

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING & PUBLIC HEARING
FEBRUARY 28, 2019**

A Regular Meeting and Public Hearing was held by the Zoning Board of Appeals on Thursday, February 28, 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, Village Attorney Linda Whitehead, and Building Inspector Charles Minozzi, Jr.

Chairman Collins: Welcome to the zoning board of appeals meeting for Thursday, February 28, 2019.

**Case No. 10-18
Samar Tannous
45 High Street
*** Adjourned to March 2019 Meeting *****

For relief from the strict application of the Village Code Sections 295-70E.3(a)[2], 295-70E.1.a,b,c and 295-20E.1 for reconstruction of a new dwelling to replace a current dwelling at their property located at 45 High Street. Said property is in 2-R Zoning District and is also known as SBL: 4.140-151-32 on the Village Tax Maps.

Nonconformity details of the proposed new dwelling are as follows:

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

Variance Required – 16 feet

Rear Yard: Proposed – 11.67 ; 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 1 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.

Chairman Collins: We have two cases on our docket, but only one which will be heard

tonight because for the first case listed, 10-18, we would not have a quorum. As you can see, we are three tonight and that is the minimum quorum. I have to recuse myself from that case, so that would leave us short of a quorum.

So we will start with and end with, as it relates to the case docket, case 05-19 for Ralph Torke.

Case No. 05-19
Ralf Torke
6 Branford Road

Relief from the strict application of the Village Code Section 295-68F.1.a and 295-55A for the construction of a dormer extension at his home at 6 Branford Road. Said property is in the R-10 Zoning District and is also known as SBL: 4.120-132-10 on the Village Tax Maps.

Variance is sought for the Front-yard Setback with the extension of an Existing Nonconformity in relation to the setback of the existing structure.

Extension of Non-conformity in relation to the Front-yard Setback:

Existing – 29.3 feet; Proposed – 29.3 feet; Required Maximum – 30 feet {295-68. F.1.a & 295-55. A}; Variance required – 0.7 feet (no change)

Chairman Collins: A couple of things before we begin. First of all, we have two microphones in the room. We have the standing mic here by the podium and we have a handheld portable mic. Can you just make sure, Buddy, that's on?

Building Inspector Minozzi: Yes, I tested it already before.

Chairman Collins: Perfect. So we just ask that if you're speaking make sure you have the microphone right up to your mouth so that we can capture it. We have a remote transcriptionist who is capturing all comments for the record and we want to make sure that everyone's comments are heard and entered into the record. We just ask that you introduce yourself for the first time that you're on-mic. If I mispronounce names, I apologize. As I indicated in the last meeting, I excel at that in my role so I apologize if anything is wrong.

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

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

Chairman Collins: All right, very good. So then we'll begin. Are you here to represent this case? The floor is yours. Go ahead and begin.

Ralph Torke, applicant-architect: By way of background, we've lived in the house since 1980. We did a roof replacement 20 years ago, so that roof is now in need of replacement once again. In considering our options for it, we thought that, at the same time, it made economic sense to enlarge the existing dormers on the front side of the house. That would give us some additional room in the upstairs bedrooms on that side of the house.

The complication, which is why we're here tonight, is that the existing ground floor of the house encroaches in the front yard setback by 7/10ths of a foot at one corner. Because that setback is slightly skewed to the front wall it then diminishes as one moves across the house. So it's a narrow triangle starting at 7/10ths of the foot. By building out the existing roofline – or enlarging the dormers to the existing front wall of the ground floor – we're increasing that nonconformance. That's what the variance is requesting: relief from that. I hope the drawings are clear as to what it is we're proposing, but I'm happy to answer any questions.

Chairman Collins: Okay, thank you. I should have mentioned in my introduction of this case that we are here for a front yard variance, and that variance request is for 0.7 feet for the second floor.

You've pointed out – and we can see, of course, in your drawings – just how small of an encroachment this is. How much square footage is being built into the nonconforming yard?

Mr. Torke: On drawing five there's a red-hatched triangle shown. Here it's in inches, 8 inches.

Chairman Collins: Eight inches at its widest.

