

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**ZONING BOARD OF APPEALS**  
**REGULAR MEETING & PUBLIC HEARING**  
**MARCH 22, 2018**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, March 22, 2018 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember David Forbes-Watkins, Boardmember Sean Hayes, Village Attorney Linda Whitehead, and Zoning Board Secretary Mary Ellen Ballantine

**Chairman Collins:** All right, we'll come to order. Welcome, ladies and gentlemen, to the Zoning Board of Appeals meeting for Hastings-on-Hudson for Thursday, March 22. We have four cases on our docket this evening, which we will get to here in a moment.

First, I'll begin with a couple of ground rules. We have two microphones. I know we've got a standing one, do we have a portable? Yes, we do, we have a portable one. Every comment that's made here this evening will be entered into the record through a remote transcriptionist so we just ask that if you are entering a comment into the record that you do so with a microphone in front of your mouth. And that when you do make your comment for the first time that you introduce yourself and where you live.

This evening, I have a conflict. As the evening goes on, I coach a basketball team that has a game that tips off between 8:30 and 9 o'clock. So after the first case has been heard I will be leaving and handing over the chair to Mr. Forbes-Watkins. But that's ... ah, here we go. Sean's here, very good. I was going to say that is predicted on having a quorum, which we now are assured of having.

Our fifth member, Mr. Anuszkiewicz, is ill this evening and will not be able to join us. So that means that we have four, which means that although we have a quorum it is conceivable that a vote could end in a deadlock. So as always, the applicants have the option to defer a decision if they choose. But just keep that in mind as the cases unfold this evening.

Sean, I don't know if you heard. I have to leave a little early this evening ...

**Boardmember Hayes:** OK.

**Chairman Collins:** ... for a coaching commitment ...

**Boardmember Hayes:** I know about those.

**Village Attorney Whitehead:** ... that was postponed from last night.

**Chairman Collins:** Yes, it was postponed from last night. I don't know now your situation turned out, but we can cover that another time.

**Boardmember Hayes:** We had a bye.

**Chairman Collins:** Oh, you did. OK, good. Good for you.

**Village Attorney Whitehead:** Competition here.

**Chairman Collins:** So two other things. I'm going to suggest a slightly different procedural approach for this evening, and that is that we each, as boardmembers, take a turn at being able to ask as many questions of the applicant as we'd like in that turn. And when once complete – once you have all the information that you need or you feel has satisfied your curiosity – then we'll move to the next. And if there's a need for a follow-up then we will do that, but I think it will result in a more orderly discussion than we may have had the last time.

OK, Mary Ellen, how are we on the mailings?

**Deputy Village Clerk Ballantine:** All mailings are in order.

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

**Case No. 23-17**  
**Riverton Lofts West, LLC**  
**10 W. Main Street**  
**\*\* Deferred to Future Meeting \*\***

**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:** So we will begin, then, in order of the agenda, with Case 22-17, PTG Development.

**Case No. 22-17**  
**PTG Development, LLC**  
**0 Warburton Avenue (aka Nodine Street)**

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

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

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

**Chairman Collins:** This is an undeveloped property. I would ask Mr. Steinmetz that what we'd like to be able to do is focus the conversation on, as much as possible, where we left off from the last meeting, which I will attempt to summarize. But you feel free to amend or add on it if I've missed something.

Where we left off in the last meeting was a question from this board, a request from this board, to show the desired benefit that the applicant is seeking to achieve, specifically backed up with economic analysis. We also had questions related to the character of the neighborhood and whether the proposal would be seen as a negative or a positive which would result in some requests for additional design work, specifically around the idea of creating the perception, if not the reality, of not a single mass but maybe two buildings, for example. Then, of course, we have the view preservation which stirred quite a bit of debate on this board. But I would ask that as much as possible we pick up where we left off rather than taking us to the beginning.

So if you could introduce yourself, sir.

**David Steinmetz, Esq., Zarin & Steinmetz:** Good evening, Mr. Chairman, members of the Board. As a former travel and AAU coach, I get it and I will try to be as efficient as

possible.

[laughter]

I'm missing the Michigan game right now, so ...

**Chairman Collins:** Oh. Go, Blue.

**Mr. Steinmetz:** As best I understand where you left off – I was not at the last meeting, I was with all of you at the prior meeting – you had covered a lot of ground. And I think, Mr. Chairman, you did summarize it well. I'm going to try to be efficient and cut to it so it might require that you move in a slightly different order than we had originally anticipated. I'm going to take view preservation and push it to the side. I want to try to cover the area variance issues first and view preservation second. In terms of the area variance, we all understand we're here on a coverage variance. You talked about both the feasible alternatives and the economic analysis, and community character. I'd like to start with community character.

One of the things that we explained to you when we here previously – and I think it's clear from our submission, if we could go to VP-15 – we took a look at the community and the immediate area. We shared with you what we believe is a significant amount of empirical data demonstrating that virtually all the structures in the immediate vicinity of the proposed multi-family residential structure are nonconforming, or noncomplying, with coverage. The exhibit you see up on the screen, that you've seen before, indicates a variety of coverages – all vastly exceeding your 15 percent coverage – going from 30 percent to as high as 33 percent.

We also examined, within 600 feet of our proposal, there are 36 properties with two or more housing units and 12 properties with one housing unit. The purpose of that was to determine the character of the neighborhood being significantly multi-family – significantly more multi-family than single-family. Eighty-one percent of the immediate surrounding properties are multi-family buildings. And we believe, when you look at the existing pattern of development in the area, it's quite clear that if we were to actually build a single-family residence on this property or two single-family residences on this property they would be grossly out of character with everything surrounding them.

For my client and for our development team, proposing multi-family residential housing on this site is absolutely consistent with the character of the community. Proposing something that needs an area variance as to coverage also, likewise, is consistent with the character of the community. It's interesting, and I don't believe I cited this in the materials we submitted

to you, that in *Gonzales v. the Zoning Board of the Town of Putnam Valley* – and for Linda's benefit, that's 771 New York subsection 142 – the second department concluded that where there are several substandard lots that are adjacent, or across from, the petitioner's property it formed as a basis for a zoning board to grant a variance. In fact, the facts in that case showed that the zoning board denied the variance request that, then, the second department reversed because analyzing the character of noncompliance in and around the subject property is of critical relevance.

Christina also had attempted ... you asked, Mr. Chairman, about the design and I'm going to try to pivot to the design. We spent a lot of time looking at how best to design this. In fact, I think your board is aware that we have spent 12 different meetings with the Planning Board; we studied 11 different configurations for the project, analyzing massing, bulk, coverage, view preservation. As a result of those Planning Board meetings and input from your professional staff, we made significant changes, including reducing coverage, reducing height, moving the garage below grade, and opening up and expanding the corridor at the center of the building, which was a primary goal.

Now, we also examined the exhibit ... the lower level of the exhibit. That is a building that breaks the massing with two smaller view corridors in the middle. It changes the configuration of the units, it changes the size of the units, and it actually also – as we determined doing the financial analysis – changes some of the economic yield. What we tried to do in answering your questions, as we understood them, about feasible alternatives was trying to figure out how best to present to you the benefit to the Aqueduct weighed against the detriment to the community.

So let me take a step back. The benefit to the applicant here is that Lou Brutto, a local guy who wants to develop his property and eliminate a somewhat unsightly contractor's yard on this property, would like to develop multi-family housing consistent with the immediate area. He would like to develop six units because six units is other than coverage zoning-compliant. He would obviously like to earn a fair and reasonable return on his investment, his time and his energy, and hired certainly one of the, if not *the*, preeminent architectural firms here in the community to design that.

In terms of the benefit, the benefit to the applicant is he gets to build what he wants to build, he gets to earn a fair and reasonable return, and he gets to develop the property in a far better fashion than it is now. So we spent the better part – or the development team spent the better part – of over a year analyzing the detriment to the community. I want to kind of address at the outset, since I was last before you, the lead agency. Under the New York State Environmental Quality Review Act, the Planning Board adopted a negative declaration. That, to us – and I think as a matter of law – is legally significant. It's significant because the

lead agency determined that there is no significant adverse environmental impact, after all of the modifications – mitigation and other measures that our team has taken – to eliminate or minimize those adverse impacts.

