

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS
REGULAR MEETING
MARCH 24, 2011**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, March 24, 2011 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Chairman Brian Murphy, Boardmember Ray Dovell, Boardmember Marc Leaf, Boardmember Stan Pycior, Boardmember David Forbes-Watkins, Village Attorney Marianne Stecich, Deputy Building Inspector Charles Minozzi

CITIZENS: Unknown

Chairman Murphy: Good evening, everyone. We're here for the March 24, 2011 Zoning Board of Appeals meeting in Hastings-on-Hudson. Two cases on our agenda tonight. First case, number 3-11, the application of the Hastings-on-Hudson Affordable Housing Development Fund for a proposed residence on Mt. Hope Boulevard.

And our second case, 4-11, is the application of David and Allison Taylor, at 50 Summit Drive for the expansion of the driveway and construction of a deck. Mr. Minozzi, on the second case are the mailings in order for that case?

Deputy Building Inspector Minozzi: I understand that the mailings are in order, Mr. Chairman.

I. OLD BUSINESS – (Adjourned from Previous Meeting)

**Case No. 3-11
Hastings-on-Hudson Affordable Housing Development Fund, Inc.
Mt. Hope Boulevard
(Adjourned from 2/24/11 meeting)**

For the construction of an affordable one-family house with an accessory apartment

- 1. Lot width: Existing and Proposed - 85 feet;
Required Minimum - 100 feet,{295-68E}**
- 2. Front Yard for the Principle Structure: Proposed - 15 feet;
Required Minimum - 30 feet {295-68F(1)(a)}**
- 3. Front Yard for the Accessory Garage Structure: Proposed - 0.0 feet
Required Minimum - 30 feet (295-68F(1)(a))**

**4. Off-Street Parking - Proposed in Alternate One: two in the accessory structure in Front Yard; In Alternate Two - None;
Required - three (two for the one-family dwelling plus one for the One-Bedroom Accessory Apartment {295-36 and 295-68D9b)(1)(k)}**

Chairman Murphy: I guess I'd like to try to do this in stages to see if we can work our way through it as a board. First, for Marc Leaf, because he didn't have the benefit of being at our last meeting, did you have a chance to at least read the minutes, Marc?

Boardmember Leaf: Mr. Chairman, I did read the minutes and I understand that, I guess, the first question that people were concerned with was, if we have two different proposals, or plans, in front of the Board, how does the Board know what to vote on. And there was some discussion as to whether we should try to narrow that down, or maybe the applicant wants to narrow that down. That's how I understand we left it.

Chairman Murphy: No, that's right I think. So Marc, I just want to make sure you're comfortable having had a chance to look at everything, and you're up to speed.

Boardmember Leaf: I feel like I'm ready to hear what's proposed at this meeting.

Chairman Murphy: I think, Board, we have kind of two threshold issues at the heart of the case. The first one Marc Leaf just mentioned: we have to decide on which plan to vote on. We had two alternates, just so people recall.

The first alternate was for an off-street two-car garage and a front yard setback. And this was illustrated and explained by Mr. Vogel at the last meeting, with plans, revised plans, submitted dated February 10, 2011. That was the a-1 series.

And then he, at our request, had prepared a second alternative for off-street parking which did not have a garage, but simply had an off-street parking area. I believe Mr. Dovell requested that, and it had kind of a stone wall lining the open area but without a garage. And that was the a-2 series.

Boardmember Forbes-Watkins: And to be very exact, small "a" and small "b," to be precise.

Chairman Murphy: Yes. So we have the a-1 series of plans, I guess, the a-2 series of plans. Our first order of business as a Board tonight is to see if we can either agree on which

one to vote on – to debate, I guess, for a vote – because last time we were only four, and we seemed to be two-to-two.

So I'll start off. I was clearly in favor of alternative one, and I'm clearly not in favor of alternative two. And so that's where I came out on it, and my mind hasn't changed on that. Now, Ray, why don't I throw it to you next because I know you had some views on the second one.

Boardmember Dovell: I suggested that that alternative might be explored because it would represent a lesser variance. But what happens is, it does accentuate the verticality of the street-facing wall, and I think it calls into question the notion of character more than anything else. So I'm going to retreat to the first position, and suggest that the garage scheme is a more appropriate scheme.

Chairman Murphy: OK, Marc. I know you haven't really had a chance to be heard or, I guess, comment on this.

Boardmember Leaf: Well, I was leaning towards the garage scheme until one of my colleagues on the Board made the point that many people put things in their garages other than cars and that they'll end up parking on the street anyway, which almost pushed me back to the non-garage plan. But I think that of the two plans, the one that I think is better to vote on now would be the garage plan.

But before we do that, Marianne, just as a legal point, is it within our purview to say which plan the ...

Village Attorney Stecich: Yes, given that the applicant made it clear that they would go either way.

Boardmember Leaf: OK, very good.

Chairman Murphy: Stanley, or David, any further comments?

Village Attorney Stecich: You know what? I should say that I wasn't at the mic. Just so the record picks it up, yes, it's fine for the Board to do that since the applicant had indicated either plan was acceptable to the applicant.

Boardmember Pycior: For aesthetic reasons, I've come to favor the plan which includes the garage. It certainly does soften the wall-like quality of the house by stepping it up.

Boardmember Forbes-Watkins: I'm unchanged from last meeting, where I favored the garage plan.

Village Attorney Stecich: Oh, that's easy.

Deputy Building Inspector Minozzi: So our first threshold is overcome. It looks like a unanimous agreement of the Board to debate, and vote on, plan a-1.

Now it seems to me, although there are four variances, I would recommend that the Board vote on the entire package as one. And I would like to start with what I believe is the threshold issue that several members last meeting expressed concerns about. And that is, because of the request for the front yard setback and the design of the proposed structure – both the height, the width, the step-back into the steep slope – the required front yard setback is 30 feet in that zoning district.