Mr. Torke: At its maximum, then it tapers off to almost ... well, to nothing about one-third, 40 percent, of the way across the building. Doing the math in my head, it's 10 square feet or something.

Boardmember Dovell: 10.22 square feet.

Chairman Collins: 10.22; you're very close. For the record, you mentioned that you're taking advantage of a roof replacement to complete this project. What's your hoped-for outcome? Once it's done you'd like to have, aside from a new roof, more bedroom space?

Mr. Torke: Yeah. Actually, I'll go over the whole laundry list of what we're doing. We're replacing the siding, which is not subject to a building permit, I learned to my surprise. We are replacing the roofing, which we would have to come in for a permit for. And the interior renovations, we're rebuilding the downstairs bathroom, getting new fixtures. What we would get upstairs is, in one bedroom, additional usable floor space. In what is now the master bedroom we'd be gaining space for a walk-in closet which would clear up an existing closet for an additional bathroom.

Chairman Collins: I see. Very sensible.

Building Inspector Minozzi: Sounds like more of a headroom issue than a square foot issue.

Chairman Collins: Interesting, yes. For sure. I hadn't thought of it, but you're right. You have a very, very modest request here. We have seen far, far worse, and the existing nonconformity was already just right on the edge. I mean, this house I'm guessing was built prior to zoning.

Mr. Torke: In the '40s.

Chairman Collins: Yes, so prior to zoning. And if the builder had just taken one step away from the front property line you probably would never had to be here. The applicant's need is very understandable, the outcome will produce a clear benefit to the applicant and certainly does no harm that I can see. So I have no objections and no alternative to suggest for you. This seems like one of the easiest cases we've had in awhile. Anyone wish to comment otherwise?

Boardmember Berritt: I feel the same way. It's a sliver, as you say, 8 inches by 14.7 or whatever. You know, the property's in keeping with the other properties in the neighborhood. It's fine.

Chairman Collins: Ray, do you have anything?

Boardmember Dovell: No.

Chairman Collins: Okay. There's no one in the audience tonight. I would otherwise invite public comment, but seeing as there is no public to comment I'll ask for 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 No. 05-19 for 6 Branford Road: front yard required 30 feet; front yard proposed 29.3 feet.

Chairman Collins: The vote is unanimous, 3-nothing. Congratulations, Mr. Torke. Thank you.

Mr. Torke: Thank you very much.

Chairman Collins: I appreciate it, thank you. Good luck.

Mr. Torke: Thanks for coming out tonight for just ...

Chairman Collins: That's okay, that's why we're here.

DISCUSSION

Chairman Collins: Before we move to the minutes, I did want to use this opportunity to revisit some of the work that Ray led for us on the MR-1.5. Trustee Armacost contacted both of us – I think contacted you, too ...

Boardmember Dovell: She did.

Chairman Collins: ... just to ask a) if there was anything else that we needed to or wanted to give to the board of trustees regarding MR-1.5. But also to open it up more broadly to see if there were other parts of the code that we would like to explore for improvement. I told her I thought that was a very good idea. Recognizing that we're only three tonight, I don't expect this will be the last that we talk about it. But knowing it was a light agenda, I figured we'd take a first stab at identifying things that would be worth having a discussion about.

For example, I know, Ray, you and I have talked privately about coming up with a code that, my words, would be a bit more customized to the unique dynamics of Hastings rather than what feels like a cookie-cutter approach, in some instances, to required yards; for example since there are very few properties that really adhere to our requirement. Just in reviewing the notes, I was reminded that we have in our code an exemption for solar panels when it comes to view preservation. I think that makes me feel uneasy because it can really distort how we look at an application.

Those are just a couple of things that I know have come up before, but I'll stop talking and see if either of you have any suggestions or ideas.

Boardmember Dovell: Linda and I have talked about this, the MR-2.5, and that there's some issues with setbacks and yard requirements, especially pertaining to small lots.

Building Inspector Minozzi: Especially the MR-O and the MR-C, as well.

Boardmember Dovell: Right. The question was, are there in fact lots that are small in any of those districts, or were they mapped around existing developments. I think it should be looked in to verify the actual lot sizes on those districts. In the MR-2.5 I think there's only one area, Buddy. Is that right?

