

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
MAY 28, 2015**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, May 28, 2015 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Chairman Matthew Collins, Boardmember Ray Dovell, Boardmember David Forbes-Watkins, Boardmember Sean Hayes, Boardmember Adam Anuszkiewicz, Village Attorney Linda Whitehead, and Deputy Building Inspector Charles Minozzi, Jr.

**Chairman Collins:** Good evening, and welcome to the May 28 Zoning Board of Appeals meeting. We have one case on the docket, Case 05-15. And I apologize if I get names mispronounced here: Peter Ciszewski and Corinne McSpedon, 9 Lefurgy Avenue.

**Case No. 05-15  
Peter Ciszewski & Corinne McSpedon  
9 Lefurgy Avenue**

**Relief from the strict application of the Village code sections 295-68.F.1.a, 295-SS.A and 295-68.F.1.a for alterations and additions to their single-family dwelling at 9 Lefurgy Avenue. Said property is in R-10 Zoning District and is also known as SBL: 4.90-85-2 on the Village Tax Maps.**

**Variances are sought for Side Yard Setback and the extension of an Existing Nonconformity Front:**

**Extension of nonconformity for first floor covered front porch**

**Existing- 16.8 feet; Proposed- 16.8 feet;**

**Required Minimum. - 30 feet {295-68.F(1)(a) and 295-SS.A}**

**Variance required: 13.2 feet**

**Non-conformity details of the proposed rear addition:**

**Side Yards: One Side - Existing- 9.7 feet; Proposed - 9.7**

**Required Minimum - 12 feet {295-68.F(1)(c)}variance required 2.3 feet**

**Two sides:**

**Existing - 39.2 feet**

**Proposed - 39.2 feet**

**Required Minimum - 30feet {295-68.F(1)(c)}**

**Chairman Collins:** Before we begin, Buddy, how are we on the mailings?

**Dep. Bldg. Inspector Minozzi:** I've been informed by my staff that all the mailings are in order.

**Chairman Collins:** OK, very good. If you're speaking tonight we just ask that you speak into a microphone. We have two, one here that's a portable and one on the stand. That way, our remote transcriber will pick up your comments. I'll just ask that before you speak for the first time, just introduce yourself into the microphone, please. If you please just go ahead and present your plan, and then I'm sure the Board will have some questions.

**Alec Stayonovich, design architect:** On the first sheet you see the location of the house with the darker shaded lines the area that's built out on the property. What we are trying to achieve is a certain continuity with the volume of the building that's existing, just pretty concise. We are extending in the back shy of what we are allowed of the backyard setback. But it is now nonconforming on the side, and we would like to just continue the stretch correctly. The shaded gray area here shows you how much the overlap would be, which is approximately 2 feet.

On the front, it's nonconforming also. I mention this even though it's not a bigger issue, but also one. We are not extending out, but we are planning to redo the actual entrance porch, which is damaged and falling apart; and by doing that, at the same time extending it width-wise so you have a better landing at the entrance which now is very tight. So it's just an extension sideways of approximately also 2 feet from what's there now existing.

**Chairman Collins:** By the way, I should just say if you see us looking down into screens we're not checking e-mail or sports scores. This is the first meeting where we've actually had plans delivered electronically so many of us are viewing them on tablets which is, I suppose, good.

On the porch on the front, though, I don't believe we have a front yard variance. Is it because it goes to the side of the property and therefore past the side yards?

**Mr. Stayonovich:** It's because it's already nonconforming. We don't have the 30 feet necessary.

**Chairman Collins:** Right. But I think if you were knocking it down and rebuilding it – and correct me if I'm wrong, Linda – wouldn't they have to apply for a front yard variance?

**Village Attorney Whitehead:** Yeah, but here it requires that just that front stoop is nonconforming is my understanding. And because they're making it a little bit bigger they're

increasing the nonconformity. That's why it needs a variance.

**Chairman Collins:** Right. But it is a variance for the side yard or the front yard?

**Mr. Stayonovich:** Both.

**Village Attorney Whitehead:** There's two different variances here: the widening of the front stoop requires a front yard setback variance because the stoop is in the required front yard.

**Chairman Collins:** Oh, I see.

**Village Attorney Whitehead:** And the addition in the back requires a side yard variance.

**Chairman Collins:** You're right, I missed it.

**Dep. Bldg. Inspector Minozzi:** And he's also covering the front porch.

**Boardmember Dovell:** It's a porch, it's not a stoop.

**Chairman Collins:** OK, sorry.

**Mr. Stayonovich:** It is a porch now, just to clarify that.

**Village Attorney Whitehead:** You're just making it bigger.

**Mr. Stayonovich:** We're just making it wider, correct. The landing now really doesn't allow for any wall inside so it's a better access, basically. Beyond the fact that it's falling apart.

Those are the two areas we see here in the overall plan. We are reducing the coverage. I know it's a lot of cement in the back and it's really covered solidly by creating more greenspace in the back. That's why the numbers also worked a little funny. Even though we're increasing the volume of the house, we are decreasing the buildable overall just because we're taking away a lot of what's there in the back, which is all of this concrete area that we want to green again and have just a garden.

I'll go to the plan. It might be a little easier.

