? We spent a lot of time analyzing feasible alternatives. There is no feasible alternative ... I'll show you what the alternative is. The alternative is, that's what zoning in Hastings in the 1.5 calls for. Same property, same 0.4 acres, you get a little postage-stamp size building. You can put a 2,270 square foot footprint down on the property. You get a couple of parking spaces, you get two units. The entirety of the site is then left open. If I was in front of you tonight pitching a zoning text amendment I would

present to you something I presented to the Village of Irvington in connection with a coverage text amendment we needed to there.

I've sampled communities not just in the river villages but all throughout the county, and I've sampled multi-family zoning districts. The coverage in a typical multi-family zoning district is somewhere between 30- and 45 percent. Some of them are 60- to 80 percent. Fifteen percent is an extraordinarily low coverage. To ask somebody to build that, it's just not gonna happen. That's why none of your village has evolved in that fashion. In terms of feasible alternatives, we looked at reducing unit count, we looked at making the units smaller. It eliminates the feasibility of this project, it erodes the economic viability and the attempt at making this something that would be desirable.

In terms of substantiality, going from 15 to 37 is not insight. We're not asking for 93 percent, we're not asking for 60-some-odd percent. Substantiality – I cited the case law and I'm confident this board is well aware – is not a pure mathematical analysis. It's based upon the same balancing test and analyzing the factors. We don't believe the variance here is substantial, particularly in light of the fact that we're not asking for any other variances. This is an entirely zoning-compliant project.

Adverse impact on the environment. Right now, you have kind of – and I'll use my words carefully – an unkempt property where stormwater is not being managed effectively, where roads accessing not just this property but the immediately adjacent properties are not the greatest. If this gentleman gets to build his project he will bring the road up to standards, it will be far safer from a fire safety and access standpoint, the utilities will be improved and the stormwater will be improved. So from an impact standpoint to us it's a no-brainer. There is no adverse impact; it's only a benefit to the surrounding area.

Self-created hardship? It's very hard ... look, he bought the property, he knows he's in the 1.5, he stuck with the 15 percent. I can't argue my way around that. However, if one reviews the records of the Village of Hastings you grant variances. Several of you are actually on the record more than once having talked about the lack of reliability of a 15 percent. And I'm choosing my words here carefully because some of you have said things far worse than that.

[laughter]

The lack of reliability and effectiveness of the 15 percent variance, I'm not gonna call it goofy or anything else. I'll leave that to others. It's not self-created hardship when you're stuck with what's here, and even if it is you all know it's not determinative. We are very

interested in working cooperatively with your board, with the Planning Board and with the Architectural Review Board. Christina has designed something that is going to improve property values because it's the nicest building – again, with all due respect to Mr. Brutto, who owns the immediately adjacent building – it's much nicer than a lot of other structures.

So in sum, we think the benefit to the applicant dramatically outweighs the detriment to the surrounding neighborhood and the community. I believe that one of our immediate proximate neighbors talked to me in the hallway and he said this is magnificent, this is so nice. He may have his own concerns, and I will let him speak for himself if he does. We were delighted to have the accolades that he paid to Christina and her design.

Our whole team is here to answer questions. It's late, but I must tell you this is not that difficult a variance application. And we hope you have gotten the information that you need. Happy to answer questions.

**Chairman Collins:** OK, thank you. The only question I have gets to the feasibility of the project and the applicant's ability to achieve the outcome in any other way. You referred to feasibility and that it's not feasible any other way, and you showed what code-compliant would be.

**Mr. Steinmetz:** Correct.

**Chairman Collins:** But clearly there's a lot of play between 37 percent coverage and code-compliant 15 percent. So what can you tell us about how you're gauging what feasibility means?

**Mr. Steinmetz:** Christina, do you want to address the market and why you've got six units at this size, and talk a little bit about our ADA-compliance as well?

**Ms. Griffin:** Yes. Well, we took a look at how we would develop this site so we could put an underground garage that would be pedestrian-friendly, which is a village-like character. We want to conceal the cars with a driveway on the side. So there's a lot of excavation work. We felt that to pay for that underground garage we're looking at three 3-bedroom and three 2-bedroom. Financially, it seems like this is what you need to do to support this type of construction, for the foundation work.

We're also looking at having one handicapped unit, entirely handicapped-accessible, because that's required by code. But we're also planning to make sure the buildings are broken up so each of these two buildings are very similar in proportion and scale to a lot of the buildings in the area. Each unit is broken up so it has the same roughly 20-foot façade that's very

common on a lot of the old buildings in the area. There's a green roof between the two because there's a link that is actually the roof of the garage below between the two units. We've made that a green just so when you look down from the Aqueduct it now looks like part of the greenspace.

The units are laid out so you come in on the ground floor, go up. There's two floors of living and bedroom space, and then there's an upper third floor that's set back so you can have an outdoor space up on the roof. We did this so we wouldn't take up any more coverage on the lot anywhere else. We also set back that third floor so when you're walking down the street it fades in the background so you still have the effect of three-story units from the sidewalk level.

We also developed the site so we have a greenspace. It's an L-shaped so we have like a common area with shrubbery around the edges of the property just to get a privacy area between our site and the neighboring properties. What we're trying to is not to overdevelop it but get the right number of units that helps us do the kind of development I feel is really in keeping with the character of this neighborhood.

**Chairman Collins:** So am I right then, if I sum this up, to say you're driven by an interest of getting cars off the road and parked on the lot; you want to do that underground. The cost of moving cars underground is therefore driving the size and the number of units you want to make available for sale in order to fund the cost of moving it.

**Mr. Steinmetz:** Really, it is a very significant cost to do that covered, structured parking, in essence. And let's tie it back to the other standards of the variance. It's also more environmentally friendly to put that vehicle on top of a concrete structure than to park it out in a gravel lot or create more asphalt.

One of the things that's interesting, I anticipated the question and it's a fair and appropriate question. Build smaller units, build fewer units, you won't have to ask for the same variance. The problem with that, analytically is that in effect you're penalizing the applicant based on the coverage. Because he complies with everything else. There's no FAR issue, there's no density issue, there's no front yard, rear yard, side yard setback. There is no other impediment here other than what, to me, is somewhat of a drafting ... essentially a drafting error in your code.

We comply with the open space requirement. The interesting thing is, I almost feel the open space requirement demonstrates how inconsistent or inappropriate your 15 percent coverage is. Because when Katelyn and I sat and analyzed it we not only hit the open space requirement we're 300 percent of the open space requirement. So we're generating all of this

statutory code open space, but then the other half of your code says to me you've got too much coverage here. How can I have too much coverage if I've given too much open space.

If I'm excessive on my open space why am I so deficient on my coverage? I am because your code doesn't make sense. If your code doesn't make sense I get to come in front of a zoning board of appeals, you all get to look at the situation, you get to balance the factors, and the benefit to the applicant outweighs the detriment to the community, and this becomes a simple analysis. Feasible alternative? You could mathematically take away units from my client. Feasible alternative, you could tell my client don't build 2,000 square foot three-bedrooms, build 12-hundred square foot three-bedrooms. That would be self-defeating for everything we're trying to accomplish.

We have a green roof component here, we have underground parking, we have lots of open space and an attractive design. I hope this is something the Village of Hastings wants to endorse.

