

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
JANUARY 24, 2019

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, January 24, 2019 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 and Building Inspector Charles Minozzi, Jr.

Chairman Collins: All right ladies and gentlemen, thank you for joining us for our zoning board of appeals meeting for today, Thursday, January 24, 2019. It's our first meeting of the year. We have a busy docket. We have six cases on our docket this evening so we're going to do our best to keep things moving along.

I have a couple ground rules that I'll go over before we get started. The first, and probably the most important thing as it relates to anyone who's here to speak or be heard on any of these cases, is to make sure when you're speaking that you have a microphone in front of you because we have a remote transcriptionist who's capturing all remarks for the record and we want to make sure if you have something to say that we capture that for the record. So we have a standing microphone here, we also have a portable handheld here. So whenever you're speaking make sure you have a mic, and the first time you speak I just ask that you introduce yourself and tell us where you live.

I'll apologize in advance if I mispronounce any names. I seem to be very good at that, but I apologize in advance. The other thing which we're going to do to tonight because we have a busy docket is that we are going to ask any public comments to be limited to five minutes or less. We will have a timer up here running. It won't be a hard rule, but we have a lot to get through and we'll ask that you be concise.

We also have a couple cases that are returning a second time. The remarks that were made from the public in respect to those two cases are already on the record and there's no need to go over them again except perhaps if you need to reset context. But I would use your time to make new arguments, present new information. I think it'll end up serving you better.

So those are the ground rules. We'll get underway. Buddy, how are we on the mailings?

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

Chairman Collins: Okay, very good. So we will begin with case 21-18, Joan Dinowitz.

Case No. 21-18
Joan Dinowitz
3 Ward Street

View Preservation Approval, as required under Section 295-82, for the major renovation and additions on her single-family dwelling 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: This is an application that was before us in December. The only thing this board will review is the view preservation. There are no area variances required. I'll do a quick setup for this board. I'm sure all of you read the minutes, but we, as a board, have a view preservation part of our code that we have to honor that asks us to help applicants find the solution that has the least possible impact on the view of the river and the Palisades.

They presented their project, and we asked that we see another option that would "minimize" – my word – or create a smaller overall impact on the view of the river and Palisades, and offered up in our discussion some ways in which that could be accomplished. So that's a quick recap of our last meeting, and I'll turn it over to you, sir, if you could introduce yourself please.

Barry Poskanzer, Poskanzer Skott Architects: I live in Ridgewood, New Jersey. Thank you very much and happy new year.

Chairman Collins: Happy new year.

Mr. Poskanzer: We were asked by the board ...

Chairman Collins: One second.

Cable Access Director Corso: Can you check to make sure the mic's on?

Building Inspector Minozzi: Hello.

Cable Access Director Corso: Sounds good, thanks.

Mr. Poskanzer: Thank you again, and happy new year again.

Building Inspector Minozzi: You're going to have to hold the mic a little closer to your

mouth.

Mr. Poskanzer: Okay, thank you. We were asked at the last meeting, as you said Mr. Chairman, to come back with some alternatives, other ways we might be able to mitigate some of the view conditions that this project represented. We were also asked by counsel to treat this as a new application, making sure that we got all the information that was appropriate in front of this board; as well as to indicate to the board all of those things that we had tried to do to mitigate all the conditions of the imposition of this project on any of the view preservation statutes and the conditions that might be relevant.

So with that, I have a drawing, A-10, which indicates the highlighted area in green on one of the floor plans that shows the existing and the proposed from the house that we started with when we started the project. On the ground floor there is no change. On the street level there is no change. And on the second floor, an area that happens to be underneath, and part of, an attic space, we requested that that be full height and usable. It's 440 square feet; the entire request that we're making is for 440 square feet.

The second drawing, A-11, indicates in a section, cross-section, through the building, what was the existing house. This dark line around it indicates the overall shape of the house as it was when we purchased it. And highlighted in green, again, is the area that we're requesting we be allowed to enlarge. The second section is the proposed, and it shows that what we've done is put a flat roof on the top of what was originally one story. We have a partial second floor, and the whole purpose of the presentation and the whole purpose of the construction is to make the entire second floor usable – at 440 new square feet – to make two bedrooms that are up there be larger, and have two bathrooms. That is the total of what we're requesting.

Chairman Collins: What's the elevation we're looking at here with A-11?

Mr. Poskanzer: A-11 is a cross-section through what was the old house.

Chairman Collins: Oh, I see. We're seeing the middle of the house.

Mr. Poskanzer: As we're seeing the middle of the house.

Chairman Collins: Okay, got it. All right.

Mr. Poskanzer: And the reason we're seeing the middle of the house, that will get us to one of the things of the elements we chose to try and represent those issues which could fix, possibly, some of the issues that you have with the view.

Chairman Collins: The plane cutting through the middle of the house, though, would run parallel to the river, correct?

Mr. Poskanzer: Perpendicular to the river.

Chairman Collins: Perpendicular, okay. All right, got it.

Mr. Poskanzer: All of the testimony, all of the other issues that we've had before on this case, referenced the old pitched roof, referenced the partial second floor. But I didn't think it was clear enough how small the addition is that we're requesting and what the actual impact of that would be. Counsel asked me very clearly at the last meeting to list, and tell you, things that we had done or not done on purpose as a way to minimize the impact of what we're proposing.

First of all, what we're proposing is so small. But there is a long list of things that we, in fact, considered and didn't do. Some of the things we didn't do are by choice, and they are in fact important for why the final design was what it was. So let me just read them to you so that you'll know what it was we were trying to do in the spirit of the view preservation statute. One, we didn't knock it down and build a house twice the size, by right. Two, we didn't put a pitched roof on the top with the allowable heights that this zone would've allowed. We could've gone another 8, 10 feet higher just with attic space. So we eliminated the possibility of more storage in our house, in this house, for the sole purpose of keeping the building as low as possible.

That lost attic space then created for us the plane on which we could put solar panels. My understanding of the ordinance is that solar panels are not to be considered as part of those elements which block the view. I will show the drawings with the changes we're suggesting, or the possible changes you may or may not want. But in fact, we've also shown those drawings with the solar panels so that you understand how big or how little the efficacy of those mitigations might be.

We kept the existing foundation. We didn't change the footprint one bit. We kept the existing floor-to-floor heights. There's something very important here. The floor-to-floor heights, of course, dictate how high the building ultimately ends up and how much of it would be possibility blocking someone's view.

Chairman Collins: Keep the mic there.

Mr. Poskanzer: Possibility blocking – thank you – blocking someone's view. When we were in the process of construction, it was clear that the house was so rotten and the material

was so bad that we were going to tear it down and rebuild it. Now, that would've been the moment that we came and asked you for a change of height because the ceilings were kind of average, ordinary 8 foot; on the lower floor, 7 foot 4. On the upper floor, we didn't. We said we would rebuild it, we told the building inspector, we had promised this board, we would keep the floor-to-floor heights exactly as they were. And we did. So even though it looks today, if you go out there, as if it's all new construction, in fact it's the existing house from the first floor down and it's a rebuild of the exact conditions that were there when we were first before you.

One change: the exterior studs are 2 by 6s instead of 2 by 4s because it allows us better insulation. But other than that, rather than getting more height – making it a bigger building at the moment when it was clear it might have made sense – we had said we would do it that way, and we kept the floor-to-floor heights the way they were. Some other hardships because of that were obviously environmentally sensitive, and we're trying to do some ecological things that were helpful. We were precluded from using a heating and air conditioning system that we wanted because we needed more height between the floors to do that. We promised you we wouldn't do that, we left the construction the same.

There was a terrace wall on the north side of the building that used to be solid. We've taken that wall down and we're replacing it with an open-wire rail, rather, so that it's more open and less obstructing. When I wrote my notes – and I should tell you this is about the sixth or seventh edition of trying to get it as short as possible, so when I saw the agenda I tried to make it shorter – we also have the solar panels. We chose to make the solar panels less efficient by lowering the angle of the panel itself to 10 degrees instead of 30, which is the perfect degree to be efficient in our latitude. So we've done that, and then we put the parapet wall up so that less people would be able to see those solar panels. It's not in your ordinance, it's not required, we thought it was good design.

And last, because I know the building looks like you're in the middle of making a soufflé right now and it's very ugly, we decided to take what had been called a "cute cottage" by one of our neighbors. It was a rotten vinyl siding – old, 1950s, probably '40s or '50s house – that was falling down.

We've tried, and we think that all of the design elements that we've included will be an extraordinary improvement to the neighborhood, not a detriment. Those are the things we've done, all to try to make this a better project and to fit in to the view preservation aspects of your statutes.

The planning board, at our meeting before them – the one before we came to see you which, by the way, was the fifth meeting and this is the sixth I believe, or fourth and fifth – asked for

a minor change to some sidewalk parapets. That condition, which they then approved and then recommended to this board that we be approved so we could proceed with the construction – was at the end of a meeting where there was a bit of a strange outburst of ideas. They got caught in a corner and needed to find something to compromise with themselves, with the boardmembers themselves. They came up with slicing the side of that parapet down to alleviate the condition. We went along with it because we want to build our house. We don't think that's a good idea, we certainly don't think it helps shield the solar panels, but that was their intent.

Then they brought it back to you, and that's how we got here today. So we've lowered the panel. And then you asked us to do the best we could with the remaining parts of the building as it now stands erected. What we've done up on the roof floor is, in the middle of the two-story section – and let me show you on A-11 – is cut out and lower that section of the roof. Because it's not in a bedroom, it's not in a space, we thought it was inappropriate to lower the ceilings to less than 8 feet. Eight feet is the norm that's expected; this is not exotic or very high in terms of space needs, but it is the minimum. And even though there are places in the code that allow us to go slightly lower, that was inappropriate because the whole purpose and the whole reason for this exercise was to make decent usable space – 440 additional usable space – on the second floor.

So in the area where we could, we lowered that section of the roof and that improved slightly some sight lines. I'll show you where that is. This, by the way, A-8 – which has been before the board before, part of the original application drawings – shows again where we've put a bubble around it to indicate the places where we've lowered it. Is it very big? No, it's 7-1/2 feet wide because that's the width of the slot that's not in one of the bedrooms. It's the one place where we had the flexibility to do that.

The next item, of course, is what's the impact of this on the neighborhood. We have a drawing that was on drawing A-9 that we presented before that shows the overall view, but we didn't think it was effective in terms of indicating to you what the real impact of the roof pieces that we're discussing is. And so what we've done – close to full height, not exactly full – is showing, from the fireplace, the fire escape space directly in front of the windows of our neighbor to the east; the full degree of all of the panorama of the entire view that's out of that neighboring space. The only complaint we have, of course, is from the one neighbor who is directly to our east. This building has little or no impact on any other part of the neighborhood from what it once was. And we wanted you to see that the discussion we've been having – cutting down the parapet slightly on this side, doing the little notch that we're suggesting here on the west side over there – is good. But it's important when you look at the plan, in what I would think is just slightly over-focused.

This is a story about helping this building for one woman, out of one window, with one view. And the fact is, that's the view from 10 windows on her third floor and more windows on her fourth. So in terms of the impact on our neighbors, it's not the rest of the neighborhood; it's a single, particular complaint. You have the letter, you know that. It seems to us that we can haggle over the small little nicks and nacks on the building, but the reality is that's really the view, not the little piece that's shown in the focused drawing.

So the discussion, in our opinion, got away from us when everybody started saying, Oh, this is terrible, you could make it incredibly better. But in truth, the difference of these changes, that view is insignificant. And we would require that you, in fact, go ahead and approve the plans. In fact, we'd like you to approve the original drawing because apparently – since we're here, and the board was asking us to make more changes than the planning board had recommended and you were willing to go beyond their recommendation – we'd like you to go beyond the recommendation and put it back. Just leave the house the way it's been built, the way it was intended. And I would hope that that's it.

I have lots more I could say, but you asked us to be short tonight. And unless we get into a discussion about how we got here regarding all the other old drawings, I have a presentation to respond to that. But I don't think that's the issue. I think that your responsibility is to look and see what is the impact and how are the view preservation aspects of the statute met. Always you're a balancing act between private interests and public, but I ask you: tell me why changing the little edges to just kind of chip away at the architecture – which we happen to be proud of, we think it's gracious, we think it's neat – for the purpose one window, one woman, one view?

So I have a conclusion – which I can just say to you, the rest of the ideas – just to be sure that you understand where we are. I think this is probably one of the smallest applications you'll ever have on the issues of view preservation. We were referenced as a developer as if we were some big, bad bogymen coming from out of town, building a block of new housing blocking the view for 20 neighbors up the hill. In fact, we're a resident, a taxpayer, one person who wants to live here and take advantage of the beautiful view. That's why we purchased this particular house.

I wonder how many other applications you have had or will have that are smaller in size and less an overall impact. The ordinance is really clear. It says, "*... so as to cause the least possible obstruction of the views of the Hudson River and the Palisades.*" Doesn't say "none," it says "the least." So my question is, going up to the barest minimum decent height of 440 square feet, is that having a significant impact and is that not ... are we not meeting the intent of the statute? I've been working on this since last month. This is very important to me. I hope that this board doesn't let perfection be the enemy of the very good. And this

plan is very good; very good in terms of what it does for my client, but as much what it doesn't do in terms of impacting negatively the public and the Village.

And so I would ask you – and I have other responses if there are questions – that you approve the plan the way it's been built, the way it was shown to you on all the drawings save the photoshop drawing which we've all conceded was a mistake. And let me say, why would we try – as was implied, or inferred by our neighbors – to try to fool you? Do you think we'd be ashamed of coming in with the right application showing this little an impact on the view? There would be no purpose in trying to fool you with anything. Clearly, it was just an honest error.

In any case, the rest of the drawings are always clear and it has been built exactly as we promised a year-and-a-half ago. So I could say more, but I think that's probably enough. You understand my feelings, and ours. We think that there's a reason for your view preservation. We admire it. Your zeal is the most important thing for the well-being of Hastings and this project doesn't do anything to harm that good intent.

