

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING & PUBLIC HEARING  
DECEMBER 7, 2017**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, December 7, 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 Adam Anuszkiewicz, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

**Chairman Collins:** Ladies and gentlemen, thank you for joining us for the December Zoning Board of Appeals meeting for today, Thursday, December 7.

We have two cases on our docket – which we will hear in the order in which they are presented on the agenda, for Case 23-27, 10 West Main Street. And then we'll hear from Case 8-17 for 425 Warburton Avenue. There is another case, I believe here. But I believe it's been deferred until the January meeting.

**Building Inspector Minozzi:** That's correct, Mr. Chairman.

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

So before we begin, are the mailings all in order?

**Building Inspector Minozzi:** That is correct, sir.

**I. AGENDA**

**Case No. 23-17  
Riverton Lofts West, LLC  
10 W. Main Street**

**View Preservation approval, as required under Section 295-82, and relief from the strict application of Section 295-76.A.16(b) & 295-36.A of the Village Code for the construction of a new seven-unit, multi-dwelling on its property at 10 West Main Street. Said property is located in the CC Zoning District and is known as SBL: 4.70-48-13 on the Village Tax Maps**

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

**Use Variance:** No residential use on the ground floor {295-76.A.16(b)};

**Proposed - Residential Use on the ground floor**  
**Required Parking Spaces: Existing Use - Provided; Proposed - 11 Spaces;**  
**Required - 18 Spaces {295-36.A}); Variance required - seven spaces**

**Chairman Collins:** OK. Linda, anything from the Planning Board that we should know before we begin on 10 West Main?

**Village Attorney Whitehead:** You had already received something from the Planning Board, and I know you recirculated it yesterday. Richard Bass had sort of been the Planning Board member nominated to come to your meeting and was ready to come at the last meeting, but I know he e-mailed you that he couldn't make it tonight.

**Chairman Collins:** Right.

**Village Attorney Whitehead:** Again, the Planning Board has not yet made their SEQRA determinations. They asked this applicant for one piece of information, which I understand has been submitted.

**Building Inspector Minozzi:** Which piece were you looking for?

**Village Attorney Whitehead:** On 10 West Main, the information on the slope in the back.

**Building Inspector Minozzi:** Oh, yes. That's all submitted.

**Village Attorney Whitehead:** So we do expect the Planning Board to make their SEQRA determination on the 21st, but since you haven't heard this case yet we thought it would be a good idea for them to come before you tonight.

**Boardmember Forbes-Watkins:** But we cannot ...

**Village Attorney Whitehead:** You cannot actually vote. You should be able to by your next meeting.

**Chairman Collins:** They've made no determination or recommendation on view preservation either.

**Village Attorney Whitehead:** You are not looking at view preservation right now. It's before you only on the two variances.

**Building Inspector Minozzi:** Parking, and the use variance.

**Chairman Collins:** OK, very good.

**Village Attorney Whitehead:** The Planning Board felt those were threshold issues. They wanted to see if this board was willing to grant those variances before they went any further.

**Chairman Collins:** OK, that's helpful context.

**Village Attorney Whitehead:** Particularly the use variances and threshold issues.

**Chairman Collins:** All right. So, ladies and gentlemen, we're going to begin here in a just a moment. But I'll just preview some logistical concerns. We have two microphones: a standing mic which you all can see, and our Building Inspector has a handheld microphone here, too. Sometimes the handheld microphone comes in handy when presenting drawings or plans. We ask that regardless of which microphone you choose you always have a microphone in front of you because we have a remote transcriptionist who's recording everything that we say for the record. So just make sure that you've got a mic, and I would ask that the first time you speak into it just introduce yourself for the record.

[Village sirens sound]

So with that, who is here to present on behalf of the Riverton Lofts? So if you could just come forward – after our sirens have gone off – and feel free to begin.

**Matthew Cordone, project architect:** I don't have a microphone.

**Chairman Collins:** Take your time in getting set up.

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

**Chairman Collins:** That's a great photo, from what I can see.

**Village Attorney Whitehead:** It's little kids dancing.

**Mr. Cordone:** Yes, in all of my equipment I have pictures of my daughter and my son. That would explain the little girl in the ballerina costume.

**Chairman Collins:** Outstanding.

**Boardmember Forbes-Watkins:** Please bring the microphone a bit closer.

**Building Inspector Minozzi:** You want the handheld?

**Mr. Cordone:** No, this is fine. We'll hold it just in case we have to move around.

**Building Inspector Minozzi:** If you need it, just turn it on. Great.

**Mr. Cordone:** Thank you. I'm the architect for this project, 10 West Main Street, a new structure. I just want to explain to you a few zoning variances we are looking to present to you this evening. The building is currently a parking lot that we're hoping to expand with this two-story structure – I'm sorry, three-story structure. It'll be seven apartments and it'll be located on the same lot as the neighboring building which is next door, over here, which is another multi-family home; two-story, multi-family home.

Currently, on the street, there are no commercial storefronts at the ground floor level. However, being in a CC zoning district we are required to provide commercial space, or nonresidential space, on the ground floor. This is our first hurdle, and this is the first variance I want to present to you.

**Building Inspector Minozzi:** That would be on the ground floor, facing the street.

**Chairman Collins:** Right.

**Building Inspector Minozzi:** You can have residential in the ground floor that's not abutting the street.

**Chairman Collins:** Right, just to clarify.

**Mr. Cordone:** Thank you, Buddy. Yes.

What we have prepared is an apartment building that does actually have residential on the ground floor facing the street to match the existing context of the original buildings that already exist on the property. Our first floor plan is basically a studio apartment that fronts – apologize for the delay here – the street, which is also the access down to the train station, the community stairs. To the right of that, plan right, you would find the main entrance to the residential apartments above. We also have another apartment in the rear, which is a duplex and bicycle storage off to the side for the residents to use as alternate means of travel, if required.

We feel it's important to maintain the identity of the street and keep the ground floor as residential. This street, as you guys know, is off of a parking lot so we don't really get a lot of shoppers. It's not really kind of a downtown commercial street as Warburton is. To be anchored in the corner of this, by the stairs going down, we felt the building would be better equipped to actually have residential there. Hence the reason why this studio does front the street.

The second variance we are looking to present to you tonight has to do with our parking. Currently, the zoning text requires 18 parking spots for the program we have presented in this drawing set. We would like to request a reduction of parking to 11. The total apartments in this space are 11, so we are requesting one unit per apartment. Now, the apartments do ... they do vary from studios to 2-bedrooms to two 3-bedrooms. In conjunction with this new structure, we are also including the parking for the existing structure next door. The reason for the reduction of parking, we feel the site and its severe grade change is limiting. We felt we could provide a better building if we reduced the parking and gave more of the property to the building as opposed to the parking.

We do also cite options in terms of alternate forms of travel for the residents who live here. The property is close to two bus stops. We are located directly above the train station, the Metro-North train station, and we also feel the municipal parking lot that's across the street also does offer serviceable parking for the folks in town. Bicycle storage is another recommendation we are putting into the program to better help the effort of not necessarily having the requirement of the 18 parking spots, but to reduce it down to 11.

**Chairman Collins:** OK. Thank you, Mr. Cordone, for the summary.

Let's take these in order, and we'll start with the higher hurdle in this case which, without a doubt, is the use variance. Have you familiarized yourself with the requirements for securing a use variance?

**Mr. Cordone:** We have been going through the requirements. Yes, that's correct.

**Chairman Collins:** OK, I'll state them aloud. There are three, and they are added. All three must be met in order for the variance to be granted. Number one: *"The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone."* Number two: *"The plight of the owner is due to unique circumstances and not to the general conditions of the neighborhood, which may reflect the unreasonableness of the zoning ordinance itself."* And three: *"That the use to be authorized by the variance will not alter the essential character of the locality."*

I think the three, from my read, get progressively easier in your case. I think the third – as you've established – there is already a consistency that would come to life if this project were to go forward. I think the one I haven't seen, yet, evidence of – and which is required in this case – is the first, which is the inability to yield a reasonable return. The threshold for establishing a reasonable return is also noted in the text New York State provides, in that it has to be demonstrated by competent financial evidence. Which means that there really needs to be an economic analysis that demonstrates if you were to build for the zone and the zoning requirement that it would not be economically feasible. My first question to you is, have you conducted that analysis?

**Mr. Cordone:** We did start that analysis. And I can lead us up to Mr. Waters, who's the project attorney.

**Chairman Collins:** OK, great.

**John Waters, project attorney & manager:** Yeah, good evening. Thank you for your time. We are not starting the analysis yet, actually because we haven't had a vote. We kept getting laid over for a meeting to be voted on.

**Chairman Collins:** Excuse me, Mr. Waters, one second.

**Cable Access Director Corso:** Can you see if that microphone is on?

**Chairman Collins:** Oh, sorry. I think we're not powered up. Thanks, Jen.

**Cable Access Director Corso:** Thank you.

**Mr. Waters:** Is that better?

**Chairman Collins:** Jen, you good?

**Mr. Waters:** Hello? Thank you.

**Boardmember Anuszkiewicz:** She's calling.

**Cable Access Director Corso:** I'll let you know. It's the sound effect.

**Chairman Collins:** Yes, you're good. Thank you, Mr. Waters.

**Mr. Waters:** I'm the attorney on the project. I'm also the project manager for the development group. We have not started an economic analysis; we've begun a preliminary economic analysis. I guess one of the questions we have because we've not been before you for a voting meeting yet, as to format do you need it from an explicit third-party consultant, do you need it from? ... we've been polling the local brokers. We know what our construction costs are and we have a general sense of what rent in a very undesirable spot on Main Street would be. We're just wondering – format-wise, since we haven't been before this board before – how would you like it presented? We know this isn't a voting meeting so we figured it was a good opportunity to get a sense from you what you would actually require.

We're not that worried about the numbers. The numbers aren't very good to try and put retail there so we're not that worried about it, but we know we can't just tell you. So we want to

know exactly what you would expect.

**Chairman Collins:** Right. Well, I'm going to invite our Village Attorney to weigh in, and anyone else on the Board for that matter. But I would say the first order of business is that it come from a third party.

**Mr. Waters:** Sure.

**Chairman Collins:** That there be a third-party evaluation so you're not grading your own homework, so to speak.

**Mr. Waters:** Right.

**Chairman Collins:** And that you show us ... from my perspective, I would like to show your work, as they said in high school math assignments. So what are the underlying assumptions instead of just focusing on the bottom line numbers. What are the underlying assumptions you're feeding into this; on what basis are those numbers derived; and how does the economic bottom line – according to a third-party on this – for the approved zoned use compare to your cost structure so we can see that and ultimately where you stand?

Linda, is there anything else we should include?

**Village Attorney Whitehead:** The analysis has to actually look at any of the uses that would currently be permitted under zoning there. So any of the nonresidential uses, and show that they're not feasible. The law says "competent financial evidence." There is some case law as to what is competent financial evidence. I think in this case, you know, we have a starting point where we know it's not necessarily a feasible thing, but they need dollars and cents proof. That's what the cases talk about is dollars and cents proof.