**Chairman Collins:** We'll get to your comment in a moment, sir. OK?

**Mr. Nardecchia:** I was hoping you would give us 8 minutes for the people who came to comment on this.

**Chairman Collins:** Yes, we're not going to shut it off at 11. We're just not going to hear anything after 11, anything new after 11.

**Village Attorney Whitehead:** Are you saying now you're not going to hear 10 West Main at all?

**Chairman Collins:** Not unless we're finished with this by 11, no. Which is not likely.

**Village Attorney Whitehead:** All right. They were not aware of that coming in. They were aware they might get cut short.

**Chairman Collins:** Yes, that's what's happening, unfortunately.

**Mr. Brutto:** I'll do whatever I'm told. I'm not giving trouble here.

**Chairman Collins:** No, you're not in trouble at all. We want to make this as productive as we can, so ...

**Boardmember Anuszkiewicz:** Well, we're not voting on anything, right? So we could stop now and hear the other one.

**Chairman Collins:** We could, but I'd want to make sure that anyone here ... I mean, I'm happy to do that if this board has no questions.

**Boardmember Anuszkiewicz:** I wouldn't say that, but I would say they could come up next time.

**Male Voice:** Sorry to interrupt, but we are the people next. We're happy to do it. You're balancing whether to get us up there, I think. It is late, we're happy to let this proceed as you're mapping it out.

**Mr. Steinmetz:** Want to say anything in favor of the application?

**Male Voice:** I'm still learning about it. (Off-mic).

**Chairman Collins:** Thank you, I appreciate your understanding.

**Male Voice:** Sorry to interrupt.

**Chairman Collins:** No, no. Thank you very much.

**Village Attorney Whitehead:** You can go home now then.

**Mr. Steinmetz:** A few technical things, Mr. Chairman, that my client wants to make sure ... I thought Linda had cleared this up – possibly, Lou, just as you were walking in. I think you need to indicate that you don't wish to be lead agency so that ...

**Village Attorney Whitehead:** They did.

**Mr. Steinmetz:** I just wanted to make sure Lou heard that. He was very concerned so I wanted to make sure he heard that.

**Chairman Collins:** Yes, we're all set.

**Mr. Steinmetz:** Secondly, my client also asks that I underscore it's not just the construction of the parking, it's also the infrastructure including the road he's building. He is building the road in accordance with instructions from the Village, and bringing it up to a certain standard that also adds to his cost. He wanted that to be part of the record.



**Chairman Collins:** OK, thank you very much for adding it.

Are there any comments or questions?

**Boardmember Dovell:** I mean, it speaks exactly to what we spent a lot of time on Washington about, the exact same issue. Interestingly enough, the parking situation was handled in a similar fashion and I like the parking solution here. I think the fact that it's below grade, and out of sight and not on the street and underground, I think that's a really great start for this project. It looks like you've already taken a few lumps on the height of the building because you're now at 8 foot clear in the section, correct?

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

**Boardmember Dovell:** And it's fairly compressed. The units are very modest. You're looking at 9 by 10 bedrooms. You know, the units are very modest actually.

**Chairman Collins:** I am not troubled by the lot coverage issue. We have said before, and we can continue to argue it out, that the MR-1.5 lot coverage is absurd. We can try to now hold anything new to that, but it would be completely out of character with what that neighborhood is. I can't sit here, as I have – and I think I've been pretty consistent on this – thinking there's an argument to be made there.

Any other comments or feedback for the next time? I'm talking just for the Board.

**Boardmember Forbes-Watkins:** I think this is a very, very fine idea with this area.

**Boardmember Anuskiewicz:** I'm not convinced, in your argument, that you've actually demonstrated to us that six units is what you have to have. I think you talk a lot about how if we told you you need to have five you talked about how that would be a penalty to your client. And I understand that building six units on the site maximizes the amount of profit that can be gained on developing the property. But I don't think you have actually demonstrated in any other way than that why it's justified that there be six units instead of five.

I don't feel quite as draconian about the 15 percent requirement as Matt does. If we didn't have that, for one thing you wouldn't have the site here to develop so nicely for your client. I think we need to think about it a little bit in that light. You mention a lot of other communities that have this level of density. And yes that's true, there are a lot of other communities that have this level of density, especially in Westchester. There's Yonkers,

places like Mount Vernon, but that's one of the things that makes Hastings different. That we don't have this kind of density.

I think we have to be careful as a community, and its board, when we're looking at projects like this – because we're seeing more and more of them now – to weigh very carefully the consideration of some of the characteristics our community has versus whether or not we want our community to continue to develop to a certain kind of density that some other communities around us have. And I think an argument could be made – maybe not with this one development, but if this kind of development continues – that eventually could have a detrimental impact on property values because there's so much development and we're going to lose a lot of the open space that gives our village the character it has.

**Boardmember Hayes:** And there's more to it. I mean, it also often means an increase in traffic. We can take it off-line, but there's some very interesting villages or towns in Westchester that I'm familiar with that have taken this path over the past 20 years whose character has changed dramatically. So I share your concern, Adam. Whether this project is the one that triggers the snowball effect, I mean, the easiest town to point to is Eastchester.

I mean, it's an obvious choice. I don't know how familiar the Board is with that town, but if you look at it 20 years ago and look at it now there's no comparison. And it's basically a traffic jam constantly and has way too much density for the amount of space. I use that as an analogy only because I know it, because it's where my wife grew up. But it's a very real concern.

**Boardmember Anuskiewicz:** I would add, architecturally it's much nicer, I think, than the other one we looked at earlier tonight. I mean, the fact that it is expressed as townhomes, I think that's the way we should be developing in this area. So I find the character of it to be much more in keeping. I think actually one of those buildings would probably work better at 425 than the one we looked at earlier, for a lot of reasons. But I do have concerns about, you know, the number of units on the site. And I realize it fits in perfectly with the surrounding buildings you showed in the area.

**Mr. Steinmetz:** That's an important factor.

**Boardmember Anuskiewicz:** Sure, that's an important factor. But, you know, we also do have other characteristics to this community that are protected by our zoning laws and that's an important characteristic as well.

**Mr. Steinmetz:** Just so you're aware – and I'm happy to amplify on it next time, as necessary – my comment was not an urban comment, earlier. It was a suburban comment so

the coverage I was referring to analytically with other communities did not include Mount Vernon, Yonkers, White Plains or New Rochelle. It was the outlying villages and towns throughout the county. That was the analysis I had been asked to do in connection with the Village of Irvington.

**Boardmember Anuszkiewicz:** Well, we don't have to go far from Hastings to see this kind of development. I mean, it's happening right south of our community on Warburton Avenue in Yonkers.

**Chairman Collins:** Can you be prescriptive? Are you saying, Adam, that you'd like to see a proposal here for fewer units? Or are you ...

**Boardmember Anuszkiewicz:** Yes. I don't see why five units, for example, and more open space here wouldn't be preferable, and it would be less of a variance.

**Mr. Steinmetz:** So, Mr. Chairman, a quick response to that if I may? We're 300 percent over your open space requirement as designed. And with all due respect to the comment, while I understand – and understand where it's coming from – we would submit it seems to be an arbitrary reduction from six to five or six to four if you have the balancing test in front of you, you have the other factors in front of you, and there is no adverse impact and we are consistent with the surrounding area. I get it. It's very easy to say just make it smaller and ...

