

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
DECEMBER 20, 2007**

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, December 20, 2007 at 8:20p.m.** in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairperson Patricia Speranza, Boardmembers William Logan, Fred Wertz (8:22 p.m.), David Hutson, Jamie Cameron, Eva Alligood, Bruce Dale (8:20 p.m.), Village Attorney Marianne Stecich, and Village Planner Angela Witkowski.

Chairperson Speranza: We are a little delayed, and we are expecting two more members to join us.

Approval of Minutes: November 15, 2007 meeting

Boardmember Alligood: I just have one. It's on page 16, and it's the first paragraph where I'm speaking. It starts with: "It forces the owners to make some choices." Okay, the next line, just take out on the second line: "that they put a sheet." Take that part out, and then after "garbage" just take out "area." A "sheet of concrete" doesn't make any sense.

Boardmember Logan: I just have one general comment. I think the minutes are well-written. I'm just wondering if we could do it double-side printing in the future.

Village Planner Witkowski: That's normally how we do it.

Boardmember Logan: Maybe that's what brought it to my attention.

Village Planner Witkowski: Linda, for some reason, single-sided it. She normally does them double-sided also.

On MOTION of Boardmember Hutson, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Minutes of the Regular Meeting of November 15, 2007 were approved as amended.

III. New Business

Chairperson Speranza: We have a whole series of accessory apartment renewals; we will enter into the public hearing phase. We'll have a public hearing on all of the accessory apartment renewals, and then we will go into Board action to address each one.

1. **Public Hearing. Renewal of Accessory Apartment Approval. Leah Rossner-115 Pinecrest Parkway (Sheet 6./Block 791/Lots 6 and 7). Waiver required for parking.**

Chairperson Speranza: Angie, you want to go through this?

Village Planner Witkowski: The applicant's here. Just briefly, it's located on the west side of Pinecrest Parkway in the R-10 zoning district. There is a waiver required for parking. The 540 square foot apartment is 24.9% of the 2,161 square foot residence. Therefore, it complies with the limit of 25% of the structure. No changes have been made and no complaints have been filed within the past three years.

Chairperson Speranza: Is there anything that you wanted to mention about it? Anyone here in the audience here to speak about this application, 115 Pinecrest Parkway?

2. **Public Hearing. Renewal of Accessory Apartment Approval. Michael Janis - 4 Floral Drive (Sheet 20/Block 661/Lots 1, 2A, 57A, and 60A).**

Village Planner Witkowski: The applicant is Michael Janis. It's the north side of Floral Drive, in the R-10 zoning district. The 570 square foot apartment occupies 16% of the 3,530 square foot residence. Off-street parking is provided, therefore no waiver is required. And there have been no changes made and no complaints filed within the past three years.

Chairperson Speranza: Again, this is a renewal. Ms. Janis, is there anything you want to say? Is there anyone here to speak on the application?

Randy Paradise, 35 Floral Drive: I live at the opposite end of the block from number 4. I have a couple of comments and a couple of questions, if I may. I don't know if I can address questions to the Board or not.

I've come to ask -- as I've spoken before this board before -- whether or not the renewal of this particular apartment could be made contingent upon the renters parking their vehicles off the street. There is, as was mentioned, sufficient off-street parking at this place. This house actually happens to be blessed, I might say, with a driveway that permits parking for two vehicles which would have egress without having to move one from the other and also without blocking the entrance to and from the garage, which is where the owners park. The reason I'm here today is because when the people who rent there park on the street -- as sometimes they do and sometimes they don't, as so happened when they were parking on the street during the last couple of days, in fact over this last weekend when we had this really bad ice storm -- what happens is that Floral Drive becomes an extremely hazardous place to drive. The intersection at Floral Drive and Scenic, which is where this house is located, becomes more hazardous. When a car parks at this street -- what happens is the snowplows will only plow in one direction. When that happens, that intersection at Scenic Drive -- which is not level in two different directions, it slopes downhill in the direction that Scenic Drive goes downhill itself, and also for lack of a better term the Floral Drive curve of Scenic is higher than the opposite side of the curb -- the downhill side, the one closest to the Hudson River, gives you a double cant at this intersection.

I was walking a couple of days ago down to the train and observed a neighbor of mine, attempting to walk her dog, practically go down. It was very, very difficult at that spot. And it becomes difficult because of the fact that, as I said, plows will not plow in two directions when cars are parked close to the intersection. That's the situation that happens here. Now, I will have to say, in all fairness, that there are times when both vehicles do seem to be parked off of the street. But because of the narrowness of the street -- because of the fact that this street is bounded on both sides by our beloved Westchester stone walls -- it leaves really no room for any kind of place for the plows at this point to push the snow up over the curb. It becomes very narrow, very difficult, and over the last couple of days a very dangerous place to be.

I would like to ask, since there is perfect room there -- and there is an opportunity, as I said, for both cars to be parked -- to take either car out, depending on which direction on the semicircular driveway. This is a house -- I don't know if you're familiar with it -- that has a semicircular driveway, but with room to park two cars without blocking the entrance or exit from the garage. It would seem to me to be a reasonable request to make -- on this narrow and dangerous street.

Chairperson Speranza: As you mentioned, you have been before this board before on this. My recollection is that it's a public street. You cannot prohibit anyone from parking on a public street. That's my recollection of this specific situation. So if it wasn't the renters of the apartment it could be anyone else from anywhere because parking is not prohibited on the street.

Mr. Paradise: I understand. I know that. But I also know that the granting of an accessory apartment is not as-of-right, so to speak. It is something unusual that the Village has decided to grant to certain homeowners sometimes, given certain restrictions. I know you cannot ask people to park off the street. Believe me, my popularity on the block is kind of inversely proportional to the time that I speak to my other neighbors about this. I do not want Ms. Janis to feel that I single her out in any way. I think this needs to be said, and forgive me for using this forum to say it, but it's important and I've got the moment where this just might be broadcast -- and I think it needs to be said.

Not that many years ago there was a fire at number 4 Floral Drive. The fire hydrant for that block is at the far opposite end of the block, in fact, in front of number 40. I was there that night. I happened to be outside when the fire truck, because of the nature of our neighborhood in fact, came around the corner. I live at 35, at the other end of the block. It came around the corner by where I live. Guys jumped off this truck and connected the hose to the fire hydrant on the fly as this truck took off down the block. It was frankly a heroic moment, and one to be proud of for our fire department. They put out this fire, which began in the garage.

I recall reading in the paper the following week the comment by our chief of the fire department, who said that within maybe less than 5 minutes -- that's how close it was -- they got to it and put that fire out before the house itself would have been caught up in a conflagration. Windows had to be knocked out. The Janises were removed from the house. It was a near thing. I believe that if something like that were to happen over these last few days that that fire truck would never have been able to get down that block and a real tragedy might have taken place. Not just because of the people who rent there, I will grant you. But as you say, it is a public street.

I cannot force my neighbors to park themselves off the street. There are some who do, some who don't. But this is a situation in which an unusual circumstance is being requested. As I said, it is not as-of-right to have the accessory apartment, so I'm here to ask whether or not such a restriction can be put in place. That is my first question.

Chairperson Speranza: Okay. Next one?

Mr. Paradise: The next question is -- I do not know so I'm going to ask the question -- the notice that I received lists a different owner, I think, possibly, from the owner who was listed three years ago when I received a notice about this. I'm not sure whether or not the ownership of the property has changed, and if the ownership of the property has changed whether or not this should, in fact, be a request for a renewal. I noticed that the owner that is listed was not the owner that was listed three years ago when I received my notice for this coming up before the Board.

Chairperson Speranza: What we have is Michael.

Michael Janis, applicant - 4 Floral Drive: Michael is the correct spelling of the name. The ownership of the property was indeed changed -- I'm not sure whether it was three years or six years ago -- on the advice of our estate planner, who decided to put the house in the name of my husband. It's better for me for estate purposes. It has been corrected in the records, just misspelled.

Chairperson Speranza: Anything else?

Mr. Paradise: No, that's it.

Chairperson Speranza: Anyone else in the audience want to speak on this application? Maybe we shouldn't have deferred voting on everything until later.

3. Public Hearing. Renewal of Accessory Apartment Approval. Arnold H. Nager - 83 Cliff Street (Sheet 31/Block 702/Lots 9-11).

Chairperson Speranza: The third accessory apartment which was to be on the agenda was at Cliff Street. Mr. Nager, who has sent us a note, has withdrawn his application. So if anybody is here for that application, it's been withdrawn.

4. Public Hearing. Renewal of Accessory Apartment Approval. Daniel Engelson - 237 Farragut Avenue (Sheet 36C/Block 785/Lots 9 and 10).

Village Planner Witkowski: This one is on the northeastly side of Farragut Avenue in the R-7.5 zoning district. The 835.5 square foot apartment is 26.09% of the 3,204 square foot residential structure. Therefore, it exceeds the limit of 25% of the structure and will require a waiver. There is also a waiver required for parking. No changes have been made, no complaints filed within the past three years.

