

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
DECEMBER 13, 2018

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, December 13, 2018 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember Joanna Berritt, Boardmember Carolyn Renzin, Boardmember Jeremiah Quinlan, Village Attorney Linda Whitehead, Alternate Boardmember Sashi Nivarthi, and Deputy Building Inspector Edward M. Marron

Chairman Collins: Ladies and gentlemen, we're going to get underway for this evening's Zoning Board of Appeals meeting for December 13. This is our last of the year, and I want to thank everybody for flexibility. We had trouble producing a quorum for what should have been our regularly scheduled meeting for last Thursday, and given the fact that we did not meet in November I realize that added a week for people who were eager to have their matters heard. So I appreciate their flexibility.

Before we begin, Buddy, how are we on the mailings?

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

Chairman Collins: Okay, thank you.

Before we begin with our three cases this evening, we'll just establish a couple of ground rules. We have two microphones available. We have the standing microphone that's right here by the podium. We also have a wireless microphone here that the building inspector has produced. We just ask that if you're speaking make sure you have a microphone in front of you because we have a remote transcriptionist that's capturing the action through the camera and we want to make sure we've captured all of your remarks for the record.

So if you are speaking make sure you have a mic, and for the first time you speak make sure you introduce who you are and where you live. And if I mispronounce your names I apologize.

All right, we have three cases. I am going to have to recuse myself from the last one, but we'll come to that when the agenda takes us there. We'll begin in the order in which the agenda goes, and that is for case number 20-18 for Michael Didovic and Nicole Davis.

**Case No. 20-18
Michael Didovic & Nicole Davis
12 Marble Terrace**

View Preservation Approval as required under Section 295-82 of the Village Code and for relief from the strict application of the Village Code Sections 295-72.E(1)(a&b) and 295-20C for a front addition, rear stairs, and side yard patio on their single-family dwelling at 12 Marble Terrace. Said property is located in the MR-1.5 Zoning District and is known as SBL: 4.70-57-4 on the Village Tax Maps.

Nonconformity details of the proposed front addition, rear stairs, and side-yard patio are as follows:

**Front yard setback (to addition): Existing – zero feet; Proposed – 6.25 feet;
Required minimum – 12 feet {295-72.E(1)(a)}; Variance required –
5.75 feet**

**Rear yard setback (to stairs): Existing – 11.5 feet; Proposed – 2.58 feet;
Required minimum – 30 feet {295-72.E(1)(b)}; Variance required –
27.42 feet**

**Paving in a required yard (side patio): Existing – 60 square feet; Proposed –
176 square feet; Allowed – None. – {295-20C}; Variance required – 176
square feet**

Chairman Collins: Who here is to present on behalf of the applicant? Yes, sir.

Village Attorney Whitehead: And just for the record, the planning board did make a recommendation on view preservation on this application.

Chairman Collins: Okay, thank you.

Scott Jardane: Good evening board, and Mr. Chairman. I'm here on behalf of our clients, Michael Didovic and Nicole Davis, and also for Mitch Koch who's here to give support. This project is, we're doing a renovation and a small addition on the first floor to an existing garage. We want to add a stair – a convenience stair in the back – from the Aqueduct down to the garden level. And then a small paved area on the... let me know if you guys can see this.

So there's a stair here in the back, and we're doing a patio here. This is the area of the addition, then where I'm circling now is the kitchen. Then we're going to go up from the

garden level – from the bluestone patio – up to the kitchen. We need that entrance and we want to have this down from the Aqueduct. What we've got is really like a net. There's no effect in terms of the zoning, the coverage. And the view preservation seems to be okay. So what do you guys want to start with?

Building Inspector Minozzi: Just to clarify a little bit, they're removing some impervious surface that's existing. That's why the coverage actually went down and that's why they're not here for a coverage variance.

Chairman Collins: Even with the ...

Building Inspector Minozzi: Even with the new side yard.

Chairman Collins: Is that considered non-permeable?

Building Inspector Minozzi: Yes, it's considered impervious surface, but with all they're removing from the back it was more than they're adding in. So the coverage actually ended up reducing.

Chairman Collins: Gotcha.

Village Attorney Whitehead: And the variances that are required are front and rear.

Boardmember Quinlan: Not the paving anymore?

Village Attorney Whitehead: And the paving.

Building Inspector Minozzi: The paving in the required yard is required to be approved tonight, but not the coverage variance because they're actually reducing. Because they're removing a bunch.

Boardmember Quinlan: There wasn't a coverage variance on this?

Building Inspector Minozzi: Right, correct.

Village Attorney Whitehead: No, there wasn't.

Mr. Jardane: Yeah, it's all in violation or nonconforming now.

Boardmember Dovell: So that's the front yard? That pertains to the front yard setback?

Village Attorney Whitehead: No.

Mr. Jardane: The side yard, Mitch can maybe speak to that.

Mitch Koch, architect of record: The front yard setback actually runs right through the middle of the house. It so happens – and this is typical in this zoning district – that the stair and small landing area porch that we're trying to create in the front ...

Mr. Jardane: That's here.

Mr. Koch: Point to it, please, yeah.

Village Attorney Whitehead: It's that hatched area, right?

Mr. Koch: That all falls within the allowable 6-foot encroachment.

Chairman Collins: There's a little reticule. We're just having a hard time following.

Boardmember Quinlan: You're moving the arrow too quick here.

Mr. Koch: I got it. This here is the stair and a little deck, that if you see it sits 6 foot 3 back from the front. Here's our 12-foot stairs so it's within the allowable encroachment for a one-story – or first floor – porch, or a deck, or whatever. I actually would propose that this is no effect. From a zoning point of view, this stair down from the Aqueduct is the one building construction piece that we're asking for, in addition to this new bluestone patio which is in a side yard. We have a drawing that shows the existing paving which, frankly ...

Mr. Jardane: I'll show you.

Mr. Koch: ... covers all of this. So all of this is paved currently and we're proposing to remove this paving and kind of move it down here, which is how we're getting our net zero.

Village Attorney Whitehead: So there's already paving in the side yard, you're just moving that and putting it in the new place.

Mr. Koch: Shoving it down. This is old concrete patio, you know, and we're sort of upgrading it and moving it down to where it's more useful.

Boardmember Quinlan: Right. Maybe I can start, briefly. I have no trouble with the view preservation. I checked it out, I don't see any problem with that. And the front yard setback, again there's none; I mean, the garage goes right to the street anyway so I don't see that's a problem. That's already there.

I was at the house last in late afternoon, and I had trouble figuring out what exactly you were doing. I didn't want to go on the property, and I went up to the Aqueduct and went down Marble Terrace. The stairs you're going to build are on the north corner of the property and it's going to go up to the Aqueduct? I think I see it.

Mr. Jardane: Right here.

Village Attorney Whitehead: Use the mic.

Mr. Jardane: Sorry. Yeah, this site plan is actually at the first floor level.

[Male Voice] XXX: It's turned off, Scott.

Building Inspector Minozzi: No, I just turned it on.

Boardmember Quinlan: So that's the rear yard setback.

Mr. Jardane: Yeah, and Aqueduct Lane is just here.

Boardmember Quinlan: Just out of curiosity, because it is a rather large variance request, what is the purpose of that?

Mr. Jardane: Because it just makes sense for this lot in order for them to get down to the kitchen area and also pick up their mail.

Boardmember Quinlan: From what, the Aqueduct?

Mr. Jardane: Well, typically when they're coming down from this area or up from the front, to be able to have a passage ...

Village Attorney Whitehead: They park on Aqueduct Lane.

Mr. Jardane: Yeah, parking on the Aqueduct and to bring their groceries down without having to transit up – like this is an up stair – to the porch level. In order to get down, they'd have to come up, go to the porch, and then down the stairs and into the kitchen, Jerry.

Boardmember Quinlan: So it's two levels, right?

Mr. Jardane: That's correct.

Boardmember Quinlan: You got the Aqueduct, we got the upper level. Then you got the lower level of the backyard, correct?

Mr. Jardane: That's correct, yes.

Boardmember Quinlan: I go down that Aqueduct countless times.

Mr. Jardane: Right.

Boardmember Quinlan: So you got the upper level and you got the lower level.

Mr. Jardane: Right.

Boardmember Quinlan: I'm just trying to understand this, all right? The stair is going to go from the Aqueduct to the upper level?

Mr. Jardane: No, the Aqueduct to the first floor. Let's call the first floor sort of at the garden level.

Boardmember Quinlan: So that's the lower level of the backyard.

Mr. Jardane: Yeah, lower level. Exactly.

Boardmember Quinlan: So how are you going to do that? Are you just going to go straight down?

Mr. Jardane: Well currently, if you remember ... there's pictures I could pull up. I'm not going to mess with those.

Boardmember Quinlan: Mitch, maybe you can understand. So is it just going to go right down from the upper level and right down to the lower level?

Mr. Koch: Exactly, yes. It'll go down to the lower level from the Aqueduct. This is typical. There are three houses on Aqueduct Lane back there. mine and our neighbors'. And both of them ... I mean, my house had a historical stair up to the Aqueduct from the yard. The next

door neighbors were given a variance to do it last year, and we're asking for a variance to do it with this house. Because it just makes sense to be able to go from Aqueduct Lane down to the street without coming over to the Koch's and walking through their yard.

Boardmember Quinlan: Now I understand. And they also park their cars on Aqueduct Lane. I got that.

Now the patio, which is also a rather large variance: zero to 176, right? But you're putting that in the side yard. You're going to move the back one and make that into regular backyard grass or something like that?

Mr. Jardane: You mean in this area in here? Yes.

Boardmember Quinlan: You're going to dig that up, take it out, make it into grass.

Mr. Jardane: Yes.

Boardmember Quinlan: You're going to put the side patio on, and what's the purpose of that?

Mr. Jardane: In order for them to have a place to sit out in the summer; you know, have chairs, have a barbecue.

Boardmember Quinlan: Okay.

Mr. Jardane: The only usable part of that is the side yard on the south side of the house.

Boardmember Quinlan: And a flat roof, relatively flat.

Mr. Jardane: Right.

Boardmember Quinlan: I must say the front I don't have any problem with at all. You have put the wood out very nicely, thank you. Okay, that's all the questions I have. Thank you. I understand now.

Boardmember Dovell: Does your analysis reflect the revised zoning? Is the revised zoning in effect now?

Building Inspector Minozzi: The notice is what they are doing. How the notice reads is exactly what they're doing.

Boardmember Quinlan: I'm just looking at ...

Village Attorney Whitehead: But we changed the MR-1.5 zoning.

Mr. Jardane: Yes.

Boardmember Dovell: He's got, for instance, on the building coverage ... he's still showing 15 percent. I'm not sure what else ...

Building Inspector Minozzi: Oh, that may not be accurate.

Boardmember Dovell: And side yards. Right, but we made some changes to the side yards. I'm not sure if it is reflected correctly here. I don't think it is.

Building Inspector Minozzi: Not sure.

Boardmember Dovell: I mean, that may change the ask here.

Mr. Koch: 'Cause I reduced it, or enlarged it?

Boardmember Dovell: It's advantageous, so it would reduce it.

Building Inspector Minozzi: There is no side yard variance here. It's only a front yard and a backyard.

Chairman Collins: Well, there sort of is actually. I mean, if we want to get super-technical about it, there is – as I read it – literally a one-inch variance. The two side yards together are 23 feet 11 inches versus a requirement of 24 feet. At least that's what's provided in the application.

Village Attorney Whitehead: That wasn't published.

Boardmember Dovell: And development coverage is not addressed.

Mr. Jardane: Well, it's not just strictly coverage. Is that true?

Village Attorney Whitehead: That MR-1.5 was recently changed. There's a bit of a problem because I don't think it's been published.

Chairman Collins: You mean the new code language.

Building Inspector Minozzi: It wasn't.

Village Attorney Whitehead: I have been asking the village clerk to get it online, at least list it under that new, and I guess it hasn't been done yet. That was about a month or two ago when I talked to him about it. So I think it's putting applicants at a disadvantage.

Boardmember Quinlan: Yes, I don't think that it would be fair, if it's not published, to ...

Building Inspector Minozzi: It's published now. We just got the publication this week.

Chairman Collins: Right, but that was after this application.

Village Attorney Whitehead: So how wide is this lot? Because the side yard is now ...

Mr. Jardane: Can you show the set?

Village Attorney Whitehead: What's the lot width? Because the side yard setbacks are based on lot width.

Mr. Koch: The total lot width?

Village Attorney Whitehead: Mm-hmm.

Mr. Koch: I know that it's not on this.

Chairman Collins: If we need ... I don't know whether this is ...

Mr. Koch: If you'd like to have it I can look it up.

Chairman Collins: I don't know whether or not what I'm about to suggest could help or whether or not it'll matter. What we could do is move to the next case, and if it would help to recalculate any variances based on the new code language we could do that, perhaps, while we hear the next case. The question, Linda, to you is whether or not this prevents us from voting on it because we're dealing with something that hasn't been noticed accurately.

Building Inspector Minozzi: No, it's noticed accurately. This is wrong; this application's wrong. The building coverage is not supposed to be on here because they didn't increase it.

Village Attorney Whitehead: But is that actually development coverage, or is that building coverage? We changed the definition of building coverage.

Mr. Koch: We were told that there's no distinction in this zoning district.

Village Attorney Whitehead: There is now.

Chairman Collins: Well, then the question is if it was just published a week ago, and after their applicant has submitted their package.

Building Inspector Minozzi: That's why it wasn't noticed.

Mr. Koch: Can the board make a decision based upon the older requirements?

Village Attorney Whitehead: I'm thinking you probably don't have any issues with the new. I'm just trying to confirm that.

Chairman Collins: And if it requires some calculation to determine, why don't we put Buddy on that and then we can give Buddy some time to just check the numbers. Then we can move to the second case on our agenda. Would that make sense?

Village Attorney Whitehead: I'm trying to do it with him.

Boardmember Dovell: It's probably going to reduce some of your variances.

Mr. Koch: Can we make a decision based on the view preservation, and just push that to the side at least? I mean, if we can close that out.

Boardmember Dovell: I think what he's suggesting is we're going to do it at this hearing, correct?

Chairman Collins: Yes, I'm suggesting we do it all at this hearing, presuming our village attorney doesn't recommend we pause this to change the notice. I'll follow her recommendation on that. And by the way, at the risk of speaking for the rest of the board I don't think anyone's going to have an issue with the view. I stood on my head I couldn't see an issue with the view. So I wouldn't worry about that.

I think what we're covering here is a matter primarily of achieving what we might think of as a legal accuracy in what has been noticed versus what we are approving. It's a technicality, and an important one. Even though it may be favorable and make this in some ways easier

for you, it's important that we get that detail right. And if it takes a little bit of time for the numbers to be reassessed, my recommendation is that we move on to the next case while you do that, Buddy.

Building Inspector Minozzi: Mm-hmm.

Chairman Collins: Do you need a few minutes?

Village Attorney Whitehead: I'm just trying to figure out the lot width.

Mr. Koch: We have this survey. Do you have it in AutoCAD that we can actually scale it? Yes, I'm going to pull it out here.

Chairman Collins: Buddy, I won't move to the next until you tell me you've got what you need in order to reassess where we are.

Building Inspector Minozzi: Just give me one second.

Mr. Jardane: You'll tell us what we need.

Mr. Koch: I was going to step out in the hallway and give you the dimensions that you need.

Village Attorney Whitehead: I'm sorry?

Building Inspector Minozzi: I think that would be okay, Matt.

Mr. Koch: Okay, we'll give you the dimensions of the property and then you guys can figure out the new regulations.

Building Inspector Minozzi: That's fine. I think that would be fine, sir.

Chairman Collins: All right, that's fine. If we can get this done tonight, then I think that's the way to go.

All right, then we're going to move to our second case on the docket, which is case 21-18.

3 Ward Street

View Preservation Approval, as required under Section 295-82, for major renovation and additions on her single-family dwelling: the application of Joan Dinowitz for View Preservation Approval as required under Section 295-82, located at 3 Ward Street. Said property is in the MR-1.5 Zoning District and is known as SBL: 4.70-54-3 on the Village Tax Maps.

Chairman Collins: As with our previous applicants, if you can just make sure that you introduce yourself and have a microphone handy. Take your time getting setting up, we're in no hurry. And Buddy, if you need to pause anything to get information or to check something I don't mind moving in and out of order here to make sure ...

Building Inspector Minozzi: Thank you.

Chairman Collins: The floor is yours.

Barry Poskanzer, Poskanzer Scott Architects: Thank you very much. And I, too, would like to thank the board for working their schedule to allow us to be heard as soon as we could this year. That was very, very appreciative by my client.

Our firm is in Ridgewood, New Jersey. We're here because the building you approved earlier this year was under construction and there was a variation in one of the drawings we provided to this board – of the many – indicating the size and the location of the building that we were proposing.

That drawing indicated – and it's shown here on the resubmission – indicated that there was a small section of the front of the river that would be visible at the time this was built. That photoshopped drawing was inaccurate. All the rest of the drawings – the height of the building, where it's located, the size of the building, the variances we were requesting – are all consistent with the approvals that this board and the planning board previously approved.

