

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING & PUBLIC HEARING  
OCTOBER 25, 2018**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, October 25, 2018 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Acting Chairman Ray Dovell, Boardmember Joanna Berritt, Boardmember Carolyn Renzin, Boardmember Jeremiah Quinlan, Alternate Boardmember Sashi Nivarthi, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

\* *[meeting joined in progress]*

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

**Acting Chairman Dovell:** Okay, we'll begin with case 18-18 for Don and Barb Erwin-McGuire for 450 Washington Avenue. Who will speak for the applicant?

**Village Attorney Whitehead:** Nobody here.

**Building Inspector Minozzi:** I think they're not here.

**Village Attorney Whitehead:** We can tell you that the planning board did recommend view preservation.

**Acting Chairman Dovell:** But no one's here to present. Interesting, okay.

**Boardmember Quinlan:** Well, they may show up.

**Village Attorney Whitehead:** Yes, take the other one.

**Acting Chairman Dovell:** Okay, then we'll skip to case 19-18, Katharine and Theodore Herman.

**Case No. 19-18  
Katharine & Theodore Herman  
96 Euclid Avenue**

**Relief from the strict application of the Village Code Sections 295-68F.2.a.2 & 295-20(6) for the documentation of an existing open rear deck at their single-**

**family home located at 96 Euclid Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.20-12-18 on the Village Tax Maps.**

**Variances are sought for Side Yard and Developmental Coverage nonconformity for the documentation of an existing uncovered rear open deck.**

**Documentation of a nonconformity side yard projection:**

**Existing & Proposed – 5.75 feet from property line; Required Maximum – 6 feet into required yard, 6 feet from the property line, or half the distance of the setback to the property line whichever is least {295-20(6)}; Variance required – 0.25 feet.**

**Documentation of a nonconformity with respect to Developmental Coverage:**

**Existing & Proposed – 45.2 percent; Required Maximum – 35 percent [295-6]8F.2.a.2] Variance required – 10.2 percent.**

**Acting Chairman Dovell:** Who will be speaking for the applicant?

**Boardmember Quinlan:** I'm sorry, I just want to announce I have to recuse myself, Jeremiah Quinlan.

**Boardmember Berritt:** Too, Joanna Berritt.

**[ Boardmembers Quinlan and Berritt recused ]**

**Acting Chairman Dovell:** So we're three. And it has to be unanimous, so meaning all three of the remaining members need to vote in favor.

Please identify yourself for the record.

**Kate Herman, applicant:** Hi. We live at 96 Euclid Avenue. We've been here for 30 years, and it's been great, raised our kids here. When we moved in, there was a space between the yard – the grass and the house – that was rather dangerous and made the whole thing quite unusable because it was a crumbling wall. So we put this in and made the whole thing usable and safe for our children.

We went to a very nice, reputable landscape outfit that did it for us. We assumed they had done whatever permitting. This was 30 years ago. What did we know? – first time we ever did anything like this. Evidently we didn't get a permit so we are now asking you to give us a variance and not make us rip it out. Trying to sell ... we want to sell the house.

**Village Technology Director Zaratzian:** Buddy, can you check the feedback?

**Building Inspector Minozzi:** Sure is.

**Ms. Herman:** I need to say anything else? Do you have questions, or ...

**Acting Chairman Dovell:** Could you identify where, in the plan, the variances are required and the extent of them, both for coverage and for setback?

**Tomasz Lopinski, Architect:** I'm the design consultant hired by the owner to prepare the building permit for this legalization. We measured the side, we ran our calculations, we did the zoning analysis, and it turned out that the development coverage is approximately 10 percent above allowed for the zone. We also have a minor encroachment into the side yard, about 3 inches. These are the variances that will be required to approve for this legalization, basically.