**Boardmember Anuszkiewicz:** Well, you're consistent if you go one property in each direction. But in terms of the community, you're not. We're not a community that's built of buildings with this level of density. And when we do build at this level of density, you know, we have a different kind of code for the cluster development that doesn't even allow things with this kind of bulk.

**Village Attorney Whitehead:** Just for clarification, it's not density, it's coverage. The density is permitted.

**Boardmember Dovell:** The density is permitted.

**Mr. Steinmetz:** I didn't think we were going to have to go there, but I'll go there because it's a fair comment. It is in my written materials. I learned that in connection with 32-34 Washington your board and/or the Planning Board requested a study. Quote, "The Board considered a density study of 117 properties in the MR-1.5, MR-O and MR-C zones, finding on average these properties had coverage of 45.5 percent." So I think it's an unfair comment to tell my team that we just kind of randomly looked at the properties immediately next to us.

My understanding is, this village has empirical data – let me finish – in connection with other matters (cross-talk) ...

**Boardmember Anuszkiewicz:** But that's not what I told you. I just told you what you showed us was one property in any direction.

**Mr. Steinmetz:** OK. So I don't want to argue. I just want to make sure the record's clear. In this village an analysis was done for your board of 117 properties. The average coverage of those 117 properties – in these zones that, theoretically, are supposed to have low coverage – was considerably more than what we're asking for. So we're not here asking for seven units, we're not here asking for eight units, and we're not asking for 200 percent over the open space; we're asking for 300 percent over the open space and we're asking for six units.

It's fair, it's reasonable. I'm sorry your code says what it does – and I wish I didn't have to come here for a coverage variance – I wish I was just here on view preservation, which is a wonderful thing in this community that you care about your views. I don't think this property is asking for something excessive.

**Boardmember Dovell:** How many units are in 376?

**Mr. Steinmetz:** Eleven units.

**Boardmember Dovell:** And in 382?

**Male Voice:** Nine.

**Mr. Steinmetz:** That was a nine from the audience.

**Boardmember Dovell:** And in 388?

**Male Voice:** Three.

**Boardmember Anuszkiewicz:** You know, you can see by looking at that map that the next step would be to combine 370 and 374 into one larger building; 378-380 into another larger building; and 388-390 into another larger building. Then we would have, you know, whatever that is – six or seven buildings all the same size. That would completely change the character of this part of town.

**Boardmember Dovell:** But it zoned for multi-family. I mean, that's the zoning.

**Boardmember Anuszkiewicz:** I understand, I'm not arguing that. I'm just saying to you that ... I'm just pointing out where this line of thinking goes. And I'm not specifically talking about this project, but the next one and the one after that. You know, there they are – the smaller buildings are going to begin to disappear.

**Boardmember Dovell:** What is the overall size of this lot?

**Mr. Steinmetz:** It's 0.4 acres.

**Boardmember Dovell:** So 0.4. Wow.

**Boardmember Anuszkiewicz:** Does that include Nodine Street, or is that ...

**Mr. Steinmetz:** I don't believe so. No, that's entirely extensive. Thank you for clarifying that though.

**Boardmember Dovell:** I'm untroubled by the density. My feeling is that this is a reasonable request.

**Boardmember Hayes:** I agree.

**Boardmember Dovell:** Six units is not a stretch.

**Boardmember Hayes:** I agree.

**Boardmember Dovell:** And I'm basing that on the setback. You've honored all of those setback requirements ...

**Mr. Steinmetz:** Yes.

**Boardmember Dovell:** ... which we've confronted quite a few times, and the yard requirements. The only catch here being this coverage issue ...

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

**Boardmember Dovell:** There was a disconnect in the ordinance, that at some point needs to be addressed.

**Mr. Steinmetz:** It is not useful.

**Chairman Collins:** Yes, which I intend to bring to the Mayor.

**Mr. Steinmetz:** And we are parking at quite a reasonable, maybe high, level. I won't be surprised if this becomes more of a TOD location. It is a walkable site. And your code is requiring that we park ... how many total parking spaces are we generating? Twelve?

**Male Voice:** Two.

**Mr. Steinmetz:** It's two per. In today's world ... I'm involved in a lot more projects where I'm not doing two per unit than I used to be. We've got two per unit here.

**Chairman Collins:** What I'm going to suggest is we let the public be heard on this, which is not to say the Board can't also comment further. But let's let anyone from the public who wishes to be heard or ask a question feel free to come forward and do so.

Kick us off, go ahead. Again, introduce yourself please, sir.

**Mr. Nardecchia:** I'm a licensed professional engineer.

**Boardmember Dovell:** Are you a resident of the Village?

**Mr. Nardecchia:** No, I own property in the Village.

**Chairman Collins:** Oh, you do. OK.

**Mr. Nardecchia:** Yes. I'm representing Duette Realty, which owns ... it's called 382 on the map; actually it's 382-384. I want to give a brief history. In 1975 my client bought the parcel that had been ... the building had been damaged by fire, 25 percent damaged. In getting an approved site plan his number of units was reduced from 16 to 9. Part of that was four parking spaces in the front and five in the rear which project into the roadbed of Nodine Street, the paper street.

I love the idea that they're improving the area. It certainly will enhance the value of our property. But we are concerned that we don't want to lose the ability to keep those five parking spaces. They are partially on our property and partially into the street. We're looking at it as it would impact upon the thing ... the greater density would certainly have greater peripheral traffic. The thought of losing five spaces – that, at best, could only be replaced by two on the street. And five is 50 percent of the parking for our structure.

We are concerned. We are not necessarily against the project. We just want ... if our parking can be protected, then we could be placated and go along with this project.

**Chairman Collins:** Can you show us up here – can you point out – where your parking is done? And just if you're going to speak use the mic.

**Mr. Nardecchia:** Well, I'll talk loudly. This is our parcel from here to here. The building is back here. And the parking spaces would project 7 feet into Nodine which is, I believe, 33 feet wide. So that would leave 26 percent passable roadway and the curbs back in the parking spaces.

**Boardmember Anuszkiewicz:** Are you asking us to preserve parking for you on Nodine Street?

**Mr. Nardecchia:** Yes, I am.

**Village Attorney Whitehead:** Which is a public street.

**Boardmember Anuszkiewicz:** That's a public street.

**Mr. Nardecchia:** Yes, we were given ... that was part of the agreement in 1975 when we lost seven units.

**Village Attorney Whitehead:** Do you have a written agreement?

**Mr. Nardecchia:** What I would project .. if I were to finish this portion, they would project 17 into the street. If you did parallel parking on the same area you would get two spaces and they would project 7 feet into the street. So we are trying to protect our right that we have now and not increase a greater parking burden on the area.

**Village Attorney Whitehead:** Mr. Chairman, if I could address this? There's a legal issue here about the right to have exclusive use of a public street for parking. That's a significant legal issue so I'd like to be able to look at whatever agreement they have. Likely if they have anything it's a license agreement, which means it's revocable by the Village at any time. But there's a bigger issue of whether you can grant exclusive use a public street for parking.

**Chairman Collins:** I've never heard of such a thing. OK, I appreciate that.

**Village Attorney Whitehead:** So I would (cross-talk) ...

**Mr. Nardecchia:** It can be done, but she's correct in that it would be only by licensing. And it would be revocable. If that would be the case, then we would go on record as being against this project.

**Chairman Collins:** OK, thank you.

**Mr. Nardecchia:** Because of the density and the ...

**Village Attorney Whitehead:** There's a bigger issue to it than just a revocable license. There's a legal issue beyond that.