In addition – and by the way, the planning board has approved the approval of the view preservation for this board tonight – let me indicate that the focus, which has always been on this photograph or one very similar and was talking about a sliver of view, was in fact slightly deceptive. Because from the view of the third floor where the complainant that has brought this issue forward is, this is the entire view that neighbor has.

What we're talking about is this piece of the building being slightly higher than was indicated on the original drawings we proposed. We submit tonight, as we did then, that we have done

everything in our power to minimize the impact of this new structure on the views that exist. I indicate this, and I can't think there's anything more clear than that fact. It is absolutely clear that that drawing was incorrect, but the building *was not* built incorrectly. That has been verified with the survey that Buddy has. And all the rest of the representations we made have been kept.

In addition, there was a compromise – a decision, or a request, from the members of the planning board – that we reduce at least the side wall of these parapets on what's been built to date for the purpose of minimizing – and you can see it in the lower drawings here – for just this piece. Now, when you focus on this drawing it looks like it's a significant change. When you see it in context with the real view, I think you understand that our position is that we've made a very small impact on the existing views that are there.

We would request– and we hope you will see – that this is a perfectly appropriate preservation of the views to more than 95-, 98-, 99 percent of what is, in fact, seen from the complainants' apartments immediately to our east. I have more documentation. I have comments of this board and the last board on what they thought we had been trying to accomplish and the possibilities of what we might have come in with – with a pitched roof, with attic space – all well within the height requirements that could have been provided.

And, in fact, we went out of our way – as mentioned to the board the other night – to say no good turn goes unpunished. We seem to have thought that doing the least we could would be fine. The board seems to have agreed with us prior to this evening, and I hope you will again.

Chairman Collins: Okay, thank you for the introduction. Of course, this board has to review this project as if the building is not there. We have to review this project as if we were seeing ...

Mr. Poskanzer: Correct.

Chairman Collins: ... a new, and now properly rendered, photoshop rendition.

Mr. Poskanzer: Then may I ask the chair a question before you proceed?

Chairman Collins: Sure.

Mr. Poskanzer: Do you want me to go back and present all the arguments and all the reasoning on how the house was designed? I have all the original documents, and I'd be happy to do that if that's the form you want this: as a totally new application. I was trying to

short-circuit that for you. I think everyone understands the issues. We've conceded the inaccuracy of that drawing. We don't think it changes at all the reasoning nor the conversations we all had about this building and what we were intending to do. But I will be happy to start from the beginning without any discussion of the other variances. Those have been done and agreed to, and we're fine. But the question of view preservation, I'll be happy to start from the beginning.

Chairman Collins: We'll let you know if we want to go back in time. I wanted to establish two things. One I've already established, so I won't go back. The second is, you're right. That our mandate is to find a way – and I'm paraphrasing, to help the applicant find a way – to achieve what they're trying to achieve while minimizing the impact on the view. Our law very clearly says it doesn't have to achieve zero impact on the view. The goal is to minimize it. So I am going to be focusing my questions on the efforts you've made to minimize.

The first thing, just for my own context – because I do think it's important, having visited the property on William Street that is most impacted by this project – I think it's important to ask this question. Give me a sense of how tall of a person for whom this view is represented. Yes, that one, in the lower left-hand corner.

Mr. Poskanzer: Five foot 5.

Chairman Collins: That's a 5 foot 5 person?

Mr. Poskanzer: I think one of the problems in the ordinance and in our responses to you from the first zoning meeting – and then we came back with more data – is, there's no comment that gets a certified survey; stand at 6 foot 6, take it back, put it on an exact plan. I think that's a bit much in any case, but our attempt was to put it at an average height that would be ... and this picture was taken by the complainant so I'm assuming it's at their height, or a reasonable height for them.

Chairman Collins: Okay.

Mr. Poskanzer: We've modified our drawing from a drawing that was provided by the complainant.

Chairman Collins: Right, okay. So 5 foot 5, 5 foot 8 – in that range. And these are pictures you didn't take; these are pictures that ...

Mr. Poskanzer: I didn't take this one. We then modified it to show how we were going to change the sides of the building in keeping with the direction of the planning board.

Chairman Collins: Right, okay.

Mr. Poskanzer: Which I hope you wouldn't like us to do, but we understand we may have to. We put those parapets up originally because we were covering the solar panels. Since that time, the ordinance has changed. We don't have to cover the solar panels. My contention is I'd still like to, but the planning board has said they would like us to reduce this. We produced a full set of drawings that now show the changes to the side wall. That's this little piece on this side, and here on an angle ...

Chairman Collins: Let's keep on the view, though. I want to go back to the view. These are important for context.

Mr. Poskanzer: Yes.

Chairman Collins: I'd like to know what options you considered for removing massing from the building that would have the effect of minimizing the impact on the view.

Mr. Poskanzer: It's the original testimony that we were keeping the building – the existing basement floor and the street floor, et cetera – and were keeping the exact footprint, without enlarging it for the building ...

Chairman Collins: Keep the microphone close to your mouth.

Mr. Poskanzer: I'm sorry, thank you. We were keeping the exact footprint as was there. We were making the building – as I think one of the boardmembers said – a moderate addition in size; not something big that we might have expected in this location. We were also trapped by those existing heights: the foundation, the first floor, et cetera. During construction, it was determined that the existing house from the first floor up was rotting. So we took it down, but we couldn't change the first floor because that's still the basement as built. The first floor is there. That's level with the street, that has an organization. Because the first obvious thing was could you lower the whole house. That's clear.

Well, no, because we were trying to not knock the whole thing down and start over again with a new house. Just because we're replacing the existing structure with new wood it's not a new project, it's a continuation of the existing one. So we were limited by the existing floor-to-floor heights. We would rather have made the floor-to-floor heights greater. In fact, if we had had time or endless money we might have come back and said, "You know, now that the house is not usable we'd like to make them 9-foot floors instead of 8-foot ceilings." And come back and say, "Oh, by the way could you give us 2 more foot of relief."

Boardmember Dovell: You're 9 feet floor-to-floor.

Mr. Poskanzer: I mean 9 feet clear.

Boardmember Dovell: No, I know that. But you're about 8 foot clear – a little more than 8 feet.

Mr. Poskanzer: That's what was there.

Boardmember Dovell: Eight feet.

Mr. Poskanzer: That's correct.

Boardmember Dovell: Which is really minimal.

Mr. Poskanzer: You bet. Actually, my client has two 6 foot 4 and taller children. And we would have liked – but we didn't because we promised, and the constraint was the existing house and that we asked for permission for – I can do this at the same time – to simply flatten out the roof on top of where the walls were, eliminate some attic space, and make it usable floor area. That has not changed, the house has not gotten one iota larger than was indicated on all the plans, all the elevations, and everything else. So the contention would be there was very little we could do less to make this imposed on the view.

Chairman Collins: Okay, so the ...

Mr. Poskanzer: That was a long way around to get to that.

Chairman Collins: No, that's important because it's our job to look for ways to minimize the impact.

Mr. Poskanzer: Correct.

Chairman Collins: So the question on my mind, which I think you've answered, is what did you consider? What I've heard you say is that you faced restrictions based on the foundation you were building upon, which then dictated – as I've heard you say – floor-to-floor heights. Which, as Ray points out, are modest anyway. So you've removed the parapet there.

Buddy, I'm sorry to interrupt your work here.

Building Inspector Minozzi: No, go ahead.

Chairman Collins: Quick question.

Building Inspector Minozzi: Yes, sir.

Chairman Collins: For the purposes of view preservation, what does our code say about solar panels? Are they ...

Building Inspector Minozzi: They are exempt from the view preservation.

Chairman Collins: Okay. All right, so we'll take that out.

Boardmember Dovell: Up to a height of what, Buddy?

Building Inspector Minozzi: There is no limitations on solar panels.

Boardmember Dovell: There's no limitation from the finished roof to the top of the solar panel? It's a wide-open ...

Chairman Collins: That's an interesting consideration, especially in that ...

Building Inspector Minozzi: Fortunately, I have it right in front of me. On the waiver on view preservation on solar panels, is there a height?

Village Attorney Whitehead: Solar panels are not subject to view preservation.

Chairman Collins: No matter the pitch.

Boardmember Dovell: Or the height off ...

Chairman Collins: Yes, or the height off of the roof.

Village Attorney Whitehead: Let me look for it.

Building Inspector Minozzi: Just checking it myself.

Chairman Collins: So you've removed the parapet. How much height came out as a result of taking that out?

Building Inspector Minozzi: There's no height limitation on solar panels.

Chairman Collins: Mmm, okay. That's something for us to talk about maybe. Sorry, question about the parapet: how much massing there came out, about how high?

Mr. Poskanzer: About a foot-and-a-half to 2-1/2 feet, depending. It's a triangular shape that's been removed. We actually took a piece of what was originally shown as a parapet on this side, partial, on the west face. We took that out in advance at the suggestion of the building inspector and when we first got the compliant – would this be helpful? – we went and took another picture to see if that had solved the problem, or the complaint. And apparently it didn't, so that's why we're here.

There are a couple of other things. It's been requested that we had left off a little thin piece of wall that's shown in the front, so we've added that back. I might remind the board that when we originally showed this there was a chimney, but when we tore the house down the chimney went away. So we've, in fact, reduced an element that was partially blocking the little bit of the water back over there.

What's so striking to me, Mr. Chairman – and this is probably a mistake of my original application, our doing – we also got over-focused on this picture, as if that was the view preservation issue for this particular building. In fact, with one apartment in the building immediately to our east that's on two floors – this floor, and the floor higher – this is, in fact, the view. And that this building plays that part of this overall view.

Boardmember Dovell: Does this represent a reduction from the existing original house?

Mr. Poskanzer: A reduction in what way?

Boardmember Dovell: In view obstruction.

Mr. Poskanzer: It does because there's a small sliver of when you square up that outside corner.

Boardmember Dovell: No, from the original house with the gable.

Mr. Poskanzer: Yes, because ... and I'll show it to you. It's easier ...

Boardmember Dovell: Do you have a ... is there a photograph, a montage of that?

Mr. Poskanzer: No. There's a drawing to show you what it is.

Boardmember Quinlan: Is there a photograph of the old house?

Mr. Poskanzer: Of the old house?

Boardmember Quinlan: Yes.

Village Attorney Whitehead: It was a pitched roof, so ...

Boardmember Quinlan: Yes, but I want to see a photograph.

Mr. Poskanzer: Here.

Boardmember Dovell: Right, but with the same view preservation, the same view to the river.

Mr. Poskanzer: Here. Here's the house.

Chairman Collins: Can you bring it closer? Can you get it off that?

Boardmember Dovell: It's right here. It's in the package.

Mr. Poskanzer: Yeah, it's this dormer. This is the existing house ...

Village Attorney Whitehead: We reached an agreement.

Mr. Poskanzer: ... and that was it, shown. It was too far back. The model, the photoshopping, had it about 8 or 10 feet, shown too far east. So it left this little bit of waterfront edge open in our photograph, which is now lost as we can see in the real drawing. But the issue ...

Boardmember Quinlan: So this is the old house.

Mr. Poskanzer: This is the old house.

Boardmember Quinlan: So we can see the cement there.

Mr. Poskanzer: Correct. And my drawing showed ...

Boardmember Quinlan: You haven't had more cement, and now you can't see any cement.

Mr. Poskanzer: You can't see any cement.

Boardmember Quinlan: Okay.

Village Attorney Whitehead: The cement isn't covered.

Chairman Collins: No, but it gets to the question Ray's asking: is the view opened up relative to the property before it, or is it diminished?

Village Attorney Whitehead: We've got to look at the view of the river and the Palisades.

Chairman Collins: Well, that's the next question.

Mr. Poskanzer: And I testified, I believe – if you go back and read it – that there would be some. I would like to say there would be none, but I couldn't so I didn't say that. The interesting drawing that shows the question of it not being egregious is this drawing. This is a cross-section from the existing house to our east and to the new construction right here. The peak of the roof, the old roof, is here. So I testified it was higher than the new roof that was going to be flatter. And it is, just as we indicated, within a half-inch I think.

Building Inspector Minozzi: Within a half-inch. Correct, sir.

Mr. Poskanzer: Now I'll have to put this down for a second if you don't mind. (Places mic down).

Village Attorney Whitehead: Just don't talk.

Mr. Poskanzer: The first item, Mr. Chairman. This is the allowable area where there might have been a roof and an attic. Had we come to you and said we just want to put a pitched roof on top and we want to put some solar shingles on that south side, it could've been anywhere in here.

Village Attorney Whitehead: Under zoning.

Mr. Poskanzer: Under zoning.

Boardmember Quinlan: Which is totally irrelevant so get away from that, okay?

Mr. Poskanzer: Okay, okay.

Boardmember Quinlan: It's totally irrelevant to this application.

Mr. Poskanzer: Okay. The question of the view is, if you're starting from a point somewhere high in here and you measure it past this high point, you see to a certain distance down. But if you notice, there's a little corner of the new square roof and that's what's blocking the view. We had a distinct discussion, interestingly enough, at the first hearing on the wall on the east side. 'Cause the question was, would it block the view from the peak along the first and the second floor. I testified ... I'd like to *say* it has none.

Boardmember Quinlan: All right, wait a minute. You're not testifying, okay? Just get that straight. That's the wrong word, okay? If you want me to swear you in – I'm a notary – then you'll be testifying, okay? You're not testifying. You're just presenting a case.

Mr. Poskanzer: I apologize because 90 percent of my work is in New Jersey and I have to act like a witness and that's just the phrase I use. I apologize.

Boardmember Quinlan: It just bothers me when you say that because you're not testifying.

Mr. Poskanzer: Then I apologize.

Boardmember Quinlan: If you want to be sworn in I'll be glad to. It'll make a big difference.

Chairman Collins: Keep going.

Mr. Poskanzer: Should I reference any testimony that I made, as if that was relevant?

Village Attorney Whitehead: Just make your presentation.

Mr. Poskanzer: Okay, fine. The idea was that we were concerned in our meeting, and we discussed, whether this squaring off would impact on the views. And in fact, I said it would. I said I wish I wouldn't, but because this is a sloping roof on this side, and this corner is going to protrude up, even though the entire building was lower there would be places where the views would change. And in this case, it would be blocking sky.

Chairman Collins: I'm going to just say that I think there's plenty of noisiness in this case. There's noisiness because of how we got here which, quite frankly, this board has to put aside. But how we got here and what I'm seeing in the photographs that compare the roof parapet proposed reduction to the picture you just showed us of the old property makes it

clear to me that the new proposed reduction is creating a larger obstruction of the river than the pitched roof. (It looks like your board's about to fall over). It looks like it creates more of an obstruction of the river than the property it replaces.

Now, that could be a product of an apples-to-oranges photographic orientation. The height of the camera when it was taken of the old property from the William Street property could be different and could be creating, therefore, a different angle onto the river. But when I look at it, I look at the picture with a caption "roof parapet proposed reduction" and I see river obstructed. When I look at the picture that was of the old property, I don't see river obstructed. So I conclude from that that yes, there's a possibility that the cameras are a different height. But to me, the obstruction is increased.

Having said all of that, this board has to look at what can be done to minimize the view on the property. Sorry, minimize the impact of the view on the river. I don't want to spend too much time focusing on any other question. I am not, certainly, an expert in this area so I'm going to turn to my colleague here. I'd love, Ray, to get your opinion on this to see if, in your sizing up this case, you saw any alternatives or options for this applicant to reduce the impact further.

Boardmember Dovell: Well, I remember – going back to the original submission – being impressed by the modesty of this project. It's a very small house, it's in an MR-1.5 district. A much bigger development could've been proposed here. The threshold is to minimize the obstruction of the river view, and to me there's a flat roof on it. It's 8 feet floor-to-floor. I don't know what you could do beyond that to minimize it any further. So I personally have no objection to what's being proposed. And forgetting what was here before, I would have no objection to this because I think it's a minimal disruption of the river view.

It's an expansive view. Does it obstruct the shoreline? Yes it does, only when it's viewed in this very narrow vignette of the window of the house. So I would be in favor of this if this were a new application. I don't see it as ... and I think this view is the most compelling, the one at the top which does show the expanse of what you're going to see. So I personally am in favor of this.

Chairman Collins: Okay.

Boardmember Quinlan: Want to give me a shot?

Chairman Collins: Yes, please. Go ahead.

Boardmember Quinlan: Okay, we're going to put aside the pictures that you have right

now – I'm going to get back to those later – and we're going to talk a little bit about other views, okay? So the most important view is from the Aqueduct. If you walk down the Aqueduct or walk down Aqueduct Lane, when you pass the house where the complainant personally lives, you have a driveway going down. And this house goes way across to view the river. My recollection was – and I don't know if we can do it – that when I walk down the Aqueduct or ride my bike down the Aqueduct, the old house did not block the view as much as your new project.

So I'm concerned about that. And I've had nothing ... we've been so focused on the Lomolino condo that we've forgotten about any other view that might be impacted. Since I have not seen any pictures of what the old house blocked or what the new house blocks in terms of the river and the Palisades – because now I can't see any river or Palisades down the driveway ...