Chairman Collins: All right, thank you for your presentation. Are we looking at ... this drawing, is this representation of the revised version that you submitted for this meeting?

Building Inspector Minozzi: No.

Chairman Collins: Is that it, or no?

Mr. Poskanzer: This was done before the notch was cut out right here, and this was done before the angle ...

Chairman Collins: That's what I thought.

Mr. Poskanzer: Because we're asking you approve it this way and leave it the way it is.

Chairman Collins: And leave it with the parapet on the north side?

Mr. Poskanzer: The parapet on the two sides, and we don't need to do the notch. We understand you can ask us to do that. We can. You can do that, or you can vote no. And then we didn't even go into the ramifications of no because let's not ... let's hope that there's a place that this building can be built.

Chairman Collins: All right, so you would ... are you then – let me back up. The zoning board is not in the business of taking three options from an applicant – two options from an

applicant – and picking the one that we like. We're going to review and discuss the one that you want us to put forward. So what I need you to do is to present to us the one that you want us to approve. If you're saying that you're going to go back to the one that you presented in October, then that's the one that we're going to discuss. If you want us to review, and present the one that you presented that you revised for this meeting, then *that's* the one we're going to do. But we're not going to get into a game of saying ... the applicant coming and saying, I have two: please, zoning board, pick one.

Mr. Poskanzer: Well, the board put themselves, I think, in the position by asking me to do more than the recommendation of approval from the planning board. You already put me there by saying, Do more. I could say I could do none, I could say I could do a little. But instead, what I'm asking is you have it in front of you, the impact of this on the view preservation statute and how it would matter. Seems to me we're saying if you really think that cutting the parapets on the side or making the notch on the west wall are a serious improvement and not just punitive because we made a mistake on the drawing, it's five months ago. If you think that that's true, then either vote no or vote yes.

Chairman Collins: Okay.

Mr. Poskanzer: We think the building as it stands is ... but we've already acceded to the request of the planning board and we've acceded to the request to show you even more, and we leave it to you to tell us what you think is fair and what you think really matters in terms of the statute.

Village Attorney Whitehead: Just to clarify ...

Boardmember Quinlan: Do we get an answer?

Village Attorney Whitehead: ... this does not reflect what the planning board asked for in terms of cutting down ...

Mr. Poskanzer: No, it's here. We have it on our presentation.

Village Attorney Whitehead: You have it. It's just ...

Chairman Collins: Right, but here's what I've heard.

Building Inspector Minozzi: But I didn't get the ...

Chairman Collins: Here's what I've heard. Let me come back to what I think I heard you

say, and you correct me if I'm wrong. You are asking us as a board to go back and review the design that was presented at the October meeting that had the mistake in the rendering.

Village Attorney Whitehead: No, the mistake in the rendering was last April.

Mr. Poskanzer: It was long ago, not last month. We've corrected all of that since then.

Chairman Collins: Okay, then my timing's off. But my point is, we are not reviewing – or we're not going to discuss and vote on – the revised submission that you presented for this meeting. And we're not going to review and vote on the plan that was presented to us at the December meeting. Is that correct?

Mr. Poskanzer: No, you can vote on any parts of it that you think are efficacious. We are ...

Village Attorney Whitehead: Legally, you can. I mean, there's no legal ...

Boardmember Quinlan: I have never ...

Boardmember Renzin: I think we asked him to come back here and do this. If I recall the end of the last meeting, we said could you try to see whether you could come up with something else. We'd like to look at it, and when you come back we'll take a look at what you've got. And if not that, we will look at the one that you presented last time. I may be wrong, but that is my recollection.

Chairman Collins: No, no, you're right. That's correct.

Mr. Poskanzer: Correct.

Chairman Collins: But as a matter of function, we have to have something to focus our attention. I can't ever remember an instance where we've been given a multiple choice question.

Mr. Poskanzer: Let me explain why I think ...

Boardmember Quinlan: Can I just say one thing before you start? So I was on the zoning board for 10 years in the '90s and early 21st century. Never have I been presented with A, B ... A, B and C. You come with a plan and we vote on it. It's too complicated and it's too ... it might be legal, but it's not what we have ever done before unless someone can show me a case.

Village Attorney Whitehead: But I think as Carolyn said, it's kind of what you asked for here.

Boardmember Renzin: We did, we asked for two versions. We said come back and we'll vote on the one that you presented last time, and we'll take a look at the new one. Now going back to the previous one, we didn't ask for it.

Boardmember Quinlan: Which is what we're looking at.

Mr. Poskanzer: But my argument on that is that the previous one, without the ability to see it again and understand the de minimis aspect of all of the discussions, of all of the things we've been having – cutting down the parapet wall, the notch on the west wall, particularly when, since I was moving my testimony along, the drawings that we re-presented to you show the notch and show the solar panels – the key here is that neither of those are benefiting by the changes. And that was the point that we were making.

Chairman Collins: I'm sorry to interrupt you, but I feel as if you're repeating ... you're retreading your argument.

Mr. Poskanzer: I didn't want to, I apologize.

Chairman Collins: No, that's all right. I'm just ... I will tell you that each one of us will interpret our village's view preservation language uniquely. My interpretation of it is that this board is allowing for an applicant to work programmatically within the envelope that the rest of our code permits for things like developmental area, height, setbacks. That we have to, within that envelope ... in the view preservation district, we have to work with an applicant to a solution that presents the least possible impact on the view. And what you have presented here, by definition, leaves you vulnerable to a very simple argument that we've hashed out before: that the impact on the view could be minimized.

My interpretation – and our Village attorney will correct me if my interpretation is off base – is not to say, Well, look at this great big view, look at this handsome building, isn't it quite enough that there's this great big view and can't we please have our building. That's not what the code tells me to do. The code tells me that within the envelope, programmatically, that you're entitled to build, how do we create the least possible impact on the view as a result of that project. And by you reverting back to a design from April of last year and putting the parapet back up, you present yourself right back to where you were; where we all acknowledge that there's something that ... you would agree there's something that could be done to reduce the impact because you did it for the last meeting.

Village Attorney Whitehead: To clarify, you're not talking about going back to the original with the parapet.

Mr. Poskanzer: No.

Village Attorney Whitehead: You're talking about going back to what the planning board ...

Mr. Poskanzer: What's ...

Village Attorney Whitehead: ... what you basically submitted here, whatever it was – October or November.

Mr. Poskanzer: Actually, Counselor, the chair is correct. I was leaving the three options. But if the board will give me one minute with my client I think I'll have an answer for you. Okay?

Village Attorney Whitehead: I think, at a minimum, it's got to be what the planning board recommended.

Boardmember Dovell: Just removal of the parapets.

Village Attorney Whitehead: It was angling it.

Boardmember Dovell: Angling it on each side.

Village Attorney Whitehead: The side parapets angled down so that the west end ...

Mr. Poskanzer: It's very clear.

Village Attorney Whitehead: Which is not what ... this is what's out there today ...

Chairman Collins: Right.

Village Attorney Whitehead: Without that change.

Mr. Poskanzer: We are making a request that you do what you always do, which is to look at the planning board's recommendation. And I wonder how many times you haven't done what they've recommended – but let's assume that that's rare – but this is special. We accept

that cutting down the parapets on the side, that was the turning point that the planning board felt comfortable approving in recommending that approval. That we will abide by that, there are no other choices. Not the new notch on the west, because we think that's beyond de minimis and covered by the solar panels. And that if you think that cutting down the parapets on the two ends – which is what the planning board said – we're perfectly happy to have you vote on that.

Chairman Collins: I see, okay. So the one you want us then to have a discussion on is ... let me try to rephrase this. You've gone back to the drawing board, as Carolyn said, come back with what I'll call a version with cutout, looked at that. But you want us to go back to the one ... to the project that was presented in December.

Mr. Poskanzer: To the planning board.

Chairman Collins: And to the planning board.

Mr. Poskanzer: And was approved by the planning board.

Chairman Collins: Right.

Mr. Poskanzer: Because that's correct. Everything else, then, we said we've looked at the other alternatives, we don't think that they're significant enough: what the planning board recommended is fine, we'd love to proceed. And then this drawing would be changed by the simple act of cutting them down on the angle, as is shown on our presentation drawing. That big drawing was printed before and shows what's out there. But our drawing that we have presented as part of our presentation, that we've given to you, shows those side walls cut down. And we're perfectly happy if that's the condition, and that would be our opinion.

Village Attorney Whitehead: And that's what was presented to you in December.

Chairman Collins: Right.

Mr. Poskanzer: Right.

Chairman Collins: A couple of just observations about the way that we work with the planning board. The planning board recommends, makes recommendations, regarding view preservation approval. But having been on this board for awhile, I can tell it's not unheard of where we disagree. And not just on view preservation.

Village Attorney Whitehead: Mostly not on view preservation, mostly on variances.

Chairman Collins: So it would be inaccurate to characterize the work of the planning board as being a necessarily reliable indicator of the way we're going to find. Because we're looking at fundamentally some different considerations.

Mr. Poskanzer: That was why I opened up the issue. Had you not taken that ... it was either the recommendation and you were just rubber stamping, or not. I never would have offered the third option of leaving it the way it is. But you do have the position to overrule and to vote the way you think is appropriate. So I gave you that option, but we've taken it back. We're back to the presentation ...

Village Attorney Whitehead: Take that one off the table.

Chairman Collins: Just stand corrected, that would be my advice. Does anyone need to see this any more? We're not voting on it. You can roll that up, thank you.

I have one question to ask, really, only. And that is, we thought that one possible remedy to the task of minimizing the impact on the river and the Palisades would be to drop the western wall to create more of a pitch and get that down, at that westernmost point, 7 feet. Did you look at that?

Mr. Poskanzer: Yes.

Chairman Collins: Obviously you didn't bring it forward, so tell me why you steered clear of that.

Mr. Poskanzer: Well first, because the purpose of the addition is to make normal, full-height second floor space. So then you're saying to us because of one window, one view, one woman, we're supposed to ...

Chairman Collins: No, no, no, no. No, that's not it and you'd be wrong to keep bringing that up.

Mr. Poskanzer: Okay, I won't.

Chairman Collins: You have to understand what we are mandated to do, and it wouldn't matter if she were here. If this project had no complaints on it whatsoever we would be applying the same rigor to this. We have to find a solution within the program that you want to build that has the least possible impact on the view, and it doesn't matter if it's one person or five. So I would ask you, please don't argue that anymore.

Mr. Poskanzer: Okay.

Chairman Collins: So tell me why it is that you didn't go with the step-down.

Mr. Poskanzer: Because 8 feet is the normal height for regular bedrooms. The purpose of this is to create normal-height bedrooms. It turns out that the occupants of the house are both over 6-3 for the rooms that they want to occupy there. So to make them smaller seemed, why are we bothering with the effort of doing this and then having to cut it down. And when you put the solar panels back on top of the roof, after you've cut it down you're still 2 feet higher than that point anyway. So you haven't really benefited anyone by doing what you've requested.

Chairman Collins: Okay.

Mr. Poskanzer: So that was why.

Chairman Collins: All right, okay. Well, then I'll summarize my position, and here's then what we'll do. We'll go down the line. Again, this is a quest for efficiency, but I'll just invite every member of the board to ask their questions, if they're ready to sort of state their analysis and where they are landing. We'll finish that up, we'll invite members of the public to speak who would like to, and then we will – presuming you're ready to – proceed to a vote.

Mr. Poskanzer: Oh. Only after the public speaks, if I have an opportunity ...

Chairman Collins: Yes, we do that for every application.

Mr. Poskanzer: Fine.

Chairman Collins: But that's the way I'd like to go. I'll kick off by saying that we had, in my mind – given my framing of how we need to interpret view preservation, which I won't rehash – one notion of how we might be able to further reduce the impact in a quest for that least possible impact on the river and the Palisades. And it was to drop the western wall to 7 feet, which would then create a pitch, more of a pitch, down to that western wall. Your explanation of the height of the folks living in there being 6 foot 4, the citing of the fact that 8 feet is already a relatively low, modest ceiling height – you've preserved floor-to-ceiling heights from the structure that's no longer there – I am satisfied personally that this proposal has made every effort to have the least possible impact on the river and the Palisades.

So that's my analysis, that's my understanding. Jo, I'll hand it down to you.

Boardmember Berritt: Start with me? Thank you. Yes, I mean, I think one of the options would be to drop, as Matt said, the whole of that west wall down. But then you get into ceiling heights that are going to be problematic if you run it all the way across the back of the house. What do you actually get in terms of the view on the other side is sort of, you know, virtually doesn't make an impact anyway. So I think it's a tricky thing. But I think, given that you've sort of tried to sort of look at the options, I don't think taking the notch out serves anything additional. And you've got the solar panels on top of it. So I'm okay.

Chairman Collins: All right. Carolyn?

Boardmember Renzin: I'm okay.

Chairman Collins: Ray?

Boardmember Dovell: I'm just curious about the two. You present a panorama at the top of your sheet A-9.

Mr. Poskanzer: Right.

Boardmember Dovell: Which shows a view out of the same ...

Mr. Poskanzer: That's the same one you saw, the exact same drawing.

Boardmember Dovell: Understood, but it's a panorama and it's maybe what you see when you're looking out the window. The other views you have are like taken with a telephoto lens, where you're looking ... you're analyzing the view as if it's only relating to the building.

Mr. Poskanzer: Right.

Boardmember Dovell: You haven't done yourself any favors by showing a view that's that constrained. That view should be expanded to parallel the width of the lot so that you're at least looking over the lot.

Don't say anything, all right? So you've painted one picture at the top which is very convincing. The ones below, you can see it's only taken in context with the width of the house, which is not view preservation. How wide is the lot? It's a hundred feet wide?

Mr. Poskanzer: Yes.

Boardmember Dovell: It's a hundred feet wide. How wide is the house?

Mr. Poskanzer: Forty.

Boardmember Dovell: Forty feet wide, so there's 60 feet – there's 30 feet on either side of this – which is not obstructed view which you haven't shown. So expanding that view illustrates to me that there's less of an impact that's shown on these middle three drawings. You know, I believe this is a minimal obstruction, but you haven't done yourself any favor by taking photographs with two different focal lengths, so to speak. It just doesn't ... you know, the bottom five photographs. So I would agree that it is a minimal disruption of view.