**Acting Chairman Dovell:** So the side yard variance needed is 4 foot 8 inches? Is that correct?

**Village Attorney Whitehead:** No, 0.25.

**Mr. Lopinski:** No, it's actually the variance is required for 3 inches, 0.25 feet.

**Building Inspector Minozzi:** Yes, 0.25 – 3 inches.

**Mr. Lopinski:** Right, it's a very minor variance.

**Acting Chairman Dovell:** I'll say, yes.

**Village Attorney Whitehead:** Because the deck is allowed to be ...

**Acting Chairman Dovell:** The deck is allowed, okay.

**Village Attorney Whitehead:** It has to be 6 feet.

**Acting Chairman Dovell:** So that's the extent of the yard variance. And the coverage is over by what percentage?

**Mr. Lopinski:** 10.2 percent.

**Acting Chairman Dovell:** 10 percent?

**Mr. Lopinski:** Right, 10 percent.

**Acting Chairman Dovell:** Well, looking at this – and especially looking at the photographs – it's a recessed zone here that really doesn't create much of a visual encroachment anywhere. There's no railing, it's not above grade, in fact it's a sunken area so it's very hard to read this in any way as a significant variance. So I really don't have any particular issue with this, but we should hear from the other members of the board.

**Boardmember Renzin:** I don't have any issue with it. I also think that it probably was a good thing to have done for the safety of the family, the property itself, and the usability of it. I appreciate it, I think it's probably an upgrade to the environment.

**Boardmember Nivarthi:** And I don't have any objection to this either. The only variance required was the 0.25 – half a foot – on the side and about 10 percent of the coverage. But looking at this, I could find no reason to say this is in any way not good. So I have no objections to this.

**Acting Chairman Dovell:** Anyone from the public wish to be heard on this? No?

Could we have a motion to act on this?

**Village Attorney Whitehead:** You don't have any of your resolution-makers here.

**Boardmember Nivarthi:** Sorry, this is my ...

**Village Attorney Whitehead:** It's his first meeting.

**Boardmember Renzin:** Fair enough, hang on. I have to do it, right?

On MOTION of Boardmember Renzin, SECONDED by Boardmember Nivarthi, with a voice vote of all in favor the Board resolved to approve Case No. 19-18, relief from the strict application of the Village code for the documentation of an existing open rear deck at their single-family home.

**Acting Chairman Dovell:** The vote's unanimous, congratulations.

**Mr. Lopinski:** Thank you.

**Ms. Herman:** Thank you.

**Boardmember Renzin:** Are we setting the record for the shortest zoning board meeting of

all time? Are we going home?

**Village Attorney Whitehead:** My husband just went to the gym. I said I may be home before you.

[laughter]

**Boardmember Renzin:** I got to learn how to do it next time, and get the right case number.

**Acting Chairman Dovell:** It worked.

**[ Boardmembers Quinlan and Berritt return ]**

**Building Inspector Minozzi:** I'm going to step away and make a phone call. I'll be right back.

**Village Attorney Whitehead:** We're waiting to see ... Buddy's going to call them and see ...

**Boardmember Quinlan:** Yes, see if they're coming.

**Building Inspector Minozzi:** Raf, we're going to go off-line for a few, okay?

**Acting Chairman Dovell:** We'll now get to case 18-18, Don and Barbara Erwin-McGuire.

**Case No. 18-18**  
**Don & Barbara Erwin-McGuire**  
**450 Washington Avenue**

**For View Preservation approval as required under Section 295-82 for the erection of front and rear additions on their single-family dwelling located at 450 Warburton Avenue. Said property is located in the MR-O Zoning District and is known as SBL: 4.70-54-4 on the Village Tax Maps.**

**Acting Chairman Dovell:** Whoever's presenting, state your name for the record and speak into the microphone. The floor is yours.

**Don Erwin-McGuire, applicant:** I am both the owner and the architect for the proposed addition.

**Acting Chairman Dovell:** Okay, why don't you go ahead. Do you have materials to present to us this evening?

**Mr. Erwin-McGuire:** Not beyond what I've already submitted. I'm asking for an addition on the front of the house and on the rear. If you look at the ... I hope that you have the submittal that we did prepare. We have attempted to keep the addition tucked into the front corner of the house to prevent any kind of imposition of the roofline on the adjacent views. We are keeping the ridgeline of the house, I'm hoping, within as close as we can to the existing ridgeline and also not bringing it towards the rear of the building – rear of the house – or to the side of the house that would possibly, you know, project some sort of imposition on the site from the adjacent yards.

