

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
JULY 26, 2018**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, July 26, 2018 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember Carolyn Renzin, Boardmember Jeremiah Quinlan, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

Chairman Collins: All right, ladies and gentlemen, we'll get underway for our Zoning Board of Appeals meeting for today, Thursday, July 26, 2018.

We have one, two, three cases and a discussion item related to proposed modifications of local laws on zoning, which we will get to momentarily. And we will take the cases in order.

Buddy, how are we on the mailings?

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

Samar Tannous
45 High Street
***** Deferred to Future Meeting *****

For relief from the strict application of the Village Code Sections 295-70E.3(a)[1&2] and 295-70E.1.a, b, c & d for reconstruction of a new dwelling, to replace a current dwelling, at their property located at 45 High Street. Said property is in 2R Zoning District and is also known as SBL: 4.140-151-32 on the Village Tax Maps.

Nonconformity details of the proposed new dwelling are as follows:

Building Coverage: Existing – N/A; Proposed – 36.4 percent; Required

Maximum – 30 percent {295-70E.3.a[1]}; Variance required – 6.4 percent

Developmental Coverage: Existing – N/A; Proposed – 51 percent; Required

Maximum – 40 percent {295-70E.3.a[2]}; Variance Required – 11 percent

Front Yard: Existing – N/A; Proposed – 5 feet; Required Minimum – 25 feet {295-70E.1.a}; Variance Required – 20 feet

Rear Yard: Existing – N/A; Proposed – 10 feet; Required Minimum – 25 feet {295-70E.1.b}; Variance Required – 15 feet

One side/Two sides Total: – Existing – N/A; Proposed – 8 feet/18 feet; Required Minimum – 8 feet/20 feet {295-70E.1.c} (Side yard one calculated as a front yard); Variance Required – 17 feet
Height: Existing – N/A; Proposed – 51 feet; Required Maximum – 35 feet {295-70E.1.d}; Variance Required – 16 feet

Chairman Collins: Excellent. So before we hear from our first case, a couple ground rules. We have one standing microphone. Do we have a handheld?

Building Inspector Minozzi: Raf had it a minute ago.

Chairman Collins: Well, for the time being we have a standing microphone right here – and, oh, good – and a handheld microphone that our building inspector has. Anyone who wishes to speak tonight, of course, will be encouraged to do so. But make sure when you are talking you have a microphone right in front of you because we have a remote transcriptionist who's picking up everything we say for the record. We want to make sure your comments are captured for the record. So just make sure you've got a mic, and the first time you speak just introduce yourself so we know who you are and so the transcriptionist knows who you are. All right? Good.

So we'll get underway with our first case, a returner from last time, case 12-18, for 555 Warburton Realty seeking view preservation related to a rooftop installation. So who's here to present on behalf of the applicant? Come up to the mic, please.

Fay Devlin, restaurant owner: I'm the owner. My architect is running a little bit late.

Chairman Collins: Do you want to wait?

Mr. Devlin: Can we?

Chairman Collins: That's fine.

Mr. Devlin: Could the next person go, and then ...

Chairman Collins: No problem.

Mr. Devlin: Appreciate that, thank you.

Chairman Collins: Okay, then we'll jump to case 13-18, a proposed redrawing of the lot line that would result in a variance requirement for the lot width for both properties.

Case No. 13-18
Eileen Hershenov and Daniel Pool & Heather and Daniel Baum
98 Old Broadway & 2 Goodwin Street

For relief from the strict application of Section 295-68E of the Village Code, for a lot line adjustment creating two nonconforming lots in relation to lot width. Said properties are located at 98 Old Broadway & 2 Goodwin Street and are in the R-10 zoning district, also known as SBL: 4.140-146-27 & 28 on the Village Tax Maps.

Nonconformity details of the re-subdivision are as follows:

Lot width – Proposed; 87.75 feet (2 Goodwin St.) & 96.8 feet (98 Old Broadway); Required – 100 feet each; Variance required – 12.25 feet (2 Goodwin Street) & 3.2 feet (98 Old Broadway).

Chairman Collins: Sir?

Elliott Senior, Gabriel E. Senior PC: Good evening. I'm the engineer/surveyor, our offices are at 90 North Central Avenue in Hartsdale.

This is a lot line change of the two adjacent neighbors. There's no new density, no new houses being created. But the lot was originally L-shaped, or had a jog in the front. Over the years, when fences were built, it was built in a straight line, not along the property line. There was a row of trees along the property line, and I guess they just put the fence inside the trees and just carried it out to the street.

So we wanted to straighten out the line to be associated with the fence that's there now. The property exchange is about equal. Maybe one is slightly larger than the other by a hundred feet, I think; yeah, 525 and 393.

Chairman Collins: Make sure you keep the mic right up to your mouth.

Mr. Senior: Oh, sorry. The lot areas are almost the same, maybe a hundred square feet; one's getting a hundred square feet larger than the other. The variances is for lot width. We're going to change the lot width for the Broadway lot to be along Goodwin Street. That creates a 3 percent variance as opposed to a larger variance for a rear yard setback. Because that becomes ... if we use Goodwin as the front yard, then this line perpendicular becomes a side yard and therefore we meet a side yard setback for the house. If we did it the other way we wouldn't, so we thought to have the smaller of the variances. That's about it. We have ...

Allen J. Harris, attorney: I'm representing Hershenov and Pool, the owners of 98 Old

Broadway. My office is at 427 Manville Road in Pleasantville. I'm happy to run through the factors in the statute briefly as to why we believe it should be granted.

Chairman Collins: Well, we may come back to that.

Mr. Harris: Okay.

Chairman Collins: We may ask you for that. I think the one thing I'll just point out for anyone who's here to observe the case, and as a reminder to the board, we had a bit of an e-mail exchange on this prior to the meeting tonight. It's the corner lot, 98 Broadway, that gives the applicant some flexibility to define what the front yard is, to have that optionality. And it's in moving the front yard definition from the yard facing Broadway to the yard facing Goodwin that is at work here.

I think the only question that comes to my mind as it relates to understanding the significance of the impact is how this compares to other properties in the neighborhood. The 98 Old Broadway front yard width here is 96.8 versus 100 feet. So that, in my book, counts as a de minimis request. The 87.75 is not ... now you're talking about a 12-1/4 foot request that's not significant; 12.25 percent, you would say, off of the minimum. Do you have any data on what the neighborhood is like?

Building Inspector Minozzi: Use the microphone, please. Is it on?

Village Attorney Whitehead: Mr. Chair, while he's doing that, just to report that the Planning Board did approve the re-subdivision subject to your granting of the variance, and recommended the variance.

Chairman Collins: Okay, thank you.

Mr. Harris: And the one response that I'll have, while Mr. Senor looks through his package on that issue, is that I did look at the tax map to try to understand what exactly was going on here. And what's interesting when you look at the tax map is, the property at 2 Goodwin is the only one that has an L-shape. Everything else is basically a rectangular shape. The reason was, when they formed the lot line that they needed the 100-foot minimum. And I guess they got caught with a narrow rectangle.

Village Attorney Whitehead: You had an irregularly-shaped lot, and now ...

Mr. Harris: Precisely.

Chairman Collins: We have tetra-shaped lots all over the town, but it's interesting to know the history.

Mr. Harris: Yeah.

Mr. Senor: This is a copy of the subdivision map of what is now Goodwin Drive – sorry if I'm in the way – and these are the lots that are fronting there. I don't have a copy ... oh, I do have a copy of the tax map. I was looking for a copy of the tax map.

Building Inspector Minozzi: Please hold the microphone to your mouth. Thank you.

Mr. Senor: Yeah, I was looking for a copy of the tax map. And the subdivision ... this is the original subdivision map of the area. It looks like most of the lots are a hundred feet wide. This is the corner here. I sort of highlighted in the configuration that ... essentially, they divided off this end piece here into two lots at some point in the past.

Chairman Collins: Okay. Is there an objective driving this, or would the goal of the applicant be – aside from what I would imagine just sort of bringing a lot line to conform with the location of an existing fence, which to the observer would look like the natural break between the properties – anything else going on here that would be relevant?