What's being proposed is 15 feet. Mr. Dovell in particular, and I think Mr. Pycior, had some comments at length over that. And then toward the end of the meeting, Mr. Dovell also asked if we could see that plan with the actual setback line drawn through it because he wanted a better sense – and I certainly agree with the request – to see just how much of the proposed structure would be sitting inside the front yard setback.

Boardmember Dovell: As well as the height.

Chairman Murphy: Yes.

Boardmember Dovell: Height is an issue, and I asked that a line be drawn to show the height.

Chairman Murphy: Indeed. So I'm not sure. I don't see Mr. Vogel.

Village Attorney Stecich: Warshauer.

Chairman Murphy: Mr. Warshauer? Yes. If you could address that point for us.

Gary Warshauer, principal – Warshauer Mellusi Warshauer: Good evening, Mr. Chairman. Ed Vogel couldn't be here this evening, so I am representing my firm this evening.

Chairman Murphy: Welcome back. Thank you.

Mr. Warshauer: Thank you.

The requests that we have added to the plans – and I'll start with the average grade – we added the line on the elevation. We've submitted drawings that show the sections and how we calculated the average grade, but I think it was requested that that be indicated on the elevation. Can you see?

Chairman Murphy: I can't, but I don't see very well.

Mr. Warshauer: I can come closer.

Chairman Murphy: Thank you.

Mr. Warshauer: The average grade of 114.46 feet is indicated there, and actually the story issue comes in because the average grade is ... the floor is less than half the height of the space from the average grade. I mean, that could be resolved by dropping this element. But that would increase the amount of excavation on the site.

Chairman Murphy: I think also the reason it's considered three stories was, on this version, the garage at the lower level.

Mr. Warshauer: Correct.

Chairman Murphy: But the Board is, I think, now unanimous in preferring that. And Mr. Vogel had pointed out how it steps up into the slope at different height levels. But I think Mr. Dovell's concern was the total height from the ...

Boardmember Dovell: Well, it was the fact that really the entire ... if you look at the composition of the building front-on, every piece of that is beyond the front setback line. Is that a correct understanding?

Mr. Warshauer: Yes, let me show that on the site plan because I think you had asked for that line.

Boardmember Dovell: Right.

Mr. Warshauer: I'll do it here just so I can point, and then I'll bring it closer. This represents the 30-foot line. And the property line, of course, curves along the street. So the building itself is about 20 feet at the point beyond the garage, and then the closest point is the 15 feet, which is next to the garage and where the lower portion of the building is.

And then as I'm sure was talked about, architecturally we've designed the building to set in with the existing slope. And we've done it in a way that is intended to minimize the impacts on the site, the impacts on the slopes, and the impacts on the vegetation by stepping the building up the hill in a way that actually steps the building just above the grades so that we minimize, again, the amount of excavation into the grade.

And that even gives us an opportunity for the grade for the main level of house to be actually higher than the grade in the back. So we slope away in the back of the house, giving an opportunity for some yard, but also positive drainage. And that minimizes the slope. The front yard – the reduction in the front yard – is critical towards accomplishing minimizing the impacts on the slope.

That front yard also is similar. If you look at the aerial that shows the scale of the building that we're proposing in relation to the scale of the other homes in the neighborhood, as well as the setbacks of building and garages from the other homes in the neighborhood, it's consistent. And that, I think, is what the zoning asks us to do.

Chairman Murphy: Well, I think the question is, is it consistent. That's, I guess, for us to debate. And I think that was really Mr. Dovell's point, or question, he wanted. We all just wanted to see how much of the proposed structure's actually within the front yard setback of the 30 feet itself. The bottom line is, most of the proposed structure is, but the last, I guess, 4 or 5 feet of the house would not be.

Mr. Warshauer: Well, within the 30 feet. That's correct. It's pretty clear on the picture.

Chairman Murphy: And what's the full width from north to south? It's just about 30 feet from the back portion of the main ...

Mr. Warshauer: The depth of the main ...

Chairman Murphy: Not the depth, the width – if you will, looking at the house – I think it's 30 feet. Yes, I have 30 feet 8 inches.

Mr. Warshauer: In terms of the depth of that? I'm sorry.

Chairman Murphy: No, from north to south.

Village Attorney Stecich: You mean the frontage.

Boardmember Dovell: The length of the street walling.

Mr. Warshauer: The length of this street walling?

Chairman Murphy: Yes.

Mr. Warshauer: Well, the garage is about 20 feet, and the building itself is articulated instead.

Chairman Murphy: Is it 50?

Boardmember Pycior: Yes.

Chairman Murphy: OK, so you're looking at 50 feet north to south that would be facing Mt. Hope Boulevard. And the majority of that length is within the front yard setback, right? And the balance there, I understand the reason. It's a difficult site, right? And so that's to minimize the downside. The further you push it back up the hill, the more difficult the grade is, the more you have to excavate, the more disruption there is to the soil, et cetera, et cetera.

Mr. Warshauer: That is correct.

Chairman Murphy: And so this is kind of the best compromise that you've been able to come up with. And I guess if we recall the first application, the first time I think you proposed a 7-foot setback, and that application was denied. And so this was the response, if you will, the accommodation to the – I'll call it – the original application.

Mr. Warshauer: That's correct, Mr. Chairman.

Chairman Murphy: OK. Ray, go ahead. Marc? Anyone else want to just pick up on this point?

I mean for me, when you look at the ... and I said what I said at the last meeting about we have to balance the factors. And this is a very close case because there are certainly some positives that I articulated, with the drainage being an improvement, the redesign of the garage to accommodate off-street parking when that right of way constantly has cars parked in there, at least whenever I've been down there.

The negatives are clearly the design of the building. And as some of the neighbors have said, it's very narrow. It looks like, to them, trailers stacked one on top of the other to fit a tight space. That's fair comment, and that's a concern.

Mr. Warshauer: Can I address that a little bit?