Chairperson Speranza: Is there anyone here to speak about this application?

Boardmember Hutson: Could I just clarify something Angie said? You say there is a waiver required for parking? No, I don't think there is.

Village Planner Witkowski: It doesn't. Sorry.

Boardmember Hutson: So just the one waiver, right?

Village Planner Witkowski: Yes.

5. Public Hearing. Renewal of Accessory Apartment Approval. A. J. Weinstein Trust - 18 Harvard Lane (Sheet 43C/Block 766/Lot 11).

Village Planner Witkowski: This property's on the east side of Harvard Lane in the R-10 zoning district. The 360 square foot apartment is 25% of the 1,426 square foot residential structure, therefore it meets the limit of 25% of the structure. Off-street parking is provided, and no changes have been made nor complaints filed within the past three years.

Chairperson Speranza: Is there anyone from the public here to speak on this application?

6. Public Hearing. Renewal of Accessory Apartment Approval. Howard Hirsch - 243 S. Broadway (Sheet 6/Parcel 73). Waiver for sq. ft. over 25% of structure maximum.

Village Planner Witkowski: This is on the west side of South Broadway in the R-10 zoning district. The 1,092 square foot apartment is 29.7% of the 3,680 square foot residential structure, therefore it exceeds the limit of 25% of the structure and will require a waiver. Off-street parking is provided, and no changes have been made nor complaints filed in the past three years.

Chairperson Speranza: Is there anyone here to speak on this application?

7. Public Hearing. Renewal of Accessory Apartment Approval. Sarah and David Knox - 618 Broadway (Sheet 16/Block 643/Lots 1-4, 20 and 22). Waiver for sq. ft. over 25% of residential structure maximum.

Village Planner Witkowski: This apartment is 1,500 square feet. The principle building is

1,885 square feet. It's 44%, and it's actually a carriage house that they don't rent out, evidently. It's basically used as a guest house on the property. That is the only issue. There is adequate parking.

Chairperson Speranza: Is there anyone from the public here to speak about this application?

Board Action - Renewal of Accessory Apartment Approval - Sarah and David Knox

Chairperson Speranza: Why don't we take action in the reverse order, since at least I've got the Knox application in front of me. Boardmembers, are there any comments or concerns about the accessory apartment renewal for 618 Broadway?

Boardmember Hutson: For an apartment that's not rented, that has no bearing on anything, Marianne? Why would they even need this? Just to maintain the option for an accessory apartment.

Village Attorney Stecich: Also if they're letting somebody use it and it is a separate unit. They may not be renting it for money but maybe they're letting their parents stay there. Somebody could come in and say they've got an illegal two-family.

Chairperson Speranza: That's my recollection. It's got a kitchen.

Village Attorney Stecich: I remember we talked about that: what about if somebody has one and they're not renting it out. We said, well, it should be an accessory apartment. We've had a couple of them, not too many.

Chairperson Speranza: Any questions, issues?

On MOTION of Boardmember Hutson, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Board resolved to renew the accessory apartment for Sarah and David Knox - 618 Broadway.

Board Action - Renewal of Accessory Apartment Approval - Howard Hirsch

Chairperson Speranza: For renewal of 243 South Broadway. Again, this is a renewal. Are there any Boardmember comments, discussion, or concerns?

On MOTION of Boardmember Dale, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to renew the accessory apartment for Howard Hirsch, 243 S. Broadway.

Board Action - Renewal of Accessory Apartment Approval - A.J. Weinstein Trust

Chairperson Speranza: Again, this is renewal of the accessory apartment. There are no waivers required.

On MOTION of Boardmember Wertz, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to renew the accessory apartment for Arlene Sklar/A.J. Weinstein Trust, 18 Harvard Lane.

Board Action - Renewal of Accessory Apartment Approval - Daniel Engelson

Chairperson Speranza: This does exceed the 25% square footage by 1.07%. Any Boardmember concerns?

On MOTION of Boardmember Wertz, SECONDED by Boardmember Hutson with a voice vote of all in favor, the Board resolved to renew the accessory apartment including the waiver required for exceeding square footage, for Daniel Engelson, 237 Farragut Avenue.

Board Action - Renewal of Accessory Apartment Approval - Leah Rossner

Chairperson Speranza: This is 115 Pinecrest Parkway. Does anyone have any Boardmember concerns? This does need a waiver for off-street parking.

Boardmember Hutson: How long was the delay in the renewal that it speaks about? Maybe the applicant knows. It says there was a delay in the renewal. Do you know how long that was for? You did know there was a delay?

Leah Rossner, applicant - 115 Pinecrest Parkway: Well, no, because as soon as I got the letter I started working with them. Yes, there were some gaps, and I didn't think that it was counted.

Boardmember Hutson: You wanted that fixed first, you mean? It wasn't years. It was a short time?

Ms. Rossner: I think I got the letter in August, then I went away on vacation, and then the people who inspected it went away on vacation. Then I had to get a new smoke alarm, and then it came back re-inspected.

Boardmember Hutson: So it was a matter of getting it in compliance.

On MOTION of Boardmember Hutson, SECONDED by Boardmember Hutson with a voice vote of all in favor, the Board resolved to renew the accessory apartment including the waiver for off-street parking, for Leah Rossner, 115 Pinecrest Parkway.

Board Action - Renewal of Accessory Apartment Approval - Michael Janis

Chairperson Speranza: Now let's talk for a minute about the apartment for Floral Drive. As Mr. Paradise mentioned, this is something that is going through, I believe, third or fourth renewal. Marianne, my recollection of the conversation is as I stated: that there's no way to prevent someone from parking on a street where on-street parking is permitted.

Village Attorney Stecich: You can't force them. There certainly [off-mic] applicant [off-mic] here to speak to [off-mic] if the Board was so disposed. But you're right about this. You can't force [off-mic] somebody. Anybody can park on the street.

Chairperson Speranza: On a public street.

Village Attorney Stecich: [off-mic] disposed to address it [off-mic].

Chairperson Speranza: Okay. Any comments?

Boardmember Logan: I just had a question. I wasn't sure I understood: does this relate to the corner location and fire truck turning radiuses, or is it in the length of the road that we have an issue here?

Chairperson Speranza: No. I think it's simply that the renters of the apartment sometimes do no park in the off-street parking.

Boardmember Logan: No, I got that. But for parking, isn't the corner more of a critical junction than, say, other places where there are turning requirements for trucks? And doesn't the Village have some jurisdiction over clear turning radiuses for fire trucks?

Boardmember Dale: They're usually marked how you can't park "from here to the corner."

Boardmember Cameron: Maybe we could refer this to the police department and ask them whether they think a sign should be put up prohibiting parking during snow conditions in that area, if it really is the danger that it may be.

Boardmember Alligood: I would be inclined to recommend that if it's a safety issue that it applies to any car on the street. I don't see why we should just restrict certain cars for creating a hazardous condition. Because that condition should be addressed by the Village through its code in terms of prohibiting parking either in snow events or otherwise; whatever the issue is. That's how I see it. I understand there's a safety issue that should be addressed uniformly.

Boardmember Cameron: I do agree. One of the problems with the issue that he's bringing up is that the regulation we have simply says that the owner must provide a parking spot. It doesn't say the person must put the car in the parking spot provided. I think there is an implication -- or a courtesy, if I can use that phrase -- that if you actually have a parking spot which is your own, in which you can park, that you don't just park the car in the street and take up spots that other people might otherwise use. But that's more of a courtesy matter. Maybe the owner can speak to the person, and say, "You have a parking spot it'd be nice if you didn't park on the street." Now, maybe that doesn't work.

Ms. Janis: No, renters know that they have two parking spots, and they do park in the circular driveway most of the time. They *never* park near the corner. No one ever, on our street, is parked at either corner. And it's not a problem because I take my car in and out of

the driveway every day, snow or ice or rain or whatever. And I've never had a problem at the corner of Floral and Scenic for any reason, I must say.

Chairperson Speranza: That's my sense, as well. That the condition is a condition that's not created by the accessory apartment; it's created because there may be a problem with the street or people parking on the corner. That's something which has to be dealt with in a separate plane.

On MOTION of Boardmember Logan, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to renew the accessory apartment for Michael Janis, 4 Floral Drive.

8. Public Hearing. View Preservation. Filipe Pereira - 48 Whitman Street (Sheet 11, Block 628 and Lots 45 - 48) recommendations to the ZBA for the additions and alterations to his property in the View Preservation District (Section 295-82.C.2 of the Village Code).

Emilio Escalalas, Escalalas Associates: This is an addition to a modest house that finds itself in the view preservation area. We're here to obtain your blessing to go ahead and obtain a building permit for the addition.

Chairperson Speranza: You can use the easel because we have the plans. It's the audience that doesn't.

Mr. Escalalas: I colored it up so that you can see that what we're doing scale-wise is not massive, not bulky. The existing structure primarily occupies this space right here. We're trying to keep the scale comparable to that in the area.