Mr. Senor: No. Well, basically, the owners on Goodwin are new owners and everybody thought – and certainly the owner on Broadway thought – the fence was aligned. Everybody thought the fence was aligned ...

Chairman Collins: Why wouldn't you?

Mr. Senor: ... with the property.

Chairman Collins: Right.

Mr. Senor: So when they bought the house and they found out that it wasn't, they wanted to move the fence and they wanted to all ... and it's starter. So they're not necessarily friends, but they're trying to solve it out of court, amicably ... so officiate the subdivision.

Chairman Collins: I see. Well, yes, okay now that makes sense. So some part of the fence is in one person's yard and the other is in another person's yard. All right.

Well, I'll let the others on the board speak. I can't conjure, right now, a reason to object to this. I think the 12-1/4 foot request is the most significant of the two. But we grant variance requests of 10-, 15 percent or more quite commonly. If you were to create a comparison to a front yard setback – a 30-foot requirement, someone wanted to take that from 30 to 26-1/2 feet – we wouldn't see that, I think, as severe, and I don't see this as severe. So I have no objection to what's proposed.

Carolyn, do you have anything?

Boardmember Renzin: It seems to me that it is probably beneficial to the neighborhood, rather than having any opposition. I think it's a good idea.

Chairman Collins: Okay. Ray?

Boardmember Dovell: I just want to be clear. The exchange, so to speak, is 393 feet along Goodwin?

Mr. Senor: Yes, that's correct.

Boardmember Dovell: Then a sliver of 525 feet running north-south on the lot line.

Mr. Senor: Correct.

Boardmember Dovell: So that's the exchange.

Mr. Senor: That's the exchange.

Boardmember Dovell: And when this is finished – this is an R-10, right ...

Mr. Senor: Mm-hmm.

Boardmember Dovell: ... so the finished lots will be, proposed, 896 and 18.828 ...

Mr. Senor: Correct.

Boardmember Dovell: So they're both ...

Mr. Senor: So the smaller lot gets 100 square feet larger, and the ... you know.

Boardmember Dovell: But they're both significantly larger than ...

Mr. Senor: Correct.

Boardmember Dovell: ... the 10,000 square foot lot. And it's driven – the width issue is really driven – by the depth of the lot. So I really don't have any objection to this. It's not ... it's a minor ... I believe it's a minor variance.

Chairman Collins: Yes, that's a good point to frame it around the other dimensions of the

lot.

Boardmember Dovell: Right.

Chairman Collins: Jerry, do have anything?

Boardmember Quinlan: No.

Chairman Collins: Okay. Does anyone wish to be heard, in the audience? Okay.

I'm going to point out one more thing. It's not, I don't think, going to be relevant in this case, but we have a board of five tonight. Tonight we're four, you need three to pass, so it is conceivable that a case could be deadlocked 2-to-2. An applicant, at any time, has an option to defer if the applicant feels that a case may not be going their way. So just keep that in mind. If we don't hear from you we'll assume a green light to go to a vote, which I assume we are in this case.

Mr. Senor: Yes.

Chairman Collins: Okay, very good. So can I get a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Renzin with a voice vote of all in favor, the Board resolved to approve Case Number 13-18 for 98 Old Broadway and 2 Goodwin for lot width; proposed 87.75 feet on Goodwin and 96.8 at 98 Old Broadway; required 100 feet each; variance required 12.25 at 2 Goodwin and 3.2 feet at 98 Old Broadway.

Chairman Collins: The vote's unanimous. Congratulations, good luck.

Mr. Senor: Thank you for your time.

Mr. Harris: Thank you very much.

Chairman Collins: Thank you both.

Okay, why don't we go, then, back to the top. Are you ready?

William Alicea, Ward Capital Mgmt., LLC: Yes.

Chairman Collins: Okay, very good. So we'll go back to the top for case 12-18.

Case No. 12-18
Pam 555 Warburton Realty, LLC
555 Warburton Avenue

View Preservation approval for a new Rooftop Bulkhead and Mechanical Equipment associated with the build-out of a vacant structure to create a mixed-use occupancy to include a restaurant on the basement and first floor levels and two dwelling units and rooftop bar on the second, third, and rooftop levels at their commercial property located at 555 Warburton Avenue. Said property is in the CC Zoning District and is known as SBL: 4.30-22-1 on the Village Tax Maps.

Chairman Collins: Just to go back to what I said before, we're here for view preservation related to the proposed installation of a rooftop bulkhead of mechanical equipment. We were here last time and I know Ray had pointed out that there was almost certainly an error and that bulkhead would need to be between 3 and 4 feet higher in order to accommodate the mechanics.

Mr. Alicea: Hi, I'm the architect for 555 Warburton. We looked into the elevator – actually the mechanisms – and we did address that issue. We added the additional height on the drawings, as specified by the manufacturer. So the actual height is shown on several different drawings.

Village Attorney Whitehead: It's on the new view preservation drawings. And Mr. Chairman, again just to report, the Planning Board at last week's meeting reviewed the amended view preservation application and did make a positive recommendation to your board.

Chairman Collins: Okay, very good.

Village Attorney Whitehead: They also approved the site plan approval, subject to view preservation.

Chairman Collins: Okay, thanks for the background.

Building Inspector Minozzi: And that's why we're back here. We're back here tonight because of the increased bulkhead.

Chairman Collins: Okay. All yours.

Mr. Alicea: Okay. So as I was saying, it's shown on all the different elevations, which are the A-2.1 drawing, to begin with. You can actually see the profile of the new elevator bulkhead. The additional height is at the elevator itself, and reduced the height over the stair going up to minimize the profile.

Chairman Collins: Okay. Can you take us through – if you have them – the drawings starting in VP-1, which in the digital version I have? The quality I think got compromised. It was a little bit hard to follow.

What I'm looking for, and what we talked about in the last meeting, was a photoshop rendering that would attempt to capture, or represent, the impact on the view from various different perspectives. These are just sort of the black and whites that I found, at least in the way that they were copied into the ...

Building Inspector Minozzi: I sent you color, too. You should have both.

Chairman Collins: Oh, do we have them in here?

Building Inspector Minozzi: You should have both.

Mr. Alicea: Yeah, you should have both. But it's on ... the profile is shown on VP-2 of the bulkhead on the roof. You'll see it on the lower left-hand corner of the drawing.

Chairman Collins: Okay, yes, yes. I see these now. That's it, okay.

Mr. Alicea: So you can see where the viewpoint is taken from across the street from the actual building, and you can't see it from across the street, on Warburton. That's on the right-hand side. On the upper left-hand corner you'll see where those views are taken from the VFW building, which is raised. And that's the most prominent place to look at the building.

Chairman Collins: Did you explore a more angled perspective, especially views from the north looking down? Because when we were talking about this at the last meeting we thought there could be impact more perhaps to the residents – some of the residential neighborhood to the north there – behind the VFW.

Mr. Alicea: There is ... yeah, I didn't see ... actually, everything would be blocked at that point. We did go back there, but there was no real view of the building.

Chairman Collins: Okay.

Mr. Alicea: So I took this on purpose because it was like the most obvious viewpoint. And also the height of the VFW was at a higher elevation.

Chairman Collins: Okay.

Boardmember Renzin: The VFW sits below a street. And below that street ... if you're standing on the VFW porch, there's a street behind it where I feel like there could be five houses that might have a view of this.

Village Attorney Whitehead: Wasn't one of these from one of the houses on Whitman? It says "41 Whitman."

Mr. Alicea: Yeah.

Boardmember Renzin: Okay, and that's Whitman?

Village Attorney Whitehead: That's the street ... Whitman is the street behind the VFW.

Mr. Alicea: Yeah, actually this view here in the lower hand is from 41 Whitman. You could see that you have to really work at getting a view. Actually, we put in the bulkhead on the lower right-hand picture.

Chairman Collins: That's the back of the VFW there, along that fence.

Mr. Alicea: Yeah.

Boardmember Renzin: Right.

Mr. Alicea: So you have to sort of bend and twist; we tried to make it ... you know, tried to get the best view possible.

Village Attorney Whitehead: Looks like this building blocks most of the view.

Chairman Collins: It does. I think that neighborhood, which I drive through all the time, you've got not a lot of space between the buildings. I think the way you find that out is, you'd have to be in the backyards of those properties to determine their impact.