So in terms of detriment to the community, the first thing I would show, or turn to, would be SEQRA and adverse impact. The lead agency has already concluded there is no significant adverse impact. That's binding on you. New York State case law is clear that you – as an involved agency, the Zoning Board – in a coordinated review with the Planning Board as the lead agency, are bound by that. In addition, by going back to the first issue, in terms of community character there is no impact or adverse impact to the community. In fact, this project, at 37 percent coverage, is dramatically lower than many of our neighbors. Mr. Brutto would be delighted if some of his neighbors were at 37 percent coverage, but they're not. They're at 90-, they're at 60-, they're at 75 percent

Analyzing the balancing test, on a surface level the balancing test, to us, is clear. The benefit to the applicant, earning \$700,000 to \$800,000 in profit is absolutely outweighing any potential adverse impact or detriment to the community. Having said that, I've been doing this a long time, and I told this to Linda: I have never been asked to do the type of financial analysis that we did in this matter in connection with an area variance. I talked about it with Linda, and I think it's a fair inquiry, especially in this case. We didn't object to it. We did conduct that feasibility, economic feasibility, analysis.

Again Mr. Chairman, I've been standing in front of boards, and standing on the other side of the dais – and I hate to admit this, strike this from the record – for about 30 years, but I've never seen an area variance go through this kind of analysis. Having said that, we looked at our proposal; we looked at the as-of-right proposal; and we looked at other proposals in the middle.

Let's talk about ours, quickly. Six units – three 3-bedrooms, three 2-bedrooms, a lovely center corridor, an attractive design, coverage at 37 percent – and based on an analysis done by our architect, by our engineering firm, and by my client, who is a contractor, we approximate the development costs at about \$4.3 million. The projected return, based upon comps and sales in the community, a projected return of about \$5 million-100 thousand; an anticipated profit of \$775,999. I said between \$700,000 and \$800,000.

I'm going to jump to the opposite end of the spectrum. The as-of-right plan – labeled "scheme C" in our submission – the as-of-right plan with 15 percent coverage yields two townhouses with parking below grade. The development costs are approximately \$2.1 million; the return is approximately \$1 million – there may have been a typo in our schedule – he only loses \$1 million rather than \$2 million. I think there might be something that

indicated he loses \$2 million. Am I right, Katelyn?

**Katelyn Ciolino, Zarin & Steinmetz:** (Off-mic).

**Mr. Steinmetz:** Yes, we revised. It was a ... unfortunately, we are not expert in preparing spread sheet analyses of this nature and don't normally do it for zoning boards, and have corrected that.

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

**Mr. Steinmetz:** So for the pleasure of building in accordance with zoning, our client could do it and lose a million dollars. That's obviously not going to happen.

What we did, in connection with Christina's office, is looked at the two-corridor scheme, which would have yielded three 3-bedroom units and two 2-bedroom units. That would be "scheme B." We looked at the larger center corridor, which was "scheme C," losing one of the 3-bedrooms – it's changed to a 2-bedroom – and we have two 3-bedrooms and four 2-bedrooms. And we have "scheme D," which is five units. Admittedly, they could all be built; admittedly, they would all result in a reduction in the profitability of the project. They may also result, to some extent, in a reduction in the marketability of the project because our client believes that the design he's got, with six units – there are six units, Christina, yields how many 3-bedrooms?

**Christina Griffin, project architect:** The proposed is three 3-bedrooms and three 2-bedrooms.

**Mr. Steinmetz:** Three 2s.

**Chairman Collins:** Can you repeat that?

**Mr. Steinmetz:** Yes. I wanted to just clarify before I said it. So as confirmed by Christina Griffin, the preferred plan yields three 3-bedroom units and three 2-bedroom units. We believe the 3-bedrooms enhance the marketability of the project. We spent a lot of time analyzing views through the site and creating that center corridor.

So we believe that the design that you have before you at the top is a more marketable project, is a more profitable project. And the significance is – and this is a point that I have not yet made – if you look at the building on the lower level with the two view corridors through them you do not reduce coverage.

Why don't you reduce coverage? You don't reduce coverage because if the goal is to take parking and place the parking beneath the building, to the extent you can, you are still building effectively on the same building pad. So I say that – and I kind of saved that for now – because we're going through this whole exercise. The only reason I'm here in front of you, other than view preservation – we pushed that to the side – I'm here because my client needs an area variance for coverage. Even if I changed the design, I still need a variance for coverage.

The interesting thing is – I don't remember whether I said this verbally when I was in front of you in October, and it's fascinating and goes to what I did say to you – I think you have a very strange code. I told you that. I think some of you are quoted in the record previously as kind of agreeing with that. We are 300 percent over open space. I want to say that again. I have a site that we're developing significantly, but I have 300 percent of the open space that's required under your code.

So I have 300 percent of the open space – the wonderful area that's left open and enjoyable – but I'm exceeding your coverage. I told you this in October, and I repeat it again – as what I consider to be somewhat of a land use junkie who appears in front of too many boards in too many communities – a 15 percent coverage requirement in a multi-family district like this is way out of line. Not only is it inappropriate, unfortunately it results in you folks having to make repeated determinations to grant coverage variances.

Which brings me to my next point: you have granted a number of coverage variances. I don't have to tell you that, you all know that, you commented to me last time about your concerns even in terms of reshaping the zoning ordinance. I wish you had reshaped the zoning ordinance; I wish the Board of Trustees had done that. Mr. Brutto could have saved a lot of time, certainly a lot of money and effort, if we didn't have to pursue this variance. I got no choice. He's been in this process for 14 months. I'm in it for ... you guys were in it for quite a few months before I came aboard. We came aboard about six, seven months ago.

What I want to make sure is clear in terms of precedent: Tall Trees v. the Zoning Board of Huntington – nearly identical variance application – gets approved. It had to be approved, according to the New York State court of appeals; Knight v. Amelkin. Your board, as a quasi-judicial function, must conform its decisions to your agency's precedent. Same holding out of Pasano v. Town of Carmel Zoning Board of Appeals, a 2008 second department case. You have granted several area variances for coverage: 7-15 Ridge Street, 32-34 Washington Avenue, 52 Washington Avenue, 457 Warburton.

There's a pattern; a pattern of development in Hastings. You have a wonderful, lovely community. This section of Hastings is dominated by multi-family structures, and my



immediate neighborhood is dominated by structures that don't comport with your coverage. To me, this is a pretty easy, in my opinion, coverage variance. To deny this coverage variance would be to do something inconsistent with how you all have held in other matters. In fact, several of you know – you voted in favor of 32-34 and 52 Washington Avenue – you are already ... as quasi-judicial agency functionaries, you've already been there.

We hope we've given you enough information on other feasible alternatives. There are other alternatives; they are less feasible. We believe the area variance we're seeking – the benefit to the applicant – if he makes more money, yeah, that's a benefit to the applicant. That's not un-American, there's nothing wrong with it. And we have to juxtapose that, and compare that and balance that, against the detriment. From an area variance coverage standpoint, to make \$100,000 less or \$200,000 less and still yield the same coverage, in terms of the issue before you I don't think it's relevant.

Now, I want to pivot to view preservation. Feel free to stop me if you want to stop on this. I'm going to go to view preservation and we can regroup.

**Chairman Collins:** Keep going.

**Mr. Steinmetz:** Is that acceptable, Mr. Chairman?

**Chairman Collins:** Yes, yes, keep going.

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

**Chairman Collins:** Yes, please.

**Mr. Steinmetz:** You could take a 30-second, if you want. OK.

View preservation. We talked about this at the last meeting. We spent a great deal of time. I think we showed you the video. I told you that it was interesting your planning board made some requests and they were unique, but we complied with them. What were their requests? Their requests were that we do a fair amount of empirical analysis of view preservation for a 5 foot 4 inch woman, and I think I was corrected. The record said "woman," but my client said it a 5 foot 4 inch individual; a 5-4 individual at eye level height who might be walking on the Aqueduct. That's what we did. We went out there and we took photographs, we took video, we hung a mockup to try to analyze what this would be like.

We believe there is no significant interruption of views of the Hudson River or of the Palisades. In fact, we actually don't think there's really any interruption of views because,

unfortunately, there are a number of structures that are visible in the photograph in front of you that already impact some views. They're not horrible – one can certainly enjoy the Hudson and the Palisades – but there are structures that exist today, as you look over my client's contractor's yard, and you see rooftops. Reminding you, Mr. Chairman, at the October 26 meeting you indicated – we went back, we watched the meeting again – that you encouraged everyone to go see the property. You, quote, said, "I'm satisfied with your view preservation."

Mr. Forbes-Watkins indicated, "You are seeing a garbage pit"; what you'd like is something nicer, and that's better. We're very pleased that after a lot of work with your Planning Board we were able to get the Planning Board to realize we actually have adequately addressed view preservation. Your Planning Board, after a lot of back and forth, and Christina's adjustments, voted ... was it unanimous? It might have actually been unanimous. The Planning Board voted in favor of positive view preservation. Might have been a unanimous vote. I should know that, and I don't have it in my notes.