I wanted to show you first the site plan, which gives you an indication of the magnitude and growth. The dotted black line represents the existing structure. The beige area is the area that's going to grow out of, and encompass, the old structure. We are meeting all the setbacks, we're meeting all the criteria for planning, and we don't need any variances with respect to that. We simply are within this view preservation corridor. When we studied it, it seemed almost as-of-right and, I hope, easy for you to understand.

If you look at this site plan -- a tax map which is actually pretty good to scale -- I darkened the existing structures on the immediate vicinity of the house. To my surprise, I found that there's nothing here behind the house. This is the rear portion of the house, this is the front. The rear is composed of some kind of an abandoned garden area and mostly an asphalt parking area for these larger buildings -- I think they're cooperative -- of apartments. I believe they are four or five stories in height. This, the topography from here to here, I called it plus-14 feet plus-9, to zero in the back of the house. In other words, as we come to the back of the structure, this ground is 14 feet higher than this ground, which places the

viewing public at another 6 feet -- or another 8 feet because of their structure. So I'm easily over the ridge of the existing house.

You can get a better picture by looking at this drawing. This is the property line. The grade continues onward a plus-14 to here. The addition of the house, as you can see -- the existing ridge of the house -- is about here. We're only adding 3-1/2 feet to the mass of the existing volume. The pictures also, when you look at the packet of pictures, you will see that the view from the back...right here I'm at 10 feet in front of the property line of the back of house. There's an existing view corridor to the left of the house, and yet the ridge -- as I said, the new ridge -- will be 3 feet higher than this one. So the impact to the existing mass is minor, plus the fact that the only affected public are already 19 feet above the ground.

There are no other houses to the right or to the left that would be blocked by any addition. Even if I was to stand solidly at the property line they wouldn't be affected at all. So the only recipients of my actions are these people here, and they're not at all impacted -- cannot be, physically impossible. In fact, they'll have a nicer house to look at.

Chairperson Speranza: Okay, thank you. Are there any members of the public who have questions or comments?

Ryan Nelson, 50 Whitman Street: I'm the property directly south of this. The letter I got in the mail was the first I'd heard of the project. I live between this project and the Riverton Lofts. I'm a little tired of construction, but that'll finally end some day.

Chairperson Speranza: That's your home?

Mr. Nelson: Yes. But you're not requesting any other variances other than just view preservation? It sound like you couldn't possibly impede my view because I'm south of this and we're talking about where the river lies. Okay, then I have no objections.

Chairperson Speranza: Okay, thank you. Anyone else from the public? Boardmembers? Questions, concerns?

Boardmember Alligood: Questions, and they don't necessarily relate to view preservation.

Chairperson Speranza: There may be a number of us who have the same concerns in terms of the size of the building that's going to be there, but it is all within the zoning code. It is all permitted within the zoning envelope.

Boardmember Dale: And the existing variance from front yard distance is irrelevant.

Chairperson Speranza: Is not being changed.

Boardmember Dale: It doesn't mean that it can't use the full allowable size...

Boardmember Hutson: Rear yard, they're saying, on the total question.

Boardmember Alligood: First I just have, I guess, a legal question. On page 1 of the application it says that the owner...I'm sorry, it's page 4: "affidavit of ownership." It says he swears that he resides at this location, so is that an issue. He's an owner, but he doesn't reside there.

Mr. Escalalas: Well the reason why we're enlarging is so that he can live in the house that he always wanted to have. [off-mic] the first time when we met, his explanation was [off-mic]. And I said, "No, I want to live here [off-mic] my parents. I want to make sure it's comfortable for everybody.: But he plans to live in it. That would be his primary residence.

Chairperson Speranza: And this, obviously, is a legal issue. It says "affidavit of ownership."

Boardmember Alligood: That's what I'm asking. I mean, he clearly owns it. But do you have to reside in it? Because it swears that he resides in it. That's a question for you.

Village Attorney Stecich: You wouldn't have to. You're correct that the affidavit is wrong [off-mic] affidavit. But he would have [off-mic] to reflect view preservation because he owns it. [off-mic], but that's one of the ways he would have it had he filled this out correctly...what's Mr. Pereira's actual address?

Mr. Escalalas: Your actual address.

Filipe Pereira, 48 Whitman Street: 40 Whitman Street.

Village Attorney Stecich: So if he put, "I, Felipe Pereira, reside at 40 Whitman Street, and I own this property [off-mic]..."

Boardmember Alligood: Okay, all right.

Chairperson Speranza: "...but I own the property at 48 Whitman Street."

Boardmember Alligood: I know you don't have to live in a house that you're going to renovate, but I just wanted to know...

Village Attorney Stecich: Yes, he resides at 40, right. And then he owns...

Chairperson Speranza: But he owns 48, right.

Village Attorney Stecich: So it should have just been fixed up a little bit [off-mic].

Boardmember Alligood: I don't know if I can ask the questions.

Boardmember Hutson: Well, you can ask them.

Chairperson Speranza: You can ask them. And I know what our fellow Boardmember is struggling with. Yes, certainly you can state your concerns. The action before us is one of view preservation, and it's a recommendation to the Zoning Board of Appeals on that action only. But go ahead.

Boardmember Alligood: On the subject of view preservation, I was at the property today. You do block a bit of the view looking sideways from the neighbor's property, but it doesn't concern the neighbor and there's still a river view looking straight ahead. So to say that there's no obstruction of the view at all is actually not true. But, to me that's not really my biggest concern.

It's interesting that later on, on our agenda tonight, we're looking at adding some language to our code that addresses development coverage. One of the questions I have is, the site plan does not show the driveway. And it's going to be quite wide, I think -- 18 feet. So I'm just looking at...it's obviously as-of-right in terms of building out to the absolute maximum. But

it doesn't show in the plan how much driveway or other types of impervious surface that's going to be added.

Mr. Escalalas: [off-mic]

Boardmember Alligood: Yes, it's not shown. I understand it's going to be there.

Mr. Escalalas: It's shown.

Boardmember Alligood: In my plan it's not shown. Which page are you looking at?

Mr. Escalalas: The first page.

Boardmember Alligood: The first page, it is not shown. I see a concrete walkway.

Mr. Escalalas: I don't always [off-mic]. [off-mic] he does have a driveway. Your point is does it have a driveway -- yes, it does. [off-mic] to get to the garage.

Boardmember Alligood: Of course.

Mr. Escalalas: And I would like to have a two-car garage [off-mic].

Boardmember Alligood: My point is that in a site plan you usually get dimensions of actually everything that's going to be constructed on the site. So that information is not clear. Again, it's not a view preservation issue; I'm not claiming that it is. It's an issue that relates to something we're concerned about in terms of developing small lots and how much of the site you're going to cover. And also just the whole issue of grading to the extent that's going to happen on this property.

The other point I just want to make is that in your drawing you show those trees. Those are coming down.

Mr. Escalalas: No, they aren't.

Boardmember Alligood: These are not the trees that are going to be left on that property.

Mr. Escalalas: We will, if the Board wishes, provide you with planting. We're going to plant, we're going to design that. We were not required to submit that at this point but, of course, this house, we are going to fill it with trees. We're going to absolutely do that.

Boardmember Alligood: But there's a large majestic tree that you show there, and that's coming down because it's in this...

Mr. Escalalas: Right here. It's not coming down. That's staying. The only two that are coming down are right here [off-mic] the one in the back space.

Boardmember Alligood: It's shown on your survey.

Mr. Escalalas: [off-mic]

Boardmember Alligood: The huge spruce, the one that is the biggest on your property there, his property, is in the area of the new house. It's definitely going to have to come down. There's no way you can build this house without taking that huge tree down.

Mr. Escalalas: [off-mic]

Boardmember Alligood: It's definitely coming down. This is the tree I'm talking about.

Mr. Escalalas: That one, yes.

Boardmember Alligood: That's the biggest tree.

Mr. Escalalas: [off-mic] this one [off-mic]. But yes, that has to come down. So it's three trees [off-mic]. In fact, the roots of that tree are actually in the foundation walls. They're destroying the house. [off-mic] but that tree is destroying the existing structure.

Boardmember Cameron: How far back is the apartment building?

Mr. Escalalas: [off-mic] this says 100 to here. So from the property line to this lot is 107. I estimate that this is 100, and this is about 80. So it's 187, 190 feet.

Boardmember Cameron: And from your measurements, the apartment building is...

Mr. Escalalas: 14 feet tall, the ground. And that's a basement level, so you really have to have 4 feet plus the floor height plus the viewer's height. So you have 14 plus 9 plus...

Boardmember Cameron: So there are not apartments on the ground floor of that building.

Mr. Escalalas: No. So the viewer will be above the ridge line of this house.

Boardmember Logan: I think your point about the increase in the impervious area -- which there certainly will be because the roof is going to basically blow up by 60%, plus the bigger driveway -- I think that's required to be engineered and have drywells to retain all the runoff on-site. So they'll have to have bigger drywells and trench drains at the front of the driveway, etc.

Chairperson Speranza: Sir, did you have another question?