**Dep. Bldg. Inspector Minozzi:** The developmental coverage would have been over, but he's decreasing some of the impervious surface, which is actually reducing it down to below

the maximum allowed.

**Mr. Stayonovich:** That's correct.

**Village Attorney Whitehead:** Is that nonconforming now, Buddy?

**Dep. Bldg. Inspector Minozzi:** It's nonconforming now. It's 39.8 percent now.

**Village Attorney Whitehead:** So it's coming into conformity.

**Dep. Bldg. Inspector Minozzi:** It's coming down to 28.4 percent.

**Mr. Stayonovich:** Correct. Here, a bit of the demolition, you will see a little bit more of the area that I'm talking about. It's all in the back, which is now being suggested to be removed.

This is the existing house and this is the porch. You see how narrow it is, the entrance right there? That's what we are hoping to be able to convince you to widen. Now, in the back there are these smaller additions that have been put together in previous times and places of this house, like this smaller powder room and these closet enclosures. What we are really trying to achieve is to put the stair into the new area to create better circulation. That's why we're trying to move backwards.

I'll go to the next sheet of the proposed, which is a little here. Here, you see now the areas of the proposed new work and addition. This will be the back that ends there. It's two open going back, and this is still conforming with 6 feet that we are allowed. This is the line that we're trying to have as a continuous one to the house, which is nonconforming. We have 9.7 feet existing.

It repeats itself, of course, in the next floor basically, where it goes up again to the stair on this side. The remaining bedrooms stay, the bathroom stays as well. By removing this existing hole on the stair we create a better bedroom that's existing now, enlarging it basically, and then getting a playroom out of that. The existing attic is has a very tight access and is not so much usable space now. It's being used as a home office, and would become the new master bedroom using half of the floor as we are allowed just for that. That's the only room up there. We have a new pitched roof, which we're hiking a little bit but still way below the 35 feet that we're allowed for height.

I'll get out to the elevations so you can visualize that as well. Here is the front stoop, a bit enlarged. You see the dotted line of the existing now, and this is what we're hiking up by. We're going up 2 feet from what's there. This is another line of the roof, and this is where

we're going now. But it's still below the 35 feet that we're allowed, the roof at that height exactly. I can tell you in a second. The allowable is 35, and we're going up to 33.1. So we're 2 feet shy of what ought to be. We're trying to keep in line the architecture, the language of what was there now. Yes, it's higher, but the forms remain in terms of the lines of the house it has existing, trying to incorporate the addition in the back almost like a smaller volume that goes into it without really trying to make it out of character. It is a smallish house, and we're trying to preserve the volume as much as we can within that. This is the back.

**Boardmember Dovell:** What's on the third floor now? Could you just clarify what's on the back?

**Mr. Stayonovich:** It's a study now, a work space with three windows – north, south and west – and it's a work area.

**Boardmember Dovell:** So the third floor is really being built out.

**Mr. Stayonovich:** Yes.

**Boardmember Dovell:** And, Buddy, that's in compliance with the code?

**Dep. Bldg. Inspector Minozzi:** We'll have to see how it complies with state code when he comes in for the building permit.

**Boardmember Dovell:** There are issues of sprinkling and all that.

**Dep. Bldg. Inspector Minozzi:** Yeah, we'll have to check into all that.

**Mr. Stayonovich:** We looked into that ourselves, but clearly we need to comply with certain things.

**Dep. Bldg. Inspector Minozzi:** And as long as the attic floor area below 7 foot and above is less than 50 percent of the floor below it's still considered 2-1/2 stories.

**Boardmember Dovell:** Got it.

**Mr. Stayonovich:** Exactly. This is where we kept to that.

This is the other view. This is the south façade, and this is the rear yard façade. Again, similar to the other ones – just the opposite. Now, more interesting, when we approached this idea

of the straight forwards going back, tried to look at the neighborhood and how other houses surrounding the area really had similar situations. It seems like there is a typology of similar buildings and structures in that area that have dealt in very similar ways. I'm not quite sure about their side yards and requirements, but you can see our building. This is the front and this is kind of the side. I'm on purpose taking pictures a bit sideways so you see the lines of the roof, which we're trying to kind of replicate in a little heightened new roofline. The adjacent houses going up the street, if you look at them always from the front it's always this very simple façade. Then when you go to the back you see how it amplifies itself. They're very narrow up front, and then going back they expand basically towards the backyard.

It's a longish volume that most of the houses have. A lot of them have some small additions. The only exception is maybe the one right next to it, which would be number 7 and is very close on the lot right there. It has an extension actually to the front, which is the bigger part of the house. But they have a much larger lot. This was done a long time ago so, clearly, it's there to stay. Here you see the two houses next to each other. Even the larger houses – number 39, which is up there – has much more spread and is taller. It expands itself also towards the back. Partially, I think, because the orientation of the south is in this direction, so they catch more of the sunlight by doing the south façade – the main sun-attracting one – instead of the front, which is just the entry.

We go now back on the next street over. We're here on Lefurgy. If you make the turn on the same block on the other way, we have several houses that are really much more similar also in typology like this one. It seems to be really out of the same mold like ours, even in dimensions. The roofing changes a little bit, I guess. But again, the extension in the back you can see here it's a straight one, where the façade would just continue to keep the volume. Same thing on this side; the volume just continues straight. There's no jogs that happen. Here, the same. And this is one actually at the corner that extended south a little bit in a different manner, with the front being something else. This is a completely different typology.