Also, you should note that the house is located on a very steep portion of the hill leading down Washington. So our immediate neighbor to the east is significantly above us, as are obviously everyone above us. The only possible imposition on the view of the Hudson would be for someone driving down the street on Washington. We've attempted, again, to keep within the envelope of the existing house.

**Village Attorney Whitehead:** As I said before, the planning board did recommend view preservation on this.

**Acting Chairman Dovell:** So we're looking ... we have a package that has three views listed on it and your before and after images for each one. Could you take us through those, starting with view one?

**Mr. Erwin-McGuire:** I'm afraid the package that was just handed to me was for another project.

**Building Inspector Minozzi:** Oh, sorry. I gave you the wrong one?

**Mr. Erwin-McGuire:** Much as I'd like to defend that case. And I apologize for my lateness this evening.

I am starting with the diagram ...

**Acting Chairman Dovell:** Start with view one, "existing conditions."

**Mr. Erwin-McGuire:** All right, just a moment. I'm sorry, could you state that again?

**Acting Chairman Dovell:** Start with your view number one, "existing conditions," and then take us to view two, "proposed conditions."

**Mr. Erwin-McGuire:** All right. View one, existing, is taken from – just a moment – approximately the property line, which is 100 feet east of Warburton Avenue, looking at approximately a 45-degree angle towards the south. Which is the only view that we would potentially be blocking. As you can see, the Palisades are in the distance and there's a row of homes directly across the street, on Warburton. Our house is about 40 feet back from Warburton and about 30 feet to the south of Washington. Again, we've tried to tuck the house back into the corner.

**Acting Chairman Dovell:** It's not Washington.

**Building Inspector Minozzi:** William.

**Mr. Erwin-McGuire:** William. I'm sorry, William. Sorry.

**Building Inspector Minozzi:** There's a typo on the agenda. It's supposed to be 450 Warburton Avenue, not Washington Avenue.

**Mr. Erwin-McGuire:** All right.

**Building Inspector Minozzi:** But it was noticed correctly.

**Mr. Erwin-McGuire:** So the proposed addition is maintaining the ridge of the existing home and projecting towards the west. I would submit that the potential blocking of the view at that location is not really relevant because the only potential person who's being blocked is someone driving down the street. There's no residence in that area. That vantage point that I took the photograph was from was actually on the street. The neighbor to the east of that is significantly above that and actually looks over the top of our house.

**Acting Chairman Dovell:** But view one, you're maintaining then, is not blocking any view of the river itself.

**Mr. Erwin-McGuire:** From which vantage point?

**Acting Chairman Dovell:** For viewpoint number one.

**Mr. Erwin-McGuire:** It would only be blocking the view from someone standing on the street looking to the southwest. And it would be a partial view that's already blocked, obviously, by an enormous silver maple tree that is in that corner of the yard. So it would be, at best, a partial blockage.

**Acting Chairman Dovell:** Of not the river itself, due to the streetscape of houses on Warburton but of the top of the Palisades.

**Mr. Erwin-McGuire:** The tippy-top of the Palisades, that's correct.

**Acting Chairman Dovell:** Okay, so there would be a slight encroachment there.

**Village Attorney Whitehead:** I think that's why it didn't qualify for a waiver.

**Building Inspector Minozzi:** Yes, it was just such a slight significance, but we could not qualify for a waiver because of that little ...

**Acting Chairman Dovell:** That little sliver, okay.

Let's go then to ... unless anyone has any observations on view one.

**Boardmember Nivarthi:** I have a question. This photograph was taken at, basically, street level.

**Mr. Erwin-McGuire:** I'm sorry, I missed the beginning.

**Boardmember Nivarthi:** I'm sorry. This photograph was taken at street level? Do you have anything with a higher elevation?