Mr. Alicea: Yeah, we had to sneak around.

D'Wayne Prieto, applicant: The home that's across from the VFW is also raised substantially from here.

Chairman Collins: Yes, and you've got, sort of right behind the VFW to the east, the condominium townhouses there.

Mr. Alicea: Right. And I just want to point out, this photo was taken from the second floor ...

Village Attorney Whitehead: Of the VFW.

Mr. Alicea: ... of the VFW, just to get additional height.

Chairman Collins: Yes. We speculated here that your proposed property here, the development on it, makes it very difficult to impact the view from the VFW. I think these illustrations show that, even with the added height because of how tall it is and how much of the view it already blocks.

Well, I suspected coming into that that I wouldn't have new objections, and I don't. But I am eager to see if there's anyone from the community who is concerned and who might have perspective on a view that we haven't seen because of access. You'll have a chance to speak up. We'll deliberate, and then before we go to a vote we'll make sure anyone in the public can be heard.

Carolyn, do you have anything?

Boardmember Renzin: No. My only question was, are there any people along that street that care.

Chairman Collins: Yes.

Boardmember Renzin: I think the benefit of this is that the building's already so big, and the VFW really doesn't have residents in it.

Mr. Alicea: If I could add, it doesn't have residents. And we actually went to the extreme to go to the second floor of it to take the photo. From the first floor it becomes even de minimis, from the first floor that is.

Chairman Collins: Yes, you're probably blocking out a little sky.

Mr. Alicea: Yeah.

Boardmember Dovell: The building currently is not handicapped-accessible, is it?

Mr. Alicea: That's one of the reasons we're putting the elevator in is because of the handicapped-accessibility laws. So we're taking it from the cellar to the roof, and it provides not only easy access to the upper floors but that handicapped-accessibility issue.

Boardmember Dovell: Mm-hmm. So these things are required by the change of use?

Mr. Alicea: Yes.

Boardmember Dovell: Is that what we understand? So the stair and the elevator are cutting through them ...

Village Attorney Whitehead: You're cutting residence, yes.

Building Inspector Minozzi: Correct, sir.

Boardmember Dovell: ... your code-driven issues that ...

Mr. Alicea: Absolutely, yeah.

Boardmember Dovell: So it seems to me an understanding, and understanding that you've made an effort to really minimize the bulkhead structure. The elevator sits at a bare minimum, at 12 feet I think, and the elevator bulkhead and the stair bulkhead pitches down. I think it's also a minimal ...

Mr. Alicea: Exactly. I tried to keep that as low as possible to minimize the profile.

Boardmember Dovell: And I don't think it has an effect on the view preservation, so I have no ...

Chairman Collins: Okay. Jerry, did you have anything?

Boardmember Quinlan: Without hearing from the audience, I would say that it doesn't ... I mean, view preservation is ... you know, there's a balance. How much does that really reduce someone's view? I was there. You know, you can't get into (inaudible) backyard, but you can walk down that path. To me, basically, that small piece really blocks the sky. It doesn't block the river, it doesn't block the Palisades, there's plenty of sky left. So I don't really see how it would materially affect the view at this point, but I'd like to hear from the audience.

Boardmember Renzin: I would also like to add that I think, when thinking about view preservation and the sort of balancing of it, if it's one party who's sort of getting benefit so they have a good view and another party who's losing a benefit of their view, that's one thing. But this is a code issue that's going to make use of a building that otherwise hasn't been used for a long time. And to date, until we hear from other people, we're not seeing a lot of negative impact from the view. I think that balance, from my perspective, weighs in favor of

something like this. But I definitely want to hear from anyone in the audience.

Chairman Collins: All right, well why don't we get to that? Anyone who wishes to be heard may be heard. Just make sure you're speaking in front of the microphone. Yes, sir, please go ahead.

Robert Baensch, 11 Whitman Street: I often take the path down by the VFW to get to the station and back up from the station. So number one, as I welcome that finally someone is doing something with that building – and it's not something, but properly maintaining the outside architecture and not hanging a big Whelan's drug store sign on it – I've often looked at ... based on the previous hearing you have had, I've often looked at that roof and I do not see objection to having a box on top, their design. So I endorse and second the effort to make that construction.

Mr. Alicea: Thank you.

Chairman Collins: Thank you, sir.

Boardmember Renzin: Wonderful.

Chairman Collins: Does anyone else wish to be heard? Okay.

Seeing as there are no other comments from the community, can I get a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Renzin with a voice vote of all in favor, the Board resolved to approve Case Number 12-18 for 555 Warburton Avenue for view preservation for a new rooftop bulkhead and mechanical equipment enclosure.

Chairman Collins: The vote's unanimous, 4-nothing. Congratulations, good luck to you on your project.

Mr. Alicea: Thank you. Thank you, everyone.

Village Attorney Whitehead: Everybody's looking forward to it.

Boardmember Renzin: I know. Please tell us it's a good restaurant.

Building Inspector Minozzi: Thank you, sir. We'll talk.

Mr. Alicea: Thank you.

Chairman Collins: We have one more case to discuss. This is case 14-18.

Case No. 14-18
Roseann & Christine Utchel
69 Hillside Avenue

For relief from the strict application of Section 295-69F.1.c of the Village Code, for the documentation of an existing enclosed rear porch at their home at 69 Hillside Avenue. Said property is in R-7.5 Zoning District and is also known as SBL: 4.80-62-22 on the Village Tax Maps.

Variances are sought for side yard nonconformity for the documentation of an existing enclosed rear porch.

Documentation of a Nonconformity Side Yard:

Existing – 5.9/19.2 feet; Required each side – Minimum 8 feet; Both sides combined – Minimum 20 feet {295-69F.1.c}; Variance required – 2.1/0.8 feet

Chairman Collins: Apologies if I get any names wrong. This is for legalization of an existing closed rear porch. The variance required is for side yard. Sir, if you could just ... go ahead.

Conner Givens, Givens Engineering: Good evening, Chairperson Collins and boardmembers. Our clients, the Utchels, came forward to us trying to close a chapter in their book here in Hastings, and we're retained to assist them with that. As discussed, we are representing them and are requesting the side yard variance for the enclosed deck.

I have some site photographs up there. The two that are closer to the board are from June of this year. Then there is a satellite image taken from August of last year, courtesy of Google. As you can see, the enclosed deck really is not too visible from the street. Upon working on this project, we also noticed that the Utchels have a significantly smaller house compared to their neighbors on the block so perhaps that is why we're here tonight, as well.

If I can draw your attention to sheet A-2, we hatched out where we're requesting the variance. The property is located ... it's a corner area, Hillside and Rosedale. The enclosed deck for the side yard is encroaching upon the wooded area on Hillside. So it's really not visible from the street, just in the wooded area there. The deck was actually constructed in the '70s, so it's been there for quite some time at this point. We had some building department feedback with this so we're not classifying it as a room per se or a portico, but it

is an enclosed deck.

Building Inspector Minozzi: So, Mr. Chairman, the original structure has existed many, many years. They put a roof on it and put walls up, and that's why we're here today.

Village Attorney Whitehead: So it was an open deck. The footprint hasn't changed.

Building Inspector Minozzi: No.

Village Attorney Whitehead: It's just enclosed.

Building Inspector Minozzi: Mm-hmm.

Chairman Collins: Did the development predate the current owner's occupancy of the home?

Mr. Givens: That I do not know. Perhaps if I could refer to the ...

Chairman Collins: Okay.

Mr. Givens: This is Christine

Christine Utchel, applicant: Hi, I'm the resident of 69 Hillside. The open deck was in existence when my parents moved in in the early '70s, and my parents enclosed it in the '80s.

Chairman Collins: Okay, so that's how we got here. Your parents went ahead and did the work without getting the building permit.

Ms. Utchel: A building permit was ... we were told at the time that a permit was not required.

Chairman Collins: Okay. This happens about once a year. When I say this, I mean legalization requests. They're awkward for zoning boards because we're given no good alternatives. We get to approve something that's already done, which essentially means the project has sidestepped a requirement that every other resident has to go through. Or we turn you down, and now you've got to tear out a project that's done. Neither of those are attractive.