**Chairman Collins:** OK, we'll hear about that perhaps next time.

All right, does anyone else wish to be heard? Come forward, feel free. And again, just introduce yourself into the microphone, please.

**David Zung, 378 Warburton Avenue:** I've lived here for 20 years now, and it's ... yeah, this development is literally right behind my house. Lou's a good neighbor and I know he means well for the neighborhood. As the Board mulls over the density and the mass and the size, one of the things I'd like to bring up is just the issue of drainage came up. For now, I know my house and my neighbor's we've been dry; our basements are dry, drainage has been fine, it's all dirt back there. My concern, when this all gets paved over and there's underground parking, is drainage. Is it all going to come pouring into our houses, are we going to have damp basements? I know the engineers would like to avoid that, but if it happens what are the repercussions for us, for the residents, and for this whole line of apartment buildings?

Again, I don't have any particular objections to the project itself or what's going on on – what's the other one, Christina?

**Ms. Griffin:** 425.

**Mr. Zung:** 425. It's just that, you know, you start getting a lot of variances in a small neighborhood. So what becomes of the neighborhood? I'm just hoping we can look at this as a whole. Again, it's a small area. I've seen a lot of changes. The traffic is insane. So when the engineer says, Well, a reasonable person follows the rules and we'll be OK, but my neighbor and I have literally seen two cars turn over in the last couple years literally on our property. There's been a big ... there was a car turn over on Washington and Warburton last year. I know personally two people that have died on Warburton.



Traffic is insane. There's a double yellow line. People cross-hatch going down to Yonkers all the time. People speed. It's like this half the time, I can't believe the traffic. Again, I'm not against the project and it's up to you guys to decide the variances. But I just want to keep that in mind as you guys go forward: the density and the amount of traffic becomes part of the conversation, the school buses are new. There's just so much going on. Again, I don't know if this is the right forum for it but I just wanted to bring it up because it's for the good of the whole neighborhood. That's all.

**Chairman Collins:** And I appreciate that. That's a good comment. Buddy, you can take a (cross-talk) ...

**Building Inspector Minozzi:** I'd like to interject a second. Those are planning issues, and drainage has not been addressed on this site yet. It will be addressed by the applicants engineer and by the Village Engineer.

**Chairman Collins:** Explain, though, for lay purposes when we say it's going to be addressed by their engineer and our engineer ...

**Building Inspector Minozzi:** OK, it hasn't been designed yet. When it does, when their engineer does design it – which Jimmy will tell you about ...

**Village Attorney Whitehead:** He's going to tell you.

**Building Inspector Minozzi:** ... it will be sent to our engineer for feedback.

**Chairman Collins:** But I think what residents are going to want to know is, is my basement going to be dry. Fair question.

**Village Attorney Whitehead:** I'll let the applicant's engineer address this in a little more detail. But basically, the law provides they cannot negatively impact. They have to handle all their runoff on-site.

**Building Inspector Minozzi:** That's in our code.

**Boardmember Anuszkiewicz:** I don't think the question was about necessarily the site, though. It's going to be about Nodine Street. Once it's improved you'll need to have a sewer. The sewer is what will keep the neighbors' property dry.

**Village Attorney Whitehead:** Jim, why don't you ...

**Mr. Annicchiarico:** We haven't gone into great detail for design of the drainage system for the site yet, however the preliminary design for Nodine Street itself is to pitch the road the opposite way it's coming right now. Right now the entire site is essentially impervious. I mean, it's hardpan, some asphalt, some concrete, much gravel. So essentially there's almost zero pervious surface on the site.

Right now, it's all running free everywhere. It's obviously all coming to the west towards the neighbors. It's likely coming up against the wall behind 382-384, which isn't ideal. It's probably sitting there, seeping into the ground behind the wall. Not ideal for the longevity of the wall itself. We will obviously be paving Nodine Street, pitching it away, and picking up all the surface runoff in catchbasins and drainage infrastructure. Then we'll be bringing it down Nodine Street to Warburton Avenue to the existing Village system.

We'll also be bringing sewer up and down Nodine Street to the north in front of the building to pick up the sewer from the building itself. In addition, we'll be bringing water infrastructure – with a fire hydrant likely – somewhere near the end of Nodine Street. Which will obviously improve firefighting for the houses that are on Warburton from the rear of them, as well.

**Male Voice:** Gas, too. No?

**Mr. Annicchiarico:** Yes, gas, electricity all underground.

**Boardmember Dovell:** Will a traffic study be part of this application?

**Mr. Annicchiarico:** Not to my knowledge. We haven't been asked that yet.

**Boardmember Anuszkiewicz:** I want to pick up on that and also what the gentleman who was up here before said. I do think part of the problem is that we don't have design guidelines for Warburton Avenue. At a certain point I think we should ... it would be a good idea to approach this with the Board of Trustees because, you know, the granting of variances one project at a time is eroding – or I won't say eroding, but changing – the character of Warburton Avenue.

I think at a certain point we should address issues like traffic, density, architectural character and scale because these are the things that are really preserved. These are the things that are significant in our village and what make it different from other villages, other places, towns and cities in the area. I think we can continue to look at a property and say, well, there's other buildings here like that so we're going to go and do that. But the 378s, the 380s, the 388s, 390s, 370s, those buildings, are definitely going to be disappearing. I think it needs to

be looked at in a more detailed way so we have some guidelines about how to approach these things in the future.

I don't think that should come from one board, the Planning Board or the Zoning Board. I actually think we really should be commissioning a study to give us some real design guidelines so we have ways to deal with this. This project, by the way, is not on Warburton Avenue so I think some of those issues are not even as relevant. But the character of this area is changing a lot.

**Female Voice:** I wanted to show you pictures of my (inaudible).

**Building Inspector Minozzi:** Well, you have to use the microphone to talk, please.

**Chairman Collins:** You've got a wireless right in front of you if you like.

**Female Voice:** Hello, thank you. I know it's late so I won't go on and on.

**Chairman Collins:** Your name is?

**Lorna Feeny, 400 Warburton:** I'm right next to this property. I'm not sure this is optimized, but I can share the pictures with you later if it doesn't come up. There we go. I actually live next door to Bryan and his lovely wife Kanchan and their lovely son, Dylan. We moved here from the city a couple years ago and we were really ready to get out of development hell. We did our research, we looked at a lot of the Rivertowns, we fell in love with this area. We chose Hastings because, number one, we love the scholarship, they're fantastic. I have two children who are nine and twelve.

We chose Warburton Avenue because there's such a special community there. A lot of us are new, a lot of us have lived there a long time. But there are a lot of children who live on that street. We formed a bond with the families, the children play today, it's very special. If you walk around the neighborhood you'll see even in Bryan's backyard it's almost like a public park. Kids congregate there, they gather, they play on the swing tire from the trees.

I have a unique view that's absolutely gorgeous that is south-facing. We have sun all the way around. From my daughter's room she has an amazing view. She thanks me all the time that we moved to Hastings, she loves it very much. I'm a designer so I did some renderings based on the measurements I saw in the specs that were given. One thing, I know we're looking from up here down. I don't know if it's a legal requirement or not, but one of the things that has not been considered is what is this doing to people like me who have an exquisite view of the Aqueduct. During the winter when the trees fall away, the leaves fall away, I have a

beautiful view of the trail, of the hills. We look up, you know. If you live on this side of Warburton that's what you move here for is the Aqueduct. If you live on the other side of Warburton you have the river views, you have the Palisades. I have a little bit of blockage, that's OK. But this is what we live for. When you look at Bryan's backyard and the scale of these condos and how imposing they are it really hits home, right? You're not seeing this in the renderings they show.