We have one, two, three, four houses just surrounding it that really speak of the same language in terms of trying to keep the volume very concise and not have additions that really look like such, but keeps the house as a unity. That will be the main idea, and why we would like to ask you for a variance.

**Chairman Collins:** Thanks for the presentation.

One thing I don't think you mentioned was what precipitated the decision to create this addition in the first place. It is a small house as is. Why add on now?

**Mr. Stayonovich:** I'll show you back to the family room. That's the easiest to explain where this came from.

**Chairman Collins:** And more thinking about was there a change in the family situation, growing family, either more kids or bigger kids that just need the more space.

**Mr. Stayonovich:** More kids and growing kids. Not more, just growing kids. But if I show you in the existing plan, we have the ground floor place which has a diagonal kind of circulation into the upper floors. The kitchen is really just this volume right there. This is the counter area we really have. It's a family of five, so to parents and three children plus a dog. The dining room is here, and this is kind of a study area now at the entrance. But the circulation in the diagonal seems to really take a lot of the space away from furniture and creates this cut through. If you go upstairs to the second floor, you have the master bedroom, you have the kids' room. This is an everything room, but it's really barely 8 feet in width at the moment. With the stair going through for the attic, which is then the work area of the parents, as well. I guess one of you always works upstairs and one downstairs because they work partially from home.

The three kids are here now. As they're growing and expanding in height I think the idea was to create within the house ... and I should mention this, I think it's important. Corinne grew up in this house. This was her parents' house so there's a history to this place. She grew up also in a family of five, so it's not like it's not possible. Obviously, she grew up to be a wonderful human being. Peter is much taller. I think we've been trying to keep some of the heritage: the personal heritage, but also really growing up in the neighborhood. Trying to see how we could fit, within what's possible, in this tight space something more.

The new layout, by just moving the stair into this allows for really this volume to grow outside. The circulation happens beyond, and we gain basically now three bedrooms for each one of the children, downstairs. Bit luxury, but the same bathroom. We gain, out of the attic now, a better place. On the top floor, in the attic now, you would have basically a new study for the parents outside. Since you don't have to really stand up much in the attic, you could have an actual smaller, lower ceiling there because it doesn't affect it much. Most of this part is really below the 7 feet that we need because you're going to work there so you don't really need the height. It's really where you get up some height, and then within the bedroom with the rooflines. But it's really moving these upstairs that manages to create some space below.

**Chairman Collins:** That's helpful. It's helpful always to know what's the inspiration for it. So that's a useful explanation. I'm sure the Board will have comments and questions, but I think the design is lovely. You're dealing with a constrained space because you're dealing

with a couple of existing nonconformities. You don't have a lot of options to accomplish your goals, and the way you're going about really will, I think, barely be detectable from the street. So any impact is really on the rear-facing part of the house, and the sides. The new design is very much in keeping with the old. I can't imagine the ancestors would be disappointed with the new look and feel.

So I'm very supportive of this. I think it's very well done, but I'm sure the Board will have comments or questions of their own.

**Boardmember Forbes-Watkins:** I do want to know what the current square footage is of the house and what the proposed square footage will be.

**Mr. Stayonovich:** Sure. Again I don't have this, sorry. The existing per floor, we have two 860 square feet; so it's 1,740. We are proposing an increase of 1,100 square feet per floor, so 2,200 going up, with the attic being only half of that, which is like another 450 square feet.

**Boardmember Forbes-Watkins:** So we're going up to ...

**Mr. Stayonovich:** From 1,760 to 2,450.

**Boardmember Forbes-Watkins:** Thank you.

**Mr. Stayonovich:** The addition itself is 9 foot 5 that we're going up, the allowable.

**Boardmember Forbes-Watkins:** OK. Certainly not an unreasonable size for a whole house.

**Mr. Stayonovich:** The main reason for the size was really trying to figure out how do we gain not just a circulation expansion, but also a little bit of room that can have a use; like on this floor, it becomes for the kids a playroom, upstairs it becomes a desk area, and then the kitchen expansion.

**Boardmember Anuskiewicz:** I think the other thing that's nice about it is that you're adding on to the back of the house, and the back of the house existing you're cleaning up a lot of stuff. There's a porch back there or a roof that's coming down, and you have a bathroom there that you're taking away. You're removing some of the concrete. I think even though that's the area where you're asking for the variance, which is very small, I think what you're actually in effect doing is making the back of the house a lot cleaner and a lot nicer looking for all the neighbors, as well. So I think it's a very elegant solution, and I think to have a family of five in a 1,700 square foot house is, I understand, not the greatest. So I

think to come out with 2,400 square feet or whatever you're doing is a modest increase, but it seems almost, to me, completely necessary, fair and balanced.

So I'd support it also. I think you've done a terrific job.