Since I've been on this board, when legalization requests come before our board we spend some time investigating how we got here to the extent that any other future applicants who have not yet done the work pay attention to what happens at zoning board meetings, and the work that other applicants have to go through in order to get projects approved. That these

moments might deter people from getting work done without a building permit and without seeking the proper variances when a variance is required. That's why I'm spending a little bit of time on the history.

So that aside, I believe that if this case were coming to us without having the work having already been done – and we were assessing it purely on the dimensions – I believe that this would qualify, in my book, as a perfectly serviceable and reasonable request. The total side yards that you have available are just shy of the minimum required. We've certainly seen much worse. The one side yard that's deficient on a percentage basis, it's not good. You're talking about 25 percent less than requirement. But as you point out, its proximity to Hillside Woods is a mitigating factor, I think, if we were looking at this in real time without it having already been completed.

While I can't emphasize enough that this is not the way we like to see projects come before us, under the circumstances certainly the lesser of two bad options, in my book, is to approve this as is and get this thing legalized.

Mr. Givens: Thank you.

Chairman Collins: Well, we haven't heard from my comrades, so don't thank me too soon.

[laughter]

Anyone have any comments?

Boardmember Dovell: What is the width of the lot ...

Mr. Givens: The width of the lot ...

Boardmember Dovell: ... that faces Hillside Avenue?

Village Attorney Whitehead: There's a vacant piece next to it which is actually what the variance is about.

Building Inspector Minozzi: 21.62.

Mr. Givens: Thank you.

Boardmember Dovell: But then it turns out at a radius of ... so the length is another 16 feet, Buddy?

Village Attorney Whitehead: Yes, it's another 16 feet.

Mr. Givens: Oh, there you go.

Village Attorney Whitehead: It's 21.6 plus 16.

Boardmember Dovell: And the minimum lot width in an R-7.5 is ...

Mr. Givens: 75.

Boardmember Dovell: ... 75 feet. So it's ...

Village Attorney Whitehead: Not even close.

Boardmember Dovell: It's not even close. So this is a case where you could make a strong case for a variance. So I would say this is a good candidate for a variance and that, really, the only area that I'm looking at is this 20 square feet, right? It's a 20 square foot ...

Village Attorney Whitehead: Right. The existing house had the same impact ...

Boardmember Dovell: Right.

Village Attorney Whitehead: ... and it was legally not conforming; it was built pre-zoning.

Boardmember Dovell: Right. So I find it very hard to argue against it, even if we were hearing it before it was done.

Chairman Collins: I agree. Okay? Anyone else with comment? We'll get to you in a sec. We're going to clear the board first, and then we'll open it up to the public, I promise.

Boardmember Renzin: No comment.

Chairman Collins: All right. Jerry?

Boardmember Quinlan: I just want to add that I live just outside of the mailing on Hillside Avenue. That neighborhood was built in the first decade of the 20th century so we're talking about ... I mean, my house was built in 1905 so they kind of went up the road. There was no zoning. Zoning was still probably 50 years out. I've walked by that house, oh, I don't know, a thousand times in 39 years, and you really can't tell the difference. You can't see it. It seems fine to me. I'll be anxious to hear from their next door neighbors – before I vote – who also live on our street. That's all I have to say.

Chairman Collins: Okay. Well, then why don't we open it up for the public. You can step

aside and clear the mic, anyone who wishes to be heard please come forward and just introduce yourself.

Niles Jaeger, 67 Hillside Avenue: I live right next to Ms. Utchel. I'm here to speak on behalf of my wife and I in favor of their variance. We've been there 20 years, we live right next door. We're the only other ones who could probably even see that thing, but it's terraced back there so their property is high up. We don't really ... it has no objectionable profile to us and, of course, it was there already when we moved there.

But they've been great neighbors, and I would very much like to just voice our support for their variance so they can get on with their lives and what they have to do.

Chairman Collins: Thank you, Mr. Jaeger. Does anyone else wish to be heard? Okay, seeing no other comment then, do you have anything else?

Mr. Givens: No, sir. Thank you.

Chairman Collins: Can I get a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Renzin with a voice vote of all in favor, the Board resolved to approve Case Number 14-18 for 69 Hillside Avenue for the documentation of a nonconformity for side yard: existing 5.9 and 19.2 feet; required each side, minimum 8 feet; both sides combined, minimum 20 feet; variance required 2.1 and 0.8 feet.

Chairman Collins: The vote's unanimous, 4-0. Thank you very much.

Mr. Givens: Thank you.

Chairman Collins: Good luck to you.

Village Attorney Whitehead: Could we just memorialize this night because the only two neighbors you had speak on applications tonight were both in favor.

Boardmember Renzin: Very optimistic.

Village Attorney Whitehead: It's just so rare.

Chairman Collins: Well, the sun did shine for the first time today.

Village Attorney Whitehead: It's just nice to see when people support ...

Chairman Collins: You're right, that is a good thing to see.

Village Attorney Whitehead: Because usually people in support don't come out, only people in opposition.

Chairman Collins: You're right, we only hear opposition.

Village Attorney Whitehead: So thank you. You're all set.

DISCUSSION

1. Proposed Modifications to Local Laws

Chairman Collins: Okay, we have two items left on our docket. The first is some proposed modifications to the local laws, most of which look quite familiar to me. The first is some proposed modifications to the local laws, most of which look quite familiar to me.

Village Attorney Whitehead: Do you want me to walk you through?

Chairman Collins: Yes, if you could. What I'm looking for here is the extent to which the recommendations that Ray authored, and that we agreed with and supported, have made their way through actually intact.

Village Attorney Whitehead: So let me start with the other one first, proposed local law C which deletes two provisions that are in the procedural sections for the Zoning Board. It's really cleaning things up, since there's a provision right now that requires every application that comes before you to be referred to the Planning Board. It doesn't happen, it's never happened, there's no requirement for it. We're deleting it.

Chairman Collins: Can I ask just a question about the way that's captured here? My sense is that there's some inside baseball terminology here. But when it says that this section 295-141, the referral to the planning board, is deleted and amended to read as follows, parentheses reserved ...

Village Attorney Whitehead: It's to preserve the numbering because we need to hold that number there. We can't just take the number away because of its order.

Chairman Collins: I see.

Village Attorney Whitehead: So what you do is, you use the term "reserved" as a placeholder.

Chairman Collins: Understand. That makes perfect sense.

Village Attorney Whitehead: So you're there. It was a baseball terminology – in baseball parlance.

Boardmember Renzin: We started with baseball, we're continuing with it.

Village Attorney Whitehead: And would you like to know the score of the Met game? They're winning, shockingly.

[laughter]

Then the second one that's being deleted is 144-G. This is something that's not phrased accurately. It refers to referrals to the county planning board and provides that if they disapprove it you have to approve it by resolution of the board. Well, you approve everything by resolution of the board. So the provisions for what happens if the county ... and very few of your applications actually go to county planning because there's a list of what has to go. Actually, under the Westchester County administrative code ... and it's really governed by the Westchester County administrative code and the general municipal law, what happens. This provision really is not necessary and poorly worded so, again, we didn't think it was needed.

Chairman Collins: Yes, why is the county any different than anyone else in what they need to get out of there in order ...

Village Attorney Whitehead: Well, there's provisions in both the general municipal law and in the Westchester County administrative code for what types of applications have to get referred to them for comment. But that governs, it doesn't need to be in your code.

Chairman Collins: Okay.

Village Attorney Whitehead: So local law C is just taking out those two; cleaning up some procedural items.

Local law D – thank you, Ray – is pretty much exactly as you proposed it. I know that you and I discussed one possible modification. You had said FAR 0.7, and when you and I spoke last week you said you might want to change that to 0.75.

Boardmember Dovell: That came after looking at ...

Village Attorney Whitehead: Or 2.5.

Boardmember Dovell: ... the 2.5, which ...

Village Attorney Whitehead: Which is coming.