Boardmember Dovell: The same footprint.

Boardmember Quinlan: All right, so it looks about the same.

Boardmember Dovell: If he's building on the same footprint it has to be the same.

Boardmember Quinlan: Well, we can talk about that, too, later. Alright, so the pictures say that's not a problem. Now my other set is on the north side of the house. On the second floor you have a porch that's going to be created.

Mr. Poskanzer: It's there already.

Boardmember Quinlan: There's a porch and there's a door going out of the building to that porch.

Mr. Poskanzer: Always has been.

Boardmember Quinlan: Right. Was there a porch on the old house ...

Mr. Poskanzer: Yes.

Boardmember Quinlan: ... going out on that side?

Mr. Poskanzer: I don't mean it's there from our first application, I mean it's there on the existing house.

Boardmember Quinlan: No, on the old house. Was a porch on ...

Mr. Poskanzer: On the north side there was a porch.

Boardmember Quinlan: On the second floor.

Mr. Poskanzer: On the ground level, coming out. There's no porch on our house coming out of the second floor.

Boardmember Quinlan: There's three stories.

Mr. Poskanzer: The basement.

Boardmember Quinlan: Okay, and the second floor.

Mr. Poskanzer: The first floor and the second floor.

Boardmember Quinlan: There's three stories because in the front and on both sides it's a three-story house.

Mr. Poskanzer: Three levels, I'm sorry. Three stories: a basement, then two stories above, I think, is the legal way to describe it.

Building Inspector Minozzi: It's not a three-story house.

Boardmember Quinlan: It's not a three-story house?

Mr. Poskanzer: No, it's a two-story house with a basement.

Boardmember Quinlan: Two-and-a-half.

Mr. Poskanzer: No, it's a walk-out basement and it's a common thing. And I agree with you, it's three levels.

Boardmember Quinlan: So let's see a picture of that. Let me see if there was a ...

Mr. Poskanzer: Here, it's right here. Mr. Quinlan, it's right here.

Boardmember Quinlan: On the old house.

Mr. Poskanzer: That's it, right there.

Boardmember Quinlan: That's the north side?

Mr. Poskanzer: No, this is the west side. There are no pictures from the north because there were trees and you couldn't get back far enough.

Boardmember Quinlan: I'm talking about the north side of your project. On the first floor – you want to call it the first floor, fine ...

Mr. Poskanzer: Right here, on the right side.

Boardmember Quinlan: ... there's going to be a porch.

Mr. Poskanzer: And there is there now; there was with the old house. That's not an addition.

Boardmember Quinlan: No, wait a minute.

Female Voice: You can speak, and come up.

Village Attorney Whitehead: Speak into the mic.

Joan Dinowitz, applicant: I'm the homeowner. I know my architect does not want me to chat, but that north porch, of course, has been there since Frank the Barber, in 1956, built it. But it had a concrete handrail balustrade that was never going to be to code anyway. That's gone, giving view. And it would probably be a cable rail which you can see through, and I invite you to.

Boardmember Quinlan: Okay, so you're going to put a railing there. So there was a porch on that side.

Mr. Poskanzer: There always was.

Boardmember Quinlan: Okay. So let's talk about the Lomolino property. The old house, what was the square feet of the old house? Don't guess, tell me what the square feet was.

Mr. Poskanzer: I don't know.

Boardmember Quinlan: You mean when you bought that house you didn't know the

square feet?

Mr. Poskanzer: What was it?

Village Attorney Whitehead: If she knows it.

Ms. Dinowitz: I only bought it two years ago. They considered the basement zero because it had, you know, no egress or whatever. And then a thousand square foot footprint, then the upper level which they had some proportion. I think it was like 16-hundred, 17-hundred square feet total? But that bottom was for tax purposes. No one counted the bottom as ...

Mr. Poskanzer: We have the number on here, Mr. Quinlan, if you want to take the time.

Boardmember Quinlan: Okay, that's fine. Tell me.

Mr. Poskanzer: Let me find it.

Boardmember Quinlan: But we're not counting the basement?

Mr. Poskanzer: I'll give you the numbers that we submitted when we made the original application, where all of those things, I believe ...

Boardmember Quinlan: All right, go ahead because this is new to me. I wasn't here the last time.

Village Attorney Whitehead: By the way, I got them to close the door. And I turned down a piece of carrot cake because I thought I'd have to bring some in.

Chairman Collins: That was ...

Village Attorney Whitehead: Big of you.

Chairman Collins: That's a big move.

Village Attorney Whitehead: But I closed their door, so ...

Chairman Collins: Thank you.

Mr. Poskanzer: I'll look for it through here to get you what you want.

Chairman Collins: Mic, microphone.

Mr. Poskanzer: Buddy, there's no number that talks to specifically the existing total FAR. There's no number.

Building Inspector Minozzi: Because we didn't have FAR at this point in time.

Mr. Poskanzer: Right.

Village Attorney Whitehead: But the owner has testified ...

Mr. Poskanzer: It's about 15-hundred square feet of existing house. Less than that because it's a thousand square foot footprint and the partial attic that was usable in the original house. And now it's 2,000 feet on those two floors. That's the difference in square footage; the difference between utilizing on the second level what was in the attic.

Boardmember Quinlan: So what was the square footage of the original house?

Building Inspector Minozzi: He just said 15-hundred.

Boardmember Quinlan: Okay, and what's the square footage of ...

Mr. Poskanzer: Two-thousand.

Boardmember Quinlan: So the new house is 2,000 and the old house is 15-hundred. So we have a 500 square foot bigger house in the new house. Okay. Because it seems to me common sense would dictate that when you square out a house it gets bigger, it looks bigger. It's funny, I walk down the Aqueduct forever and I never really noticed there was a house behind the Lomolino property. And now when I come up William Street or I go down the Aqueduct, everything I see this big block of a house. This is just my own subjective view, right? And it is 500 square feet bigger, so that helps.

I want to ask you little questions about the stop order. There was a stop order put on this house, right?

Mr. Poskanzer: That's correct.

Boardmember Quinlan: And you didn't stop work, did you?

Mr. Poskanzer: That isn't correct.

Village Attorney Whitehead: No, they were allowed to continue some certain work.

Boardmember Quinlan: Okay, let's get it straight. Explain to me what the stop order said and what was allowed.

Building Inspector Minozzi: Okay, the original was a stop work order until we could figure out the height of the house, if there was a problem, and how we were going to solve that problem. We got the height – we knew the height was right – but there was a photographic, or artistic, issue. I at first issued a verbal stop work order until we could come to a conclusion. Once we came to the conclusion, we issued an official work order. It was asked of me could they make the house watertight under their own ...

Boardmember Quinlan: At their own risk.

Building Inspector Minozzi: At their own risk of having to take anything down. After discussing it with counsel we decided that yes, they can make it watertight, they can make the entire building watertight, and stop there.

Boardmember Quinlan: Okay. So what did you do to make the house watertight?

Mr. Poskanzer: We put the roof on, and that included of course the framing that was there for the parapets, et cetera. When we got the first notice we took the piece of parapet down that we indicated along the front that had originally been there because we thought that was at least an attempt to try to show that we weren't trying to be in anybody's way. Subsequent to that, we have the request from the planning board at their review of this. But we take the sides down also because they thought they were having a significant impact. We don't have to agree or not, that was the comprise and that was the agreement with the planning board.

Boardmember Quinlan: All right, so we'll just get back to that.

Building Inspector Minozzi: I think what Mr. Quinlan was asking, though, is what they do to make what we allowed them to put the roof on. We'd rather put the house wrap on, the windows in. I was there today and made sure the insulation that they're putting in that's going underneath the siding is not going above the two-story window. It's leaving the top third of the top floor untouched as far as putting any more building products on the house. So right now it's watertight.

Boardmember Quinlan: And that's all that was done.

Mr. Poskanzer: And work that we were told. We could do work from the wiring and things inside, lower than that height if we wanted to, at our own risk.

Building Inspector Minozzi: I was inside the house today. There's no work being done on the roof structure. They're doing their plumbing, which is lower, they've not even started the electrical work yet. Right now they're actually working on the plumbing, they're working on the retaining walls, and whatnot like that. They've gotten the roof to a watertight situation, and I spoke with the contractor and the owner today to make sure that there is no more building going on above the window line.

Boardmember Quinlan: So the basement is still going to be a basement?

Mr. Poskanzer: It's still a walk-out space, yes, just like it was.

Boardmember Quinlan: Yes, but what are you going to do for that space? Is it going to be a basement or is it going to be a living unit?

Mr. Poskanzer: I'm sorry, that was part of my original testimony about using that space. There's a bedroom on that floor, there's a little workout room on that floor, and some storage and mechanical equipment. We're replacing what was a driveway that went all the way around the house and took the grade down, moving those cars up to the front.

Chairman Collins: Jerry, can I ask are you circling around an idea of how they might be able to get this thing to minimize the view?

Boardmember Quinlan: Well, you know, I'm not going to sit here and talk about minimizing too much, but nowhere in the zoning code does the word – when it comes to view preservation – is there a word called "minimize" that I've been able to find. It basically says that we're supposed to look at the best sitting (ph), the best dimensions, and the best configuration to cause the least possible obstruction of the view of the Hudson River and Palisades .

Mr. Poskanzer: Right.

Chairman Collins: That's right.

Village Attorney Whitehead: The least possible.

Chairman Collins: Yes, that's right.

Boardmember Quinlan: Okay, so what I'm saying is, at least in my opinion – and I'm not an architect – I don't think the siting could have been better and the configuration could have been better so that *no view* would have been impacted.

Mr. Poskanzer: Did you say "siding" or "siting?"

Boardmember Quinlan: "Siting."

Mr. Poskanzer: That means moving the house from where it is.

Boardmember Quinlan: Well, it means moving it around. I don't think it says moving the house, but maybe it does. You're the architect.

Mr. Poskanzer: If you're using the word "siting," with a "t," and I'm building on top of the existing foundations at the existing lines that they were – and, in fact, never intended to rebuild that second floor because it was already there – it looks like it's new construction. But it's the reconstruction of the existing condition, which we're abiding by.

Boardmember Quinlan: You know, it doesn't seem to me that this is an addition. Because if you look at the house it doesn't look anything like the old house. It's all concrete now.

Mr. Poskanzer: It's not concrete.

Boardmember Quinlan: Well, whatever it is. What are the walls made out of?

Mr. Poskanzer: It looks like siding materials.

Boardmember Quinlan: But it doesn't look ... I mean, it has a whole second floor. Now maybe you can call that an addition, but I call it a tear-down. And that doesn't make any difference, really, what it is. It's view preservation. All right, so let's say I was wrong on the siding. What about a configuration? Squaring off the house, I think, made it bigger and impacted the view. And you could've done better. That's in my opinion. I'm only one guy, so ...

Mr. Poskanzer: I understand, and you have a responsibility to be comfortable with what this board decides. Your other boardmembers have said these are minimum heights that exist for good construction, modern-day time. We did not change the heights that were already there before. The confusion that this is new construction and therefore we have more flexibility belies the fact that we only have new construction because the old was rotted, not because we're actually doing something new. We're doing what was there and replicating

that as close as we can, according to the new building codes.

So this is a head-on ... this is an addition to the two lost triangles on the outside of the peaked roof. That's the addition that we're doing and so for me, this is comfortably called an addition.

Boardmember Quinlan: Okay. Let me just see if I have any more questions.

Chairman Collins: One thing I'll point out while Jerry's going through his notes is the spec here. Even though we don't have the square footage of the home, what we do have is building height and length for existing as proposed. I want to point out that the building height in both cases is listed as 23 feet. Is that accurate?

Mr. Poskanzer: Correct.

Chairman Collins: And the building length is 40 feet. Is that accurate?

Mr. Poskanzer: That's correct.

Chairman Collins: So the only dimension left to play with – outside of the utilization of that footprint, which could change – would be the depth of the home.

Mr. Poskanzer: Towards the river. No?

Chairman Collins: Yes, that's right.

Mr. Poskanzer: You mean height?

Chairman Collins: No, the depth. You've got ...

Mr. Poskanzer: Height is right.

Chairman Collins: Right.

Mr. Poskanzer: Height is less than peak was.

Chairman Collins: Right.

Mr. Poskanzer: The width is the same as it was. And the depth east to west is also the same as it was.

Chairman Collins: So the increase in square footage, is that just more efficient utilization of the space that you're in?

Building Inspector Minozzi: The second floor, Matt.

Mr. Poskanzer: Sure. And in fact, in keeping with our first original discussion and this board's comment, rarely do we see something that does so little to an existing site. We would expect to see much more, or a tear-down, or something like that. My client and I went out of our way not to do that to be able to come to you and say we didn't enlarge the footprint of the house.

Chairman Collins: I'm trying to establish what the dimensions are and what they will be. Because I do think it's important to understand how all of those dimensions worked together and how they work together now, and what are the explanations for not just the perception of an increase in space but what is measurably a bigger home now. But when you look at the X and the Y and the Z dimensionally it's exactly the same.

Boardmember Quinlan: Well, I don't know. I think common sense says when you have the old house that had curves and everything, and now you square it off, it becomes more of a structure than the houses behind it. That's common sense.

Mr. Poskanzer: I think the word I could introduce is, it became "blockier" because we squared up the second floor. There is no doubt. That's what we testified to and that's what we were doing, and that's the minimum we could do to add to this to get 5- or 6-hundred, 4- or 5-hundred more square feet of usable space. Which is what we tried to do.

Boardmember Quinlan: What I'm saying is that the configuration makes it a more obstructive view than it was before.

Mr. Poskanzer: And we testified that that was true. I'm sorry, I *presented* that that was true.

Chairman Collins: Here is what I would propose, unless there's something else, another point you'd like to make. I want to give the other boardmembers a chance to speak up.

Boardmember Quinlan: Yes, that's fine. I want to talk a little bit about the picture from the first hearing. I just want to mention something. We rely on pictures all the time, okay? And when you presented that picture that you call a mistake – which is fine, it was a mistake – that's a problem for us. Because in every case we rely on pictures, and they're all

photoshopped. I don't know who in your office made that original picture that caused all this problem, but that's a problem for this board when that happens.

Mr. Poskanzer: We understand.

Boardmember Quinlan: I know you understand. And you're from New Jersey so I'll probably never see you again.

Mr. Poskanzer: I hope you will.

Boardmember Quinlan: Yeah, well, we'll see. But that's a problem. You know, we're not going to do anything about it, but it sends a bad message to everybody else. All these pictures are photoshopped, and I have a problem with someone that introduces a picture that is inaccurate. So that's my last thing I want to say.

Boardmember Dovell: There was a mockup, correct?

Mr. Poskanzer: Yes.

Boardmember Dovell: Made out of wood, on the original house, right? If you look at your drawing A-6, could you address that a little bit? It was mocked-up in wood on the house, on your drawing.

Mr. Poskanzer: Right here.

Boardmember Dovell: Above. The one above, drawing number one.

Village Attorney Whitehead: The picture of the mockup.

Boardmember Dovell: Right. Now, is this accurate?

Mr. Poskanzer: Yes.

Boardmember Dovell: And were photographs taken of this at the time? So this was part of the original ...

Mr. Poskanzer: When the mockup was built.

Boardmember Dovell: This was part of the original testimony ... I won't use the word "testimony."

Village Attorney Whitehead: Original presentation.

Boardmember Dovell: The original presentation. This was part of it, and this hasn't changed.

Mr. Poskanzer: That's correct.

Boardmember Dovell: Well, this was out for everyone to see, correct?

Mr. Poskanzer: Correct.

Village Attorney Whitehead: So if you saw the original mockup, what you saw ... well, the pictures were a mistake. The pictures were not correct, right. But if you actually went out there and saw the mockup, what you visually saw was accurate.

Boardmember Dovell: Was accurate, okay.

Chairman Collins: Is there anything else that you wanted to add for this?

Boardmember Dovell: No. I just want to point out that this site is a 10,000 square foot site that right now could contain a house of 75-hundred square feet; a three-story, 75-hundred square foot, three-story house. You know, I just go back to the word "modesty" here, and the fact that the only way you could really diminish the view would be to move the house back towards Ward Street. That's the only way to diminish the view preservation on a two-story house, and they elected not to do that. They elected to build on the foundation. It would've been improved a little bit because the distance from the setback line – the front yard setback line off Ward Street – to the house is what? Do you follow what I'm saying, Matt?

Mr. Poskanzer: Yes, 25.9 feet.

Boardmember Dovell: What you could have done would be to move the house like this.

Village Attorney Whitehead: The front, what's the front?

Mr. Poskanzer: Eighteen-point-two feet is the existing.

Boardmember Dovell: To the existing. And the setback is – I should know this – 12 feet. So it would've been 6 foot of difference to push it in that direction.

Mr. Poskanzer: Right.

Boardmember Dovell: That's the only way the view would have been minimized from this.

Mr. Poskanzer: Correct.

Chairman Collins: And then it creates its own issue.

Boardmember Dovell: Right.