**Mr. Stayonovich:** Thank you.

**Boardmember Dovell:** You have two bedrooms now, right? There are two bedrooms in the house?

**Mr. Stayonovich:** Basically, yes.

**Boardmember Dovell:** And going to how many?

**Mr. Stayonovich:** Four.

**Boardmember Dovell:** Four, with that little addition, is pretty amazing. It's quite nice, all in keeping, and I think the character of the architecture is in character with the neighborhood. So it's very nicely done, and it's minimal. I don't think, in any way, it's an overreach for the area.

**Mr. Stayonovich:** That was the intention, to really keep in character. Mainly because I think they wanted to also keep that going what she grew up in. The back is ugly because it happened sporadically somehow. You can tell it was piecemealing (ph) in there, whatever the needs were at the moment I guess were dealt with.

**Chairman Collins:** Sean, do you have anything?

**Boardmember Hayes:** No, I think it's great. I lived in this neighborhood, as you know, for seven years. Adam actually did a back addition for me across the street. So I absolutely hear what you're saying. I think it's a perfect solution. I'm amazed at how many rooms. I don't know as well as they do how necessary it is, but I know it's necessary. I feel very confident that that's the case.

**Chairman Collins:** OK. If there are no other comments from the Board, does anyone in the audience wish to be heard on the matter?

Then if there's nothing further from the Board, may I get a motion?

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Board resolved with respect to Case number 05-15, to approve variances as follows: Extension of a nonconformity for first floor covered porch: existing 16.8 feet, proposed 16.8 feet, required minimum 30 feet. So the variance required is 13.2 feet; nonconformity with respect to the side yards: one side existing 9.7, proposed 9.7, required minimum 12 feet, and two sides: existing 39.2, proposed 39.2, required minimum 30.

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

**Mr. Stayonovich:** Thank you very much. Thank you for your time.

### APPROVAL OF MINUTES

#### **Regular Meeting of April 23, 2015**

**Boardmember Hayes:** I didn't read them this time, I didn't dare.

**Chairman Collins:** You didn't want to go relive that again? I read them, and the only thing, Buddy, that I saw that is worth noting is that I somehow adjourned the meeting.

**Boardmember Hayes:** In absentia.

**Boardmember Forbes-Watkins:** Congratulations.

**Chairman Collins:** And that took a bit of magic.

**Boardmember Forbes-Watkins:** I do have two items of not great importance. Page four, the second line, I haven't the faintest notion what this is. I'll read: "*One is the variance for a parking 'seta,'*" S-E-T-A. Huh?

**Chairman Collins:** Could that be a setup?

**Boardmember Hayes:** "Space?"

**Boardmember Forbes-Watkins:** I don't know what it is, but it ain't good.

The other, I do think I have an answer. Page seven, the first line of the first full paragraph:

*"This is our floodplain."* I believe it's "floor plans."

**Chairman Collins:** That makes a lot more sense. I remember reading "floodplain," and I thought maybe they're getting into that.

**Boardmember Forbes-Watkins:** That's it for me.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of April 23, 2015 were approved as amended.

### **ADJOURNMENT**

**Chairman Collins:** I then move that we adjourn, but I want to just catch up on the important issue that seemed to come up after the meeting about how we go forward with some cases that are not necessarily here for presentation, or that have a change of plan. It sounds like you guys talked about that.

So the meeting is adjourned.

**Village Attorney Whitehead:** Actually, if you're going to have a discussion you should still do it on the record because you have a full board. It's the open meeting provision. You can have the discussion, but you're still technically in your meeting.

**Chairman Collins:** I'm talking about stuff that was talked about off the record.

**Boardmember Forbes-Watkins:** No, it wasn't off the record.

**Chairman Collins:** At some point, at the meeting's end you say are we still on the record?

**Boardmember Forbes-Watkins:** That ended.

**Chairman Collins:** And it ended.

**Boardmember Forbes-Watkins:** There was no more discussion.

**Chairman Collins:** Oh, OK. I assumed there was some discussion.

**Boardmember Forbes-Watkins:** No, there was not.

**Village Attorney Whitehead:** I can give you some follow-up. On 32-34 Washington, when they were at the Planning Board last week and they asked again is it time for us to go to the Zoning Board, we told them no. We said you shouldn't go back to the Zoning Board until the Planning Board is prepared to make a recommendation on view preservation and the Planning Board has a comfort level that the plan isn't going to change significantly again. Which I think was what I heard from this board last time, is that you don't want to see them until they're really ready.

**Chairman Collins:** I know there were some different opinions on the Board. I feel uncomfortable with plans that change when they come.

**Dep. Bldg. Inspector Minozzi:** Excuse me. Are we adjourned?

**Chairman Collins:** No, we're apparently not adjourned. We're still on, right?

**Village Attorney Whitehead:** Well, you're having a discussion with the full Board. So under open meetings law it's still a public meeting.

**Chairman Collins:** So we're still open, which is fine.

**Village Attorney Whitehead:** Sorry

**Chairman Collins:** No, that's my mistake.

I am uncomfortable having new plans or changed plans thrust upon this board.

**Village Attorney Whitehead:** That's a separate issue, and I think it should be the policy that an applicant cannot hand in new plans at the meeting. I mean, you have a deadline and you can't be expected to react to something that you're just seeing for the first time at the meeting.

**Boardmember Anuskiewicz:** Isn't there a bigger part of that question, which is if you're not coming to this board to ask us to vote on something, then what are you coming to ask us to do.