Chairman Murphy: Let me just finish. The other issue, at least for me – and this perhaps can be accommodated – there happen to be a lot of trees in that part of the property. I mean, it's Village property. The owner can cut those trees if they want to build. There's nothing prohibiting that.

On the other hand, it is a detriment if it's an extensive tree-cutting. And I don't know whether any attention has been given to, or thought given to, more of a landscape plan that could be offered to try to minimize or at least reduce that effect. Because that was a clear concern of several of the neighbors. I think they articulated it very clearly. Because those big trees happen to be near the front yard line, they're going to be cut more or less, a bunch of them.

So that's the second hurdle, if you will. But again, it has to be balanced against all the positives. And as I've said before, one of the positives is the Village needs to try to accommodate affordable housing whenever possible and as reasonably as it can. We've done it before, and that's what we're being asked to do here. So the Board does have to consider that, as well.

So Mr. Warshauer, with that let me give it back to you.

Mr. Warshauer: Thank you. I think that when you look at the massing and the basic scale of the total structure in relation to the scale of the structures in the neighborhood you'll find that it's consistent in size and in the basic proportion of the building, the way it works with the site.

In terms of the specific architecture – besides the massing, which I think works well and the massing works well with the site and, I think, with the neighborhood – there are a lot of different ways to accommodate trim and accommodate detailing on a building. I look forward to having that discussion, which I presume we would have at the Planning Board level.

But just in thinking out loud on the discussion that I presume we would have, we could add shutters, we could add trim, do things to help the scale and the character in a traditional way for this architecture; do things like, I think we've successfully taken the stone from that wall, which I think is a prominent feature of the site, and turn that in to the site, incorporated that into the garage. I think that we could probably extend that into the base of the building a little bit, and I would expect to have those kinds of discussions at the Planning Board level.

Whether the garage itself has a little bit of a pediment on it, as is similar to some of the other garages in the neighborhood in the district, this is just shown with the railing set back. And there's actually landscaping between the roof of the garage to the railing that I would expect would sort of ... the concept here was that could sort of drape down. And because it picks up the line of the grade as you go up the hill, it would sort of pick that up and help that become sort of part of the landscaping.

But again, those are discussions that I would welcome having with the Planning Board. And if that needed to be a condition of the approval that the Planning Board has to ... or even if you want us to go the Architectural Review Board, we'd be happy to do that to satisfy that the architecture is consistent with the neighborhood.

In terms of the trees, I think a landscaping plan also in conjunction with site plan. I presume that we would have that discussion at the Planning Board level. The trees that we're talking about are in the front part of the site. There are about seven trees that would have to come out with this plan. To the extent that we push the building further back, that number of trees that would have to come out would increase as we go back into the site and we disturb more of the slope of the site.

So I think the variance request would minimize the impact on the landscaping and the trees on this site. In terms of adding new landscaping or doing something different that we're proposing, we're certainly open to having that discussion as well, which I presume would be at the Planning Board level.

Chairman Murphy: OK. Other Boardmembers?

Boardmember Forbes-Watkins: I'd like to pursue a little bit the question of the berm that would be installed, or placed, to help on the drainage. Approximately where would that be built, or put in? Do you have any idea?

Mr. Warshauer: That would ultimately have to be engineered. And again, that would be something that we would at the site plan level. However, the concept is – I'll do it here, and I can look at the site plan, but this shows probably better – currently what's happening, as I understand it, is that there is water that comes down Mt. Hope Boulevard. Because of the slopes at the bend, the water then changes direction and comes across Mt. Hope Boulevard, creating an icing condition in the wintertime.

The idea was to capture the water in the right of way, creating a small berm on the uphill side of our proposed driveway access, and collect the water right in that location.

Boardmember Forbes-Watkins: Do you think the berm would be on the ... we can't call it "the property line" – of the proposed location because it's out in the unpaved street area? But do you think it would be within the conceptual property lines, or would it be to the property to the north of the proposed site?

I have a hard time assuming, looking at the drawing of the driveway area ... figuring out where you'd be able to put that berm within the context of this particular property line.

Mr. Warshauer: This is conceptual. That the conceptual ... if you extend the line, which we actually have done on the plan of the property line, which I think is what you're talking about ...

Boardmember Forbes-Watkins: Yes.

Mr. Warshauer: ...the area that we would have to create the berm and to collect would be this sort of a triangular space.

Boardmember Forbes-Watkins: But that would be then within the area of the driveway. Or is that the road?

Mr. Warshauer: This green area here, as it's shown right now, would be within the extension of our property line through the right of way. And it would be not within the driveway itself. Now if, in working this out – and again, this is something we'd work out with the Planning Board and with public works – we needed to adjust the driveway slightly, we could do that in order to create a little bit more room in that location.

We were trying to save a tree, and we'd sort of balance those.

Boardmember Forbes-Watkins: OK, because it would seem to me that there'd be a fair amount of ... if the berm works, and one would hope it does, that there'd be a fair amount of water backup. And it would be going into the supposed area that theoretically belongs to the person to the north side of the property.

Do you agree on that, or am I making a wild assumption here?

Chairman Murphy: Well, no. I thought the proposal was to pipe that under the street.

Mr. Warshauer: The idea would be that we wouldn't be creating ... well, there are a lot of different ways that the drainage can be handled here. But what was talked about, in terms of

what's coming off the street, would be to create a low point that would be somewhat created by the berm that we're talking about. And then pipe that across into the system so it's not on the road, it's under the road.

Chairman Murphy: Right. And in addition to that, the applicant made a commitment to put in impervious drainage in the right of way itself.

Mr. Warshauer: Correct.

Village Attorney Stecich: I think you meant pervious.

Chairman Murphy: I said it the wrong way. Pervious, right. We tried to minimize the impervious driveway surface, and in addition to that there were underground ... there's a permissive surface, and underground drainage areas ...

Mr. Warshauer: That's correct.

Chairman Murphy: ...that are part of this plan.

Mr. Warshauer: So that anything that ran off from this is not going to run uphill. It'll run downhill, and it'll end up in this system that's below.