Building Inspector Minozzi: Yes, there's not much of the 2.5. I have to look it up.

Boardmember Dovell: It's a large area, but it's hard to tell how large the development is and if it's a single lot, or not. The way the text is written there are lot minimums. And if there are lot minimums, the zoning doesn't work as written because of the yard requirements. But if the lots are all, you know, 4 acres it's irrelevant. I think we might do some due diligence on that one maybe just to clean up the language, in any event.

The solar panels, I mean, I think it kind of undermines the view preservation to a certain degree because it lets you put them up as high as you want, Buddy? Or is there a limit?

Building Inspector Minozzi: No, there is a limit. I think it's 21 or 22 inches.

Chairman Collins: But the angling, or certainly the angle. It's not just the elevation, it's the angle. And almost all of those panels are angled to maximize ...

Building Inspector Minozzi: The highest you can go in an -R area, I believe, is 30 degrees.

Chairman Collins: But that's substantial. And I noticed ...

Boardmember Dovell: But the 30 degrees, the encroachment area which is – what did you say, 2-1/2?

Building Inspector Minozzi: It's like 21 or 22 inches, something like that.

Boardmember Dovell: That's to the high point of the pitch, right?

Building Inspector Minozzi: Yes, correct.

Boardmember Dovell: I mean, that seems like a very modest encroachment actually.

Building Inspector Minozzi: I mean, this whole thing started with the 2 Ridge Street projects.

Boardmember Dovell: Right.

Building Inspector Minozzi: They felt it was absurd that they had to come to view preservation for solar panels. And that's why the board of trustees changed the law was because of the solar panels and trying to be more energy-conscious. Then having to spend the amount of money and time they had to spend to get the approvals for solar panels is why the law was changed. It wasn't changed all that long ago. I think you would have a pretty heck of a fight trying to change it back.

Boardmember Dovell: I think it's a very modest ... it lets anyone put in a solar panel up to 21 inches ...

Building Inspector Minozzi: Yes, I believe something to that effect.

Boardmember Dovell: ... without having to come before us, right?

Building Inspector Minozzi: Right. In that neighborhood, off the top of my head.

Boardmember Dovell: I personally don't have an issue with that. Other codes, other zoning ordinances that I'm familiar with in New York City, there are provisions for that type of thing. But if you feel strongly about it, Matt, maybe you could put it forward.

Chairman Collins: Well, I know it seemed to me in the minutes of the last meeting that we sort of recognized that if we had asked the applicant to pitch the roof to 7 feet to the westernmost wall what difference would it have made in the end because all of that would've been undone by solar panels that would have been in the way anyway.

Boardmember Dovell: Right.

Chairman Collins: And that seemed to me to be not the kind of outcome that we would want to have where, absent solar panels, architecturally the applicant could do something to reduce the impact on the view.

Building Inspector Minozzi: And that particular case worked out where she could've went to the 30 degrees. She's only going 10 degrees, which is the minimum you can do in this section of the hemisphere to get the minimum amount of solar energy, and that's what she's doing there.

Chairman Collins: And she did that of her own accord ...

Building Inspector Minozzi: Mm-hmm.

Chairman Collins: ... and I got the sense that the applicant was really trying her best to be a good neighbor. But if it's taken off of the table, then if someone comes in and says I need it at 30 degrees, I need it at 21 inches, then there's nothing we can do about it, nothing at all. And the applicant's within their right to do it.

Building Inspector Minozzi: Correct.

Chairman Collins: And I think you're right. I mean, generally speaking it's minimal. But then I also think about ...

Boardmember Berritt: But then it could be those 21 inches really impact someone.

Chairman Collins: That's correct.

Boardmember Berritt: In that particular case, given the scale of what it was, it wasn't an issue. But if it really does suddenly block someone's views they have, then it's ...

Building Inspector Minozzi: Well, the two cases that changed the law, it really didn't have an effect on anything. Whereas this last case that, Matt, you're speaking of, a 30-degree angle would affect the case.

Chairman Collins: Right. And if she had wanted that, there'd be nothing this board could've done to have said, Hey, can you bring it down to 15, or 10?