Boardmember Quinlan: All right. So I just want to say one last thing. You know, beauty's in the eye of the beholder. But if you go down and look at this house from all sides I would not call it a modest house.

Chairman Collins: Yes?

Village Attorney Whitehead: Let the other two boardmembers ...

Ms. Dinowitz: I just want to address Mr. Quinlan again. I totally get what you're saying. It's very emotional when you're down on William looking up. You may realize that all the time you lived in this town there were Norway maples that were 30 feet high that are now no longer there. So a lot of that kind of visceral reaction to the house is the fact that it's not screened from William. That's just a fact. I just want to say I totally get that it impacts from below, but that's a matter of trees and not necessarily about views.

Chairman Collins: Okay, thank you. Carolyn, do you have anything?

Village Attorney Whitehead: Could you just let the other two boardmembers speak, and then we'll get to you.

Female Voice: Yes, I just wanted to remind the chair that we'd like to speak.

Chairman Collins: Yes, you'll get your chance. Carolyn?

Boardmember Renzin: I actually don't have ... I do think it's a modest use of the space. I think that it does have an impact, a visual impact, on the Aqueduct. But I don't think that it is an inappropriate impact on the view. So I'm in favor of the application.

Chairman Collins: Okay. Jo?

Boardmember Berritt: Yes. So I struggle with the impact on the view because I do think that there is something about seeing both sides of the river when you can see from shore to shore that is being taken out because now you only see one shore. That's part of having ... you know, that's why people have viewfinders because there is something about the borders of views creating the views. So the impact here, with the roof, does take away that shoreline. And even though the view remains, it has an impact.

I guess one question. The parapet is for what?

Mr. Poskanzer: Well, it's part of the design on the sides with the proportion of the house.

Boardmember Berritt: Right.

Mr. Poskanzer: But it's effectively been removed on the side ...

Boardmember Berritt: All the way around.

Mr. Poskanzer: Well, not on the east side because it has no impact. You still see the entire flat roof beyond that.

Boardmember Berritt: Right, but the idea is to slope the sides down.

Mr. Poskanzer: Slope the sides and eliminate the piece on the west side so that whatever extra bit of waterfront you might be able to see, or the river, is now available.

Boardmember Berritt: Right. And the ceiling height is, you were saying, Ray, is sort of tight. So there's not much ...

Boardmember Dovell: Eight feet, or maybe an inch more, right?

Mr. Poskanzer: Right.

Chairman Collins: What's the building code require?

Building Inspector Minozzi: Minimum 7 feet.

Village Attorney Whitehead: I just want to point out, because you're talking about the shoreline, that we have to live with the code and the code is very specific about the river and the Palisades.

Boardmember Berritt: So it's not ...

Building Inspector Minozzi: No.

Boardmember Berritt: That's too bad because it makes a difference.

Building Inspector Minozzi: Standard practices are 8 feet. They'll be code minimum with 7 feet.

Chairman Collins: All right, why don't we open it up for anyone in the public who wishes to be heard on the case. Just as always, introduce yourself before speaking and tell us where you live.

Building Inspector Minozzi: Barry, can you just take your drawing down so Ms. Lomolino can put her drawings up? Thank you.

Christina Lomolino, 24 Aqueduct Lane: Good evening Chairman Collins and members of the zoning board. I'm the president of 24 Aqueduct Lane Condominium, located just across the street from this project. I'm also the homeowner on the top floor with the river views most impacted by this project. I'm an attorney and I'm a former city attorney for the City of Yonkers. As the founder and chairperson of the Quarry Park Project, I've spoken out in the past out of concern for the public views from the Aqueduct for the Nodine Street project. I hope that this board will give this case the kind of care and attention that was evident in that case.

I'm here to ask you to uphold the Hastings view preservation law and protect the magnificent river views from our unique 1929 brick factory building. This building is one of the last such buildings in the Village, and one with a very storied past. I'm asking you to do your best to protect these views not just for me and my family – who have delighted in them daily for more than 22 years – but also for all future owners, occupants and visitors to our building extending far into the future. Once gone, these river views can never be gotten back, as you know.

There's something else at stake here, and that's the board's right to see presentations that fully and forthrightly show the board the view impacts of the projects in order to protect the integrity of the board's decisions which are based on those presentations. A serious wrong has been done here, and I'm calling on this board to please correct it. It's not too late, and there are available remedies. The board is not hemmed in and, in fact, the designer of this project was not hemmed in either. This is a new application, and the board has the full authority to make the same mitigations and design changes to the project as it would have

initially had the board been properly informed.

The board's original decision on this project should be disregarded because it was based on false information from the project architect about the view impacts. The board should call for design changes to comply with the law, and the developer cannot claim hardship because any costs of the changes to the developer are self-imposed to the degree that they continued building after they were on notice. The real question for the board right now is, is this proposal the *least possible* obstruction of the view of the Hudson River and the Palisades for neighboring properties. And what I just said is the exact language of the view preservation law: the *least possible* obstruction. If it's not the least possible, then the board can correct or remedy.

There are some mitigations that can be done. For example, the western wall – and you can look in your packet – of the top floor can be moved east by a few feet. There are many buildings like this where the top floor is slightly smaller than the bottom floor on a two- or three-story house. So the western wall can simply be moved east on the top floor, and this will take it out of the view. Or the western third of the roof can be dropped down by a few feet. There are many ceilings and many roofs that are not uniformly flat but that dip down on one side, and if it were dipped down on the west side it would also take it out of the view. The parapets can be completely removed. And this wing wall, which is a design flourish and not integral to the functioning of the building at all, can be reduced in size.

The presenter for this project has given false presentations at no less than three view preservation hearings. Rather than faithfully informing the boards of the obstructions to the views, there's been a bit of a game of hide the ball. Instead of making honest presentations, the attitude toward view preservation on this project has been, as one planning board member put it, "It's easier to ask for forgiveness rather than permission." At the very first planning board meeting for view preservation, the architect had a professional obligation to inform the board of just how the project would impact the river views. But that didn't happen. Virtually no mention whatsoever was made of the views that were the very most impacted: the expansive river views from the third floor of our building, located right across the street from the project.

For that matter, the impact on the views from the buildings on William Street was also not mentioned. When the planning board members, doing their jobs, specifically asked about this they were told that the home I own on the third floor was too high to be affected. At one point, Planning Board Member Alligood, who had visited the site, asked about the views from our building. And the project architect dismissed her concerns by saying, quote, "The third floor would be above the building, okay? The third floor is actually looking down on the roof." This was an utterly false statement. In fact, the western views toward the river are

significantly impacted. When the members of the planning board asked about the views from the buildings on William Street, they were told that those buildings were too low to be affected. None of this was the case.

Instead, the presenter focused the board's attention on his claim that the new construction would be less high than the original building; leaving even architects and career planners on the board with the false impression that the views would be even less impacted than by the original building. At the second hearing of the planning board, the presenter became even more aggressive in misleading the board. At the insistence of the members of the planning board a wood mockup was erected at the site that also showed no obstruction to the views from the third floor. Even more, at the board's insistence the famous photoshop of the proposed building superimposed on a photo of the original building was brought in and it showed an actual *improvement* to the third floor views. All of this was repeated at the original zoning board meeting before this board.

The false impression created was so pronounced that the chairman of this board, with many years of experience, praised the project as, quote, "Without any change to the view than what was already there." The project architect, standing right there next to his false rendering, offered not a word to correct this misunderstanding. Operating in good faith, the best of good faith – but based on the deceptive presentations – the boards voted their approvals. And me and our other condo boardmembers were equally satisfied that we had nothing further to worry about.

Now, having actually concealed the actual view preservation issues in no less than three public hearings, the project architect says it was all a good faith error. But in fact, the last time the project was before this board members actually questioned the false rendering of the photoshopped and superimposed building, and the project architect actively defended it by saying, quote – I'm quoting him – "It scared us, even." We're talking about the photoshop. "It scared us even, so we went back and looked at the photoshop and the matching of the new building on the photo of the existing house and it is, in fact, accurate," unquote.

Taken altogether – the failure to disclose the view and impacts from our building and from William Street, the misleading impression that the lower building height translated to less obstruction of the view, the false photoshop – this looks less like an innocent oversight and more like a rather skillful concealment of the view impacts, both verbally and through the submission of misleading graphics. The presenter ...

Chairman Collins: Excuse me a second.

Ms. Lomolino: Yeah.

Village Attorney Whitehead: I think it's inappropriate to be accusing someone of deliberately being deceitful.

Ms. Lomolino: Well, that would be the board for to decide. And I'm almost done with that point, Linda.

Let's talk about the law. The law says that we should have the best siting, dimensions, and configuration of principal and accessory structures so as to cause the least possible obstruction of the view of the Hudson River and the Palisades for neighboring properties. The *least possible* obstruction, not just having a good intention to *minimize* the obstruction. This was a modest house. I'll show you – or you can see in your packet, actually – what the house looked like in the beginning. What we really have here is a house that was demolished to the ground on Ward Street, and then completely rebuilt, but keeping the foundation and parts of the basement. So there was a lot of opportunity to craft a house that did not interfere with the views.

The builder was not hemmed in by the old house, and I'll show you more pictures of this later. The reality here is that the building has been designed to maximize the owner's own river views and maximize the financial value of the new construction by reducing the views and the financial value of the neighboring properties. In fact, these are just the kinds of desires and tendencies that the law was designed to curb.

At the recent planning board meeting, the members said they were very troubled by the false presentations. Nobody said that the new proposal was the least possible obstruction. Most felt that the project architect should have come prepared with plans to mitigate the problem. Most members said that if the original presentation had been faithful they would surely have insisted on design changes to reduce the intrusion in our views.

Village Attorney Whitehead: I don't think that's exactly accurate from the discussion. Some members did say that. I don't think it was all.

Ms. Lomolino: I didn't say all, I said most. Most members.

Village Attorney Whitehead: I don't even know that it was most.

Building Inspector Minozzi: It didn't say most either.

Village Attorney Whitehead: Yes, I think it's just a misrepresentation.

Ms. Lomolino: Well, we could go back and look at the transcripts, Linda.

Village Attorney Whitehead: And ultimately they did make the recommendation to this board. So ultimately they did believe, with the changes, that it did represent the least possible or they wouldn't have made a recommendation.

Ms. Lomolino: I'm sorry, I'm going to have to dispute that, Linda. And I have the greatest respect for you, but I would say ...

Village Attorney Whitehead: Chris, they *voted*. They voted.

Ms. Lomolino: Yes, but not because they thought it was the least obstruction. Because they balanced ...

Village Attorney Whitehead: That's the only way they can vote. That's what the (cross-talk) says.

Ms. Lomolino: Because they balanced the hardship to the owner.

Village Attorney Whitehead: Which is how they reached the conclusion of the least possible obstruction. It's a balancing.

Ms. Lomolino: Well, it's for the board and I don't think we should get into a dispute about it.

Village Attorney Whitehead: Well, I just wanted correct for the record. I think you were misstating what happened at the planning board meeting.

Ms. Lomolino: I don't believe I did. What they overlooked in that case is that there is no hardship to the builder that they didn't inflict on themselves by somewhat putting more money into the building after the stop work order.

Village Attorney Whitehead: They specifically did not take that into consideration.

Ms. Lomolino: Yeah. Okay, I have some photos I'd just like to show you.

Chairman Collins: Make sure you use the portable mic there.

Building Inspector Minozzi: Oh, there it is. Thank you. Just make sure it's on?

Ms. Lomolino: Yeah, I think it's on.

Okay, so there's a walkout basement on the side and in the back, a single story, and a peaked roof with an attic. And then it was demolished. I'll show you that one. Okay, this is to show that the house was in fact demolished right down to the top of the basement here and the foundation. So there were many possibilities. It was not dictated that the current structure had to be as high as it was. There were a lot of opportunities to design the least possible intrusion into the view.

So earlier, members of the board requested a picture of the old view from the third floor over the old house. This picture was actually taken by the owner of 3 Ward Street. So you can see the entire river from the shore up, and the entire Palisades were visible from the third floor of the building, from my home, when the old building was there. This is the photoshop of the proposed new building that is now declared to have been in error but which was very instrumental in the board's original evaluation of this project. And as you can see, it's even more stepped back from the shore. It continues to have no impact here of the entire river and the Palisades. This, again, is superimposed on the photo of the original house that I just showed you before. Small wonder that the boards voted that there was no problem with view preservation.

Okay, this shows the old roof at this level, the photoshop at a similar level, and the actual construction, which is up here. And you can see it slices off a portion of the river. By the way ...

Village Attorney Whitehead: That's not the revised plan, correct? That's the plan ...

Ms. Lomolino: This is the old plan, yeah. Yeah, there's a small alteration here that the planning board suggested. I would just like to point out that this argument – that the project could've been built this high, and graciously acceded to building it lower – is not a very good argument because this would only be the case if the project was not in the view preservation zone. But it is in the view preservation zone so there really was no opportunity to build this high.

Chairman Collins: Well, actually I think there was. If they had not built on the original foundation – given the lot size and dimensions in our code – they certainly could have. And they would've been within their right, and then we would be having ...

Village Attorney Whitehead: Well, it still would've been subject to (cross-talk) ...

Chairman Collins: Yes, of course. But we would be having a conversation about how do

you minimize the view, given that envelope. And what we're talking about here is how do we minimize the view, given this envelope.

Village Attorney Whitehead: Or if it had been done before the Anaconda buildings came down.

Chairman Collins: Yes.

Boardmember Dovell: Right.

Ms. Lomolino: This is the current view, taken just a couple of weeks ago, from the kitchen and dining area of my home. I note that there was a panoramic view that was shown to the board, and I would just say I saw that view and it was not taken from my home. It was taken from someone – I gather, I think – hanging out on the fire escape to our building. And the camera was pointed south, which diminished the impact on the view because we have 10 windows with direct views of the river westward and this is what we see currently.

In terms of remediation, in terms of mitigating this problem, it's really the western edge of the building that's the problem. Therefore, it should be possible to drop down the western edge of the building a few feet. Or to take the top floor of this building only, and only the western wall, and move the western wall inward a few feet. Which would take the roof of this building entirely out of the view. It will also help the views from William Street, which we'll hear about shortly. And removing the parapet altogether, in addition, would also remediate the problem. And it would also, incidentally, restore to Irene Cornell – who owns the second floor unit ... it would restore her view of the Palisades, which has been slightly attenuated by this building.

So that is my suggestion and I hope the board will consider those.

Village Attorney Whitehead: If I can just remind the board, for the record – and I did this with the planning board as well and I didn't really have a chance to do it at the beginning of the meeting tonight – you should be looking at this, and I think you referenced this before, as if it was coming to you today; forgetting the history, as if it was coming to you today as proposed. You have the benefit now of actually – I think most of you have been out there – being able to see the actual condition. And, of course, with the change the planning board requested the side parapets now are not the same as what you see here.

You've had this benefit, so we ask that you look at it as if this is the application presented, forgetting about the history, and be consistent with the prior decisions this board has made over the several years.

Chairman Collins: Okay. Does any other member of the public ... yes, ma'am, please just come forward and introduce yourself.

Marylee Sachs, 19 William Street: My husband and I live at 19 William Street. We bought that property about 3-1/2, 4 years ago and redeveloped it. I just would like to say a few words tonight about the development. I'm going to put these up and pass these out, and then I'll come back and use the mic here.

Right, so I have four points I want to make and I'll try and be as succinct as possible 'cause I think we've all gone quite late enough tonight. I don't want to keep people longer than need be. I believe that at a meeting previously somebody made the point that views on William Street are not affected by this new property. Clearly, they are. We are above the property, we are across the street from Chris' apartment building, and this is the view that we see now. And this is from the top floor.

So if you go down, we are a three-family, four-floor apartment building; well, not apartment building, three-family home. If you go down the lower floors, this view is even more pronounced. So our tenant on the ground floor has a horrible view now, and that was not the case before. If you look at the other picture I gave you, that is the view of what it looked like before, with the cottage.

And I would just like to pick up on Mr. Quinlan's comment. I have a dog, I walk along the Aqueduct every day; I walk around this property every day. The view from the Aqueduct is definitely affected greatly. I mean, as you said, I never even really knew there was a house there before. But it is a large lump now that you see from the Aqueduct and it definitely affects the view of the river. So that's the first point I want to make.

The second point is kind of different. We developed our house – we worked with the developer – and I can tell you that developers are looking at this development as setting a precedent. Now, I don't know what this village wants to stand for. When we moved here, it was all about keeping the look of the Village, it was about view preservation, it was something that we aspired to, which is why we moved to Hastings. I would suggest to you that what is now taking place is being watched and will be watched as setting a precedent for further developments in this village. That may be important to you, may not be important to you.

I get the sense, and I didn't ... I was not at the last meeting, the view preservation meeting that was talked about earlier. But I did watch it online, the whole proceedings about this property, and I do get the sense that there was a stop work order. I understand that they

wanted to protect the building from the snowstorm that was happening and the elements coming into winter. But there was some discussion at that meeting about not wanting to penalize the owner because so much work and effort had gone into the building. And that work and effort has continued to go on. That was my takeout from watching it online.