Forgive me, maybe it's my own ignorance. I do not understand the logic that's been presented by this team. What I'm hearing is the place looks like a junkyard now. I appreciate you're trying to make it look better. Well, he owns that junkyard. He's using it as an extension of his business. Even yesterday morning starting at 7 a.m. we had the windows open. There was a forklift and a dumpster, dumping trash into something, and there's cars. It's junky. It's an eyesore, it drags down property values. Using that as an excuse – that I'm making a junkyard of my property, and if you want it to be better let me build something on it – the logic fails, and I'm sorry I don't understand that.

I think it's a special area. The reason we moved here was because of the woods. I even studied your code – I'm a little bit of a nerd like that – and I saw you were very vigorous about it and that you're faithful to your code, and that you care a lot about preserving this community. That's why we chose this community. And I love Warburton. I love the street, I love all the people I've met. So to hear someone come in and say we can make it more livable and more marketable – where I feel like it's already beautiful as it is, it represents the character of a very special village – I find that a little offensive. I don't know, it doesn't seem right to come in here and say there's something wrong with our community.

I really hope you'll consider the impact this has. This is a monolithic space that will be staring down into my neighbor's yard where we've had a lot of special times. It's representing people staring right into this home we invested so much in. There is absolutely no doubt this will drag our property values down because it reduces the amount of privacy we have from our open decks that are out back. And it's also a slippery slope. He's asking for ... I don't care about history, I care about this one instance, right? This is what we're talking about.

This represents more than a 100 percent allocation. He's asking for a 100-plus increase in the variance. That's a lot. I invite you to come and look at what's going on there because that brings it all the way up to Bryan's property line. When he says he wants to make the area look better and that's all they care about, I really would invite you guys to go look at the apartment he manages now. There's paint falling off the façade, it's unkempt, it doesn't look nice. I don't have a lot of faith that this is going to be better than what he's currently running. There's proof positive in what's going on.

And also, as we've discussed, traffic is a huge issue. There are tons of kids, not just riding their bikes, walking to school, getting on the bus, having cars backing in and out. We have cars constantly whipping in our driveway and whipping out. This has a huge impact on families and people. It's not just a 15 percent variance, it can potentially ruin our lives and the investment we made in Hastings and our desire to stay here for a long term.

That's all I wanted to say. Thank you.

**Chairman Collins:** OK, thank you very much for your comment.

Anyone else with a comment? Feel free to come on up.

**Nasser, 380 Warburton Avenue:** I'm here to make a couple of ... my concern is my backyard. I know Mr. Brutto. He made a beautiful building next to Nodine Street. But only my concern is about the flood. David already raised that question. Also, I have a garage. None of them have a garage facing that property except my garage. It's a legal garage. I bought a property in 1999 with everything included, including the four parking spaces. I have four children, three of them driving. So I need my space in order to get into the garage.

Nodine Street, from Warburton, is a dead end street. It's not active at all. It's only help for the neighbors to come in, not any strangers coming. One is (inaudible) building, his neighbors are coming, and myself, David doesn't use it as much, and this gentleman. Once you come to Nodine and make a left turn to this property that he's building this beautiful project is a dead end. So my children play soccer. But even though there's a lot of truck, trailers, and it's like a junkyard as he said. It's true, I agree with that.

I've been bearing that junkyard for 19 years and I pay high amount of tax. Even now increased to the top of my tax. But I'm glad that he's making the junkyard into a beautiful property. I'm not against it. I need my property to go up. But at the same time, I don't want to lose my privacy, my children's privacy. And they're coming out of my driveway. Because my home is very low, his property is high. So if there's a huge rain, after he fix the gravel road, as David said my garage is the first to hit. I'm exactly straight to that property. So the water, the basement.

I wish him good luck, and at the same time I want him to spend some time on neighbors. We have existing neighbors so we want to protect our privacy and my garage. My garage is building my property by facing the street, the dead end street. So I cannot go to my garage unless I come from the street. Also, I have no space except the three parking and this gentleman has five parking. We've been doing this, but it came with our property. Legal or

illegal, I'm not going to go there, but I need my entire ... the property and the privacy and the entrances he's working on. There's not any disturbance, I'm with him.

Thank you very much.

**Chairman Collins:** OK, thank you. Yes, come on up.

**Bryan Kincaid, 390 Warburton:** I've learned a lot through the planning board process, including how much later you guys stay up than I ever do. So thank you for the time and attention to this.

You touched on it, Adam. We moved up here about four years ago and we are absolutely the product of a changing neighborhood. It concerns me, it does affect my property value, it does affect my privacy. It does, to Lorna's point, affect the reason I think many of us moved to this neighborhood. When we moved in, 400 just to the north of us was a garage and we had nothing but greenspace behind us. Now to see that change really starts to concern me and have a very personal impact.

I can say, through the Planning Board process, I've been impressed with the designs that continue to get better. But I still feel like we're talking about a massive unit along the Aqueduct Trail, and while variance or view preservation aside, as you're walking down the Aqueduct Trail what has been small, sporadic houses with views in between now we're talking about a pretty big footprint here that will be a continuous house ala Yonkers. Not to mention the overhead aerial view here, with now one strip left which is my backyard. And everything else now around that is starting to really densely start to creep in there. Not represented on there is a 200-year-old sycamore tree and a beautiful Japanese maple and a vegetable garden, all of which now are going to be in the shade from what is going to be a large unit.

Again, I know something is going to build back there. We knew that when we moved in. I'm not opposed to that. I think there is room for improvement on what is there currently but, again, I'm still concerned that what we're talking about is a pretty substantial development in an area that doesn't need a substantial development.

**Chairman Collins:** Thank you.

**Mr. Kincaid:** Thank you.

**Chairman Collins:** Come on up.

**Andy Seewald, 400 Warburton:** Hi, good evening. Thank you for listening. I agree with my neighbor, Lorna, that it seems somewhat extortionate to say grant me this variance or you're stuck with a junkyard or an eyesore. That doesn't seem like a way to do business. Or to just suggest that the Board has no choice but to grant this variance because of other things that have happened around town, other comments that Boardmembers have made with respect to other applications. That doesn't seem fair either. I think this board certainly has the authority and the duty to consider this application on its own merits.

I think, with respect to the coverage comparisons to the buildings on Warburton Avenue, I don't think it's a fair comparison. Warburton Avenue ... there's been a lot of talk about Warburton Avenue tonight. It's very busy. Some, I think, realize may be too busy. But the buildings on Warburton are very different from the space behind Warburton. This building would not be on Warburton, it would be behind it. As Lorna suggested – and I think explained very well – the space behind our building, behind Bryan's building going up to the Aqueduct, ground level eyesore aside it's tranquil back there, there are deer back there.