**Village Attorney Whitehead:** It was.

**Deputy Village Clerk Ballantine:** It was.

**Mr. Steinmetz:** It was?

**Village Attorney Whitehead:** Yes.

**Boardmember Hayes:** With no abstentions?

**Village Attorney Whitehead:** Correct. On view preservation, correct.

**Mr. Steinmetz:** I say that because the legal standard, as you all know in your code, does not mandate a prohibition against any kind of impact to view. It's not like you can't impact it at all. Your legal standard, as you well know, is, quote, "achieving the least possible obstruction or view of the Hudson River and the Palisades." We actually think, as a result of the changes that are made as well as – and maybe this is more important – the structures that are there that ... my client wishes, "Jeez, in some respects, it would be great if they weren't there. "It would open up views of his potential purchasers. They're there.

In terms of what this structure does, this structure – and I stated this last time and I want to make it clear and the architects are here to give elevation, as is Jim Annicchiarico from Cronin Engineering – the absolute peak of this building, is below the elevation of the OCA; the absolute peak of this building is below. We showed you – and we can take them out

tonight if you need them – the engineering cross-sections where we showed a 5 foot 4 inch individual at eye level on one side and views over the tops. What you have before you there is a cross-section analysis done from the OCA at the right, views over our building, views in some cases into and in other cases over, and the other structures further west from ours.

The purpose of doing this, the lead agency made us do this for SEQRA purposes. The Planning Board spent a great deal of time not only having us do mockups and videos. They wanted to see – and Jim Annicchiarico helped present this – empirically, what's the line of sight from the OCA. The line of sight from the OCA, as a result of the modifications we made to the top story of this building, allows a view from an average individual walking on the OCA at eye level. That was our goal. We actually think there's no obstruction of the Palisades. There might be minimal or insignificant obstruction of the Hudson River; certainly nothing significant.

So in sum, Mr. Chairman and members of the Board, we think that the lead agency determined there was no significant adverse environmental impact associated with our site plan and our view preservation application. They were quite well aware of the coverage variance we were going to be processing in front of your board. We're pleased at the comments that we got from your board in October. I think we got fair – tough, but fair – questions from your board at your last meeting. And we have gone back and tried to do our homework to satisfy you on the character of the neighborhood, on the feasibility or the lack of feasibility of the alternatives.

And I must tell you I wish Lou was here. He was tied up in an engagement, and we did not want to miss tonight's meeting, quite frankly. We felt, in fairness to Mr. Brutto, we know this is Mr. Forbes-Watkins' final meeting. You have spent a lot of time and energy on this matter and I felt I was duty bound to try to get this in front of your board while I had a board that had been living and breathing with this matter for months. And we appreciate the fact that we were able to get on tonight's agenda and there's a quorum.

In sum, Mr. Chairman and members of the Board, we think you're in a position to grant an area variance for coverage consistent with your prior practice, in accordance with law. We think you're in a position to grant view preservation approval and send us back to the Planning Board to finish up our site plan. I think, in the end, you will end up with a project of which you can be extremely proud. And it will probably increase the value of many of the other structures in the neighborhood. It will certainly be functional.

And I think you know, the Planning Board also spent a fair amount of time with us making sure that we would do nothing to adversely impact the Aqueduct. In fact, I think we're going to be shoring it up in certain places. So I think there's ultimately a net benefit on that.

There's also a net benefit to the surrounding structures because we will be improving Nodine Street, making fire and first responder access to the structures in that area far safer than what it is now. For those of you who have been up there, you kind of come off of Warburton, you come up on a paved surface, you turn left, or north, and you're on a rocky, gravel, unsteady, certainly uneven, surface. And your fire engines will be far more capable of getting not just to my client's property but our neighbors' properties if we're able to improve it.

So, Mr. Chairman, I got that in in 30 minutes so I got as close to a fair ... I'm ready. If you're drawing up plays, I'm ready.

**Chairman Collins:** All right, thank you, Mr. Steinmetz.

I'll begin with my questions and some observations. This information that I'm about to ask for may exist elsewhere in your application. But I'm referring to the document that outlines the economic analysis schemes A through E. Can you tell me what the lot coverage is associated with A through E?

**Mr. Steinmetz:** Yes.

**Chairman Collins:** Do you have that handy?

**Mr. Steinmetz:** Hand me that, or help me with that. So A is obviously 37 percent, C is 37 percent, B is ...

**Ms. Ciolino:** B is also 37 percent, scheme D we go down to 35 percent, and scheme E is our as-of-right; scheme E is 50.

**Mr. Steinmetz:** So just doing that again so the record's clear: 37, 37, 37, 35, 15. And I should state ... actually, I don't want to interrupt your questioning. I'll wait for you to ask.

**Chairman Collins:** OK. No, thank you.

I summarized this board's discussion on the matter as really coming down to two areas. The first was the view preservation and a discussion around how substantial, or not, the impact on the view was. My position on this has been consistent from the October meeting that I don't believe that this is a significant impact, though other boardmembers correctly pointed out that because this impacts the Aqueduct it is important to think about it in terms of the impact on a much broader swath of the community than just a handful of neighbors. Because in theory anyone in Hastings can enjoy the Aqueduct, and they do.

However, with that said, I have visited this exact site each time in preparation for this meeting and have stood at my eye level. I'll have to admit I have not gone down to the 5 foot or 5 foot 4, which means there's less impact because of my angle. However, I remain convinced that even allowing for the potentially higher volume of people who would be impacted by what you're showing in the pink on this screen, the impact quantitatively is minimal. So I remain untroubled by your view preservation request.

The area variance request is a thornier one, and I would, here again, summarize the Board's conclusion from the January meeting as noting that the presentation of this as one building – which you continue to refer to, even though it presents as two with a break between the two – or the other options to make it appear as if it were three don't really change your need for an area variance, as you alluded to earlier ...

**Mr. Steinmetz:** Correct.

**Chairman Collins:** ... and we confirmed a moment ago. The presentation of one building of that scale presents a relatively unique addition to the community, outside of the lot coverage issue. Though the lot coverage, as you point out, is consistent with the adjacent properties, the presentation of a single building of this size is relatively unique. Though, as you point out, the multi-family consistency is not anything I would argue with.

So what we were providing to Ms. Griffin was feedback encouraging her to go back and look at 32-34 Washington ways in which she adapted that design to – as I think I put it – "pay an homage to the legacy buildings in that neighborhood, but yet give it a modern twist." So one of the things I think this board, and myself, was looking forward to seeing was what new elements to the design would create the visual perception that this is not one big, massive building but rather distinct units. If Ms. Griffin, or you, would like to speak to any of those changes or anything you did to address that comment, now would be a good time.

**Mr. Steinmetz:** So, Christina, we should do this together. I think what Christina attempted to do, obviously, articulation of the buildings in colors was really her primary goal.

**Ms. Griffin:** Yes. What we decided to do was to give each unit its own distinct character by distinct and different colors. We have more variation in the fenestration and the windows and the shapes and sizes. We have different railing types on the townhouses. You'll see there's a glass railing on the one to the right, the next one is cable railing, and the next one might be metal. We have different colors of entrances. We have taken those railings at the top, at the roof deck, and jogged them so it doesn't create one horizontal band and each unit has a railing that's a different location. We have privacy barriers between each roof deck, and the trellises are also not lined up.

So we have gone further with breaking up each unit so they look more like individual townhouses. When you do that, you have more of a village-like character. Also from this view, I just want to mention that the way this is turned I'm taking it from a person's eye view walking down the street. You can't quite see the opening as much from this view between the two buildings.

**Chairman Collins:** You want to place it for us, just based on the color?

**Ms. Griffin:** Yeah, sure.

**Chairman Collins:** It is between the blue and the brown.

**Mr. Steinmetz:** Correct.

**Ms. Griffin:** Between the blue and the brown. And that entrance to the garage is also set back and recessed. To the left, David – yes, that's it. When we start looking at all the details of the building, we really want to make sure the townhouses are like all variations on a theme. This is a very similar approach to how I designed 32-34 Washington Avenue because even though that was traditional, and every building had a different entrance and a different type of porch and different columns and different railings, we're doing similar things with this building but in a more modern way.

**Chairman Collins:** OK. So let me summarize my position, then I'll invite my fellow boardmembers to ask the questions and make whatever commentary they would like to add for the record.

