

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
MAY 15, 2008

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, May 15, 2008 at 8:15 p.m.** or soon thereafter in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairperson Patricia Speranza, Boardmembers William Logan, David Hutson, Jamie Cameron, Eva Alligood, Bruce Dale, Village Attorney Marianne Stecich, and Village Planner Angela Witkowski.

ABSENT: Boardmember Wertz

I. Roll Call

II. Approval of Minutes: April 17, 2008 meeting

Chairperson Speranza: Does anyone have any comments or changes?

Boardmember Dale: Page 13, middle of the page, where I speak, the sentence that says: “. . .build an extension by changing the architecture significantly. . .” I think “‘it’ should be added. . .” would make sense.

Then page 31 middle of the page: “. . .not unlike the ‘bell.’” It’s “. . .not unlike the ‘tail.’” It’s “tail” instead of “bell.”

Chairperson Speranza: I was wondering about that, too.

Boardmember Dale: And I’m not sure it’s important, but on the last page, where I speak towards the middle, where the three “Xs” are. Their name is McEwen, M-C-E-W-E-N.

Boardmember Logan: I’ve got one minor one on page 33, at the bottom of the page: “LEAD,” should be spelled “LEED” for Leadership in Environmental Energy Design. That’s on the second page as well.

Boardmember Cameron: I have some, Angie. Page thirteen, about five, six lines down, where I’m speaking. It says: “You don’t want to just see the top.” That’s not what I said. If you just put “You,” and then put the word “would,” knock out the words “don’t want to.” It’s: “You would just see the top quite far, as you’re coming down the road.”

Then if you go to page 18, third line from the bottom: “. . .with all candor to you. . .” and the words should be, “. . .in this ‘afternoon,’” not “half-moon setting light.” In other words the lights, the setting lights. So you can chop out the words “half-moon” and “night light.”

Then the last one is on page 32, the end of the second to last paragraph on the page. If you chop out that sentence it just doesn’t make sense. Chop out that sentence: “. . .and I actually suggested this to them because it’s obviously to ask otherwise.” I’ve got the thing backwards at that point. I would just start out the next sentence, “I suggested to them that we come back

next month” because that’s what I was saying: to make the decision in one meeting was unfair and they could come back, which we did.

Chairperson Speranza: I just had one, on page 18. I’m going to correct a statement, or the way the statement by Mr. Huang is recorded. It’s the second time he speaks on the page. We’re discussing the parking in front of 45 Main Street, the new parking spaces. It’s stated here it was actually a requirement: “. . .in all honesty, the expectation on the building is that we will have residents moving in on the upper floors. . .” it says, “because we have new tenants -- because we get new retail tenants.” It should read “before we get retail. . .”

On MOTION of Boardmember Dale, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of April 17, 2008 were approved as amended.

III. New Business

Chairperson Speranza: We’ve got two accessory apartment renewal applications on the agenda tonight. They’re public hearings so we will have public hearings for both of them first and then we will act on them.

1. Public Hearing. Accessory Apartment Renewal. Janet Harris, 51 Summit Drive (Sheet 18/Block 654/Lots 29 & 30. New homeowner for existing accessory apartment. Waiver needed for parking.

Chairperson Speranza: This is a renewal at 51 Summit Drive. Angie, do you want to speak about this?

Village Planner Witkowski: Janet Harris is the applicant. She’s a new homeowner for an existing accessory apartment. The property’s on the west side of Summit Drive in the R-10 zoning district. The applicant is the new owner, and requests a renewal of the accessory apartment approval.

The former owner first obtained accessory apartment approval in 1995, and had it renewed three times since then. The 322 square foot apartment occupies 14% of the 2,306 square foot residence, therefore the apartment meets the 25% of floor area limitation. There have been no changes to the existing apartment except ownership, and no complaints during the last three years. Actions required are renewals of the accessory apartment approval and the waiver for one parking space. The applicant is here.

Village Attorney Stecich: There’s a notice issue on this. I just have to get approval from the Board. What happened on the notice is, the applicant hand-delivered a bunch of the applications and mailed other ones, but she didn’t get proof from the post office that they were mailed. Linda called me, I guess on Tuesday, to ask what she should do because it then

wasn't going to be on the agenda. My suggestion was that the applicant try to hand-deliver to the remaining people, to the people she mailed to, and then provide an affidavit that she actually did mail them on May 1st.

I just reviewed what I got from her, the people that had been mailed the first time. She delivered to six of them, and we have signatures for them. As to the remaining, she provided an affidavit that said, in fact, she did mail them. It's up to the Board to decide whether that's adequate notice. In my mind it is.

Chairperson Speranza: Boardmembers?

Boardmember Cameron: It's fine.

Chairperson Speranza: So we'll hear the application. Great.

This is a public hearing. The applicant is here. I don't know if there's anything you want to speak to on the item or if anyone else is in the audience tonight wants to speak about the accessory apartment.

We'll act on that after we have the next hearing.

2. Public Hearing. Accessory Apartment Renewal. Anna B. Carlson; 10 Amherst Drive (Sheet 43C /Block 765 / Lot 17).

Village Planner Witkowski: The applicant is Anna B. Carlson. The property's located on the east side of Amherst Drive south of High Street, and it's zoned R-10. The applicant's requesting renewal of accessory apartment approval. The 636 square foot apartment occupies 0.86% of the 7,588 square foot residence. Thus the apartment meets the 25% of floor area limitation.

There have been no changes to the property, and no complaints during the last three years. The only action required is accessory apartment approval renewal, and there are no waivers to renew.

Chairperson Speranza: Thank you. Does anyone wish to speak about this application? Again, it's 10 Amherst Drive. Then the public hearing on these two accessory apartment renewals is closed. Boardmembers, any discussion about either of the applications?

51 Summit Drive

Chairperson Speranza: Okay, let's take 51 Summit first. I do want to thank the applicant for actually renewing as she moved in. We've had instances before when an accessory apartment was not renewed for several years after the ownership changed hands, so it's very good timing that you're doing this now.

On MOTION of Boardmember Hutson, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to approve the application for 51 Summit Drive, including the waiver for parking.

10 Amherst Drive

Chairperson Speranza: And 10 Amherst Drive. Any questions, comments, or a motion to act on this?

On MOTION of Boardmember Logan, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to approve the application for 10 Amherst Drive.

3. Public Hearing. View Preservation & Site Plan Approval. Buffet De La Gare, 155 Southside Avenue, (Sheet 9/Block 621/Lot46).

Chairperson Speranza: I see the architect is here. As you recall, site plan approval is an action by the Planning Board. View preservation is a recommendation to the Zoning Board of Appeals. I did see that it was noticed for their meeting next week.

Christina Griffin, project architect: I am representing Annie and Guinel Goulet, the owners of Buffet De La Gare. I'd like to hand out three of these sketches. I just think it might help you visualize the addition we're trying to do here.

We're here to ask the Board for a recommendation for the building because it's in a view preservation district. The project consists of a small, 76 square foot extension on the first floor only. This addition is simply to allow us to build a new handicapped-accessible toilet. They are planning to downscale the restaurant. They will be no longer leasing the room that has the two toilets in the building next door. They own this building, and in order to maintain the restaurant they have to create new toilets in their own building.

The only place we have found possible to do this is in the front. There's a very narrow accessway, and we will have another toilet down there so we can satisfy the Westchester County Health Department requirement for two toilets. There'll be a small toilet down here, but the only place we could actually put a handicapped toilet is in front, right at the corner of the bar. It's also the only place we could do that without eliminating more seats. We also have a small window bay in front.

The building currently has a second floor that overhangs the first floor by 2 feet. So this addition comes out 1-foot-8 from that overhang. If you look at this sketch it's just showing how this would fit in here now. Instead of this façade being 2 feet in a recessed area underneath a two-story building, it's now going to protrude out about 1-foot-8 inches. But the entire addition is 3-foot-8 from the old wall.

This is an enlargement of a tax map showing the location of Buffet De La Gare, 155 Southside Avenue. We have taken photographs from different views looking toward the building to show how the addition would affect any views looking down the street. You know, all the views are really at the building because it's on the east side and not in front of the river. If you look at these views, this one is looking down Southside. This addition is actually going to align with the façade of the building next door, which you'll see on my 3-D sketch and see on the site plan. When we come out, we're coming out to the property line but it's in the same location as a wall of the building south. So it's not protruding any further than that building.

As we go down the street -- this is looking right at the bell -- these are profiles of the proposed extension. You'll see it's a one-story piece, then a blowup showing that slight extension beyond the second floor. Rather than coming in, we're coming out 1-foot-8. Then looking down here, this addition comes out, but will be in alignment with the building next door.

This is our elevation. This addition is about 20 feet 9 inches long, and it starts just to the right of the entryway. We plan to have an awning, have all the details tie in nicely with the building as much as possible, and put back the flower boxes. Any questions?

Chairperson Speranza: This is in compliance with the zoning for the CC?

Ms. Griffin: Yes.

Chairperson Speranza: It's coming out to the property line because the CC doesn't require a front yard.

Ms. Griffin: There's no front yard required except for the provision of the impact on the view. And if we're able to get approval for that, then we can come to the property line.

Boardmember Dale: I was just wondering how much sidewalk would be left after the extension is added.

Ms. Griffin: You know, I don't have the exact measurement, but it's really the same sidewalk that's inside the neighbor's building. I think it's about 8 feet.