**Mr. Erwin-McGuire:** No, I don't.

**Boardmember Nivarthi:** Okay.

**Building Inspector Minozzi:** Fortunately for this situation, the higher you go the better it is.

**Boardmember Nivarthi:** That's what I wanted to show. If it's taken from a higher viewpoint, which it typically would be ...

**Village Attorney Whitehead:** It's over.

**Boardmember Nivarthi:** You are actually over it.

**Mr. Erwin-McGuire:** This vantage point would be approximately a level of the basement floor level of the apartment on William Street. That once you go up even to the first floor it would be looking over the top of our house.

**Boardmember Nivarthi:** Thank you.

**Acting Chairman Dovell:** Okay, let's go on to view number two, which is further up



William Street.

**Mr. Erwin-McGuire:** Right. And that was taken further on up William Street, directly more or less at the midline of the apartment building directly to the east of us. And obviously, as you can see, the building diminishes in height, as you go up, rather rapidly and is now well below the Palisades view. The view of the Hudson is obscured by other elements in the foreground, and if anything it's a very small imposition on the view of the Hudson itself.

The primary view as you come down – I don't know if you've had a chance to drive down that street – is a panorama as you come down. It's very dramatic. You see this Hudson opening left and right. Left and right are bookended both by Mr. Macree's house on one side, and our house and the maple – a very large maple tree and cherry tree – on the left. This would be no more than just sort of compounding the slight imposition on the south side of that sort of view corridor.

**Acting Chairman Dovell:** Well, if you look down William Street and you look at the elevation of your proposed addition, in elevation relationship to the buildings on Warburton, you're significantly above. So in a denuded forest situation, wouldn't this obscure the view? In a winter condition what are we going to be seeing here?

**Mr. Erwin-McGuire:** Well, you'd be seeing, obviously, the addition. However, the buildings across the street are about 40 feet below my house. They're significantly below it, so ...

**Acting Chairman Dovell:** Right. Which makes the view of the Hudson all that more prominent on that sight line.

**Mr. Erwin-McGuire:** Right, I don't deny that. However, there's no reasonable way to add on to this home other than to try to respect the ridgeline of the house and keep it as close to the original home as possible. The vantage point of the Hudson is directly down William Street, and this would be slightly to one side.

**Acting Chairman Dovell:** Understood. That's understood.

**Mr. Erwin-McGuire:** Unfortunately, I'm limited by other constraints about where I can put an addition on this home. And this is one of the places I believed was the most reasonable area.

**Acting Chairman Dovell:** Not debating that, only want to understand what a winter view would look like.

**Mr. Erwin-McGuire:** Well, I think a winter view would be that you would see a home that is to the left in this photograph, with the Hudson in the distance.

**Acting Chairman Dovell:** I see it as a minor issue, but do any of the other members want to comment on this view?

**Boardmember Berritt:** Yes. I drove down the other day to take a look, and right now the images and the photographs really show it nestled in this sort of leafy space. I do have some questions about what it looks like in the winter. And it's a two-story addition so I do have some concerns about what we're not able to really ascertain clearly right now with the information that you've provided. I'm not saying that it's any ... I don't know what it is. I guess that's my feeling is I'm not 100 percent sure what the impact is from the presentation that we have in front of us.

**Mr. Erwin-McGuire:** All I can say is that I attempted to keep the mass of this building to an absolute minimum by locating it where it was. I'm unfortunately pinched between the concerns of this organization and the steep slopes, where I'm really prevented from developing almost anywhere else on this site.

**Acting Chairman Dovell:** Mm-hmm.

**Boardmember Berritt:** Right.

**Mr. Erwin-McGuire:** And this was, I thought, a compromise that was very reasonable, especially given the other impositions on the sight lines that exist. That by keeping the character of the building sort of consistent with the neighborhood – keeping the roofline low, going with the pitched roof – I believe from an architectural view it wasn't really a significant imposition on the enjoyment of the view of the Hudson.