And we see the Aqueduct. We can see the walls of the Aqueduct up there. It is the start of a beautiful stretch of the Aqueduct heading south down towards Yonkers. It's a little bit different going up in the other direction where the Aqueduct pauses around Ward Street, which was also discussed tonight, and there are some bigger buildings. But the Aqueduct actually stops for a time until it crosses Washington Avenue. I think with this project, just compare it to where it is, not to what's on Warburton Avenue, I think, when thinking about the coverage. I would add to that the fact that the Village right now is developing the link between the waterfront – which there's still much more to come there – and Quarry Park.

Quarry Park will be happening. The path has already been completed between Warburton and the Aqueduct Trail, and this project is very close to that link. It's, I don't know, 30 feet away. I'm not sure, it's very close. That, to me, demonstrates that the space back there is like parkland. One thing I would say about the zoning rules generally is you talked about the effect on privacy of people in my building, Bryan's building, the other gentleman who spoke. Zoning rules are designed, as I probably don't have to remind you, to give people some protection for their expectations when they move here and live in certain properties.

If those expectations are to be changed, that should probably be done somewhere else other than in a piecemeal way by a zoning board. It should be done through ... if the zoning rules need to change, then that's one thing. But to grant what seems to be a very big variance for this particular property doesn't seem fair to me. So thank you.

**Chairman Collins:** Thank you.

Do you have anything else to add?

**Mr. Steinmetz:** Just very briefly. I know Mr. Brutto doesn't want me to be argumentative with neighbors so I'll try to just be factual. The last speaker hits a chord with me because, with all due respect, sir, I'm out too many nights a week and too many weeks a year listening to these important issues that affect private property rights. It's very important for the record to reflect that the gentleman talks about expectations.

When Mr. Brutto bought this property he had some expectations too, and those expectations are predicated on reality. And the reality is that the last speaker lives in a structure at 400 Warburton that grossly violates existing zoning. He's in a 93 percent coverage structure. So if we're going to be fair with one another, the fact of the matter is Lou didn't call me before he bought the property. But had he called me, I would've said, "You know, Lou, you have a fair expectation because the folks who live at 400 Warburton have a 93 percent coverage; Mr. Nardecchia has a 75 percent coverage with no off-street parking underneath."

There are expectations that we get as folks that live in New York State, in Westchester County, in the Village of Hastings that's predicated not only upon your zoning ordinance but upon the pattern of development that surrounds us. That's precisely why New York State law – and maybe some of the speakers aren't familiar with it, and that's totally fine and appropriate – tells me that my client and I, and your board, are supposed to examine certain factors. And that's why we're looking at some of these things.

I completely understand people in a community. You're all entitled – they're all entitled – to a fair, quiet, safe enjoyment. As far as views to the south from the woman who spoke at 400, I want to record to reflect also we did check. There are no view shed easements over this property benefiting any of the surrounding properties. Certainly if there were that would be an entirely appropriate and legally enforcement right. There is no right for a view over this property.

In any event, I don't want to belabor it. We're happy to come back next month, we're happy to answer any further questions. But I do think what Suzanne has in front of you right now is probably the single most important document for us to look at, and that's the pattern of development in the area.

Jim, did you want to address something specific?

**Mr. Nardecchia:** I'd like to respond and correct a statement.



**Chairman Collins:** Well, just one at a time. Just one at a time. Let him finish, then we'll let you go ahead and be heard, OK?

**Mr. Nardecchia:** He was making a statement ...

**Chairman Collins:** No, these guys have been first. Go ahead.

**Mr. Annicchiarico:** Just to touch on drainage again, and specifically the neighbor at 380. We are obviously looking to be good neighbors as far as drainage goes and everything else as far as improvement to the site are concerned. My firm is going to do the right thing, we're not going to flood anybody out. I'm going to make sure of that. I know that as he spoke he probably does get flooded out. I've been to the site numerous times. Looks like somebody's actually built sort of concrete structure in front of the garage to try to stop water from coming into it.

As I said earlier, the way we propose to pitch the road and capture drainage I think will be a vast improvement to the area, and specifically the neighbors to the west.

**Boardmember Anuszkiewicz:** Can I just ask you a question about that? Your proposed improvements to Nodine don't impede their access to their property in any way, right?

**Mr. Annicchiarico:** No.

**Boardmember Anuszkiewicz:** You're not changing the elevation or anything?

**Mr. Annicchiarico:** No.

**Mr. Steinmetz:** Including the gentleman who talked about his four garages that face us.

**Mr. Annicchiarico:** I specifically ...

**Boardmember Anuszkiewicz:** Well, I'm not talking about whether somebody's on private or public property. You're not impeding their ...

**Mr. Annicchiarico:** I specifically took the elevations that were along that property line, and I met them.

**Boardmember Anuszkiewicz:** You're just meeting the same elevation.

**Mr. Annicchiarico:** Yes, I made sure of that.

**Village Attorney Whitehead:** Actually, that's something the Planning Board looked at and had your Village consulting engineer look at because they were concerned that the improvement of Nodine would work without impacting on the neighbor. So that actually has been ... you've done a plan for that.

**Mr. Annicchiarico:** Yes.

**Village Attorney Whitehead:** You graded it out, and it's been reviewed by the Village's consulting engineer.

**Mr. Annicchiarico:** Yes, the Planning Board asked us to do that first.

**Mr. Nardecchia:** I just wanted to correct the fact that 380-384 is 53 percent, not 75 percent. And the argument the applicant makes that everybody else is over the usage is the best argument against why we shouldn't continue it. If we let him do this he'll raise the average to be even more over the usage. Even though it's overcrowded it's not a reason for projecting that or making it worse in the future.

**Chairman Collins:** OK, thank you very much.

I think what we'll do is, there'll be no vote, again, today because we're just legally not able to. So this case will come back at a later date. Of course, you'll all be noticed on that when that time comes. I appreciate your comments, and I appreciate your candor. As always, it's great to see the Village come out and share their points of view. We've got just a couple of Board issues, just matters of procedure, that we've got to get through. But not very exciting so I urge you to go home. So let's quickly do the minutes.

### **APPROVAL OF MINUTES**

#### **Regular Meeting of September 7, 2017**

**Chairman Collins:** I've been through these and found no errors.

**Boardmember Forbes-Watkins:** I couldn't find any. Very good.

**Village Attorney Whitehead:** Couldn't find any errors?

**Chairman Collins:** C'mon, not even one? Can I get a motion to approve the minutes?

On MOTION of Boardmember Forbes-Watkins., SECONDED by Boardmember Hayes, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of September 7, 2017 were approved as presented.

**Chairman Collins:** The vote is unanimous. Hang on, we're not adjourned. Ladies and gentlemen, we're still in session.

### **MISCELLANEOUS**

**Chairman Collins:** A couple of things. One, as this meeting demonstrated these have the potential to go really long. What I would propose we do, at a minimum, is that we make the rule we had that I injected – which I did not want to have to do tonight because it came as a surprise to people – is that we're not going to do anything new after 11 p.m. It feels like a reasonable thing to include in our notices going forward. Otherwise, imagine if we were starting, now, another case.

**Boardmember Anuszkiewicz:** Right.

**Boardmember Forbes-Watkins:** We wouldn't have gotten to another case.

**Chairman Collins:** But if they had insisted, like, "Hey, we came."

**Boardmember Anuszkiewicz:** Then we would have stopped the other guys and switched.

**Chairman Collins:** Which is all imperfect. My point is, I think we should be capping this and making that transparent in the notice.