Chairman Murphy: There was one other, I thought, very valid and important concern raised by the one of the neighbors at the last meeting. And Marianne, this may need just some advice from you. But, you know, there was a question: what about in the future? Can anybody come back and ask for more variances on this lot?

And so it raises the question, for me, if we were to do this are we even permitted to condition any approval that there will be no further variances in the future. And is that binding, is that practical?

Village Attorney Stecich: Well, you know what? You could put the condition on, and it might influence a future Board. But you can always come in for a variance. For instance, you can't even write in the zoning code that there's a restriction that cannot be varied; just a matter of law.

But if you wanted to make it a condition, whether it ends up being enforceable or not, at least a future Board would know that.

Chairman Murphy: That they would at least know that this Board thought that that would not be appropriate in the future.

Boardmember Leaf: Marianne, I think that the constitutional support for zoning laws require that they be variable by a zoning board.

Village Attorney Stecich: Right.

Boardmember Leaf: So I think to say that there's a zoning law that can't be varied by a zoning board makes that unconstitutional

Village Attorney Stecich: Right.

Boardmember Leaf: So I wonder whether we could act in a way that was no longer ... that couldn't be changed by another zoning board.

Village Attorney Stecich: Yes, but you know what happens sometimes? If the applicant will agree to conditions, that's a way around it. And I assume the applicant would agree that there'd be no variances.

Boardmember Forbes-Watkins: You can't get a 100-year commitment.

Chairman Murphy: Well, it's in perpetuity, if they agree.

Sue Smith, Affordable Housing Committee: Could I just respond, on behalf of the affordable housing process? We are building this house to sell it to a private owner, so it has to be something that is conveyed.

Village Attorney Stecich: Yes.

Ms. Smith: It is not always going to be ours that we would have control over. We have control over the income eligibility of the people who live there, but not over the ...

[cross-talk]

Village Attorney Stecich: But there are deed restrictions on the property, right?

Ms. Smith: Yes, sure. Many.

Village Attorney Stecich: But the thing is, you might want to limit the variances. Say no variances that permit further encroachment. Because there might be some innocuous variances, also. You don't know how the law's going to change.

Chairman Murphy: OK, Mr. Warshauer, can we see that one, please? I mean, we started this whole discussion off with the line that defines this front yard setback. So I just want to make sure everyone can see it. That's this shaded area here?

Mr. Warshauer: No, there's a dotted line.

Boardmember Forbes-Watkins: A curved line.

Chairman Murphy: Oh, this one.

Mr. Warshauer: There's a dotted line there.

Chairman Murphy: OK. So call it roughly half or maybe two-thirds of the footprint.

Boardmember Dovell: Yes, 60 percent across.

Chairman Murphy: OK, thank you. Does the Board have any further questions for Mr. Warshauer at this point?

Boardmember Dovell: Could you go back to your front elevation just a moment?

Mr. Warshauer: Yes.

Boardmember Dovell: I think you've done a remarkable job trying to address the concerns of the Board in how to modify this scheme to address the topology of the site and the concerns that we've raised.

But what happens here is, the house is actually a very small house. It's 1,400 feet for the main dwelling, and then less than 700 feet for the accessory.

Mr. Warshauer: That's correct.

Boardmember Dovell: And what happens is, it gets elongated. The front, the perception as you pass by, is that it becomes elongated due to the narrowness of your 14-foot depth. And that 14-foot depth is driven by a need to keep the house down the hill and also probably a need for prefabrication of this house.

And the other portion of the house then slips down in front of it. so the accessory building slips in front. The overall effect, visual effect, of this is of a much larger house. The frontal view of this looks like a much bigger house because it's so narrow and it's slid up the hill.

So the area that's in front of the setback line is some 50 feet in length, but then the height of it off the street is then probably about 50 feet, as well – or 48 feet or something like that – from where your garage is up to the roofline; just not in so many terms, just perceptual terms, that we're looking at here.

Mr. Warshauer: Forty-five feet probably.

Boardmember Dovell: So you have 2,000 feet of area, just frontal area, that's beyond that. You know, it's a 2,000-foot plane that's pushed out beyond that line. That's what's troubling me. I understand all of the ... I understand what you're trying to do. I'm sympathetic because it's an incredibly difficult site to deal with. But I just can't get beyond that extent of a variance that we're looking at here.

I went by again the other day and tried to visualize how this would appear, and it is a very large ... it is a big expanse of building both in height and in width that you're asking to build beyond the street line. So that's my feeling of it.

Mr. Warshauer: I mean, I'm happy to respond a little bit. I understand what you're saying. Obviously, you know that you don't really see ... you don't perceive a building in elevation like this because it does ... you know, it has three dimensions to it. And I know you know that.

Boardmember Dovell: Well, just to interrupt you a minute. Because these things are so narrow – that you've got a total depth where your garage is – it's quite compressed there. At the small end of your accessory dwelling you can't be more than 8 feet. There can't be more than an 8-foot depth between the right edge of the accessory apartment to the face of the primary dwelling.

So these things, you do get the height. You do get a perceived height there.

Mr. Warshauer: What you do have, which I think is positive, is that there are some offsets. I think even the offset of the garage helps the composition, the vertical composition, because it breaks up the linear mass of the building. You've got the element in the front. You then step back to the lower element. There's the balcony that comes across and, of course, the activity on the garage it ties that together.

And then, of course, the main piece of the building steps back again. So I think when you start to look at some offsets, even in the side elevations, there are offsets in the articulation of the building. So with maybe some tweaking – and I recognize that maybe we need some tweaking in terms of the fenestration and some of the trim work and how we can deal with that – I think we create a very handsome building within the mass of what we've created.

Chairman Murphy: But, you know, if you set aside everything and just said, "Look, if we had this home to be put in this lot, would we grant a variance that's that substantial to put the whole house almost in the front yard?" That's the difficulty. And the answer is no.