**Mr. Waters:** Understood. I don't want to be near case law to figure out if we've provided something sufficient. I just want to take the opportunity to glean this.

**Village Attorney Whitehead:** So it's just dollars and cents proof as to, you know, what the cost of construction is. If you were able, what you would be able to rent if for if there's a use that would be feasible there. But that needs to be in the record.

**Mr. Waters:** Understood.

**Village Attorney Whitehead:** And satisfactory to this board for you to grant a use variance. And that is your biggest hurdle.

**Chairman Collins:** That's correct. And I would say, just knowing myself and my fellow

boardmembers, I know we'll take a keen interest in the assumptions you're making. So just come prepared to walk us through the inputs.

**Mr. Waters:** Yep, no problem.

**Chairman Collins:** OK. We can talk about the other two. I'm satisfied with the third: that the use authorized by the variance will not alter the essential character of the locality because, as you point out, in that section of West Main Street it is entirely residential. Then what's your position on the second one?

**Village Attorney Whitehead:** The second one is that the hardship you're facing with this property is unique and does not apply to a substantial portion of the district or neighborhood. You have to show it's not going to apply ... a lot of other properties in the CC zone are not going to have the same problem you have that's making you ask for this variance.

**Mr. Cordone:** Well, I'd like to say, first, the reason why I think this is a consideration for us is the commuter lot that's directly across the street from this unit. Outside of just folks coming home from the train, there's really no indication that a commercial space would be tucked away in the corner of West Main Street.

**Mr. Waters:** Also I think, more specifically to the site, I don't know how familiar people are with this site. It is at the very end of Main Street. It's on a very dramatic slope.

**Chairman Collins:** Mm-hmm.

**Mr. Waters:** We actually don't have ... the overall context of this site is, we've secured funding from Westchester County to make the existing four-unit building four units of permanent affordable housing. To do that, we have to have a driveway to get to the new construction building. Any frontage we would do would actually be above the stairs leading down. I don't think there's too many sites in the CC zone, in the downtown commercial zone, that would actually have frontage that would be above a stairwell. That's just indicative of the overall topography of the site.

I think – and Matt will correct me – if we were a flat site, by zoning downtown we'd be able to use 71 percent of our floor area, or our land area. What we're proposing is only 42 percent because, literally, to start building into the slope and displacing earth, and moving earth off the site becomes much less cost-effective. It also means we start knocking down a lot more of the tree cover you can see.

If the threshold of the site is particularly challenging, this site – for being in the downtown commercial district – I think, is ... you know, we would posit that as unique. If there's another way you'd like it demonstrated or shown to you we'd be happy to do that. We do



have more detailed drawings. But we are in a commercial district at the end of the street that has no other commercial activity on it, and most of our site is actually fronted by a staircase that recedes below our frontage.

**Village Attorney Whitehead:** Just one thing to point for the Board to consider, most of this building does not actually front the street. What the law says is that you have first-floor residential, but not in a portion of the building that fronts on the street.

**Village Attorney Whitehead:** So this is something – and Buddy can take a look at this, too ... this building doesn't really front the street, it fronts on the staircase to some extent.

**Boardmember Dovell:** The whole building fronts ... it looks like the whole building fronts on the staircase.

**Mr. Cordone:** Basically, yes. Close to it.

**Village Attorney Whitehead:** So maybe that's something for you to take – for Buddy even to take – another look at as to whether this building really fronts on the street and whether this requirement really applies. We hadn't really looked at that before.

**Mr. Cordone:** Actually, we haven't really looked at that in that depth.

**Village Attorney Whitehead:** Sort of where the street ends and it becomes just the staircase.

**Boardmember Dovell:** This is the street, this is the end of the parking lot. Can you point to the end of the parking lot on the sketch?

**Mr. Cordone:** Sure. Over here, the end of the parking lot would ... you know what? Let me go to the site plan.

**Village Attorney Whitehead:** Yes, I think the existing building clearly fronts the street.

**Boardmember Dovell:** Clearly does.

**Village Attorney Whitehead:** That already is nonconforming, with residential on the first floor.

**Building Inspector Minozzi:** It maybe just catches a corner of the building, at best.

**Chairman Collins:** Yes, the corner – the northwest corner ...

**Boardmember Dovell:** It's your drawing SP-100.

**Mr. Cordone:** Mm-hmm.

**Village Attorney Whitehead:** That would certainly be unique that only a very corner of the building really fronts the street.

**Chairman Collins:** Right.

**Boardmember Dovell:** The parking lot, I walk down this every day so I know.

**Chairman Collins:** Ray, do you want a mic?

**Boardmember Forbes-Watkins:** I wish they had a picture here.

**Boardmember Dovell:** This is the last parking spot right here.

**Mr. Cordone:** That's correct, yeah.

**Boardmember Dovell:** So cars don't go past this point here.

**Mr. Waters:** Right. It's literally a transition to the stairway.

**Village Attorney Whitehead:** That's what we were just looking at on the plan. The street really ends where your driveway is because there's a wall that juts out.

**Chairman Collins:** Well, I do think we need an interpretation.

**Building Inspector Minozzi:** OK.

**Chairman Collins:** To the extent that there's ... I don't know whether we can pull on any examples elsewhere in Westchester that may have faced something like this because in Hastings it's going to be next to impossible to find an example.

**Village Attorney Whitehead:** We'll take a look, and Buddy needs to take a look at the language of the code and his interpretation.

**Building Inspector Minozzi:** We'll reevaluate the situation and definitely have an answer way before the next meeting.

**Village Attorney Whitehead:** Yes, and we'll let you know because I certainly think you know what this board needs from you ...

**Mr. Cordone:** Yes.

**Village Attorney Whitehead:** ... on the use variance questions now. But Buddy will take another look at that and determine if it's really necessary.

**Chairman Collins:** Just hypothetically speaking, does this ... are we only thinking about the relationship of what I'm going to call sort of a west-to-southwest-facing side, the left-most edge of this building? In other words, if there's residential that's along the north side of that structure is that street fronting.

**Village Attorney Whitehead:** That's the question: is it street-fronting.

**Building Inspector Minozzi:** That's what we're going to ...

**Chairman Collins:** Because I think there are two issues. One is, where does the street end, at which point? It doesn't matter where residence ... if a residential dwelling is not abutting a street, then it doesn't matter where it is in that building.

**Village Attorney Whitehead:** The Planning Board has the discretion to permit first-floor residential in any part of a building not fronting on a street. I think the Planning Board has already indicated that they were OK with that.

**Chairman Collins:** Yes, although I think that they ... my read of the Planning Board's letter was that it was written in a way that I would expect to see feedback on an area variance. It really focused on the third point, which is consistency with the neighborhood and the fact that this is a unique structure in that sense. But it doesn't seem to observe the literal language in the New York State code on this.

**Village Attorney Whitehead:** No, they weren't addressing the language. They were just explaining their position and taking some things out of the Comprehensive Plan and such ...

**Chairman Collins:** Right.

**Village Attorney Whitehead:** ... on what is really a very unique block within the CC, the entire CC, which is all of the downtown. The CC zoning doesn't fit this block really.

**Building Inspector Minozzi:** There's only two areas in the entire CC district that would fall into this category. It would be West Main Street and two buildings – which is now only one building – next to the ambulance building; that small little piece which has now ... unfortunately, one of them has been converted – well, was converted years ago – to a commercial structure. But those are the only two areas in the entire CC district that is even ...

**Village Attorney Whitehead:** That have residential.

**Building Inspector Minozzi:** ... that has residential houses, you know. All the houses across from 45 Main Street have some type of business on the first floor. So those two or three structures there don't count. It's really these two ends of Main Street that are the only thing we have to go by here.

**Village Attorney Whitehead:** It's really a historic remnant, and that's what the Planning Board was citing to you from the Comprehensive Plan about preserving that historic character.

**Building Inspector Minozzi:** They're all turn of the century homes.

**Chairman Collins:** I do want to spend some time talking about the parking variances, but don't want to accelerate through the use variance if any other Boardmembers have any comment on this. OK.

In reaching your conclusion on the parking – which I'll summarize, and you check and tell me if it's wrong – that is, that the proximity to commuter services obviates the need for certain parking spaces. I think your hypothesis is that this is going to be a particularly attractive option for commuters because they can just literally walk out of their apartment and be down at the train station in a minute.

**Mr. Waters:** That's one component of it which is very true, the siting. It's also we are doing five affordable units. I think in most zoning codes the threshold of parking demand for affordable units is usually lower. We're going to have four permanently affordable units in the renovated existing structure and one affordable unit in the new construction. Aside from trying to emphasize transit-oriented development and maximizing the proximity to the train station, we also have five units that generally, historically, consume less parking because you're not that likely to have two-car ... a family looking to live there, but they have two cars. You might even find people with one car, at most, who are relying on the public transportation system.

**Boardmember Dovell:** I follow the logic. Is there evidence to that effect?

**Mr. Waters:** I'm most familiar with the New York City zoning code. There's a significant increase in the parking requirement that are affordable housing with access to public transit.

**Chairman Collins:** That's a decrease in the requirement the city imposes.

**Mr. Waters:** That the city imposes on new construction or any construction.

**Chairman Collins:** The question I was going to ask – and I'll let you go here in a sec, David – have you studied what the number of homes per dwelling in the adjacent residential properties to get a sense of whether or not your hypothesis of proximity to commuter services and its dampening of an appetite for vehicles is, in fact, accurate?

**Mr. Waters:** A formal study we do not have.

**Chairman Collins:** OK.

**Village Attorney Whitehead:** There have been studies on TOD that have been done, and a number of municipalities have adopted TOD zoning where they have reduced the parking requirements.

**Boardmember Forbes-Watkins:** Yes, but I have to point out that when we've listened to affordable housing discussions here before the Zoning Board, when we've asked about do you need two spaces per our standard, they said oh, yes, that's the affordable housing people here in Hastings. So I'm not overly convinced without some real study that your just saying there'll be less parking needed is necessarily valid.

**Boardmember Dovell:** Have you studied ... I mean, I'm just looking at your site plan. Looks to me like you can fit more cars in there. I don't understand why you can't ... why your cars on the south edge are so far away from the ...

**Mr. Waters:** Because if you were more familiar with the site there's basically ...

**Boardmember Dovell:** Well, I don't walk around the back.

**Mr. Waters:** Well, if you walk into the site on your way down the stairs, kind of starting at the top left of the drawing there's a crescent where the slope down starts to descend rapidly. We're also trying to minimize having to build in that. You know, it's also an issue of how much retaining wall we have to do, if we have to kind of build back out.