Village Attorney Whitehead: (Inaudible) watch it. I do not believe that was actually a relevant part of the discussion.

Chairman Collins: Okay.

Ms. Sachs: Okay. The third point that ...

Boardmember Quinlan: Can I just say ... let me just interrupt that. Was it discussed or not? Was it relevant?

Village Attorney Whitehead: I don't think it was even discussed because we made it very clear to the board that they had proceeded at their own risk. So it wasn't supposed to be something (cross-talk) ...

Chairman Collins: I just ... I'm struggling to see the relevance. That building inspector explained the permit. I haven't heard anyone say that the permit was ... that the permissioning (ph) public hearing was inaccurately depicted or violated. And no one is arguing it, so ...

Boardmember Quinlan: I agree with that.

Village Attorney Whitehead: And it was clear they were proceeding at their own risk.

Boardmember Quinlan: That's why I wanted to explore it, and I did. I'm going to hold my comments about the subjective viewpoints of why and how and where the planning board did, and why they made their decision because I don't think anybody knows what the three members there were thinking. I viewed it on the ... I tuned in to the actual hearing on my computer the day of the hearing. So just take that ... there's been characterizations about what happened and, you know, they did approve it, they did make some modifications. But why they did it and how they did it, what they were thinking, I don't think any of us really knows what happened except what exactly they did.

Ms. Sachs: Okay.

Boardmember Quinlan: They approved it with conditions. It was a long meeting, there

were a lot of questions, a lot of answers, a lot of opinions made during the entire meeting.

Ms. Sachs: As a person who owns a property in Hastings, having gone through this process ourselves four years ago, I just feel like there has been a lot of misrepresentation around this particular property. And I watch it with great interest because I remember what we had to go through. I remember all the way down to things like paint color and trim on the house, and I don't see that attention and detail being given this particular project. So when I see it affecting my view and I see the lump that is there from the Aqueduct it causes great concern.

So the third point I would like to make is this issue of misrepresentation, which really comes back to the lack of attention to detail on photoshop representations and not being able to answer questions about dimensions. I find that really worrying. Our architects had to deal with that to the nth degree and I don't understand why that isn't being demanded in this particular case.

Chairman Collins: I think they've satisfied it, though.

Village Attorney Whitehead: Could I just make one ... I'm sorry.

Chairman Collins: I'm just saying that I recognize all of that. That if we agree that the renderings are accurate today ...

Ms. Sachs: Mm-hmm.

Chairman Collins: ... then that's what we're going to evaluate today.

Village Attorney Whitehead: And one clarification. Their project, because it was a three-family, had to go through site plan approval. This is not here for site plan approval. It didn't require site plan approval, it's only for view preservation. So there is a different type of review involved by this board versus what their project went through. So that's why some of that was clearly different.

Ms. Sachs: Okay.

Village Attorney Whitehead: It was a different process.

Ms. Sachs: Okay, that's good to know.

The fourth and final point that I would just like to make – and it kind of comes back to the second point about setting a precedent – again, we came here because we love the Village.

My sense and my husband's sense right now, in looking at the street and what's happening, is that this development is devaluing the street. It's devaluing our view and some of the views of the others, it's devaluing the view from the Aqueduct, and it's really bringing down the value of the street. You know, there was a beautiful little cottage there before, and now it's something that is taking over the view of the street.

So I would just question what has changed in the last four years. Are you looking at rules more leniently, are things going to be allowed more leniently? It's just a question because I don't quite understand how this has come to be.

Village Attorney Whitehead: The only jurisdiction that this board has to look at is the impact on the view of the river and the Palisades, not just what the building looks like in generic terms.

Ms. Sachs: But that was my first point; that's what I tried to focus on first.

Boardmember Renzin: Can I ask a question about that? Because I feel like a lot of what we're hearing tonight from everybody is sort of the assault on the eyes, the eyesore nature of a square versus a little cottage; the sort of bright white versus the blue. And all of that may be true: that there is a difference in the visual impact of this building versus the cottage that was there before. But I keep hearing what we're supposed to be looking at, which is how much is it obstructing the Palisades and the river.

So that is the only thing that I'm looking at, but I think that there's a lot of energy around the other issues. And I guess my question is, is there anything that we should be doing as it relates to sort of the visual impact of this building other than on the river and the Palisades.

Village Attorney Whitehead: Your only jurisdiction is the impact on the river – the impact on the river, view of the river and the Palisades.

Ms. Sachs: So I come back ...

Boardmember Quinlan: Excuse me for one second. I'm just going to read to you what the view preservation says the purpose is, okay? The purpose, in the law, is: *"The purpose of view preservation law is to protect and preserve the character of the community, to preserve and enhance property values, and to promote improved visual relationships between the Village and the Hudson River and the Palisades."*

So to answer your question, I think that this lump of a building – and it's all subjective on what our opinions are – we also, because of the purpose in the law that we have to talk about,

does it promote and improve visual relationships between the Village and the Hudson River and the Palisades, does it preserve property values of William Street, and does it preserve the character of the community. That's the purpose of the law.

Village Attorney Whitehead: With all due respect to Jerry, who is an attorney and who I respect, the purpose is something that is sort of in the background. But you have actual ...

Boardmember Quinlan: (Inaudible).

Village Attorney Whitehead: You have actual standards – I'm speaking as ... you have actual standards that the law requires you to apply.

Boardmember Quinlan: And I think, as a lawyer and as a former trustee ...

Village Attorney Whitehead: Speaking as your lawyer.

Boardmember Quinlan: Yes, as our lawyer. You mentioned that I was a lawyer. I mean, I didn't tell anybody.

But, you know, as a former trustee who ran on the values of preserving the character of Hastings-on-Hudson, and won in three elections, the purpose of the view preservation law includes to preserve the character of the community. We cannot ignore that: what does it mean to you, what does it mean to you when you talk about the best configuration to cause the least possible obstruction? We can't ignore the purpose that's in the law. We can interpret it – and we each will interpret it in our own ways, and I respect everybody's right to interpret it different than mine and to your ways – but it is part of the law and it has to be taken under consideration. That's my view.

Chairman Collins: I would agree with that. I think that the view preservation law, though, if you keep going gives us one lever to pull. And I'm simplifying. It doesn't say, for example, that we can go back to the applicant and tell them to change the color of the building or to change the materials that they use. The one tool that it gives us to fulfill the objective is – and I was using the word "minimize" – to come up with a scenario that has the least possible impact on just two elements. It goes back to the river and to the Palisades.

Boardmember Quinlan: Right.

Chairman Collins: So for all of its purpose, it's context, and its orientation there is really only one way we can achieve it. So I would encourage this board, and I would encourage anyone who's observing, to recognize that we as a board can only make a decision based on

impact on the view. We *cannot* look at whether we like the shape of the building or the materials that they're using or the color that it is. You know, I suppose that's a planning board or architectural review board consideration, but it can't be ours.

Boardmember Berritt: It's nothing to do with us.

Boardmember Quinlan: But I don't think we can ignore the purpose.

Chairman Collins: I agree, I agree. We just have to know that we are limited in how we can fulfill it.

Boardmember Quinlan: I don't exactly agree with that, but you know that's what makes a horse race. But we also now have some new presentation from the owner of William Street about their view impact. And ...

Village Attorney Whitehead: Could you tell us – I'm sorry – where these were taken from?

Ms. Sachs: Yeah, but these aren't apples-to-apples pictures.

Village Attorney Whitehead: Yes. I think we need to understand the context for these.

Ms. Sachs: So this one is taken from our ... our living room is on the top floor of the building, okay? We added a terrace off of that room as a variance two years after we finished the building, so this is from our living room that looks straight out. This is the little cottage that was there before. I don't have a lot of photos of it because I didn't take a lot of photos of it. This is one of the few photos that I have.

This is from our dining room, which is at the front of the house, looking straight out. So you're right, this post ...

Village Attorney Whitehead: It looks further away.

Ms. Sachs: ... is the same as this post. So you could be looking this way, but you still have this sticking out. Where the cottage was – here, the cottage had a pitch – the biggest difference here is the cottage had a pitched roof and the pitched roof went down.

Village Attorney Whitehead: Well, the first floor is the same, correct?

Ms. Sachs: Okay, well, the picture was down.

Boardmember Renzin: But we can't see the impact on the river.

Chairman Collins: I know, I know. You have to use a little bit of imagination to imagine lopping off an angle there, the corner of it. That's how you would try to create the apples-to-apples.

Ray, with having heard a couple of suggestions ... let me back up. I think it's important to note that the law does not say there can be zero impact on the view. Now, it's possible that "least" could be zero.

Village Attorney Whitehead: But this board consistently has not required zero.

Chairman Collins: No, you're right. It has not. And what we come back to, commonly, is what is allowed to be built, by code, in this space. Then, given that envelope and those restrictions, how do we then create a balance in minimizing the impact of the view, given what is permitted. And so with that as the context, Ray, I'm just wondering. You've heard some input.

Boardmember Dovell: Mm-hmm.

Chairman Collins: Does it jar any ideas loose about how they might be able to make some modifications?

Boardmember Dovell: In other cases that we've looked at – the Washington and Warburton, and where we looked hard at the upper floors to mitigate view preservation, and I'm thinking of the other project on Nodine Street where there was another issue with view preservation – where we looked hard at the upper floor, they were also entitled to build an additional floor, which they didn't build, as I recall. And what we encouraged them to do was to look at the second floor without trying to minimize usable area, and to drop the roof down. So what they did is, they canted the roof down to 7 feet, I think it was, Buddy.

Building Inspector Minozzi: Seven feet, correct.

Boardmember Dovell: Correct. So they lost a foot to the edge of that, and that had a large effect. They also pushed the building back because by pushing it back you mitigate the view. So in this case, that would be the only way I see to offset this.

Building Inspector Minozzi: To further mitigate what's already been mitigated.

Boardmember Dovell: To further mitigate, right.

Chairman Collins: You're saying because they can't move the building back, but what they can do is they can slope the roof down ...

Boardmember Dovell: Correct.

Chairman Collins: ... to have a 7-foot floor-to-ceiling at the westernmost edge of the house.

Boardmember Dovell: At the edge of it, mm-hmm.

Village Attorney Whitehead: And to clarify, this was not a tear-down. They worked off the existing foundation ...

Boardmember Dovell: Correct.

Village Attorney Whitehead: ... and the first floor, I believe. So that the idea of moving the whole building was not within the realm.

Boardmember Dovell: Right. If I can go backwards just for a minute, I heard from the applicant that view number one – on A-6, which shows the wood mockup – is correct. And I heard from someone speaking that that wooden mockup didn't provide, didn't illustrate, an obstruction of the river. So there's a disconnect there somewhere and I'm not quite sure where it is.

Building Inspector Minozzi: The diagrammatic dimensions are 100 percent correct to within a half an inch ...

Village Attorney Whitehead: And that's what the mockup was based on.

Building Inspector Minozzi: ... and that's what the mockup was based on.

Chairman Collins: The real mockup, on-site.

Building Inspector Minozzi: The real mockup, on-site. That's the size of the building.

Boardmember Dovell: Right. So were photographs taken of this from ...

Building Inspector Minozzi: We don't have any photographs, and none were ever produced from the complainant's window of the mockup, so we don't know.

Boardmember Dovell: But what we do know is that this mockup is exactly what's built.

Building Inspector Minozzi: That mockup is built by the same person that's built the addition.

Village Attorney Whitehead: And you've checked the measurements.

Building Inspector Minozzi: We have checked the measurements of the building itself, compared it to the plans that were submitted the first time, and they are correct. We are all here because of an artistic mistake, not a physical mistake.

Boardmember Dovell: The rendering error, right.

Village Attorney Whitehead: So if any of you went and looked at the mockup, the original mockup, that was accurate.

Boardmember Dovell: That was accurate.

Building Inspector Minozzi: It's at 0.104, and that's what the house is at.

Boardmember Quinlan: Let me just say one thing. That three of us weren't even on the board when that existed so it was impossible for us to go look at it.

Chairman Collins: That's a good point.

Village Attorney Whitehead: Yes, but the board that approved it at the time had looked at it.

Boardmember Quinlan: Yes, but they also had the fake picture, or whatever it was.

Ms. Lomolino: If I may, I believe there's been evidence that the building, as framed out, comports with the plans. But the height survey only shows that it comports with the plans. It does not show that the mockup accurately reflected the impact on the view. I looked out my window for *months* at that mockup – for months – and it did not demonstrate any intrusion into the view from the third floor of our building. I will assure you of that or I would have been on it like a wombat. As it was, only when the building was framed up did it become obvious that there was a disconnect between the presentation and the built building. But the mockup did not show an intrusion into the view from the third floor of our building.

Chairman Collins: Thank you.

Boardmember Dovell: Something's wrong.

Chairman Collins: Yes, not the first or last time. I'm curious if there is anything else that you would ... did you finish your ...

Building Inspector Minozzi: I finished.

Chairman Collins: You're finished with that, okay.

I want to try to bring this to a wrap-up, and when I say wrap-up I mean what I want to do is avoid arguing history. Because we can't change it. I want to focus on the task at hand. So I actually do have a question for you. Mr. Poskanzer, Ray has suggested one option here of pitching the roof towards the western edge of the building to remove what would be a foot, and then to create a floor-to-ceiling height of something closer to 7 feet, which is something that we have seen in other proposal's. How do you answer that?

Mr. Poskanzer: Well, the purpose of raising the roof on the side was to eliminate the attics and make them usable space. That's making it a partial attic look by having it at 7 feet. It's a very low dimension that would be more appropriate in an older home, not necessarily in something that we were trying to make new. I would like to not have you do that. I think that that's inconsistent with the rest of the design of the house. But the heights themselves are about as low as anyone would build normal floor-to-floors; 7 feet might be the end of some long space where you dropped it down at the edge, or in an older kind of construction. I'm certainly not going to say yes, go ahead and do it because I think that that's not the right way to build modern space. And the purpose of why we're here was to take the attics off and to give us full-height rooms.

Chairman Collins: Right. We're trying to figure out a way to balance what your applicant is trying to achieve with what the law requires of us to create the least possible impact. And so understand that property developers come here all the time saying, Well, I really would rather not have to go do X, Y, or Z.

Mr. Poskanzer: One, we're not a developer and that's been kind of insulting. I'm the architect first ...

Chairman Collins: I'm sorry, my mistake.

Mr. Poskanzer: No, no, no. It's been the complainant's comment all the time. We're not a

developer, we're a homeowner. I'm the architect who represents that homeowner. We're not planning on anything else, we have no other nefarious ...

Chairman Collins: I didn't mean that. I was using it interchangeably.

Mr. Poskanzer: But I thought it was my opportunity to finally, after three hearings, say that we're not a developer, okay?

Chairman Collins: Fair enough.

Mr. Poskanzer: This remains a minimum change to the view, as seen clearly by what is, in fact, the totality of the view. To have focused on that one little piece in that one location, I think the argument about the inaccuracy of my drawings – perfectly right, and we've conceded already that that was wrong – the idea that it was purposeful, that's insulting. But we don't have to go there, okay?

We have a situation. If I had come in today, I hope ... the argument is I'm here today new. This remains a minimal intrusion on the existing views. It's a 500-foot addition, 500 square feet, in an area where, as you all have commented before, could be anything up to 75-hundred feet, or whatever you're intending. We don't want that, we never intended it.

There's one other comment I'd like to make. Some of the pictures that the last presenter showed are after all the trees that were there when this was originally designed were. And I don't believe all of this was apparent or visible. I'm not sure.

Chairman Collins: That doesn't matter. I'm sorry, it doesn't matter. We're not going to take it into consideration. The trees are not going to be a part of our consideration. Trees can come up and they can come down.

Mr. Poskanzer: My apologies. The answer is, I'm sorry that some of the boardmembers don't like the architecture. This is not uncommon, I've had this in lots of places. I think that the preservation of the river and the Palisades, which is the intent of your view preservation, has been maintained as well as could be done short of not trying to accomplish the minimum house that we wanted. A 2,000 square foot usable upper two floors, we're not talking about a significant increase. And I'd like the board to recognize that starting to cut it down makes it, okay, 1,750 that's full and then another 150 that's not. I'm not sure that that's accomplishing or meeting the intent of what the view preservation ordinance is looking for.

Chairman Collins: Okay, thank you.

Mr. Poskanzer: Thank you.

Chairman Collins: If you've got something ... I don't want to go over things that you've rehashed.

Ms. Lomolino: No, we're not going over old things. There was just one short comment I'd like to make, which is there is another alternative.

Village Attorney Whitehead: Mic.

Building Inspector Minozzi: You have to use the microphone, please.

Ms. Lomolino: Yes. There's another alternative, and we can see it actually (inaudible) well.

Building Inspector Minozzi: I don't think the microphone's on.

Ms. Lomolino: There is the alternative of sloping down the roof to 7 feet on this side. There's another alternative, which is to step back this western wall and move it somewhat east. They could put perhaps a little balcony here so that this floor protrudes slightly more. But this piece is trimmed off on the western wall. The western wall is moved east a few feet. I believe that would also be a solution. And the parapets could be removed and that would provide more restoration of the earlier view of the Palisades and the river enjoyed by 19 William Street and also from my unit, and also from the unit below mine.