Building Inspector Minozzi: Unfortunately.

Boardmember Berritt: Right. If you think about it, in front of the property that we approved before, that was just sort of building on so that they could get a little bit of a river view, if that had been in front of them. I know it's kind of like this, you know ...

Chairman Collins: But you know, you're right, Jo, to point out examples in which we've

been asked to look at impacts on view where there's a very narrow corridor. It's this close to needing a waiver, *but* there is a part of the view that is impacted. And that part of the view, it's not inconceivable, could really be changed by this. So I guess I would like to have – or at least explore the possibility of maintaining – some flexibility in considering solar panels and their installation, but all within the context of trying a "bounce." I think that's, I guess, the key word. We wouldn't say, Hey, those panels – hopefully we get to a point where we wouldn't say, we wouldn't get to a point where we would say – Get the panels off the roof. But where we would look at whether they could be brought down, or rather the pitch could be reduced.

Building Inspector Minozzi: Right.

Chairman Collins: And where the applicant then could have the same desired effect. The Village gets what it wants and everybody comes out ahead.

Building Inspector Minozzi: And that's what I think they worked on when they did this exemption was about the height of the pitch of the solar panels. That's why they gave it a maximum, so that you could couldn't crank it way, way up. I'm not sure what section of the code it's in because I don't have to go to it that often, but there is a maximum height.

Chairman Collins: What if they want to go above that, though? Like what if they're – and again, I'm groping here a bit, but what if ...

Building Inspector Minozzi: Good question. Hasn't come up yet, I don't know.

Chairman Collins: If someone says, Hey, look ...

Building Inspector Minozzi: I guess it would have to get a variance.

Chairman Collins: ... I have this designed energy outcome and therefore I need my panels to be up higher.

Building Inspector Minozzi: Twenty-seven inches, or whatever.

Chairman Collins: Because I've talked to my solar installer and they said that's what I need.

Boardmember Dovell: Well, it wouldn't make any difference. If it's in a view preservation area it's the maximum the way it's set right now.

Building Inspector Minozzi: Right.

Boardmember Dovell: If not, it's the height limits of the building, right? It's 21 inches above the height limits of the building, that's the encroachment?

Building Inspector Minozzi: Yes, that's exactly what it is. And I guess if they wanted to go more in a view preservation they would be subject to view preservation and subject to a variance.

Boardmember Dovell: Right.

Chairman Collins: But we don't have that written up, I don't think.

Building Inspector Minozzi: Oh no, there's a height restriction.

Boardmember Dovell: If you go above the height you're going to need a variance.

Building Inspector Minozzi: Yes.

Chairman Collins: The height of the building, but not the height of the ...

Building Inspector Minozzi: No, no, the height of the solar panel. There is a solar panel height restriction.

Chairman Collins: Okay. But the other alternative is to say no, you can't.

Building Inspector Minozzi: Right.

Chairman Collins: Can't do that. I mean, there isn't a variance for every single part of what someone could do with their property.

Building Inspector Minozzi: Right. That would actually be not an area variance but a use variance, I believe. Right, ma'am?

Village Attorney Linda Whitehead: To go above a certain height?

Building Inspector Minozzi: Mm-hmm.

Village Attorney Linda Whitehead: I think it's just an area variance.

Building Inspector Minozzi: Is it still an area variance? Okay.

Chairman Collins: Yes, I think that's right. That's the better fit. Well, maybe we can table this one and get input from the others when they're back.

Building Inspector Minozzi: And I'll get the language in the code, as well.

Chairman Collins: Okay.

Building Inspector Minozzi: Matter of fact, I'll e-mail everybody the section so you can look it up yourself and read it on your own.

Chairman Collins: Two feet isn't a lot, especially in the context of some of these wide-open views that we looked at.

Building Inspector Minozzi: Most of the cases we've had with solar panels have not been an issue, like all the ones along Maple Avenue and Ridge Street. They were just non-issues, and to make them go before view preservation was kind of ... I couldn't give them an exemption because there was a certain amount of blockage. But it was so minimal, and that's really what sparked this whole thing. This last case was really the only one that really made a difference so far.