As I mentioned, the view preservation, as presented, has never been a concern of mine although I respect the questions that my fellow boardmembers asked about the view. I think they've been answered here again to my satisfaction. The lot coverage question, to me, now I also feel satisfied that the design changes the applicant has presented here to create the visual perception of individual units with some key differences in their design strike me now as that right sort of homage, to my eye, to the neighborhood around it. And while thoroughly modernizing a lot that right now remains empty and is, quite frankly, an eyesore.

The applicant's effort to explain the benefit that they're seeking, I think, is also very compelling. I wanted to get to the lot coverage question because I think it begins to demonstrate that options that move the applicant away even more from the design as presented do not, for the most part, significantly change the area variance that would be needed. Obviously, the exception would be building to as-of-right, but it's a non-starter and,

quite frankly, would be out of character in a whole other way relative to the properties in this neighborhood.

So when I look at the five factors, I no longer have a question about whether or not there's an undesirable change looming as a result of granting this variance because I believe the design changes the architect has presented have resolved my question about the way this building presents relative to the architectural style and personality of the adjacent buildings. And certainly I think it's hard to argue that development of this property wouldn't result in a significant upgrade to that space. And I haven't even mentioned the open space that this project would unlock or the development the public could enjoy, such as roadways with the accompanying public safety investments.

I think the second issue about whether the benefit can be achieved in some other method, the answer is of course there are other methods. But it seems to me it would be an exercise in sort of a needless economic setback for no apparent change in the variance that would be needed. So I feel as if question number two has been satisfied.

The requested area variance that's been asked for is substantial. I want to acknowledge that. And as I pointed out the last time, measured on a percentage basis this is a large ... this is a very large area variance that's been requested. However, that request and its degree has to be considered in the context of the properties on the adjacent lots and in this neighborhood. It again brings to mind, I think, this unfortunate part of the code we have to grapple with and that applicants unfortunately have to grapple with.

I do not believe that the fourth factor about whether this is going to have an adverse impact on the physical or environmental conditions in the neighborhood is relevant. I think the negative SEQRA declaration covers that. And I think whether this alleged difficulty was self-created or not is particularly relevant for this matter right now.

For all of those reasons I'm feeling a lot more comfortable about this. But now, I'll invite my other boardmembers to weigh in. Sean, why don't we go from my right to left.

**Boardmember Hayes:** Sure, thank you. Can you do me a favor? I know we asked for a lot of financial information. And maybe that was me that asked for that, I don't know. Can you break down some of these costs for me? I feel pretty comfortable on the acquisition costs; that seems like a fixed number. I assume that's what was paid for the lot. Hard costs: can you break down hard costs because I'm seeing a ratio that I think makes sense on the hard costs: 10 percent contingency, I think you're actually being conservative so I applaud you for that.

Then the soft costs, I'd love to hear a breakdown, too, because I don't know what that means and they don't really seem to move.

**Mr. Steinmetz:** Let me take a crack at that. Your last point is correct, and let me explain why. Hard costs: essentially, hard costs relate to the improvements to Nodine, the installation of border and sewer extensions, stormwater drainage, asphalt, curbing, sidewalks, excavation to put the parking below grade, and landscaping. All of that in addition, obviously, to what I'll refer to as the "sticks and bricks" or the actual construction of the structure itself. But the hard costs are essentially infrastructure-related improvements.

The juxtaposition, or the soft costs, are all the other things: permit fees, application fees, recreation fee, professional fees, closing and carrying costs. The overwhelming bulk of this, Mr. Hayes, really is professional fees and carrying costs. I will tell you that I have lamented to my client – and probably he back to me, maybe not as much – that we have spent a tremendous amount of effort as a development team on what's a six-unit project. It is what it is; we have no choice but to do this.

I think I would be doing my client a disservice if I didn't state for the record that we spent as much time and effort on a project of a little over an acre and six units as we professionals – and I've worked with these professionals on many other projects – do on rather substantial development projects. I know your counsel knows that because she lives in my world. We had no choice but to do that. But that relates, Mr. Hayes, to what we're up against. You're right, the soft costs don't change because whether we're building a four-unit, five-unit, or six-unit project – whether we're at 20 percent, 30 percent, or 37 percent coverage – you still need architects, engineers, surveyors, planning board fees, processing and, unfortunately, lawyers.

So there has been a lot of money spent on soft costs on this project. It hurt me to look at the economic analysis when I saw what Lou was putting into this. But he chose it, and this is the bargain he gets.

**Boardmember Hayes:** Just so I know, on the as-of-right it really should be just the architect and the permits, right?

**Mr. Steinmetz:** You know what? I don't know what's in that number. You know, nothing's as-of-right in Hastings so you still have to ...

**Boardmember Hayes:** Well, if you did it as-of-right you wouldn't be here, right? So none of that would ...

**Mr. Steinmetz:** I wouldn't be in front of your board, but we would've still had a planning



board review process as well as view preservation.

**Boardmember Hayes:** With as-of-right?

**Boardmember Forbes-Watkins:** Sure.

**Mr. Steinmetz:** We still ... absolutely, yes. We would've had site plan approval, we would've had view preservation, and we would've still had to do a tremendous amount of analysis of stormwater and bringing up the utilities. And quite frankly, we would've likely been told we still needed to improve Nodine Street to make those two units safe and accessible, despite the preexisting conditions all around us. So the hard costs would've dropped, but there would've still been an inordinate amount of hard costs for two units.

**Boardmember Hayes:** OK, but the soft costs would drop significantly ...

**Mr. Steinmetz:** Soft costs would drop.

**Boardmember Hayes:** From the \$519,000. That's probably not the right number, right? I mean, let's be fair. You're talking about money you've already spent, right, if you just went and didn't do any of this and just did the two units – probably not \$519,000? I just want to make sure ...

**Mr. Steinmetz:** In fairness, though – because I don't want to make my client seem foolish – nobody would buy this property and try to build it in accordance with zoning. And, Mr. Hayes, it would be ... in my opinion, it would be unlawful for the Village to expect that since nobody around it complies with zoning. So to target this one property and say, "You know what? That's going to be the one that's going to comply with 15 percent," I think is ...

**Boardmember Hayes:** That's not what I asked. I just asked if these would be the real soft costs if, from day one, you did it as-of-right.

**Mr. Steinmetz:** And I'm answering you by saying ... OK.

**Boardmember Hayes:** That's all I asked.

**Mr. Steinmetz:** And I'm saying nobody had to ...

**Boardmember Hayes:** And I'm not asking you for conjecture. That's all I asked. It's not \$519,000, right?

**Mr. Steinmetz:** I can't answer that. He has the folder.

**Jim Annicchiarico, Cronin Engineering:** You know, we did reduce the rec fees and the soft costs to accommodate the as-of-right. We would still likely have to do all the engineering that would be required for the six-unit. We'd have to bring a water main extension up to the end of Nodine.

**Boardmember Hayes:** Oh, I thought that was a hard cost.

**Mr. Annicchiarico:** That is, but the engineering that goes into that would still be required.

**Boardmember Hayes:** The design, OK.

**Mr. Annicchiarico:** Same thing with the sewer, drainage. The design, or the engineering, that would go into Nodine Street – the Nodine Street improvements that are required for either of the scenarios – would still be the same.

**Mr. Steinmetz:** They probably would've saved on legal fees.

**Boardmember Hayes:** I won't ask you what your fees are because I'm a lawyer myself.

**Mr. Annicchiarico:** It certainly wasn't a million dollars, and he lost a million dollars on that hypothetical analysis.

**Boardmember Hayes:** Well, the soft costs are \$519,000 so we're not talking a million.

I just want to understand. If someone puts a number down, there shouldn't be this is what the number is today if we decide to do it as-of-right. It would be the day after you bought it, right?

**Mr. Steinmetz:** Understood.

**Boardmember Hayes:** Because that, presumably ... so that number's not right. OK, that's my first question.

My second question was going to be whether anything's changed. So it sounds like what's changed is paint, some window sizes, and the way the balconies are. Is that right?

**Mr. Steinmetz:** I think she also explained the articulation of the building and the ...

**Boardmember Hayes:** Right. Some are forward and some are back, OK. But that doesn't change anything about the view, right? That doesn't change the view from the Aqueduct.

**Mr. Steinmetz:** Correct.

**Boardmember Hayes:** This is purely if someone were to go on Nodine Street and be sort of taking a walk on Nodine Street. Can you see that from Warburton, those changes?

**Mr. Steinmetz:** I don't think you can really see much of the building from ...

**Boardmember Hayes:** No. So from a villager's point of view, it really only matters for the people who live there, right? OK.

**Mr. Steinmetz:** But we were trying to address the Board's concern nonetheless.

**Boardmember Hayes:** OK. And the profile of the building from above hasn't changed, right? Which I think we concluded in the last meeting was vastly different from the buildings around it. Can we go back to that slide you have that shows everything overhead?