**Boardmember Dovell:** Is this new retaining wall?

**Building Inspector Minozzi:** Why don't you walk up to the screen.

**Mr. Cordone:** Our retaining wall basically runs around this tree line, then it comes back up here. The reason why we typeset (sic) our parking this way and have the open space here was to allow for two things: one, better circulation for the cars to get in and out of the parking lot; and also to provide – which is something that the Planning Board wanted to see – more of a semblance of a backyard for this space, for this structure. It was the opportunity

of giving a better building by seating it on more of a proper residential yard. That was part of the reason why ...

**Boardmember Dovell:** But how is that yard going to be used if it's all paved and all open for people to maneuver cars around in?

**Mr. Cordone:** Well, it won't be permanently paved. We're going to be using a permeable paving system.

**Boardmember Dovell:** Throughout the whole lot?

**Mr. Cordone:** Yeah.

**Chairman Collins:** I'm skeptical of this. I think Ray makes a very good point about the capacity here. And I also think we are talking about a downtown dwelling. I feel as if, in this case, we are ... as in any project we're looking at there are always tradeoffs. So in this case, the tradeoff to consider is taking cars off the street. Especially absent any data points to suggest that the demand for cars and parking in this part of town is any less than it is in other parts of the town. That's one end of the tradeoff.

The other is open space for the residents to do whatever they like. But I know one of the consistent themes this board is regularly juggling is the shortage of parking in Hastings. It's a chronic problem, and we lean toward – I think I'm comfortable saying this on behalf of the rest of the Board – getting cars off the road. To me, this is just a notch below the use variance. This is a really big request you're making, and I'm not convinced by the argument that the demand for cars is going to be any less. And to Ray's point, I think you actually do have room.

**Village Attorney Whitehead:** Matt, if I could just put in again, the Planning Board had a lengthy, lengthy discussion on this. One of the things that I think – and they mention it in their recommendation – makes it different than other locations is the parking lot. You can park in this parking lot overnight and it's not usually full overnights, full on Saturdays. But the Planning Board felt the fact that there are three – this lot, the Con Ed lot down below ...

**Boardmember Dovell:** And Boulanger.

**Village Attorney Whitehead:** ... and Boulanger Plaza, the Planning Board felt the fact that there were three lots within very close walking distance it's not like the cars – if they have more cars, if there's more than one car per unit – are likely to be on the street. They're likely to be, especially overnight, in those parking lots that are not generally full overnight. It was a combination of the TOD, the proximity to public transportation, and the proximity to the parking lots that was what really weighed the Planning Board to make their recommendation.

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

**Village Attorney Whitehead:** Since Richard wouldn't be here tonight ...

**Boardmember Dovell:** When do they start giving tickets? When does the person start giving you 25-dollar tickets?

**Building Inspector Minozzi:** It's about 8, 8:30 in the morning. When I lived in the Village, that's one thing we had to deal with. We had to move our cars in the morning, especially on the weekends. Not Sunday, but Saturday.

**Boardmember Dovell:** Those lots are full. I mean, there's a shortage of parking, even at the train station, and I don't really fully understand that as a viable option.

**Building Inspector Minozzi:** You know, as a person that lived in the Village, the at-night parking was never, ever an issue with the parking lots.

**Boardmember Dovell:** I can see that, but at 8 o'clock in the morning ...

**Building Inspector Minozzi:** The daytime, absolutely. Especially on the weekend, absolutely.

**Chairman Collins:** And if you have commuters who are going into the city I think there's some risk that the capacity we'd be counting on in some of these overflow situations may not materialize.

**Boardmember Dovell:** So the whole back is permeable paving, is that right?

**Mr. Cordone:** That's what we're proposing. That's correct, yes.

**Boardmember Dovell:** But then you have this area over here that looks like it's got a different treatment. It looks like it's maybe planted, where the bicycles are along that ...

**Mr. Cordone:** The bicycles are ... hang on, let me shift gears here. Yes, that's correct. Over in this area where the bicycles are we are proposing ... this is schematic, but we did propose to have a grassy-like surface, a little bit even more permeable.

**Boardmember Dovell:** So that's not paved. That would be used for ...

**Mr. Cordone:** Right, that's correct. That would be used ... this area here, yes, you'd have access for the bicycles. You'd be able to wheel it here. Perhaps maybe a walk would be

placed in that area for the bikes on wet occasions. But schematically, we are hoping to have more grass in this area, more garden. And then the area for the cars would be like a Belgian block or a permeable ...

**Boardmember Dovell:** So you have a 5-foot ... between the back of the first apartment, that studio apartment in the back, you have a 5-foot walkway through that area?

**Mr. Cordone:** Back here?

**Boardmember Dovell:** Yes.

**Mr. Cordone:** Yes.

**Boardmember Dovell:** Then from the back of the parking space – which is maybe 18 feet deep – what do you have to the ...

**Mr. Cordone:** To the retaining wall?

**Boardmember Dovell:** Well, to the retaining walls.

**Mr. Cordone:** OK. So retaining wall, we have approximately about 16 to 18 feet.

**Boardmember Forbes-Watkins:** That's not enough.

**Boardmember Dovell:** No, that doesn't sound right. From the back parking lot ...

**Mr. Cordone:** Oh, I'm sorry. From here to straight back here?

**Boardmember Dovell:** Straight back to the retaining wall.

**Mr. Cordone:** Right, right. That, we have – we're proposing ... let's see if I have a better example. This distance here – because we are under the structure – to here, we're looking at about 20 feet.

**Boardmember Dovell:** About 20 feet.

**Mr. Cordone:** About 20 feet.

**Boardmember Dovell:** So you have enough room, what, to that next row of cars?

**Mr. Cordone:** Right, here's our next row of cars.



**Boardmember Dovell:** So you could get another six cars along that edge pretty easily and still have maneuvering distance to get out.

**Mr. Cordone:** Well, part of the reason we went with the number of 11 parking spots is, we were trying to match it with the apartments.

**Boardmember Dovell:** I understand, but you have three-bedroom apartments, and guaranteed that's not a one-car unit. I just don't think there's been a rigorous ... I don't understand why those cars that are along the edge of that retaining wall aren't parked on the retaining wall if that's the edge of the parking area. You've got kind of a 4-foot distance between the front of the car and the retaining wall, and you could easily reconfigure that to get another four cars in there easily. I don't think there's been a rigorous study in how you're going to get in and out of this parking lot, and demonstrating that you've really maximized it.

I mean, I understand you want to use that as an area for recreation but, frankly, cars are going to be back there and what's to prevent them from parking there anyway? There's nothing to prevent them from parking there if the thing is treated the same way. I just don't think there has been any real rigor in kind of why we should grant a waiver if it looks like you can get more cars in there and if this is really not a viable outdoor space anyway.

I can see this area being a viable outdoor space, and maybe that comes back a little more and it's made more attractive. But I think a little more rigor in the site planning ... and I'm sure you can get more cars in there to just alleviate the need for parking for the larger units. It would also make it a more attractive development for you, I would think. I mean, that's my opinion on that.

**Chairman Collins:** Yes, I agree with that.

**Village Attorney Whitehead:** So would you need to see how many cars they could ... I mean, potentially some variance could be granted. But you want to see what can ...

**Boardmember Dovell:** I just think you ... it doesn't look like it's been really ... with due respect, I don't think it's been thought through very deeply in the request here.

**Chairman Collins:** Yes, I think there's a site line here minimizing the variance request you require, which is really what we are tasked with doing. I think Ray makes some very good points about how that could be done. So I think I speak for the Board in saying that when you do come back, and maybe we're at a point where we could imagine it, that would be something we'd want to see.

**Mr. Cordone:** I don't think we have any objection to exploring the site and the parking more. And increasing the parking is something we can certainly investigate, absolutely.

**Mr. Waters:** From the presentation to the Planning Board, we haven't tried to maximize the desire for the site's availability to be a transit-oriented site. Parking is dear, we understand that. But it is a building surrounded by a sea of parking lots. That's kind of what informed us. If this is aggressive we understand that. We're also finding discussions that are trying to push us in that direction, and we're just trying to get to a place where everybody's happy with the project. Because I think so far ... I know the previous iteration of the project, this site was kind of the Godzilla version of a proposal. We've really been trying to be thoughtful about not asking for things of that nature.

**Chairman Collins:** Sure.

**Mr. Waters:** Because we do think, just expanding a little bit from the project, we're very happy the county focused on the existing building and they wanted to fund it as permanently affordable, and we're comfortable with doing that. That just made us focus on what's left on the site, and we've been trying to manage the best way to get ... you know, seven units is not a lot of units. This is not a huge site. So the economics are not fantastic, but it's good. It's a very good site, it's on top of the hill, it's near the train. So we're trying to maximize those advantages as best we can and minimize parking as much as feasible.

Also with the commercial space, we know we need to demonstrate that for you, but show it's not going to benefit the project as much as residential space will. And trying to get the whole thing across the finish line.

**Chairman Collins:** I appreciate the context. Is there anything else that you guys ...

**Boardmember Dovell:** I think it's a nice proposal. I mean, I'm in favor of this proposal in general, the way it's been structured in terms of affordable and that sort of thing. And that it is more modest than other proposals that have been made for this. The site right now is such a mess. I mean, it would just be wonderful to see something nice down there. But I am concerned about parking. I just don't think that's really a viable solution.

**Boardmember Anuszkiewicz:** I am not as convinced about the argument of this building not being on West Main Street as far as the use variance goes. I think it's a new building, it's in the central commercial district. The central commercial district requires commercial space on the ground floor. I think the way everybody's been talking about it here, to me, is a little gimmicky. To say that maybe you're excused from it because you're not physically on the street front, the building has an address – 10 West Main Street – and just thinking about that, I have two thoughts.

One is, I do think it's a very viable commercial space. It's right at the top of the stairs, and the other commercial space on West Main Street has been very viable for a long time: the

Rockwood & Perry wine store on the other side. So you have to look at the fact that there are many, many commuters who walk up and down those stairs every day, including Ray. But when the train comes in there's a lot of traffic walking up the hill, and I know the wine shop does a ton of business that way.

So I think from my perspective, it would be somewhat of a loss not to have the commercial space at that location because I see it as an opportunity for the commuters. Entering it right at the corner there, I could think of many viable options like a coffee shop or a bakery or other type of use that would do just fine there and would be an amenity to the commuters who are going up and down.

The other thing that concerned me is that it's not on the street, but the front door is over there, it looks like, from the drawings. It seems awkward to me, and I wonder is it accessible to emergency vehicles? Are they able to get to the front door and around the other side of the building since there's no street frontage there?

**Mr. Cordone:** That's a good question, and we do have a drive that would be wide enough for emergency vehicles to get in if it needed to be. I guess that would also strengthen the argument to having less parking in the back so the emergency vehicles can turn around.

Also just to go back to your comment about Rockwood & Perry, Rockwood & Perry does front Warburton as well and I think being on that corner is a little bit more active for the downtown district than this corner. With that being said, I think once we do our due diligence and study the economics behind a commercial space here that would probably clear things up a little bit.