Boardmember Dovell: Right. The MR 2.5 refers to density, and the MR 1.5 refers to density. Those two numbers are illustrating the maximum density. By density I mean the number of units provided. If you look at the MR 2.5, it works out to – I did a couple of little analyses of it – an FAR of 0.5 exactly. So they backed into it the same way. Something happened with the 1.5

The issue I was talking about with Linda would relate ultimately to the size of the dwelling units that would be permitted as a function of lot area. If you go to the 2.5, I think, Linda – I don't have the e-mail in front of me – it worked out to dwelling units of maybe 1,250 square feet, something like that, which is kind of a sweet spot for a two- or three-bedroom apartment. You could mix it up and down.

In the MR-1.5, with an FAR 0.7 – the units would be smaller than that. The density would be greater, but the units would be smaller. The only lingering thought I had is, it may makes sense to bump the FAR to 0.75 or something like that just to give a little bit more.

Chairman Collins: More flexibility.

Boardmember Dovell: More flexibility for units. But that's really the only issue I had.

Village Attorney Whitehead: Right. And the provisions are per this board's recommendation: the sliding scale on the setbacks, the coverage changes. We had some discussion – things that you hadn't addressed about the accessory buildings – so even the changes that are in here, Ray – I did review them with Ray – we decided that with the changes in the setbacks accessory buildings should be subject to the same setbacks as the primary buildings since you're reducing the setbacks anyway. We took out the special provisions for accessory buildings.

Chairman Collins: Just so I make sure I understood, you're talking about perhaps bumping up the FAR to 0.75 from 0.70?

Boardmember Dovell: To 0.75, right.

Chairman Collins: Okay. Practicality speaking – because "floor area ratio" is still a term that is very new to me. We haven't had ... I don't think we had ...

Village Attorney Whitehead: It's going to allow a slightly ...

Boardmember Dovell: Bigger.

Village Attorney Whitehead: ... bigger building, still having to meet the coverage and the setback requirements.

Chairman Collins: What density is required?

Village Attorney Whitehead: It's the total square footage.

Chairman Collins: The question I'm getting at is, how much more building would 0.05 percentage points allow?

Village Attorney Whitehead: It depends on the size of the lot.

Chairman Collins: And it may be on a typical lot for the 1.5. Go right down the middle and say that you've got four tiers here, from 25 to 100 or more feet. So if it were at, say, 70 feet or 75.

Village Attorney Whitehead: But let's give an example. On a 10 square foot lot ...

Boardmember Dovell: You would be allowed ... with an FAR of 0.70 you'd be allowed 7,000 square feet, so at 0.75 it would be 75-hundred square feet.

Chairman Collins: That's meaningful.

Boardmember Quinlan: Ray, could you just educate me a little bit and explain to me again what floor area ratio really means?

Boardmember Dovell: Let's say you have a floor area ratio of 1.

Village Attorney Whitehead: 1.0.

Boardmember Dovell: 1.0. That means on a 10,000 square foot lot you'd be able to build a building that was 10,000 square feet.

Chairman Collins: Total, across all floors.

Boardmember Dovell: All floors.

Boardmember Quinlan: Wait a minute.

Village Attorney Whitehead: So it's your total square footage. It's a ratio of the total square footage of your floor area, of all floors of the building to the lot area.

Boardmember Dovell: Right. So let's just say that you had an FAR of 1 on a 10,000 square foot lot – 10,000 square feet – and you had side yard requirements and coverage requirements that said you can't build a pancake on the lot. That you can build two stories, then you can take the 10,000 square feet and put it on two stories, or three stories as the case may be, for the MR-1.5 because there's a cap of three stories.

Village Attorney Whitehead: So you'd have either 33-hundred or 5,000 square feet per floor. If you have two floors you could have 5,000 square feet.

Boardmember Dovell: It's a really useful way of understanding how big of a building you can build on a particular lot, which we haven't used in the code but, in my opinion, we should be using in the code.

Village Attorney Whitehead: It gets to the bulk issue.

Boardmember Dovell: It gets to the bulk issue, right. So what we have instead is a lot coverage requirement. The lot coverage, you have to back into how big the building can be. You take the coverage and you then apply the yard regulations, and then you multiply it by the permitted height of the building. So it's a very awkward way to do it, and it doesn't give you flexibility with massing a building, something like that. So FAR is a useful tool to govern the overall size of the building. So in the case of the MR-1.5, we've said now 0.75; so it'd be the 10,000 square feet times 0.75, which would give you 75-hundred square feet. And that would then be on three stories, a maximum of three stories.

Boardmember Quinlan: Okay, thank you.

Boardmember Dovell: Does that ...

Boardmember Quinlan: I kind of understand it. Then it can be on three stories, but the maximum height is 40 feet. So again, let's say – in my neighborhood – what's the maximum height?

Building Inspector Minozzi: Two-and-a-half stories and 35 feet.

Boardmember Quinlan: So why are we adding 5 feet?

Boardmember Dovell: The MR 1.5 is three stories.

Building Inspector Minozzi: No, in his neighborhood.

Boardmember Dovell: Oh, sorry.

Village Attorney Whitehead: Which is R-10.

Building Inspector Minozzi: R-7.5.

Boardmember Quinlan: Right. Why are we adding 5 feet to the height?

Building Inspector Minozzi: Yes, you're in a 7.5.

Boardmember Dovell: You're in an R district.

Village Attorney Whitehead: This is in the MR-1.5.

Boardmember Quinlan: No, it says a maximum height of 40 feet.

Village Attorney Whitehead: In the MR-1.5.

Chairman Collins: Yes, two different districts.

Boardmember Quinlan: No, I know. I understand it. You're not changing the R-10, but you're changing this.

Village Attorney Whitehead: No, it's 40 feet now.

Chairman Collins: Yes, that's existing.

Boardmember Quinlan: Oh, that's existing?

Village Attorney Whitehead: Yes.

Building Inspector Minozzi: Yes. But the MR-1.5 is an existing 40 feet, three stories.

Boardmember Quinlan: No, I can see that was not in height. But that's okay, I was just wondering why it was ...

Village Attorney Whitehead: But the FAR will control height, where the coverage and setbacks don't.

Boardmember Dovell: Right.

Boardmember Quinlan: And I have one more really stupid question. "Developmental coverage" as opposed to building coverage: does that include ...

Village Attorney Whitehead: All impervious surfaces.

Boardmember Quinlan: ... like driveways, sidewalks?

Village Attorney Whitehead: Yes.

Boardmember Dovell: Right. Fences even, retaining walls.

Building Inspector Minozzi: That's non-pervious.

Boardmember Quinlan: Okay. Because I've been on the Zoning Board for like ... I guess I got off the Zoning Board in sometime 2000 – early 2003 or '04 – so I'm just trying to come up to speed here. So that's just concrete surfaces or ...

Village Attorney Whitehead: Anything impervious. So the idea was to control both the actual building coverage and the total coverage.

Boardmember Quinlan: Yes, that's good.

Chairman Collins: And this really does ... the changes here that are proposed really would go ...

Boardmember Quinlan: No, I really like the changes.

Chairman Collins: ... a long way. And it's addressing this very narrow, but acute, problem.

Boardmember Quinlan: No, I know. I remember discussing it. I mean, when the other zoning was created it, in my opinion, made no sense. Especially to smaller lots.

Village Attorney Whitehead: Well, it really didn't.

Boardmember Quinlan: I mean, you just couldn't do anything.

Boardmember Dovell: You can't do anything.

Village Attorney Whitehead: All those setbacks that they had, that sliver.

Boardmember Quinlan: No, why would you do that if you can't do anything?

Village Attorney Whitehead: The Planning Board liked your drawings with the sliver. Right, Kathy? The sliver?

Boardmember Quinlan: It just got ... all right, I'm sorry for the ...

Boardmember Dovell: No, not at all.

Boardmember Quinlan: I just wanted to educate myself.

Village Attorney Whitehead: So, Ray, did you want to recommend that change?

Boardmember Dovell: I would recommend it.

Village Attorney Whitehead: Okay.

Boardmember Dovell: I think I would recommend it.

Chairman Collins: I have no objection to that.

Boardmember Quinlan: If Ray likes it I like it. No, really. He took the bull by the horns.

Boardmember Renzin: This is great.

Village Attorney Whitehead: And we're getting to 2.5 soon.

Chairman Collins: The one thing that I will also suggest that we add, should add – and it wouldn't affect these pages of the code – is a definition about floor area ratio.