And the thing that makes it difficult is that you've made it difficult for us to decide because the goal is worthy, the execution is excellent, and you've done everything that can possibly be done with a lousy site. You know, it's just hard. I would like to approve this. I can't tell you how much I would like to approve this.

But if you push all the other issues aside, and just say, "Look, just focus on the ..." because the side yard doesn't make a difference. The parking you've solved beautifully, and the parking's a mess on that street down there anyway. But the front yard setback is very substantial.

So the question is, have you done enough to offset a substantial variance like that. And it's all because of the lot, right? If this lot wasn't such a steeply-sloped lot ... and it rises quickly. I looked at it again the other day. Look, I'm not an architect. I don't know, I don't build houses. I could see how fast it goes up the hill. You know, it's tough.

And I understand why it's so narrow from front to back. You've made that accommodation so that at least it's habitable. But is it really the kind of variance that's in keeping with the neighborhood? I mean, no other house has that much of the footprint in the front yard. Some of the homes have portions of the home in the front yard, but not that extent of the footprint of the proposed structure.

So that's the factor that makes it tough. The size of the house by itself is just not a problem. It's the appearance of it as it runs up that slope. And then, of course, the narrowness from front to back that gives it an odd shape. But even that I could live with it, to be honest with you. I mean, it is what it is, and with conditions you could put on this.

Yes, you'd have to go get a landscaping plan. Absolutely. Yes, you'd go to the Architectural Review Board. Yes, there would be stone on the front of that garage, and yes it would have a green roof and yes you would put the drainage in as discussed. Yes, yes, yes, yes, yes.

You'd have an awful lot of conditions to comply with anyway, but if it was still worthwhile it all comes down to all of that's good.

But man, you got this one big problem on the other side of the scale, right? And so the question becomes how big is that to the Board. You can come out either way. There's no right answer. It doesn't make it easy. But it is difficult, if you try to strip away all the ancillary issues and just focus on would we put a house here, in the normal course, that close to the street, that much of the footprint.

And that's tough because I don't think we would. But the Board has to balance that. There are other factors. It's not just that.

Ms. Smith: May I address the Board?

Chairman Murphy: I don't know, I'd like to hear from the other Boardmembers.

Boardmember Forbes-Watkins: If I may, I'm deeply disturbed by this because I very, very much would like to support affordable housing in this community. But I think about all of the variances. The chairman has spoken quite eloquently about the major variance, the front yard setback issues.

But even the other variance questions. We're being asked to take a "well, it's not a bad idea, but it's not really great, OK?" in each case. Talk about only giving two parking spaces and just letting the other car float into the street, this is not a really great idea. It's OK.

The width of the house as opposed to the 100 feet, that's OK but it's not really great. Certainly the issues of destruction of trees, questions about the landscaping beauty of the neighborhood to the extent that one can speak to that, it's OK but it is not great. Certainly taking down the trees is not so OK.

So I come to the net conclusion that I just can't vote for this. That's where I end up.

Chairman Murphy: Stanley?

Boardmember Pycior: As Chairman Murphy said, I wish I could vote for this. The Village needs affordable housing. Sue Smith sent all the Boardmembers a letter, some aspects of which I found convincing. But to repeat what Mr. Murphy said, or at least my opinion on what Mr. Murphy said, it's too large a building within the front yard setback.

I actually went out there with paper and scissors. Having the plans, I knew where the garage would be. And then I could estimate how high it would go up. And I held up a piece of paper, and I cut it to what should be a 50-foot width. It's a large structure that you're going to simply be looking straight up at.

And so good plans, wrong site – or impossible site.

Boardmember Leaf: Well, I agree that it's a difficult site. I wouldn't say an impossible site, but a very difficult site. And I recognize the objections that have been raised by my fellow Boardmembers are sincere and really carefully thought out.

And I don't even disagree terribly much with the sense of each of those objections, except that in the end I think that the architect and the proponent have done the very best that they could to overcome those objections and, in fact, have for me turned the ... achieved enough of a balance to make the project worthwhile.

I've always felt that the perfect is the enemy of the good. And that if you wait for the perfect site and the perfect plan and the perfect opportunity, you can't get anything good done. So I'm willing to accept something that's imperfect to accomplish what I think is a great good for our community.

I think we should also point out that Westchester County is currently party to a settlement with HUD on promoting and furthering fair and affordable housing. I think that we do have some obligations. Whether they're legal or not, I don't know yet. But we certainly have some obligations as part of that community to assist in developing affordable housing. And I think it's good for the town.

We talk about zoning decisions as being decisions that are made for the good of the community, I think sometimes we're very narrow on how we determine what our community is and whose good we are serving. And I think that if you look at the larger community – all of Hastings and not just this street – it's a lot easier to come out and say that it's a good plan.

That being said, I wish that that right of way were owned by the homeowners and not owned by the Village. And then it really wouldn't be a big deal, you're right. This is a very difficult variance, since we are telegraphing how we would vote if we were voting, which I gather we are not voting at this moment. I will telegraph that I would vote in favor, but I do understand and respect the votes of my fellow Boardmembers who might feel otherwise.

Chairman Murphy: Thank you, Marc. Ray, anything else to add?

Boardmember Dovell: No, I'm in agreement with most of what's been said. It's an extremely difficult site.

Chairman Murphy: Sue Smith, please?

Ms. Smith: To tell you that – as you know, and I think we said it in what we've written – it's very hard to find sites in Hastings. There old gas stations and things with rocks on them and steep slopes, and that is all there is. And there's very little of that.

I'm sure you'll have other applicants coming to you, already have had, who are trying to do something with these difficult sites. So for us to be able to create something in Hastings, or try to do it in all the parts of the Village and all the neighborhoods of the Village ideal, eventually is a real challenge.

And very rarely is there a piece of property which is actually owned by the community, the Village, and the Village Board is willing to have it for this use and to give it to us for that purpose. Because we could never go out and buy something on the market if there was a decent, flat, or ideal perfect lot to be had. And there isn't.