The notch, I suggested looking at lowering the roof. But it really doesn't ... because of the solar panels it's not doing anything. Because the solar panels are a permitted obstruction in view preservation. So I think this is an appropriate and minimal disruption of the view, but I think you could've done yourself a favor by regularizing the photography.

Building Inspector Minozzi: He actually used my pictures that I took when I went to visit.

Boardmember Dovell: Oh, Buddy.

[laughter]

Mr. Poskanzer: Thank you, Buddy.

Chairman Collins: You're a big man, Buddy, for taking that.

Building Inspector Minozzi: Sorry, it was me.

Mr. Poskanzer: Trying not to throw him under the bus.

Boardmember Dovell: But you see my point, right?

Mr. Poskanzer: Yeah.

Boardmember Dovell: I mean, you see my point is ...

Village Attorney Whitehead: Buddy'll know for next time he takes pictures for someone.

Building Inspector Minozzi: I'll know how to take them.

Boardmember Dovell: I mean, I think as a standard the photographs should at least ...

Village Attorney Whitehead: The width of the lot.

Boardmember Dovell: ... be the width of the lot. Otherwise, you're not doing yourself any favor.

Mr. Poskanzer: Thank you.

Village Attorney Whitehead: It doesn't have to be the whole panoramic, but the entire lot, the entire property.

Boardmember Dovell: At least should show the width of the lot. So with that admonishment, I think it's fine.

Chairman Collins: Jerry?

Boardmember Quinlan: Okay, that leaves me. There's a couple points I'd like to make. First of all, there are two very close neighbors who are objecting to their view being comprised. And the applicant tonight forgot about Mary Lee Sachs on William Street.

Chairman Collins: 19 William.

Boardmember Quinlan: Yes, 19 William.

Mr. Poskanzer: (Unintelligible).

Boardmember Quinlan: No, I don't ... this is my turn to talk. You can talk later, thank you.

We didn't hear anything about Mary Lee Sachs and we have a letter from her that'll be read into the record later. They both came to the meeting, and object to the view preservation to their view as being compromised. I think it's also important to add that credibility is always a consideration in our deliberations on every case. In this case, we have a, quote, unquote, "mistaken photoshop picture," and that's why we're back here again today. During the last hearing, we have one of the objectors put into question the accuracy of the mockup. And finally, we had a recommendation from the board that the top roof be sloped from 8 feet to 7 feet from front to back, east to west. Which although you considered it, you didn't come forward with. Basically you ignored it.

So my vote is no. And as you can hear, that's not going to affect your house in any way. But I think view preservation and the value of neighboring properties in this town is really, really important and I'm happy to be the only no vote on this because we have to protect values, we have to protect views. And we have to watch out very carefully why this statute was passed, why it's part of the law. Also, I think ... my last point is that there was some conversation about whether the intent of the statute should be applied to the actual statute itself.

It is written in the zoning board about what the intent of the statute was. And I think that's very important because when people make a decision – like judges and regulatory people and zoning boards – they have to look at what did the people that passed the law ... what did they intend. We have a clear view of that, what they intended, because it's included in the statute itself. That's it.

Chairman Collins: Okay. Then we'll invite any members of the public who wish to be heard on the matter to please come forward. Yes, ma'am. Please just remember again to introduce yourself and where you live.

Christina Lomolino, 24 Aqueduct Lane: Mine is the building exactly across the street from the subject property. I'm the president of our condominium. Two of the floors of our building are affected by this project, and I feel like I'm living a Hastings homeowner's nightmare. Somebody buys the house across the street, they demolish it down to the basement and they build a bigger new house up into your view. You never see some of the view in order to improve their own view. I just don't want to look out my windows every day and feel that I've been robbed of something beautiful and important. And that the financial value of my own property has been sacrificed for the benefit of my neighbor's property.

I'd like to just make a few points. That was quite a splendid array, that photo that was unfurled for you. And I would like you to disregard it because that photo was not taken from the third floor, it was not taken from my home, which is at issue here. It was taken from the extreme northwest corner of the fire escape on our building where nobody lives. Nobody lives on the fire escape, nobody even uses the fire escape other than in a fire. So I really feel you should disregard that photo. It was brought here to show that if you shoot from the south it looks like there's almost no impact on the view, but that's really not the case.

Here's another photo that show a bigger view. I don't have (off-mic).

Chairman Collins: You need to have a microphone if you're going to speak.

Ms. Lomolino: Yeah.

Building Inspector Minozzi: Here you are.

Male Voice: Take that (off-mic).

Ms. Lomolino: Yeah, please do. This is the old house. We've seen this photo before. This is the old house, it had no obstruction of the river. This is the new house, it clearly obstructs significant portions of the river. I gave you those other photos to show you a little broader context. Because the fact is, what is shown in that panoramic picture is not anything nearly like is visible from the third floor of our building. It is only visible if you're hanging off the fire escape. So I would like you to disregard that panoramic photo.

At the last meeting, when a boardmember asked if the new building blocked views more than the old building, the answer is absolutely yes. I'd like you to disregard the current state of construction. This is a new application, and I think you all agree to that. I've been concerned with that because a great deal of constriction was permitted after the stop work order. That the board would decide to intervene and create a real solution. That it would be considered wasteful or considered too much to ask of the builder. And I hope that that's not the case here.

I've heard several times in these meetings that the view preservation law doesn't say no obstruction. But I would offer that the clear intent of the law is *prevent* one neighbor usurping the views of another, not encourage it or condone it. If someone's going to block someone else's river view there has to be a darn good reason, not as here that they simply wish to improve their own view at their neighbor's expense. The project architect makes it seem as though their design choice to use the footprint of the old house was some sort of good deed for the benefit of the neighbors, and that the old foundation then trapped them into building up into the views, rather than other design choices like perhaps increasing the depth of the building if they wanted more square footage.

The use of the old site for the new building is clearly a design choice made by the owner and the architect. There were many other design possibilities, particular once the decision was made to demolish the old house. It appears likely that the old footprint was chosen mainly because the foundation was already in the highest spot in the property to capture the fabulous sweeping river views so that it adds the most financial and esthetic value to the new house while still leaving room on the west for extensive decking to capture even further forwards. The only problem is that it detracted from the financial and aesthetic value of my house, a house on William Street, and also the second floor of our building.

I believe that there is a solution to this, and I believe the solution has four features. One, drop the western third of the roof. If you see, there's a dotted line there.

Chairman Collins: Ms. Lomolino, can you please wrap it up.

Building Inspector Minozzi: We're at six minutes.

Chairman Collins: We've got a lot of cases on the docket ...

Ms. Lomolino: I realize that.

Chairman Collins: What I've heard, quite frankly ...

Ms. Lomolino: (Cross-talk).

Chairman Collins: Ma'am, what I've heard from you is a lot of what you said in the last meeting, which is already on the record.

Ms. Lomolino: All right, let's get to the solution then. The western third of the roof should be dropped down and, if necessary, if it's not tall enough to have a 7-foot ceiling on the extreme western side of the building, they can drop the floor some. This has been done in many cases. Remove the parapets on all sides. This will help to reduce the view impacts from the second and the third floors of our building and from 19 William Street as well. They're not required by law, they are simply wanted by the architect and his niece, the client.

Reduce the vertical design element in the front of the building that, I believe, sticks up higher than the roof and possibly higher than the parapet. And group the panels, the solar panels, on the eastern portion of the roof. Group them on the eastern portion of the roof ...

Mr. Poskanzer: (Off-mic).

Ms. Lomolino: Group them on the eastern portion of the roof so that they're less in the way. So that's what I'm suggesting: drop the western third of the roof down one foot. If it's not high enough for the applicant they can lower the floor slightly. Remove the parapets on all sides to reduce the impact on the river views. Get rid of that vertical design element or at least cap it off at the roofline. And group the solar panels forward, toward the front of the house.

Chairman Collins: Okay.

Ms. Lomolino: And that will resolve this problem.

Chairman Collins: All right, thank you very much.

Does anyone else wish to be heard?

Joan Dinowitz, applicant: Hi, I'm the homeowner. Just a lot of that was not true. I have a 360 moving photograph so you can see exactly where that was taken, if you care.

Chairman Collins: Okay.

Ms. Dinowitz: And it was right in front, in the middle of, her 11 windows that look west.

Ms. Lomolino: On the fire escape.

Ms. Dinowitz: But right at your window.

Chairman Collins: Is there anyone on the board ...

Ms. Dinowitz: And one other thing. We got rid of a chimney that was in the original plan that obstructed views. We forgot to mention they're gaining views with the eradication of the chimney.

Chairman Collins: Okay, thank you very much.

Ms. Dinowitz: (Off-mic).

Chairman Collins: Does anyone wish to ask any other questions or see any other evidence before we proceed to vote?

Boardmember Quinlan: Could we read the letter from the other neighbor?

Chairman Collins: Oh yes, thank you. I'll read it, yes. This is a letter from Mary Lee Sachs and Malcolm Beadling, from 19 William Street, and it was submitted today. It reads as follows:

"Dear members of the zoning board, regarding case number 21-18, Joan Dinowitz at 3 Ward Street,

"We unfortunately are not able to attend the zoning board meeting this evening as I

am away on business and my husband is traveling with me, but I would like to again express our concern. I attended, and voiced my views and presented visuals at the meeting in December when this matter was previously discussed. The views of all four floors of our three-family home are affected by the new structure, which ultimately affects the rental value and resale value of our property. The board and the public were clearly misled in the original hearings, which I find completely unacceptable.

"There is an issue of misrepresentation here. It would appear that rather than ask for permission, the owner and architect are looking for forgiveness. Are the guidelines which have been set for Hastings homeowners being overlooked for some reason? I'd like to know what has changed. I know of at least two property investors who are watching this development closely, assuming that Hastings is becoming more liberal in its building requirements. I hope this is not the case.

"Yours faithfully, Mary Lee Sachs "

Female Voice: (Off-mic)?

Chairman Collins: No.

Female Voice: Are you voting with or without the parapet?

Chairman Collins: We're voting ...

Village Attorney Whitehead: As presented.

Chairman Collins: ...as presented at the December meeting.

Village Attorney Whitehead: With the sloped parapet, which was per the planning board recommendation, right? Which was the plan that was submitted in December.

Chairman Collins: Yes, we settled that I think at the start of the meeting and it's the one we're going to vote on. Does anyone wish to make a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Renzin with a 4-to-1 voice vote [Boardmember Quinlan opposed], the Board resolved to approve view preservation for Case No. 21-18 for Joan Dinowitz, at 3 Ward Street.

Chairman Collins: The vote is four to one. Congratulations, thank you.

Mr. Poskanzer: Thank you very much.

Chairman Collins: All right, our next case ... we'll give folks a moment here to resettle.

Building Inspector Minozzi: Pass me that microphone that's on the dais, I mean on the desk. Thank you, dear.

Chairman Collins: All right, we are going to proceed to case 10-18, Samar Tannous. But before we begin, as I have done the previous two times this case has come before us I have to recuse myself as I have a friendly relationship with the applicant and her family. So I am going to turn the chairship (ph) over to Mr. Dovell, and then I'll be back for the rest of the docket.

[Chairman Collins recused for cause]

[Boardmember Dovell assumes chairmanship]

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 2R Zoning District and is also known as SBL: 4.140-151-32 on the Village Tax Maps.

Nonconformity details of the proposed new dwelling are as follows:

Front Yard: Proposed – 9 feet; Required Minimum – 25 feet {295-70E.1.a};

Variance Required – 16 feet

Rear Yard: Proposed – 11.67 feet; Required Minimum – 25 feet {295-70E.1.b};

Variance Required – 13.33 feet

Total Two sides: Proposed – 19.83 feet; Required Minimum – 33 feet {295-70E.1.c}

**(Side yard one calculated as a front yard); Variance Required – two sides:
13.17 feet**

Obstruction at an Intersection: Proposed – 45 feet each direction; Required Minimum – 50 feet each direction {295-20E.1}; Variance Required – 5 feet each

direction.

Acting Chairman Dovell: Why don't you go ahead and make your presentation, and highlight changes, if any, that you've made. Then we will discuss and ask members of the public to speak if they would wish, and then we will vote. Just a reminder that there are four of us now voting. So why don't you begin.

Tom Abillama, project architect: I'm the architect for the applicant. I want to thank you for having me back this month. But I also have to announce that I have some sad news: Samar's father passed and that's why Samar Tannous and Joe Abirizk are not here tonight.

Acting Chairman Dovell: Sorry to hear that.

Mr. Abillama: Just to recap on what the property is about, it's a nonconforming lot with an existing structure on it. The lot area is 2,837 square feet, while the required minimum is 7,500 square feet.

We proposed the house ... we had two versions. Two months ago, three months ago, we came here and represented (ph) the first version which had some height variances in it. Then last month we came in and proposed a structure that has no height variances, but ended up having some coverage – building coverage – and development coverage variances. Since then we revised it and we eliminated those two variances. So no building coverage variances proposed and no development coverage proposed.

So we left with mostly yard setback variances. One yard setback left is still conforming and the other three are not. The other variance that we're asking for is the intersection obstruction visibility setback, which has been ameliorated since the last time. Last time we had a 42-foot setback, where the minimum is 50 feet. And now we're coming back with a 45-foot setback. What we came up with is that the coverage should be 851 square feet, translated by the 30 percent maximum coverage. That number we multiplied was by the 2-1/2 stories, and therefore we come up with a self-imposed floor area of, totally, 2,128 square feet.

What we did with the house since the last time is, we squeezed the house, we compacted the house itself from all sides. Obviously you have stairways and corridors and bathrooms that have to remain the same by virtue of the building code requirements. We have clearances we have to (background noise). So we ended up smaller spaces. And mainly on the second floor, we're left with three smaller bedrooms. They're 14 by 11, one of them. The master bedroom is 16 foot 10 by 13 foot 4. And the third bedroom, the smaller one, is 9 foot 9 by

12 foot 6. They are decent size bedrooms.