Village Attorney Whitehead: It's there.

Chairman Collins: We have one? It's in the code already?

Boardmember Dovell: Yes.

Chairman Collins: Even though it's not mentioned anywhere.

Village Attorney Whitehead: It's in the MUPDD. It's not really used, but it's there.

Building Inspector Minozzi: In one of the zones that we really don't use.

Village Attorney Whitehead: I wouldn't have used it if it wasn't there.

Building Inspector Minozzi: It's in the marine district, or something to that effect.

Village Attorney Whitehead: Kathy, did you want to talk about this, or about the last one?

Planning Chairperson Sullivan: This one.

Village Attorney Whitehead: Okay. You have a member of the Planning Board here who would like to ...

Chairman Collins: Come on up.

Boardmember Quinlan: What are we going to talk about?

Village Attorney Whitehead: Well, they talked about this last week and they were told if they had questions to pass them on to you. And we provided them with Ray's analysis.

Planning Chairperson Sullivan: I'm here because I didn't have time to do an e-mail.

Village Attorney Whitehead: I actually have a newer one somewhere and I can't find it.

Planning Chairperson Sullivan: This zone has been a pain. It's been difficult for everybody, and I wanted to thank Ray for taking it on and doing such a nice way of starting to dissect, I think, some of the issues.

I like it when you started out because you said if the goal is to create density, then this is ... my memo follows forth from that, and I want to go back to that. What I saw that was my biggest issue: we seem to have almost two different types of lots and types of buildings that this zone covers. So when you started looking at a way to differentiate setbacks, I thought that was a great way to start to make things work in that zone. Because we have the 50 by 100 lots, and then we have some of the larger lots that get compiled.

My perspective is that any of the multi-family zones in Hastings are going to get a lot of development pressure as time goes on, and these lots themselves I found some memos from the Board of Trustees when the local law was adopted to change this zoning – so 2003. The Planning Board ones are not there because I thought it would be interesting to find the rationale. It was very much a zone that kind of came in after they were looking at other things, so it's never really been thought about very much.

But the lots that they thought would be impacted are not any of the ones that we've had to address in the last few years. So I read that as sort of a question. I know in looking at the

senior zoning proposal last year it was very good to sort of look at a lot of different examples. I personally looked at some of the projects that we faced on 32-34 Washington and also the Nodine project, and just tried to quickly look at what this would have been. It was interesting, and I think that's an analysis that we should take a look at.

I would just support pressing a little further perhaps in really trying to figure out how we can keep people building on these 50-to-100 lots and being compliant, not be grandfathered into always coming here for variances. But I'm not sure – and I think the FAR is a great tool –if you've had the time to take a look at kind of what the consequences might be on some of the lots that are in the MR-1.5.

Boardmember Dovell: What size lots are you talking about, in general?

Planning Chairperson Sullivan: Well, I've looked and gotten a list from some of the projects we've been looking at, some of the supporting documentation. I mean, I have a sense of the square footage of all of the lots that are in the MR-1.5, and they average – this is top of my head and I didn't bring it with me – maybe 7,000 square feet is sort of the average. There's some very big lots that are there; there are lots that – say, particularly on Ward Street – potentially could become combined, become a larger lot.

So I think just looking at having the setbacks when the lot size gets over 50 or 70 or whatever that sort of line would be, we may not want to decrease them as much. Because one of the things I sense, when we look at putting on some of these very large 100-plus-long buildings, those things can be very detrimental to a neighbor who's maybe a single-family home or a two-family home. I think a suggestion would be like in some zones where you have – I think the CC is set up this way – happen to have, a more concentrated development that's adjacent to a residential zone there is actually a larger setback that's required in that particular case to kind of give that neighbor some breathing space from a large building being ...

Boardmember Dovell: By "setback" you're talking about a yard setback?

Planning Chairperson Sullivan: Yard setback, yes. In the CC, I think a zero lot line. But if it's adjacent to a residential unit – a residential building, one or two-family ...

Boardmember Dovell: What we proposed was a sliding scale.

Planning Chairperson Sullivan: This is a specific one that comes in ...

Boardmember Dovell: Adjacent to a ...

Village Attorney Whitehead: But, Kathy, the reason that's done for a zone like a CC is

because it's commercial. So it's the buffer between commercial and residential. Here, you're residential; you're multi-family, but you're residential. Generally, in most codes you don't see that same kind of requirement for an extra setback as you do commercial against residential.

Planning Chairperson Sullivan: Right. I only suggest it because of the difference in scale. You know that there's these 50 by 100 lots that have been next to lots that are 100 feet wide by 50 feet deep, or whatever they are. So I think that would ... I just make that as a suggestion. If it's not appropriate because it's only used for uses, that's one thing.

But thank you. My biggest question was, we really looked at how this will play out in that particular zone itself, in the MR-1.5. Because you gave examples of looking at, you know, the other residential lots. Which was interesting but, again, it's what are the potential build-outs that might be happening within this particular zone itself? I think it would be helpful to take a look at that.

Greenburgh has FARs for many of their residential properties. And it's very interesting because one other thing that they do is – and I just bring this to your attention if you're not aware – they actually take the lot and they back out of it steep slopes, water, wetlands, things like that. They have a stronger wetland ordinance than we do on a local level. But in a sense, the area that's used for the FAR is what they call the "buildable area," and I think that's something we could take into consideration. Because I think many of our lots that we're facing development on are things, back in 2003, that weren't even thought about as being buildable, and we're finding that to be the case now.

Boardmember Dovell: But an FAR is a maximum so if there are other controls – like steep slopes and odd lot configurations – that would not let you achieve that maximum floor area. Or if it's view preservation, for example, it's the same issue. You wouldn't be ... it's a maximum. There are other controls that we have in town that do much of what you're suggesting that Greenburgh does, I think. Is that ...

Planning Chairperson Sullivan: Well, what it does, it limits the ... so instead of having your example of a 10,000 square foot lot ...

Boardmember Dovell: Well, I'm thinking about what we approved recently at the corner of Washington and Warburton. That had an existing building on it that there was a desire to keep, and there was also a view preservation issue which limited the height of the building. They were not able to achieve the floor area that would be proposed under these changed zonings. So there are other controls that would limit development.

Planning Chairperson Sullivan: Did you look at the FAR of that?

Boardmember Dovell: Yes. It worked out to, I think it was 0.43 or something like that.

Village Attorney Whitehead: Yes, it was lower.

Boardmember Dovell: It was lower.

Village Attorney Whitehead: It was well below what ...

Boardmember Dovell: It was below. And Nodine which, in many ways, is more of a prototypical lot was just under ... it was about 0.70 or just under 0.7. So, you know, there was also view preservation in that case that limited heights. But I personally believe it's a useful tool as a cap; understanding that we have other controls, that we still have the other controls, we haven't abandoned them. We still have building height, stories, yard requirements, and building coverage and development coverage.

Village Attorney Whitehead: And view preservation because pretty much all of the MR-1.5 is in the view preservation district.

Planning Chairperson Sullivan: Well, I really just brought it up as a point of conversation that that's how Greenburgh defines their developmental ... the square footage that is used to determine the FAR because it's been used in many different zones. I looked at the Nodine site myself and I found it would be much wider and not as tall with the square footage, with the FAR. I don't know if that's what you found in looking at it.

Village Attorney Whitehead: It wouldn't have gotten that much wider because the coverage is about what you put in here.

Boardmember Dovell: We've approved, right? Or we're recommending, yes?

Village Attorney Whitehead: So the footprint couldn't really have grown.

Boardmember Dovell: No.

Planning Chairperson Sullivan: The footprint is what percentage of the lot?

Boardmember Dovell: What the recommendation is to go to 35 percent coverage. But if you simply took the 35 percent lot coverage and extruded that up, you would be above the FAR that we're proposing. So the thinking was that we want to grant flexibility in massing to address architectural character. And that by having a maximum FAR with lot coverage, it means that the building can have some setbacks and can have some shape that's not just simply a box. It grants some flexibility to the architecture, which is what we've seen.

You know, Nodine had some ins and outs and setbacks, and it's a way to grant the little

flexibility in building massing but cap the overall floor area, cap the overall size of the building. That was the intent.