Chairperson Speranza: This is a public hearing, so if anyone has any comments or questions about the application we'd be happy to hear them.

Mike Kerpcher, adjacent property owner: I own the next three buildings, and Maud's Tavern which is two buildings, 149 and 151. The 2 feet is in a view preservation area, which will be sticking out in front of the building that houses presently half the seating in the Buffet

De La Gare, which is my building. I'm assuming they plan to block that and put this addition on. I'm just wondering if, in fact, this does take place, and they come out 2 feet, the three buildings that I own are entitled to also come out 2 feet.

Maud's Tavern, unfortunately -- or fortunately, for Maud -- on the north end she has 60 inches to the property line and on the south end she has 90 inches to the property line. Now, this would drastically reduce the sidewalk, but it complies with the zoning codes to build to the property line. I feel that, in fact, a neighborhood like this has been in existence for at least 100 years, and has never changed in my 70 years -- born in Hastings, raised in Hastings, fortunate enough to buy real estate on that block -- hasn't changed other than maybe a paint job, thermal windows, but is exactly the same as it was. The oldest building, starting at the entrance to the plaza, was built in 1863, and then the buildings going down the street were put up.

So this is a diamond in the rough -- the only block in Hastings that has not modernized or not changed a thing in the better part of 100 years. If you go down Main Street, there's progress. On the other side of the bridge, the stores that were there are not townhouses. I'm in the progress business, and I've got nothing against progress. But for 20 years they operated a business with a capacity of probably 45 seats. And now to go out in the front, to me it would open up a can of worms. The whole neighborhood would have to change. I would never personally go after this type of a change because I've tried to maintain those buildings exactly the way they were when I was a boy.

So if this does come to pass, then everybody that can come out on that sidewalk is entitled to come right out to their property lines. I really do believe it'd change the entire neighborhood. And Maud's Tavern would love it because she would gain 200 square feet -- again, just to the property line. The way the street comes down, it narrows at it goes down. It swings towards the Village as it goes down the hill so that means the property line is closer to the street at that point.

Again, in today's progress and the things that go on, there has to be a little bit of something left that's original in Hastings. I know the Historical Society and everybody's concerned about these things. This block can be ruined, not by one -- but if, in fact, it does come to pass -- and I would personally benefit financially by doing this to my properties. I would never come up with the original idea because I love the neighborhood too much. But if, in fact, it does happen I would also go after that. Unfortunately, once you change a neighborhood it no longer has that historical value. Plus I don't know if you remember, Bolarowski's was the way-back tavern in there, and it's the oldest bar in the Village of Hastings that's left from the 23 that were here when I was a boy.

But I would like you to consider the fact that once you do make a change there are other people in the neighborhood that are entitled to do the same thing. This business has been going on for 20 years. There are new people running the business, who are in the process of whatever. They do have a capacity of 45 seats. Again, half of it is in my building and half of it is in the other building. So I would appreciate you considering the value that that little spot in town that is the original construction has . . . of course, paint jobs and little dibs and dabs that were made before there were ARBs and zoning boards and view preservation. But whatever you decide, hopefully it remains the same at it has. And if it doesn't, I hate to say it, but I would jump on the bandwagon, which is sort of a sad way to look at it. But, again, I wouldn't open the can up first. Thank you.

Annie Goulet, owner- Buffet De La Gare: What you heard is Mr. Kerpcher compete for it. First of all, we are here since 1980 in the US. We have run the restaurant since 1980, and started to live in Hastings-on-Hudson in 1981. We bought a house, and we are two taxpayers in the town. Twenty-six years we have run this restaurant with hard work, and we have become a successful restaurant. I am sure some know that. We have a lot of articles and awards.

In 2005 we decided to sell the restaurant. The reason is that in 2001 my husband happened to have cancer. This was sudden: a brief colectomy, and then every two years there were five surgeries, until last year. It's still going on. Every week we are going to Sloane-Kettering for chemotherapy. Meanwhile, we sold to a couple who we felt was good for the restaurant. We trusted this French guy and his lady. We own the restaurant building. We have an apartment above. We rented this apartment to them, and lowered everything -- rent, and everything else -- from the beginning. There was a down payment to make sure this was going to happen.

Meanwhile, with my help -- because I'm still healthy and taking care of my husband -- we did this with pleasure to keep the Buffet De La Gare in its success in Hastings-on-Hudson. We brought many people for many years. Many of you know this. People came to this restaurant. Were we lucky? No. It is hard work, and when you're successful it's hard work. I am not begging anything, but the reason we have to get smaller -- getting to my little bistro in 1980 to 1988, we enlarged with Mr. Kerpcher and had absolutely no choice to take him, and he was very happy to extend the dining room. We paid a bundle of money for this dining room, but we did it because we wanted to stay in Hastings. We had a 50-year lease with him. It was wonderful, and we have never had a problem with payment, nothing. I never had a problem with Mr. Kerpcher.

When we finally decided to sell this restaurant, Mr. Kerpcher said, "I don't know these people." We had to break our lease. My lawyer said we had a big problem with Mr. Kerpcher, so we broke the lease. There was 32 years left on the lease. I was keeping this

lease and being able to pay every month because I am a responsible person. I have common sense, and don't want to hurt people. But then, two years of success of the Buffet De La Gare, with good reviews, with the new people -- with our help because we were family. Not only that, my husband is the godfather of their two kids. So what do you say? Are they bad guys? No. When somebody has a financial problem we are there to help. And not only physically, because I do know a lot of people in this town, but there to help and not to destroy. And certainly not to destroy our whole life. This was the deal.

But these people are, in fact, in default of payment. So what do I do? This is our income. We worked very hard. But even if we look successful and we have a house in Hastings, we are not rich. And to stay in Hastings, you know, you have to be wealthy. This is our income. We were the banker. That's a mistake, and we'll never do that again. We were the banker, and it was too easy now to say, "We give you back your restaurant." My husband is sick. This is the concern. Right now we have nothing to do with Mr. Kerpcher anymore. We have no security at all with this person. So he's also putting his nose in my business. That's why he left. He cannot hear that.

We need this. Complying with New York State code, we looked hard to find how to keep this little bistro alive in Hastings.

Chairperson Speranza: So that space is no longer rented?

Ms. Goulet: We will not rent it, no. We cannot live with the stress anymore, okay? Thank you.

Chairperson Speranza: Anyone else wish to speak?

Jackie Lhoumeau, 157 Southside Avenue: I live on the third floor of the building next to Buffet De La Gare, the third floor of the building on which the first floor is the restaurant. So a second-floor tenant, third-floor tenant.

I guess what I'm concerned a little about is, I'd love for you folks to take a look at that area. It's right across the street from us here. As you turn the corner all the buildings are in a row, they're all flush, and it creates, I think, a very nice piece of Hastings architecturally. It's just very pretty. The one thing is, the building that finally breaks that, that comes out further, comes out after Buffet and after a gap. Buffet has a driveway and there's a gap between Buffet and the next building, that then comes out a little further. What I see, just on a view point of view, is that it's going to change that whole lineup that's all flush right now and that I think looks very beautiful. I'm also concerned about when the first floor becomes an apartment again, or whatever function it might then have, its view out, south, is going to be blocked however far this sticks out. So right now it's blocking a view of a place where no one's really there to say it's going to block their view. But that should be considered as well.

Also in the street, in terms of the distance between where the restaurant ends and the curb, there are trees that come in. From the restaurant, people come out and smoke. I'm a little concerned that when the people come out and smoke, if there isn't as much of a space in front, they're going to come out more and smoke outside. I could tell by my windows. There are cigars, pipes, cigarettes, etc. It's real, and six nights a week, not just weekends.

So I'm a little concerned. Thank you very much.

Bruce Paquette, 12 Maple Avenue: I just wanted to say a few words on behalf of the Goulets. I believe that their restaurant is an institution in Hastings. They've worked very hard to make this restaurant happen. Many people come from long distances to dine at this restaurant. It's a very, very fine establishment. It would be a shame if the town allowed it to disappear because of such a small change that he wants to make. I know this meeting became very personal a few minutes ago and it sort of went away from what I think we're trying to address here, which is more of an architectural detail and view preservation.

In my estimation, the very limited amount this building would stick out would not inhibit anyone's view at all. I think it would only enhance the front of this building, and I think in doing so it would allow Mr. And Mrs. Goulet to continue to maintain their business. If this is not done there is the chance that they won't be able to continue the restaurant because now they don't have the facilities for the toilet space.

So if you would take these things into consideration, I think this restaurant should stay in town and I think the changes should be allowed to be made. Thank you.

Richard Cecollini: I don't think it's impeding the view. And the other issue is, the restaurant is actually being downsized. So I think it makes it easier, less parking issues and less people smoking in the street Thank you.

Guinel Goulet, owner - Buffet De La Gare: First I would like to answer this lady. She's living on the third floor. I don't think you get too much cigarette smoke from the third floor. That's one thing.

The reason we are here today is because of Mr. Cashew, if he had given me a decent lease like I used to have -- which we broke to put these people in -- we wouldn't be asking to be able to operate a restaurant in a smaller size. It's not for fun that we're going to invest money to do this alteration. I wish I could have continued with what we had before. Unfortunately we can't because he's angered at my wife, which he is never going to do again. It is his fault. I have 32 years more on the lease, and I wanted to give it to these young people. I have to fight with him to be able to have a decent lease for them.