**Mr. Steinmetz:** You could do, also, the larger one.

**Boardmember Hayes:** No, it wasn't that one. There was one that was smaller.

**Mr. Steinmetz:** Yeah, there's one that shows more.

**Boardmember Hayes:** It's just easier to see. No, that's the view. I meant the overhead, where you can see all the tops, right roofs.

**Ms. Griffin:** The aerials? The aerial view?

**Boardmember Hayes:** The aerial view, excuse me. Yes, that's the right term for it.

**Mr. Steinmetz:** Yeah, that was it. Hold it.

**Boardmember Hayes:** No, it was one in cartoon, as I call it; the cartoon aerial view. Yes, that one. So it's still the biggest one around.

**Mr. Steinmetz:** Yeah, I don't know if that part is accurate because that's coming off of the tax map. Actually, go to the aerial, Suzanne, because I think that's actual observation. Any of these show, again, the variance.

**Boardmember Hayes:** Can you do it on this one because I can't see that side. I had Lasik, and now it's running out.

**Mr. Steinmetz:** That's not good.

**Boardmember Hayes:** Yes, I know. I know an ophthalmologist.

**Mr. Steinmetz:** What I was going to say to you is, yes, you have the buildings here. You have a fairly sizeable building here, fairly sizeable roof here. But really the massing of structures in here, this dramatically dwarfs this. There are several significant structures in and around the area. Go out a little bit further, Suzanne. When you look at this in the context, Mr. Hayes, of the entire community, actually I don't think it's fair to say that this is truly unique and sticks out. I actually think it isn't, in terms of walling and massing. There are significant structures.

I think one of the reasons we did this, the Planning Board had asked us to do an analysis of coverage immediately around us. Then they realized that probably wasn't giving a fair and accurate representation of the community so we started to look at a larger area. I hope that helps you somewhat. There's no question the buildings are what they are, but in terms of comparative analysis I think there are a lot of other large developed areas.

**Boardmember Hayes:** Those are my questions.

**Chairman Collins:** Great.

**Boardmember Hayes:** OK, thank you.

**Chairman Collins:** Ray?

**Boardmember Dovell:** Within the zoning district, what are the lot sizes in general? What are the widths? Your lot is 140 feet.

**Mr. Steinmetz:** Are you asking the bulk criteria for this district?

**Boardmember Dovell:** The width of ...

**Mr. Steinmetz:** The width criteria, or the width of other lots?

**Boardmember Dovell:** Other lots within the radius there.

**Mr. Steinmetz:** I know they're smaller. Can anybody try to ball park that? While Suzanne's looking at that, Mr. Dovell, I would make the simple observation – and I was thinking of this when the chairman made a comment earlier – we are a larger lot than many of the other lots around us. And in some respects ...

**Boardmember Dovell:** Are they 25 feet, are they 35 feet, are they 50 feet approximately?

**Mr. Steinmetz:** I hope somebody knows.

**Ms. Griffin:** I don't know. About eight projects on Warburton Avenue, and a lot of the lots are 50 by 100, 50 by 150, and some are 25 by 100.

**Boardmember Dovell:** And some are 25.

**Ms. Griffin:** Yeah.

**Boardmember Dovell:** So the reason for a multi-family dwelling, I would assume, is to increase the bulk within certain districts so that you get a greater density. And if you look at this area, it's a greater density than an R district by far. But if you read the regulations that pertain to this – that pertain to these sites – in each of these lots, whether it's 25 feet, which I think is the minimum permitted width of a lot, you have a 12-foot setback.

**Mr. Steinmetz:** Correct.

**Boardmember Dovell:** Which would mean you have a 1-foot building in the middle of the site and the lot coverage of 15 percent. It's not feasible. A 50-foot lot is also really not a feasible condition when you take the 12-foot side yards and you view this with a lot coverage and a minimal driveway. You end up with a building coverage of 630 feet. So there is a disconnect.

**Ms. Griffin:** Absolutely.

**Mr. Steinmetz:** Yes.

**Boardmember Dovell:** It's not just the coverage, it's the lot. So I'm just bringing this up because it's a reinforcement that there's some ...

**Mr. Steinmetz:** Code issues?

**Boardmember Dovell:** There's other disconnects in supporting a greater density in a district in the MR-1.5. Hotels are permitted, correct?

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

**Boardmember Dovell:** Multi-family houses are, correct? You can't put multi-family on a 25-foot or a 50-foot. And a 75-foot lot, you can't put a multi-family dwelling. There's just simply not enough coverage.

**Mr. Steinmetz:** Unless you just go up and you have a ... I mean, it wouldn't be economical to build, but you ...

**Boardmember Dovell:** Then if you ... I just did a little analysis about an R-7.5 which is 75 by 100 and an MR-1.5 at 75 by 100. So you have the same lot in each case. And with the 75-foot wide lot in an MR-1.5, putting the building as close to the street as you can to minimize coverage the best you're going to do is a 3,000 square foot residential piece with one floor of parking at 1,000 square feet. So it's really ... I'm just making the case that for this substantial increase, in my opinion, in an artificial ... it's artificial and it needs to be addressed. It really needs to be addressed.

I can't ... in judging whether we consider this a substantial variance, yes, it's substantial in terms of the text itself. But it's not substantial in terms of what you see out there, by any means. So I fully support the substantial aspect of this. I don't support it being substantial; I think it's really a non-issue.

**Mr. Steinmetz:** Understood.

**Boardmember Dovell:** In terms of view preservation, I prefer the three-component building. I think it's broken down in a way that would increase views from the Aqueduct. But I think either one of them is really acceptable if you go back and you look at that. I think it's really a non-issue your looking over the top of it. I've walked by a number of times.

In terms of the economics of the deal here, I'm looking at your pro forma. If I look at ... I just looked at scheme B. Scheme B, your build cost for scheme B is \$2.750, roughly. And that includes all of the infrastructure improvements, as well? So if I look at that, you're going to build this whole project for 175 bucks a foot. Is that ...

**Mr. Steinmetz:** Somewhere ... possibly a little north of that, approximate square foot cost? I thought it was closer to \$22.10, which is not out of line, at least in my experience in the county. That's actually kind of, in some respects, a low number for many projects in the

county.

**Boardmember Dovell:** Yes, I found that a low number as well, being in the business.

**Mr. Steinmetz:** Yeah, agreed.

**Boardmember Dovell:** So I don't think there's any ... I didn't see any issue with the pro forma and what you're expecting here.

**Mr. Steinmetz:** Thank you.

**Boardmember Dovell:** The as-of-right scheme that you presented, I really think that you could get three units in there without even trying by putting parking underground. I just don't think ... I think that's a pretty simplistic analysis of the as-of-right scheme. I think you could get a third unit in there very easily. You put the parking just the way you did with the other scheme. But I don't think that's going to affect my impression of this project.

So in terms of ... just to summarize, in terms of the change to the neighborhood I think it's in character whether it's a three-block or a two-block building. The alternatives for an as-of-right scheme are, I think, a non-starter even with three. I think your pro forma would show that you're losing money with three units, as well.

The physical effect on the environment, I think SEQRA has adequately addressed that. I don't think that's an issue. Is it self-created? I suppose it slightly is because somebody bought the site. But he bought it understanding that the Board has acted in a certain way in the past. You know, minimum variance goes back to this whole issue with the zoning. So I feel I can support the project ...

**Mr. Steinmetz:** Thank you.

**Boardmember Dovell:** ... fully.

**Chairman Collins:** David?

**Boardmember Forbes-Watkins:** Yes. Obviously I've had a lot of things to hear from my colleagues and I adopt, basically, the analysis you provide on the five issues. I do want to talk a little about the view preservation.

In the October meeting I suggested that we could look at it as an individual walking by and hardly noticing. Sean raised an interesting point about the Aqueduct providing a place for

the entire village to have a go at looking at the river and the Palisades. That's a very relevant point, but still in all it's individuals who see or don't see. Again, I don't see a significant issue here. The views: the picture you have here is wonderful because it's winter. But there won't be any loss in the summer, not a bit. So I'm not at all concerned about view preservation. I think, in fact, the view – walking by and looking across – will be enhanced by this building.

As far as the lot coverage goes, what can I say? Fifteen percent just doesn't work. This is very realistic; 35-, 37 percent coverage, I think, is realistic. So I have no problem with this, and I will leave it at that.

**Chairman Collins:** OK.

**Boardmember Dovell:** I have one more observation.

**Chairman Collins:** Go ahead.

**Boardmember Dovell:** The yards are 12 feet on your plans? The side yards are 12 feet on your plans? On each side you're at 12 feet, or on one side you're at 12 feet?