But by doing the math, we ended up with a leftover space. Because we squeezed the coverage, we ended up with about 140 square feet that we could utilize in the basement as a mechanical space. Previously we had a crawl space here by the stairway, top of the stairway. Now we can utilize it for storage and mechanical, obviously. It's mostly buried under the ground, and there's only one small window that can be utilized.

If you see here – (unintelligible) to this – the detached areas, besides the building envelope, are what we previously proposed. So you can see the relationship between the old and the new.

Acting Chairman Dovell: But there are two iterations of the old scheme. This is the last iteration of the scheme.

Mr. Abillama: That's correct.

Acting Chairman Dovell: Okay.

Mr. Abillama: Also, as far as the development coverage ...

Acting Chairman Dovell: Could you go back to that drawing just for a moment? And now go to your A-1 drawing. I'm confused by the offset of the dotted lines. They don't seem to line up.

Mr. Abillama: Something happened with the ... let me go back to a different version of the drawing. Sorry, excuse me a second. The wall's moved around a little bit on that version.

Acting Chairman Dovell: There. The drawing, your basement plan, there shows a different dotted line than the second floor does, right?

Mr. Abillama: That's right, that's right. So let me explain what happened. Because we pushed the house towards the left a little bit, we had a 10-foot setback previously and we moved it. The basement and the first floor, they tell you the right story. It's just that we didn't do it on the second floor, but it translates into the same thing. Let's say in the basement we take the dashed lines and move them over 2 feet to the left. That would be the same thing on the second floor. I apologize for that.

Acting Chairman Dovell: So which is it? Which is the correct version?

Mr. Abillama: It's the first floor and the basement that's the correct translation.

Acting Chairman Dovell: Okay, so the dotted line was the last iteration of the plan. Okay. And that would just be translated to the basement plan.

Mr. Abillama: To the basement.

Acting Chairman Dovell: Okay.

Mr. Abillama: If you look at the site plan, the 8 feet used to be at 10 feet. So we pushed the house over.

Acting Chairman Dovell: Do you have anything else to add to your presentation?

Mr. Abillama: Not really. Just that we listened to your requests since the last project. The first time around we requested to have a smaller floor area than 4, and then we came back with the solution that had still some coverage issues. We eliminated those issues.

Also, I'd like to show you the history of what we have presented.

Village Attorney Whitehead: It might be helpful ... do you want to just go over. Because I know the numbers requested, the variances requested, are reduced. I was just looking at last month's agenda versus this month's agenda and I think that's something that's helpful for the board.

Mr. Abillama: I will, thank you Counselor.

If you look at this drawing it shows, from left to right, how the sequence of the revisions happened all along. We had a three-story tower in the beginning, then we lowered it to a two-story tower. And then we have the last version, then this version here which is about 95 percent of the width of the size of the old one. If you could look at the sequence after coverage of the first floor, the footprint of the house on the site plan from one to another, you could tell the changes that we created.

The variances are as follows. Front yard, what we proposed is 9 feet and required 25 feet; there's a variance of 16 feet. The rear yard, what we proposed is 11.67 feet, required 25 feet; and the variance required is 13.33 feet.

Village Attorney Whitehead: And that's a reduction from the prior plan.

Mr. Abillama: Right. All of them are reductions. For instance, the 11.16 feet used to be 10 feet. The total, two sides proposed, are 19.83 feet, required 30 feet. Also that's a reduction.

Building Inspector Minozzi: The front's the same, the rear is less.

Mr. Abillama: From the last time.

Village Attorney Whitehead: And the sides are less.

Mr. Abillama: There's a variance required for the two sides. The obstruction at the intersection we proposed 45 feet, while the required minimum is 50 feet. So really there are just four yard setback variances ...

Building Inspector Minozzi: That's from 42 to 45.

Mr. Abillama: ... intersection obstruction.

Acting Chairman Dovell: So the house has dropped in area by about a thousand feet from it's original version.

Mr. Abillama: From the first one. The footprint of the first floor was 954 square feet, and the one we're presenting 797 square feet.

Acting Chairman Dovell: And in the process, three variances have dropped out. The height variance, the building coverage, and the development coverage requests have dropped out. In your letter you mention a lot area variance and a lot width variance, but it's an existing condition so they're not a requirement.

Village Attorney Whitehead: Those don't need variances. It's existing nonconforming.

Acting Chairman Dovell: What I would say is that because you have dropped out the variances related to building size we can focus on the variances that pertain to yards and look at them in terms of hardship. The variances are significant. I mean, they're 64 percent for front yard, 53 for rear yard, 52 for second side yard, and 42 for both yards. So these are significant variances, but I will say that due to the configuration of the lot there is, in fact, a legitimate hardship here. I feel you've been responsive to our comment. It's taken awhile, but you've been responsive.

So my feeling is that this is now in the realm of appropriate and approvable. I'll let the other boardmembers speak to that, but I believe this is now in a position that it's approvable.

Mr. Abillama: Thank you.

Boardmember Berritt: There was a correspondence on this ...

Building Inspector Minozzi: Yes, Matt has it.

Boardmember Berritt: ... regarding the obstruction, concern about the corner obstruction.

Acting Chairman Dovell: Yes:

"Dear Zoning Board,

I am unable to attend tonight's meeting, but want to express my concern about the requested variances for the property at 45 High Street. The current house on the property is already nonconforming, and it makes the turn there both onto High and left onto James Street challenging. I'm concerned that granting the proposed variances will make an already tight turn tighter and an already unsafe corner even more unsafe.

*Thank you for considering my concern,
Jean Cregan"*

Building Inspector Minozzi: Ray, I'd just like to add that we routinely approve fences at 30 feet measured from the corner. Because this particular section of the code calls for structure to be 50, they're proposing 15 feet more in each direction than we routinely allow already. So I just wanted to let the board know that when it comes to fences and shrubbery we routinely use 30 feet as a rule.

Village Attorney Whitehead: It's actually one of the smaller variances he's requesting.

Mr. Abillama: Mr. Chairman, also if you can look at this diagram that we have on the screen that shows the existing house, it has a retaining wall that obstructs the view from both sides. We opted to eliminate the retaining wall and actually push the house back further than the existing house by providing more open visibility for the traffic.

Village Attorney Whitehead: Can you go back to one of the plans that shows the permissible building envelope?

Mr. Abillama: You can look at the top shaded area.

Building Inspector Minozzi: There it is.

Mr. Abillama: That's the permissible building envelope. Obviously, you know, you could barely put 75 square feet of structure in it.

Boardmember Renzin: A doghouse.

Boardmember Quinlan: Could I ask a question? Before you bought the property, did you notice what the building could ... you know, obviously you can't build a house with that shaded thing, but did you look at that before you bought the property?

Mr. Abillama: There's an existing structure, but we contemplated whether we could keep the existing structure and renovate it or build a structure. (Unintelligible) to be able to have a value in it. I think that's why we started with a larger structure, and now this is it.

Boardmember Renzin: I mean, as Ray said, from where we started to where we are now, and the sort of coverage that we have, I sort of feel very comfortable. I know there was a question, Ray, before about the retaining wall with a neighbor.

Building Inspector Minozzi: Yes.

Boardmember Renzin: And the big tree being there and all of that. That's all found (cross-talk) ...

Acting Chairman Dovell: Do you want to address that?

Mr. Abillama: As far as the retaining wall with the neighbor, we're not touching the retaining wall.

Boardmember Renzin: Okay.

Mr. Abillama: With this solution here, we're keeping the existing retaining wall the way it is.

Boardmember Renzin: So the impact on neighboring property is ...

Mr. Abillama: And I know she was worried about the tree. We can try to be very careful by removing the existing tree.

Building Inspector Minozzi: I've had a chance to drive by this site, and the two retaining walls are separate entities. So they're not intertwined to each other, which I know was one of things the applicant brought up last time. I just wanted to see for myself, and that is the case.

Boardmember Renzin: Okay.

Acting Chairman Dovell: What is the existing development coverage and building coverage of the existing house?

Village Attorney Whitehead: You guys made Buddy take "existing" off ...

Building Inspector Minozzi: Took it off. I don't know ...

Village Attorney Whitehead: ... as not relevant. And that happened on one of the old, old ones. Go ahead if you have it.

Mr. Abillama: The existing – if you can see here, I can blow it up – it's 25.5 percent. And the development coverage is 40 percent, a little bit over 40 percent.

Acting Chairman Dovell: And yards?

Mr. Abillama: As far as the yards, you also have a front yard instead of being 25 feet it's 6 foot 1. The rear yard, being 25 feet, is 2 feet. The side yard, it's supposed to be 8 feet on the left side and it's 10 foot 11. So that's better than what the requirements are. And both sides are less than the permitted 33 feet by about 6 feet. The height, obviously we understand the existing structure is not an issue. But if you can go inside the existing you see very low headroom spaces. That's what the existing structure is.

As far as the setbacks, we're no different. We're proposing a structure probably a little bit less obstructive than the existing one. We also have to look at the deck on the left side of the house. That's also, you know, far intruding into the side yard setbacks and the front yard setbacks than what we're proposing.

Acting Chairman Dovell: Jerry, do you have anything else you'd like to discuss?

Boardmember Quinlan: No, I have no other questions. I have no questions, but I do have some opinions.

Acting Chairman Dovell: Carolyn?

Boardmember Renzin: I don't have any more questions.

Boardmember Berritt: No.

Acting Chairman Dovell: Would anyone like to speak? Okay, identity yourself for the records.

Christopher Thomas, 114 James Street: I live next door to the property. I border it directly to the south. I just wanted to speak on this application. I'd also like to mention a couple things that came up just by way of clarification. There is an existing retaining wall on the property on the James Street and the High Street sides, but it is not high enough to obstruct traffic at this point. So by eliminating that it does not change the existing obstruction of traffic.

I also want to point out that the existing setbacks referenced include the decks, which is proper as they are part of the structure. But in terms of getting a sense of the overall massing of the proposed house, those setbacks do include the decks.

I wanted to know why we're allowing a substantial increase in a nonconforming usage, which is what this proposal is. It's a house that's significantly larger than the existing house which, as we've already established, is a preexisting nonconforming structure. The Village code is very clear that variances for preexisting nonconforming structures are not to be granted in a way that will increase the existing nonconformity. That's exactly what we're doing here, and that is Village code section 295-56(b).

When the developers bought this house, this house was a known quantity, as was referenced here earlier. There were no surprises, all right? The house was here, it was established; the lot size was here, it was established; the zoning code was here, it was established. There have been no changes to this, okay? There were no surprises, the house didn't suddenly turn out to be smaller than anybody knew, all right? It was here, it was eminently measurable, it was eminently knowable.

The fact that it was preexisting nonconforming on a nonconforming lot, again, was well-known. The zoning code ... because of this, because everything was so well-known, there are no hardships here to the developers. They knew what they were getting, they bought this house knowing exactly what was involved so as far as the existing house. By the way, we don't know what the existing square footage is because we've never really seen it listed on any of the things; it keeps getting listed as not applicable. Which it may not be directly relevant, as they want to tear down the house. But again, it does in some way to measure the

before and after.

So why are we doing this? Why are we shredding Village zoning law? No one is questioning the validity of the existence of the original house, all right? Maybe it's salvageable and maybe it's not. It is certainly a small house, it is certainly an old house. But again, it's the house that was there. So why are we entertaining an increase in this nonconformity when this was directly contrary to what was envisioned in the Village code? The developer keeps saying that's it's necessary to produce a desirable project. In short, they want to be able to build a larger project that will sell for more money, which will be more of a profit to them. And I understand that, and I don't necessarily begrudge that. I mean, that's how you make money.

What I do not understand is how this becomes my problem and the problem of my neighbors. Why should we get stuck looking at an oversized house crammed onto an undersized lot that will detract from the value of our houses? If this request is granted it will give the developer a profit on the backs of all the neighbors. How is this good or fair to the neighbors? Can we expect similar latitude on our properties? I, for one, know my property would be worth significantly more if I could put a row of townhouses up on it. This would be a very desirable project to me. It would make more money. That would be good for me, I like making money. But it's not what the code calls for.

The zoning code, as it is written, does not allow this. The zoning code was not created lightly and it should not be discarded lightly. The appeals process exists to prevent inequitable results arising from the unique nature of a parcel of land. It is *not* intended to nullify the zoning code. The law is very clear: preexisting and nonconforming uses and dimensions are grandfathered in, but variances that increase the nonconformity are not envisioned by the code.

Setting a precedent like this now is even more problematic than it might be other times. Hastings is currently experiencing an unprecedented demand in its real estate market. This case is but one example of a number of the tear-down phenomena seen in other municipalities in Westchester, where modestly-sized houses are replaced with McMansions. If this is the goal in Hastings, then so be it. But the process should occur with a revision of the zoning code so that all can benefit equally.

If this process is done piecemeal there is a very real risk of losing control of the zoning process entirely. Do not think that this process is occurring unnoticed by other developers. You cannot grant large variances to one developer and deny them to another. This is a surefire route to never-ending legal challenges. And if developers sue they may well win. And why shouldn't they if the zoning code is worth so little. Every property has a story, a

reason, an excuse as to why it is different. It is not in the best interest of the Village to open this can of worms. And there was a case that cited a very similar proposition to this in Knight v. Amelkin a number of years ago.

The footprint of the existing house is adequate size for a new house. It's sufficed the previous occupants for well over a hundred years. I want to be clear that variances are not requests. These variances requested here are not concessions needed to build a modern house on this site with full-height floors. This proposal expands the house in at least five of the six dimensions, possibly six, as it's been very difficult to get an overlay of the proposed house with the existing house.

Going from an already oversized house to a massively oversized one in an effort to generate windfall profits by using a design that is not even close to what is envisioned by the code is an egregious violation of the intent of the zoning code. It is even more egregious for being on a highly visible traffic corner and closing off existing sight lines, which the house does.

Acting Chairman Dovell: Are you about to wrap up?

Mr. Thomas: Yes, I am.

Acting Chairman Dovell: Okay.