Village Attorney Whitehead: It's multiple controls.

Boardmember Dovell: Right, it's multiple controls.

Boardmember Renzin: If you combine it with the view preservation you get the mass and the ... it's more controls, in some ways, than fewer, with more flexibility.

Boardmember Dovell: With granting a little flexibility. So that was the thinking that went along with the recommendations for yards. Because as you point out, in the 1.5 zone there are lots that vary from 25 feet, Buddy?

Building Inspector Minozzi: That's right.

Boardmember Dovell: I mean, there's a number that are 25 feet right on Washington.

Planning Chairperson Sullivan: Quite a few.

Village Attorney Whitehead: Where you could build a 1-foot sliver.

Boardmember Dovell: Right, you could build a 1-foot sliver.

Planning Chairperson Sullivan: Right.

Boardmember Dovell: And all the way to 150 feet, I think that was your issue: does that address that range of buildings?

Planning Chairperson Sullivan: Right. I apologize because if it's in here – and I read this – do you change the coverage when it's the smaller lots, or you just keep to the 35?

Boardmember Dovell: The recommendation was to change the coverage.

Planning Chairperson Sullivan: But it's 35 also?

Building Inspector Minozzi: Not on a sliding scale, though.

Village Attorney Whitehead: Well, sliding because it's a percentage. So it slides by the size of the lot anyway. It's a percentage by definition.

Planning Chairperson Sullivan: So I think a lot of the smaller lots are 40- or 50 percent,

typically. I mean, those are very high.

Boardmember Dovell: Right now we're at 15 percent coverage, which doesn't work. It just doesn't.

Chairman Collins: One property, a whole zone, that qualifies.

Boardmember Dovell: It doesn't work at all.

Planning Chairperson Sullivan: On the smaller lots, would it be helpful to have a higher percentage perhaps? Because they typically are?

Village Attorney Whitehead: I think that's where you might still end up. If you had a small lot come in, it might be reasonable to potentially have a variance there. But I think it should probably be case by case.

Boardmember Dovell: Right. We looked at examples from lots that were 25 feet to lots that were 100, and with the recommendations for yard and coverage you achieve the density that's outlined in the text; the density meaning that one unit per 15-hundred square feet of lot. So the density of a number of dwelling units on a particular lot. If the 1.5 means 15-hundred feet, the 2.5 is 25-hundred feet per dwelling unit. So that equates to a lower density. The density regulations you can actually meet, and create an apartment.

So if you looked at each of those examples that we prepared, they basically hit, or approximated, the maximum density that's permitted in the district by the lot area per dwelling unit. So that's another control. So you have all of these things, but I think the guiding principle in the multi-family zones is the target densities. The MR-2.5 and MR-1.5 are density ... those are density definitions. So we simply took those and tried to make buildings out of it on a number of different lots. And not to create hardships in carrying that out. So that was the thinking. By no means is it perfect, and we're certainly ...

Village Attorney Whitehead: It can't be perfect because you've got so many different ... but you made a lot better. Just doing the sliding scale on the setbacks made a huge difference, I think.

Planning Chairperson Sullivan: No, I thank you for going through that explanation. I appreciate it very much.

Boardmember Dovell: Did that help?

Planning Chairperson Sullivan: Well, no, it's helpful because it's very dense. Like I say, I think the FAR is going to be a very helpful tool. I mean, it would be interesting to look to

expanding it other places in the Village. That it might be assistance in some of the single-family zones. But that's just next year's, right?

Boardmember Dovell: Yes. I mean, the idea of introducing a different lot coverage or different FAR for different-sized lots I think would create chaos. Because it means that you might as well have districts, or you might as well ... because you've got different ... you're granting one lot less development potential than another lot by virtue of size only.

Planning Chairperson Sullivan: Yes. I think the rationale would be – to say to your point about the density of the unit, like 15-hundred square feet per unit – that if it gets over a certain number of units you can have more coverage if you're under two units or something like that than if you were over it. I mean, that might be a way to rationalize it. Because those are the kinds of units that you're finding on Washington. I'm thinking of Washington Street, basically. We have two zones, in reality, in just the two different sizes.

So anyways, thank you for your time. I appreciate it, and I thank you for doing this.

Boardmember Dovell: Clarify some ...

Planning Chairperson Sullivan: No, you did, and I thank you. I mean, I still am concerned about just the mix of different types of residential uses, I guess, and the fact that we have single-family homes that have very large structures that get built next to them. And the CC district – at least when we looked at a project that was down in Washington – there was this gesture that if you do that you have to have a further setback. Even though it's a different use in the CC, like Linda pointed out, at least it gives someone who has a single-family home not to have this thing breathing down its backyard. So thank you.

Chairman Collins: Thank you.

2. Open Space Requirements

Village Attorney Whitehead: There was one more thing under this part of the discussion that you didn't actually have in your packets. We had also discussed and drafted a proposed local law regarding the open space requirement, which I know is something that is an issue because it's not defined. The Board of Trustees asked me to come back to both your board and the Planning Board – and we discussed it at the Planning Board last week – with basically two options for how to deal with the open space requirement. One is eliminate it completely on the basis that setbacks and coverage and those kinds of things ensure there's a certain amount of open space on the lot. The alternative is to leave it in, but define it. Because as you all know, that's the real problem right now is there's no definition of what counts as open space.

So the Planning Board – just full disclosure to report – their preference was to define it and ask that I look at some other codes – of course Richard sent me New York City – as some kind of identifying what is usable outdoor open space. So if your setbacks or your coverage result in, yes, there's open space but it's the side of a hill and it's cliff, is that really what you're looking for as open space? Is it usable? And then we have the conversation about do balconies count, do rooftop terraces count?

One interesting comment that came up at the Planning Board was maybe we can allow terraces or balconies in a multi-family to count, provided every unit has access to one. So even if a particular terrace or balcony area is only available for that unit, if every unit has the same then everybody's getting a benefit and that could count. I guess the question, to start – because we don't have a definition yet – the question to start with, for you, is the preference to eliminate it or define it?

Boardmember Renzin: Can I ask a question about that? My initial inclination if I were thinking about single-family homes would be ...

Village Attorney Whitehead: It's not in your single-family zones, it's in your multi-family zones.

Boardmember Renzin: It's only in your multi-family zones.

Village Attorney Whitehead: And it's a per-unit.

Boardmember Renzin: And the purpose that we think of this open space requirement is what?

Village Attorney Whitehead: We don't know. That's what we're struggling with because your code today doesn't define it. It says you need 100 square feet for each studio dwelling and 200 square feet for each bedroom; requirements like that.

Boardmember Dovell: But you're never going to hit ... even with the development coverage requirements you're still going to be grossly over what's needed. So I would say if we're going to define it that we would get rid of the balconies altogether – I think it's mischief – and just leave it at the rate that it is, but it would be dedicated to the occupants of the building. So if it's a hundred square feet you have to provide that as dedicated and accessible outdoor space. Then you don't get into, oh, his balcony's bigger than my balcony.

Boardmember Quinlan: I totally agree with that.

Village Attorney Whitehead: Have to be *usable*.

Boardmember Renzin: Right.

Village Attorney Whitehead: You know, can it be the side of a hill?

Boardmember Quinlan: Well, I totally agree with the balcony and the rooftop. That's just getting ...

Village Attorney Whitehead: Well, a rooftop terrace, if it's available for everybody, is sort of like a backyard.

Boardmember Quinlan: Can I just finish? So I think that's getting into minutiae, really. I mean, it just gets too complicated. A rooftop terrace: is it for everybody, is it just for the people on the third floor? I don't know, I wouldn't count that as open space. But what is the problem of just letting the setbacks define the open space? When you talk about usable, then we're going to be sitting here subjectively thinking what is usable. Like is a rocky backyard that slopes and has rocks and everything, that could be a rock garden or something? I don't know.

Village Attorney Whitehead: Kids like to climb on rocks.

Boardmember Quinlan: And Hastings has a lot of rocks.

Village Attorney Whitehead: Well, and the hills.

Boardmember Quinlan: They're in the middle of people's yards and things like that. I know it doesn't apply to residential. To me – and I'm just one person – it seems very uncomplicated just to let the setbacks define the open space. Because we have them.