Mr. Nelson: I just wondered because you were mentioning a very large tree, a majestic tree, on the property. I'm not sure which tree we're talking about because there is a tree that's basically on the property line but it's pretty much hanging over my house. Making sure we're not talking about that...

Boardmember Alligood: Not the one in the front. There are two in the front.

Mr. Nelson: Yes, that's the tree. Is that coming down?

Mr. Escalalas: [off-mic]

Boardmember Alligood: The one that's on your property line? That's not the one I'm talking about.

Mr. Escalalas: [off-mic] property line [off-mic].

Mr. Nelson: Okay. And my other question was, there's a Zoning Board meeting in January about it. Are these plans in the public record or something like that? This is really the first I've heard about it. So I'll speak with Mr. Pereira and look at these things before that meeting. Thank you.

Mr. Escalalas XXX: Again, [off-mic] house as small as possible [off-mic]. The roof is [off-mic] so it's not gabled. By the way, all the structures on that block are taller, more voluminous, and there isn't one [off-mic] in this [off-mic]. They're all [off-mic] and they're all [off-mic]. So we tried to be very sensitive to the scale and to the existing [off-mic].

Boardmember Hutson: May I ask one other question? What's the total footprint with the addition?

Mr. Escalalas: The square footage? I don't think I have the exact number.

Chairperson Speranza: I thought I saw it somewhere.

Mr. Escalalas: It's probably in the application, but from memory I would say [off-mic].

Boardmember Hutson: Going from 890 to 2,400?

Mr. Escalalas: Yes. With the deck.

Chairperson Speranza: Right.

Mr. Escalalas: [off-mic] it's the footprint, not the area of the house.

Boardmember Dale: Your drawing says 2,400 feet proposed.

Chairperson Speranza: With a deck, right. That's the footprint.

Again, the applicant is here for a recommendation from us for view preservation to the Zoning Board.

On MOTION of Boardmember Logan, SECONDED by Boardmember Cameron with a voice vote of six (6) AYES and one (1) ABSTENTION (Boardmember Alligood) the Board resolved to recommend approval for view preservation.

- 9. Public Hearing. Recommendation to ZBA for area variance to allow review and approval of proposed 2-lot residential subdivision. Application of Deborah Tarricone, 15 Holly Place (Sheet 37, Block 718 and Lots 28 - 33) for the subdivision into two lots. Also recommendation to ZBA for area variance for one of the lots to be 6,390 sq. ft. rather than the minimum lot size required of 7,500 sq. ft. in the R-2 zone.**

Chairperson Speranza: The next item on our agenda is for a recommendation to the Zoning Board to allow a two-lot residential subdivision on Route 9-A and Holly Place.

Boardmember Alligood: I am going to recuse myself once again, and I just want to clarify. Last time I stated that my husband is the Tarricone's architect -- not on this project, on a different project -- but I still am recusing myself.

Clifford Davis, representing Deborah Tarricone: The application that's before this board, we are seeking preliminary plat subdivision for two lots. We appeared before this board last month. In a work session we provided two different proposals. The Board didn't have any objection to either one. What we did, Mr. Senor, the applicant's engineer, has presented a plan regarding the two lots. What we have done is, we need two variances for one lot.

In analyzing the alternative proposals, what we did is, on the house that is going to be closest to Saw Mill River Road, that is a lot that is totally compliant. It is in an R-2 zone, it meets all of the zoning requirements -- the lot that is closest to Saw Mill River Road.

With regard to the existing house in which Mr. Tarricone had lived, there is a requirement of lot width of 75 feet. We need to go before the Zoning Board. We only have 63.9 feet

regarding lot width. Regarding lot area, the lot requires 7,500 square feet. We have 6,390 square feet.

While this matter with regard to the variances has to go before the Zoning Board, we are asking this board to, hopefully, make a positive recommendation to the Zoning Board that the variances should be granted. At this time, what I would like to do is walk the Planning Board through the five-part test as set forth in the Village law and also in the Hastings zoning code that the Zoning Board will be applying in determining whether the variances should be granted.

The first part of the test is whether there will be an undesirable change produced in the character of the neighborhood or a detriment to neighboring properties. In analyzing this first part of the balancing test, what Mr. Tarricone did is, we did an analysis of the community. With regard to the 18 neighboring residential lots, we found that only one lot actually complied with the requirement of having 7,500 square feet for a single-family house or 10,000 square feet for a two-family house lot. That information is set forth in the packet that we provided to this board. The analysis demonstrates that the location of the existing house on a lot of 6,390 square feet will not cause any change in character and will not be a detriment to the neighborhood. Regarding lot width, we found that 12 of the 18 residences surrounding the lots were all nonconforming. In summary, the neighborhood of which this subdivision would be part of is totally nonconforming. The houses that we propose will in total harmony with the community.

The second aspect of the analysis that the Zoning Board would apply, and that I'm bringing to this board's attention, is whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than by the variances. Here there is no way, without getting a variance, that we could get this extra house. Regarding that, there is no alternative.

We submit, regarding the third part of the balancing test, that the issue there is whether the requested variances are substantial. We submit that the requested variances are not substantial, and in the packet to this board I submit cases to that point.

The fourth part of the balancing test is will the proposed variances have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Again, the entire community in this area is totally nonconforming. This house will not stand out once it is built and it will look in total harmony with the other houses, which are all nonconforming.

The fifth part of the balancing test is whether the alleged difficulty was self-created or not self-created. Normally, when somebody comes in for a subdivision and they are aware that they don't comply, in that particular situation the alleged difficulty would be self-created. However, here in 1982 New York State, through eminent domain, took 1,999 square feet of the Tarricone property. That is why we need the two variances that we are seeking before the Zoning Board. If New York State had not taken the 1,999 square feet we would be fully compliant regarding two lots. We would ask the Zoning Board, and asking that this board make a recommendation, that the Tarricones not be penalized because New York State took their property.

The action that we're asking the Board to take tonight is to make a positive recommendation to the Zoning Board regarding the variances. As well, we would ask that this board declare itself lead agency. While the Zoning Board is going to take action, I would submit to this board that it would be a Type 2 action, exempt from SEQRA, that the Zoning Board would undertake. So that the only agency subject to SEQRA is this board, and I would request that this board declare itself lead agency and, eventually, set forth a negative declaration.

At this time, Elliott Senor will present the specifics of the application to the Board, and he'll walk through the details. Thank you.

Elliott Senor, engineer - Gabriel E. Senor PC: Good evening, members of the Board.

You had seen the plan last month. We chose to make the corner lot the larger lot because we do have two 25-foot front yard setbacks. It allows us a wider house on the corner lot. The driveway comes in off of Holly Place. There is not access to Saw Mill River Road. There is a retaining wall there that's 4 or 5 feet tall. We would meet all of the building setbacks on the proposed lot: the lot size, lot width, etc.

The existing house, although it's narrower than required in the area, the side yard setback is almost 16, where a 10-foot side yard is required. So we are substantially larger than the minimum setback to that side of the house.

If you have any questions I'd be happy to answer them.

Village Attorney Stecich: On this [off-mic], the one that doesn't have the proposed house on it, you still have the 10-foot setback.

Mr. Senor: Right, yes. We changed that on the subsequent one. I didn't submit that, but we do show 25 feet here. It is 25 feet, and we aren't asking for any consideration there.

Village Attorney Stecich: Well, you should fix it because this is subsequent to the last meeting.

Mr. Senor: I haven't submitted this one to the Board. I just realized that yesterday and made that change. So we're not asking for a reduced setback there.

Chairperson Speranza: The orientation, of course, of the existing house is going to be a little odd since right now it's developed with the concrete walk at the front of the house, even though the front of the house really isn't fronting on Holly Place. And that doesn't matter.

Mr. Senor: Where the front door is?

Chairperson Speranza: As long as they have a front yard setback from Holly.

This is a public hearing. Comments from anyone? Marianne, is there a reason, if the Board should be disposed to do so, that we could actually act on the subdivision contingent upon the Zoning Board granting the variances?

Village Attorney Stecich: I think there's two ways you could do it. One would be to make the recommendation about the variance, wait to hear what the Zoning Board says, and then grant subdivision approval or not if they get the variance. If they get the variance, that's the end of it. Or you could grant subdivision approval conditional on them getting the variance, and that's it. You could do that. In either event, I would recommend if you could do SEQRA tonight.

I guess I'm not totally convinced it's a Type 2. I know that it would be a Type 2 not requiring a SEQRA review if it's for a variance. But this is a variance in connection with a subdivision. I'm not sure it is, but there's no reason that the Zoning Board couldn't do it. It just doesn't have to be a coordinated review. You do your SEQRA determination, and the Zoning Board could do its SEQRA determination when it grants a variance [off-mic]. So that won't be an issue. It's really up to the Board.

Chairperson Speranza: Questions, comments from Planning Board members?

Boardmember Dale: It's just the one variance that's required?

Mr. Senor: Two variances. One is the lot area, and one is lot width.

Boardmember Hutson: And they're related, in a sense. You're saying if it hadn't been for the eminent domain the lot width would also be achievable?

Mr. Senor: I believe so, yes.