Mr. Thomas: Okay. The existing house with the existing zonings is what the developer bargained for and what he got. The Village is not obligated to ensure that a developer makes the maximum profit they desire. This should be especially true when it comes at the expense of the surrounding community. Although the house has been scaled down from the original proposal, it is still too large and runs directly counter to the code. Just because a project has been scaled back does not make it acceptable. There is no requirement to fall prey to a shoot-for-the stars/settle-for-the-moon argument.

The Village code is clear. A preexisting nonconforming structure should not be altered in a way that would increase the nonconformity. There is no inequity or unfairness here. To the contrary, any other outcome unfairly burdens the neighbors, myself included, and we should not be forced to pay off on someone else's gamble by being forced to take the losses ourselves.

Thank you.

Acting Chairman Dovell: Just to address a couple of your comments, if you look at permissible building size, floor area, the building coverage addresses that and the

development covering addresses that; 21-hundred feet is not a McMansion in anybody's book, 21-hundred feet is a very modest size house. And that includes space that's in the basement. So I disagree with some of your analysis.

Anyone else wish to be heard?

Nancy Paquette, 44 High Street: Good evening. I'm here on behalf of my mom. We live across the street from the house, and I just want to really, really be clear with that large tree which was not properly outlined in their drawing. That tree has been there for as long as my mother can recall, and she's 87 and has been in the house since she was 2. My house is across the street.

We are seriously concerned because the stop sign on the corner was not represented in their drawing, nor were the two utility poles with all of the lines. We are seriously concerned about safety issues because that corner is really, really scary, especially in the bad weather and especially since we are surrounded by multi-family homes. Parking has been an issue. You know, it's a very, very busy ... the intersection's really, really unsafe in many ways.

So that is our primary concern. Again, we are not trying to decline the client, you know, a new home. We certainly know that it is an eyesore, has been in disrepair for a long time. We are happy to see that it will be fixed, however we do want to keep everything, you know, within the integrity of our neighborhood. I mean, especially living right next door, height and all of those things are definitely going to be something that are going to affect all of us.

So I really want everybody to seriously consider the safety of that corner, and especially if they start messing around with the foundation or anything with that tree because of all the lines. I wish people would really pay attention to all of that as well. Thank you.

Acting Chairman Dovell: Thank you.

Ms. Hanak, 110 James Street: Hi, I've been there since 1970. I just want to say that I don't think that anyone is opposed to tearing down this house and putting up a new structure, but keep it the same size as the previous house. Add a second story would be fine, but not a third. I remember at the first meeting regarding this property – which should be on record – that another contractor wanted to purchase this property. But when further investigating, he realized that he could not do much with this nonconformity lot so he passed on purchasing the property.

The contractor who bought this house knew what he was buying and now wants to put up a much bigger house on this nonconforming lot. Please do not allow this to happen. Thank

you.

Acting Chairman Dovell: Thank *you*. Anyone else?

If you wouldn't mind addressing the concerns about the tree it would be grateful, and the retaining wall once again.

Mr. Abillama: In regards to the tree, the tree will be removed based on all the rules and requirements of the Village that exist. So we will abide by the rules and regulations how to remove a tree. And then there's going to be some planting to replace – to go into that corner – and we're going to have it nicely landscaped.

As far as the retaining wall, my understanding is that from both sides the existing retaining walls are unchanged on High Street. There were major concerns about them in regards to the traffic, the visibility – sight visibility – for the traffic, and those items have been removed.

As far as the structure itself, the existing house has a second floor. The second floor has very low headrooms (ph), and we're proposing a second floor that has an 8-foot high ceiling, which is ... by replacing the existing structure that is a two-story structure, we're proposing just a two-story structure with a basement and a driveway and a garage, which this structure doesn't have. We are taking cars from the street, putting them on this property.

And lastly, this new structure will be beneficial to all the neighbors. All the neighbors will be happy by having this construction.

Mr. Thomas: Maybe not all; not all of them.

Acting Chairman Dovell: No.

Mr. Abillama: But if you look at the effect of the existing structure to the neighbors, it's an old structure, dilapidated. Even by renovating it, it's not going to be a good solution for this lot. So I believe that having it there as we're proposing is a nice thing for all the neighbors around. Thank you.

Acting Chairman Dovell: Any members of the board have anything else to add? Jerry, anything else?

Boardmember Quinlan: I don't have any questions.

Acting Chairman Dovell: Okay. Carolyn, Joanna?

Boardmember Renzin: I'm struggling with the concept of the code not allowing additional nonconformity where there is an existing nonconforming structure, and to make that worse. This seems to me to ... the struggle is, I think generally – if you had a normal-sized house and a normal-sized lot and it was nonconforming by some number of feet, and then someone tried to expand that envelope to be more nonconforming – is, I think that's what the code is saying: don't do that. This is a strange one because the conforming lot is so weird that any ...

Village Attorney Whitehead: Can I just address? I think I need to clarify exactly what the code says.

Boardmember Renzin: Yes.

Village Attorney Whitehead: The code doesn't ... the idea of the zoning board is that you're here as a relief valve to provide relief from the strict application of the zoning ordinance. You can grant a variance for any provision in the zoning ordinance. It doesn't say you can't grant a variance. What it's saying is that as-of-right you cannot increase that nonconformity.

Boardmember Renzin: Right.

Village Attorney Whitehead: So I just wanted to clarify that. And there's separate provisions for nonconforming uses and nonconforming structures, but you grant variances to increase nonconformities virtually 90 percent of the applications that come before you because so many homes in the Village were built before zoning or are nonconforming; as a matter of fact, the whole rest of your agenda. So you grant variances to increase nonconformities all the time.

In this case it's a little different because you're not really increasing nonconformities. The nonconforming condition is going away; you're starting from something fresh. And, you know, you all know that when you look at granting a variance you have to undertake the balancing, you have five factors you're to consider. And I think that's what you have to apply here and you need to decide. And I think you kind of need to disregard where they started from and focus on the plan that's before you today.

Just because they started asking for too much, they can't get credit ... you know, you got to focus on what's before you today. And if the plan that's before you today, if you believe it meets the standards, undertaking the balancing and looking at the five factors, I think, in terms of – and Buddy can talk to this – the corner, I think it's actually probably an

improvement.

Building Inspector Minozzi: The view at this corner is definitely going to be improved by this project with the removal of everything that's there.

Village Attorney Whitehead: And some of the setbacks ... although the house is higher, the height is fully conforming. Some of the setbacks are greater than for the existing house, some are not. You know, it's a different shape house, which is sort of what makes it hard to compare.

Acting Chairman Dovell: Right. But the footprint is not that different.

Village Attorney Whitehead: The total size.

Acting Chairman Dovell: Right, the total footprint.

Boardmember Renzin: Yes. Understanding what you're saying, I think the strongest argument here is this self-created hardship business and the fact that they knew when they bought the property that there were going to be some issues with getting variances for this property based on what was existing there. They made that decision and it was a risk that they took as developers when they purchased the property.

Village Attorney Whitehead: Right. So as you know, the law says that that's not a determining factor.

Boardmember Renzin: I understand, I understand.

Village Attorney Whitehead: And, as a matter of fact, because of the language that's in the statute it's kind of weighed a little less than the others.

Boardmember Renzin: Yep.

Village Attorney Whitehead: Actually, you really can't deny it based only on that one factor. But it's one of five factors.

Boardmember Renzin: I understand. My point being that I think that's the strongest argument. And what I was going to say is, I think you can't weigh even that strongest argument that heavily. And so in my view, I think they've done what they need to do to make a structure that's reasonable, given the five factors. Because I think that factor, that's the one that pulls at me. But I think it can't be weighed with the kind of strength of the other

factors, and I think they did an okay job here.

Acting Chairman Dovell: Joanna?

Boardmember Berritt: Yes. I mean, my concern at the beginning of this project was the corner and the sight lines and where the property was situated because it is such a difficult corner and the streets are very narrow and they're heavily trafficked. So, you know, it's always going to be a bad corner, but I do think that the way that the property is situated now, hopefully it will create some improvement there. So that's my main concern.

Acting Chairman Dovell: Okay, if there's no other comments ...

Boardmember Quinlan: I have some comments, Ray.

Acting Chairman Dovell: Okay, go ahead. Sorry.

Boardmember Quinlan: That's okay. So I think I have a problem with ... a self-created hardship is not determinative, but it's one of five factors. My biggest problem is the requested variances are substantial, and I don't think anybody can say that variances that range from somewhere between 40- and 60 percent, each and every one, is not a substantial variance. I mean, it is. So if self-created, not determinative but a part of it. The requested variances are very substantial.

The other one is, there would be no undesirable change to the community. I haven't heard anybody from the community come and say they love this project. I've only heard people say they didn't like it. So I think they could do more and they can make it smaller. I think it doesn't meet at least two of the five elements that we have to look at, and it depends on, you know, what you think about the community. And I'm listening to the people that live there, and they're not happy, so ...

Village Attorney Whitehead: On the substantiality of the variances, I just want to make sure the board understands from a legal standpoint you're not supposed to look at it just as numbers; it's supposed to be in the totality of the circumstances.

Boardmember Quinlan: Yes, and I appreciate Counsel's comments. And I think that the variances that are requested, in the totality of the circumstances, if one was only 40 percent it wouldn't be so bad. If one was only 60 percent it wouldn't be so bad. But if you put all of them together, then you have a totality of circumstances and they're all too big. And I don't want to start a precedent where people come and say, Oh, you presented a 60 percent variance for this piece of property. You know, it's just we're going to have to listen to that

argument if we pass this particular request.

Acting Chairman Dovell: Is there any one of the four variances particularly troubling to you?

Boardmember Quinlan: No, the totality of the circumstances of all of them. Well, the only one that doesn't I think is fine is the sight lines. I mean, that's not a big variance. What is that, 5 feet over 45 feet or something like that? So that's a small variance. That, to me, I would approve. But the other ones are too large.

What are we here for, to rewrite the zoning code? I don't think so. We are here to make exceptions to the zoning code, reasonable exceptions, which means every one of our cases we're making exceptions so we're allowing people to do things that the zoning code does not allow because they're reasonable, they're not self-created, they're not gigantic. So those are my objections. It could be smaller.

Village Attorney Whitehead: That's where, again, I think you have to look ... because it's a corner lot and it's an undersized lot, you go back to that permissible building envelope. But that's your balance. So again, could they be made smaller? You really need to look at the five factors and say are we comfortable with the numbers where they are. So is the change in the character ... a negative change, it is a detriment.

Acting Chairman Dovell: Addressing the neighborhood character issue and just looking at yard variances, most of the lots in the area are nonconforming with respect to yards because the lots are odd sizes and to be built today they would require significant variances.

Boardmember Quinlan: No, exactly. But nobody's requesting them.

Acting Chairman Dovell: No, but I'm saying to speak to the neighborhood character.

Boardmember Quinlan: Yes, well, the problem is, Ray, it's like my house was built in 1905, okay? So, you know, it couldn't be built today. And a lot of these houses are very old and before there were any zoning codes. And I think that we'll find out – correct me if I'm wrong – that the next three cases that we hear are asking for very modest, moderate type of variances. And this is not that. This is not happening in this case.

And it's okay to come and say, Geez, can I build? ... here's a typical case, and we're going to see it later on today. We have house, we've got a line like this, right? Where is the addition going? It's going along the same line because they want to make the house a little bigger, a little bit more livable. It is increasing the nonconformity, but it's a reasonable increase in the

nonconformity. And that's what I think we're here for: not to allow 60 percent, 50 percent, and 45 percent variances just because a guy bought a lot.

He answered my question: did you know that that was the envelope when you bought that property? I mean, these are the risks we take and that's it. Again, I can be the only vote against it. I'm okay with that. But, you know, someone has to preserve Village character and that's what I'm trying to do.

Female Voice: (Off-mic).

Building Inspector Minozzi: You have to speak into the microphone.

Village Attorney Whitehead: She just asked him to put up a certain plan.

Boardmember Quinlan: I tried to do it on the last case, I'm trying to do it on this case. Village character, it's important.

Ms. Paquette: Beautiful, however – no disrespect – not accurate representation of what it is. Because it looks like a beautiful neighborhood, which our neighborhood is, but there's no stop sign, there's no representation of the poles or anything. So it's like the corner itself is the real issue. And again, I'm not trying to tell your client that we don't want something prettier there. That's not the argument. It's safety, and it's a very large home on a very small property. And it goes outside of what the majority of those of us that live there in our single-family homes have been living in.

So I just really want to drive the point home – and I don't mean to beat the dead horse – however, this does not show an accurate representation of what that lot looks like, even with the rickety old house on it. So, you know, I just want to make that really clear. So thank you.

Acting Chairman Dovell: Do you have some street photographs, streetscape photographs, that you might take us through to address the neighborhood character issue?

Mr. Abillama: So here we have 114 on the right. That's the property to the south. And then we have 45 High Street, which is the existing house. Then we have 41 High Street, which is the other neighboring house to the left. Then we have 115 James. And on the bottom 46 High Street, 44 High Street, 34 High Street, and 60 High Street. And if you look at the red dots on the map, all these structures – including the one that's existing – they're all nonconforming. They all have significant yard setback problems.

My point, Mr. Chairman, is that the existing structure itself – although we're taking it down and we're starting all over again – has more setback problems than what we're proposing. And now we have come up with the solution that doesn't go beyond the permitted coverage, building coverage and developmental coverage. So those are not variances that we're asking for. The height is with it; we're within the height requirements. Even though the site is difficult – it has a slope – we abided by all the height requirements and the coverages.

So the setbacks are existing right now on the site, on the existing site. And they exist everywhere. If you can see the red dots there, they're all next to the sidewalk line. And they're all excessive.

Acting Chairman Dovell: Do you have any data to talk about the yards of the existing buildings around, the nonconforming buildings?

Mr. Abillama: The data that I have is ...

Acting Chairman Dovell: I know the area quite well and I know that there are issues with the yards, but have you analyzed this in any further depth?

Mr. Abillama: Really, the typical house everywhere we're facing in the neighborhood – and even beyond those red dots – they all have a front yard problem, setback.