**Chairman Collins:** Yeah, and I do see them as, in a way, related. Because if you come before the Board just to simply feel people out, then it makes it – from a standards perspective – how do you set the standard for engagement. I appreciate that there is maybe some productive value for the applicant to streamline their approach for a future time, but I

personally ... I read, Sean, your comment about this turning into sort of a quasi planning board, with people feeling us out on their opinions. And I don't like that, I don't think it's a productive use of the public's time, I don't think it's an appropriate use of this board's time.

So my feeling is that if they do not have Planning Board approval – and whether it's their fault or not – I don't think they should be coming here just to kind of take the temperature.

**Village Attorney Whitehead:** They were told that not only here last month, but they were told that even, I think, more clearly at the Planning Board meeting last week. They should not be coming back to this board. You've seen the new plan, you know generally what it looks like now. And I don't think that was a bad thing, but now they shouldn't be coming back to you until they're ready to have you make a determination on view preservation and until the Planning Board has looked at the plan enough to really have identified what the variances are.

**Chairman Collins:** That's right.

**Village Attorney Whitehead:** The Planning Board is massaging the plan, and as they massage the plan the variances change.

**Chairman Collins:** That's exactly right.

**Village Attorney Whitehead:** So it really shouldn't come to you now until the variances are defined and there's been a recommendation on view preservation. Now, there's always the chance that you may deny or change something with one of the variances and then they've got to go back to the Planning Board.

**Chairman Collins:** At least at that point ... it's come to, though, the most logical place in the progression. We need to look at variances first, and then how can the applicant change things or manipulate things to minimize the variances.

**Village Attorney Whitehead:** Right. And I've also said to them that I thought it would be helpful for this board if, by the time they came back to you, they actually had a recommendation from the Planning Board not only on view preservation but even on the variances. You know, the Planning Board has kind of looked at this plan and they're comfortable. While it's still up to you, they're not going to massage the plan any further with respect to the variances.

We deal with this all the time. It's always this bouncing back and forth between boards. It happens in every municipality. I really believe, and I think it's what this board wants also, it

shouldn't be before you until the Planning Board has really done a significant amount of the work.

**Chairman Collins:** Right. Because at that point the variances are locked.

**Village Attorney Whitehead:** And you've also got view preservation here. Now, we can tell you that there's another one that is going to come to you earlier – was it 17-19 Washington, Washington Mews?

**Dep. Bldg. Inspector Minozzi:** No, 9-17.

**Village Attorney Whitehead:** They need an interpretation, which will significantly impact their plan.

**Chairman Collins:** They need an interpretation from this board?

**Village Attorney Whitehead:** Yeah, you're the board that interprets the code. They're disagreeing with Buddy's interpretation so they appealed his interpretation.

**Chairman Collins:** That's their right.

**Boardmember Forbes-Watkins:** That's our responsibility, that's fine.

**Village Attorney Whitehead:** But in this case – and Buddy and I have talked about it – we think they need to come to you earlier rather than later. Because as Buddy has now interpreted the code it changes the whole plan.

**Boardmember Anuskiewicz:** They should still be asking us to vote.

**Village Attorney Whitehead:** Right, on the interpretation they will be.

**Boardmember Anuskiewicz:** Well, we'll vote.

**Boardmember Hayes:** Nothing wrong with that.

**Village Attorney Whitehead:** Because that impacts the whole design of the plan.

**Chairman Collins:** If there's not a plan for a vote, then maybe that's it.

**Boardmember Anuskiewicz:** I mean, we're not going to debate and then let them just take

our temperature.

**Village Attorney Whitehead:** I think Buddy and I have gotten a sense ...

**Boardmember Hayes:** We'll listen to Buddy's argument, and then we'll decide.

**Village Attorney Whitehead:** I think we've gotten a sense of how this board wants to approach this. That's why when this thing with the interpretation came up yesterday and they said they want to go to the Zoning Board now for that, Buddy called me and was like what do you think? So it's a different situation, but I think we have an idea.

**Chairman Collins:** How will that be noticed?

**Village Attorney Whitehead:** Part of your jurisdiction is to hear appeals from a determination of the Building Inspector. And that's what it is, it's an appeal from a determination of the Building Inspector.

**Boardmember Hayes:** So it doesn't have anything to do with the neighbors or anything.

**Chairman Collins:** No, no, it doesn't. We should notice that clearly.

**Dep. Bldg. Inspector Minozzi:** I've sat through them.

**Village Attorney Whitehead:** You're going to have to put your position in writing rather than just in an e-mail.

**Dep. Bldg. Inspector Minozzi:** No, that's fine.

**Village Attorney Whitehead:** Then they file an actual appeal.

**Chairman Collins:** I don't think I've ever been through one of those.

**Dep. Bldg. Inspector Minozzi:** We did one for Saw Mill Lofts.

**Boardmember Hayes:** It was like a year, year-and-a-half ago.

**Boardmember Anuskiewicz:** Yeah, I became a celebrity after that.

**Village Attorney Whitehead:** A lot of boards don't do them often, but is clearly part of your jurisdiction. Buddy has determined that there is a certain side yard setback requirement

the way he reads the code. They read it differently and don't want to apply for the variance.