Boardmember Hutson: Even given the diagonal nature.

Mr. Senor: I don't have it with me, but the paving was wider at the corner and narrower in the back. It was sort of a wedge-shaped piece. I don't have the plan, but I think it was [off-mic].

Chairperson Speranza: I think it was squared off.

Boardmember Hutson: I think it will be important when you go to the Zoning Board of Appeals, for sure, that it applied to both.

Chairperson Speranza: Yes, it was a wedge shape.

Mr. Davis: That's attached to the back of my letter.

Boardmember Hutson: And what dimension do you have on that then?

Mr. Senor: Right at the corner of Holly Place is a 6 plus or minus, and it goes back to 17. So 25 feet back [off-mic] changes the angle of the property line.

Boardmember Hutson: I would just suggest you really clarify that to save yourself some extended discussion. Because if that's going to be the strength of your argument in terms of the balancing issue it would be good to have that clear on your drawing.

Chairperson Speranza: As we heard, we can handle this one of two ways. We can, should the Board want to do it, send the recommendation to the Zoning Board of Appeals for approval of the variances and then have a subdivision come back to us at our next meeting, let's say, or after the Zoning Board completes its review. Or we could recommend the variances and approve the subdivision conditioned upon the approval of those variances by the Zoning Board. How do people want to handle this?

Boardmember Hutson: I think the second probably makes more sense. The only reason you wouldn't do that is if you thought there were issues involved in the discussion with the Zoning Board that would come into play on subdivision questions. It's hard to see, in this case, that that would be, but that would be the reason you wouldn't want to do it that way.

Village Attorney Stecich: Right. Or if you thought that maybe they were going to change [off-mic]. But there's only one way [off-mic]. But I suppose they could say we could give them the variance for this property [off-mic].

Chairperson Speranza: But then they have to come back to us.

Village Attorney Stecich: They have to come back, so I think it's pretty unlikely in this [off-mic].

Chairperson Speranza: Then let's handle the SEQRA first. We, the Planning Board, are the lead agency, and certainly on the subdivision application. We do have the short assessment form. I think a review of the proposal, and knowing what the environmental categories are, there would be no negative impact.

Village Attorney Stecich: [off-mic] just make one other point [off-mic] in terms of the impacts. You could say there would be [off-mic] instead of one, but I think this lot is big enough for a two-family house. It's a 2-R zone, so actually there wouldn't be more traffic. The original lot is the same. And the impacts, there's not going to be any difference in impact because it could be a two-family in any event.

Chairperson Speranza: So first we need a resolution declaring ourselves the lead agency and determining that there would be no negative impact.

Village Attorney Stecich: Well, you don't have to declare yourself lead agency [off-mic]. [off-mic] coordinate it with you, but [off-mic] own decision [off-mic].

On MOTION of Boardmember Hutson, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to determine that there are no negative impacts.

On MOTION of Boardmember Dale, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved approval for this subdivision, the property, into two lots contingent upon the approval of the lot area and lot width variances to be granted by the Zoning Board of Appeals.

Village Attorney Stecich: Were you going to make a presentation?

Chairperson Speranza: We approved the subdivision contingent upon...

Village Attorney Stecich: [off-mic].

IV. Old Business

- 1. Public Hearing (Continued). Foley Subdivision and SEQRA. Michael Foley for consideration of a two-lot single family residential subdivision. The property is referred to as Foley / Farragut Avenue (aka Parkway) Proposed Subdivision Sheet 43/ / Parcels 40, 41 and 41A. The Property includes 1.145 acres in the R-10 Zone to the west (rear) of 270 Farragut Avenue (aka Parkway). Access will be provided from Farragut Avenue.**

Chairperson Speranza: This is to subdivide a property on Farragut Avenue/Parkway which contains now one unit; to subdivide it to have two units. There was correspondence from Mr. Weinstein. Is Mr. Weinstein coming tonight, or no? No? Okay.

Michael Foley: Approximately a year ago we came before the Planning Board and suggested that we had a piece of property that, unlike the property that just was referred to, has the adequate square footage for several units, but needs permission permitting certain setback adjustments to make maximum use of the property. At that time it was suggested something on the order of a townhouse that would be for older persons that wouldn't be adding kids to the school system -- which, in fact, we would be easing the tax burden on other homeowners in the area because we would have a population that didn't have young children in the school system. We also wanted to quid pro quo some kind of agreement that the 53 by 300 foot sphere that goes into Foley's Woods, and is owned by myself, could be given to the Village or could be rezoned as a conservation district.

It seemed absolutely flabbergasting to me that the people in Hastings, especially people who dedicate as much time as you do to Board activities, wouldn't be interested in acquiring land that is not only immediately adjacent to a park but goes right through the middle of it. There was no level of cooperation expressed by anyone to myself...I may stand corrected, Mr. Weinstein was here, but the impression he gave me was that there was no interest on the part of Hastings to acquire more parkland even if its cost would be zero in terms of dollars.

But a level of cooperation was asked in terms of the positioning of lots. I even offered to bulldoze house number two so that we would acquire another 10,000 square feet. But I look out across the street and I see 17 houses -- I think there's actually 26, but at least 17 of the houses -- and they're smaller than the prescribed lot requirements today in this day and age. We wish that one of those houses, which was Mr. Engelson's, should be an example of good neighborly behavior. That house has an accessory apartment, and he's probably the best neighbor on the block as far as maintenance of his property and respect for parking problems that we all have in that area. As a matter of fact, we ought to take careful note of his application and give it to people who want to, or need to, have an accessory apartment.

But everybody said that every single lot within reasonable view of my property is, on a square footage basis, less than half of what my lots would be. And there's two lots here and they don't fit, "We want permission." Oh, they get it immediately. I go before you guys, I want to give land to the park -- a substantial piece of land. I'm willing to accommodate. What do you want? Do you want senior citizen, do you want low-income housing, do you want firemen housing? What would you like here? I get, frankly, jerked around every month. You come to another meeting to another meeting to another meeting, and there's a discussion about, "Well, that corner over there doesn't quite fit." That's the reason we go before the Zoning Board of Appeals.

We want your good judgment as to what would be an appropriate use of the property. But instead of giving me what I've asked for, repeatedly...what do you want and I'll build it, okay? If you want senior citizen housing I'll give you that. If you want a townhouse with three or four clustered Georgian architect-type buildings on the left-hand side of the property and we'll leave all the rest to be green -- over an acre -- that would be a very nice addition to the park. Do you want access from Farragut to the park? What would you like? I get nothing but a change of ways to turn down the idea when it comes before the Board.

I want to ask the Board now, what do you want? Or if you want nothing there for another 20 years -- my family's been here for 100 years and we plan to stick around a little bit longer -- we'll wait for another generation to decide what to do with the property. One proposal that I would say in addition to the other things that I've suggested is that we bulldoze the second house and give you another 10,000 square feet to think in terms of putting a cluster. And I believe that you can say that the law regarding cluster doesn't apply, but it does apply because it's next to parkland and it would be an appropriate use of the property not to blacktop four or five driveways and four or five barbecue stations and one tennis court and so forth. I think it should stay green, it should have a cluster of some kind in one corner. But you've already said what you wanted. Tell me what you want and I'll try to get my architect to come up with something that pleases you.

Chairperson Speranza: I can appreciate that you find this process very frustrating.

Mr. Foley: Well, it's been a year.

Chairperson Speranza: You have a very difficult, awkward piece of property. Some of the proposals that we have seen have just been way too intense for the configuration of the property, which is why we have said this isn't going to work, this isn't going to work.

Mr. Foley: And it's a full amount of footage, our 10,000 or whatever it is. I've given you the full 10,000 square feet for each one of the units that we would like to build. We have 40 some odd thousand square feet. Normally it would allow for four units, okay? We're down to two and we're still getting people that think that's too much to allow. Whereas across the street there are 5,000 square foot and 7,500 square foot. So I should put up 10,000 square feet and not be able to get one or two units?

Chairperson Speranza: That's the requirement of the code. Again, your property is very difficult. And we don't have to go through the history of your applications, but it was certainly not as cut and dried as you're portraying it. My recollection of your original scheme was to have five units in a cluster, which would not be permitted under the zoning.

But certainly you're here in good faith to ask us how we would like to approach this. I don't know if you've had any conversations with representatives from the Affordable Housing Committee when you talk about housing for seniors and housing for members of the fire department. That's certainly one avenue, and we can arrange to sit down with members of the Affordable Housing Committee to talk about this property and how things could potentially work on the site in a way that's a benefit to the Village and still sensitive to the neighborhood, and gives you more in terms of what you would like to see developed on the property.

Right now we had the three-lot subdivision which was, frankly -- and I didn't say it at the last hearing -- a mockery of the rules that we would have been approving it under. It was such a stretch of the law that we couldn't approve it.

Mr. Foley: My application?

Boardmember Cameron: Yes, your application.