Boardmember Quinlan: Can I just answer for that for a second? These houses were built before there was a zoning code.

Mr. Abillama: Yes.

Boardmember Quinlan: So that was okay; they were allowed to be built that way. Now we're asking for an exception to the zoning code. That's different. I mean, every house in my neighborhood, they're all nonconforming. They were built at the turn of the 20th century.

Boardmember Renzin: I think it just goes to the question whether it's the character of the neighborhood. And what you're saying is the character of the neighborhood has a lot of yard setback problems. And so he's saying he's got a yard setback problem, too.

Boardmember Quinlan: Okay.

Mr. Abillama: It fits in the neighborhood.

Boardmember Quinlan: Yes, well, there are a lot of bigger houses and there are a lot of

smaller houses.

Mr. Abillama: The proposed structure really provides a nice addition to the neighborhood itself. If we keep the existing structure there the neighborhood doesn't benefit from it.

Boardmember Quinlan: I'm not asking you to build a house as small as what was there. I'm asking to build a house that's somewhere between the house that you proposed and the house that is there. My question is, of these properties that are in red, are any of those new construction like yours? I've only been ... I haven't been on the zoning board for the last umpteenth years, more than 10 years. Have we approved zoning variances of 60- and 50- and 40 percent in this neighborhood before?

Building Inspector Minozzi: 15 High Street.

Boardmember Quinlan: Okay, that's one.

Building Inspector Minozzi: Three-foot setbacks.

Boardmember Quinlan: All right, so that's one. Any other?

Acting Chairman Dovell: I think that's the only one.

Building Inspector Minozzi: That's the only one in the neighborhood that's got a variance.

Acting Chairman Dovell: And that was a substandard lot as well.

Boardmember Quinlan: Right.

Village Attorney Whitehead: And that would've been in the last five years.

Boardmember Quinlan: And is that the one that's that big old house on the corner that isn't sold?

Acting Chairman Dovell: No, no, it's small.

Building Inspector Minozzi: That was as-of-right.

Acting Chairman Dovell: It's a 25-foot wide lot, further down towards Farragut.

Boardmember Quinlan: But it's new construction. Is that the one that's tall and skinny?

Building Inspector Minozzi: Yes, the white one.

Boardmember Quinlan: Yes. That's not a very big house.

Acting Chairman Dovell: No.

Boardmember Quinlan: It's a not a big house, and in my opinion it looks like it fits in the neighborhood. Then that's a subjective ...

Acting Chairman Dovell: That house worked out to be about ... what was the lot coverage on that?

Building Inspector Minozzi: I don't remember the lot coverage. I know it doubled the size of the existing house.

Boardmember Quinlan: Right. That's right next to the houses. Was there a lot of objection to that house being built?

Acting Chairman Dovell: There were objections, and that went back and forth two or three times before we actually ...

Building Inspector Minozzi: Flipped the roof around, pushed the house back.

Boardmember Quinlan: All right, I just make my point, you know. I'm not saying I'm right, I'm just saying this is my opinion.

Boardmember Berritt: Right, but part of the way we got to here was – I don't know if it was the last meeting or the meeting before – we were talking about the coverage and development and we gave some fairly sort of direct guidelines on what there needed to be, which now this fulfills. So if those weren't guidelines that we should have provided, then we need to sort of talk about that. Because we were very clear about the coverage and development percentages.

Boardmember Renzin: And height.

Boardmember Berritt: And the height. So if that's ...

Acting Chairman Dovell: But those were all threshold issues. I mean, that was a threshold issue and we were focusing on rather the out of scale proportion of the house.

Boardmember Berritt: Right.

Acting Chairman Dovell: But to my mind, it was grossly out of scale with what you could possibly build ...

Boardmember Berritt: Yes, and the neighborhood.

Acting Chairman Dovell: ... simply as a function of lot size to floor area.

Boardmember Berritt: Yes.

Acting Chairman Dovell: But we did not focus on neighborhood character directly.

Boardmember Berritt: Right.

Acting Chairman Dovell: I mean, we did indirectly but we didn't do it directly. And we did not analyze; you know, we didn't spend a lot of time, as we have in other cases, talking about the general micro climate around the house.

Village Attorney Whitehead: Ray, if you feel that you need more information ...

Acting Chairman Dovell: Well, that's what I was circling around to. That I think Jerry brings up an interesting point that I think we need addressed. And I think that pertains to the houses that you've identified in red, and I think we need to understand a little more directly what these variances are, what the size of these houses are. I think that you can obtain that information from the Village to help us understand how this fulfills the neighborhood character issue.

Boardmember Quinlan: I don't know, again, whether that's all the houses in the neighborhoods or just one that he's targeted, but I'd like to know about the houses that are right nearby. I don't know if that's every house or not.

Acting Chairman Dovell: I think a little due diligence on that front would help us enormously.

Boardmember Quinlan: And it might be a better explanation to the neighbors, too.

Acting Chairman Dovell: Right.

Mr. Abillama: Well, we'll be glad to provide you with the information. But just by looking at the relationship between the red dot, which is the structure itself, and the property lines we could tell that there are front yard ...

Acting Chairman Dovell: We can tell, yes, because you've identified them in red that they're noncomplying. But you haven't told us what percentages and what the dimensions are of the lots, what are the numbers, what's the data to back this up to help us understand, to help you make the case for your house. I think that would be very helpful.

Building Inspector Minozzi: Basically, he's looking for a spread sheet of the neighborhood, and I can show you an example of other projects that have done the same kind of spread sheet that's been asked for by this board in the past.

Village Attorney Whitehead: Similar to what you had on the coverages in the MR-1.5.

Acting Chairman Dovell: Exactly. Buddy can give you some direction on what to prepare.

You know, just concluding, I do think you've been responsive to our comments. But I think we were so overwhelmed by the out of scale proportion of what you originally came up with that we were pleased to see that you've made some motions. But now I think you really need to make the case for neighborhood character.

Village Attorney Whitehead: Is there anything else the board wants to see?

Boardmember Renzin: I think it's both the neighborhood character prong and also whether the requested area variance is substantial. And I think looking at the variances of the neighboring properties will help us understand what substantial means in this context.

Mr. Abillama: Thank you very much.

Acting Chairman Dovell: Okay, we'll look forward to seeing you again.

For the interest of time, let's keep right on going into case 01-19, Julie Tyson.

Case No. 01-19
Julie Tyson
67 Pinecrest Parkway

For relief from the strict application of the Village Code Sections 295-20C.2, 295-55B, 295-68F.1.c for the reconstruction of a new home at her existing

single-family dwelling located at 67 Pinecrest Parkway. Said property is located in the R-10 Zoning District and is known as SBL: 4.100-95-32 on the Village Tax Maps.

Non-conformity details are as follows:

Paving in a required yard:

Proposed – 490 square feet; Required allowed – none {295-20-C};

Variance required – 490 square feet

Prohibition against extension of nonconformity – with relation to use and side yard setback. Conversion of an existing accessory structure to part of the new main dwelling & building upon an existing structure with a side yard of 5.5 feet:

Required – 12 feet {295-55A&B}; Variance required – 14.4 feet /20.9 feet

Side-yard setbacks:

Each yard/total of both, North side existing – N/A; Proposed – 3.6 ft./9.1 feet; Required – 12 feet/30 feet {295-68F.1.c}; Variance required – 14.4 feet/20.9 feet

Chairman Collins: While the applicant is getting situated, we are here to talk about three variance requests. This is a familiar one. We just saw this a couple months ago.

Village Attorney Whitehead: And just on the view preservation, for the record the planning board did review it last week and made its recommendation on view preservation.

Chairman Collins: That's not in the notice, though. I mean, are we voting on view preservation? Because it's not noticed here.

Mike Jacobs, project architect: We will need it.

Chairman Collins: It's not in the notice. The applicant mentions view preservation in the application.

Village Attorney Whitehead: Well, the planning board reviewed this.

Chairman Collins: Yes, I'm sure that they did. But I do want to point out that our notice does not include any language of view preservation.

Village Attorney Whitehead: Let me double-check the notice. (Background noise) they liked the new plan better.

Chairman Collins: While Buddy's checking ...

Village Attorney Whitehead: You can go ahead.

Building Inspector Minozzi: Give me a second and I'll find it for you.

Village Attorney Whitehead: It was noticed for the planning board.

Chairman Collins: But if it hasn't been noticed for this board we're not going to be able to vote on it.

Building Inspector Minozzi: Should have been because it was a dual notice.

Chairman Collins: We can do everything but.

All right. Whenever you're ready, sir.

Village Attorney Whitehead: And you can look at his view preservation.

Chairman Collins: Yes, we can evaluate it but I don't think we can vote on it if it hasn't been noticed.

Mr. Jacobs: I'm the architect here for Julie Tyson, the property owner at 67 Pinecrest. As you may recall, I was here in April and May of last year. We received approval on site plan and view shed and, of course, steep slopes.

Since then, the owners have asked us to make some adjustments to deal with some of the challenges of the constructability (ph) of some of the reuse of the old existing masonry on the property and some other things. We've made some adjustments and we've been asked to come back for approval again, so here we are. I'm going to try and keep this very brief.

[sound system malfunction]

... and setback variance on both structures that we're proposing – and I'll walk you through that in a moment – where we're taking an existing house and an existing accessory structure and sort of swapping their use and location on the property. Another variance that we're here to ask for is, of course, paving in a side yard, which is not allowed by the building code. In this case we're asking for, I think it's 490 on the sheet. Our calculations, we've reduced it since our submittal down to 130 square feet. And I'll walk you through that as well.

Building Inspector Minozzi: I did, I checked. It's still 490.

Mr. Jacobs: Okay. Well, we have reduced it, but I can go over my calculations.

Village Attorney Whitehead: Get the variance for 490, and then ...

Building Inspector Minozzi: I double-checked your number.

Mr. Jacobs: Fair enough.

Village Attorney Whitehead: And it was noticed at 490.

Mr. Jacobs: Okay, perfect. We're asking for consideration ... we had approval for a pool 20 feet back from the side yard on our previous site plan. With the resubmittal, it came to our attention that that pool is actually, again, a nonconforming condition. It is allowed to be 20 feet from a side yard if it's located in the rear yard of the property.

Building Inspector Minozzi: It was removed from their notice because it was already approved and hasn't changed.

Mr. Jacobs: Okay, so we haven't changed that at all.

Building Inspector Minozzi: Yep.

Mr. Jacobs: So I won't touch on that.

Boardmember Dovell: So that variance is not required.

Building Inspector Minozzi: It's not required; it's already been granted.

Village Attorney Whitehead: The house has changed, the pool has not.

Boardmember Dovell: Right, okay.

Mr. Jacobs: Okay. So I'm going to jump right in. Thank you, sorry for the delay. Again, here's the existing conditions in the property, or in the neighborhood. With the proposed revisions, this is how the property will lay out in the context of the neighborhood. As we zoom in, you may recall that north is up, the house is at the top of the property, it's very close to the neighboring property to the north. And the house on that property is on a narrow lot and it's also quite close to the property line. I think there's about 7 feet between homes. On the south of the property is a garage structure, the accessory structure, which was built in

1955.

This was the site plan approval that we received back in May of last year, and this is our proposed change. So one of the things, again, that we are asking for are side yard variances on sort of preexisting conditions where in theory, or in short, what we're trying to do is reuse – or adaptive reuse, I would say – two of the existing structures that are on the property. So the existing house is a wood frame house. It's going to come down. That's on the north side. And on the south side, with the stone building, we are trying to sort of plug into that and repurpose that.

In our previous approval that space was being used as a living space, and in our redesign we're proposing reusing it as a garage structure. That's being done for a few reasons. The proposal that we've received approval for we were asking for a curbcut, a new driveway, and a garage that was more central in the property. That was this version. That space also had an open outdoor space underneath the garage that was adjacent to the pool. So that's the approval we received earlier.

For a number of reasons – one is the complexity of the site work, and to reduce the sort of overall scope of disrupting sort of the front yard and the topography – we are proposing now to kind of push the garage to the other side of the house on the south side, repurpose the existing driveway and curbcut, and significantly reduce the disruption and the re-grading of the front yard. As a result, the living space, or bedroom space, that was on the south side is now going to be on the north side and it's significantly less wide than the previous approval.

So again, just as a relative diagram. So the side yards that we're asking for, the one on the south is an extension of the roof over the existing masonry. We're not extending past the masonry. Historically, that's had a roof on it and we're proposing a roof that is 4 feet 6 inches higher than the masonry, or what we had approval for earlier. That's still lower than the historical roof that was there, or the pitch of the roof.

On the north side we used to have, in the previous approval, an outdoor living space underneath the garage. Because the garage moved we don't have a space for outdoor ... we don't have a covered outdoor space. And so what we'd like to propose is a roof that's being supported by the existing retaining walls on the property. Those are the wall that are currently on the property supporting the house. They're stone walls, they're retaining the earth on the east side. And we are asking for, basically, a framed roof – a low, sloped, flat roof essentially – to go over that space and cover a portion of that old area of the house.

On the south side, the existing walls are 3 foot 6 inches from the property line. We're asking to repurpose them and, as a result ... I'm sorry, 5 foot 5 inches from the property line. We

are asking for 6 foot 7 encroachment into the setback on the south. On the north, the existing walls are 3 foot 3 inches from the property ... sorry, 3 foot 6 inches from the property. The accessory structures allow for 8-foot setbacks from the side yard property, so we're asking for 4 foot 6 into that setback.

Regarding the paving, the side yard in this case is 18 feet from the north property line. And in yellow, we've represented the paved area that's not under the roof; so the outdoor paving at grade. And this is, to my calculations, 130 feet. But I think we're asking for 400 ...

Building Inspector Minozzi: Count the pavement underneath the roof.

Mr. Jacobs: Okay, so we're asking for 490. Again, just as a kind of summary without all the dimension strings, this is kind of the layout.