**Ms. Levine:** On one side the side yard is based on the height of the wall. So on one side ...

**Village Attorney Whitehead:** Eighteen-four.

**Ms. Levine:** Is that it? Thank you.

**Village Attorney Whitehead:** Sixteen, sorry.

**Mr. Steinmetz:** We're looking at the zoning table on the site plan.

**Boardmember Dovell:** I'm looking at scheme B-A1.

**Mr. Steinmetz:** Side yard setback, both sides.

**Ms. Griffin:** One is 12 and one is (off-mic).

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

**Mr. Steinmetz:** We are zoning-compliant with regard to both sides.

**Boardmember Dovell:** The yard on the south side shows it 12 feet. Is that right? Doesn't it



have to be half the height of the wall, and the wall is 38 feet or something?

**Ms. Levine:** You could have 12 for that side.

**Boardmember Dovell:** It's 12 feet to the south. Is that not required to be ...

**Mr. Steinmetz:** Don't believe Buddy found that to be a zoning noncompliance.

**Boardmember Dovell:** But it states that it has to be two side yards, each of which is at least 12 feet or one-half the height of the building wall nearest the side lot line, whichever is greater. Wouldn't that suggest that it be 16? Just to quibble.

**Ms. Levine:** Actually, just going back to our Planning Board submission we did do ...

**Cable Access Director Corso:** Check that microphone.

**Village Attorney Whitehead:** Check the mic.

**Chairman Collins:** Please start over.

**Ms. Levine:** I do recall when we were calculating the side yard we did the height of wall calculation for that. And I don't have that with me, but I can provide that.

**Boardmember Dovell:** But the height of the wall is the height of the wall, isn't it?

**Ms. Levine:** Well, it's stepped actually. On the north side, it's stepped.

**Boardmember Dovell:** So you've stepped the side wall above 24 feet.

**Ms. Levine:** It is. The design of the building has that wall on the north elevation stepped.

**Ms. Griffin:** That's why we're having trouble ...

**Village Attorney Whitehead:** Right. It's certainly something Buddy would have to look at again.

**Mr. Steinmetz:** My understanding is, that was not returned by the Building Department as an issue of noncompliance. So if you're right, obviously it has to be examined. It's not before us, so it's the first I'm hearing of that issue.

**Boardmember Dovell:** I just noticed it.

**Mr. Steinmetz:** I hear you. I'm assuming that it has to do with the configuration of the wall, but I don't know that.

**Village Attorney Whitehead:** We'll make sure Buddy takes another look at that, and if it doesn't comply you'll have to come back.

**Mr. Steinmetz:** We'll have to come back. The only thing we're here for tonight, obviously, is view preservation and the area variance.

**Chairman Collins:** All right, why don't we open up the floor to anyone in the public who wishes to be heard on this matter. Please, if you would, just come forward and, again, introduce yourself into the microphone for the first time when you speak.

Sir?

**Brian Kincaid, 390 Warburton Avenue:** I'm the neighbor just to the north of this development. And if you wouldn't mind, could you put up the aerial view, the map, the cartoon one that Mr. Hayes referred to? Yeah, thank you. Right where that MR-1.5 is referenced, in front of that, 390 Warburton is my house and that's my backyard. I believe I was referenced in the last meeting. I've been to 14 months of planning and zoning boards. I missed the last one, but I believe my name came up as being ...

**Chairman Collins:** People are representing your point of view in different ways, if I recall.

**Mr. Kincaid:** I think I heard a couple of different ways that I was represented so I wanted to be sure to address that, as well as just add my input.

I absolutely wish that this were not happening. Right now, I look out of my back window and I see the Aqueduct, I see trees, I see the rocks. There's hawks perched on, actually, some of the sheds that are back there and it is what we were looking for when we moved into the town five years ago. I think the character of the neighborhood is very much reflected in that. I shared that with the Planning Board repeatedly. The Planning Board repeatedly also said that this didn't fit into the character of the community. But seeing how that process has evolved and then seeing the reaction tonight, I appreciate that this is likely moving forward.

I'm not at all opposed to development back there. I just want to make sure my own privacy and the value of my property is kept intact. So with that said, I have been very communicative with Lou, who has been very open and up front and we've had some great

conversations about it. If, in fact, this is going to be happening I want to make sure that I'm managing as much of my privacy and preservation as I can along the way.

One thing that's not come up in the conversations tonight or during the Planning Board meeting is the fact that 388 Warburton is also owned by the developer. That is a building in need of great enhancement and repair, and is run down and in some real need for help. So when I'm thinking about the entire character of this area I'm wondering if that is something that for the Board, for the record, we can be bringing into this discussion. Because as we think about the improvement of that, that is a huge eyesore of both for the potential development here that's looking down at 388. And, again, for my peace of mind I would much prefer we're looking at the entirety of the buildings the developer has under his domain.

**Chairman Collins:** I understand. That is outside of our purview.

**Mr. Kincaid:** OK.

**Chairman Collins:** There's nothing before us to act on at this point, but if that changes obviously it'll be an opportunity to weigh in.

**Mr. Kincaid:** OK. I've learned a lot more about local planning than I ever thought I would, and I appreciate your continued efforts here. The progress, I think, that has been made from the original renderings that I saw to what we are now have changed night and day, and I do think that as this continues to evolve it is getting closer to what I think the community would appreciate there. Again, I just want to make sure we continue to keep that in mind as this goes forward.

So thank you.

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

Does anyone else wish to be heard? Would you like to proceed to a vote?

**Mr. Steinmetz:** We would, Mr. Chairman. We'd like to let you get to the second half of your game.

**Chairman Collins:** OK, thank you. May I have a motion, please?

**Boardmember Forbes-Watkins:** I believe we should vote this before we vote view preservation.

**Chairman Collins:** You suggest separate motions?

**Boardmember Forbes-Watkins:** Separate motions. I always believe that.

**Chairman Collins:** OK, I have no issue with that. So your motion is to approve the area variance?

**Boardmember Forbes-Watkins:** To approve the area variance.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved to approve Case 22-17, with respect to lot coverage, proposed 37 percent; maximum allowed 15 percent; a variance required of 22 percent coverage of the lot for all the reasons as set forth in the discussion.

On MOTION of Boardmember Forbes-Watkins , SECONDED by Boardmember Dovell with a voice vote of 3-to-1, Boardmember Hayes opposed, the Board resolved to approve Case 22-17 for view preservation.

**Chairman Collins:** OK, 3-to-1.

**Mr. Steinmetz:** Thank you, all. Thanks for your time and your patience. Mr. Forbes-Watkins, wishing you all the best. We'll miss you here. You will not miss us here.

**Village Attorney Whitehead:** So everybody knows, Hastings does have term limits for Zoning Board members so David's second term is ending.

**Chairman Collins:** Well, I think on that note I feel like I very appropriately will be handing off the duties of the chair to Mr. Forbes-Watkins. I have to step down to go catch the remainder of a basketball game that I'm supposed to be coaching.

**Village Attorney Whitehead:** Good luck.

**Chairman Collins:** Thank you very much. But, David, I just want to say on behalf of Hastings and this zoning board I want to thank you for all your service and for being the man on my left for the last couple years. It's been a pleasure.

**Boardmember Forbes-Watkins:** My pleasure.

**Chairman Collins:** It's all yours.

**Boardmember Hayes:** Double team, Matt. It's all in the double team.

**Acting Chairman Forbes-Watkins:** We'll move ahead with case number 02-18, Daniel Belasco and Risa Kaufman.

**Case No. 02-18**  
**Daniel Belasco & Risa Kaufman**  
**121 Euclid Avenue**

**Relief from the strict application of the Village Code Section 295-68F.1.a and 295-55A for a second story addition at their home at 121 Euclid Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.20-11-8 on the Village Tax Maps.**

**Variances are sought for Front Yard Setback and the extension of an Existing Nonconformity for the second story addition. Extension of Existing Nonconformity Front yard to Second Story Addition are:**

**Existing - 28.5 feet; Proposed - 28.5 feet; Required Minimum - 30 feet {295-68. F.1.a & 295-55A}; Variance required - 1.5 feet**

**Acting Chairman Forbes-Watkins:** I should note that we now have only three members on this panel, and the rules are very explicit that any approval by the Zoning Board has to be by the majority of the total board. So we would have to have a unanimous vote on any of these items, and because of that you do have the opportunity to defer to a subsequent meeting if you choose. You can make that decision just at the point where we would be making a motion.