**Boardmember Anuskiewicz:** I don't understand this. Because basically, we have a Building Inspector and he says you need to apply for a variance. They're saying, oh no we don't. And then we're supposed to determine that?

**Village Attorney Whitehead:** The law provides specifically that this board, the Zoning Board – and this isn't just Hastings, this is New York State law – an applicant can appeal a determination of the Building Inspector to the Zoning Board. You are the secondary, if you will, interpreter of the zoning ordinance. Buddy interprets it first. If they disagree with him they can appeal to you. It's a plain language thing. They make their argument about why they think it should be read the way they think it should be read, Buddy will explain to you why he read it the way he reads it. And you decide if you think that Budd was right or if you think that they're right. One role of the Zoning Board of Appeals is to interpret the code. And I can give you some more information before the meeting on sort of what your role is in terms of hearing an interpretation.

**Chairman Collins:** I think it would be useful, and I just want to make sure we notice correctly so we don't set the wrong expectation.

**Village Attorney Whitehead:** I'm pretty much looking at most of the notices now. You're voting on Buddy's interpretation.

**Dep. Bldg. Inspector Minozzi:** Because it's basically a zero lot line versus what I feel is 27 feet.

**Boardmember Forbes-Watkins:** I do not want to hear any of this.

**Village Attorney Whitehead:** We're not going to get you into the substance. We just wanted to tell you ...

**Boardmember Forbes-Watkins:** I don't want to hear anything until we have a presentation.

**Village Attorney Whitehead:** Because we were talking about procedures, what applications are going forward. That's sort of a different creature.

**Chairman Collins:** I think, though, that maybe the rule of thumb – as I mentioned before – is that in order to qualify coming here there has to be something ready for a vote. If you're not ready for a vote, then you don't come.

**Boardmember Hayes:** Thank you.

**Dep. Bldg. Inspector Minozzi:** Taking a step back, yeah, talking about that. That's fine if that's how the Board wishes to proceed. Then I will make sure all the applicants are aware of that. We won't allow anything to come here that's not ready to come here.

**Boardmember Dovell:** My only issue with this is that for smaller projects I agree with you entirely. But when it's a bigger project where it's a little more iterative – where things bounce back between Planning and Zoning – it may help the process, it may smooth the process, to hear something before all of the issues are vetted. That's just my opinion; I just think that when a bigger project comes before us with lots of issues, lots of opposition, if it looks like it's reasonably solid, to look at it so we can understand what the issues are prior to something coming forward for information.

**Boardmember Forbes-Watkins:** Right. I think one of the things we see occasionally is somebody comes before us with a proposal. We say we're not ready to vote on it yet. But they've come asking for a vote. But if we're not ready because we think something needs to be worked, that's where your concerns comes up, I think.

**Boardmember Dovell:** No, not entirely. Let's say a small project comes in which we think is an overreach. A simple project, front yard setback, and they want to go right to the lot line. We say, wait, there might be another way to solve this.

**Village Attorney Whitehead:** You might want to look at this.

**Boardmember Dovell:** We're not ready. If you want to vote we'll vote right now

**Boardmember Forbes-Watkins:** But I'm thinking of that terrible mess we got on High Street, where we sent it back and said work on it.

**Boardmember Dovell:** If somebody came forward ready for a vote, and we thought there was a lesser variance solution to the project, we sent him back to do his work. As a result, it was a better solution.

**Village Attorney Whitehead:** By the way, he was going back and forth.

**Boardmember Forbes-Watkins:** Yeah, but the point is he came to us for a vote but we weren't ready to give him a vote.

**Chairman Collins:** Well, we would have given him a vote.

**Village Attorney Whitehead:** By the way, the Planning Board wasn't ready either. And at one point he stopped coming to you and finished with them before he came back to you. But there is some benefit. I still think they should be far enough along with the Planning Board that there's not going to be a major change.

**Boardmember Dovell:** I don't disagree.

**Village Attorney Whitehead:** But you might have comments that send him back to the Planning Board. To say, hey, the Zoning Board said we should look at this.

**Boardmember Dovell:** I don't mind a bit of back and forth.

**Boardmember Hayes:** But I don't like the idea of someone coming in with a project that's not ready for a vote. Because I don't know how you make that determination that OK, this project we're going to do extra work on but this other person we're not.

**Chairman Collins:** When I say not ready for a vote, what I mean is where the applicant can't tell us what the variances are going to be. If they don't know what they're asking for. Ray, I agree that some of the bigger projects there may be some value to moving this to a good finish. Where I think there's risk to this board and to the public is that we've also been in situations where the plan's completely changed because the Planning Board has said nope, you need to go back and start over. So all the deliberation ends up sort of being, I don't think, very useful.

**Boardmember Dovell:** If someone comes with a big project and say we're still in this with Planning, but these look like the range of variances we're going to require we'd like to present this to you. We're not asking for a vote, we simply want to present it to you so you can ask questions. So we can begin to gather our thoughts on what ultimately our position might be. I feel it makes for a better process.

**Village Attorney Whitehead:** It is tricky on the bigger projects where they bounce between the two boards. Because you don't want the Planning Board to put so much time into where they think they're done with the plan. And it comes to you and you say oh no.