**Boardmember Anuskiewicz:** Perhaps. I think it's an uphill climb, but I'll leave it to you. And I'll point out that a lot of the available commercial space in Hastings is limited by its accessibility to parking, including Rockwood & Perry. They're on Warburton, but there's nowhere to park. So frequently, when people are going in there, they have to double park in front. The fact that that building has access to this parking lot is an asset for a commercial tenant that many of the spaces in the downtown don't have. So I would see it as more viable from rent-gaining perspective than some of the other spaces in town.

The other thing is, when you do the study, you know, the study is not really just to demonstrate that this space is ... in other words, you really have to get over the threshold of ... you would have to prove that the space is not rentable, pretty much. Because it's not really a case of you saying, well, it's rentable but we'll never make as much money renting it as we would by having residential space there, which is what we need to make the project viable. But that's not the way – that's not the standard – that we're held to. In other words, it doesn't have to produce as much income for you as the residential would; it only has to be rentable ...

**Chairman Collins:** And it's reasonable.

**Boardmember Anuszkiewicz:** ... to a reasonable amount. You know, it's a steep climb. I think it's an asset, and I think what we're discussing here – that it's not technically on the street front as the way out – I see as kind of a gimmick, a little bit.

**Mr. Cordone:** Well, there's also the fact of the severe grade change at those steps. With the residential entry needing to be on the flat, that limits access to get to the commercial if you're putting the commercial on the west side.

**Boardmember Anuszkiewicz:** But you could come in on the corner the same way Rockwood & Perry is entered on.

**Mr. Cordone:** But that would be ... our residential is accessed that way, and that's key to getting people in and out of the building – the residents in and out of the building.

**Boardmember Anuszkiewicz:** Well, that would be up to you to demonstrate that it's inaccessible, but I think you have your work cut out for you on that.

**Boardmember Dovell:** I'm not sure I agree with that point of view. I look at the other retail spaces that are facing the backdoors to all those commercial spaces. It's really ... it is one unappealing backdoor there, with all the garbage trucks and everything else. It's where everybody puts their garbage. You can walk into some of the establishments from that parking lot, but it's really unappealing. And the one thing that is appealing about that area is this nice character of these townhouses that march down the hill there. I like that. That, to me, is an appealing part of the experience of walking down to the train station; that it's not a commercial ... you know, that it isn't commercial. And what is commercial in that kind of area is backdoors and dumpsters. It's just ...

**Boardmember Anuszkiewicz:** Well, that's not true in the case of Sakura Garden. You know, they just renovated their place and they put an entrance to their restaurant back there, and they're doing fabulously.

**Boardmember Dovell:** Well, they are, but most people come in the front door.

**Boardmember Anuszkiewicz:** Not the people that have to drive to park. You know, really, the first place you look to get in there is in the back.

**Chairman Collins:** Well, we know what the next steps clearly are. I mean, we can and should have this debate, but really it's predicated on the economic analysis, and the state requires that as a threshold. Then I think the question that Ray and Adam are debating – and

that I'm sure we'll take up again – relates to number three, which is "the use to be authorized by a variance will not alter the essential character of the locality." This is a conversation that speaks to the essential character of that locality, and is the essential character of that locality a retail character or a residential character. I think that's a healthy debate we'll need to have when the time comes.

I'm going to suggest that we open it up to comment from the floor, unless there's anything further.

**Boardmember Forbes-Watkins:** I do want to comment in general, looking to a view preservation question that comes up. That is, I think the most important thing this property could do in terms of view preservation is to keep as many trees as possible to cut back the view. Particularly if you look up from down below at the Con Ed parking lot, out that hill, having the trees there rather than a building. And parking is definitely ... it's not view preservation in the classic sense of our guidelines, but it really is the view we need.

**Village Attorney Whitehead:** Are you talking the view from the Zinsser lot or from the Con Ed lot?

**Boardmember Forbes-Watkins:** The Con Ed lot.

**Village Attorney Whitehead:** OK, because I know the Planning Board is also very concerned about the view from the Zinsser lot, from the commuter lot. That's something they're looking at, yes; looking up.

**Boardmember Forbes-Watkins:** Looking up.

**Chairman Collins:** But does that ...

**Village Attorney Whitehead:** It's not a view preservation issue, it's site plan issue.

**Boardmember Forbes-Watkins:** Excuse me, I mean the Zinsser lot.

**Village Attorney Whitehead:** Yes, for them it's a site plan issue.

**Boardmember Forbes-Watkins:** The Zinsser lot, but I want to see – when we get to view preservation – preservation of trees.

**Mr. Cordone:** Our goal is to actually preserve as many trees as possible on this lot. That's part of the reason we wanted to further develop the ...

**Village Attorney Whitehead:** Minimizing the parking ...

**Chairman Collins:** And erosion.

**Mr. Waters:** The site gets pushed down from the top.

**Mr. Cordone:** And more importantly, too, these aren't pine trees. You got trees without leaves in the wintertime so we are very concerned about minimizing the amount of trees that get cut.

**Chairman Collins:** Sure, for privacy.

**Village Attorney Whitehead:** And so, you know, since that's come up, that is the one thing the Planning Board asked them for: more information on before they would make their SEQRA determination. They're very concerned about the view from the commuter lot.

**Chairman Collins:** OK, that's helpful.

All right, so we're not going to take a vote. We can't tonight. But if anyone in the audience wishes to be heard I invite them to just feel free to come forward. We've got a microphone here. If you could just turn the microphone on and introduce yourself, ma'am.

**Michelle Noe, 20 Marble Terrace:** I wanted to just suggest, in terms of the parking, that on my corner is the affordable housing on Warburton and Division Street and it has a lot of parking.

**Village Attorney Whitehead:** Could you speak to the Board? Sorry.

**Ms. Noe:** It's purely affordable housing. So it might be a good thing to study how many people have cars, how many cars there are for the whole complex because it's also easy walking distance to the train, which is an argument they're making. So it'd be good to find out, like in practice, what really happens there.

It's a very big parking lot that was required by the Village or whatever to build it. It's half empty all the time, more than half empty. But I think that's because people park on the street because it's two levels, and to get from the parking down to the street you have to go through circular staircases, which people don't really like with their bags and stuff. But I think that would be a good thing to study, very relevant to their arguments.

**Chairman Collins:** Thank you. That's good advice.

Anyone else wish to be heard? OK.

**Boardmember Dovell:** One more question. Are you changing any retaining walls? The retaining walls are in their condition ... in their current location?

**Mr. Cordone:** The retaining wall along the steps would be in the same location. The retaining wall in the back will have to be moved so we can accommodate for the parking. So the image you're seeing here, this retaining wall will be shifted farther down and out. Which is the reason we rendered it for the Planning Board because they were very concerned about what that would look like. I guess previous designs had a very imposing wall, so our goal is to ease that concern from the town.

**Boardmember Dovell:** How much further out is it pushed from its current location?

**Mr. Cordone:** It's going to be about 8 feet out from its current location.

**Boardmember Anuszkiewicz:** How tall is it?

**Mr. Cordone:** We have it broken up into two materials. This first level here would be a stone-clad that's going to be approximately about 10 feet. Then there'll be planter on top, then on top of that would be a wooden-cladded retaining wall that's going to be about 4 feet. So we're talking a total of around 15 feet high.

**Boardmember Anuszkiewicz:** That's OK?

**Building Inspector Minozzi:** No. If it's more than 6 foot 6 it's going to require another variance. We haven't gotten an exact number from you. The first time I've heard a number was tonight on the retaining walls. Because until tonight it hasn't really been settled what that wall was going to be. Now that I'm hearing numbers, it sounds like it's going to spark another variance. Once we have determined the size of the lot, I guess it's going to determine the size of the retaining wall, which has kind of been driving the parking all along.

**Mr. Cordone:** That's correct, yeah.

**Building Inspector Minozzi:** So I think once we settle on what the parking's going to be, then we can settle on what the wall height's going to be and see if that's going to have to come in for an additional variance. Fifteen total; it's broken up into two walls. So, really, it's the 10-foot wall that's not ...

**Village Attorney Whitehead:** It's really two walls.

**Building Inspector Minozzi:** That's OK. The second wall wouldn't require the variance. The first wall, at 10 foot, would require the variance because 6 foot 6 is our local maximum.

**Mr. Cordone:** So if there's a possibility ... if we manipulate this so the base is at 6 foot 6 and then the top would be at 6 foot 6, and we work within the variance, we just need to make sure our grades are ...

**Village Attorney Whitehead:** Yes, it can be broken up and terraced.

**Mr. Cordone:** That was part of the reason we terraced it the first place because we were concerned about that.

**Building Inspector Minozzi:** If it's terraced under 6 foot 6, then it's not going to require a variance.

**Mr. Cordone:** But I also don't want to keep pushing it down because the goal is to save trees.

**Building Inspector Minozzi:** Of course.

**Chairman Collins:** I'll jump in. I would suggest this be something we take off-line and work out.

**Village Attorney Whitehead:** It's also something the Planning Board is still looking at.

**Mr. Cordone:** Yeah.

**Building Inspector Minozzi:** Yes, this is the first time I'm hearing numbers so ...

**Chairman Collins:** Yes, that's OK. I mean, it's obviously an important conversation to have, but I don't want to get into brainstorming what the options could be.

I appreciate your time in presenting this. Thank you very much. We'll see you probably again here in another month or so.

**Boardmember Dovell:** It would be useful to have a set of existing conditions; like an existing condition site plan as well as the proposed just so we can compare.

**Mr. Cordone:** We can provide that.

**Chairman Collins:** OK. Thank you, Mr. Cordone.

**Mr. Cordone:** Thank you, guys.

**Chairman Collins:** Thank you, Mr. Waters.



Buddy, I saw a printout here. Is this different from what you e-mailed, because I'm just looking at the cover sheet. It looks like there are a lot of like ...

**Building Inspector Minozzi:** Oh, you mean the one I hand-wrote?

**Chairman Collins:** I found this at my spot here, and just looking at the cover sheet they're dated at the same date; look like they're marked the same. Is there anything different?

**Building Inspector Minozzi:** The one I e-mailed you should be the same one you have on your desk in front of you.

**Village Attorney Whitehead:** That was the question, yes. It's not something new.

**Building Inspector Minozzi:** No, it's nothing new. I showed you in my e-mail that I would bring hard copies to the meeting.

**Chairman Collins:** Yes.

**Building Inspector Minozzi:** Because of the mix-up with the day I didn't get it delivered on time. I told you I'd bring it to the meeting, and that's what that is.

**Chairman Collins:** OK. So we are going to move to our final case this evening, which is 08-17, for 425 Warburton Avenue.

**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 apartment building containing three 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.**

**Non-conformity 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/zero 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 foot 6 inches X 18 feet; Required - 9 feet X 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:** While you're getting set up, I know that when we last ... there were two ... I'm going to summarize this. If anyone on the Board wishes to amplify or add, feel free. But there were two main issues we had asked the applicant to return with. One was a focus on the safety and the safety of the driveway, a safety system possibly for alerting both pedestrian and vehicular traffic of cars coming up ... especially exiting the property, coming up the driveway heading east, we talked about a variety of different options possibly. And the applicant was open – and certainly indicated to me their openness – to those possibilities.