Chairperson Speranza: The three-lot subdivision with all of the different lines drawn, and all of the different ways and measurements taken in different ways. Again, we're talking on paper and I'm not doubting you're sincerity in wanting to work with this village to do something. That's what I'm trying to say now. We do want to find a way to have that happen. We now have a two-lot subdivision that your architect has drawn up.

Mr. Foley: Well, we can build McMansions back there. If that's what you want, we'll give you that.

Chairperson Speranza: No one is saying that that's what we want.

Mr. Foley: What do you want on that property? What will you allow me to have, and what kind of architecture do you want, and I'll draw up the papers.

Chairperson Speranza: That detail is not the job of this board. We're here to hear what you want, what the neighbors want, and what's good for the Village. What I'm suggesting is that we do sit down with someone from the Affordable Housing Committee and talk about what potentially could be done. Again, this is me. I'm speaking for myself now, not as other Boardmembers. I don't think anything should be developed real far back onto this property because that's what makes it so problematic. If there was a way to do some kind of cluster of units towards the front of the property, my understanding was you didn't want to take down the existing house.

Mr. Foley: I don't, but hold on a second. I said the second house. The first one I won't take down because it's a 1791 original and it certainly dates right from the foundation of the country, and inside it's adorable. I do need to do the outside in the traditional way. It has aluminum siding now.

But I don't like the idea of tearing down the second house at all. I don't want to do that. That was built in 1831, and the Monroe Doctrine was being written at the same time.

Boardmember Alligood: I'd like to respond to the concept that our job is to tell you what we want. That's not our job.

Mr. Foley: Well, it is your job to this extent: that if you jerk somebody around and have them keep turning in application after application...

Boardmember Alligood: Let me finish what I wanted to say.

Mr. Foley: Excuse me, let me just finish what I'm saying. You've said it is not your job, all right? It is a common courtesy to say to somebody, "We're not going to approve you no matter what you bring in here," okay, and then have me stop wasting my time. Because my time is valuable.

Boardmember Alligood: Okay. Let me finish what I was about to say, which is that we are here to take a look at what's proposed before us and interpret whether it fits the existing zoning.

Mr. Foley: Not a single application that comes in here fits the zoning application. Every one of them is looking for an exception and for some variance on a curb that needs to be moved or something. So you're not giving us anything by saying that.

Boardmember Cameron: That's not true.

Boardmember Alligood: That's not true.

Mr. Foley: What's not true?

Village Attorney Stecich: That's the Zoning Board he's talking about, not the Planning Board.

Mr. Foley: I stand corrected. I'm sorry if it's not your department. But I know I go to a meeting every month.

Chairperson Speranza: There are things that this board does want to promote, and the provision of affordable housing is something that we do take seriously.

Mr. Foley: How about additional parkland?

Chairperson Speranza: Additional parkland is something else. But again, part of our responsibility is to balance things. And when it's development of a parcel of land in a way which it just completely and totally out of context of the rest of the area, then it's not going to work. And that's what we try to do, too, the tradeoff. We have talked about this over the course of the year. It was not as if we said, "We like this, come back next month. We like this, come back." We have given our concerns, and we have been consistent as a board throughout the entire process.

Now, we can continue this dialogue. I don't know if any other Boardmembers have anything, but we should find a way. You want to sit down, you want to speak with the Village about your property. I think the best thing to do is arrange for a meeting the chair of the Affordable Housing Committee to sit down with you.

Mr. Foley: Sounds good to me.

Boardmember Dale: I think Sue Smith would welcome the opportunity. She spends a great deal of time searching for sites in the Village, and has a mandate to provide a lot of affordable housing without any possibility of that many sites available. I think something could clearly be worked out.

Chairperson Speranza: Now there's just one other thing I want to say. Mr. Foley, it's your conditions as well as what the Village wants in terms of what you're willing to trade, and I'm not just talking about the parkland. I think even for Affordable Housing Committee reasons I would have a problem looking at developing the rear portion of your property and bringing access onto Farragut that way. So I don't want you to have to start down a process again and have you accuse us of jerking you around more. We've got to both be going into this realizing that there are going to be limitations on the process.

Mr. Foley: I don't think anybody questions your good faith. I've taken my share of insults from other than governmental people as far as all of the property that I own. I have a possibility of trading, quid pro quo'ing, doing something nice for the Village in terms of parkland. All I want is the reasonable use of my property, just the reasonable use. And since I have 10,000 square feet for every one of the units that I propose, and everybody in the neighborhood has half of that, it would seem that maybe we can work something out.

Boardmember Dale: The real issue here is the planning issue of the accessibility of these lots. Unless there is an architectural solution that would make that work, and affordable housing would have the same issues that you've confronted now. The question becomes is a tradeoff for variances in the zoning for the land that he's willing to give back -- and the use of the land that he's willing to sell to the affordable housing -- is that a fair trade?

Village Planner Witkowski: I just wanted to mention that Sue Smith of the Affordable Housing Committee, the chair, and I met with Ed Weinstein before you had even come in with a proposal and did talk to him about the possibility of affordable housing there. He said

that there wasn't any interest at that point. I guess you wanted to try something else, I don't know. So we could do that again.

Mr. Foley: I didn't want to have every unit be affordable housing. The deal that we had at that time, if my recollection is right, was one unit would be lower than fair market rate, a rental, for firemen or other city employee.

Village Planner Witkowski: But maybe we could set up a time to meet again. I know that the Affordable Housing Committee is looking for places.

Mr. Foley: I'm sure they are. Lots in Hastings are very valuable. I mean, I'm not going to give away the property in its entirety, that's for sure. But I do want to...and I have from the very beginning, evidenced by the fact that before things got going in the Smith meeting. But it's been a year, and it seems that I get right up to the point of presenting a cluster, and the esteemed council says, "You can't do a cluster on that property," if I can remind you. I find that to be an effort to waste my time and energy and I don't appreciate it.

Village Attorney Stecich: I want to clarify because I don't want anybody to leave this room thinking that a cluster is possible. A cluster is not possible, whether it's affordable housing or not.

Mr. Foley: Thank you, counsel.

Boardmember Hutson: Michael, she's just speaking to the facts.

Mr. Foley: The fact that it isn't permitted now, cluster is not permitted.

Boardmember Hutson: In this situation.

Village Attorney Stecich: Let me explain to the Planning Board. If you don't like it that's fine, but I just want to explain to the Planning Board. Under your cluster law you could only use the cluster law if you can draw a conventional subdivision. You can draw a conventional subdivision and come up with four lots or three lots or two lots, then you can cluster them. You otherwise don't use your cluster law. If you want to get six variances for every lot, well, then that's the way you would do it.

And another very important thing to understand is that there are a lot of requirements for a lot besides the square footage, a lot of requirements, and it's really significant. The width, the access, the frontage -- there's all kinds of requirements; being able to meet setbacks, being able to draw reasonable lots. Just because you have a certain amount of square feet doesn't mean you're entitled to that many lots, and there are a lot more requirements in the zoning code. That's got to be understood.

I guess because Mr. Foley's concern is that I'm the one being obstreperous here, I've spent a lot of time looking at these applications and seeing that they don't come close to complying with zoning. There has not been one application that's come close.

Boardmember Alligood: I'd like to respond. I think that we need to respond to the concept that we are holding up the process, that we have not worked in the process. Frankly, the applicant has expertise available through his architect and planners to carefully study the

zoning and the laws the way that our legal counsel is doing and make sure that whatever comes before us is close enough that we can work with it. So the fact that the applicant is frustrated that we're not approving things that are so far off, I feel, is really not our fault. I just want to put that out there.

Boardmember Cameron: I guess I feel badly, too. But you know, quite frankly a piece of land, if you view it piece by piece, 51 feet wide is just about useless. I know it could be added to a park, I know it could be a walkway. But for building purposes, you keep talking about how much square footage you have. That square footage is almost useless for the purpose of building, and I think you actually know that.

Mr. Foley: XXX racquetball court.

Boardmember Cameron: Right. Or a bowling alley is the one I thought of, too, or a long driving range or something.

Mr. Foley: You're being facetious. I'm being serious.

Boardmember Cameron: Unfortunately we have side zoning requirements on that, too, so you can't build something 51 feet wide on a piece of land.

Mr. Foley: [off-mic] variance.

Boardmember Cameron: And unfortunately, the piece of land you have is only about 100 feet wide in the front as well so you run into all sorts of problems. As I think Patty has said to you with great sincerity and feeling, you have a very, very difficult piece of land. And if you keep focusing on "I have 42,000 square feet," what you have is a terrible piece of 42,000 square feet. Just because you have 42,000 square feet doesn't mean you just divide it into four pieces and you get four lots. It's an actual terrible piece of land.

Mr. Foley: Have you ever been on the property?

Boardmember Cameron: I've been on that property, yes I have. I've walked all through Pulver's Woods, I've walked across your property. When you first came here, I went there -- as I think just about everyone else did -- and we walked on your property, we looked at it, and we thought as hard as we could. As you've said, you have expert assistance on this thing and they haven't been able to come up with it. When he came up with the idea that the line, in order to be long enough, was going to be a curve -- I mean, give us a break. That was pretty funny. It's not appropriate to have a curved line. Because if the curved line's long enough you haven't got a frontage.