Chairman Collins: Does our code, or does New York State, have language around things like "reflectivity"? I'm using that word.

Building Inspector Minozzi: Not in solar, no. Not with solar, not with windows, no. Not in the international code, not yet. I haven't seen any new iteration yet. This comes out at the end of the year, but not yet, no.

Chairman Collins: It wouldn't surprise me if, at some point, a neighbor says, you know, From 1:30 to 2:15 I'm in my kitchen and these things are reflecting light right back in my face.

Building Inspector Minozzi: Mm-hmm. Yes, we have had some question on some window stuff ...

Chairman Collins: We have.

Building Inspector Minozzi: ... with that issue, but not with solar panels.

Chairman Collins: We had an instance, it was on ...

Building Inspector Minozzi: Whitman.

Chairman Collins: Was it Whitman?

Building Inspector Minozzi: Mm-hmm.

Chairman Collins: Is that up on the hill?

Building Inspector Minozzi: It's right here, yes. Right up here.

Chairman Collins: And an instance where the applicant wanted to build out a space in their bedroom.

Building Inspector Minozzi: Oh, no, no. This is about windows.

Chairman Collins: They wanted to build reflective, like metallic, inside those windows because they didn't want the bedroom to get blazing hot. So people driving on that road, the public, came in and one of the complaints we heard was that people driving on the road at a certain time of day would get a lighthouse beam in their face from those panels.

Building Inspector Minozzi: Wow, I don't even remember that case.

Boardmember Dovell: Didn't end well.

[laughter]

Chairman Collins: That's right, it did not. What else are we ... so we'll table these things.

Boardmember Dovell: Broadly speaking, the way the zoning ordinance is written for an R-10, which is most of Hastings-on-Hudson, there's a 10,000 square foot minimum lot. The building coverage, which now excludes driveways and walkways, is just purely footprint, correct?

Building Inspector Minozzi: No, not in the -Rs.

Boardmember Dovell: Building coverage ...

Building Inspector Minozzi: Oh, sorry, building coverage. I'm sorry, yes, yes, yes. I'm sorry, I'm sorry. One-hundred percent correct.

Chairman Collins: The size of the house in an R-10 district is 25 percent coverage. Is it 25? I think it's 25 percent.

Building Inspector Minozzi: It's in Matt's code book right there. It's 295-68, I believe.

Boardmember Dovell: Maybe it's 30 percent. I ran the numbers.

Building Inspector Minozzi: It should be 295-68(f)(1)(c) – (f)(1)(d)?

Chairman Collins: (f)(1)(d).

Boardmember Dovell: It's 25 percent.

Chairman Collins: *"Building coverage shall not exceed 25 percent."*

Boardmember Dovell: Okay, so you take 10,000 square feet, right?, and you multiply that by 25 percent times – times 25 percent – is 25-hundred square feet times 2.5, right?

Building Inspector Minozzi: Correct.

Boardmember Dovell: Times 2.5 equals ... so we are permitting a house of 6,250 square feet on an R-10, which is about three times ... what's the average size of the house in the R-10?

Building Inspector Minozzi: Oh, God, I don't know. The lot sizes vary so much in the R-10 district.

Chairman Collins: Let's just say it's at least 2X.

Building Inspector Minozzi: It's not 6,000 square feet, it's probably 25-hundred, 3,000 square feet.

Boardmember Dovell: So say it's 3,000 square feet, and that's being generous.

Building Inspector Minozzi: I think so, too.

Boardmember Dovell: And the same equation, roughly, applies to the R-7.5 and the other district. Is this what we want in the town of Hastings-on-Hudson? My answer would be no. Someone used the word "McMansion" the last time.

Chairman Collins: That would be one.

Boardmember Dovell: That's a five- or six-bedroom house, four bathrooms. Is that the future of this town at the time when people decide that it makes economic sense to tear down homes and to build new homes?

Building Inspector Minozzi: Well, to tell you the honest truth, the house that's being built on Rosedale Avenue is being built right to the max.

Boardmember Dovell: On Rosedale, I'm not sure which one.