The second was that we asked the applicant to look at the implications of a 10-foot versus a 5-foot setback with a view to what would that do particularly to view-related issues or view preservation-related issues. Obviously, moving the property back we would anticipate would move perhaps, or change the dimensions of, other variances perhaps that might be needed. But that would obviously obviate the need for a front yard setback variance request. There are other properties in the zone that have that kind of dimension so that was the basis for the inquiry.

Is there anything else we wanted to emphasize in particular? I think those are the two: safety and the 10-foot setback.

**Building Inspector Minozzi:** The 10-foot setback and determining the building setbacks along the block.

**Chairman Collins:** Yes, OK.

**Building Inspector Minozzi:** That's it. That's all I have.

**Chairman Collins:** All right.

**Omar Mamoud, applicant:** Good evening. I'm the property owner at 425 Warburton Avenue. As you know, we've been to ten Planning Board meetings and now three Zoning

Board meetings over the span of fourteen months. Our architect and engineer responded to many comments we received from the boards, and neighbors, regarding view preservation, traffic, safety, parking, and et cetera. We have made several changes to the design, reduced the size of the residences, and prepared several studies related to impact on view, driveways, and neighboring properties.

We had invested a lot of time and expense in this project, and although we are considerate of the concerns of the Board, we feel the project as designed will bring a much-needed improvement to the community. The proposed development will replace an old building in serious need of an upgrade with two zero lot line walls, no parking, with a code-compliant three-unit building that provides elevator access to a six-car garage below.

We have worked hard to balance our goals with the impact of the development on the neighborhood, and feel that all issues related to view, traffic flow, and safety have been resolved. Please note that we received a message today from the Village engineer that there are no stairway safety concerns based on his review of our latest submission. I hope the Board will appreciate our latest proposal and our due diligence in addressing all concerns, and grant approval of the variances. Thank you.

**Chairman Collins:** Thank you, Mr. Mamoud.

**Christina Griffin, project architect:** I'm going to start with focusing on the setbacks because that's the order of our presentation. Then we're going to discuss the safety concerns.

We're going to start with looking at the sight lines of the building. BP-14 is one of the many view preservation sheets we had shown at the Planning Board.

**Chairman Collins:** Hey, Christina, I'm sorry to interrupt you. One screen is on the fritz, and I think it would be easier ... that's actually a little bit closer to me. Is there a way to get it up on that one, too? That's weird because it was working just a moment ago.

**Boardmember Forbes-Watkins:** Something unplugged?

**Chairman Collins:** Buddy, it's all right. Why don't ... we'll just ... maybe we can just turn the screen off so it's not flickering in the background.

**Building Inspector Minozzi:** Let me call the tech.

**Chairman Collins:** All right. Sorry, Christina.

**Ms. Griffin:** Shall we continue?

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

**Ms. Griffin:** I'm going to talk about the front yard setback. Our request for the 5-foot variance to the (off-mic) setback is related to ...

**Chairman Collins:** I'm sorry, hang on. Yes, Jen?

**Cable Access Director Corso:** Mics on.

**Chairman Collins:** Oh, sorry. Thanks, Jen.

**Cable Access Director Corso:** Thank you.

**Chairman Collins:** Why don't we begin again. I'm sorry.

**Ms. Griffin:** OK. I'm going to begin with the focus on the setbacks and the request for a variance to the front yard setback so we can have 5 feet instead of 10. This is related only to view preservation. We had spent 10 meetings with the Planning Board, met with neighbors, did photographs from neighboring properties, and then found we needed to take even more photographs to understand the concerns of views.

We decided originally to actually bring the building right up to the property line. We ended up changing that to now a 5-foot setback. That is simply because we want to keep the back wall of the building where it is now. And 425 Warburton has a wall that is right where we're locating the back wall of our new building ...

**Chairman Collins:** Thanks, Buddy.

**Ms. Griffin:** ... which is here. If we push the building back another 5 feet it will impact the line of sight from the buildings uphill from this property. This is a blowup of what happens. You know, it's not easy to see that from the small scale, but there is a slight difference in the way you will see the Palisades and the river. You actually see less of it, and we're going to show you another sheet. That was a 10-foot setback where you're going to lose a little bit of the view. This is our 5-foot setback – this line right here – where we lose no view because we are able to make the layout of the building work without bringing that wall back any further. Actually, we had reduced the area of the building in order to make sure we have a 5-foot setback and do not push that rear yard any further back.

Now, to see the impact on view better than by looking at the sight lines, I want to show you our view studies. This is from 13 Division Street. The property owner from there invited me to come up and walk on his property, his deck, and his porch to make sure I understood that when this building's here if we don't keep it in line with the back of the original building he

loses a strip of the river. This is the red mark where the building would be if we pushed it back to make the 10-foot setback.

**Chairman Collins:** Is this on the drawings we have here, too, the red line?

**Ms. Griffin:** It is, but these are in color and your sheets may not be in color.

**Chairman Collins:** OK.

**Ms. Griffin:** But these little strips of river are very important to people and the neighbor felt very strongly about it. Actually, I'm sorry. I will tell you one thing. We submitted the sight line studies because we thought it would more clearly show the problem, but tonight we brought in the view studies we had shown you originally. All we did is add this pink line, which is where the building would be if we set it back 10 feet.

Now I'm like to also talk about the setbacks that exist in the neighborhood. We did a study of 21 properties and measured the setbacks because we were asked by the Board to look at the pattern of development in the neighborhood and look at the setbacks that exist. We took a measurement of the setbacks of all the properties that we're about to show you.

**Building Inspector Minozzi:** It's back up.

**Ms. Griffin:** OK, all right. This is going from 405 up to 461 Warburton. You can see we have all the setbacks listed here, and the average of these 21 property is 6 feet. We have some zero lot line, some at 6 feet, some at 5 feet, and some set back more than that. But that is an average. This is the plan that also shows the driveways that are on this side of the street. We're showing six driveways. Four of those driveways actually are next to multi-family buildings that have three units or more, and all the driveways for these buildings are less than 10 feet. They're all 8 foot 6 to 9.5 feet, then over down here by 457 we have a combination parking lot with a driveway which is the widest one.

This is 425 Warburton right here, and this is the existing driveway. We also took photographs of the existing driveway so you can see it because I mentioned it early on but wanted to make sure it was clear there is a driveway there right now. I looked at it carefully. It has a very old recessed stone curb, and I believe it's been there for a long time. I've seen up to two cars in there, but maybe more go there. I don't know. This is the driveway and little kind of informal parking area that's presently used by the three-unit building.

Then we decided to take a look at what if we just try to simulate what it would be like if we had a 5-foot setback. 457 is a building I designed, we renovated that building. We know the stoop that's there is a 5-foot setback, not including the steps. This kind of dark orange shade here represents a 5-foot setback from the property line. But at 457 Warburton, because it is

the one building that has a driveway right next to a structure that has a 5-foot setback, the structure there is actually a stoop. That's why we put that color on it. This is my car. I got into my car, looking out the windshield. This is the stairway we see going up.

I want to also mention that Michael Mastrogiacous, our civil engineer who did the sight line studies and all the different civil engineering drawings that were needed for the Planning Board, had a conflict tonight. We've been working together on this, and what we also worked on is how we were going to add safety to the driveway.

Moving on to the concern of safety, I want to show you these diagrams. This is our garage plan. We looked very carefully at safety devices that would help any driver get notification of pedestrians crossing the stairway. We have specifications – some information I'll show you soon – of a device that is a sensor that can sense warmth and moving objects within a 50-foot radius. I've actually been in touch with one company that makes this, and there's a lot of flexibility. You can get the device, then they give you 30 days to see if it could work with you because you have to decide what height it is. The idea is that car would come in, and we would not use sound because we know many of us object to that. But a light would go off when it senses any moving object within that 50-foot radius.

We are also planning to add a mirror. That's because if this happens to break down, well, it's just another method of being able to help you see around the corner. The mirror would be placed here on a pole, and that's because we're concerned about the visibility looking this way. Looking the other way, we have a clear opening because that's the open front yard of the next door neighbor's house. We are also going to put a double-sided stop sign there so a car knows to stop when it's coming up towards the driveway or coming up from the garage.

Also, at the end of this driveway we are going to put another sensor device so when a car is up here – and he knows he's clear to come over to the top of the ramp – he can see if that light goes on because that light would indicate whether a car is approaching or a person is approaching the ramp. I think we should go to the next page.

This is the device, this is the idea of how it works. This would be connected to either ... well, I suggested ... this is our idea right now, but I've actually been in touch with Jim Metzger. He's the neighbor most affected. We're going to work with him to make sure he's comfortable with it. Right now, the plan shows a privacy hedge, and we'd like that evergreen hedge to conceal the light from his house. We also have another light we might look at that isn't a red light; might be a white light. Actually, Suzanne, can you go back to the first-floor plan so I can show them how this is supposed to work?

We have a sloped plant bed here, and in that plant bed ... which is why we are using a 12-foot driveway. We could always do 16, but we want the buffer; it's required by code one and two. It helps us put a privacy buffer between the two properties. We're going to end the

evergreen hedge so we can make sure this sensor can pick up people coming down the stairway in this direction, but have it long enough so that from his house he won't see the light.

I think that addresses the safety issues. We were really delighted we received an e-mail through Buddy Minozzi today that the Village Engineer, Hahn Engineering, had a chance to look at the layout of the safety devices – the stop sign and the sensor devices – and he said he had no stairway safety concerns. I also want to note that we have a message ... I'm not sure if we did the research, but we have information that in the last 10 years there have been no accidents on the driveways on Warburton Avenue and none of them have these safety sensors. I mean, there are accidents on the street and not on the driveways on Warburton Avenue.

**Chairman Collins:** Just a very quick clarification on that observation. It's not over the last 10 years. It was from the 10 years spanning 2003 to 2012, but we don't have data since then.

**Ms. Griffin:** Thank you. It's good to be precise, thank you.

**Building Inspector Minozzi:** It's 2003 through 2013, right.

**Ms. Griffin:** I see.

Tonight we came to address your major concerns. If we want to go back through the variances, we're asking for a variance to the front yard setback of 5 feet so we can have a viable layout. We have a very tight building now. We reduced it, but we can't reduce it any more without actually removing these bedrooms so we'd like to have the variances and feel comfortable it's still going to give us safe sight lines. We're going to make this work, and it is very important I think to the neighbors that we keep this wall where it is. Which is why we want to make sure the building doesn't go any further back.

The other variance we asked for is to the bump-out on the garage. Suzanne, can you go to that plan? We have a 7-foot setback instead of 12, but this is just lower down at the garage because we need it for the turnaround. The building above, at the first, second, and third floors meets the 12-foot setback. All the other variances relate to parking and the size of spaces.