Mr. Foley: I'm not an architect.

Boardmember Cameron: Well, I think you've got a lot of common sense so I think you can understand.

Boardmember Hutson: Would you be interested in moving forward with the proposal that we received in the packet? Is that something that you're interested in moving forward with, or not?

Mr. Foley: I'm not apprised of that.

Boardmember Hutson: You're not familiar with it?

Mr. Foley: [off-mic].

Boardmember Hutson: Can I just speak to that, Mike? I think the thing with affordable housing, I don't know that that lessens the pressure regarding the configuration of the property. Because you have other kinds of funding that come into play, and the feasibility issues related to that also might cause problems and be difficult to accept the layout here. They don't want to go into a situation where they're going to either generate complaints from the neighborhood or where they're going to have to get a lot of variances in order to...because to line up that funding that goes with it -- I'm not speaking for Sue Smith, maybe she'd have a different view of it -- but I have a hunch that starting out with a difficult piece of property when you're trying to do affordable housing is not the wisest thing.

I think the wiser thing would be to go ahead and develop it as it's suggested here, if you've looked at this with Mr. Weinstein, because this is doable. It wouldn't take a lot of time, and I think the process would move ahead. It's obviously up to you. But since you asked for our opinion, that's mine.

Mr. Foley: I invite anyone else who has suggestions of things that could be done to give me those rough details and I'll go back to speaking to architect Weinstein. And tell him that somebody's been miscommunicating. Because on a number of occasions plans that he submitted to you he told me that he had spoken to -- I don't know which members, but at least two or three people at a time -- and that something could be done, something could be possible.

Chairperson Speranza: Well, we will certainly bring him back into this conversation.

Mr. Foley: Thank you very much for your time.

Chairperson Speranza: No comments from the public?

Ted Chayko, 250 Farragut Avenue: With affordable housing, what can affordable housing do with the geometry of the property?

Chairperson Speranza: Nothing special.

Mr. Chayko: To get it approved.

Chairperson Speranza: Nothing special.

Mr. Chayko: And what is the other proposal?

Chairperson Speranza: The Boardmembers received a proposal to divide the property into two lots.

Boardmember Hutson: It had nothing to do with affordable housing.

Mr. Chayko: No, I know that. But I was wondering what his other proposal was.

Boardmember Hutson: A drawing that we received with the possibility of just adding one house.

Mr. Chayko: It was the existing house, and one house.

Chairperson Speranza: And obviously we are not taking any action on that.

Mr. Chayko: Okay, thank you.

2. Recommendation to Board of Trustees. Proposed amendments to Zoning Code to clarify the terms "driveway" and "structure" and related issues (continuation of previous discussion at the April, 2007 meeting).

Chairperson Speranza: We have received a summary of the changes to the zoning code that we talked about one meeting ago and two meetings ago that Marianne has kindly prepared for us.

Village Attorney Stecich: The latest version.

Boardmember Alligood: Marianne, it looks great.

Boardmember Dale: Not having been here, I watched the TV. I watched it both on my computer and on the television. It's a little bit harder to follow on TV, I must say, than it is when you're present and can see it discussed.

But I have just one question, and it has to do with section 295-100 where you're saying that to alter in any form, shape, or manner the driveway -- if you're increasing it -- you need a Building Department permit. My question is, is that really necessary if the amount of square footage that you're adding to your existing driveway is within the definition of coverage that we've decided? It seems to me that it becomes an unnecessary review as long as you're compliant with the existing coverages allowed by the law.

Boardmember Hutson: Well, a lot of permits are within, but you still have to get the permit.

Chairperson Speranza: Because that's how people know that it's within the parameters.

Village Attorney Stecich: Yes, and there are lots of requirements for driveways actually. Driveways are in some ways more important than just the shed.

Boardmember Dale: I'm not talking about building a home. The situation I'm thinking about is what I did to my own house and both of my neighbors did, which was to add a small piece where you can do a "Y" turn on your own property and drive out of the stone wall facing forward rather than backing out into the curve of High Street. All three of us have done that independently.

Chairperson Speranza: And under this code you would have had to go for a building permit.

Boardmember Dale: I would not have known that.

Chairperson Speranza: That's possible.

Boardmember Dale: And once the law is changed, how would you know when the work was done, whether or not we were in violation of the code, or not?

Boardmember Hutson: You mean because you don't often use an architect and so on for that sort of thing.

Boardmember Dale: I designed it myself.

Boardmember Cameron: My comment on that is that if someone just wanted to lay down 800 sq. feet of asphalt we'd sort of like to know about it. And while I commiserate with your

making a small change, where do we draw the line? It's a small change -- let's make it a little bigger. I think we decided that a driveway is a structure, and for that you need a building permit. I don't think it's that complicated.

I understand we don't want to hold people up, but you've got to draw the line somewhere. And I'm not sure you would have a proposal. Just a little change doesn't need one, but a big one does.

Boardmember Dale: What I was saying is, as long as it's within the limits that you're allowed -- if you're making an addition to an existing driveway.

Boardmember Cameron: Well, if someone came along and wanted to put the entire driveway and parking area in their front yard we might say no.

Boardmember Dale: But that's not making a change to an existing situation.

Boardmember Cameron: Well, what's a change? I have a little driveway that goes in, and I'm going to make a big change versus a little change. I mean, I think the only thing we can work off of is change. I have a little driveway going in and I decide I'm going to make this huge balloon in the back. Maybe we want to take a look at that.

Boardmember Dale: But is the balloon in the back within the limits of the coverage that you're allowed on your property.

Boardmember Hutson: The thing is, if you're aware of what the limits are then you're probably aware that there could be an issue. Your first point was people aren't going to know.

Boardmember Dale: Obviously neither of my neighbors nor I...
[crosstalk]

Boardmember Hutson: But once it's publicized that this is something we do...I mean, you're saying what would happen if somebody really didn't know, took a lie detector test and it was demonstrated they really didn't know, and then it turned out they were beyond the limit...

Boardmember Dale: I think enforcement of what I'm calling small changes is almost impossible.

Boardmember Cameron: It'll be difficult, but we'll just tell the larger paving companies. They'll be fully aware they have to get a permit and they're not going to do it until they get one. You're right. If some guy's out there with four bags of asphalt and he's banging into the ground we'll probably never know about it. But you get a paving company out there, and they're aware of this thing because they all will be aware of it, they're going to make the person get a permit.

Boardmember Alligood: And also the neighbors have some recourse if you irresponsibly let the guy who knocks on your front door just dump a bunch of asphalt in your back yard and it has repercussions for your neighbor. At least we can point to a law and say you weren't supposed to do that without checking to make sure it's going to work without some negative effect.

Boardmember Dale: I think most homeowners are a lot more reticent about dumping asphalt in their back yard and creating an asphalt field. People don't live in a village such as Hastings or in a suburban village to create asphalt fields. I think most owners are responsible, and the changes that I'm describing are minor as long as they're within the purview of the law that allows for that kind of coverage. You're creating a problem, you're making a lot of people go through changes and basically function outside of the law, because they don't know the law even exists, and creating a problem for the Building Department because they're going to have to all be approved.

Boardmember Hutson: It is a bit bureaucratic. It's just a question of this whole runoff issue and the connection to impervious surfaces and so on, how we're going to address it. We've talked about how we're going to address it, and this is one of the things that you would do to address it. It seems to matter from an environmental point of view. It's not just an aesthetic issue.

Boardmember Dale: I don't disagree with the overall principle. I'm talking about where you draw the line.

Boardmember Hutson: Well, what do you mean? You would say that as long as you're within your...

Boardmember Cameron: ...960 square feet of driveway.

Boardmember Dale: Within the limits that are already accepted in this kind of coverage.

Boardmember Cameron: But then we have no approval for any driveway, whether it's new or old.

Boardmember Dale: No, that's not true. You have total approval on any site that's being planned, and it goes through the Building Department and is required. Somebody has a very narrow driveway and wants to enlarge it, and it's within the parameters, I don't really see a problem.

Boardmember Alligood: But how do they know, Bruce? That's the problem: how do they know. Unless you talk to the Village you're not going to know whether it complies with the code.

Boardmember Dale: Because you're going to publicize the fact that there's two coverages now, the building and the development. You're going to publish a law and hope that will be adequate. I'm just saying that you're creating a situation here where small changes are going to require somebody to hire a professional, go to the Building Department, get a permit -- to do something which right now costs a couple hundred dollars -- to do a turnabout so that you can have a safer exit from your property. I think it's overreaching.

Village Attorney Stecich: Except, Bruce, right now you would have to do it for your house. If you were just putting a little tiny change on your house, or just making your deck a little bit bigger, no doubt you'd have to come in for a building permit. And in a way, the expansion of a driveway probably has more impacts than some of those changes because you do have the drainage and runoff and stuff. And it's the only way...right now driveways are

sort of out of the net. We've got to get driveways in the net. And like Jamie said, how do you draw the line.