I'm not going to belabor the pool issue. We've gone through that. But I can assure you that the four pools in the neighborhood are all in side yards. Only one of them is a hundred feet back from the side yard. Then there's the question of accessory structures. The accessory structures in the neighborhood – to my knowledge there's four of them – one at the very top of the screen being kind of edged off. That's along the Aqueduct. That one seems to be at least – I didn't measure it – in conformance of 8 feet from the neighboring property lines.

But there's three other accessory structures in the vicinity of this property, and each of those three are really right on property lines. There's one up on Broadway and then there's one along the Aqueduct, the backyards on Pinecrest Drive, and then of course the larger property along Pinecrest Drive.

Building Inspector Minozzi: The one along the Aqueduct is ...

[audio malfunction]

Boardmember Dovell: ... masonry wall to the south, is that ...

Mr. Jacobs: On the accessory structure?

Boardmember Dovell: Yes.

Mr. Jacobs: No. On the south we'd be bearing right down on the masonry.

Boardmember Dovell: So that existing line is being respected going up.

Mr. Jacobs: Correct. Yes, correct.

[audio malfunction]

... we've seen some of this before. But on the left is the existing condition. On the right is what we were approved for last year. On the left now is that same image that we were approved for, compared with now what we're proposing on the right side. You can see the visual impact of the changes.

As we move across the street, again, left existing, right approved; and left approved, right proposed – from 76 and from 72. And then, of course, this is from the sidewalk just to the south. There's really no visible change, in my opinion.

I'm happy to walk you guys through some sort of cut sections through the site. I can stop, I can continue, however you want to do it.

Chairman Collins: I feel satisfied that you've presented enough information for me, speaking for myself, to weigh in. It's possible that we may want to revisit some of those cuts though. I will tell you that, seeing the property again, I think overall the design is lovely.

Mr. Jacobs: Thank you.

Chairman Collins: That's a poor choice of words on my part, but I really find it very handsome and striking. In looking at the view preservation impact here, which is really where I was most focused because – as you'll see when I get to my comments on the area variance issues – I don't see them as being problematic for me.

I think the net impact on the view is neutral, relative to what we approved in May of last year. It's hard for me to look at this and see a substantial change one way or the other. I think sometimes it depends on the angle. Like here, it looks like it a little more opens up on the south side facing the house. In some of the other shots you could argue that from the north looking south maybe a little bit of the view goes away as a result of the changes you're making. But in the net, it's hard for me to look at this and see a substantial change in view profile for the neighborhood.

As I alluded to a moment ago, I think these variances are modest. And in the case of the paving in a required yard where, really, our code allows for none it would be, I think, really poorly serving this project to deny you the paving from where you need it and how you need it. I think the application of the paving is really important in understanding my comfort level and why I think it's appropriate.

So when I look at the side yards and how you're staying very much within the envelope of what is already there, using that space I think much more efficiently than what was before – which almost looks just absurd the way that the property currently is laid out and the overall reduction in the massing of the property – and it's smaller footprint now, I think, overall I feel very comfortable in this project.

Chairman Collins: Jo, do you have any comments?

Boardmember Berritt: No. I think actually I liked the house the first time, I like it maybe more this way. So I say I like the way the proportions have worked out. So I'm not concerned about any of the variances. I think they're all fine in my book.

Boardmember Renzin: I'm fine as well.

Chairman Collins: Okay. Ray?

Boardmember Dovell: Likewise, I think it's very handsome and a minimal variance.

Boardmember Renzin: I do have one comment. I agree that this is a handsome house, but I also think that's irrelevant to our consideration whether we think it is a handsome house. I just want to make that clear because sometimes a subjective viewpoint can color our decisions.

Boardmember Berritt: It's true. Architectural diversity is a good point.

Chairman Collins: Well said.

Boardmember Quinlan: Well, you know, just to prove I'm not a contrarian, I think it's a better plan than the first one and I think it looks great.

Chairman Collins: I agree.

Boardmember Quinlan: I love the usage of the driveway and the cut, and repurposing the accessory garage makes a really lot of sense. I also think – and I'm not an expert on this – from your covering letter it saves you a little bit of money, I think, what you're doing. And I think that was one of the considerations and I have no problem with that. And, I mean, before I made a big point about the paving, you know, when you have zero paving and you want the pool you're going to have to put some concrete down. I think the concrete you put down is totally fine. I mean, you know, you got to walk somewhere. Yes, it's good.

Mr. Jacobs: Thank you.

Chairman Collins: Okay. Does anyone in the public wish to be heard on the matter?

Mr. Jacobs: Could I just add one thing?

Chairman Collins: Oh, yes. Please.

Mr. Jacobs: Do I need to address steep slopes at all? I think we're ...

Chairman Collins: No, not before this board.

Village Attorney Whitehead: Steep slopes is only planning board.

Building Inspector Minozzi: We're dealing with Hahn

Chairman Collins: Yes, sir. If you could just introduce yourself.

Herbert Brown, 83 Pinecrest Parkway: When Mike presented this the first time, my concern was for the pool, which was closer to our property line. And at the time, I think I heard that the required setback was 20 feet from the property line, and the pool was moved back to that. Reading his letter today, apparently the side yard setback should have been 100 feet, and that was never discussed. So tonight I heard you say a variance as given for the location of the pool. But at the time, that was considered the variance that was considered the code requirement. Therefore, this would not be subject to discussion tonight. And we thought the 20 feet wasn't a lot, but it was better than the 3 or 4 feet that was there before. I would say a hundred feet would be better.

As Mike mentioned, there are pools – there are a number of other pools in the neighborhood – and during the summer it's very noisy. Obviously we can't prevent you from having pool parties, but it becomes a very noisy experience. And the further away this pool was from our property line the better it would be for us. It may not make a significant amount of difference, but that was always our concern: the pool was too close to the property line.

Yes, these houses were built many years ago when there was no zoning, and they were both to the property line. Moving it away presented us with an enhanced, better, environment for light and for privacy and for noise. It seems as though nothing can now be done about the pool, but I would like to put on record that we think that if the setback should've been a hundred feet at least that should have been discussed when we mentioned the pool last year,

in August.

Chairman Collins: In May.

Mr. Brown: I would like to know what the zoning board thinks about it.

Chairman Collins: Okay. Yes, Linda?

Village Attorney Whitehead: I can clarify. There was some mixup. There is a provision in the code that is not well-drafted that talks about a hundred-foot setback required for pools in certain yards. It's very ambiguous and we've determined it does not apply here; that this pool requires a 20-foot setback, which it has.

Chairman Collins: All right. Does anyone else wish to be heard on the case? Okay, seeing no other public comments, does anyone wish to make a motion? We'll come back to view preservation as a separate motion.

Village Attorney Whitehead: Okay.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Berritt with a voice vote of all in favor, the Board resolved to approve Case 01-19 for 67 Pinecrest. Paving in required yard: proposed 490 square feet; required allowed, none; variance required 490 feet. Side yard setbacks: each yard total both, north side existing not applicable; proposed 3.6; and 9.1 feet; required 12 and 30 feet; variance required 14.4 feet and 20.9 feet.

Chairman Collins: All right, it's 5-nothing. Can I get a motion on view preservation?

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Renzin with a voice vote of all in favor, the Board resolved to approve view preservation for Case 01-19.

Chairman Collins: Okay, we're all set. Thank you very much, congratulations, and good luck to you on the project.

All right. Our second for 2019 – that was our first case of 2019 ... our second case for 2019 is case 02-19, James Stallone.

Case No. 02-19
James Stallone
24 Clunie Avenue

For relief from the strict application of the Village Code sections 295-69F.1(c) and 295-20F for an addition of a rear two-story addition on the dwelling at his property located at 24 Clunie Avenue. Said property is in R-7.5 Zoning District and is also known as SBL: 4.150-158-7 on the Village Tax Maps.

Nonconformity details of the proposed Rear Addition are as follows:

Total Two sides: Existing – 21.16 feet; Proposed – 21.16 feet; Required

Minimum – 33 feet {295-69F1(c)} (Side yard calculated as a front yard);

Variance required – 11.84 feet

Chairman Collins: While the applicant is getting prepared, we are here to talk about the addition of a two-story project on the rear of the house. We have a two side yard variance requirement here. So whenever you are ready, just feel free to introduce yourself and walk us through your project.

Jonathan Milano, Annunziata Milano Design Consultants: I'm representing the owners of 24 Clunie Avenue in Hastings. We are on an undersized lot of 5,000 square feet in an R-7.5 zone which requires 75-hundred. We have a frontage of 50 by 100 feet deep. It suffers from an undersized lot as well as being on a corner, so as a result that the existing house is around 641 square feet. We're proposing a two-story addition at the rear of the house that's going to span the same exact width as the existing house and run 60 feet deeper into the lot. What is the side yard now is 11.64.

We're maintaining that 11.64 throughout the property on a addition side, and asking for a variance of the 33 feet required. We're asking for 21.16, I believe, and it's 11.84 feet of variance. And we're making a very modest, small, one-story home a two-story home, going from 600 square feet to roughly 21-hundred square feet in keeping of the houses in the neighborhood. I don't know if you had a chance to visit the site. Most of the houses in the area are two-story, roughly 2,000 square feet to 25-hundred square feet. There's a couple renovation projects right now, or were a couple of months ago. We're just maintaining the side yards, just increasing the nonconformity on the one side.

Chairman Collins: Okay. If I remember correctly, Buddy, when we have these corner lots applicants select which is the front. Can you, just for the record, clarify which is the front?

Building Inspector Minozzi: He did select.

Mr. Milano: The Clunie Avenue.

Building Inspector Minozzi: Clunie Avenue is your ... I don't remember off the top of my head. That's why I'm asking.

Mr. Milano: Yeah, Clunie Avenue.

Chairman Collins: Okay, so not the north end.

Mr. Milano: So then clarify if there are two front sides?

Village Attorney Whitehead: Yes, it affects what's your rear ...

Chairman Collins: Yes, we have to ...

Mr. Milano: Then why am I here if got that?

Chairman Collins: Your determining the front then determines the rear and the sides and everything else.

Mr. Milano: Exactly.

Village Attorney Whitehead: But because it's on a street it has to have a front yard.

Mr. Milano: Front. So I would actually have two variances if I chose Clunie, right?

Building Inspector Minozzi: Correct.

Mr. Milano: Let me choose north end.

Building Inspector Minozzi: North end. If you chose north end you would've had an additional variance.

Chairman Collins: Again, you went fairly quickly how big of an addition this is. But can you give me again just what kind of dimensions you're looking at?

Mr. Milano: Sure, I apologize. It's been a long night.

Chairman Collins: No, that's okay. It *has* been a long night.

Mr. Milano: The actual footprint of the addition to the back of the house is only 461 square feet, but it's two stories so it's adding roughly 920 additional space to the rear of the structure. But also, we're going across the entire first floor of the existing structure, so adding some square footage on top of the existing footprint.

Village Attorney Whitehead: How much of that is in a nonconforming location?

Mr. Milano: Oh, not the 461. It's roughly 16 by 14, whatever that is. And you want to add that up.

Boardmember Dovell: The dotted line, you have a dotted line which I'm assuming represents the permitted envelope?

Mr. Milano: Yes.

Boardmember Dovell: Okay, so the nonconformance is the full depth of the house off Clunie.

Mr. Milano: So this would be ... even though the footprint's preexisting, this would be increasing it. So this part would be increasing as well.

Boardmember Dovell: Yes. So the variance is the entire ...

Mr. Milano: That entire right side of the house because I'm going on top of the first-floor footprint.

Boardmember Dovell: Right. It's 36 foot 8 inches by the ...

Mr. Milano: The 36.8 by 14 feet.

Boardmember Dovell: ... 14 feet.

Chairman Collins: And by the looks of it, the side yard – again, oriented from the side of the house towards the north end – it looks like, if your drawings are accurate, that you're building into a preexisting nonconformity. But you're not increasing the intensity of the nonconformity. It remains ...

Mr. Milano: No, we're retaining that line. That existing house line remains.

Chairman Collins: The 11.66 to 11.64 feet to the property line on the side yard.

Mr. Milano: Right.

Chairman Collins: I will say that that's, for me, really important in evaluating this and the severity of this variance request. I think when you are presenting something that, to me, just sort of logically a) squares up – I'll use the language "squares up" – the home, you are bringing it into the character that is consistent with the rest of the neighborhood. You are creating what is, in the grand scheme of things, a modest increase in the overall square footage of the home but, boy, one that's going to make a big difference to the occupants of that home and one that will be in keeping with the rest of this neighborhood.

I have no reason to object to this project. Does anyone have any questions that they'd like to ask or any comments they want to make?

Boardmember Dovell: Well, fully half ... if I'm looking at this correctly, fully half the house is noncompliant with respect to side yard, right?

Chairman Collins: Correct. Yes, you can say that that line runs straight through the house.

Boardmember Dovell: But it's right through the middle of the house, and then you're adding ... then a third is being added to it that's out of noncompliance.

Mr. Milano: In some municipalities the variances are dictated ... and that's my ... because I've never presented to you guys, this is my first time presenting to Hastings. But they're presented by the footprint, the zoning setback, not necessarily the square footage that goes on top of the existing footprint.

Boardmember Dovell: Right. No, but it is ...

Mr. Milano: So I apologize.

Chairman Collins: There's no question there's a lot of development that is happening in a noncomplying yard. But I tend to focus on is there an increase in what I describe as "the intensity." So for example, if the applicant had decided that for this particular project they wanted to go from an 11.64-foot setback to an 8-foot setback for the new development I would say, Okay, well, that's a different conversation. But they're squaring off a property here in a way that I think makes a lot of architectural sense and a lot of practical sense for the applicant, and I think in the net this is going to be something that significantly improves the value of the house and the character of the neighborhood. I find it ... I don't have a reason to

object to it.

Boardmember Renzin: Tiny house.

Mr. Milano: Yeah, it is tiny.

Boardmember Quinlan: Can I start on this side?

Chairman Collins: Yes, go ahead Jerry.

Boardmember Quinlan: I do a lot of walking and biking, and I've noticed this house before and I'm like, Wow, this is like the smallest house in Hastings.

[laughter]

It really is – I mean, c'mon – and I like the addition. I just have one question that's not really relevant. The second story, is that just an attic?