Chairman Collins: So my goal in evaluating this, and what can be done to minimize it, is to allow the applicant to build to the square footage that they desire. And any suggestion of starting to carve out space which would deprive him of square footage, to me, is no longer the project that they aspire to. So I appropriate that yes, it's possible, but I think now we're on to another project.

Ms. Lomolino: No, there's no God-given right to have a full third floor, but there is a legal right (inaudible) views.

Building Inspector Minozzi: You have to speak into the microphone if you're speaking, please.

Ms. Lomolino: I would just point out that the applicant wanted three full floors – one, two, three – with banks of west-facing windows for their own purposes.

Chairman Collins: That's not their project, and it's a mischaracterization to call it that. It's

a two-level home.

Ms. Lomolino: Oh, there's a third level.

Chairman Collins: No, that doesn't count.

Ms. Lomolino: Okay.

Chairman Collins: It's not a three-story home.

Boardmember Quinlan: Even with the bedroom down there?

Building Inspector Minozzi: Even with the bedroom down there.

Chairman Collins: No, it's a basement.

Village Attorney Whitehead: It's built on a hill.

Chairman Collins: It's a product of a sloping home. If you're on the western side of the house and looking up it's going to look to you like a three-story house – I live next to one of these – but it's not, because that's a basement.

Village Attorney Whitehead: And the other side is two stories.

Ms. Lomolino: So it's a basement and two stories.

Chairman Collins: It's a basement and two levels, two stories.

Building Inspector Minozzi: That is correct.

Boardmember Quinlan: It looks like three stories.

Chairman Collins: From the west, looking up.

Boardmember Quinlan: On this house, on three sides it looks like three stories.

Chairman Collins: Ray, I keep coming back to you and I don't mean to pick on you. But is there ... what do you think?

Boardmember Dovell: Yes. Well, I'm torn because looking at what we have asked of other

applicants in the past where view preservation has been an issue, and a hard-fought issue, we have asked them to look at options. The options have come to reducing height, changing a window configuration; it's been minor things not affecting their program, but it has affected the view. And on the one hand, I look at this and I go, well, it really is a minimal view. But we have to look at this as a new application.

Village Attorney Whitehead: And so the planning board already ... they took a first step – sort of what you're talking about – by changing those parapets; by saying no to the western parapet completely and sloping the two sides. So I don't know how you feel about going further than that, but there's been some of that already done by what the planning board has sent here to you.

Boardmember Quinlan: But we have the power to do more.

Building Inspector Minozzi: And to do any more would be to go zero impact, and that's not what the code says either.

Boardmember Dovell: No, understood. I understand that, and I'm just thinking that looking at this as a new application I think we would ask them to come back with an alternative that, while it did not affect programmatically the second floor, did help diminishing the obstruction of the river. So, you know, I think there are some options that without comprising the layout of the house – which I personally am a fan of, I think it's a nice piece of architecture ...

Village Attorney Whitehead: So you're saying you think you want them to look at something beyond what the planning board requested.

Boardmember Dovell: Yes. It could drop a foot off the edge of that, which would affect the view.

Chairman Collins: And it would allow the property to maintain – I think I'm using Ray's language properly – the "program"?

Boardmember Dovell: It wouldn't affect the house programmatically.

Chairman Collins: Which is the square footage.

Boardmember Dovell: Correct.

Village Attorney Whitehead: Just a part of it would have a lower ceiling height. The only

thing I do is ask that you think back to some of those other applications that didn't result in zero impact.

Boardmember Dovell: It did not.

Village Attorney Whitehead: You're looking for something that here would.

Boardmember Dovell: This will not result in zero impact.

Chairman Collins: That is true.

Boardmember Dovell: This will minimize the impact.

Boardmember Quinlan: On this picture, it doesn't make zero impact.

Village Attorney Whitehead: We don't know what the view looked like from the year before.

Chairman Collins: No, there will not be zero impact. Even an alternative of the kind that we're talking about here, there will still be an impact because you will not have a pitched ... we're not asking the applicant to go back to a pitched roof. So the angle, you can imagine, is not going to be whatever a pitched roof angle is.

Boardmember Quinlan: And I also think we can't just ignore William Street's presentation about their view. I mean, like you said, the trees are going to be cut down, grown up, done this, done that. This is what's left, this is what we're dealing with.

Chairman Collins: That's correct.

Boardmember Quinlan: And there is some impact on the view.

Chairman Collins: There is, you're right. And so the question is, given the program – and I'm coming back to what they're permitted to build in that space and how that translates to square footage and the envelope – how can we minimize the impact. And I'm of the mind that we should at least see another drawing, another design that would attempt to minimize the impact, while allowing them to keep, programmatically, what they're trying to accomplish. We have asked that consistently of other applicants, and it allows us to have, I think, the comfort of knowing that we have looked at considerations that allow us to achieve a better balance.

How do you feel?

Boardmember Renzin: I don't disagree with the concept of asking them to come back and look again. I do worry that we're trying to minimize the impact of the blocky architecture, which I feel isn't our role. And I think that if we add a little slope to that picture right there, so that it comes down maybe a little bit above that window instead of squared off, it doesn't really help the issue of it being a blocky architecture. It doesn't really change the view. It's still a blocky architecture with a little tiny bit more of a sliver.

And what I worry about – and I'm not saying that this is the case – the heightened level of emotions might cause some more punitive nature in our request of people rather than trying to make sure that we're taking a fair view of minimizing, or an attempt to minimize, the impact on the view of the river and the Palisades. So it's not going to change the blocky nature which seems to be causing people's emotions. It will cause the homeowner to lose some of the space that they're looking for in a relatively minimal increasing of their usable space.

So that's how I feel. Doesn't mean that we shouldn't do it, and they can always go back and look. And maybe that's appropriate.

Chairman Collins: And what we have also done in the past is, we've reviewed the alternative and not necessarily accepted it. We've looked at it and said the tradeoffs – because there are tradeoffs to every design – by requesting an alternative, does not obligate this board to accept the alternative.

Boardmember Dovell: Correct.

Boardmember Berritt: I feel, at this point, that I would like to see other options. I think if this had been presented, as you say, as a new building – as Ray suggested with other properties where we've asked to reconsider and look at other options – I think we would've done the same thing. You know, I don't want to start playing architect in terms of how they do that. I think that's up to them to come back with something that reduces the impact.

I don't think sloping down the parapets ... I do think removing the parapet is a start. But as I say, I don't want to get into how they do that. But I do think it would reduce the impact, and it's not going to be zero but we should at least look at the other option.

Chairman Collins: Okay. Do you wish to have us proceed to a vote right now, or would you prefer to go back?

Mr. Poskanzer: I'd like to make a comment, just ...

Building Inspector Minozzi: Please use your microphone.

Female Voice: They're talking into the standing mic.

Mr. Poskanzer: I guess I'd like to make a comment before you vote, and I think I can ask ...

Chairman Collins: Yes, you can. You can withdraw ...

Village Attorney Whitehead: If you want to come back.

Chairman Collins: ... and defer to another meeting.

Mr. Poskanzer: ... where we are with that. I agree with the part of the last statement that you made.

Village Attorney Whitehead: Your mic's not on.

Mr. Poskanzer: Sorry. I agree with part of what you said. That this next little change ... first we took off the west wall parapet at someone's request. Then we angled the side wall parapets, at someone's request – the planning board specifically – and their acceptance that, in their eyes, that was appropriate. And now we're here again. It feels like little knives each time and that everyone needs to show, or have the position, that they can get something more.

I think, at this moment, that little more that is potentially accomplishable ... certainly if I bring the building back it makes it smaller. We're adding 500 feet, so we'll be adding, what, 360 feet? I mean, at some point why did we bother to do any of this if we were going to get so little usable space. That would be the argument on that.

I think I'm urging you to reconsider the notion that there's another little change that's going to make a difference in the ultimate project. If I do what has been suggested, I don't know whether that 7-foot height starts at the western wall and ends at the eastern wall. Does it start at the western wall and go halfway up, and then I stay where I am on the eastern half?

Chairman Collins: I'm sorry, I'm going to interrupt. Do you want us to go to a vote now, or no?

Mr. Poskanzer: I'd like you to go ... I'd like you ...

Chairman Collins: Do you want us to vote right now? Because you have the option to withdraw and come back another time. Adjourn it, or we can vote right now.

Mr. Poskanzer: I think we better adjourn the meeting, and we would like to come back.

Chairman Collins: Okay.

Mr. Poskanzer: With continuing discussion about the alternatives, or the argument that we think you should vote on it without the alternatives.

Village Attorney Whitehead: But if you want to present an alternative to come back ...

Boardmember Renzin: If you're not going to do an alternative, then we should vote.

Chairman Collins: Correct.

Boardmember Quinlan: You got to come back with an alternative or we'll just vote. We're not going to discuss it except to discuss the alternative.

Chairman Collins: And it's your decision.

Boardmember Quinlan: It's your decision. You've heard what the alternative is.

Mr. Poskanzer: And since I'm not a lawyer, what does that mean? Let's just say you vote no on view preservation, then what does that mean for us?

Chairman Collins: Well, it would mean that this building would no longer be ...

Village Attorney Whitehead: You're going to have to amend your plans.

Chairman Collins: You would have to amend the plan and come back and present a new plan. And the advantage to deferring is, as I understand, there's no additional building department fee.

Building Inspector Minozzi: That's correct. There'd be no fees, there'd be no mailings, there'd be no worry about doing everything all over again.

Mr. Poskanzer: No, no, I'm not worried about any of those things. I think I'd like to ask for

an adjournment and we'll come back next month, if we're allowed.

Chairman Collins: Yes, it would be whenever you're ready.

Mr. Poskanzer: Okay, thank you.

Chairman Collins: Okay, thank you.

Chairman Collins: All right, so let's go back to the first case on our agenda.

**Case No. 20-18
Michael Didovic & Nicole Davis
12 Marble Terrace
(Continued)**

Chairman Collins: Are we able ...

Village Attorney Whitehead: Yes. Let me sort of update you on our discussion when we looked at the new zoning on this one. The figures for the front and rear yard setbacks are accurate, and the paving in the side yard, because the front and rear yard setback didn't change in the code. So those are all accurate. The side yards comply. They will need a small FAR variance because it's existing nonconforming. So probably the best way to handle this – and I've discussed that with the applicant – is that you can go ahead and do view preservation and the three variances that were noticed.

Let them move forward, and they will come back next month with the small FAR variance application. It wasn't noticed so you can't approve that variance tonight.

Chairman Collins: So the front yard setback, the rear yard setback and the paving in the required side yard, are all of them ...

Village Attorney Whitehead: And view preservation. They're all correct.

Chairman Collins: They're all correct.

Village Attorney Whitehead: Yes, and the applicant has agreed with that.

Chairman Collins: We'll just wait for a change over here, and then we can get underway.

Village Attorney Whitehead: And the FAR variance, I think, is for about 75 square feet. That's the new square footage because the existing house is nonconforming.

Chairman Collins: Okay. Feels like eons ago when we talked about this.

Did this board have any more questions about the dimensions – the purpose of the ... I know there was a question about the intention, or use, of the staircase in the rear.

Village Attorney Whitehead: Which I was satisfied with the answer.

Chairman Collins: You've gotten your answer.

Village Attorney Whitehead: You needed to understand it.

Boardmember Quinlan: Yes, I need to understand it, basically.

Chairman Collins: I'm just wondering if ...

Boardmember Quinlan: All my questions were about understanding, and I'm satisfied with the answers.

Chairman Collins: Does anyone else have any other questions about any of the setbacks or anything related to the view?

Boardmember Quinlan: I don't.

Boardmember Renzin: No.

Boardmember Berritt: No.

Chairman Collins: Okay. The only question I had comes back ...

Mr. Jardane: (Off-mic)

Chairman Collins: No, I don't need to see it.

Mr. Jardane: Okay.

Chairman Collins: Thank you. Is the patio. I understand the net effect is the reduction of ... is it permeable or pervious surface?

Village Attorney Whitehead: So what you have now in the new ...

Building Inspector Minozzi: Impervious.

Chairman Collins: Pervious?

Village Attorney Whitehead: So you actually have development coverage and building coverage in the code now ...

Boardmember Dovell: We'll not overlap anymore.

Village Attorney Whitehead: ... and the development coverage is actually a net zero change.

Chairman Collins: Yes. I think now, again – with memory that's coming back, Jerry, that you covered – is why the side yard for the patio. And the reason for the side yard patio is that is where you get level, level ground to put it. That you couldn't do it in the rear yard because there's sloped ... right?

Boardmember Quinlan: It's straight and narrow, and it goes like this and it goes like this.

Chairman Collins: Yes, it drops off. Okay. I think for the most part, especially after our revisions of 1.5, there are good reasons for the language the code has. We ordinarily don't want to see patios in the side yard because it's a little bit less ...

Village Attorney Whitehead: That wasn't a revision, that was an existing ...

Chairman Collins: No, I know. I'm coming back to it, and I'm trying to establish here something that's a little bit unique about his case. Ordinarily, I think the board prefers to see them in the backyard because there's more privacy; more privacy for the neighborhood. However, given the limitations of the backyard, I think, in this case – and the fact that overall the impervious surface area has decreased – I'm comfortable with the proposed location of the patio.

Boardmember Quinlan: Can I just add one more thing?

Chairman Collins: Yes.

Boardmember Quinlan: There's no objection by any neighbor or anybody else about the

patio being in the side yard.

Chairman Collins: So far.

Boardmember Quinlan: So far, so ...

Chairman Collins: We'll find out here in a moment.

Well, if there are no other questions, then, from the board about his application or any of the setbacks or view preservation, then I will ask if anyone in the public wishes to be heard on this case. As noticed, it will have to come back because, as our village attorney points out, the floor area ratio is something that will require a variance and is not noticed. We can cover the others.

Okay, no one wishes to be heard. Then can we vote? Do the view preservation separately?

Village Attorney Whitehead: Yes.

Chairman Collins: All right, can I have a motion on view preservation for case 20-18?

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Berritt with a voice vote of all in favor, the Board resolved to approve the view preservation for Case No. 20-18.

Chairman Collins: Approving view preservation, the vote is unanimous.

Then can I have a motion on the setbacks, the three setbacks? I'm sorry, the two setbacks, plus the paving in a required yard.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Berritt with a voice vote of all in favor, the Board resolved to approve Case No. 20-18 for 12 Marble Terrace, for front yard setback; existing zero, proposed 6.25, required minimum 12. Variance required 5.75 feet. For rear-yard setback to stairs; existing 11, proposed 2.58, required minimum 3, variance required 27.42. And for paving in the rear yard; existing 60 square feet, proposed 176, allowed none, variance required 176.

Chairman Collins: Accurate? Correct, after our new calculations?

Village Attorney Whitehead: Just to clarify, that's in the required yard. I think you said "rear." It's just in a required yard.

Building Inspector Minozzi: You also said 27.2. It's 27.42.

Boardmember Dovell: Correct.

Village Attorney Whitehead: As noted on the agenda.

Chairman Collins: Okay, as amended. Thank you to our village attorney and our building inspector. The vote is unanimous. So we'll cover what remains when you're ready.

Mr. Jardane: Right, next ...

Village Attorney Whitehead: We'll review it with him.

Chairman Collins: Okay, thank you very much.

Mr. Jardane: Thank you.

**Case No. 10-18
Samar Tannous
45 High Street**

For relief from the strict application of the Village Code Sections 295-70E.3(a)[2], 295-70E.1.a,b,c and 295-20E.1 for reconstruction of a new dwelling to replace a current dwelling at their property located at 45 High Street. Said property is in 2-R 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 – 32 percent; Required

Maximum – 30 percent {295-70E.3.a[1]}; Variance Required – 2 percent

Developmental Coverage: Existing – N/A; Proposed – 43 percent; Required

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

Front Yard: Existing – N/A; Proposed – 9 feet; Required Minimum – 25 feet
{295-70E.1.a}; Variance Required – 16 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 – 8.5 feet/18.5 feet;
Required Minimum – 8 feet/33 feet {295-70E.1.c} (Side yard 1 calculated as
a front yard); Variance Required – 14.5 feet
Obstruction at an Intersection: Existing – N/A; Proposed – 42 feet each
direction; Required Minimum – 50 feet each direction {295-20E.1};
Variance Required – 8 feet each direction.

Chairman Collins: For our last case, 10-18, I am going to recuse myself because of a relationship with the applicant and my proximity to the project. As I have done before, I will hand the chair over to Ray.

Village Attorney Whitehead: Do you want to have alternate Sashi recused also?

Chairman Collins: Sashi, are you able to come up?

Boardmember Nivarthi: Yes.

Chairman Collins: All right, you're up.

Village Attorney Whitehead: So we're going to have the alternate sit on this application so that we have a full five-member board.

[Chairman Collins recused]

[Boardmember Dovell acts as acting board chairman]

[Alternate Boardmember Nivarthi sits for the case]

Boardmember Quinlan: A deputy chair, thank God.