So people sometimes say, "Oh, everything should be in downtown Hastings." It's easier to do things in downtown Hastings because there are multi-family opportunities perhaps there. There may be some coming up. But to get a mix of housing, and to get into a single-family areas, is so difficult. So this, we thought, was an opportunity.

We knew it was a challenging site, but we still think something good could be done with it. And when you look around Hastings, and what's happened on steep slopes over the years, there are a lot of houses that are in steep situations that have been there for a long time and blended in over time in their neighborhoods.

So it seemed to us worth a shot, a good opportunity, for us to try as best we could. So I appreciate that it's not an easy one, but that's part of the reason we've done it.

Chairman Murphy: And, Sue, I want to thank you again. I know you couldn't be here at the last Board meeting. But I said it then and I'll say it again, that the entire Village owes you a debt of gratitude for doing what you do, and we appreciate it very much. And I don't want you either personally or otherwise to take this as anything other than, you know, come back again with the next one and don't take this as a bad precedent. We'll move on.

I'm sorry we couldn't do this. And I should note for the record that we did receive your letter of March 17, 2011 from the Affordable Housing Committee. So that's part of the record, and

we did read it and we did consider it. And I should note that the Affordable Housing Committee has always been incredibly accommodating and flexible in what they do, and they're trying to do something that's very good for the community. So I look forward to continuing to work with them on other projects.

With that said, I think we need to vote on the application. I propose ... yes?

[Male Voice] Unknown: Does the public get a chance to speak before you vote?

Chairman Murphy: No, the public comment session is closed.

So I would suggest that we have just one motion on the application at this point, and take one vote.

Boardmember Leaf: When you say "one motion," are you looking for a motion to deny, or shall I propose a motion to accept?

Chairman Murphy: We can do it either way, Marc. Why don't you propose the motion to accept.

On MOTION of Boardmember Leaf, **SECONDED** by **no second**, the Board did not resolve to approve variances for the construction of an affordable one-family house with an accessory apartment – there are four variances requested: lot width, front yard for principle structure, front yard for accessory garage structure, and off-street parking – as stated in the public notice of this meeting, make a motion to approve that case.

Motion denied, application denied.

Chairman Murphy: Mr. Warshauer, thank you again.

Mr. Warshauer: Thank you, Mr. Chairman.

**Case No. 4-11
David & Allison Taylor
50 Summit Drive
For the expansion of driveway and construction of a deck**

- 1. Maximum Driveway Area Existing - 879 square feet Proposed - 1,211 square feet; Permitted Maximum – 960 square feet {Section 295-41}**
- 2. Front Yard: Required Minimum – 30 feet proposed for the deck – 29.16 feet {296-68.F.(1)(a)}**

Chairman Murphy: Ms. Griffin, I know we have our second case. If you could come on up, thank you. Just introduce yourself, please, for our record.

Christina Griffin, architect – 50 Summit Drive: I am here to request variances for a project that is at 50 Summit Drive in Hastings. We are in the process of renovating this house, and we'd like to ask for a variance so that we can extend the driveway. And that variance is so that we can go beyond the 960 square foot maximum size for a driveway in Hastings.

We're also here to request a variance so that we can have a front yard setback to a new deck of 29.16 feet instead of 30 feet.

Chairman Murphy: I'm sorry, can you say that ...

Ms. Griffin: Instead of 30 feet.

Chairman Murphy: It's 29.16?

Ms. Griffin: Yes, so it's only a difference of 10 inches.

Starting with the driveway, our site plan shows the existing driveway. There's a dash line that shows that this is a single-car driveway. This driveway goes up at a probably 8 percent pitch to the garage off of Summit, which is a very narrow and steep road. This has become a bottleneck for the owners because they can only park one car in front of the other.

They have a very tough time getting in and out, and sometimes they can't even park in the driveway. So we are asking for a variance so that we can expand the driveway. And it happens just in this case, because we're in between two retaining walls, we really need 21 feet to get two cars to pass each other and also have enough space to get out of the car and walk around the cars. That happens to take us over the code limit.

The deck is ... this house has wonderful views. They're really going to be putting a lot of expense into upgrading the house. And we'd like to put a deck off the master bedroom, but a very small deck. And in the plan you'll see it's only 3 feet 6 inches deep – just slightly overhang, comes into the front yard setback.

This is the new front elevation, and this is the deck facing the river. This is the side elevation, looking at the deck coming out 3 feet 6 inches from the house, and only in actually one corner about 10 inches into the setback.

Chairman Murphy: Looks beautiful.

Ms. Griffin: Thank you.

Chairman Murphy: Is there any garage planned?

Ms. Griffin: It's a single-car garage. And actually that makes this even more critical to parking at this property because you can only put one car into the garage. The owner is here, David Taylor.

Chairman Murphy: Welcome. Do you wish to say anything before we go to questions?

David Taylor, applicant - 50 Summit Drive: If you would like to hear me.

Chairman Murphy: No, we're fine. We're good.

Ms. Griffin: I only mention it because I know he finds it very difficult to use the driveway. Only one car can come in. The car in front can't get out until one car backs out, and then he backs out. It's very difficult, and a lot of people park in the street.

Boardmember Forbes-Watkins: Two or three things I wanted to pursue concerning the driveway. First off, I notice that it's to be newly-surfaced with bituminous. I assume, therefore, that's an impervious driveway.

Ms. Griffin: Yes.

Boardmember Forbes-Watkins: On that slope, with the amount of water potential coming down there, wouldn't it make more sense to have a permeable or pervious driveway? It seems to me that it would. The rushing water in a rainstorm has got to be pretty bad there under any circumstances.

The other thing that I'm a little concerned about, you have a fairly high retaining wall on both sides of the driveway. But when you bring, if you bring, this new extension down the slope, a lot more of the driveway's going to be noticeable, cars parked there, et cetera. Are you

planning to have any shrubbery or anything covering part of that green to the lower side of the retaining wall?