Mr. Milano: Oh, what's there now?

Boardmember Quinlan: Yes.

Mr. Milano: Yeah, it's an attic.

Boardmember Quinlan: It's just an attic, right.

Mr. Milano: Yeah, what's there now is an attic.

Boardmember Quinlan: So you're going to take the attic ...

Mr. Milano: Lopping it off, putting a gable down the middle, and putting a whole second story on.

Boardmember Quinlan: They're staying on the property lines and, I mean, it has to be the smallest house in Hastings.

Mr. Milano: Pristine, though. You should go inside. It's pristine.

Boardmember Quinlan: I bet. But the neighborhood is ... you know, like you said, it'll fit right into the neighborhood. So I have no objections.

Village Attorney Whitehead: You're going to have to find a new smallest house.

Building Inspector Minozzi: Across the street, on Maple. That's probably the smallest, oldest house in Hastings.

Boardmember Berritt: I feel the same way.

Boardmember Quinlan: I know that one, the one with the brown brick.

Building Inspector Minozzi: Yes, exactly.

Chairman Collins: Go ahead, Jo.

Boardmember Berritt: I think the addition, given what we've discussed tonight, is in keeping with the neighborhood, and I have no problem with it at all. I think it'll be great.

Boardmember Renzin: Agree.

Boardmember Dovell: What is the percentage of the encroachment?

Mr. Milano: 36 percent. It's 21.16 versus 33, so I believe it's 36 percent.

Boardmember Dovell: I mean, it is a significant variance overall, but I agree that I think it's in character with the neighborhood, what's surrounding it. So I would support it as well.

Mr. Milano: I do have a question. Is North End Place, was that ... or was that developed after? Is that a real, or is that considered ... because it seems like this house was developed as if it was an interior lot and that street got developed after. You know what I mean?

Chairman Collins: Yes, it's possible.

Building Inspector Minozzi: It could've been a paper street.

Mr. Milano: A paper street that created an interior lot, but now it's a corner lot because of the paper street.

Building Inspector Minozzi: Even if it was a paper street, it was always considered a corner lot even if the streets aren't developed, as we've had in other cases. But that very well could be.

Chairman Collins: Does anyone in the public wish to be heard on this case?

Female Voice: I like it.

Chairman Collins: That's good. Okay, then can I have a motion?

Boardmember Dovell: Does this need to be modified as a result of the overage over the roof? It doesn't, does it? Over the second floor, Buddy?

Building Inspector Minozzi: No.

Village Attorney Whitehead: Because the setback's the same.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Berritt; with a voice vote of all in favor, the Board resolved to approve Case 02-19 for 24 Clunie Avenue for side yard variances: two sides existing 21.16 feet; proposed 21.16 feet; required minimum 33. Side yard calculated as front yard; variance required 11.84 feet.

Chairman Collins: Five-zero. All right, good luck.

Mr. Milano: Thank you very much.

Chairman Collins: Congratulations. Good luck.

All right, moving right along we will go to case 03-19 for Wendy and Irwin Marone

Case No. 03-19
Wendy & Irwin Marone
2 Harvard Lane (a.k.a. 151 High Street)

For relief from the strict application of the Village Code Sections 295-68F.1(c) and 295-20F for a side yard 1-1/2-story addition on the dwelling at their property located at 2 Harvard Lane. Said property is in R-10 Zoning District and is also known as SBL: 4.110-113-11 on the Village Tax Maps.

Nonconformity details of the proposed Side-Yard Addition are as follows:
One side/Two sides Total:

Existing – 11.7 feet/24.5 feet; Proposed – 11.6 feet/24.4. feet; Required Minimum – 12 feet/42 feet {295-68F1(c)} (Side yard calculated as a front yard); Variance required – 0.4 feet/17.6 feet

Chairman Collins: Google Maps loves this.

Building Inspector Minozzi: We have a lot of these in Hastings.

Chairman Collins: That's right. We have yet another side yard variance request. This is also a corner lot, correct?

Building Inspector Minozzi: This is a corner lot, correct.

Chairman Collins: Again I'll ask in your presentation if you can help us understand which one you selected to be your front yard, just for the record. And the floor is yours, sir.

Steven Secon, project architect: High Street'll serve.

I don't know if you've been past the site. What we're asking for is, I think, a fairly modest side yard setback and combined yard setback. It's essentially a quarter-acre site with a 28-hundred square foot house, a 130-foot addition in the rear to make it a more comfortable space, and a small projecting balcony.

The existing nonconformity kind of creates this situation where we want to align the addition with the current left side of the house. We did entertain a couple of different solutions, but basically it looked almost like a mistake when we tried to set the addition in because it was so close to what is an existing nonconforming condition because the existing left side of the house sits within the setback. So by alignment, we're creating a greater nonconformity, roughly 0.4 feet times about 11 feet deep. We're talking about something that's roughly 5 square feet in encroachment. The combined side yard setback encroachment is also due to the nonconformity of the existing house.

You can see a little Google aerial shot here, and what we're really looking to do is just extrude a small portion of the adjacent volume to gain some more space for the bedroom. You can see it depicted here. This is where the addition would sit, and the rear view. I know Wendy and Irwin have spoken to the nearest neighbor on the left ...

Building Inspector Minozzi: And so have I.

Mr. Secon: ... and they have come in. You know, they've voiced no objection, but they wanted a clear understanding of what was happening.

Building Inspector Minozzi: The side yard neighbor that this directly affects was comfortable that it's staying – as you've mentioned before, Jerry – in a straight line.

Chairman Collins: This is a High Street neighbor?

Building Inspector Minozzi: That's the High Street neighbor to the left that this directly affects that'll be looking at this. She came in to discuss the project with me, and once she realized that it was not going to protrude any more she was quite satisfied.

Boardmember Quinlan: So let me have a question. You're just tucking it behind the garage, right, is basically what you're doing?

Village Attorney Whitehead: Give him a mic.

Building Inspector Minozzi: Yes. Here, Steve.

Boardmember Quinlan: You mean over the garage?

Mr. Secon: Thank you. So it's over the garage. The ridges are both going to align, and the face of the addition will be in the same plane as the existing left.

Chairman Collins: Just out of curiosity, why are we calling it a 1-1/2 story?

Village Attorney Whitehead: It's a split.

Mr. Secon: Because it's a split.

Building Inspector Minozzi: Split-level.

Chairman Collins: It's considered a split-level?

Building Inspector Minozzi: Mm-hmm.

Chairman Collins: Got it, okay.

Village Attorney Whitehead: It's not a second story, it's a 1-1/2 story.

Mr. Secon: Right.

Boardmember Dovell: The red line that you have going around, that's the permitted envelope there?

Mr. Secon: Correct.

Boardmember Dovell: Okay. And show us where the addition is.

Village Attorney Whitehead: Right there.

Boardmember Dovell: Why are we ...

Mr. Secon: The yellow.

Village Attorney Whitehead: It goes 0.4 feet over.

Mr. Secon: Point-four. I mean, we're talking ...

Building Inspector Minozzi: It's funny that the two sides, which is the larger variance ...

Village Attorney Whitehead: It seems big because of the existing (cross-talk) on the other side.

Building Inspector Minozzi: It has to do with the existing side of the house.

Boardmember Dovell: What's the square footage of footprint over the lot line, or over the setback line?

Chairman Collins: Five feet.

Building Inspector Minozzi: Oh, Lord.

Mr. Secon: 0.4 feet.

Chairman Collins: 0.4 square feet?

Mr. Secon: 0.4 feet times 11.

Chairman Collins: I think he said it was like 5 feet.

Mr. Secon: Yeah, something in that magnitude.

Building Inspector Minozzi: It's tiny.

Chairman Collins: We had one where it was like a couple inches.

Mr. Secon: I mean, the drawing itself is 6 square feet. It's really de minimis.

Chairman Collins: It really is, yes. Okay, I have no further questions and no objections.

Boardmember Quinlan: Me either.

Boardmember Berritt: Me neither.

Chairman Collins: Okay. Anyone from the public wish to be heard? All right, then anyone care to make a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Quinlan with a voice vote of all in favor, the Board resolved approve Case 03-19 for 151 High Street – 2 Harvard Lane – for side yard variances: one side/two sides total equal 11.7 feet and 24.5 feet; proposed 11.6 feet and 24.4 feet; required minimum 12 feet and 42 feet. Side yard calculated as front yard variance: required 0.4 feet and 17.6 feet.

Chairman Collins: The vote is unanimous. Congratulations, thank you for coming. Good luck with your project.

Boardmember Quinlan: Yes, good luck.

Chairman Collins: Okay, then we'll finish up with case 04-19 for Leah Ervi and Tomi Sakari.

Building Inspector Minozzi: First draft.

Case No. 04-19
Leah Ervi & Tomi Sakari
65 Dorchester Avenue

For relief from the strict application of the Village Code Sections 295-68F.1(c) for two (2) side yard 1-1/2 story additions on the dwelling at their property located at 65 Dorchester Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.90-82-7 on the Village Tax Maps.

Nonconformity details of the proposed Side-Yard Additions are as follows:

Side-yard setback::

Existing – 9.06 feet; Proposed – 9.06 feet; Required Minimum – 12 feet {295-68F.1.c}; Variance Required – 2.94 feet

Chairman Collins: We are once again in side yard setback-land.

Boardmember Dovell: This one I don't remember.

Chairman Collins: Whenever you're ready, just introduce yourself. Handheld mic?

Building Inspector Minozzi: It's right here, here you go. Check the battery, we're still good. Go ahead.

Shaheen Ishmael: Thank you. I live in Larchmont, I'm representing 65 Dorchester. We're building an addition in the rear of the house and in front of the house, and an entry and a portico. The reason we're asking for a variance is that the existing house is existing nonconforming. We're building alongside the existing wall of the house.

There is no encroachment into the existing setback, and the house is lacking a dining room and an entry. Therefore, by the request of the owner we have designed these additions to enhance the house and to give better curb feelers. The variance we're asking is 2.94 feet which, like I said, is mainly caused by the fact that the house is nonconforming. It's a very simple, straightforward addition.

Chairman Collins: We'll continue right along with the line of questioning that we had from the previous properties because it's the same question – and if I don't ask it Ray's going to beat me to it – which is the permissible envelope I think you've identified with a dash line. And you're showing with crisscross lines where you're building into the nonconforming yard.

Mr. Ishmael: Yes, correct.

Chairman Collins: And really it's just these two; not continuous, just these two. So overall, the dimensions of the building, that would be in the nonconforming yard are ...

Mr. Ishmael: 2 foot 11, or 2.94.

Chairman Collins: 2.94 and 2 feet 11 by how long?

Village Attorney Whitehead: What's the total square footage in the nonconforming?

Mr. Ishmael: It's 11-1/2 feet by 2.94.

Chairman Collins: All right, so 30-some-odd square feet. And it looks like it's about the same on both, correct?

Mr. Ishmael: Yes.

Chairman Collins: So you're talking about 60 square feet total.

Village Attorney Whitehead: More than the last one.

[laughter]

Chairman Collins: Everything is more than the last one. And the overall square footage of the home is?. After this project?

Mr. Ishmael: (Off-mic) overall, after this project ... I don't know if I have ... I have the building coverage.

Chairman Collins: Well, I'm simply making an argument that probably doesn't need to be made that this is a very small encroachment relative to the square footage of the home, both existing and where it is going. And you said that this development, once completed, would give what benefits to the applicant? You mentioned there's no dining room currently.

Mr. Ishmael: There is no dining room in the house, and (off-mic) kitchen, and they have no entry foyer. Once you come in, you're into the living room.

Chairman Collins: So you're providing what we consider to be table stakes for a house.

Mr. Ishmael: Enhance ...

Chairman Collins: You want a proper entry and a place to eat.

Mr. Ishmael: Exactly. And a cover over the entry, like a portico.

Boardmember Dovell: You cut to the chase.

Chairman Collins: And all you need from us is 60 square feet of relief to do it. I'm not going to stand in the way of that. Does anyone have any questions?

Boardmember Quinlan: Well, you know, it's the smallest house in the neighborhood by far and it makes a lot of sense to do what you're doing. It's fine with me.

Boardmember Berritt: Yes.

Boardmember Renzin: Yes.

Boardmember Dovell: Agreed.

Chairman Collins: Okay. Anyone in the public wish to be heard?

Mr. Ishmael: We're the only ones here.

[laughter]

Chairman Collins: Okay, then may I have a motion?

On MOTION of Boardmember Dovell, SECONDED by Boardmember Berritt with a voice vote of all in favor, the Board resolved to approve Case 04-19 for 65 Dorchester for side yard setback existing 9.06 feet, proposed 9.06 feet, required minimum 12, variance required 2.94 feet.

Boardmember Dovell: The vote is unanimous. Congratulations and good luck to you on the project. Thank you for presenting.

APPROVAL OF MINUTES

Regular Meeting of December 13, 2018

Chairman Collins: We have the matter of the minutes. I will e-mail you my draft of the

markup of the minutes. I only found one.

Building Inspector Minozzi: Oh, you haven't e-mailed us yet? Okay, it's no problem.

Chairman Collins: I have not e-mailed it to you.

Village Attorney Whitehead: You only found one.

Chairman Collins: I found one mistake.

Building Inspector Minozzi: Well, he's getting better!

Chairman Collins: Yes, they've been very good. This one, there was a misplaced use of the word "appropriate," when I think the speaker meant to say "agreed".

Building Inspector Minozzi: Okay.

Chairman Collins: But other than that, I found no issues worth marking up. Does anyone have any other amendments to the meeting minutes?

Boardmember Quinlan: No, I found them pretty good.

Chairman Collins: Okay, can I get a motion to approve as amended?

On MOTION of Boardmember Quinlan, SECONDED by Boardmember Renzin with a voice vote of all in favor, the Minutes of the Regular Meeting of December 18, 2018 were approved as amended.

ANNOUNCEMENTS

Next Meeting Date – February 28, 2019

Boardmember Quinlan: I'll be in Norway.

ADJOURNMENT

Chairman Collins adjourned the Regular Meeting.