Acting Chairman Dovell: Okay, who is going to speak for the applicant? What I would like to do is for you to make your presentation of the revised scheme. We will ask questions along the way, then at the time we are finished with your presentation and questions we will debate internally and then ask members of the public to speak if anyone wishes to. Is anyone here going to speak from the public about this one? Anyone else? One person. Then at the conclusion of that, we'll either come to a vote or ask you to rethink things.

Building Inspector Minozzi: Mr. Chair, I just want to let you know that all of the variances that are listed in this notice are all the updated variances for the newest rendition of the project.

Acting Chairman Dovell: Okay, proceed.

Tom Abillama, project architect: We appeared before this board a few months ago in regards to the application for 45 High Street for a one-family dwelling, nonconforming site. The existing structure that is on this site, we don't have any ... Charlie, we don't have any ... the TVs are not showing.

Building Inspector Minozzi: Oh, I'm sorry sir. Are you all hooked up?

Mr. Abillama: Think so.

Village Attorney Whitehead: There you go.

Mr. Abillama: So I'd like to run you by the existing structure, which is located on the corner of James Street and High Street. The existing structure itself is nonconforming due to all the side yard and front yard and rear yard setbacks. The height seems to be in conformity, but the structure is in a very dilapidated condition and the owner is opting to remove it and erect a new one-family dwelling which would conform more to the requirements of this board.

At the last meeting, there was some risk request from Commissioner (sic) Dovell to take into consideration that we don't have any FAR requirement in this zone to take the formula which is shown in here, where we can take the product of the coverage times the number of stories. We come up somewhat representative of what would be a floor area. That number is 2,128 square feet, roughly. What we're proposing is 2,115 square feet, plus the garage.

So this is the floor area of ... this is what we have as far as the first floor. It's as tight as can be. Then we have also the playroom in the basement. The garage is a one-car garage with the possibility of parking in the front because we pushed the garage back. So we have a (unintelligible) of having two cars, two off-street parking spaces. The second floor has three bedrooms. As you can see, except for the master bedroom the other two bedrooms are modest in size. We tried also to have no variances in regards to the height. We lowered everything, and as you can see in the diagram – the red outlines – the limit to which we can go up, and this would work.

What also we're providing here – and you can see (unintelligible) highlight the situation with

the retaining walls on both sides of the street, on both streets, on James as well as High – we have a retaining wall that has been rumored to be the cause of a lot of traffic problems. With our proposal, we have provided for a total open view for the traffic – which is also illustrated in this drawing here – where, if you can see, the obscured areas around the existing retaining wall are on both sides. Whereas in our proposal we show that we have a clear view of both sides of incoming traffic – quite a distance to go back, about 42 feet along the curbside – which would allow for it to eliminate any problems with traffic problems. So with the side vision, as well as providing for the two off-street parking spaces, we solved a lot of problems that we have on the site.

I would like to listen to the boardmembers. If there's any questions, we can continue.

Acting Chairman Dovell: On drawing A-1, the dotted lines are the previous submission? Is that what we understand?

Mr. Abillama: Yes. The dotted line, that's why we'd like to distinguish between this proposal and the previous one where we pushed the whole structure back a few feet by allowing for more visibility along the corners.

Acting Chairman Dovell: I would like to talk about the retaining walls around the house and the effect on neighboring properties. Could you just take us around the house and the lot line to the left, to the west?

Mr. Abillama: Right, to the left. What we tried to do ...

Acting Chairman Dovell: West side of the site.

Mr. Abillama: We tried to do our ... let me show you the rendering, actually, which can provide a little bit of an idea of what's going to happen. We have an existing retaining wall at the neighboring property. Also, it goes up along the side, on the left side. We try, in our design, not to touch that retaining wall.

Acting Chairman Dovell: Along the west property line.

Mr. Abillama: Along the west property. Along, actually, the east property because we're facing north.

Acting Chairman Dovell: We're facing ... okay.

Mr. Abillama: So we tried to curb as much as we can. The original application, we had a

parking space in that location. Now, we kept the retaining wall the way it is and we bermed it away towards our driveway. Towards the back, there's a fence already and we would like to keep the fence or replace it with a better one.

Acting Chairman Dovell: So along the south side of the property, correct?

Mr. Abillama: Mm-hmm.

Acting Chairman Dovell: Along the neighboring ...

Mr. Abillama: Again, neighboring 114 James Street.

Acting Chairman Dovell: Right. That's where you've cut away the retaining wall. I'm sorry, I'm talking about on the east side. The neighbor has a continuing retaining wall along that edge, correct?

Mr. Abillama: Yeah.

Acting Chairman Dovell: You're going to cut that retaining wall down and change the grade along that edge.

Mr. Abillama: We're going to be trying our best not to cut any of the retaining wall down. That's their retaining wall.

Acting Chairman Dovell: Okay, understood. So there's no effect, there's no underpinning along that wall. There's nothing ... it's a neutral ...

Mr. Abillama: Yes.

Acting Chairman Dovell: Okay. In terms of variances requested, you are still asking for 32 percent lot coverage here versus 30 percent, and you're asking for development coverage of 43 percent versus 40 percent.

Mr. Abillama: Forty percent. But please keep in mind that the total number of the square footage still maintains that formula of 30 percent times ...

Acting Chairman Dovell: No, I understand. I understand how you're getting to that.

Mr. Abillama: And that 2 percent is about 450 square feet, which is thoroughly needed in our situation. It's a tiny little house now.

Acting Chairman Dovell: Well, I think you've been responsive to our comments along the way, and the size of the house is generally in alignment with the property itself. So it's not ... you're not being gifted a huge amount here. You're not being gifted anything in terms of the actual square footage that would be permitted under the lot coverage provision.

Mr. Abillama: Right.

Acting Chairman Dovell: So I think you have been responsive. I think I'd like to hear what other members have to say about it. Carolyn, Joanna?

Boardmember Renzin: My initial ... page six is meaningful to me. If you look at the footprint of the existing structure and the proposed structure, it's much more conforming to the existing structure in terms of how much space it takes on the property and sort of mass of this house in the neighborhood. So I appreciate that. That's an initial observation.

Acting Chairman Dovell: What's going on on the third floor? One final question: what's going on on the third floor?

Boardmember Renzin: That was my question.

Mr. Abillama: First of all, the third floor is just simply an attic. It's accessible through a pull-down ladder only.

Acting Chairman Dovell: Well, it looks like, from your plans, the stair goes up.

Boardmember Renzin: And there's a window.

Acting Chairman Dovell: Do you have a section that you can show us, through the house?

Mr. Abillama: I don't, but we do have ... if you can look at A-4 and see the elevation, really the attic height itself, to the ridge, is 6 foot 3. There's a little bit of a bump in the middle, where the dormer is. The dormer is really for aesthetic reasons and for some practical reasons; you know, in case you want to store certain seasonal items in that attic you have some natural light.

Acting Chairman Dovell: But the stair goes up from the second floor, if I'm looking at your plan correctly.

Mr. Abillama: That's not ... that should be a railing, but it doesn't go up, no. It doesn't go

up.

Village Attorney Whitehead: So that can be corrected to indicate that it's only a pull-down.

Mr. Abillama: For the record, that should be corrected, yes.

Acting Chairman Dovell: All right, but what you have then is, you do have a section above that's at 7 feet, correct? I mean, go back to your elevation.

Mr. Abillama: Right. Towards the easterly side of the roof there'll be a small section that's more than 7 feet in height, but it's really not accessible. Not accessible except for a pull-down ladder. And then by the time you put the collar ties, which are necessary for the structural stability of the roof, you know, you end up with less than 6 foot (inaudible).

Acting Chairman Dovell: Okay. So, Buddy, you're satisfied that's not floor area in any way.

Building Inspector Minozzi: No, it's not going to be a problem. I'm actually very satisfied with this newest proposal.

Acting Chairman Dovell: Mm-hmm. Sorry, Joanna.

Boardmember Berritt: No, my question was about the roof and the need for the window and the higher roofline. Which, if you're saying, Buddy, there isn't room there to do what we were all ...

Building Inspector Minozzi: There's no height variance anymore, so ...

Boardmember Berritt: Right. You know, it just adds to the bulk of the house and the overall height of the house, and I'm conscious of the other properties around it.

I know there was a question before from the previous meeting about the space in the driveway and whether that was enough space for the two cars and that sort of thing. Which I know ...

Building Inspector Minozzi: Which they have addressed, too. Right?

Boardmember Berritt: Right. So SP-2 is ...

Mr. Abillama: If you look at the dashed red outline on SP-2 ...

Village Attorney Whitehead: Yes, they pushed the garage back.

Mr. Abillama: ... you see how the garage has been pushed.

Boardmember Berritt: Being pushed back from that initial (cross-talk) ...

Building Inspector Minozzi: (Inaudible) parking space.

Boardmember Berritt: And that car's a little shorter.

Mr. Abillama: And then we'll need the side parking – the area on the side, on the eastern side ...

Boardmember Berritt: Right. Was the other ...

Mr. Abillama: ... is a totally permeable area.

Boardmember Berritt: Right. So I appreciate that you've used a Citroen as the ...

Boardmember Nivarthi: Can you tell us the distance from the tip of the building to the sidewalk in that other driveway, please?

Mr. Abillama: To the property line along High Street the nearest point is 9 feet to the property line. Then you have roughly about 8 to 10 feet of sidewalk to the curb.

Boardmember Nivarthi: Eight, really. Can we look at the photos you have put in? I think we don't have 8 feet of sidewalk.

Village Attorney Whitehead: It's not sidewalk, it's right of way. It's part of the Village right of way.

Boardmember Nivarthi: That's what I meant, yes.

Village Attorney Whitehead: The street doesn't go right up to the property line.

Boardmember Nivarthi: Yes, I'm just talking about this curb.

Village Attorney Whitehead: And there are no sidewalks there, so ...

Boardmember Nivarthi: Yes, I know. That's why I just want to know because ...

Village Attorney Whitehead: Well, on this picture he doesn't show the sidewalks.

Boardmember Nivarthi: If you don't have like, say, 16 feet there will be a car literally ...

Village Attorney Whitehead: Oh, no, he was telling you the dimension from the closest point of the house, not the driveway.

Boardmember Nivarthi: Yes. So what I'm interested ...

Village Attorney Whitehead: Looking for the dimension in the driveway from the garage, you're looking for the garage to the property line.

Boardmember Nivarthi: Yes.

Village Attorney Whitehead: To make sure a car fits there.

Boardmember Nivarthi: Yes.

Village Attorney Whitehead: So basically where you have the car.

Boardmember Renzin: How big is the driveway?

Village Attorney Whitehead: What's the length of the driveway?

Boardmember Nivarthi: What is the length of that?

Mr. Abillama: The length of the driveway is 19 feet.

Village Attorney Whitehead: From the property line.

Mr. Abillama: I'd like to see if I can show that dimension.

Building Inspector Minozzi: Which is a foot bigger than a standard parking space.

Mr. Abillama: Right.

Building Inspector Minozzi: A standard parking space in the Village of Hastings is 9 foot by 18 foot. And Boulanger Plaza was reduced down to 8 foot wide; I think 8 by 18.

Boardmember Quinlan: So how big is the garage?

Mr. Abillama: The garage is 11 foot 3 inches in width by 21 foot 10.

Boardmember Quinlan: And that's not calculated into the square footage of the house, right?

Mr. Abillama: We didn't include it in the square footage as far as that self-imposed FAR.

Boardmember Quinlan: So the garage is included in the square foot of 2,837?

Mr. Abillama: It's not.

Boardmember Quinlan: It's not.

Acting Chairman Dovell: No, but that's a correct calculation. Right, Buddy?

Building Inspector Minozzi: Mm-hmm.

Boardmember Quinlan: I don't understand.

Acting Chairman Dovell: That it's not included in the definition of ...

Boardmember Quinlan: Square footage.

Acting Chairman Dovell: ... square footage.

Boardmember Quinlan: So the garage is *not* included, usually, or I mean ever.

Building Inspector Minozzi: It's not habitable space.

Boardmember Quinlan: So the house itself is 2,837-1/2 square feet and the garage is whatever it is.

Village Attorney Whitehead: Two-hundred and something.

Boardmember Quinlan: Yes, we could do the math. I'm just going to throw this out to you. If you eliminated the garage would that help at all on the side yard variance?

Building Inspector Minozzi: They have to produce two parking spots, so that would actually make it ... you'd have to make a bigger driveway someplace.

Boardmember Quinlan: They have to put in two parking spots?

Building Inspector Minozzi: They need two parking spots.

Village Attorney Whitehead: Off-street parking spaces.

Mr. Abillama: And obviously we still have the first floor to deal with so the same setback that is provided for the first floor will be for the lower ...

Village Attorney Whitehead: That dark, odd shape in the middle, that's the actual building envelope, right? Applying those setbacks?

Mr. Abillama: Yes.

Village Attorney Whitehead: Because it's such a nonconforming lot. I think that's an important point.

Mr. Abillama: You can fit a 75 square foot house on it.

Boardmember Renzin: That's why I think the last page, where it shows what the existing footprint is compared to this one, is important because that's useless.

Boardmember Nivarthi: I'm looking at A-1 right now that you are displaying. The distance from the property line to the building envelope is, by itself, 25 feet at a diagonal, right? And that's what is causing the concern because that extends maybe 6-, 7 feet into the house already, the building envelope. Hence my concern whether we have enough space from where the foundation starts for the garage to the property line to park another car. The way it looks, more like 14-, 15 feet. That's why I wanted to know what's the length of the driveway itself.

Village Attorney Whitehead: Nineteen?

Mr. Abillama: We did give it our best effort to push the garage back. By doing so, we lost a little bit of the yard that we would have had in the back of the dining area. But we're okay with that.

Boardmember Nivarthi: Because the garage can be ... it juts out, let's see, almost 2 feet.

Mr. Abillama: The garage is 11 foot 7 by 21 foot 10.

Boardmember Nivarthi: No, I'm not talking about the length. It is a reasonably-sized garage. I was just wondering is there a way we can push the garage back to line it up with (inaudible) direction. So basically it's going to be towards the north, the northwest corner, not the east corner.

Acting Chairman Dovell: So you're aligning the dining room with the kitchen.

Boardmember Nivarthi: Yes, the end of the crawl space and the garage line up. That would give you another 2 feet of driveway space which you can use.

Village Attorney Whitehead: We're trying to make sure the car fits in the driveway.

Building Inspector Minozzi: The standard parking space in the Village of Hastings is 18 feet, and they're offering 19 feet. I just don't see why that should even come before this board.

Boardmember Quinlan: So how many bedrooms are on the second floor?

Mr. Abillama: Three.

Boardmember Quinlan: And you have a bathroom on the second floor?

Mr. Abillama: We have two bathrooms; we have one master bath and one hallway bath.

Boardmember Quinlan: And how about downstairs? Do you have a half-bath?

Mr. Abillama: On the first floor we have a powder room and in the basement we have a full bath, but a small full bath.

Boardmember Quinlan: Then why do you have a full bath in the basement?

Mr. Abillama: Well, we have ... it's more ... you know, it allows for the people who are using the playroom to utilize the bathroom. I think it's more convenient.

Acting Chairman Dovell: In a way, what's he's done is he's switched the attic for the playroom. He has no attic because he's changed the grade, and there's not enough room for an attic – a third floor, where he can take half that floor area and put a bedroom up there if he

wanted to. So by changing the grade, he's created a habitable space in the basement and that's kind of the tradeoff that he's done. The third floors, if they're sprinklered, are permitted for a bedroom use. Correct, Buddy?

Building Inspector Minozzi: Well, this house is going to be sprinklered anyway.

Acting Chairman Dovell: Pardon me?

Building Inspector Minozzi: This is all going to be sprinklered anyway.

Acting Chairman Dovell: The house is.

Building Inspector Minozzi: Oh, yes.

Boardmember Quinlan: So is he going to be able to put a bedroom in the attic?

Acting Chairman Dovell: No, he cannot do anything there.

Building Inspector Minozzi: No, the attic won't be habitable.

Village Attorney Whitehead: The ceiling height is too low.

Boardmember Quinlan: And how about the basement?

Acting Chairman Dovell: Well, the basement could be used for anything, correct?

Building Inspector Minozzi: Sure.

Acting Chairman Dovell: It could be used as a bedroom. He could just change the name and say "bedroom."

Village Attorney Whitehead: This part, where there's egress.

Building Inspector Minozzi: As long as the egress is proper and everything is proper – light and vent – yes, sure.

Boardmember Quinlan: Is there windows down there?

Acting Chairman Dovell: So in effect, it's a four-bedroom, three-and-a-half bath house.

Boardmember Quinlan: I mean, that's why I asked about the bathroom downstairs.

Acting Chairman Dovell: Right, exactly.

Boardmember Quinlan: So basically, they're going to put a bedroom down there.

Acting Chairman Dovell: Right, that's what it is.

Boardmember Quinlan: We don't care about the playroom. The kids can run upstairs and use the bathroom.