Chairperson Speranza: Excuse me. Let's keep it away from leases and Mr. Kerpcher.

Mr. Goulet: Another thing. He's talking about painting and color, and about the alignment of the building. From the room they're talking about, there is no view down the street. First, I know because there is a window, a sandblasted window. So they can't see through. Secondly, there is now an awning. The awning is going to stay the same. The front door it's going to be exactly the same. So when you are inside the building the view wouldn't be blocked from this part. There's no way.

Maud Franze, owner - Maud's Tavern: I figure I should say something. I just want to say that it's amazing -- and I had said this to the Goulets when they first told me about it -- this is the first time this drawing has been shown to the public. Is that true?

Chairperson Speranza: Yes.

Ms. Franze: I just wanted to make sure because I know when people hear there's going to be an extension on a restaurant or a building in Hastings, especially in an historical area, it sounds a little frightening. "What's going to happen? There's not going to be a sidewalk." I'm amazed at Christina's and all architects' ability to take a minor amount of space and practically change the whole dynamic of a business or a building or a home. That's what architects do, and that's what I appreciate. Because when I hear it for the first time, and I hear the explanation, it's really very minimal, it seems to me if there's still approximately 8 feet of sidewalk available -- is that true. . .?

Ms. Griffin: I don't know the exact dimension.

Ms. Franze: -- but about 7, 8 feet, that's amazing.

Ms. Griffin: [off-mic]

Ms. Franze: And really it's going to be flush with basically everything?

Ms. Griffin: [off-mic]

Ms. Franze: So it's amazing, and I knew this would happen. When an architect is called in, the small amount of space can be used to actually sustain a business, a livelihood, and the existence of Buffet De La Gare -- which I so appreciate them being there and I think all of Hastings does -- I have to say as a business owner I'm very concerned about the empty spaces that are now being built and still empty. I think in the new buildings, the buildings that are existing with empty spaces, it's important for me to speak up, and all business owners. I'm active in the Chamber of Commerce, or try to be, because I feel like our town is closing up a little bit, and I feel like it's very hard to entice new people to want to take the risk in our hard economic times to open up a new business in our Village when it's so risky already -- when it's kind of desolate-looking a lot of the time. Our bookstore is gone; some of the basic stuff that makes our Village so charming and so potentially wonderful is disappearing.

It worries me so much that somebody's whole livelihood and passion can perhaps be in jeopardy because of an architectural change and, I'm delighted to say, minimal. So I just want to say that. Thank you.

Don Cocola, Maple Avenue: I wanted to just remind you that we're here for view preservation and not a lot of other things, although everything that everyone says is important.

Chairperson Speranza: Site plan also.

Mr. Cocola: And site plan? I'm sorry. They're coming out a couple of feet, but they're allowed to do it. It's just a question of approving the site plan, right? And then having the view preservation.

You know, two of the nicest buildings on that street are Buffet De La Gare and Maud's. In fact, they have very nice awnings which are not historically correct, but I don't think any one of us would want to see them come down either. So I think when they redo the property it's going to look the same it looks now, if not better. If you look at some of the other buildings -- even though Mr. Kerpcher owns the Maud's building -- you know, his stairs do come out quite a lot and there is a bottleneck right there with the meter. And it is kind of hard to get around it at times. So his building is really where the bottleneck would occur. If you were to stand up at the sidewalk and look down you're going to see a nice layout of buildings, little jobs. But I don't think the job that they're going to take away is going to interfere with the beauty of the street when any one of us walks down.

The concept of view preservation is looking this way, it's not looking that way. It's all about the river, and that was the original intent of the law. So even though it's an important, shall we say, view corridor it's not one that's going to be ruined. So I personally think that it's a great restaurant and you should do everything you can to make sure it stays. They wouldn't be in front of you if they weren't having problems with my friend, Mr. Kerpcher -- but still someone that I don't think should be giving them a hard time either.

Chairperson Speranza: Thank you. Anyone else wish to speak?

Female Voice XXX: I just had a question. I didn't know if I could see it from here, how it's going to work. There's a doorway right at the edge. Is the doorway going to come out? Could I look? The door space where it is, and then it comes out [off-mic] that. Okay, thank you.

Ms. Goulet: To this lady, the restaurant I have been owning is 26 years. This is two years new owner. There is still smoking outside. There is still smoking since 26 years in US, in the town of Hastings, in my restaurant.

Chairperson Speranza: Christina, I just wanted to make very clear, or make sure that it's clear in my mind anyway, it's either the health department or the building code that requires that there be two lavatories in this size of a restaurant, even with the reduced number of seats? And one of them has to be handicapped accessible?

Ms. Griffin: I'd like to respond to some of these questions, and also pull out my survey. I might be able to give you a better idea of the sidewalk. I think it's shown on the survey.

Okay, you were asking about the bathroom. When I first met Annie and Guinel to discuss the problem they're having of downscaling and losing the toilets in the other room, I recommended we meet with a New York State Code official to see if there's any way we can get the bathroom to fit, or even get a waiver or a variance to the New York State Code. So we met with Erica Crager and Deven Sharma. We walked through the restaurant brainstorming -- and Erica's really wonderful, she's really very helpful -- trying to come up with ideas. She said that unfortunately there are no variances to the state code for handicapped-accessible toilets, and that we needed to provide just one.

In fact, the Westchester health department wanted two toilets, one male and one female. And at some point it looked like we needed to do as much as three because you can't give preferential treatment. But the health department has allowed us to have two unisex toilets so we don't have one male or female handicapped toilet. In this restaurant there is already an employee toilet here, so we knew that would provide one of the two toilets needed for the Westchester County Health Department. But really, the only place we could find for a handicapped toilet is in front because otherwise we need to take away seats. It's a very small little bistro right now.

But I wanted to answer a few other questions. If I could pull out the survey I might be able to. I just didn't want it to be vague. Actually the survey doesn't show the sidewalk. Sometimes they do. Well, that's the best guess we can give you tonight. But I just wanted to point out that this extension has also been designed to have as much glass as possible. If you look at this elevation, this is actually the handicapped toilet and this may have a solid wall and some kind of bistro-type of signage here. But this is a folding glass wall, and even on the little extension here on the side it'll be glass, to be as light as possible. The idea is to have that connection to the sidewalk even though they don't have outdoor space. People are sitting there, and on warm days you have that connection.

So it's a very delicate extension. This roof will look like an awning and be a very traditional storefront façade. We have to try to restore these types of façades in the downtown. In fact, I think by coming out it expresses the storefront even more. And this extension is only one story so it can't be compared. Even though it lines up with the building next door, the building next to this is three stories. This bump-out, that's going to come out 1 foot 8 inches from the second-floor façade, is only one story high.

I think we've really made an effort to do this in a way that minimizes impact on view. We are even doing a handicapped toilet of the minimum size possible to meet the code.

Village Attorney Stecich: I just wanted to make two procedural points. One is just so you understand, and everybody understands, the Board's role in this. In site plan approval they're not just looking at whether it affects the view. I'm not saying this one way or the

other, but what the Board has to look at . . . and there's a number of considerations, but there's really only one that's, I think, relevant in this case. That is: "site layout and overall appearance of all buildings in the proposed development are such that they will have a harmonious relationship with existing or permitted development of contiguous land and of adjacent neighborhoods, and will have no material, adverse effect upon the desirability of such neighborhoods for the uses contemplated." Just so you understand the context of it.

And then the other thing is, when amendments were made to the CC district several years ago there was a provision added that's a little bit different in the CC district. That for any façade changes in the CC district it has to go to the Architectural Review Board, which serves in an advisory capacity to the Planning Board. Now, I don't know if they've been to the ARB yet. I would think if they haven't they probably should go to the ARB and then come back to the Planning Board, based on the language in the code.

Boardmember Hutson: Marianne, in terms of the code, in regard to this question of a public passageway in the front, is there any restriction in the CC district as to how narrow it can be or can't be?

Chairperson Speranza: You mean the sidewalk?

Boardmember Hutson: Yes.

Village Attorney Stecich: No. Because I'm assuming the sidewalk is on Village property. Since it doesn't show up on the survey, it's on Village property and they're not going out beyond their property line.

Boardmember Hutson: I'm only judging from the conversation. It sounded like there was some question as to how much of the sidewalk, in fact, was covered by property line there. Do you know, Christina?

Ms. Griffin: How much . . . excuse me?

Boardmember Hutson: In other words, exactly where the property line is. Because on the survey. . .

Chairperson Speranza: I think on the zoning code it shows how much of a, quote, "yard there is". But I think the difference is that the front yard setback is serving as a sidewalk.

Village Attorney Stecich: The other is, if it is coming out on Village property they would need a license from the Village because it's Village property -- permission from the Village.

Boardmember Hutson: My sense is that the sidewalk is coming onto the private property and folks are going the other way. But what I'm asking is, regardless of who's property it is, whether there's any kind of requirement that there be a certain width of passage allowed by the public in front of any commercial establishment in the CC district.

Village Attorney Stecich: No, there aren't regulations for the CC district pertaining to sidewalks. But while you talk, there is a streets and sidewalks section of the code so let me look at that and see if it deals with that.

Boardmember Hutson: But from the other gentleman it sounded like, not with this property but with another property, if it was to improve that much of the sidewalk it could be taken up with additional frontage on other buildings. Just to clarify it.

Chairperson Speranza: But they can't go beyond their property line.