Again, as you drive down that street, one's focus is this rather panoramic view at the bottom of the hill. Whether the view is blocked by the tree or the house or whatever is ... and my house already does impose, obviously, on that view. That again, I'm just saying that from an architectural point of view I thought that was a reasonable compromise.

**Boardmember Renzin:** Did the Planning Board talk about what this might look like in the winter?

**Village Attorney Whitehead:** They weren't terribly concerned about it. They really thought any impact was minimal.

**Acting Chairman Dovell:** And as you go down the hill, the situation is made better by the fact that the relationship between your house and the houses along Warburton is changing.

**Mr. Erwin-McGuire:** Exactly.

**Acting Chairman Dovell:** So the imposition on the view is minimized the further down the hill you get.

**Mr. Erwin-McGuire:** Exactly. If you go back to the first photograph you can see that, as you go down, obviously the imposition of the view of the Hudson is ...

**Building Inspector Minozzi:** This is one of the unique situations where up the hill and on top of the hill there's a view. The bottom of the hill there's no view. You have this little corner of one street where you actually have a little bit of a view. It's kind of a unique situation.

**Mr. Erwin-McGuire:** And I have to add, just to throw myself on the mercy of the court, we have virtually no view of the Hudson. And we're right at the bottom. We have one window that has a partial view of the Hudson that's blocked by virtually every other building, and I hope to have one room that has a view of the Hudson. I attempted to keep within the building envelope and not, you know, impose on my neighbors because my neighbors obviously have fantastic views of this. Everybody above us has phenomenal views of the Hudson, and I don't.

I'm simply saying I just would like to extend what's already there to get one view sort of towards the Tappan Zee and not block the view of people driving down the street. That's the only people that could potentially be impacted. The apartments across the street and up the street are several stories above me – 40, 50, 60 feet above me – and have unimpeded, fantastic views.

**Boardmember Quinlan:** Could I just interrupt for a second because that's the point I want to make. I mean, if you go up the hill right above, right behind him, there's a house being built that I understand ... we don't know what's going to happen to that.

**Mr. Erwin-McGuire:** They're under construction.

**Boardmember Quinlan:** Just wait a minute. But the house above that – which is a condo, and I've been in some of those apartments – I mean, they have fantastic views over the house, over everything. I mean, it's just amazing. They can see up the river, down the river. It's fantastic thing. They really do have great views.

So where this number three is, there's really no house there. You'd have to go back up William to the top, and the top of the apartment buildings at the top of William have fantastic views; the bottoms don't particularly have views. Warburton itself has some buildings that

are blocking views, and when you look down it's very interesting. When you look down William Street, this little building here – you can see it better on this number, if I can use the pictures ... anyway, down at the very bottom of William Street is a garage.

**Mr. Erwin-McGuire:** Yeah, correct.

**Boardmember Quinlan:** You have the tail of the little building there, that's a garage. And that's the smallest building in the neighborhood, in other words. So if you're driving down William Street for whatever reason, hopefully you're going to be paying attention to the road. And if you are looking at the view, you're going to be looking right ahead and you have a fantastic view of everything: the river, the Palisades and everything. So I don't have a problem with this particular house.

Also, I walked down there today. And right at the end of this house is an extremely steep slope, which you couldn't build on if you tried. The other side, it's basically like a flat plane where your house is.

**Mr. Erwin-McGuire:** Towards the rear?

**Boardmember Quinlan:** Well, to the side.

**Village Attorney Whitehead:** That's why he's trying to build on the flat part.

**Boardmember Quinlan:** On the flat part. And I'm very protective of the views in Hastings, as history will verify. But I don't think that this ... I agree with the planning board that I think I'd like to see a winter view, but I don't ... this is a compromise. And I could be wrong, but I don't see anybody that's obviously going to be opposed to it.

**Acting Chairman Dovell:** Unless it's view number three, which is taken from the adjacent property to the east.

**Mr. Erwin-McGuire:** Yes. That view is actually ...

**Boardmember Quinlan:** There will be some blockage, but I think it's a compromise and a minor blockage. And again, there's nobody here opposed to it so I'm not sure I should be opposed to it if the people who are going to have a minor blockage of their views aren't opposed to it. I don't know if I'm allowed to consider that, but ...