Building Inspector Minozzi: That's the subdivision from the American Legion.

Boardmember Dovell: So this, to me, is ... maybe it's not an issue right now, but I think potentially it's a significant issue for the character of the town. And that if we don't do something about it, it could really be a problem. And it is a conceptual problem that I think should be addressed. My argument was that we should keep the coverage alone because it permits flexibility. But I think we should go to a floor area ratio equation for all of these districts.

Building Inspector Minozzi: That's why a lot of towns have it.

Boardmember Dovell: I know, and I don't really understand why Hastings doesn't. It's antiquated. But my feeling is that we should address this seriously: is this the future of the town? You know, I use the word "Houston," but it's a Houston, Texas problem and I think it's a significant one. And it's in all of the residential districts. I think the zoning controls for the multiple dwelling are pretty well drafted at this point ...

Building Inspector Minozzi: Mm-hmm.

Boardmember Dovell: ... and it wouldn't allow that to happen.

Chairman Collins: Right.

Boardmember Dovell: But in the single-family it could absolutely happen. You know, I look at what *I* could do. I have 10,000 square feet, I could triple the size of my house.

Building Inspector Minozzi: Look at the R-20. I mean, not that there's very many lots in the R-20, but ...

Boardmember Dovell: So that, to me, is what I see as the biggest issue on the zoning. And I'll stop sounding like a broken record on this one.

Chairman Collins: But I don't think you have. I mean, we beat that drum for MR-1.5. But that was because it was ...

Boardmember Dovell: It was the other way around.

Chairman Collins: It went the other way around. Couldn't build anything as-of-right and everything was requiring a variance.

Building Inspector Minozzi: Everything was coming for a variance.

Chairman Collins: And it was really distorting. It was distorting the way the public digested those cases and it was distorting the way we heard them.

Building Inspector Minozzi: Agreed.

Chairman Collins: Because every variance we were giving was sizeable.

Building Inspector Minozzi: It is, was. No, absolutely.

Boardmember Dovell: And if you look, I think we permitted an FAR 0.75.

Building Inspector Minozzi: I think that's what it is.

Boardmember Dovell: If you applied that to a 10,000 square foot lot, what do you get? It shouldn't be that generous, 10,000.

Chairman Collins: No, I wouldn't make it that generous.

Boardmember Dovell: 10,000 times 0.7, so you're looking at an FAR of about 0.3 or 0.25 or something like that. But, I mean, I think it should be analyzed and I think we should address it.

Building Inspector Minozzi: Yes, I think some of the FAR in our surrounding towns are even a lot lower than that.

Boardmember Dovell: Or even a lot lower, yes.

Building Inspector Minozzi: I mean, 0.12, 0.15, 0.17.

Boardmember Dovell: It should be analyzed and it should be fair, but it should not permit ... and it should allow flexibility, which is why building coverage is a good thing because it would allow flexibility so you're not just building a box straight up. You allow flexibility, but if you cap the FAR then you have another level of control that prohibits something that's just grossly out of character.

Boardmember Berritt: So it's a combination of looking at the zoning districts and identifying the ones ... because it sounds like there's more than the ...

Building Inspector Minozzi: The 2-R's another famous one. I mean, you can build a very large house in a 2-R if your lot's big enough.

Chairman Collins: Well, that's why having custom FAR for every district is ...

Building Inspector Minozzi: Mm-hmm.

Chairman Collins: We mentioned R-10 because the outcome of what it permits today is so out of field.

Boardmember Dovell: And I looked at all the residential districts; it's all out of whack and it all permits way too much. In the 7.5 it's even more out of whack.

Building Inspector Minozzi: Because the percentage is even higher.

Boardmember Dovell: Because of the percentage, yes.

Building Inspector Minozzi: I think the percentage is 30- or 35 percent. That was 295-69, the 7.5.

Chairman Collins: Okay, I've noted it. Again, I think we're not going to make any formal recommendations tonight, absent two members. But I'm trying to capture it all.

Ray, you and I have talked about the idea of just trying to come up with, first of all, a sense of what the norms are within districts for the basic yard setbacks rather than what feels like a fairly arbitrary definition for them. Like how many homes really have a 30-foot front yard setback, and maybe most of them do.