Boardmember Hutson: But the question is, how far out does the property line go onto the sidewalk?

Boardmember Cameron: It appears that we can require a front yard here if we think it impedes views.

Boardmember Hutson: That's from the view preservation side.

Boardmember Cameron: If we're going to lose our sight line, which I'm not saying here.

Village Attorney Stecich: But whatever the code says, whether the code says anything about it, it certainly would be within your purview in site plan review.

Boardmember Hutson: That's what I'm saying.

Village Attorney Stecich: Without it saying specifically a sidewalk shall be so wide, it's still within your purview as the Planning Board to consider would this addition, would this new site plan, result in insufficient passageway of something.

Boardmember Hutson: I just wondered if there was any guidance in that regard because one Planning Board could say you only need 2 feet and another one might say you need 7 feet.

Boardmember Logan: You can see pretty well from the photographs the width of the sidewalk.

Boardmember Hutson: I'm not so much concerned about this proposal. I'm addressing the issue raised as to what the future might bring.

Village Planner Witkowski: The ABA requires a 4-foot minimum.

Boardmember Hutson: Regardless of whose property it is.

Village Planner Witkowski: Yes, a 4-foot minimum sidewalk for ABA.

Ms. Griffin: I also would like to point out, if you look at the photographs we submitted, there's photograph F. I don't know if you can see that the building to the right, south of Buffet, does come out about 4 feet. But then the next two buildings go back. Then Maud's Tavern has a porch, also with one story. So it's possible this sidewalk is maybe the same width down there.

Boardmember Hutson: I'm just wanting to clarify that there's probably some restriction on the danger that had been thrown out earlier by the gentleman who was here that somehow these buildings could really come out a great distance. There must be a limit as to how far the other buildings could come out if this were to be approved.

Boardmember Dale: What he was saying, which this shows actually, is that they are further from their property line by a small amount, but further from their property line than this was.

Boardmember Hutson: Right. I understand. And the sidewalk in that situation could get bigger.

Boardmember Dale: But the sidewalk would stay the same. I believe the sidewalk is parallel to the property line.

Chairperson Speranza: The Village-owned sidewalk is going to be the same.

Boardmember Dale: Yes, because it's parallel to the property line.

Chairperson Speranza: Not the sidewalk that's encroaching on the parking problems.

Village Attorney Stecich: Actually, one of the other standards for site plan approval -- I was wrong when I said that only one applied -- is that the safety of pedestrian traffic will be ensured. So anybody who comes up who's going to do that, if the Board believes that it is going to in any way impede pedestrian traffic, you could take that into consideration in site plan approval.

Chairperson Speranza: The only thing I would be concerned about, I'm not clear about the awning. Recognizing that the awning that's there now, and the space taken with the planters is, in fact, the area that's going to be the build-out, which is fine, you mentioned that there would be an awning again. That's when I would think that if there was the awning space, and then planters again, outside that would, in fact, be on Village property if you're recreating this same façade, or the same amenities, outside.

Ms. Griffin: We have many examples in the downtown where the awnings are over the Village-owned sidewalks.

Chairperson Speranza: And the planters would then be on the sidewalk.

Boardmember Hutson: She's more concerned about the planter part.

Chairperson Speranza: How much space do you take away from the sidewalk? That's the only thing I would be concerned about. I'm down on that street a lot, and there's never been a rush of people.

Boardmember Hutson: You've never been pushed off into the street.

Chairperson Speranza: I've never been pushed off into the street.

Ms. Griffin: I'd like to compare it to what's in front of Maud's because it might be similar, I'm not sure. The buildings go out, and in, and back out again. And I think she has planters. We just don't have the information right now. I don't think the flower boxes have to be there, but they add a lot of charm. I know even in front of my office I think about it a lot, but it's something that should be common sense. I'm sure they would be concerned about having enough space for their own customers in front of the restaurant.

Chairperson Speranza: Bruce, anything? Are there any other questions?

Boardmember Dale: No. Oh, we're not voting on this? We have to wait? I think it's good for the Village.

Boardmember Logan: I think this is good for the Village and that this is a very moderate impact. I'd hate to hold it up for ARB review. I'm wondering if there's another way we could get their input, but not hold the whole process hostage to that.

Village Attorney Stecich: You can make it subject to. . .

Chairperson Speranza: We could approve it subject to approval of the Architectural Review Board.

Boardmember Hutson: I think it's absolutely an essential thing -- if they have to do it, they have to do it -- because certainly you wouldn't want to say no, you can't have a handicapped bathroom and then the restaurant not be able to operate, as much as the incursion now is so limited. I think it is important, since this has to go for view preservation finally to the Zoning Board, that you really get some clarification on where property line and sidewalk and distances and so on are. They're going to want to really know that. Again, because I have shared the same argument, it will probably be brought up there as to what it could open up in terms of precedent; and have all of that clarified.

But no, I don't have any problem with this. And I think probably the only thing about it is, if the Architectural Review Board really came up with some significant changes it probably has to come back at the next meeting for approval anyway. So timing-wise I'm not sure how much difference it's going to make whether we have conditions or hear it at the next meeting because they probably won't be able to do anything in the interim anyway. But I guess if the Architectural Review Board met next week . . . when is their next meeting, do we know?

Chairperson Speranza: It's Monday.

Boardmember Hutson: The first Monday in June. Then I guess if there were not substantive changes it would help to process a little bit in terms of timing.

Chairperson Speranza: Eva?

Boardmember Alligood: I don't want to see the restaurant leave. I think it is one of the more beautiful buildings on the block and I think the design is respectful of the character of the building. I was a little bit concerned about the sidewalk narrowing too much. I think it's consistent with the other buildings. I mean, Maud's has a bit of a constriction there, but I've never heard anybody complain about that.

The only suggestion I have, and maybe this would come from the Architectural Review Board, too, is that there's a movable planter that you have now that maybe you want to eliminate just to make sure there's a little more wiggle room on the sidewalk. I like the flowerboxes so if we can keep that in the design it's a good idea, if they don't obstruct the sidewalks.

Ms. Goulet: The planter, when we put on the side the little trees, was, in fact, to make sure nobody goes near Mr. Capshaw's in the dining room. The basement, that's why I put a planter. To make it pretty, of course, but to make sure people will not come this way and trip over it.

Boardmember Alligood: It's beautiful, and I don't have any objections to it. It's just something to think about.

Ms. Goulet: For safety.

Boardmember Cameron: I just have one question to ask. These folding windows, where do they fold? They would have to fold in, otherwise they stick out into the street.

Ms. Griffin: We're only in the design phase. They should probably fold in. [off-mic]

Boardmember Cameron: They're going to fold in. If they don't fold in it doesn't work very well.

Chairperson Speranza: I was going to say, generally how big would they be.

Boardmember Cameron: We've got to make it a condition.

Boardmember Dale: And they would squash the flowers in the flower pot anyway.

Ms. Griffin: [off-mic]

Boardmember Cameron: I think we should make it a condition that they don't fold out. Because if they fold out they really will stick quite far out into the street. If you start adding them up they're 2 feet each, it looks like. I don't think sticking 2 feet out would be a good idea. Other than that I'm totally in favor of this. I do get a little concerned about the window boxes, how far they stick out. But I think it's going to be a beautiful building, and I'd love to see the restaurant stay here and I think we can deal with other concerns about other buildings, some of which probably are in the view preservation and would block the view if they tried to expand. I'm in favor of this.

Chairperson Speranza: Let me just finish. I have nothing else to add. Everything I've been thinking has been said.

Ms. Lhoumeau: I had a question about the air conditioning units. Right now the air conditioning units are on the back of my building. I was wondering where the air conditioning units are now going to be placed. Because they make a lot of noise.

Mr. Goulet: Actually, they are on Mr. Capshaw's property, and he's going to keep them, too.

Chairperson Speranza: Those are not within the purview of their building.

John Picone: They're going to be downsized to smaller units, these new compact silent units outside, with an inside area. Whereas now the whole condenser and everything is outside in the rear of the building at Capshaw's building with a big exhaust fan, I understand the noise of the new ones . . . one-third size, compact, and much, much quieter, and they'll be on the property.

Ms. Lhoumeau: Where on the property?

Mr. Goulet: On the top.

Ms. Lhoumeau: On the top of the building?

Mr. Goulet: No.

Mr. Picone: In the rear of the building.

Chairperson Speranza: So we would have two motions before us. One would be for site plan approval -- from what I'm hearing, conditioned on the windows not opening out towards the sidewalk and also conditioned upon approval by the Architectural Review Board.

On MOTION of Boardmember Logan, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board resolved to approve the Site Plan with the following conditions: That the windows not open out to obstruct the sidewalk; approval from the Architectural Review Board is granted; and View Preservation approval is granted by the Zoning Board of Appeals.

On MOTION of Boardmember Hutson, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved a recommendation be given to the Zoning Board of Appeals for approval of the application for View Preservation.

Village Attorney Stecich: Just one other thing the applicant should be aware of, and I see the Building Inspector here: when I was going through looking at width of sidewalks, there is a provision in the code that if the awning is going over the sidewalk you need to get Village permission. It doesn't seem like a Board of Trustees issue or anything, but you just have to go to the Building Department and there's some fee.

Chairperson Speranza: There's always a fee.