**Boardmember Hayes:** I'm sorry, Dave. Can I just ask Linda, I'm not within this zone where I'm conflicted out, right? I'm on Summit Drive.

**Village Attorney Whitehead:** As long as you feel will be impartial ...

**Boardmember Hayes:** Yes, OK.

**Acting Chairman Forbes-Watkins:** That would make it difficult.

**Village Attorney Whitehead:** No, you're up the hill.

**Acting Chairman Forbes-Watkins:** OK, Christina. You're on deck again?

**Ms. Griffin:** Yes, I'm the architect for this extension to a single-family home. What we're here to seek is a variance to the front yard setback and also a setback for extension of a nonconforming feature of the house. What we're planning to do is to add a second floor to a one-story ranch. If you see the site plan, there's a piece of the existing house – only 20 square feet – that is within the 30-foot setback. The setback is 28.5 so we're going to extend the house vertically right over that same footprint. We're doing it because that's the preferred aesthetics we are planning to give the future home once it has a second floor. You see the gable to the right. That lines right up with that projecting bay that is nonconforming right now.

We need to ask for a variance to extend that wall upwards, extend a nonconformity of the house, and also because it doesn't meet the front yard setback. This house currently has 1,182 square feet on the first floor; it's quite small. There is a basement with another 892 square feet that has a low ceiling. So we're hoping to make this house more comfortable and have more bedrooms for a growing family and have a total square footage of 3,317 square feet.

**Acting Chairman Forbes-Watkins:** OK. When we're talking about a 20 square foot variance extending from an already existing nonconformity, I'm stressed to try to find any comment other than why don't we just ask my boardmembers if they can think of anything.

**Boardmember Hayes:** No, unless someone in the audience has a view. Yes?

**Acting Chairman Forbes-Watkins:** Please.

**Frances Greenberg, 6 Bellair Drive:** I overlook this house. While you may think this amount of variance would produce very little change, if you take it from my point of view and from people who walk on Bellair and people who walk on Euclid. You know, a half-foot – one and a half feet – of variance, linear, is actually by cubic space, really, a lot.

So my comment. Granting the zoning variance would create a higher and larger house than the one that currently exists which, of course, is great for the homeowner but not so great for those of us who have come to really appreciate that break in this streetscape of Euclid Avenue. This house is also next to a 1-1/2 story house so it is a significant break in the streetscape. From my point of view, it would be an obstructive and bulky presence in the view of the Hudson River and Palisades that I've had for 36 years; from my house and from

my street.

Now, I'm very grateful to all of you because I know how much it means for everyone in Hastings to be able to see the river and the Palisades, and I'm glad you're all sensitive to that. That's my comment on this, thank you.

**Acting Chairman Forbes-Watkins:** Thank you.

**Boardmember Hayes:** Can I ask a follow-up question? Could you build upwards without the variance?

**Ms. Griffin:** Yes.

**Boardmember Hayes:** Forget about the 1-1/2 feet. As-of-right, you could build upwards, correct? It's just an extra little bit because that's what's practical, right?

**Ms. Griffin:** Yes, but not just that. We like the way the aesthetics of the house ...

**Boardmember Hayes:** No, I'm not here to ... I'm not trying to say that it's not the right thing, I'm just trying to confirm that we can ... you can go up anyway.

**Ms. Griffin:** Yes, we could just have that one wall meet the 30-foot setback if we wanted to.

**Boardmember Hayes:** That's what I wanted ...

**Ms. Griffin:** I also want to point out, it's one of the only one-story houses on the street if you look at the images, the photographs of the neighboring homes. And it's a very small house right now.

**Acting Chairman Forbes-Watkins:** Well, I'm a little taken aback, frankly, by the concern expressed. The foot-and-a-half seems, to me, to be a very minimal thing when we're considering it as an extension of a nonconformity as opposed to a nonconformity of the entire building if we were proposing to add the space on the first floor also. So I'm not persuaded by that, but are there any further comments? Ok.

Can I have a motion on Case 02-18? Before we proceed to a vote, Christina, do you wish to carry forward or do you wish to defer?

**Village Attorney Whitehead:** Do you want them to vote?

**Ms. Griffin:** I think we'd like to proceed, please.

**Acting Chairman Forbes-Watkins:** You want to proceed.

**Ms. Griffin:** Yes.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved to approve Case 02-18 for the extension of a non-conforming front-yard setback -- existing 28.5; proposed 28.5; minimum required 34; variance required -- 1.5 feet.

**Acting Chairman Forbes-Watkins:** The motion passes.

**Ms. Griffin:** Thank you.

**Acting Chairman Forbes-Watkins:** The next case before the Zoning Board is Case 03-18, Darryl Strutton.

**Case No. 03-18**  
**Darryl Strutton**  
**2 Ridgedell Avenue**

**Relief from the strict application of the Village Code Sections 295-70,E,1,[a&c] & 295-70,E,3,a,[1&2] for a closet addition on the first level of his home at 2 Ridgedell Avenue. Said property is in 2- Zoning District and is also known as SBL: 4.30-20-6 on the Village Tax Maps.**

**Non-conformity details of the proposed addition are as follows:**

**Front Yard: Existing - 10 feet; Proposed - 16 feet; Required Minimum - 25 feet {295-70E.1.a}; Variance requested - 9 feet**

**Side Yards: Existing - 5 feet/7.5 feet; Proposed - 5 feet/5.5 feet; Required Maximum one (1) side - 8 feet/both sides combined - 20 feet {295-70E.1.c}; Variance requested - 2.5 feet (one side) – 9.5 feet (both sides combined)**

**Building Coverage: Existing - 38.8 percent; Proposed - 39.4 percent; Required Maximum – 30 percent {295-70E.3.a.1}; Variance requested - 9.4 percent**

**Development Coverage: Existing - 43.5 percent; Proposed - 44.02 percent; Required Maximum - 40 percent {295-70E.3.a.2}; Variance requested - 4.02 percent**



**Edward Weinstein, project architect:** Good evening. I am representing Darryl and Rebecca Strutton, who reside at 2 Ridgedell Avenue. They would like to create a small addition to their home which would actually add 57 square feet to create a sort of closet at the entryway.

This is probably one of the oldest neighborhoods in Hastings. It's a community of Queen Anne Victorian homes. Almost all of them, if not all the homes, on Ridgedell and Edmarth – which are the two streets running perpendicular to the Hudson River – are noncomplying. This particular lot is about 3,800 square feet minimum lot area, and this 2-R district is 7,500 square feet. These homes date to the turn of the century, and at some point zoning came along and made all these homes noncompliant in many, many ways.

In this particular case, we are creating a small addition enclosing a portion of the porch, as many of the neighbors have done. The current front yard to the porch is 10 feet; the distance from the front lot line to our addition is 16 feet. Also, the addition is going to extend 2 feet to the west, which would reduce the existing side yard from 7-1/2 feet to 5-1/2 feet. The neighbor's house is no more than 4 feet from the lot line.

In terms of coverage, we're also requesting a variance in terms of building coverage and development coverage. In fact, the numbers we're looking at are about a half of a percent additional coverage in each case. We feel what we're doing is certainly consistent with what everybody else has done in this neighborhood. It's not going to create anything that would change the character of the neighborhood. It's an old house, and these old homes don't have a lot of storage. The Struttons would like a little storage space, a closet at the entry, for themselves and their kids for boots and coats and things.

That's our request.

**Acting Chairman Forbes-Watkins:** OK. Again, you're working with a porch which you'll be closing at the edge of the front of the house. Is that correct?

**Mr. Weinstein:** That's correct. We're enclosing a portion of the existing porch and we're extending that addition an additional 2 feet to the west.

**Acting Chairman Forbes-Watkins:** Do we have any questions here?

**Boardmember Dovell:** So this is all about a walk-in closet.

**Mr. Weinstein:** Yes. I don't live in the house. I'm sure Mr. Strutton, who is here, could tell

you how they use it. I mean, the old homes just don't have closet space and that's why they'd like to add it.

**Boardmember Dovell:** So it's a one-story closet, essentially, within a roof.

**Mr. Weinstein:** One-story shed roof, yeah. There were other options, but they have to lose an existing sort of energy- efficient vestibule. It just didn't seem feasible and it would be a lot more expensive.

**Boardmember Dovell:** And for this one closet you need five variances?

**Mr. Weinstein:** I think there were side yard, front yard, development coverage, and building coverage; four variances for a 57 square foot extension. I think this is another case where zoning came along and created problems. So just about anything anybody does in this little neighborhood of Ridgedell and Edmarth would require a variance.