**Boardmember Forbes-Watkins:** The question really is, though, are we a consulting board or are we a voting board.

**Village Attorney Whitehead:** Well, they're a voting board, too, but they still go through the process.

**Boardmember Forbes-Watkins:** But are we a consulting board or are we supposed to be dealing with issues that are at the point of being voted upon?

**Boardmember Anuszkiewicz:** My understanding is that we make decisions.

**Boardmember Hayes:** Yeah, that's correct. We are a voting board.

**Boardmember Forbes-Watkins:** So we're not a consulting board.

**Village Attorney Whitehead:** The Planning Board also makes decisions.

**Chairman Collins:** But there is a sequence to it and I think, again, it's a matter of how you approach it.

**Boardmember Hayes:** They don't vote on the law, do they? They make determinations of law, the Planning Board?

**Boardmember Forbes-Watkins:** No.

**Village Attorney Whitehead:** They make determinations on site plans.

**Boardmember Hayes:** I don't think the Planning Board makes any legal decisions.

**Village Attorney Whitehead:** They make binding ... they have to give a site plan approval. So, for instance, on the High Street project that project needed variances from you. But it needed site plan approval. They don't interpret the law, but they have to give an actual approval. They give site plan approval. Same with 32-34 Washington. They have to give site plan approval. They also have to do environmental quality, SEQRA review.

**Boardmember Hayes:** I don't think that's the same legally.

**Boardmember Anuszkiewicz:** If that's the case, then doesn't it seem that we should be ruling first? Because if we don't accept it on a legal basis, then why should they be considering it for site plan approval?

**Village Attorney Whitehead:** That's why it's always an issue. Because they'll say, well, we should go ... someone's got to go first. They're looking at more pieces than you are.

**Boardmember Anuszkiewicz:** It doesn't matter. They could be looking at 100,000 pieces,

but if we feel it's not appropriate from a legal standpoint then they should necessarily be ...

**Village Attorney Whitehead:** But, again, their review ... the variances may change during the course of their review because they make the building smaller or something like that.

**Chairman Collins:** To your point, they are looking at a lot more levers to pull. Really, at the end we have to make a decision about variances. We've got those criteria for how we think about them and we can try to manipulate design to minimize the variance request.

**Village Attorney Whitehead:** And I think it's helpful to you to know what the Planning Board was thinking in recommending a certain plan.

**Boardmember Dovell:** So if we ask for full disclosure up front, if they come to us and say we're not ready for a vote, we then ask what's Planning's position on this and tell us what you're looking for. I think the process is going to bounce back and forth. Not on little projects, but on big multi-family developments. And if it takes us a couple of months to get to a solution that's the nature of the bigger project, I believe.

**Village Attorney Whitehead:** But I do think that if they know they're changing the plans they shouldn't come in and hand you revised plans at the meeting.

**Boardmember Hayes:** I still don't think we should hear anything that's not ready for a vote. This is an easy system to game so we really shouldn't be having this conversation. The only reason we're having this conversation is, they're not consulting with someone who's smart enough to tell them what they should be doing. Because the easy solution is for them to come in knowing that the Planning Board hasn't approved it and still ask for a vote on the variances. Then we'll look at it.

**Boardmember Anuszkiewicz:** Linda would know.

**Boardmember Hayes:** But they can still say we want a vote on the variances from us. It doesn't matter what the Planning Board says. They could still ask for a vote.

**Village Attorney Whitehead:** They can ask you for a vote any time.

**Boardmember Hayes:** And that would send the right message. Because the wrong message to send to people is come on in, show us your plans, we'll talk to you about it so next month you'll get the right answer. No, that's not our role. And if they want to force that issue by saying, OK, we're going to ask you for the vote even though the Planning Board said no then they're doing the right thing. Because that's how the law works. It can't be, OK, this

one we're going to be consultants on, this one no, it's small so we're not going to do it. That's not right, that's not treating people equally.

**Boardmember Anuskiewicz:** Also, if you vote no they're free to go change it and ask for a different vote.

**Boardmember Hayes:** Of course. Or they can withdraw their vote, do all that work, talk to us for an hour. And then say, you know what? We'll come back next month.

**Chairman Collins:** Maybe you're right. Maybe, then, the way to do this is to say there is no consultation. If you're going to present something, guess what? We're going to vote on it. Or you can withdraw.

**Village Attorney Whitehead:** Any time you're going to deny something you always offer people the ability to adjourn it.

**Boardmember Hayes:** But that way you get what you need, Ray, and we get what we need. Which I think is due process.

**Chairman Collins:** That's a fair resolution to this, I think. Because we're not saying no, you absolutely can't come before the Planning Board has rendered. If you want to get feedback from the Board, guess what? You're going to get it in the form of a vote. And if you need to go back because the Planning Board has unfinished business and that requires that you return to the Zoning Board with a revised application, you will get another vote.

**Boardmember Dovell:** These big projects, there's going to be a lot of back and forth. And they're going to take months and months to massage to the point where there is a good solution.

**Village Attorney Whitehead:** And there are at least two of them in the works.

**Chairman Collins:** And I have no problem doing that, but let's vote on them.

**Boardmember Dovell:** No, that's fine.

**Boardmember Hayes:** Let's just do it right procedurally, for me.

**Chairman Collins:** Yeah, I'm fine with that. And whether the Village wants to change its fee structure to accommodate someone who gets multiple votes before the Zoning Board because the Planning Board hasn't made up their minds I'll leave that to the Village.