My letters, one is related to us having a 3 percent slope. We have a 3 percent slope up to 20 feet so a car can sit here, but we don't have the 30 feet required by code. That's because we need to get a ramp from here, down below the building. We don't want the building to be any higher. If we were going to expand this anymore, and have less of a ramp, we'd have to raise the building up. It's going to affect views so that's one reason we want the variance for the slope at the front of the driveway.

We want a variance for the maximum slope, which is 12 percent. We're at 13 percent. We started at 15 and have been working with this problem for a long time. That's the tightest slope we can get, which is much less than a lot of the driveway than the area we also did a study of for the Planning Board. Some of the driveways go up to 22 percent and we will have 13 percent with this scheme, a little bit above the 12 percent maximum. We need a variance for that. We are asking for a variance for the size of the parking spaces to 8 foot 6, which is very common. It's what we have at the Boulanger parking lot. We just want to minimize the size of the garage to keep the footprint down. A lot of the size of the building relates to the footprint and the space we needed for the cars and the turnaround in the garage.

The other variance we want is having paving in the rear yard. We had prepared several schemes with this garage and had the help of our civil engineer. Originally, we tried to keep the garage within the footprint of the building up above, but it's impossible to do that and get the turnaround space we need. We had to push the parking in the back, and it goes into the rear yard so we have a setback of 19.1.

I want to say that all that paved area is going to have heavy evergreen screening around it. Suzanne, can you please go to the site plan? We're planning to have the evergreen hedge all the way across. I think when we were doing our sight lines for the sensors we lost some trees there, but we're planning to bring trees around the back of the parking lot. If you're looking up at the property you get conceiving of most of the paving and the parking areas in the back. This is the evergreen buffer we're trying to do along the property line in the back.

I think that addresses all the concerns, and I'd like to know if you have any questions.

**Chairman Collins:** OK, thank you for walking us through the modifications. I want to point out something I didn't mention for the first case because it was not necessary, but for this one it is. You'll notice that we are four tonight, which means we have a quorum and are able to take a vote. But it is conceivable that in taking a vote it could end in a tie. As is the case in every presentation – and Christina, you know this – the applicant has the right to defer. But I just want to point out that while we have a quorum we don't have an odd-numbered Board contingent tonight.

**Boardmember Forbes-Watkins:** We just get a majority of three.

**Chairman Collins:** For it to pass, that's right.

**Village Attorney Whitehead:** You need three votes; you need a majority of the full Board, which would be three votes.

**Chairman Collins:** Thank you for clarifying, that's right.



My first question relates purely to the impact on views associated with the 10-foot setback. You had a diagram – there, thank you – in view preservation, document view preservation 15. But it's missing the thumbnail mockup of the impact. You spoke to it, Christina. I'm paraphrasing here, but that if we could see the mockup here what we would see is that the building would wipe out, essentially, that sliver of the river view ...

**Ms. Griffin:** Yes.

**Building Inspector Minozzi:** Make sure you use the microphone.

**Chairman Collins:** ... that's otherwise visible in VP-14. I've actually kept some of your older drawings, and I thought maybe it was in here. Is it possible that in some of your older previous view preservation docs you might have mocked-up a 10-foot ... what the impact is of 10 feet?

**Village Attorney Whitehead:** I think it went to the Planning Board. I'm not sure it ever went to this board.

**Building Inspector Minozzi:** It was one of the first ones, and I don't think it ever came here.

**Ms. Griffin:** We thought it would be easier just to show the red line where that shape would be. We chose the sight lines, and those photographs before and after, with the red line representing where the building would be set back 10 feet.

**Chairman Collins:** I think the trouble is on the ...

**Ms. Griffin:** Because we felt this would be (off-mic) show to you.

**Chairman Collins:** Yes, the issue is we don't have that in our printouts or in our electronic sections ...

**Ms. Griffin:** Oh, yes, yes.

**Chairman Collins:** ... the red lines. So we're seeing that for the first time.

**Ms. Griffin:** I see. Well, I think originally we thought it would be simpler just to do the sight lines because it was such a tiny change. But even that change ... that neighbor isn't at this meeting, but he came to several meetings and felt any kind of reduction in his view would be an impact on his property values.

**Building Inspector Minozzi:** He actually reiterated that to me tonight, as well. He couldn't make it to the meeting.

**Chairman Collins:** I'm not surprised. You know, we're sensitive to it. We were considering the tradeoffs, and the tradeoffs are at least two. One is getting to what we think is the right setback relative to the buildings in the neighborhood. And secondly, getting the right setback to minimize the safety risk. I led with the question of view because there have been statements and recollections of the neighbors which I believe to be true; I'm not doubting their veracity. So I wanted to get a sense myself of what that impact would be: what was this neighbor reacting to in the impacted view of the 10-foot setback alternative.

Safe to say – and this is my question – it would completely eliminate that sliver of view of the water you would see over the top of the building at 5 feet, correct?

**Ms. Griffin:** He saw that and brought it to my attention that would still be too much of a loss for him, yes.

**Chairman Collins:** I just wanted to make sure I was accurately visualizing it in my mind. Absent a photo, I was trying to accurately visualize that. OK.

**Ms. Griffin:** I see.

**Village Attorney Whitehead:** I think, at the last meeting, the neighbor to the side was here and pointed out that if the building moves back it significantly impacts on their view.

**Chairman Collins:** OK.

**Ms. Griffin:** I actually spoke to Jim, connected by e-mail with Jim Metzger. And he said he was sending you a letter?

**Village Attorney Whitehead:** He did.

**Chairman Collins:** Yes, we got it.

**Village Attorney Whitehead:** And his wife was also here at the last meeting and put that on the record.

**Chairman Collins:** But we did receive his letter. OK.

The safety mechanic – or I say the safety mechanic – can you walk me through how it would work? You know, first this would happen, then this would happen. And let's start with an example of a car exiting the property, up the driveway, heading east. Walk me through how

the sensors would go off, starting from the sensor that's ... and I say "go off." How would the sensors activate, starting with the sensor that's furthest to the west?

**Ms. Griffin:** Any time a car comes here the sensor goes off, but then when a car is at the bottom of the driveway if he sees this red light is on he knows there's either a car here or there are pedestrians in the way.

**Chairman Collins:** OK.

**Ms. Griffin:** If a car is coming in the other way, and they see ... if you're going into the driveway, if you're out in the street coming in here and you see this on, you know there are going to be people there. Or once you come in here and you see this light on, you know there's a car or a person heading up the ramp.

**Chairman Collins:** OK. Will there be signs that accompany those lights to indicate to the drivers what the light means?

**Ms. Griffin:** There actually is going to be a control – they call it a receiver – that we're planning to put in the lobby just so people can monitor who's coming and going. But I think it's really a matter of just educating the people who live here how to use it.

**Chairman Collins:** Mm-hmm.

**Ms. Griffin:** And there's a stop sign here, as well.

**Chairman Collins:** I'm thinking ... actually, I'm sorry, I was thinking about the sensor that's furthest to the west, down the hill. That one, imagine a car coming around, they see that ... I'm sorry, exiting the building to come east up the driveway. They see that light. Will there be some sign that says "when light is on, stop"? or ...

**Ms. Griffin:** We can definitely add a sign. No, there is actually something like this down the road, and I've been trying to figure out if ... I've been looking at it, and I've been there about a half a dozen times to try to understand how it works. It's the townhouses that are just past Washington Avenue. There's a sensor device there, and I think there are no instructions. But, you know, I think once a resident knows how it works ... you know, the idea is that ... we have another plan that we sent to the county. They asked us if we would allow 16 feet up here so cars could pass at this point. One would sit here and wait for another car to come up.

**Chairman Collins:** OK. I thought I heard you say a 50-foot radius?

**Ms. Griffin:** Fifty foot.

**Chairman Collins:** Fifty foot. So the sensor's efficacy will depend on it going off when it's supposed to go off, but also not going off when it's not supposed to go off.

**Ms. Griffin:** They say it has to be heat and motion.

**Chairman Collins:** My question was, would the sensors at the exit – the westernmost sensors, right nearest the exit to the driveway – would they be at risk of going off simply by north-south traffic on Warburton? Are they going to go off every time?

**Ms. Griffin:** I actually spoke to a rep of the company. I'll try to be very specific this time. We decided to choose the company. There's so many devices out there. They say you can change the ... angle it downwards. You can reduce the radius, or there's ways to move this around so we don't have to hit every car coming.

**Chairman Collins:** I see.

**Ms. Griffin:** They said like rustled leaves and things that don't have warmth are not picked up, and they give you 30 days to try it out and try different angles. So, you know, it's something that really needs adjustment. But the one that's down the road is also really close to the road and I didn't see it go off when I was there. Maybe it's not working. Also, we wanted the mirrors, as well, just as a second option in case the devices failed at some point so there's always a way to see the pedestrians coming down. This is the concern, this direction. In this direction, we're clear.

I know, even with this, you see this arrow here? The rep helped me talk about the way they can tilt it downwards so you reduce the radius because we don't want this radius ... we don't want this picking up the car up here.

**Chairman Collins:** Right. Yes, I think your tuning of this will be really critically important so that ...

**Ms. Griffin:** Yes, maybe I should have shown this radiates like this because they said by the way you tilt it you can make sure ... you could try to cover the area more precisely of where you want the heat motion.

**Chairman Collins:** Right, OK. I'm mostly satisfied by Hahn Engineering's endorsement of this solution, and my lay assessment is also satisfied that I think you have done what you reasonably could be expected to do to minimize the risk. The slope requirement, the variance you're requesting, is relatively minor. I think you've got a 13 percent slope for the 12 percent requirement that's relative.

The other consideration we've talked about is the angle of the car and the driver's ability to

see over that edge. But that 1 degree is minor, and perhaps one of the most minor variances you're requesting.

**Building Inspector Minozzi:** Mr. Chairman, I just want to let you know that even though we didn't get hard copies of this plan – sorry, all the latest set that Christina brought to the meeting tonight – everything was sent to Hahn before we got his response.

**Chairman Collins:** I assumed as much.

**Building Inspector Minozzi:** She did send everything out to him, including the extra information.

**Chairman Collins:** I assumed he would not have commented otherwise.

Then I want to turn my commentary to the 5-foot setback. We had some questions – and I'll let Adam speak to it when his turn comes up, but he had spot-checked these areas – and we were seeing some different measurements. But I think they were related to the position of the lot line relative to the stairway. We had Buddy go out and confirm the setbacks. There were some variations from the numbers you have here, but if I had to bet I would say if we were to re-average them we would not see a substantial change in the average for however many properties there are.

One question I had in the calculation of your average. Did you include the properties at 433 and 427, the ones that had the deepest setbacks, in calculating your average?

**Ms. Griffin:** Yes.

**Chairman Collins:** Because those two ... I mean, a statistician here, I think, could reasonably argue that those two being such extraordinary outliers should be removed from the calculation because they are so different.