Building Inspector Minozzi: Well, we do have ... there is a subsection about average alignment in our code. We haven't used it yet, but there is a subsection about average alignment.

Chairman Collins: Can you ...

Building Inspector Minozzi: I've only read it a couple of times, it doesn't come up very often. But I will shoot it to you.

Chairman Collins: Do you know what it's designed to do?

Building Inspector Minozzi: Yes. When you have two houses that are a lot closer to the street than, say, your 30-foot setback, and now you want to build a house. That now 30-foot setback, the borders allow it to bring it forward to have average alignment between the houses next to it to make the streetscape look not so ...

Chairman Collins: But the applicant would still have to come here and make the case, correct?

Building Inspector Minozzi: Yes, which you have that authority to do.

Chairman Collins: Which I don't know that we have a referenced average alignment in any of our decisions, but we act that way: we look at the character of the homes around it.

Building Inspector Minozzi: You may not say it, but I think the whole board is very conscious of it.

Chairman Collins: I think we are, too. The question is, does our setback requirements accurately reflect some sense of a norm for each of these districts or are they not really reflective of any norm? And if they aren't, shouldn't they be so we spare at least some future applicants the pain of having to come in to present a case that within their area, within their district ...

Building Inspector Minozzi: Like the gentleman that was just in here, it was just a few inches because in that neighbor that is the norm. That 30-foot setback is the norm in that neighborhood.

Boardmember Dovell: The zoning is based on an idealized lot of 100 by 100 or 75 by 100 or 50 by 100, and it all works if you assume that. But Hastings isn't made that way.

Building Inspector Minozzi: No, the zones are very generalized.

Chairman Collins: And it's expensive in time and money for an applicant to come. We see development, of course, only that requires the variance; we don't see the developments that don't require it. So our view of this is jaundiced in a way, where we're only seeing those cases that don't fit, by definition. The question is, more broadly, are the cases we're seeing here really outliers – hence the need for a variance – or is our code, per district, not helpful in describing that the norm looks like?

That's a larger undertaking, I think. Although statistically it might be possible to get a sense of the norms, you could get a sense of that norm without having to canvass every property. Some subset of that, you'd have enough data in-house to be able to ...

Building Inspector Minozzi: That's like the case that's not here tonight. I mean, we specifically asked the applicant and he gave it to us for all of the setbacks and the entire surrounding district. It should be in your packages. Ray has it right there, and I have a copy here, too, Carolyn, if you want to look at it.

Chairman Collins: Yes, and that's good.

Building Inspector Minozzi: And I think that really helps. Without saying average alignment, I think that really is what this is all about.

Chairman Collins: Yes. And I think we decide cases all the time based on this sort of analysis. But that is also not exhaustive, nor is it a statistically valid representation of a district; it's just one very localized neighborhood.

Building Inspector Minozzi: Right, and that's very important I think because all of the R-10s in Hastings-on-Hudson, every single neighbor's different, every single one. Some it fits very well, and some it doesn't fit well at all, unfortunately. But fortunately for this gentleman here, almost every house on this block fits that code very well. They're all pretty much in line, going down the street.

Chairman Collins: Sure. In the hands of a statistician, dealing with that variation from neighborhood to neighborhood within a single district is something that could be managed. And you could come out of that with a sense of whether or not you could come up with a norm that describes it well or whether or not that's just not going to happen.

Building Inspector Minozzi: I look at the 7.5 down on Clinton Avenue and South Clinton. Those houses are in and out all over the place. You know, that front yard setback doesn't

make a lot of sense in that neighborhood because every house is so different. There's no average down there. And I think it's very localized, I really do.

Chairman Collins: Yes, I'm sure. We see that in the character of the cases that come before us. But I'm going to flag that as something that I would like to at least revisit more broadly.

Building Inspector Minozzi: Sure.

Boardmember Berritt: I have one question, actually, from the minutes. I think it was something that probably had preceded me, but the property that we looked at with a swimming pool – and the neighbor who was here saying that it's 6 feet versus 100 feet, or something – I didn't really understand that.