Ms. Griffin: Yes. We do not have a landscaping plan here, but we're planning to have new landscaping – grass cover and evergreen shrubbery – along the edge [off-mic].

Boardmember Forbes-Watkins: Thank you.

Chairman Murphy: So is the proposal basically just to accommodate greater off-street parking to keep the cars off Summit, essentially?

Ms. Griffin: Yes. This will allow them to get their cars in and out easily. They can get two cars on the driveway.

Chairman Murphy: And is this the minimum width that you think you need to do that? Because what I'm worried about ... my question is really ...

[Male Voice] Unknown: Can I see your mic for a second?

Chairman Murphy: My question is really directed to the ...

Ms. Griffin: [off-mic] because you probably are aware that [off-mic]. But you need space to get out because this retaining wall is not like a parking lot and you need space to get out into your car and [off-mic]. The average width of a car is about 5 feet 6 inches, so times two is 11 feet.

And then if you have a 3-foot aisle minimum in between each it's 9 feet plus 11 feet. That's 20 feet, and I gave it 21 feet because of the retaining walls on each side.

Chairman Murphy: And so it's really a tradeoff between accommodating more parking and having a fairly significant overage on the permitted impervious surface in the driveway. I think you're permitted 960.

Ms. Griffin: If we didn't have the retaining walls we could have a level driveway. You could actually have a walk along that driveway. But, you know, you have to walk on the driveway [off-mic].

Chairman Murphy: So the retaining walls are not optional.

Ms. Griffin: This one is existing. We're not going to [off-mic] much higher. This one is lower, but [off-mic] slope coming down [off-mic].

Chairman Murphy: OK, because it's an increase of about 20 percent over what's permitted, which is fairly significant. So it's a question of need and minimizing the variance.

Ray, do you have anything?

Boardmember Dovell: What is the grade change from the front of the house to the street?

Ms. Griffin: The height, I'd say, is approximately 5-1/2, 6 feet.

Boardmember Dovell: And the steepness of the drive going up to the house? What is the steepness of that slope?

Ms. Griffin: [off-mic] I think it's probably [off-mic] 5 percent, and level [off-mic] from the garage.

Boardmember Leaf: The bottom of the house is above your head if you're standing on Summit looking at the house.

Boardmember Forbes-Watkins: Yes.

Boardmember Leaf: That's not a technical answer, but ...

Boardmember Dovell: It's the real answer.

Ms. Griffin: And we are going from 8 foot [off-mic].

Chairman Murphy: I guess it's offset, to a certain extent, by the fact that the total footprint area as a percentage of the lot area is less than 20 percent; 25 percent is permitted.

Boardmember Leaf: The total development coverage, which includes all of the impervious surfaces, that's also within the ...

(crosstalk)

Chairman Murphy: It is. Yes, you're right, Marc. What's proposed would be 27 percent maximum development coverage, where 30 percent is permitted as a maximum. So there would be a 20-, 25 percent overage on the impervious surface, but still with both the

footprint of the lot area and also the maximum development coverage. And it's essentially to accommodate two extra cars, really.

Ms. Griffin: Yes.

Chairman Murphy: Off of the steep and difficult road.

Mr. Taylor: Could I just add [off-mic]?

Chairman Murphy: Yes, but please step up to the mic. You just have to identify yourself, please.

Mr. Taylor: The neighbors opposite us do not have any driveways, so everyone parks on the street. And one of the houses also has a sublet apartment which creates extra traffic. So by removing our car from the street, it also would help the congestion on the street, which is a very narrow, two-way street.

In a winter like we just had, when you've got all the cars parked on one side and the plows come – I believe Summit's an emergency snow exit, so we get plowed very early – the snow gets plowed to one side. And then the cars that are parked on the street may not be able to move for days in a severe winter.

I leave for work very, very early in the morning, and it's critical that I can get out of my house.

Chairman Murphy: Understood. OK, anyone else?

Boardmember Forbes-Watkins: I just want to go back to the permeable surface issue. I'm very strongly inclined to require that in this, unless there's some good reason to vote otherwise. Is there some ... explain to me why it shouldn't be.

Ms. Griffin: I have done ... I think I'd just like to consult the owner. I've done many pervious driveways, and recently found wonderful recycled tire pavement that [off-mic]. But I would like to consult those options with the owner if you feel strongly about it. I just haven't reviewed the option other than bituminous surfacing with the owner right now.

Chairman Murphy: And is that for drainage reasons, David, basically?

Boardmember Forbes-Watkins: Yes, I'm thinking of drainage reasons. And also, we are giving up green by moving the retaining wall and putting a driveway in its place. That is drainage area gone away so I'd like to replace it.

Chairman Murphy: No, I hear you. I guess I don't feel that strongly about it only because the total development area and the footprint area is still well within what's permitted. And so to me, I guess I wouldn't require it. If the owner wanted to do it, that's fine.

I guess I question the practicalities also of plowing the driveway. How does that work, Christina, in your experience with just maintaining that type of driveway versus an asphalt surface?

Ms. Griffin: Well, I've done gravel, grass block, grass, GreenGRID – there's so many types now – and I have a gravel driveway in Hastings and the steep road. About every year I have to top it off. It's more maintenance, but no.

Again, I haven't discussed those options with the owner. It certainly is more maintenance. Sometimes we try to park on the driveway when we know it's going to snow. Because if we try to shovel that driveway, you lose part of it.

Chairman Murphy: Right. I don't know, does anyone else have a view on that, on the Board? A strong feeling either way?

Boardmember Leaf: Well, right now, with the walls on both sides of the driveway, it looks like it's a narrow channel that would fill up with water in a heavy rain. And my initial thought was, "Well, gee, if you widen it, then it should be less of a channel because there'll be more room for the water to spread out."

So I'm not troubled by the widening of the driveway from a drainage perspective, but the fact is it's still a channel with those two stone walls on either side. And perhaps looking into something, either if it's not a permeable surface, you know, maybe some other type of drainage ...