IV. New Business

- 1. Public hearing (Continued from February 21, 2008) Site Plan Approval 555-565 Broadway; Coolidge Hastings LLC. Additional parking spaces for apartment complex (Sheet 1 / Parcels 100A and 100C).**

Chairperson Speranza: I'm going to skip over new business, the advisory opinion to the Board of Trustees on changes to the proposed zoning code. We're going to go for site plan approval for changes to the parking lot at 555-565 Broadway.

Boardmember Logan: I think I have to recuse myself because I'm in the district.

Chairperson Speranza: There were plans submitted at our meeting back in April. There were a number of items that came up during that discussion, including the need for variances. I'm wondering, Mr. Whitelaw, if you could go through for us what has changed now -- the plan that we have before us now -- as compared to what we saw last month with respect to the setbacks. There were setback issues, lighting issues.

Andrew Whitelaw, architect for Coolidge Hastings LLC: We moved everything back to provide for a 15-foot setback in the front yard for that landscape buffer. And on the side we have a 10-foot setback, again for that landscape buffer requirement. The closest part is 12 feet on the side to the proposed parking area. We are proposing 15 additional spaces, so it's become smaller yet. The last submittal, we were looking for 9-foot spaces so as not to get a variance. But since we had to downsize the area for the setbacks, we are going to attempt to get a variance for 8-foot-6 from the 9 feet. We also showed the tree locations. And we have a parking survey of overall existing spaces on the property -- one of the requests.

Chairperson Speranza: So now we're back to just a variance for the stalls.

Mr. Whitelaw: The size of the stall -- from 9 feet to 8-foot-6.

Village Attorney Stecich: No, you still need a setback for the side yards. Remember that there can't be any parking in a required yard. And the required yard is 12 feet, or half the height of the wall closest to the front yard which, I think, brings it to 37 feet -- which is not doable, obviously, but they will need a variance from the Zoning Board for that.

Chairperson Speranza: Deven, we got some correspondence from you today? Do you want to come up? I don't know that everybody saw it.

Village Attorney Stecich: No, it didn't come to all of the Board.

Boardmember Alligood: I didn't get it.

Chairperson Speranza: Deven had reviewed this plan and submitted comments on it, knowing that he was going to be here tonight. Thank you. He's here to give out his report on this.

Building Inspector Sharma: I sent my comments to Angie and to you. Essentially the plans seem fine. Yes, there are some issues with regard to some procedural matters -- I did make a copy of that email to you -- of the size of the parking spaces they're recommending. They had to come in from the property line, so the distance becomes smaller. That's 8-foot-6, and it's required to be 9 feet so they would need to go get a variance for that.

The other thing Marianne and I discussed was parking and paving in the required yards. I think at the time we discussed it we thought it may be too impractical to enforce that provision. If they must, I guess they'll have to go to the Zoning Board to get a variance to do any paving and parking in the so-called requested yards.

Third, theoretically, the way the code is written -- you change windows, you change siding on the house, you're doing some alterations -- it would require coming before this board and the Zoning Board for view preservation issues. If we're a stickler about it we would need to get view preservation on this paving also because paving is a structure by definition. Any time you alter or change or enlarge any structure or building in a view preservation area you need to get view preservation. I'm sure they're going to have to bring pictures of how this doesn't affect the view.

In my capacity I try to use judgment at times, and maybe I shouldn't perhaps. I do discuss these things with Marianne and Angie, and I mentioned that I thought I discussed the view preservation. Marianne remembered that we did not.

Village Attorney Stecich: View preservation maybe.

Boardmember Hutson: Really? Does common sense come into play anywhere in regard to the parking? I can see, if there are going to be a lot of light stanchions or something coming up, that would involve you. But really, you think in regard to. .

Village Attorney Stecich: Oh, the view preservation I didn't really see much of an issue. If there were nothing else it wouldn't even be an issue. But you know what? I'm almost

thinking that because they have to go before the boards anyway they may as well raise that issue, too.

Chairperson Speranza: I'm just wondering, if we were so inclined, our recommendation for view preservation is a recommendation to the Zoning Board.

Village Attorney Stecich: I would think that you could. In fact, even on the variances I think it might be helpful for recommendations to the Zoning Board on the variances. Not that you do them on all the variances, but certainly procedurally the Planning Board can give recommendations on all variances. Certainly, I think on something like this -- where you're looking at the parking in site plan review -- your recommendations as to the variances would probably be helpful to the Zoning Board.

Could I just ask Deven one other thing? Are these parking spaces curbed?

Building Inspector Sharma: The parking area would be curbed.

Village Attorney Stecich: And did you calculate that 10% of it has trees and is landscaped?

Building Inspector Sharma: Yes, some of the things. Again, before I issue a building permit I will, of course, read word by word what needs to be done.

Village Attorney Stecich: That might be a little bit too late, because the code requires the 10%. So the thing is, I was just making sure that all of those issues were covered. If he gets all his permits, and then goes to the Building Department and you did his calculation and there's only 5% coverage, then he's to go back to the boards again.

Building Inspector Sharma: What coverage? Ten percent of what?

Village Attorney Stecich: At least 10% of the total parking area shall be landscaped with trees, shrubs, and other plant materials.

Mr. Whitelaw: The whole corner's going to remain grass and shrubs.

Building Inspector Sharma: Maybe being an architect there's a problem with it. You see without even seeing it. That seemed like a moot issue to me, but if it needs to be checked I will recheck it. If you want to make it conditional, whatever you may do, I'll make sure I check it.

Village Attorney Stecich: That's not the point of it being conditional or anything else. The point is, if less than 10% of it is landscaped that should be included in the list of variances that he has to get before . . . so he only has to go before the Zoning Board once. Both for his sake and the Zoning Board's sake it should all just be taken care of at once.

Building Inspector Sharma: What I would do is, again, reconfirm, recheck it. And if they need a variance they will go for it. We may have to re-notice it, depending on the nature of the variances. When they submitted their last plan they didn't need any variance. Now that they do, we're going to have to put out another notice anyway, publish another notice, and go with a magnifying glass and make sure we go for all the variances that are required.

Boardmember Hutson: Deven, I think part of this goes back to an issue that's come up before. We like to have the whole story when we look at it. Sometimes two or three parts

add up -- one thing can affect the other -- so part of it is being able to make a reasonable judgment based on the whole picture as opposed to some parts left out.

The other thing is, as Marianne says, sometimes it helps for us to make a recommendation regarding certain variances. I don't know if that's one of them, but that's another reason why if it's here in the beginning it just makes it a lot . . . I mean, this application has been around the block about four times already.

Building Inspector Sharma: That's truly unfortunate that it's been around the block this many times.

Boardmember Hutson: I mean that's the reason why.

Building Inspector Sharma: And if it is my fault, then I guess I should be punished.

Boardmember Hutson: No, you don't have to be punished. We just want the story.

Building Inspector Sharma: The thing is, we're here to help the applicants, not to embarrass them in any way.

Boardmember Hutson: Exactly.

Building Inspector Sharma: Not to punish them in any way.

Boardmember Hutson: Exactly.

Building Inspector Sharma: Not to make them jump through any kind of hoops unless we actually have to. If there's something I need to do I will clearly do it. You know, I'm on a planning board myself in Croton. It sometimes becomes an issue for me that the fairness to the applicants must always be there. It looks like I may have made some mistakes, and I think the applicants have already suffered for it. I don't know, what else can I do at this point? I came in here to say that, and I think I said that in my email to you as well. I'll definitely make sure.

Sometimes what happens, not all i's being dotted and t's being crossed may not be all that critical. Maybe in this particular case you think it is. I didn't think it was.

Boardmember Hutson: You may be right.

Chairperson Speranza: Let me just say, part of the concern -- we've talked about this internally and we don't need to go into it anymore -- is the timing of the applications. That's something that we have to work on more because we want to be supportive. We want to make sure that what comes before the Board is something that we can give clear direction to the applicant: "Very clear, this is what you need to do," or "No, we're not going to entertain this." And it's not just the Village staff, and it's not the Planning Board or Zoning Board. Often times it's also the applicant who says, "Oh, wait a minute. The meeting's on Thursday, so I'll get you the stuff on Tuesday." No.

So we will work out the calendar. Not to embarrass anybody, not to punish anybody. . .we move forward now. So let's talk about the application. Eva, did you have something?

Boardmember Alligood: I just wanted to thank the applicant. All the information we were looking for last time is here. I actually think it's very clear-cut that, to David's point, we have certain things we want to see in the site plan so we don't waste anybody's time; so all the information is here, and we can make a judgment. So now I see the trees, and I see they're going to remain. That question is answered. I just wanted to make that point.

Chairperson Speranza: Jamie, anything?

Boardmember Cameron: I'm still a little concerned about the width of the parking spots. I see that if we made them the right width, the 9 feet, he'd lose two of his parking spots that he's picking up; 15, and he would only pick up 13. That's just my concern.

Boardmember Dale: I agree with that strongly. I think the tendency, in spite of the current oil crisis, has been for larger cars -- SUVs and vans -- and 8-foot-6 is just too tight.

Mr. Whitelaw: Can I remind the Board that all the existing spaces on the exterior that I spot-measured were 8 feet in width? So we're going to be larger than the existing spots.

Boardmember Dale: Most of the parking spaces now are not fishtailed, but rather parallel parking. They lap over in the driveway if they have to.

Mr. Whitelaw: It's a mix. Some are diagonal, some are straight in.