Building Inspector Minozzi: After speaking with Linda, it's a misinterpretation of the code. It's a very poorly-written code.

Boardmember Berritt: Okay, so is that something that (cross-talk) ...

Building Inspector Minozzi: Yes, it's on Linda's list to fix ...

Boardmember Berritt: Okay.

Building Inspector Minozzi: ... because the side yard for pools is ridiculous.

Boardmember Dovell: That's 100 feet, isn't it?

Building Inspector Minozzi: Yes, it's 100 feet.

Boardmember Berritt: Right, so it was sort of a hundred feet or 6 feet, and that was (cross-talk) ...

Building Inspector Minozzi: Right. It's a hundred feet or 20 feet.

Boardmember Berritt: I was the next door neighbor.

Building Inspector Minozzi: And that had already gotten the variance, and that's why Linda took it off the board. Even though I put it back on the board, Linda took it right off the board. She's like, "No, I get the variance. They're not touching the pool again. They got the variance, leave it alone."

Boardmember Berritt: Right, okay.

Chairman Collins: I noticed that same part of the minutes. She just sort of said, "No, we looked at that, it's unclearly written, it's 20 feet," I think is what I said.

Building Inspector Minozzi: Exactly. It's a very, very poorly-written code. It's really meant for front yards. They don't want pools in front yards, but some houses have tremendous side yards and say why can't you have a pool in your side yard. You know, it could be fenced in just like any other pool, and it's not a problem, such as the case in this house. The code is just so poorly written, but that is definitely on her hit list. We had that conversation the next day.

Chairman Collins: Here it is: *"Except in the rear yard, no outdoor pool or pond shall be constructed or installed unless every part of such pool is located at least a hundred feet from every side, or street line, and no less than 5 feet from the main building on the premises. If the pool is constructed or installed in a rear yard, every part of the pool shall be at least 20 feet from every side, rear lot, or street line and no less than 5 feet from the main building or premises."*

Building Inspector Minozzi: Right.

Chairman Collins: It's very restrictive.

Building Inspector Minozzi: Extremely.

Chairman Collins: Especially in our goofy lot sizes. Something is a hundred percent in the side or a hundred percent in the rear, that's just ... you very rarely see that.

Building Inspector Minozzi: I know there was one on Amherst that wanted to put the pool in their side yard. Their side yard was three times the size of the backyard. They got their variance, no problem. This is when Devan was here, years and years ago, and they got it no problem. It was like a triple lot and their side yard was literally ginormous. They wanted to put a pool in, and they did.

Chairman Collins: Okay, I flagged that one. That's a good one.

Building Inspector Minozzi: Yes, that's a good one.

Chairman Collins: We've got one, two, three, four, five; five issues flagged so far.

Anything else that's been burning on you to get off your chest here?

Boardmember Dovell: No.

Chairman Collins: Okay. Well, then we'll revisit this when we have the full board.

Building Inspector Minozzi: Okay.

Chairman Collins: Why don't we proceed to a review of the minutes.

APPROVAL OF MINUTES

Regular Meeting of January 24, 2019

Boardmember Berritt: There was very little; I sent a couple of things to Mary Ellen.

Building Inspector Minozzi: Oh, you did? Okay, good.

Chairman Collins: I did the same. I noticed that "*constriction*" appeared instead of "construction." That was the biggest change that I saw.

Boardmember Berritt: "Studies" instead of "stuff".

Chairman Collins: I thought that was right, but I wasn't sure. I felt myself drifting in unfamiliar inside baseball for building and architecture, so I didn't mention it. But that was odd.

Boardmember Berritt: But they were fine otherwise.

Chairman Collins: All right. Then you've submitted your changes, I've submitted my markup. So can I get a motion to approve the minutes as amended?

On MOTION of Boardmember Berritt, SECONDED by Boardmember Dovell, with a voice vote of all in favor the Minutes of the Regular Meeting and Public Hearing of January 24, 2019 were approved as amended.

ANNOUNCEMENTS

Next Meeting Date – March 28, 2019

ADJOURNMENT

Chairman Collins: Then with nothing else, I'll adjourn our meeting. Thank you very much.