It's true. If you've got a de minimis change it always seems kind of burdensome to have to deal with the bureaucracy, but that's how it is even if you're putting a bay window in your house. You've got to come and get a building permit.

Chairperson Speranza: And somewhere hand-in-hand with some of these things there has been discussion about having administrative changes. I don't know what it costs; the building permit fee is, what, 10% of the project cost or something? I mean, maybe there's a way that you wouldn't have to pay a fee. If it costs you 100 bucks to do an addition to your driveway are you really going to pay \$10 to the Building Department? I don't know, maybe there's a way that things can be streamlined so that the Building Inspector or somebody goes out there and you explain what you're doing and you stake it out, and he says, "Fine, go ahead," and makes a note.

Boardmember Alligood: In terms of the building permit application you wouldn't need to hire an architect. You would take your survey and you would just draw in where you propose to expand your driveway.

Boardmember Hutson: But they would charge you.

Village Attorney Stecich: A de minimis project is a de minimis building permit. I mean if it's only cost you \$500, then your building permit's \$5. And the point of building permits is to pay the administrative costs.

Boardmember Alligood: Well, that's true.

Chairperson Speranza: Bruce, that was it? Nothing else?

Boardmember Dale: Those are the only objections that I had. When you pass a law, how do you determine that something has been grandfathered in or not. Just the enforcement question: how do you tell if something was done prior to this or not.

Boardmember Cameron: Actually, I had one thing. We had a 25-foot distance between curb cuts, and I was actually going to ask Bill what kind of car he has.

Boardmember Logan: Yes, my car's longer than 13 feet.

Boardmember Cameron: The only thing that gets him there is a BMW, Morris Minor -- a Mini 1 Cooper is the only one that got down there. It was just over 12 feet.

Boardmember Logan: Well, I've got a 1966 Karmann Ghia.

Boardmember Cameron: Oh, sure.

Boardmember Logan: Damn straight.

Boardmember Cameron: But anyway, I just thought that maybe the 25 feet between curb cuts was not the right number. You don't have to back into those spots. You can use the two entryways to get in there. So maybe we might change it to 30. That was just a suggestion.

Boardmember Logan: In order to get two spaces?

Boardmember Cameron: Two spaces. We don't want to have two curb cuts 25 feet apart and only get one car in there. Only your Suburban gets in there, and nothing else.

Chairperson Speranza: Well, we're talking about street.

Boardmember Cameron: I'm talking about two curb cuts that are supposed to be 25 feet apart.

Chairperson Speranza: To allow parking between them on the street.

Boardmember Cameron: Yes.

Chairperson Speranza: I thought maybe you were talking about inside.

Boardmember Cameron: No, I was trying to get the curb cuts far enough apart so you could get two cars in.

Village Attorney Stecich: What were the lengths of the cars?

Boardmember Cameron: The problem is, a Grand Voyager is 17 feet long and you start with that. But I mean, what kind of cars do you want to get in there? You know, a Saab in a 480 is about 16 feet long.

Boardmember Hutson: So you need more than 30 anyway.

Boardmember Cameron: An Audi A4...I mean, I've got them all here.

Boardmember Wertz: What's the average?

Boardmember Cameron: Fifteen feet. Maybe 32 feet would work -- 30 or 32, I don't know.

Boardmember Dale: Thirty-two would accommodate a lot of cars.

Village Attorney Stecich: Thirty-two? Okay, that's easy -- just make the change. Okay.

Chairperson Speranza: Eva, anything?

Boardmember Alligood: No, I think it's fine.

Chairperson Speranza: Fred?

Boardmember Wertz: No, that's good, and that's a sensible change.

Chairperson Speranza: Anything else on the rest of them?

Village Attorney Stecich: So then do you want me to just send them to the Board of Trustees and say that the Planning Board's...okay, I guess by this point it's a joint recommendation. I forget where it came from. I guess it was Deven's and mine, and we ran it past you.

Chairperson Speranza: Right.

Village Attorney Stecich: Okay.

Chairperson Speranza: And they then sent it to the Zoning Board.

Village Attorney Stecich: Well, no. What'll happen is, if the Board of Trustees wants to consider them it'll have to call for a public hearing. And at the time it calls for the public hearing it refers it to the Zoning Board and you. And this board's already referred it -- you've already made your recommendations.

**V. Pending Items. NO DISCUSSION NO ACTION AT THIS MEETING. [or]
Discussion**

Chairperson Speranza: For the next meeting, again, we've got to talk about steep slopes. It's not something I want to get into because I know Jamie and Bill have done some work. We have to have it on the agenda for January -- we have to. Angie, we may or may not get something on Hastings House? Well, we're waiting for our consultant's study, yes?

Village Planner Witkowski: I had to copy down some e-mails that we're sending to Paul Walters for some additional information. He's been working on it, but there were some additional questions that they had. I talked to Christina today and they should have it ready in the next week or two, so they should have it in plenty of time for the January meeting.

Chairperson Speranza: Can I suggest that when it comes in...

Village Planner Witkowski: You get it right away, yes.

Chairperson Speranza: So it doesn't get lost.

Village Planner Witkowski: I'll probably get it by next week, I would think, from what I was told by Elerisa.

Village Attorney Stecich: And 45 Main, I just got copied on an e-mail from them. They want to be on the agenda for the January meeting to ask about releasing their three units because of [off-mic]. Remember there were three units held back until the affordable housing went out [off-mic] think they're far enough along in the process. They asked to be on the agenda for the January meeting.

Boardmember Dale: Weren't they supposed to get a TC of O on the affordable housing?

Village Attorney Stecich: I'll have to dig it out. I know where my file is. I'll have to dig it out, but just in terms of planning your agenda they asked to be on.

Boardmember Cameron: But you should look up the conditions.

[crosstalk]

Boardmember Hutson: Remember the separation...

[crosstalk]

Village Attorney Stecich: I think so.

Chairperson Speranza: And then we were going to let them go as they hit certain milestones.

Village Attorney Stecich: But you know, if the condition says that you can't release them until you have the temporary certificate of occupancy should I say that's it -- there's no point in coming back?

Boardmember Hutson: Right, if that's the case. I have a hunch that's not the case.

Village Attorney Stecich: Against the disposition of the Board. Okay, I'll just tell them and save everybody a lot of time.

Boardmember Dale: It may make a hardship on them, with the market declining, that he can just close on whatever sales he may have.

Chairperson Speranza: And he's a businessman. He knows the risks.

Boardmember Hutson: Do we know what the status of the affordable housing units...in terms of completion, where that is?

Village Attorney Stecich: I think they expect to be done in the spring. That's what they're hoping.

Chairperson Speranza: I think at the same time as 45 Main.

Village Attorney Stecich: One of the last things they had to do, actually the work on the Village property -- the stormwater piping and sewers and the streets and whatever -- they've been really finally pushing on to get that. There was a DMA and an IMA that needed to be approved, and we're getting close. I heard at the last Board of Trustees meeting that they wanted to be done in the spring, so they are putting a push on.

Boardmember Hutson: Did they say anything in terms of whether they assured themselves that the thermal processor is going to function at the level they need?

Village Attorney Stecich: The thermal processor?

Boardmember Dale: The geothermal?

Boardmember Hutson: Yes, the geothermal.

Village Attorney Stecich: I don't know. I have never talked to them about that, but I'll ask them.

Boardmember Hutson: Well, that was tied into how much was going to have to be on the roof or not on the roof.

Boardmember Logan: That's all done. The geothermal wells are in.

Boardmember Hutson: They're in. I just wondered whether they're functioning correctly.

Chairperson Speranza: Well, they haven't come back for any changes to that.

Boardmember Logan: Not on the stuff on the roof.

Village Planner Witkowski: I just wanted to mention one thing. I put in your packets, there was a brown bag lunch that was December 11th. The county is going to have a presentation on all this work they've been doing getting all the data together for the comprehensive plan for the county. It's really quite impressive. At this luncheon I went to, this is a copy of the PowerPoint that they had. For every municipality in the county they'll have all sorts of data and mapping. It's really going to be quite helpful for a lot of reasons.

Chairperson Speranza: So they're going to be here in January?

Village Planner Witkowski: January, I think they're having it at the Westchester County Center where they'll be rolling it out. But they will be sending to all the different municipalities their Web page with the data so that we'll have a chance to look at it and make any corrections that need to be made or any additions.

Chairperson Speranza: This is a side note. As a planner, I can't help but mention that I'm very glad to hear that Dr. Bill Casela, who for years was the chairman of the Westchester County planning board, is a resident of Hastings. He's living here now. I'm glad you're here. He's back -- he was out visiting some folks on the West Coast. He lives right down the street here. He was one of the movers and shakers behind the development of the Westchester County Patterns document -- the long-range comprehensive plan. So it's great to have Dr. Casela.

Boardmember Cameron: Maybe he'll serve on the committee.

Chairperson Speranza: Yes, comprehensive planning committee.

VI. Adjournment

On MOTION of Boardmember Hutson, SECONDED by Cameron with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:11pm.