Acting Chairman Dovell: Right. And the advantage that he's getting down here is that it's all one height. It's all 8 foot 6 clear, whatever it is, versus dealing with sloping walls in an attic on a half-level above.

Village Attorney Whitehead: It's just that one part of the basement that would be ...

Acting Chairman Dovell: Correct.

Village Attorney Whitehead: It has the windows, has the egress.

Acting Chairman Dovell: Right.

Boardmember Quinlan: What do you mean? They can use windows as an egress?

Acting Chairman Dovell: Mm-hmm.

Village Attorney Whitehead: They have to be a certain size for a secondary legal means of egress.

Building Inspector Minozzi: Secondary means of egress.

Mr. Abillama: Yeah, it has to be 220 ... I mean, this is more conducive for a playroom than a bedroom. I can't see having a bedroom next to a garage.

Boardmember Quinlan: Depends how many kids you have.

[laughter]

If you have a lot of kids you put them down there as long as it's legal. Got a bathroom,

which if it's legal, it's legal.

Acting Chairman Dovell: And there's no way this could be ever used as an apartment. Correct, Buddy?

Boardmember Quinlan: Well, accessory.

Building Inspector Minozzi: To make an apartment downstairs that it's zoned for, the parking would require a variance because they would need another two parking spaces.

Boardmember Quinlan: But that's usually granted.

Building Inspector Minozzi: In this neighborhood, not necessarily so.

Boardmember Renzin: No.

Village Attorney Whitehead: Yes, this neighborhood is tight on parking.

Building Inspector Minozzi: Very hard parking in this neighborhood, and that's why we encouraged them to put the off-street parking.

Boardmember Quinlan: So, Ray, what do you think about the size? What do you think about the size of this house compared to the neighbors, compared to the lot?

Acting Chairman Dovell: I have to say I'm on the fence about this lot coverage and development coverage because it's just ...

Boardmember Quinlan: It seems big, but I'm going to defer to your expertise on this. To me, my initial reaction is, I mean, first of all he's done a lot of good work. And second of all, is it still too big for the lot, for the corner, and for the houses surrounding it. The lot is so small.

Acting Chairman Dovell: Yes.

Boardmember Quinlan: I mean, they bought it, they knew the size. So what do you think about that? You lead me on this one, please.

Acting Chairman Dovell: Well, what is the coverage you're proposing? It's 900 feet?

Mr. Abillama: It's 900 feet; 32 percent of the property, where 30 percent is permitted. If

you look at the coverage of the existing house versus the proposed house really we're almost there.

Acting Chairman Dovell: What's the coverage of the existing house?

Mr. Abillama: The existing house by itself is 25.5 percent, but when you add up the deck and the porch then you're beyond that.

Acting Chairman Dovell: And why are you hitting, for development coverage ... why are you hitting 43 percent?

Mr. Abillama: Well, really the driveway is part of that number. The front porch and the patio, and the back of the house, that small patio. If you add up all these – with the walkway from James Street – they add up to that much. But the driveway is the biggest factor.

Acting Chairman Dovell: So what's counting against that is the patio off the dining room, the walkway from the street, and the driveway.

Mr. Abillama: Right.

Acting Chairman Dovell: And you have no retaining walls so nothing else counts.

Mr. Abillama: Right. A small retaining wall on the left side, probably on the left side, of the driveway. Maybe we need it, maybe we don't, but something to contemplate. But that's minimal. It's about 8 square feet in total.

Acting Chairman Dovell: What is the hardship that is driving these two – the 32 percent and the 43 percent? You're very close, I just don't understand why you can't hit those numbers and why you want a variance for these two very small numbers.

Mr. Abillama: So let's go to the second floor. If you look on SP-2, on the top right area of the structure you see a dashed line in black. That's the projection of the second floor bedroom, bedroom number two. Had we kept that overhang from happening – had we eliminated that overhang – then we have a very tiny bedroom 12 feet by 11 feet. So we opted to do that, and by doing that we ended up having a more attractive view of the property.

If you can see it, I'd like to show you something also. See, this is a modeling; an animation of the model itself for the neighboring properties all around.

Acting Chairman Dovell: So you're setting back in some areas up above and you're pushing back in others. So the cantilevered area, the area under the cantilevered area, doesn't count as building coverage, Buddy?

Building Inspector Minozzi: It does.

Mr. Abillama: That's part of the building.

Acting Chairman Dovell: That's part of the issue, okay.

Acting Chairman Dovell: Can we run through your variances one by one?

Mr. Abillama: Sure. The building coverage is required to be 30 percent and we're proposing 32 percent, so 2 percent increase. The developmental (sic) coverage is required to be 40 percent and I'm providing 43 percent, a 3 percent increase. The front yard along High Street is proposed to be 9 feet, it's supposed to be 25 feet. That's a variance of 16 feet. The rear yard – the one on the south side of the property – is proposed to be 10 feet and is required to be 25 feet, a 15-foot variance. The one side is proposed ... on the left side of the house it's proposed to be ... I'm sorry, on the right side of the house it's proposed to be 8 foot 5 and needs to be ...

Building Inspector Minozzi: Eight feet.

Village Attorney Whitehead: Eight, so that complies.

Building Inspector Minozzi: That one complies.

Mr. Abillama: That was proposed 8.5 feet and is supposed to be 25 feet.

Building Inspector Minozzi: No, that's the other side. The other front yard ...

Village Attorney Whitehead: One side complies, the total of both doesn't.

Mr. Abillama: Right. One side yard on the left side complies. It's required to be 8 feet and we're proposing 10 feet. There's not a variance. Then we have the variance for the obstruction.

Building Inspector Minozzi: It's because of the two front yards. Because of the corner lot it messes the numbers up.

Mr. Abillama: So obstruction at the intersection is supposed to be 50 feet and we're providing 42 feet on each side, a variance of 8 feet. Although I don't know if there's a corner property in the Village that has a 50-foot setback on both sides.

Acting Chairman Dovell: What you've done in your A-3 drawing, where you've talked about other houses that don't conform.

Mr. Abillama: Right.

Acting Chairman Dovell: They're all yards ... every one of them is a yard nonconformance, right?

Mr. Abillama: Exactly. In addition, there's a few of them that – if you permit me to go back ...

Acting Chairman Dovell: 115 James, front yard setback 41 high front yard, nonconforming; 114 James front yard, 46 high front yard; 44 High Street front yard, 34 high front yard, 60 high front yard. Not a single one of these has mentioned lot coverage or development coverage.

Mr. Abillama: The reason why is ... I don't have the data with me, but that's the most obvious one. We are in compliance with these.

Acting Chairman Dovell: Yes, I understand. But you're a smaller lot than most of these.

Mr. Abillama: But then again, you can see also along James Street the two houses across the street. Those, in addition to being too close to the front property line, they are really three-story homes in practicality. I can tell you that 114 James has an average nonconformity also. But the main thing is that being as we are asking for variances regarding the setbacks, most of these homes have a setback problem or issue.

Acting Chairman Dovell: I mean, I keep going back to 15 High Street, which was approved some time ago.

Mr. Abillama: So now what happened is that the first thing that my client told me when he asked me to design this property for him said, Please, look at this house and find anything that doesn't look like it.

Building Inspector Minozzi: (Inaudible) with that.

Acting Chairman Dovell: And why was that?

Mr. Abillama: A box, walk-in cooler.

Acting Chairman Dovell: Well, I don't think you should disparage the architecture of the house. I'm talking about the result of the zoning of that and the gyrations that the architect went through to get to something that was satisfactory to this board. I'm not talking about the architecture of it, and I don't think you should be disparaging it anyway. I think it's a fine little house.

My problem with what you've done is, it's still a big house for the lot. You know, you're creative with your use of the ground plane and you've managed to squeeze out a nice, big, usable space which gives the house the impression of being three stories along the corner. I cannot get myself around the building coverage and the development coverage issue. I just don't see how we can begin to grant that.

So, I mean, that's my only issue: it's a small ask at this point, but I'm still hung up on that because I cannot see a single hardship around those two numbers. I can see everything about yards and setbacks and traffic, and I think you've addressed them. I am still not comfortable with the development coverage and the building coverage on this. It's a very small amount, but it is a precedent here that I'm not sure we want to hit. I've said my peace on it, and I'd like to see what others have to say.

Mr. Abillama: If I may, (inaudible) Commissioner. If we consider that the hardship here is around certain other things that we provided – such as the outdoor parking space in front of the garage – by providing that we added square footage to the development coverage. And then also, the garage itself is another part of that equation. By eliminating that 2 percent out of the building coverage, then we can reduce the size of the bedrooms, which is a hardship by itself because then you end up with minimal-sized bedrooms. I had to take into consideration that it has to be a successful project to be able to ...

Boardmember Renzin: See, that part doesn't work for me because you bought the property knowing that it was going to be right at that size. So it's a property that should have smaller ... if it takes (cross-talk) bedrooms to conform with the smaller property, then that's the kind of house you build on a smaller property.

Village Attorney Whitehead: Yes, we're not talking about a huge reduction here.

Boardmember Renzin: Right.

Boardmember Quinlan: I mean, if you have three bedrooms, at 2 percent, how much smaller are you making the bedrooms? We're only talking about 2 percent. I think you can do it. There's a lot of houses in Hastings that have small bedrooms, and this is not even that small, really, I don't think, in the end.

Mr. Abillama: All right, we'll go with that. So we can keep the building coverage and development coverage at 30- and 40 percent.

Village Attorney Whitehead: Eliminate those two variances.

Acting Chairman Dovell: I just don't see that as a hardship. And as I've said before, the 30 percent and the 40 is very generous; it's an extremely generous way to configure a house, and it's offering a lot. Just to push it, I just don't see it happening.

Boardmember Quinlan: I agree with Ray.

Mr. Abillama: We agree also.

Acting Chairman Dovell: Should we hear from the public, unless there's anyone else? Joanna, you want to weigh in?

Boardmember Berritt: No, I agree too. I would say, I mean, you've done a lot of work after the last meeting and I think we've sort of said it's very, very close and I appreciate the effort that you've made to sort of put it in line. You do have the opportunity for the bedroom in the basement, so I do think that given the scale of the neighborhood, which has always been the issue for me – and the placement on the corner – I think this is a property that should fall within the guidelines. And for the difference that it makes, I think it's worth doing.

Acting Chairman Dovell: Okay, should we hear from the public? Anyone wish to speak?

Chris Thomas, 114 James Street: Mine is the property directly abutting it to the south. I do think this proposal is a significant improvement over the last proposal. It's much closer to what's appropriate. That said, though, it is still a very large property. It's here today for, I believe, seven – if I'm correct, six or seven – variances. And it's still closer to the property line than permitted on at least three of the four sides, depending on how you want to configure the two side yards back and forth. So this is a very large house and it's a very large increase over the size of the existing house.

I appreciate that it is under the 35-foot threshold in terms of height variances, but when you

compound that by the fact that the bulk of the house is much larger than what's permitted as-of-right the fact that it's very close to the 35 height limit results in an extremely large house in an extremely prominent location. It is very much not in character with the vast majority of the houses. Most of the houses are 1-1/2 to 2-1/2 stories and, referencing back to the earlier case, a peaked roof does make a difference in terms of the visual bulk. It's significantly above the other houses that slope down High Street as well. There are a number of problems there. Getting out of that driveway is going to be extremely difficult, as well.

I would like to just point out that the Village of Hastings did formula the zoning code and they do have a prohibition in the zoning code against increasing the amount of a nonconformity on an existing nonconforming house. We have, on the location, a house that is admittedly not a large house but is already too large for the house and nonconforming. Here we're looking at putting a significantly larger house, in all four dimensions and height, on the same house that is much more nonconforming than before.

I would also like to point out that I believe the house, in its current configuration, will actually decrease the visibility on the corner. If you look at the plans earlier, it was cited that the retaining wall is a part of the problem in terms of blocking visibility. The retaining wall is negligible on the James Street side in terms of blocking visibility. I want to say it's under 18 inches on most of the James Street side, or at least 18 inches above street level I should say.

The house itself, as currently built – the existing house – is set below grade by about a foot or so. The retaining wall also does slope down on the High Street side, and while it is somewhat of an impediment to traffic view it is not all that much of an impediment. A normal car is going to be higher than the height of the wall and you will be able to see, or at least if the overgrowth was cut back you would be able to see, across the intersection fairly well. The 50-foot threshold, as called for in the plans, is not even close. I don't think it's 42 feet back from the corners that the diagonal measurement is taken because the house only has a lot depth of 50 feet on the High Street side, I believe. Therefore, it can't be 42 feet because that would be almost down to the corner.

Building Inspector Minozzi: Remember, it's not 42 feet from the property lines, it's 42 feet from the curb. That's where you're making your mathematical error.

Mr. Thomas: Okay, all right. Thank you. Thank you for pointing that out.

Building Inspector Minozzi: I just want to make sure you've got it right.

Mr. Thomas: No, no, no, I was not ... okay, I was not correct on that so thank you for that.

Building Inspector Minozzi: No problem.

Mr. Thomas: And you know, again I said pointing out, it is closer to the property line, really, on all four sides. I believe it still does reduce the amount of visibility on the corner.

I just want to point out again that it does set a precedent, where we're allowing things that were clearly considered by the board in creating this plan. I mean, Hastings ... at some point, the Village sat down and came up with a plan that said, okay, 75-hundred square feet you can build a single-family house, 10,000 square feet you can build a two-family house. And here we are with 28-hundred square feet and change. We're going to take an existing house, and I've heard that, well, the project won't be viable. The fact is, the existing house, I don't think anybody has an exact date on it. But as best as can be told, it's probably in the neighborhood of 140 years old. I mean, if that's not viable then, you know, I mean, clearly it managed to make it almost to a century and a half of mostly continuous occupancy. To that end, I would argue that that says a smaller house would, in fact, be viable.

That's really my main objective. I think it is a substantially improved proposal over the last one. But again, I just feel that by bumping it out on all four sides and bumping up the height it's still a house that is too large for the site and out of character with the rest of the neighborhood. Thank you.

Acting Chairman Dovell: Thank you. Does anyone else wish to be heard?

Mr. Abillama: In regards to the obscurity along the corner, we provided a 42-foot distance from the corner to the edge of the house, which would provide a lot of safety for the traffic that's been rumored to happen because of that retaining wall. So by doing that, we are really saving a lot of issues that might happen because of the traffic.

In regards to the height of the structure, we have across the street from us two structures that are much taller than what we're proposing now. There are literally three-story structures, so it fits; it's below those two houses in height. It fits in that area and we believe that we don't have any height variance, that we conformed to that situation. And we're willing to go back to 30- and 40 percent for building coverage and development coverage. We're going to see how it's going to do well for the house, but we'll do it. We'll get it done. And I appreciate your input in this. You helped us by coming up with this formula regarding the self-imposed FAR.

Boardmember Berritt: Sorry, the two properties that you were saying were the same height is 115 James, and what was the other one?

Mr. Abillama: The one next to it.

Boardmember Berritt: Oh, the one next to it. Right.

Mr. Abillama: On High Street ...

Boardmember Berritt: I mean, that's the thing that's difficult to tell. It's just the scale of this in comparison to the houses around it.

Mr. Abillama: Also, this property is significantly high. And the adjacent house also.

Boardmember Berritt: The house with the retaining wall.

Mr. Abillama: Right. That's almost the same along High Street, you know. It has the two stories above the garage. Then the other portion is where the basement is semi-buried, so the structure fits right in – the proposed structure that we're proposing. So we hope that this board can approve this variance. Thank you.

Acting Chairman Dovell: Okay, we'll look forward to seeing you next time.

Mr. Abillama: Unless you want to do it as a conditional thing.

Village Attorney Whitehead: No, you want to see the revised plan.

Acting Chairman Dovell: We want to see revised plans.

Village Attorney Whitehead: We want to see what it looks like.

Mr. Abillama: Okay.

Acting Chairman Dovell: Thank you.

Mr. Abillama: Thank you. Happy Holidays.

Boardmember Quinlan: Yes, same to you.

Building Inspector Minozzi: Minutes.

APPROVAL OF MINUTES

Regular Meeting of October 25, 2018

Boardmember Nivarthi: In case you need me, Matt was not here for the last meeting.

Boardmember Quinlan: We're going to make a meeting date today.

Village Attorney Whitehead: Yes, you probably have enough votes for the minutes.

Chairman Collins: Thank you, Sashi. All right, why don't we approve the minutes. Does anyone have any amendments to the minutes?

Boardmember Quinlan: No.

[laughter]

Boardmember Berritt: I sent mine.

Boardmember Dovell: All right. I'm not able to vote on the minutes, but I'll ask for a motion to approve the minutes.

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

Boardmember Dovell: It's unanimous, 4-0, with one abstention. And Sashi, I guess, provided his feedback separately.

ANNOUNCEMENTS

Next Meeting Date – January 24, 2019

Chairman Collins: Then our next meeting is January.

Boardmember Quinlan: The 24th?

Village Attorney Whitehead: Do you want a date?

Chairman Collins: No, that's not important for now. We've stayed quite long enough.

ADJOURNMENT

Chairman Collins: I will adjourn this meeting. Thank you all for staying late.