Boardmember Renzin: I agree with that.

Boardmember Dovell: And we have lot coverage. You have everything: you have yards, and overall coverage – development coverage that is – in the case of the 1.5, is – what did we say it was? Fifty percent? So that would mean 5,000 in a 10,000 square foot development – 5,000 square feet would be open space.

Boardmember Quinlan: And when you say usable you get into subjectiveness.

Boardmember Dovell: You could say accessible.

Boardmember Quinlan: Accessible/usable, but I think you get into accessible to who? A 70-year-old or a 30-year-old?

Village Attorney Whitehead: Or a 5-year-old.

Boardmember Quinlan: I think you get really subjective here.

Boardmember Renzin: Can't the architects design something that's nice for the people to live in, and if people don't want to live there they won't buy there, they'll buy somewhere else. It feels a little bit like ... I don't know.

Boardmember Quinlan: I just say you get into minutiae.

Boardmember Renzin: Who am I to say that this is ...

Village Attorney Whitehead: You're saying the market will ...

Boardmember Renzin: The market is going to make open spaces that are nice or not, and it's going to make the cost of the dwelling be what it is or not. I guess the counter to that would be we in Hastings, as the Zoning Board, want every building to be good for its people. And I guess I feel like that's a little presumptuous that that would be our role to say that.

Village Attorney Whitehead: Or to say what is good.

Boardmember Renzin: What is good. Let the architects, I agree with that. And the setback ... I mean, what we would care about is how small is the ...

Village Attorney Whitehead: You guys are going to make my discussion with the Board of Trustees fun.

Boardmember Quinlan: That's happened before.

[laughter]

Boardmember Renzin: The density issue is ...

Village Attorney Whitehead: I understand your point completely.

Boardmember Quinlan: And the Board of Trustees – I say, being a former trustee – they don't have to deal with it, we have to deal with it: what is open space?

Boardmember Renzin: Right.

Village Attorney Whitehead: Like no matter how you define it you're going to end up

having to interpret it.

Boardmember Quinlan: I totally agree with the comments that my colleague made. I mean, who's to say? What's open space for somebody might not be open space for somebody else.

Chairman Collins: I agree with all of this. I think it's heavy-handed, unavoidably ambiguous ...

Boardmember Quinlan: Definitely. Subjective.

Chairman Collins: And I think what I have never heard, even when we were having to approve open space requirements without a definition, is what problem were we solving.

Boardmember Renzin: That's the question.

Chairman Collins: What problem are we solving by having this requirement?

Boardmember Dovell: Well, the development coverage is basically doing the same thing. It's defining open space, it's defining buildings.

Chairman Collins: It is, but I think where we would be going with this, though, is then qualifying how that undeveloped coverage would be presented and rendered in its perceived usefulness or not. Knowing, by the way, that usefulness is not just bound by code but it's bound by time. What happens if a tree grows there, what happens if a shrub grows there? What if furniture at an installation breaks? Who's responsible for fixing it? Does it go out of code, who's enforcing it? I mean, it just feels like this is – I want to say – a solution in search of a problem. Which would only create more problems.

Boardmember Quinlan: Unintended consequences.

Village Attorney Whitehead: I think, from your standpoint, even if there was an effort to define it you're still going to end up having to interpret that. It's going to come to you because someone's says we don't know if we met this or not.

Boardmember Renzin: Should it be nice, or not?

Village Attorney Whitehead: And what's nice?

Boardmember Renzin: And the neighbors are going to say, Well, that's not open enough for me.

Boardmember Quinlan: And I just come back to my point: usable or open ...

Village Attorney Whitehead: Is subjective.

Boardmember Quinlan: ... subjective depending on your age, depending on your ability, depending on your weight, depending on your flexibility, depending on your ...

Chairman Collins: Your interests.

Boardmember Quinlan: ... your interests. You might like rocks.

Boardmember Renzin: Right. I said kids. As a kid growing up in this town, climbing on rocks was fun.

Boardmember Quinlan: Anyway, I think we get overly regulated also.

Boardmember Renzin: I think that's right.

Boardmember Quinlan: That's another problem.

Village Attorney Whitehead: I will report your feelings back to the Board of Trustees. I think given that the two boards had opposite recommendations I'm going to give the Board of Trustees the minutes of each of the conversations.

Chairman Collins: Very good.

Boardmember Quinlan: Yes, let them decide.

Planning Chairperson Sullivan: I think we need another definition besides New York City's to go along with that.

[laughter]

Boardmember Renzin: Yes.

Planning Chairperson Sullivan: And I appreciate the fact that you're going to be the ultimate people to look at this. But if it had a strong definition, and it could be sense of on a piece of property, maybe it'd be something that would be doable for us.

Chairman Collins: Yes, we'll see how it goes down.

Planning Chairperson Sullivan: One thought I had, and I forgot to mention it, I think in

looking at the FAR and what's usable it may make some sense to define "story" in a fashion that addresses use on top of a roof. When we look at the Nodine project, which has a very large deck on top, that could be something that may sort of allow them to have more usable space. Though it's exterior, it's within the confines of their unit. That's one thing we don't have. How does rooftop use ... is that a story, is it part of the FAR, even though it's ...

Boardmember Dovell: Rooftop space is not generally ... you know, it's not enclosed space.

Planning Chairperson Sullivan: Right.

Boardmember Dovell: And in the case of a multiple dwelling it's generally not dedicated. So I think it would be hard to include that as part of the definition of floor area.

Planning Chairperson Sullivan: But if we have an example where we actually have another story that's partially built and partially rooftop.

Boardmember Dovell: Well, in the MR-1.5 it's three stories, period.

Planning Chairperson Sullivan: Right.

Boardmember Dovell: That's the highest you can go. It's silent on the use of a roof, except that it's 40 feet. I don't think you can get into counting roof space as floor area. I think that leads to ...

Village Attorney Whitehead: Doesn't fit the definition.

Boardmember Dovell: You'd have to change definitions. It's got to be closed, right?

Village Attorney Whitehead: There is a definition of floor area in your code.

Boardmember Dovell: So I think the way it's captured now ...

Chairman Collins: Yes, I was going to ask a question. The next step for this proposed language is that it will go to the Board of Trustees and that there will be open comment, right? Will there be a period where anyone in the Village can come and comment on the proposed language?

Village Attorney Whitehead: Yes, the Board of Trustees has to have a public hearing on any code amendment. So the first two you looked at tonight are scheduled for public hearing on the 7th. The open space, they're still deciding what to do with it.

Chairman Collins: Okay. I'm inclined to move on in the conversation here, mostly for the

time we spent going through the proposed code changes. I think we've come forward with our recommendations. I think now it's time for this to go to the Board of Trustees for it to be aired. Certainly if you have things you suggest we change I would bring it to the Board of Trustees at that point.

Okay, minutes?

APPROVAL OF MINUTES

Regular Meeting of June 28, 2018

Boardmember Quinlan: I wasn't here.

Boardmember Renzin: I wasn't here.

Chairman Collins: You're off the hook. You're off the hook.

Village Attorney Whitehead: You can't vote. Only two of you were here.

Chairman Collins: We'll go ahead and vote to approve the minutes among the two of us.

I found just one, I think, mistakenly-ascribed comment that I believe Buddy said and it was assigned to me. Everything else was, to my reading, flawless. I sent my amendments to Mary Ellen and to Buddy.

Did you have any changes to the minutes?

Boardmember Dovell: I had no comments.

Building Inspector Minozzi: We have to defer?

Village Attorney Whitehead: Why don't you defer them? We've done it when you had to, when you had a shift in boardmembers.

Chairman Collins: I guess we don't have to. We'll have Joanna back.

Village Attorney Whitehead: I think you can put it over 'til next time.

Chairman Collins: All right, that's fine.

Boardmember Dovell: Let's do that.

Chairman Collins: All right, then, I'll move that we adjourn the meeting. Our next one isn't until September, correct?

Building Inspector Minozzi: Correct.

ANNOUNCEMENTS

Next Meeting Date – September 6, 2018

ADJOURNMENT

Chairman Collins adjourned the Regular Meeting.