**Boardmember Dovell:** With a complicated issue, the more time we spend with it the better the solution's going to be. I just believe that.

**Chairman Collins:** I see the merits of that, too, I do.

**Boardmember Dovell:** If we see a bigger project come back three or four times it's going to be a better solution at the end of the day.

**Chairman Collins:** I don't disagree. But I do think Sean is right. If they're going to come in, they're going to come in with variances that we're going to have a vote on. We'll extend them all the same rights and opportunity that every other applicant has, which is if they get a feeling the vote's going to be no they can say, all right, we're leaving. But there's going to be a vote.

**Boardmember Dovell:** Or they can storm out.

**Boardmember Hayes:** Yeah, or they can drop the mic. This is for my wife's closet anyway, I'm out of here. You missed that one, that was amazing.

**Village Attorney Whitehead:** You missed that.

**Chairman Collins:** I read it. I talked to David about it after the meeting, and David's depiction was much more colorful than the notes. In the notes he sounded actually kind of polite. I think there was a question, like he said all right I'm looking at it. Then that's it, and I think you asked are you withdrawing. He said yep, there was a thank you, you're welcome and that was that. It was not nearly as dramatic.

**Boardmember Anuszkiewicz:** You say when you introduce a project that we want to remind you that at the end of your presentation there will be a vote, I think it sends it home to them a little bit.

**Village Attorney Whitehead:** You don't always do that, though.

**Boardmember Anuszkiewicz:** We have the right to turn it down and walk out.

**Village Attorney Whitehead:** To adjourn.

**Chairman Collins:** The way we do it many times – especially when we all know there's going to be something controversial – we'll say we'll hear your case, we'll give a comment,

then you'll be able to decide whether you want to put it to a vote.

**Dep. Bldg. Inspector Minozzi:** Which you've said many times before, which works well.

**Chairman Collins:** Yeah, we have.

**Village Attorney Whitehead:** No, it works. And it's pretty typical.

**Chairman Collins:** And I would just say, Buddy, you're obviously the front line for this. Just signal to the applicant, especially those who may have come to this board not asking for or receiving a vote, that there's going to be a vote.

**Village Attorney Whitehead:** I do think the one thing on view preservation, you got to have the recommendation from the Planning Board.

**Boardmember Hayes:** A hundred percent.

**Village Attorney Whitehead:** Because you've had a couple of those go back and forth. What they do is, they'll submit because your meetings are only a week apart. People will submit.

**Chairman Collins:** Yeah, they have to submit. I understand that. They're rolling the dice.

**Village Attorney Whitehead:** But I think if they don't get the recommendation from the Planning Board the week before it should probably be taken on here.

**Boardmember Forbes-Watkins:** The other thing on that, if we don't get the recommendation on view preservation from the Planning Board ahead of time we're giving the vote to the Planning Board, which is not the way the law is supposed to be. We're supposed to have the last vote.

**Village Attorney Whitehead:** I think the way that should happen, if they want to submit to both because they think they can get it done with both of you in one meeting let it go on both. But if they don't get the recommendation the week before your meeting it gets taken off of yours.

**Boardmember Hayes:** Let me ask you something. Can they, by law – because we had this discussion last time and I didn't think they could, but I think maybe you said they could – can they, by law, insist on a vote from us?

**Village Attorney Whitehead:** Not on view preservation.

**Boardmember Hayes:** They can't, OK.

**Village Attorney Whitehead:** Because the view preservation law says you have to have a recommendation from the Planning Board.

**Boardmember Hayes:** Then you can tell them they can come it, but it will be an immediate no.

**Village Attorney Whitehead:** It'll be a we can't vote. That's different from a variance.

**Dep. Bldg. Inspector Minozzi:** The only time it gets squirrely is the two times a year we meet here before the Planning Board meets. We have had view preservation come up at those meetings before, since I've been here, and how it was handled was we're passing a view preservation subject to the Planning Board approving it.

**Boardmember Forbes-Watkins:** And that's why I will never vote again for that because that's giving the Planning Board the final vote, which is wrong.

**Boardmember Hayes:** Yeah, I agree with you.

**Dep. Bldg. Inspector Minozzi:** And that's the problem with those two meetings a year.

**Village Attorney Whitehead:** If people lose a couple weeks, they lose a couple of weeks.

**Boardmember Hayes:** Well, too bad. They're going to have to wait.

**Village Attorney Whitehead:** You don't like to do that to people, but the code is pretty clear on view preservation. They make a recommendation, you vote after you get their recommendation.

**Boardmember Anuskiewicz:** Exactly.

**Dep. Bldg. Inspector Minozzi:** If a view preservation comes in in September or November we can easily say no, can't do it this month.

**Village Attorney Whitehead:** It's just you've got to go to Planning first.

**Chairman Collins:** And again, you can air traffic control that, Buddy.

**Dep. Bldg. Inspector Minozzi:** No, definitely.

We're still on the record.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Hayes with a voice vote of all in favor, Chairman Collins adjourned the Regular Meeting.