**Building Inspector Minozzi:** They skew the numbers.

**Chairman Collins:** They skew the numbers heavily in favor of a much larger setback than they would if they were in keeping with the average.

**Female Voice:** (Off-mic).

**Chairman Collins:** So you did include them?

**Female Voice:** (Off-mic).

**Chairman Collins:** So my sense is that actually a more accurate assessment of the average in that community should not acknowledge 427 and 433 because they are so extraordinarily different from everything else. And that the actual average is probably something closer to 3 or 4 feet. That's just a guess. Which is to say that I am not concerned about a 5-foot setback. I think it is in character with these structures in the community. I think without, now, my concern about safety driving ... a desire to see a 10-foot option, I'm satisfied that 5 feet gets us to where we want it to be, both in terms of safety and in consistency with the neighborhood.

From where I'm sitting, as I size up the five factors, I certainly do not believe there will be undesirable change in the character of the neighborhood. I think this is unquestionably an improvement compared to the building that's there. I think having been through several different variations of this we can't expect the applicant to achieve the benefit through some other means – feasible means.

The requested area variance I think is substantial. I think we have to acknowledge that. But I think some of the more substantial area variances on request here are a product of a very good idea, which is to move cars off the road. If you were to not have that rear parking solution we would not be talking about a driveway, we would not be talking about a slope, we would not be talking about paved in an unapproved yard, we would not be talking about the length of the driveway. All of those variances would go away, but we would be then left with the other conundrum which we don't like, which is where are we going to put all these cars.

While the area variance, I acknowledge, is substantial I think it's substantial in the service of a noble goal. I don't think this is now going to have an adverse effect on the physical or environmental condition of the neighborhood because I think we've addressed that from a safety perspective. And I don't believe this difficulty was self-created. So for all those reasons I'm now in favor of this project, but I'll invite my fellow Boardmembers to weigh in. David, you want to go first?

**Boardmember Forbes-Watkins:** No, because I find what you've said pretty much agrees with where I come down on this. The efforts to make a safer driveway situation are pretty substantial. And I have to acknowledge that some rationality has to be assumed also on the part of the driver and even the pedestrians. Children do learn to do things properly also. I'll leave it at that.

**Chairman Collins:** OK. Adam?

**Boardmember Anuskiewicz:** Well, I couldn't disagree with you more. I think a lot of the things you said I'm very troubled by. I guess I would start ... I mean, I would like to comment on all the variances that are being requested for the project, if we're going to vote

on all of them.

I guess I would like to just address first the issue of view preservation. I'm bothered by the fact that we're being asked to grant a substantial front yard setback to justify the view – or sort of a very minimal impact on the view – of two residents in this neighborhood who both have spectacular views already. I mean, this view in particular – regardless of 425 – these views that you're showing here, you know, with or without the building this individual has a spectacular view of the Hudson River and the Palisades. I would say the same goes for the neighbor to the south, who's not here. And by the way, again, neither is the person whose view is represented here.

And 419 Warburton, directly to the south – which you say we have to accept a substantial front yard setback so that individual cannot have any of their view blocked of the river, when they already have a full-on view of the river. And also when their building has not even been developed out to the full extent on their site so they have every opportunity to put their own addition on the back of the site, the back of their building, which would move beyond the obstruction that would be created by putting the building back where the zoning law requires it to be.

**Village Attorney Whitehead:** And just for the record, could I ...

**Boardmember Anuszkiewicz:** I'm not finished.

**Village Attorney Whitehead:** I just want to know which property you're talking about.

**Boardmember Anuszkiewicz:** I'm talking about 419, the one right to the south of this building. It was implied that if this building were pushed back to the required setback we would be blocking the view of that building to the south. Am I getting that wrong?

**Building Inspector Minozzi:** No, 427.

**Boardmember Anuszkiewicz:** 427, OK. Well, I thought you were talking about the one to the south. But you would be blocking the one to the south, too. I don't understand that because the drawing looked like you were facing south in the section. Maybe I'm misunderstanding. I thought this site section, you were looking south and talking about the building you were facing, which would have been 419.

But in any event, I'm troubled by the fact that all of these people with fantastic views from their property would be dictating we have to grant a substantial area variance and a 10-foot setback. That's number one. I've never, from the beginning of this project, been convinced that your rationale for requesting this substantial setback was justified by the loss of view by any of these properties you cite here. That's number one.

Number two, I am not convinced at all that you have accurately portrayed – completely or accurately portrayed – the character of the neighborhood vis-à-vis the existing setbacks on Warburton Avenue. The first problem I have with this drawing is that it only shows the properties on the west. So the character of the neighborhood and the community in the MR zone is impacted by properties on the east side of Warburton as well. I conducted my own study, not having the benefit of having that means supplied by you.

I looked at the properties between Nodine Street and Washington street. There are 44 structures there, and I think what I'll do is just read to you how I would address that. "To the point of whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by the granting of an area variance, a 10-yard setback": yes, because the majority of the existing structures in the MR zone on Warburton Avenue meet the required minimum setback. "Of the 44 existing structures on Warburton Avenue located between Nodine Street and Washington street, 23 meet the required minimum setback and 15 of those exceed it, some substantially."

I can't for the life of me understand why we would consider throwing out any of those properties when we're talking about character, as you suggest. "The average setback of those 44 structures is 11.5 feet, almost precisely what the zoning requirements are for the setback." Again, I'm troubled by this presentation but mostly because I find it to be incomplete and inaccurate. In addition, I did look at some of these properties. I went and measured one of them and found some numbers that were very different from the numbers you show.

Then I also spot-checked a couple more using Google satellite imagery, which is to scale, and again found different numbers. Then we had Buddy go out and take some dimensions of some of the structures and he found different numbers from both of us. So the data we're using to try to justify what's an average setback in this MR zone, to me, doesn't prove anything. And I think to make a decision like this – for you to ask us to make a decision like this – based on that data is ... I don't think is fair. And I'm not prepared to grant that variance based on (inaudible).

Those are big concerns for me as far as your presentation. I have other concerns about your presentation and about safety, but I want to talk some more about the front yard setback. "Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance." For this front yard setback I would say yes because "the proposed project does not utilize all the available building area on the site." You have space to move this building back on the site. There's a significant amount of buildable space located to the west of the proposed building which is not being used. Therefore, it is possible to locate a similar-sized structure or even a larger structure, potentially, within the required minimum setback.



In my view, you have not met that requirement that you have to justify for us to grant this variance. "Whether the requested area variance is substantial": for the front yard setback, yes. Originally, you came to us asking us for a 100 percent setback – 100 percent variance – from the required setback, and you've now reduced it to 50 percent. That's still a substantial variance. I would consider anything over 15 percent to be a substantial request for a variance. "Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood district." Front yard setback, yes. "The requested 50 percent decrease in the required minimum setback reduces the visibility of drivers exiting the underground parking area by at least three-and-a-half car lengths."

So your presentation tonight we've spent talking about whether or not the 5-foot setback can be demonstrated as safe. We've heard from multiple people who've said that it is safe. My point is that the setback of 10 feet, which is required for this structure in this district, creates a much more safe condition. Which I think it important, as I've said before, given the traffic on the street, the retail component of Antoinette's, and the school bus stop which is right in front of your property. I went myself, actually, because looking at your photographs of your car in the driveway of the building down the street that you renovated I found confusing. One of the shots, the images on the left is taken not from the car so it's hard to understand really how that ... I mean, that shows maybe the view from the pedestrian walking down the street and shows how immediately the car can pop up into view.

But on my own, actually, I parked my car as well in the driveway next to Antoinette's and put my own marker up 5 feet, and then my own marker up 10 feet to my right looking to the south, and I have images here that demonstrate that if you'd like to see them. The amount of visibility you're taking away by asking us to reduce that setback to 5 feet is equal to at least three-and-a-half parked car lengths. There's at least three-and-a-half parked cars I wouldn't see, turning to my right. And I can demonstrate that to you with photographs. That is a lot of pedestrian traffic you're not going to be able to see. That reduces the driver's reaction time if there's a person crossing the street there, and that also makes it more difficult for a pedestrian because the car's popping up 5 feet ... you know, there's less time to react when a car's popping up.

That's also an issue because of the amount of traffic that's here. There are children here because of the school bus stop, and a child riding on a bicycle on the sidewalk is moving fast. If you're going to reduce the reaction time, that's a dangerous situation. So I don't think the conversation should be about whether or not the situation you're requesting is safe, but rather the condition you're creating by asking for that variance is less safe than it would have been if you had not asked for that variance. That's my concern.

The last point we have to address on the front yard setback is whether the alleged difficulty was self-created. Yes, it was. It is certainly self-created for the reasons noted previously, and also because there are other opportunities available to you which would've reduced view

preservation issues from up the hill. You could have created a setback on the back of your building; you could build less area than you're trying to build; or you could push this building down the hill. There are other alternatives that you could've pursued and you haven't shown us any of them.

You stand here and tell us we can't do this, we can't do that, but I can't tell you how frustrating it is to have you just stand here and say that without documenting it and without showing us that you've actually tried some other way to make this building fit within the 10-foot setback that's required.

That's how I feel about the required front yard setback.

**Chairman Collins:** Before I let Ray chime in, just for a point of clarification, since you went to a lot of effort on doing some measurements yourself. You were measuring from the property line or from the stairway's edge?

**Boardmember Anuszkiewicz:** Are you talking about determining the setbacks?

**Chairman Collins:** The setbacks, and also for the camera test you did in your vehicle because you had to calculate 5 feet back.

**Boardmember Anuszkiewicz:** Well, it's very confusing to me because I don't know where the property line is. I went to 415 and measured ... 415 is the last of the townhouses with the bay window on it.

**Chairman Collins:** Right.

**Boardmember Anuszkiewicz:** I went to 415 and measured the distance from the northeast corner of 415 to the same spot relevant (sic) to the stairway that Antoinette's is at. Since Antoinette's is built right up to the stairway, I assume that Antoinette's is built right up to the property line and I assumed the same property line for 415. I measured back from that, and the northeast corner of that building is 11 feet from their property line. Now, that building has bays on the front of it which project into that front yard, as do a lot of the other buildings, including the one you renovated you showed us.

Looking at some of the dimensions on some of these buildings, it appeared to be that the setbacks were measured to front porches or bays or other parts of primary structures that are additions onto the structure. So it becomes confusing to me that you use that as a justification for a setback because I think when you're talking about the setback – the required 10-foot setback – and the character of the neighborhood and the community, it's not defined by encroachment of a porch or a bay window. It really should be measured to the primary structure.

**Building Inspector Minozzi:** That's not the way surveys are measured, ever.

**Boardmember Anuszkiewicz:** You know, my point is not to figure out how surveys are measured. My point to you is to tell you how I think you need to look at the setbacks when you're evaluating the impact of reducing them on the neighborhood and the community. In other words, open space – the space of the street – is not defined by the porch or the bay window. It's defined by the primary structure, the roof. The first building that was there – the one that rises up ... the main mass, that's what I'm talking about. It's very complicated. I don't really want to go on this because I think there are other more important issue, but I don't believe this type of analysis ... and also it's incomplete since it's only one-half of the street and it doesn't include properties on either end.