**Village Attorney Whitehead:** If you let them know up front it's not a problem.

**Boardmember Dovell:** If the agenda is full can you bump them to the next month?

**Village Attorney Whitehead:** But how do you define "full?" That's the problem.

**Chairman Collins:** It is a challenge, but I do think there are times, though – and this is one of those instances – where I think we probably could've had a conversation in advance to say, Look, realistically ...

**Boardmember Anuszkiewicz:** Right. We can always handle the single-family residenceals.

**Chairman Collins:** Those are pretty straightforward.

**Boardmember Anuszkiewicz:** But when we have more than one of these multi-family things it becomes too much for one session.

**Chairman Collins:** That's right, yes. So let's say, just for a minimum, we'll cap it at 11. The other alternative we could do is start it a little earlier. We could start it a half-hour earlier and start it at 7:30. But I know. I work in the city, it makes things a little bit harder for me. And I know you guys *all* work in the city to some extent. I don't know whether that's feasible for or not.

**Building Inspector Minozzi:** That's always been a recommendation.

**Boardmember Hayes:** Can I ask you a legal question because I have no idea, and I guess I should because I have applied for variances here before. Do you have a legal right to be heard at the next meeting if you have everything done, or do we control ... and by "we," Linda, Buddy, Matt?

**Village Attorney Whitehead:** It's not uncommon for a board to either limit the number of applications or to say we're not going to start a new application after 11 o'clock. The board can set reasonable rules. People can't expect you to be here 'til 2 in the morning.

**Boardmember Hayes:** So my recommendation, Rather than making this board even more burdensome – which going to 7:30 would because now you're just saying we're adding an extra half-hour of time and there'll be just the same amount of fatigue – it's about the amount of time you're here, not necessarily the lateness of the hour. That we figure out a mechanism where judgment can be used around building the agenda. Because this agenda was just not thought about, right? It was just if people ask me they should be put on. Which is fine because that's how we've operated, right?

**Village Attorney Whitehead:** But you can't pick and choose who you're going to put on and who you're not. These were on in a certain order by when they came in. It worked out for you that the two you weren't going to decide anyway were last – although we could've moved them to last for that – but you can't say one big application and four small ones. Lots of times it's first-come, first-served.

**Boardmember Hayes:** Well, but is that what it is? Is it first-come, first-served? Because then you could say, OK, the first two things are apartments. Sorry, no one else is on.

**Chairman Collins:** Or you get to a situation where the flip side of this is that we say it's going to end at 11. People show up with every anticipation that they're going to be able to present because they were in line, then they come here and wait 'til 10:30, 10:45, 10:55, then go home and they're unsatisfied.

**Village Attorney Whitehead:** It is the chairman's prerogative.

**Boardmember Hayes:** That's much worse.

**Village Attorney Whitehead:** The chairman can move the agenda around. So if you have easy ones, like you had a couple of in the middle of your agenda tonight, you could take those first. And, you know, we've got to see. If the Board of Trustees starts getting complaints because people are getting delayed for months at a time ...

**Boardmember Hayes:** But it's not going to be months. We're talking about in one meeting.

**Boardmember Dovell:** We could meet the next week or the week after.

**Building Inspector Minozzi:** Let me just interject for one second. This is notorious for October because we don't meet in November.

**Village Attorney Whitehead:** And your September meeting was early. You don't meet in August, so really the second half of the year you skip two meetings, you move it. It gets very difficult. That's when you're going to get these long agendas. You don't get them in the spring.

**Building Inspector Minozzi:** That's why everybody is rushing to get in this morning.

**Boardmember Hayes:** But I'm going to say something else. Based on history, we are going to be seeing many more of these big applications on a go-forward basis. This town is changing, the attitude of developers is changing, the sea is changing. This is my world, and I'm telling you they're coming out here to these villages. We're going to see a lot more of these big applications, many more than we've seen in the past, so we're going to have to learn how to manage it.

Here's another suggestion. I love the idea of a supplemental meeting, but then we need to have like two alternates. Because I can guarantee you that if you said ... I mean, I actually

could do next Thursday, but the idea that you say, OK, we're going to do this Thursday and next Thursday at least one or two of us going to say I'm going to be away.

**Village Attorney Whitehead:** So on that note, I'm been pushing the Board of Trustees to name a new alternate because right now you don't have an alternate.

**Boardmember Hayes:** Well, what happened?

**Village Attorney Whitehead:** Denise resigned.

**Chairman Collins:** Yes, she just resigned. She just didn't want to do it anymore.

**Village Attorney Whitehead:** She was too busy.

**Chairman Collins:** She's just become a grandmother, too, which I think is making a difference.

**Village Attorney Whitehead:** I have been pushing them that they need to appoint ... and that's a good point. When you see a really long agenda, if you want to be proactive the best way to be proactive is to say, You know what? We're not going to do this all in one night, let's see if we can schedule a special meeting.

**Boardmember Hayes:** No one's going to be upset about a week. I mean, I know this from having done two renovations. A month gets you upset, a week?

**Village Attorney Whitehead:** If you can schedule a special meeting within two weeks of the date they thought they were going to be heard nobody's going to be upset.

**Boardmember Anuszkiewicz:** You know, the other thing, too, is since you're sitting with the Planning Board I don't understand why you guys are doing these things for six, nine months before we even look at it.

**Village Attorney Whitehead:** You guys never would've been OK with the view preservation on that last one if it came to you when they first ... it's been ...

**Boardmember Anuszkiewicz:** Well, you're taking too much time with the Planning Board. That's my point. I think you should ... not that you shouldn't take the time to work these things out, but why can't you come sooner? Because if some of these people would come sooner to us to get some feedback that might streamline the process a little bit.

**Village Attorney Whitehead:** But you don't want them coming to you with a plan that the Planning Board isn't comfortable with.

**Boardmember Hayes:** No, I agree. There's a psychological point to what Adam's saying. Some of these people who were here today, they come up and they suddenly think this is a rubber-stamp board. We've talked about that before. It's sort of like the Planning Board said it was OK. What they need to understand ...

**Village Attorney Whitehead:** I don't think anybody's said that to you. I think 425 has learned that.

**Boardmember Hayes:** Well, they learned it but they still talked like, We've been to the Planning Board all these times.

**Boardmember Anuszkiewicz:** They were told that the building wouldn't move.

**Boardmember Hayes:** Well, yes. That was 425, yes. I'm not saying they shouldn't understand, but they often come here with this kind of expectation that we're the jerks; like, We've spent all this time with the Planning Board. This is the legislative body, right? Am I wrong?

**Village Attorney Whitehead:** You're not a legislative body. The Board of Trustees is the legislative body.

**Boardmember Hayes:** OK, judicial body.

**Village Attorney Whitehead:** You are a semi- ...

**Boardmember Hayes:** Judicial body.

**Village Attorney Whitehead:** Quasi-judicial.

**Boardmember Hayes:** Why is it only quasi-?

**Village Attorney Whitehead:** Because you're not a court.

**Boardmember Hayes:** But we make legal decisions.

**Chairman Collins:** Let's stay on the point. I think the idea that when you sense things are piling up, before we public notice just call me and we can open it up to the rest of the Board for feedback. Then we can decide we'll have a supplemental meeting.

**Village Attorney Whitehead:** They should reschedule a second meeting.

**Chairman Collins:** We'll have a supplemental meeting, and then I think at the bare minimum we do need this alternate thing resolved. And I think the Board of Trustees has set a higher bar, my sense is, for that position now. I don't even know that I would get on if I was interested.