Boardmember Dale: I've been to this building a number of times. My daughter has a friend who lives in the building and I have never had a problem parking there, even though my parking is only temporary. And there's never been a problem with circulation. I think this increases the circulation in that spot significantly, and narrowing the spaces from what is required strikes me as a mistake because it's squeezing more cars in and creating a hazard for the cars that are there.

Boardmember Hutson: I thought this was addressed the last time, or it was even narrower before and it got wider.

Boardmember Cameron: It was 8, then it was 9, and now it's 8-1/2.

Boardmember Hutson: See, I thought it was resolved the last time.

Mr. Whitelaw: You get to the point where it doesn't become economically feasible to proceed with a project. So they're just looking to correct a situation. I think we had listed last time that they have 121 spaces and the code requires 198. They're vastly short of what's required so they're trying to bring the building more into compliance with the code. I don't think it would increase the circulation in there. It's utilizing the same circulation route that's there now, the same curb cut. Like I said, they're just trying to come more into compliance.

Boardmember Hutson: And why did you go back from 9 to 8 1/2? Was it because with the other setback requirements and so on . . .

Mr. Whitelaw: Exactly. With the conflict in the setbacks, with the discrepancy in the code, we had to push it back. So we lost yet more spots. The Zoning Board, my impression was that they would entertain the 8-foot-6 stall. They were going to get back to us, but that was my feeling. So I don't think the Zoning Board had a big issue with the 8-foot-6 stall.

Chairperson Speranza: And I'm glad to see the buffer around the parking lot will be there. I'm not so concerned about the 8-foot-9 stall width only because these spaces, people are

going to pulling into them and they're going to be staying there. They're folks that have come home for the night. So it's not a like a shopping center, where you might want a little more width so people can maneuver in and out quite a bit. It's a public hearing.

Bill Logan, 532 Broadway: I notice on this site plan there's no lighting called out. There is?

Chairperson Speranza: New light poles.

Mr. Logan: Then there's a note about details to be submitted under separate cover. I didn't see any actual light details. So I recommend no approval of site plan be given with light fixtures for which there are no details.

The second piece is also regarding lighting. The applicant has got approximately five very powerful wall-mounted lights that aim north, and one that aims due east onto an intersection. I believe there's an outstanding violation that has to be corrected, and I would recommend that approval of the site plan be contingent upon correction of that violation. Thank you.

Building Inspector Sharma: Recently Bill and I exchanged some emails, correspondence, on these lighting issues. People seem quite willing to cooperate and do something if they get told that something needs to be done. We have taken care of some of the situations. I wasn't aware, but earlier this evening he mentioned the lights at this property. I'll definitely work and make sure that gets taken care of, irrespective of whatever happens on the site plan.

Chairperson Speranza: And also the detail for any of the new lighting poles. There are new light poles by others.

Boardmember Hutson: I just see it in one place. I didn't understand that note exactly.

Chairperson Speranza: Somebody else is going to be responsible for installing them.

Boardmember Dale: It's not part of his contract.

Mr. Whitelaw: It's not part of my services, but we will work out with Deven whatever details he needs for the light poles. I don't know, does the Planning Board become involved with the type of light posts that are selected?

Boardmember Hutson: It's not so much the posts. It's the refraction and the direction.

Chairperson Speranza: The actual lights.

Mr. Whitelaw: Assuming we put in the proper reflectors and there's no glare.

Boardmember Hutson: That's something we would want to see.

Mr. Whitelaw: Of course.

Boardmember Cameron: I think it's bothersome that only one light appears.

Boardmember Hutson: No lights actually appear.

Chairperson Speranza: The location of the new light pole is shown.

Boardmember Hutson: It's unclear whether it's one, or multiple.

Mr. Whitelaw: Because the light fixture hasn't been selected. They would match. I don't know if you've seen them, the poles along there. When you come in, there are about six or seven. We would match those, which I think would be nice, or come in with a commercial type light bulb which is obviously going to be much higher and not as nice.

Boardmember Hutson: There are going to be multiple new poles. Is that true?

Mr. Whitelaw: There will be poles so it's safe for the occupants to get into the building.

Boardmember Dale: How much lighting is being provided for this space? Just the one pole, or are there additional poles that are not shown?

Mr. Whitelaw: We didn't do the foot candle study, the illumination study, on the parking lot. It wasn't part of our contract. I just wanted to note on the drawing that there would be some lighting so people can get from the cars into the building. Once you select the type of light fixture you want -- whether it's going to be a low, pedestrian type, or the higher commercial ones -- then you'll know how many you need. I would recommend the pedestrian ones, the lower ones. There would be a lot less lumen output from each fixture. It really wouldn't visually impede the sight lines either, so I would go with the short ones. Of course you would need more of those, but it would be the same as the ones on the other road.

Chairperson Speranza: Would you let your client know we would like to see the lighting plan when it is developed because that is important, and it's supposed to be part of the site plan review that we do. Depending on how the Boardmembers feel now about this, about what we have now, we could potentially move to okay this, subject to a lighting plan coming back to us.

Boardmember Cameron: My concern is that they have a history of having large, bright lights on the building. We don't want to have one large bright light, or two large high poles, in the parking lot. It's just inconsistent with what we're trying to achieve.

Mr. Whitelaw: Of course.

Boardmember Alligood: I have a clarification question on the existing and proposed impervious surface. I just want to be clear: does that reflect all of the driveways and the building, or just the driveways and paved surfaces -- on your main plan, A-1?

Mr. Whitelaw: Right. Where it says "existing total impervious surface?"

Boardmember Alligood: Yes, you have two percentages there. It's going from 40.2% to 43.9%. I was just curious what that's reflecting?

Mr. Whitelaw: That's reflecting the additional 5,000 square feet.

Boardmember Hutson: She wants to know if that includes the building.

Boardmember Alligood: I understand the difference between the two. What does that reflect? Does it reflect the buildings and all the paved surfaces?

Mr. Whitelaw: Yes, the building lot coverage is 17.9%.

Boardmember Alligood: Okay, just wanted to be clear.

Village Attorney Stecich: I have one other question. It seems kind of obvious, but unless I'm missing something the code says parking spaces are supposed to be 18 feet, right? -- 9 by 18. Aren't these 16?

Mr. Whitelaw: When you go on a diagonal, when you take the hypotenuse of a triangle, it works out a little differently when you're going on an angle than you are straight in. So typical parking design criteria.

Chairperson Speranza: By our code?

Mr. Whitelaw: Your code doesn't go into parking.

Boardmember Dale: What is the actual dimension?

Boardmember Hutson: These are 16.

Boardmember Dale: Sixteen feet, but they're fishtailed again. So on the angle, what's the diameter?

Boardmember Cameron: What's the hypotenuse? I can do the math. It just takes a minute.

Building Inspector Sharma: The 16 feet, if you were to turn in the direction of the parking, it would easily be 18 or 19 feet.

Village Attorney Stecich: So the 16 feet isn't measuring the stall. The 16 feet is from the . . .

Boardmember Dale: It's perpendicular.

Boardmember Hutson: That's that line coming up.

Village Attorney Stecich: Okay, fine. You know what? My suggestion is -- I don't know if you have to fix the plan anyway -- just to mark up the plan that the length of the stalls is 18 feet.

Chairperson Speranza: It's that difference. So are we going to move on this plan before us, subject to approval?

Boardmember Dale: We so want to see the lighting plans.

Boardmember Cameron: So about 19 feet, 3 inches.

Boardmember Dale: I still think they should be 9 feet as opposed to the 8-foot-6. I don't know if the Zoning Board overrules us on that.

Chairperson Speranza: Well, that's their action. You know what? Let's take this in steps. First of all, let's get this out of the way. Given that this is in a view preservation district, there will be things that are in here. The paving of the parking lot does qualify as a quote, structure, unquote.

On MOTION of Boardmember Hutson, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to recommend to the Zoning Board of Appeals that View Preservation aspect of the application be approved.

Chairperson Speranza: Next issue, site plan approval.

Boardmember Hutson: It seems kind of silly to vote on parts of the site plan. I think it makes sense, from my point of view, to have the whole picture if we're going to do it.

Boardmember Dale: I agree. The lighting plan should be required.

Boardmember Cameron: I've actually got a question on the 16 feet. Are the ends of the parking spots going to be cut at right angles to the diagonal? Because if they aren't cut at right angles you aren't getting 19 feet.

Village Attorney Stecich: It doesn't have to be 19. Eighteen -- they're okay at eighteen, I think, if it's measured like that.

Boardmember Cameron: The problem with anything like that is, in fact, the car, when it comes in with its front wheels like this, then this piece is no longer long enough.

Boardmember Hutson: He's saying the left-hand corner is the maximum depth, so whatever that is.

Boardmember Cameron: He can't just do a simple-minded thing and do it the other way.

Boardmember Hutson: The left-hand corner of the top one.

Boardmember Dale: And the bottom one is reverse.

Chairperson Speranza: So I'm hearing on one end that we should wait and get the lighting plan.

Boardmember Hutson: Fixture specs, and location of the lights.

Chairperson Speranza: And Bruce, you would like to see 9-foot spaces.

Boardmember Cameron: Correct.

Chairperson Speranza: Let's talk about how we do that, Marianne. Let me hear from Jamie and Eva. Your sense about this in terms of how to proceed tonight?

Boardmember Alligood: I don't feel very strongly they have to be 9 feet. I understand the point, but that's not a huge issue for me.

Chairperson Speranza: And how about voting on this tonight? Would you rather see everything in place first?