There are too many unknowns in that for me to really say to you I understand that 6 foot is the average in this neighbor and therefore you are right in that zone so congratulations to you. I cannot draw that conclusion the same way that you do by presenting this material.

**Building Inspector Minozzi:** According to my measurements and my calculations today – and with maybe 30- to 40 percent having surveys or some other documentation to prove setbacks ....

**Village Attorney Whitehead:** Right, so not field measurements but actual surveys.

**Building Inspector Minozzi:** ... I found ... and also measuring those that have the surveys and documentation, I find this to be substantially compatible to what's been drawn, as I said in my e-mail. There's a couple of them that are a foot off, some in favor, some not in favor. The biggest differences were the two that are set way back, but she did put a plus or minus and they both happen to be 4 feet closer than she has written down. Other than that, I find primarily them to be exactly to what is written on this paper.

Some of them I was able to get to the decimal because had surveys, including 415. I found that to be 6.9 feet to the face – with all due respect to Adam – of the bay, not the corner that Adam has been talking about. To the face of the bay I found it to be 6.9 feet, which is 2 feet in from the edge of the stairway. The retaining wall's 1 foot, and then another foot before the property line starts. That's the line we have to take the measurements from, unfortunately. That's what I came up with today. And I know Adam spent a lot of time on his research, as did I. I'm not diminishing anything the Boardmember said.

**Chairman Collins:** No, I don't think so either. I think part of the difference ... I mean, we have an explanation for the different results, or at least where to look. One is surveys built from the front yard property line, which is not the westernmost edge of the stairway in most instances.

**Building Inspector Minozzi:** Not necessarily, not in all cases. Some of the cases, yes, but not in all cases.

**Chairman Collins:** Right, and that was the reference point you had to work with.

**Boardmember Anuskiewicz:** Right. I mean, you know, I think the bigger and more important question is why are we being asked – well, I know why we're being asked – to grant a substantial front yard setback? For all the reasons I'm indicating here, I don't think we should be being asked for that. I think the project is feasible with a 10-foot setback. And I think that for the reasons I've explained, and I feel very strongly about that. And I feel the reason make such a big deal out of this project is because I find the character of this section of Warburton Avenue to be critical for the Village in terms of it's a mix, basically. It runs from the central commercial district on the north to the R-7.5 district on the south, and therefore the property there is composed of a blend of those two types of structure. And that's the character. That can be negatively impacted by development that's pushing it one direction or the other.

The 10-foot setback, in my view, is perfectly appropriate for this building and would be perfectly appropriate for this neighborhood for those reasons. So I don't feel we should be being asked for this and I don't feel it's been demonstrated ... as I said, the view preservation issues I think it just seems trite to justify them by the obstructed views of these three properties that have these spectacular views already, especially when you're showing this little thin red line. I mean, it just doesn't balance out.

**Chairman Collins:** Ray?

**Boardmember Dovell:** There's an interesting point about the context of one side of Warburton to the other. They are slightly different in character, I think, and I think that's a very interesting point.

That said, the west side of Warburton is composed of different types of structures – some on a townhouse model, some on an apartment model – and there is a variation in setback. When you talk about substantial, if you're talking about a 10-foot setback 5 feet sounds like a substantial number because it represents a 50 percent variance. But that said, visually, to me, it does not change the fundamental character of this side of Warburton. I'm looking at the streetscape, I know the area intimately, and I visually put the proposed building there, and I just don't see it out of character. I simply don't see it out of character.

And that relates to the setback. Yes, it's substantial in terms of the 10-foot requirement, but it's not substantial in terms of real dimension. It's 5 feet, and all along here you have things that are in and out. That is a character of the district. There is this balancing act with view

preservation which we have struggled with for a long time for my years on the Board. It's very hard to evaluate,, but it is a balancing act and people are passionate about it so I cannot diminish the importance of that view preservation for people that area affected by it.

I think what Christina has done is the floor-to-ceiling dimensions on this have been compressed substantially. I think they're now 8 feet, which is a minimum for a new development in any form. I feel she has been responsive to that issue of trying to minimize the view obstruction of the river. It's a very sensitive issue. So this is a really tough balancing act here, and think my initial concerns have always been about safety. What we have read from the town engineer and what we have seen today satisfy me that this is a responsible and a safe solution to the parking situation.

Are there other options? Of course there are always other options, but there would be detriment to something. That balancing act would then come back into play about view preservation versus the requirement for the setback. This has been a very tough one, and I think the applicant has been responsive to two competing pressures. One is the view preservation, one is the setback. But in this case, I really do firmly believe that this setback is not something that is out of character or is going to create an undesirable situation in this district.

I hear the arguments contrary to it, but I think the view preservation is not to be dismissed. So I'm in support of this. I think the applicant has been responsible. I would like to talk about the 14 months this has been here because I don't think that's an accurate representation of what's actually happened. This project went on hold for quite a while, so your 14 months was an overall duration; it wasn't the amount of time that we've taken to deliberate. This has been before us how many times?

**Chairman Collins:** This is the third.

**Boardmember Dovell:** The third time, so ...

**Male Voice:** (Off-mic).

**Chairman Collins:** Right, and I appreciate that. And from the applicant's perspective, that is real time and real money committed. But from the zoning perspective, obviously we don't keep score with how many times things go to the Planning Board.

**Building Inspector Minozzi:** Christina, just make sure whoever's talking has the microphone please because this is all being recorded. OK, thank you.

**Chairman Collins:** Sorry, Ray. Go ahead.

**Boardmember Dovell:** So, I mean, that being said, this has been a tough one. And we don't like to deliberate unnecessarily. This board doesn't like to do that, but I do feel we have been responsive to everything that's been before us. That being said, I can't see a reason not to move this forward with an approval. That's my point of view on it.

**Chairman Collins:** OK. Then at this point I'll invite anyone in the public who wishes to be heard to please come forward. And again, just please introduce yourself for the first time when you speak into the microphone, even if you've commented before.

**Ms. Noe:** Oh, no problem. I am another person completely affected by this building, my view. I live across the street from the building where the pictures were taken, and with all due respect I am actually offended by the fact that you called it trite to worry about the view. I mean, that's why we live there. I see boats on the river, I will no longer see boats on the river if that strip is eliminated. Boats on the river at night are one of the wonderful things about living there. And I think you have to be careful because I think this is ... I'm sorry, I'm really ... that was very upsetting to me to hear you say that.

The other thing is that Jim is an architect, I'm an architect, my husband's an architect. We all really supported this project when there was no setback. I think the safety issues are valid and we're glad that you're addressing them. But I feel like a 10-foot setback would be bizarre. I think it would be like you could park the cars on the 10-foot setback; you know, parallel parking to the street. It's like what would that 10-foot setback be? The affordable housing at the bottom of Division Street, on Warburton, is at the property line. The building across the street at the bottom of Division, and Warburton is on the property line. The building that's currently on the site that's going to be demolished is on the property line. The fence is on the property line.

There's an existing driveway that has been in use for all the 23 years I've lived there. There's never been an accident from that driveway, and the fence and the building are on the property line. It's the same condition – actually worse than what you're proposing to do. Antoinette's is on the property line.

So I have to say, as much time as you might have spent there you're not describing the neighborhood I know. So I support this project. I think my neighbor that isn't here tonight supports the project, Jim Metzger supports the project. And I just want that to go on the record. I think Christina's done an unbelievable job in trying to, you know, make everything work together. I'm just sorry it's not on the property line because I think that would've have been a nicer, more in character, design. But I'm certainly comfortable with 5 feet.

**Chairman Collins:** OK, thank you. Anyone else who wishes to be heard? OK.

Christina, do you want to proceed to a vote?

**Ms. Griffin:** Yes, please.

**Chairman Collins:** All right, may I have a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of 3-to-1 (Boardmember Anuszkiewicz opposed), the Board resolved to approve, with respect to the variances, the series of variances defined on the agenda (Case No. 08-17), with removal of the words 'existing ...,' as there is no existing building.

**Chairman Collins:** There won't be when this goes on.

**Village Attorney Whitehead:** There won't, yes. The existing is coming down.

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

**Village Attorney Whitehead:** You can refer to the agenda.

**Boardmember Forbes-Watkins:** Hmm?

**Chairman Collins:** I was going to ask about whether we can aggregate with view preservation, or do we need to two separate ...

**Village Attorney Whitehead:** No, do two separate ones.

**Chairman Collins:** All those in favor? Opposed? All right, 3-1.

And the motion on view preservation.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of 3-1 (Boardmember Anuszkiewicz opposed), the Board resolved view preservation approval of the proposal in Case 08-17.

**Chairman Collins:** All those in favor? Opposed? One?

All right, the project is approved. Thank you very much for your patience and your professionalism. Thank you. Ladies and gentlemen, we're still in session so if you can take any conversation outside, please. Thank you.

**Case No. 22-17**  
**PTG Development, LLC**  
**0 Warburton Avenue (aka Nodine Street)**  
**Deferred Until January's Meeting**

**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 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**

**Deferred Until January's Meeting**

**APPROVAL OF MINUTES**

**Regular Meeting of October 26, 2017**

**Chairman Collins:** Why don't we move to the matter of the minutes. Any comments on the minutes?

**Boardmember Dovell:** Yes, I read the minutes.

**Chairman Collins:** All right, Ray. Bring it on.

**Boardmember Dovell:** I have three on page 104, Boardmember Dovell: *"It's got to result in a tax change."* I did not say that. I said a "text" change.

**Boardmember Forbes-Watkins:** "Text," it's twice.

**Boardmember Dovell:** Three times. The same thing on 106 and the same thing on 107.

**Village Attorney Whitehead:** So change "tax" to "text."

**Boardmember Dovell:** "Text," all text in every case.

**Building Inspector Minozzi:** Remember, these are unedited.



**Chairman Collins:** That's what makes them so much ... otherwise, you're talking about 60 pages of ...

**Boardmember Forbes-Watkins:** 109.

It's very difficult to fully accept minutes that are full of XXXs and marks. I think other than Ray's "taxes" that the minutes are fairly accurate.

**Village Attorney Whitehead:** With putting in the Xs and the ...

**Boardmember Forbes-Watkins:** With the Xs corrected.

**Chairman Collins:** All right, can I get a motion to approve the minutes as amended?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of October 27, 2017 were approved as amended.

### **ANNOUNCEMENT**

**Next Meeting Date – January 25, 2018**

**Chairman Collins:** Our next meeting is in the new year.

**Village Attorney Whitehead:** The end of January.

**Boardmember Forbes-Watkins:** January 25.

### **ADJOURNMENT**

**Chairman Collins:** All right, then the meeting is adjourned. Thank you, Jen.

**Happy New Year**