**Village Attorney Whitehead:** The code doesn't say that there can't be any ...

**Acting Chairman Dovell:** Right, this is minimal.

**Boardmember Quinlan:** It has to be minimal, comparing to the entire view. So I'm in support of the application.

**Acting Chairman Dovell:** I think you've explained the positioning of the house quite well and why you positioned it the way you did. So unless there is someone here who has a strong objection to it from the public, which I don't see, I don't have an objection to it.

**Boardmember Renzin:** I just would say that because there are neighbors I still think that means it's that more of our role to make sure that we're representing the Village as it relates to the people driving down the road and that sort of thing. But that being the case, I don't have any problem with it.

**Acting Chairman Dovell:** I think from the public way – the driving aspect of it – I think you've demonstrated that it's really a minimal intervention. So I have no further comment. Anyone else? Joanna?

**Boardmember Berritt:** No. I mean, I would like to see the winter view but that's 'cause I'm not 100 percent sure of where all these lines stop and start. But I guess ...

**Acting Chairman Dovell:** No one from the public would like to be heard on this application? Would someone care to make a motion?

**Boardmember Quinlan:** I'll make the motion.

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Renzin with a voice vote of all in favor the Board resolved to approve the view preservation, as required under Section 295-82, for the erection of a front/rear addition on a single-family dwelling located at 450 Warburton Avenue.

**Mr. Erwin-McGuire:** I appreciate it, and I apologize for being late this evening.

**Acting Chairman Dovell:** Quite all right.

**Mr. Erwin-McGuire:** Thank you for your indulgence. Thank you.

**Boardmember Quinlan:** Thank you, good luck.

**Building Inspector Minozzi:** Thank you, Mr. Erwin.

**Mr. Erwin-McGuire:** Thank you very much. I'll be in touch.

**Building Inspector Minozzi:** Okay, very good. You've got to submit to me your building permit sets now, okay?

**Mr. Erwin-McGuire:** Yeah, tomorrow. Or Monday.

**Building Inspector Minozzi:** No problem.

### **ANNOUNCEMENTS**

#### **Next Meeting Date – December 6, 2018**

**Acting Chairman Dovell:** I think we're done.

**Village Attorney Whitehead:** That's because you already did the minutes. Obviously you're not meeting on Thanksgiving so your scheduled date is December 6, which is two weeks later because Thanksgiving's early this year.

**Boardmember Quinlan:** Well, I can't be here December 6. But we can't have it the Thursday before?

**Village Attorney Whitehead:** That's the planning board. Oh, because there's a fifth Thursday in November?

**Boardmember Quinlan:** Not that I have to be here, but there is a fifth Thursday. It's the 29th. I can't be there, and I can't be on the 6th. It could be on the 15th.

**Village Attorney Whitehead:** That's the planning board.

**Boardmember Quinlan:** Okay, so somebody else will have to ...

**Building Inspector Minozzi:** Sashi will have to ...

**Boardmember Nivarthi:** December 6?

**Building Inspector Minozzi:** We'll be leaning on you again.

**Boardmember Nivarthi:** Sure, not a problem. December 6 is okay.

**Boardmember Quinlan:** December 6 is a Thursday, right.

**Boardmember Nivarthi:** It is a Thursday.

**Village Attorney Whitehead:** Yes. Okay.

**Boardmember Quinlan:** If it's okay with everybody else. So that will be the only meeting in December then?

**Village Attorney Whitehead:** Yes.

**Building Inspector Minozzi:** That'll be the last meeting of the year.

**Village Attorney Whitehead:** Yes, you do this twice a year.

**Acting Chairman Dovell:** Right.

### **ADJOURNMENT**

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Renzin with a voice vote of all in favor, Chairman Collins adjourned the Regular Meeting.

**Village Attorney Whitehead:** Have a nice Thanksgiving.