**Boardmember Hayes:** Why? What's their criteria now?

**Chairman Collins:** They really want architects and lawyers.

**Village Attorney Whitehead:** No, they're not doing that.

**Chairman Collins:** No?

**Village Attorney Whitehead:** I've told them they don't need to just limit it to architects and lawyers.

**Chairman Collins:** Anyway, that's sort of beside the point.

**Village Attorney Whitehead:** I think we don't want too many architects.

**Chairman Collins:** But we do need to get it resolved.

The last thing I'll mention because I really want to get home is, I do think we need to have a discussion around this 15 percent lot coverage issue in MR-1.5.

**Boardmember Dovell:** It's got to result in a text change at some point.

**Village Attorney Whitehead:** It will, but you guys can help that by sending a memo to the Board of Trustees.

**Chairman Collins:** But first we have to, I think, have a conversation about it. I have my point of view on it, but I don't want to speak for the entire Board. I think it warrants a discussion, but this is absurd. We're having this conversation over it.



**Village Attorney Whitehead:** Where you granted the coverage variance tonight, three words in the MR-1.5. It's the same.

**Boardmember Dovell:** I know. It's the same issue we have.

**Chairman Collins:** And they're over by a lot.

**Boardmember Hayes:** But it's not good for this board to keep granting a variance over and over again.

**Village Attorney Whitehead:** But there is precedence, and you can't ...

**Boardmember Anuszkiewicz:** We're destroying the character of this community.

**Village Attorney Whitehead:** No, you're not. You know what? It's too late to get into this.

**Boardmember Anuszkiewicz:** I think you just heard it from all these people who were up here tonight telling you that we were.

(Cross-talk)

**Chairman Collins:** Guys, just remember we're still in session. Just remember that.

**Boardmember Anuszkiewicz:** I respectfully don't agree with you. I don't.

**Village Attorney Whitehead:** I'm going to send you guys a memo because I'm concerned – and I don't mind saying this on the record – and I almost stopped you and said let's go into an advice of counsel session. I had to do this with the Planning Board two meetings ago. There comes a point where if you're going to look at denying something you need to make sure you have a proper and strong record to do so in compliance with the law.

There are cases that talk about if this is the existing character of the neighborhood you really ... it's very difficult to deny. Area variances have a very light standard under the law, and if this is the existing character of the neighborhood and you're going to deny a variance ...

**Boardmember Anuszkiewicz:** I'm not talking about that. I'm talking about creating a district that has design guidelines. Nothing stops the Board of Trustees from doing something like that.

**Village Attorney Whitehead:** No.

**Boardmember Anuskiewicz:** Like conducting a study, analyzing existing conditions, establishing ...

**Boardmember Hayes:** I think the point is – and this is to your point and to Adam's point – you're both saying the same thing in a completely different way. For the Zoning Board to keep dealing with the same issue over and over, effectively on an ad hoc basis because that's what a zoning board does, doesn't work in the long run. Because you end up being in a situation where you've got to take us back in the room and say, Hey, by the way X, Y, and Z goes on. The Board of Trustees needs to fix this.

**Village Attorney Whitehead:** It's my job to make sure the decisions you make are defensible.

**Boardmember Hayes:** That's right. So the town doesn't get sued. I get it.

**Village Attorney Whitehead:** Or if we get sued ...

**Boardmember Hayes:** We can say, Sorry, look, we're right. Yes, I understand. But I think what Adam's saying and what you're saying, what I'm saying, I think what everybody's saying is, the Board of Trustees needs to fix this. How do we force their hand because we're being put in an uncomfortable position, you're being put in an uncomfortable position.

**Boardmember Dovell:** Then you recommend a text change, design guidelines, or whatever we think is the right way to handle it and you put it to the Trustees.

**Chairman Collins:** I think that's what we need to do next. First I started off thinking, going into tonight, that we just need to revisit this lot coverage issue. But I think you're right, Adam. We need to call attention to the fact that this is a hot point in the Village and the characteristics in MR-1.5 are totally different from anywhere else in the Village; for its traffic density, for the density of structures, and for the mix of the community that's there – like the use is very different. There needs to be some thought to this, and I don't have an answer and I'm not going to come up with it between now and, I'm sure, when we meet again.

**Village Attorney Whitehead:** I need to say that the attorney wasn't wrong. When you can meet all the criteria – the setbacks, the density, the open space requirements, the height – and you're meeting everything else by a significant amount, then the coverage is that far ... something is wrong.

**Chairman Collins:** There is something wrong and we need to solve it. But what I would recommend we do is have some conversation. Maybe we pick it on an agenda that's relatively light. Maybe we do it in January or December, whenever we have a light agenda. We put this on, we talk about what should that lot coverage be, and then talk about what do we want the Board to look at.

**Boardmember Dovell:** I would say they want a planner to do some sort of a study and make a recommendation on it.

**Chairman Collins:** Yes, maybe it shouldn't even be up for us to decide what the lot coverage should be.

(Cross-talk)

**Boardmember Dovell:** ... that we can point that we have noticed a disconnect in these things time and time again, and that there's some issues that pertain to character, as Adam's pointed out. That we think a study might be commissioned that would result in a text change.

**Boardmember Anuszkiewicz:** Then they should have a public hearing on it so the whole town ...

**Village Attorney Whitehead:** Well, any zoning (cross-talk) requires the whole town.

**Boardmember Anuszkiewicz:** The whole town weighs in. What you're hearing now is, you heard from like five or six people who live there and every single one of those people objected to that project and said it was going to have a negative impact on their property values. Which is what I said to them also. You know, he stood up there and said this is going to improve everybody's property values if we build to this density. And I said no, it's not. The community needs to weigh in on that; you know, that's a community-wide issue. Those five people are on their own.

**Boardmember Hayes:** You start talking about traffic it's everybody.

**Village Attorney Whitehead:** It's actually interesting. New construction often does tend to increase property values.

**Chairman Collins:** Well, we'll see. Let's do this. I'm going to adjourn the meeting.

**Building Inspector Minozzi:** Before you do that, one question: 10 West Main Street.

Now, do I put them first on the agenda?

**Village Attorney Whitehead:** First, yes.

**Building Inspector Minozzi:** OK, because usually come-backs will come last.

**Boardmember Dovell:** First on the agenda means in December, right?

**Building Inspector Minozzi:** Yes.

**Village Attorney Whitehead:** Someone who didn't get heard should be first.

**Boardmember Dovell:** Do you want to try to schedule something before?

**Chairman Collins:** Well, they're not ready to be heard anyway because they haven't gone through SEQRA.

**Boardmember Dovell:** They haven't, OK, fair enough.

**Village Attorney Whitehead:** They're OK with December.

**Boardmember Hayes:** Is that our next meeting, December 7?

**Village Attorney Whitehead:** Yes.

**Boardmember Hayes:** We need an alternate.

**Village Attorney Whitehead:** You're not here.

**Boardmember Hayes:** I'm likely in Colombia.

**Boardmember Anuszkiewicz:** We'll have a meeting in Colombia.

**Chairman Collins:** I'll send a note off to Niki and to Peter as well.

### **ANNOUNCEMENT**

**Next Meeting Date – December 7, 2017**

**ADJOURNMENT**

Chairman Collins adjourned the regular meeting & public hearing.