Boardmember Alligood: The only thing that's missing at this point, we don't have the lighting plan. So that's the real issue, right? Do we want to vote on it conditional on the lighting plan?

Chairperson Speranza: The lighting plan would have to come back to us.

Boardmember Alligood: Other than that I'm okay with it.

Boardmember Cameron: I'm in favor of 9 feet, and I would actually like to see the lighting plan. I'm not quite sure how the chicken and the egg works at that point. If we approved it, forgetting the 9 feet for a moment, I would really like to see a lighting plan that works. I'm a little concerned that we may not see one that works, and that's my concern. There's a history.

Chairperson Speranza: Then we won't act on this.

Village Attorney Stecich: This isn't on the Zoning Board agenda for next Thursday, is it? So it's not going to hold anything up anyway. Your recommendations about any variances they might need and stuff, they're not going to be able to do anything anyway. So you may as well put it off.

Chairperson Speranza: Okay. So we need to see this, together with the lighting plan.

Mr. Whitelaw: The only thing I saw in the code that talked about exterior lighting was that it shall not produce a glare on residential districts and be visible from the roadways. Does the Planning Board have any other criteria for lighting fixtures regarding height? Is there a maximum height, is there maximum illumination at the boundary lines, anything like that?

Boardmember Hutson: Deven, I think, is fairly familiar with the things we have dealt with -- kind of the standards we have suggested.

Chairperson Speranza: We know what we don't want to see.

Building Inspector Sharma: It may not be a bad idea to establish, given some kind of criteria, what you would be checking. What criteria you would be checking these plans against, so he would know what to look for; what to do, what not to do.

Chairperson Speranza: That's something that you have been working on, working with the businesses within the Village. You know what? We'll take a look through the code.

Building Inspector Sharma: We have a rather sketchy ordinance.

Mr. Whitelaw: There's nothing in the code that talks about light fixtures at all. That's why I'm asking the Board to vote on particular light fixtures.

Chairperson Speranza: And it's a little bit more than just the kind of fixture.

Mr. Whitelaw: No, of course. Obviously, you don't want the glare and the visibility of it, and we're going to design it in good conscience, certainly, if there's any design criteria that you use.

Boardmember Dale: Patty, when they did the lighting at the swimming pool I gather there was a huge amount of discussion about the height of poles.

Chairperson Speranza: That was a Village project so that did not cross our desk.

Mr. Whitelaw: The swimming pool needs 30 foot candles on the surface. We're only going for one to three foot candles here. That's all you would use for a parking lot. So the amount of lighting is one-tenth of a swimming pool.

Boardmember Dale: It wasn't that that I was comparing it to. It was the standards that we use.

Boardmember Cameron: We discussed that. You couldn't see them from the side, and they were low lights.

Chairperson Speranza: That's a good idea.

Boardmember Hutson: It's the direction of the light that counts as much as the amount of light. We don't want more than is necessary. Obviously there are standards in terms of coverage, the amount of lumens you need for certain coverage. That, I'm sure you're familiar with. But then it just has to do with the direction of that light, that it not go anywhere except where it's supposed to go.

Chairperson Speranza: And I don't know that anyone finds the lighting there, and the lighting poles that are there now, offensive; the idea of continuing the standard that's already been set with respect to the poles, and whatever pedestrian and safety lighting you have.

Mr. Logan: I'd like to clarify that. On the north side of the building and the east side of the building they're wall-mounted fixtures which illuminate parking that's there already. Those are in violation, I believe, of the letter of the code because they produce glare visible from adjoining properties and from the roadway. So I certainly wouldn't use those as examples of what we want to see. There are other types of light poles that are along the walkway, which are much more pedestrian and illuminate only the path, which are not as offensive. So I

think we would want to have the light fixtures that are on the north and west sides of the building corrected, and then maybe some facing west as well. The wall-pack type lighting that produces glare, shining on the adjacent properties and roadways, this is what we don't want to see.

Building Inspector Sharma: We simply were working with Bill, as we sensed that some of the property owners had a violation. They may not be quite compliant with our lighting ordinance, but can we come up with a suggestion because they're more than willing to do what we want them to do. Some of them just don't know. It's not quite clear from the code. So Bill did do some sketches for me. If you do something like this, or do something to come back with, that's going to help to work with the people. It's very important. That's the reason we're asking what exactly are we looking for? Either there's an ordinance, or this board has an idea, that this is what we're looking for and would like to see that on the plans before we'll act on it.

Chairperson Speranza: It's got to comply with what's in the code. We don't want it to glare onto other properties. We have nothing here to work with. We don't know what kind of lighting is proposed. My suggestion is -- and I know it's not your contract -- have the lighting plan designed and run it by the Building Inspector before it comes here to us again on the site plan. It's not a lot of space.

Mr. Whitelaw: No, it's not. And I honestly thought the lighting design would be reviewed by the Building Inspector. We would give him a photometric output to show him that the lights are not going over the boundary lines and the position of them would not cause glare. I didn't, quite frankly, think we needed to have that photometric study for the Planning Board. I didn't think you usually governed things like that. But we can certainly have it if you wish.

Chairperson Speranza: It was an issue that came up at the last meeting.

Mr. Whitelaw: No sense designing lighting if the plan doesn't get approved. I'm sensing that the Board doesn't have a problem other than the question of the lighting. Is that a fair assumption?

Chairperson Speranza: Yes.

Boardmember Hutson: The size of the spots, in some people's minds, is an issue.

Chairperson Speranza: And this board is mixed on that.

Mr. Whitelaw: So if you don't give your recommendation, zoning would probably not approve it, right?

Chairperson Speranza: And that could be our memo to the Zoning Board of Appeals -- saying there are some members of the Planning Board who did not see a problem with the 8.6, and some members who would like to see it at 9. Then that's their decision. Deven, it's nice to have you here.

Building Inspector Sharma: I'm probably going to be here. I'm done with my Croton thing and I'm done with teaching, so I'm going to have all the nights to be here all the time.

The parking spaces in Boulanger Plaza, they're 8 feet wide or less. They're probably not 8, but barely 8 feet wide.

Mr. Whitelaw: Are you talking about right outside the building here? Outside the building you have 8-foot spaces, too, in your own building.

Chairperson Speranza: But you're right. The integration of the lighting in the site plan, that's it.

2. Urban Green. 45 Main Street: Consider the issue tabled in January regarding releasing the 3 affordable units due to progress on 422 Warburton.

Chairperson Speranza: We're going to still leave the changes to the zoning code until a little later. Let's hear from Urban Green.

Mr. Huang, Urban Green Builders: I'm also representing tonight Riverton Lofts LLC, the owner of 45 Main Street, and 422 Warburton LLC, the owner of 422 Warburton. We're visiting an issue that we came before the Board for in January regarding the set-aside at 45 Main Street on the affordable units that go way back in time to our original site plan approval deliberations, negotiations, current resolutions.

We have three units currently at 45 Main Street that we're not able to really effectively market to the public, though the building is very close to completion. As in January, we feel that the progress we've made at 422 Warburton should allow the Village the necessary comfort that they will be getting their 14 units of affordable housing very shortly. An update on 422 Warburton: we have, obviously, been on the street with the county work that has interrupted our own progress a little bit. But the storm lines are complete now on Warburton, and granite curbing, I understand, has been started. It's quite laborious, the heavy curbing that's going in.

The lottery for the tenant selection at 422 is very well underway. I think that letters were sent just this past week to all of the people who were in the lottery process. And I think the first 10 Village choices were chosen, pending final review process to make sure they conform to all the financing and regulatory procedures. Greenburgh, I understand their four units are held up a little bit by that town's own internecine decision-making process. But that does not have anything to do with the 10 choices, or eventual selections, on the Village side.

So we're making very good progress. I know that Sue Smith is here from the Affordable Housing Committee. I know that last month, when we felt we might be in front of you on this same issue, she sent a supportive memo. We're just proceeding as quickly as possible to finish both projects. We would like this release on the three units at 45 in order to give the

full range of choices to anybody who does want to become a resident of that building. We have had some interest in the units that are set aside currently, and we would like a little bit of help in letting these people become new residents of Hastings.

Chairperson Speranza: Sue, did you want to add anything? We have a memo from you, but you're here and might as well come up to the mic.

Sue Smith, 645 Broadway: Thank you. You have the memo. Obviously, some things have happened to the building in the intervening time, as James told you. I've never actually seen the final site plan approval that you folks gave, but I think there is some C of O control that will still require 422 to be done. This is not the only lever that we have. Am I correct, Marianne?

Village Attorney Stecich: Sue, I'm sorry. I don't understand what you're saying.

Ms. Smith: In terms of assuring us that the affordable housing project will be delivered in a timely way -- and it certainly looks like that when you see what's happened to the building -- is this the only assurance that we have, hanging on to those three units? The only assurance that that building will get done at the same time, or just ahead of time?

Village Attorney Stecich: Sure. You don't give a C of O until it's done. But theoretically, could it happen that they just stop building? Yes, and then they wouldn't be ready for the C of Os. I guess that's the issue for the Board: how likely is that possibility that they're not going to deliver the 14 units in 422.

Ms. Smith: But would they get the C of O for 45 Main Street if they have not completed 422?

Village Attorney Stecich: That's what they're here for tonight.

Ms. Smith: What I'm saying is, are the two so entwined that this is the only hook there is?