(crosstalk)

Chairman Murphy: How about a catchbasin at the base of the driveway? Does that make sense, or not?

Ms. Griffin: We are already putting storm drainage units in the front yard for the rainwater coming off the roof. However, it needs an outlet. So if you have a trench drain at the bottom

of the hill, I don't know how you would ... it's just going to fill up and let the water back on the road. It needs a place to go.

The way a drywell works, it fills up and the water slowly percolates out through the property, which is what we're doing in the front of the house. But there is no property to ... well, if you have a trench drain you can't direct the water upwards, it has to go downwards. And I don't see how that can work. Sometimes you can do that in front of a garage if you're going in the other direction.

Boardmember Dovell: But don't you have the opportunity to pitch it across – to pitch across and dump the water actually on the property?

Ms. Griffin: You do slightly ... you probably could pitch it slightly this way, and make ...

(crosstalk)

Boardmember Dovell: Right, and to let the water run off to spill out onto the property, not onto the street.

Ms. Griffin: However, you mentioned "pretty steep." Yes, sometimes if it's steeper this way than this way – and of course this would be a very gentle slope – the water could hit this side, cut, then run down that way.

Boardmember Leaf: Well, then maybe the permeable surface that David was talking about is the best thing, the best possible thing, to reduce the amount that makes it all the way out to the street.

Ms. Griffin: I'd just like to know how ...

(crosstalk)

Chairman Murphy: I don't know. But then you have a driveway that's half asphalt, half whatever. I don't know if that makes sense either, right? I mean, if it were me I would just make it an asphalt driveway. But I guess, Christina, there's a heavy rain/ If it was all asphalt, where's the water ... on the slopes and the pitch on what's proposed?

Ms. Griffin: Into the road.

Chairman Murphy: It's just going to dump into the road?

Ms. Griffin: Yes. Right now, of course, it's going down to the road. So we have the runoff from this area would be going into the road, as well.

Chairman Murphy: And is there any catchbasin in the road, or anything near there?

Boardmember Forbes-Watkins: Nothing that I could see.

Chairman Murphy: I don't remember.

Boardmember Forbes-Watkins: I don't remember it either.

Chairman Murphy: You know, toward the base of the driveway.

Ms. Griffin: I know this area so well, and I just know because I live nearby, that water rushes down there. There's hardly any drainage there. You know, you can't have a catchbasin without connecting it to something. Water has to go somewhere.

I understand the idea behind allowing permeable surfacing so that the water can percolate gradually into the ground so it doesn't add to the runoff. I would just have to discuss that with David.

Chairman Murphy: Yes, please take a minute. Talk to Mr. Taylor.

Boardmember Forbes-Watkins: We don't have to make a requirement.

Boardmember Leaf: Well, we could make it a suggestion, perhaps.

Chairman Murphy: Take a minute, by all means.

While we're waiting, I guess we could take a few minutes to approve the minutes from our last meeting.

APPROVAL OF MINUTES

Meeting of February 24, 2011

Boardmember Forbes-Watkins: I have two minor corrections. On page 17, the line, *Boardmember Forbes-Watkins: From the point of view of water, the whole issue of drainage, would it not ...* and "a pervious" rather than "impervious driveway" makes sense.

Chairman Murphy: OK, so noted.

Boardmember Forbes-Watkins: And on page 25, "*On MOTION ... seconded by Boardmember Collins ...*" I find that quite amusing since Boardmember Collins wasn't at the meeting. I believe it was Boardmember Dovell who made that second.

Chairman Murphy: All right. Right, we'll replace "*Collins*" with "Dovell" on page 25.

Boardmember Pycior: It couldn't have been I because I wasn't at that previous meeting so I wouldn't have seconded it.

Boardmember Forbes-Watkins: And you never second a motion.

Chairman Murphy: All right, fair enough. Anything else?

Boardmember Dovell: Page 16, third from bottom, I said, "*It's a long, long backup.*" I don't think I said that. I'm not sure who said that. I didn't say that.

And then on page 18, one, two, three, four down, last sentence: "*... variance by...*" "*suggesting,*" not "*requesting.*" "*And the garage should be ...*" "*eliminated,*" I think, not "*pushed.*" So I'd like to eliminate "*pushed,*" and change "*requesting*" to "*suggesting.*"

Chairman Murphy: OK, and that's on page 18?

Boardmember Dovell: Page 18. That was it.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Pycior with a voice vote of all in favor, the Minutes of the Regular Meeting of February 24, 2011 were approved as amended.

[GAP IN AUDIO]

Ms. Griffin: ... recycled tires that lets the water through it, but it's extremely compulsive. So I think we've decided we'd really like you to approve it based on bituminous pavement.

Chairman Murphy: OK, without making it a condition of the approval.

Ms. Griffin: Yes, please.

Chairman Murphy: All right. I mean, I'm OK with that.

OK, well, we've got two variances requested for 50 Summit. Why don't we just take one at a time. Are there any comments from the Board? No. And there's no one in the audience other than Mr. Taylor.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Pycior with a voice vote of all in favor, the Board resolved [approval Case 4-11, maximum driveway, existing 879, proposed 1,211 square feet, with the permitted maximum of 960 square feet..

On MOTION of Boardmember Pycior, SECONDED by Boardmember Leaf with a voice vote of all in favor, the Board resolved approve the front yard setback variance, where the required minimum is 30 feet and the proposed for the deck is 29.16 feet.

Chairman Murphy: Ms. Griffin, thank you. Mr. Taylor, good luck with your project.

Mr. Taylor: Thank you.

Chairman Murphy: OK, we've approved the minutes from our last meeting so our only remaining business: next meeting is Thursday, April 28, 8 p.m.

ADJOURNMENT

On MOTION of Boardmember Pycior, SECONDED by Boardmember Dovell, with a voice vote of all in favor, Chairman Murphy adjourned the Regular Meeting.