**Acting Chairman Forbes-Watkins:** Do you have further comment or questions?

**Boardmember Hayes:** Any objections from the neighborhood? Oh, sorry, Ray.

**Boardmember Dovell:** Well, it's a lot of variance; another one for the minimal variance hall of fame, but I have no objection.

**Acting Chairman Forbes-Watkins:** OK. Are there any comments from the audience? Again, your option for allowable or to defer to a full meeting.

**Mr. Weinstein:** We'll go ahead with the vote, please.

**Acting Chairman Forbes-Watkins:** Can I have a motion?

**Boardmember Hayes:** It's too much for me, Ray.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved to approve Case 03-18 for Front Yard: Existing - 10 feet; Proposed - 16 feet; Required Minimum - 25 feet; Variance requested - 9 feet. Side Yards: Existing - 5 feet/7.5 feet; Proposed - 5 feet/5.5 feet; Required Maximum one (1) side - 8 feet/both sides combined - 20 feet; Variance requested - 2.5 feet (one side) – 9.5 feet (both sides combined). Building Coverage: Existing - 38.8 percent; Proposed - 39.4 percent; Required Maximum – 30 percent;

Variance requested - 9.4 percent. Development Coverage: Existing - 43.5 percent; Proposed - 44.02 percent; Required Maximum - 40 percent; Variance requested - 4.02 percent.

**Mr. Weinstein:** Thank you. Good night.

**Village Attorney Whitehead:** That was confusing because there's already so much nonconformity.

**Case No. 04-18**  
**Melissa & Dan Sbrega**  
**35 Hillside Avenue**

**Relief from the strict application of the Village Code Section 295-69F.1.a and 295-55A, for the construction of new roof dormers off an existing roof and attic space, at their home at 35 Hillside Avenue. Said property is in R-7.5 Zoning District and is also known as SBL: 4.80-62-13 on the Village Tax Maps.**

**Variances are sought for Front Yard Setback with the extension of an Existing Nonconformity in relation to the setback of the existing dwelling.  
Extension of Nonconformity in relation to the Front Yard Setback:**

**Existing - 3.3 feet; Proposed - 22 feet; Required Maximum - 22 feet {295-69. F.1.b & 295-55. A}; Variance required - 3 feet**

**Acting Chairman Forbes-Watkins:** Mitch, are you ready to go?

**Mitch Koch, project architect:** I'm the architect for the Sbregas. I'm here with Dan Sbrega, owner.

The gist of the project is to build dormers in the attic. The Sbregas have four kids and counting, and the idea is, now that the baby's going to be going into his own bedroom, I guess, and the boys are going to go upstairs. Currently, there's an attic with steeply-pitched ceilings. The idea was to build a dormer on both sides of the middle of the attic; (1) to accommodate the stair coming up, and (2) to create a bathroom on the other side, and lastly to create kind of a common space between two small bedrooms.

What is, in fact, the case is you can see the house is only 3.3 feet back from the property line

in the front. So the front yard setback line runs deeply within the house. There's an existing dormer you can see here that is already nonconforming, somewhat nonconforming. The idea would be, this is going to be enlarging this nonconformance because the new dormers are going to come no farther forward than the existing dormer but some of the dormer that's on the west side of the house falls into the front yard setback. So we are seeking a variance from that.

I'll just flip over to the next drawing. Here, the elevations kind of tell story. You know, I thought we had the smallest project tonight. But here's the dormers; here's one side, here's the other side. Basically, just this much of this dormer – I'm showing it here with my hand, a little wave here to everybody, hi – sits within the front yard setback area. The dormers, we're doing both sides. You know, there's kind of a structural consideration of doing it that way. It makes it a more balanced roof structure. Basically, if you see from my sections – if I can find them I'll show them to you – the bedrooms, in fact, on the ends of the house are pretty ... I mean, they're pretty small. But we have an opportunity here with the dormer to create a little kind of public shared space for the boys to play in. That's Dan right there.

I think that's really it, unless you have any more questions.

**Boardmember Hayes:** My only question is, I don't understand what was written here. It says – and this is not you, I think this is us – "existing 3.3, proposed 22, required max. 22, variance 3."

**Acting Chairman Forbes-Watkins:** That's, again, the question of the setback.

**Boardmember Hayes:** I just didn't understand.

**Village Attorney Whitehead:** So the existing nonconforming setback is 3.3 feet.

**Boardmember Hayes:** Right.

**Village Attorney Whitehead:** The new dormers, or the additional space, is going to be 22 feet back. So it's much further back than the existing house and the required max. should say 25, not 22.

**Boardmember Hayes:** OK, that's the disconnect.

**Village Attorney Whitehead:** That should say 25, not 22.

**Boardmember Hayes:** OK, now it all makes sense. Right, got it. OK.

**Acting Chairman Forbes-Watkins:** Thoughts.

**Village Attorney Whitehead:** You're right, it was wrong.

**Boardmember Hayes:** That was it, sorry.

**Acting Chairman Forbes-Watkins:** Just for clarification, the two dormers are going to create additional square footage. Approximately how much?

**Mr. Koch:** Well, we're not enlarging the footprint of the house. That's clear. I mean, what's happening is that now you have square footage you can stand in. The actual improvement is going to be ... it's a hard calculation to make. I can currently stand in the middle of the attic in this zone here, if you will, which is about 11 feet wide. Basically, these guys are going to increase the overall size to the full width, which is 26.8. So I'm getting approximately 170 square feet of new usable space out of this.

**Acting Chairman Forbes-Watkins:** That is a substantial addition a tight house.

**Mr. Koch:** Yes. Well, for a tight attic for sure. I mean, we're not saying there's some other improvements. We're going to be sprinkler'ing the house and do a ...

**Village Attorney Whitehead:** You have to do that to finish the third floor.

**Mr. Koch:** Absolutely, yeah. And there'll be a fire escape, sort of a fire ladder, in the back. But that's not before the Board. It's all conforming.

**Acting Chairman Forbes-Watkins:** All right, are there any questions or comments from the audience? There being none, any further comments from the Board?

Again, the question. You can decide whether you wish to have a vote tonight, or defer. Can I have a motion?

On MOTION of Boardmember Hayes, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved to approve Case 04-18 for the extension of a non-conformity in relation to the front-yard setback: existing – 3.3 feet; proposed – 22 feet; required maximum – 25 feet; variance required – 3 feet.

**Mr. Koch:** Thank you.

**Acting Chairman Forbes-Watkins:** There you go.

### **APPROVAL OF MINUTES**

**Meeting of January 25, 2018**  
**Meeting of February 22, 2018**

**Acting Chairman Forbes-Watkins:** OK, we do have some interesting problems here.

**Boardmember Hayes:** Can we push the minutes to the next meeting? Oh, right, because you won't be here.

**Village Attorney Whitehead:** Right. We discussed.

**Boardmember Hayes:** But I wasn't here.

**Village Attorney Whitehead:** No, but we discussed this a little bit before. Ray and David were both here. There were only three of them here: it was the two of them and Jerry. I'm going to let the two of them go ahead and vote.

**Boardmember Hayes:** It makes sense.

**Village Attorney Whitehead:** The minutes don't have to be formally approved. Since the two of them were here I would have the two of them approve those.

**Acting Chairman Forbes-Watkins:** We also have the January 25 meeting.

**Village Attorney Whitehead:** You were all here.

**Acting Chairman Forbes-Watkins:** So the first thing is the minutes of January 25. I had no significant issues with the minutes. I don't know whether anyone else did.

**Boardmember Hayes:** No.

**Acting Chairman Forbes-Watkins:** But can I have a motion on the January 25 meeting minutes?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Hayes, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of January 25, 2018 were approved as presented.

**Acting Chairman Forbes-Watkins:** I did have one small comment on the February 22 minutes, which I will turn over to you. Ray, did you have anything on there? If you'd be so kind as to make a motion on the revision to the minutes of February 22 I will second it and the two of us can vote on it.

**Village Attorney Whitehead:** Mary Ellen, just make a note that the two of them voted.

**Boardmember Hayes:** Yes, I can't. I wasn't here.

**Village Attorney Whitehead:** I wasn't here either.

On MOTION of Boardmember Dovell, SECONDED by Acting Chairman Forbes-Watkins, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of February 22, 2018 were approved as amended.

## **ANNOUNCEMENTS**

**Next Meeting Date – April 26, 2018**

**Village Attorney Whitehead:** Good job. David, it's been a pleasure.

**Boardmember Hayes:** David, I had no idea.

**Acting Chairman Forbes-Watkins:** Yes, well, they're getting rid of me. It's a good thing, it's about 10 years.

**Village Attorney Whitehead:** He is termed out.

**Boardmember Hayes:** Enjoy retirement.