Boardmember Hutson: Yes.

Boardmember Alligood: This is the only thing that's left.

Mr. Huang: Well, that's not quite strictly true. If you recall the resolution that actually is current from August of 2005, I'm only asking to have the release on the three units at 45. But I'm not asking for the release of the part of the resolution that surrenders the entirety of 422 to the Village of Hastings if we don't complete the building within 24 months after the completion of 45 Main Street. That language was specifically put in in 2005 because we do not have site control at 422; we did not have financing at 422.

So we made it as aggressive as possible for the Village at a time when we didn't have much more to offer. We offered everything we had at that time. That still is in effect, and I would imagine that at more than 90% complete that the Village would be more comfortable with taking over a project in the extremely unlikely event that the project doesn't get finished by us.

So in answer to Sue's question, there is still another fallback that protects the Village.

Chairperson Speranza: That's true.

Boardmember Alligood: But you have two years.

Mr. Huang: That's true. That's a good point, actually. The two-year rule was put in because we were putting together five different financing sources in 2005 and we didn't really know exactly when that was going to happen. We'd be happy to cut that time frame in half tonight if that would actually help the Planning Board along.

Boardmember Cameron: I had a problem with this last time. I hate to say I'm a lawyer, but it says here, Sue, that what happens is that they get to transfer the entire building to the Hastings Affordable Development Company if they don't finish it. And it says: ". . . shall be transferred assigned to the extent permissible." That's nothing we want. We don't want to have them assigned. This is the last thing we want to have happen: to have the outcome of the whole thing be something we don't want to have happen, notwithstanding how catastrophic you might think it may be. The other out, which was we get to have three more affordable units that we can rent for a year, was something we could deal with. We could actually have something which worked for us.

This one doesn't work. We're not capable of dealing with that building, and you're not capable of transferring it to us because I'm sure it's under so many liens you can't transfer it to us. So I think that's not feasible.

Mr. Huang: I'll admit we haven't gone through the entire legal exercise of what that transfer would look like, but we certainly could transfer those components of it that we do have absolute control over, including the land and including all the improvements that have been made.

Boardmember Dale: I think the banks have control over the property at this point, not Urban Green.

Chairperson Speranza: I think we have to be practical. You're so far along on 422. There was a very, very big disconnect, as we recall. I can't imagine that suddenly Urban Green stops the 422 Warburton project at this point. Knowing how things fly in the development world also, your name would be mud. So I can't imagine that that would happen. That's my sense of this. I'm not so concerned at this point. Let 45 Main fill up.

Boardmember Dale: I know to some extent it's irrelevant, but what are the sales like at 45 Main.

Boardmember Cameron: Yes, what percentage have you sold?

Boardmember Dale: What percent are under contract?

Mr. Huang: Currently we're right around 50% sold at 45 Main Street. So these three units represent a quarter of the unsold units actually. The units at 45 Main are not generic at all; each one is quite unique. If anyone's looked at the floor plans for awhile they'll realize that it's not like if someone wants one of the units that's reserved there's another one that's identical or fits their specific needs easily. I know at least in one of the three units there's a person who would like to purchase the unit and we don't really have the proper way to direct that person right now.

Boardmember Dale: I tend to agree with Patty about the question of faith at this point. The project is almost finished. It's what, 85- or 90% complete at this point? For Urban Green not to complete it would be a much greater hardship than any cost to be able to complete it at this point. Not just to their reputation, but legally; their obligations to the various people financing the project. Not to complete it now would probably mean bankruptcy to the company.

Boardmember Cameron: Maybe one solution would be to say they can't sell the last three units until they get the C of O. They have flexibility. They can sell nine more units, and come back to us when they get down to that many units and talk to us again.

Boardmember Alligood: I have a different perspective on this. I'm concerned about the trust that the public has in our process. That when we condition a site plan approval they're not up for negotiation at will throughout the process. I actually raise this partly because your managing director, Eric Anderson, went before the Board of Trustees just a few days ago to renegotiate something that we just discussed and kind of gave you an okay on, which is that light. We were under the impression we were just talking about making it a little easier for you to go forward, and all of a sudden I watched the Board of Trustees meeting and hear that he's actually proposing that we let you guys off the hook in putting in that light -- right after a presentation by our Fire Chief saying we really need that light.

Chairperson Speranza: We didn't let them off the hook, the Planning Board didn't.

Village Attorney Stecich: The reason it was before the Board of Trustees wasn't because Eric decided to bring it before the Board of Trustees. Before you could put a traffic light there you need to amend the code to permit a traffic light. I explained that to Urban Green, to the Board of Trustees, that they needed to go to the Board of Trustees for approval. And there was some discussion because there was some disagreement about whether the light was a good thing. Maybe not everybody else does, but just to explain why they were before the Board of Trustees.

Boardmember Alligood: Right. There's a process. We have to put the traffic law in place in order to put in the light, which is part of our site plan approval. I understand that. I watched it a couple of times. What concerned me was, in the process of having a public hearing to talk about what our local law is going to look like, your managing director said he doesn't think we need it and thinks you guys shouldn't do it, and he'd rather give us the money than actually put it in -- following a presentation by the a Fire Chief saying no, there's a study, we've already gone on the record, and we need this light.

I have to say that does make me concerned about this sort of string of requests to change the terms of the conditions that were put into place when this project was approved.

Mr. Huang: I don't have a problem with your comments there. Eric's actions at the Board of Trustees was not something I think he planned in advance. I wasn't at that meeting, unfortunately, but I understand there are many people in the Village who don't think that traffic light is necessary; many people who sit in positions of authority who don't think that

traffic light is necessary. And I've been in closed meetings where a very senior member of the Village has said he'd rather take a wad of cash. That's not what the fire chiefs want, it's not what the traffic report says, and it's not what we intend to do unless the wishes of those parties are counteracted formally. I don't think Eric was trying to change our obligation at all. I think he was trying to voice his personal opinion about the matter.

Boardmember Alligood: His personal opinion is irrelevant at this point. I'm sorry, but if somebody wants to make the case within Village government that we should rethink this condition, that's fine. It was presented as a request by the applicant to change the terms of something that was in the site plan, and it's now coming on the heels of this. I just want to express my discomfort with that process.

Boardmember Dale: There was discussion here at the Planning Board when Eric was here about whether that light needed to be a permanent, fixed light or something that they push the button in the fire house when they pulled out. But that issue was raised here before Eric even went to the Board of Trustees.

Boardmember Alligood: The last time we discussed it we approved the design of the light.

Chairperson Speranza: No, we didn't approve the design. We approved the fact that there had to be a light.

Boardmember Dale: And that there would be a delay in its being installed because of the time.

Boardmember Alligood: But we were given the specs on it.

Chairperson Speranza: No, because those specifications are driven by the New York State rules for traffic devices.

Boardmember Cameron: We were looking at them, but we didn't approve them.

Boardmember Alligood: So we didn't approve them, but we discussed them and there was no discussion about simply eliminating the light.

Chairperson Speranza: No, because it was condition of site plan approval that they follow the recommendations of the fire chiefs.

Village Attorney Stecich: The traffic consultant. And that they would be responsible for the payment.

Mr. Huang: Which is exactly what we intend to do.

I want to address Eva's point real quickly about trust in government and the procedures of government. I think my appearing here before you tonight is actually a vindication of the procedures as opposed to I'm some sort of countervailing force. We're here to talk about a resolution that is three years old and is in a brand-new context. I think the fact that we make resolutions that are right for the time frame they're in is one thing, and then the trust in the Board to reexamine those exact same conditions when context changes is also what's important about this body.

So I would hope that people would realize that we are not in August, 2005 anymore. We have had our own share of setbacks and issues that every construction and development project has. But I think if you look at it on a broad range, in the last five years what we've promised we would do in this Village, to the best of our ability, we've performed.

Chairperson Speranza: I think Jamie's got a very good idea: don't sell the last three.

Mr. Huang: I had not thought of that and, actually, the truth of the matter is if we were in a booming residential housing market I would have more problems with what Mr. Cameron suggested. But the truth of the matter is, it's been a slow spring. It's not just us, it's not just Citigroup, it's not just Bear Stearns. I would say that I wouldn't have a problem, actually, with what Mr. Cameron suggested as an adequate substitution.

Boardmember Dale: I have no problem with that. The only other option would be to reduce the time, and I don't think that accomplishes the same thing.

Chairperson Speranza: No, I think they ought to hold the units, hold three units.

Boardmember Dale: And as Jamie indicated, when you've only got three left come see us.

Mr. Huang: That's a very elegant solution. I think that's not a bad way to go.

Boardmember Logan: I agree.

Boardmember Hutson: I think that might work. I definitely would not waive the whole thing, largely because of the reasons Jamie said. Even though you're saying much has changed since then, the thing that still exists is that this is a very complicated situation to the extent that I'm able to understand it in terms of the financing -- the financing and the regulatory issues and so on, and the ownership. You already referred to Greenburg's actions, and lack of. So there has to be something very specific and concrete, that has an economic feature to it other than us assuming responsibility for something we'd have trouble probably finding the financing to finish. It's absolutely necessary that those three units, in one form or another, be there and be available to rent as affordable units should something unforeseen happen.

Boardmember Cameron: And quite candidly, given the speed at which the market's going, I don't expect ever to see you back here asking for relief for the last three units. I expect you here for your C of O for Warburton.

Mr. Huang: Well, I hope you're wrong.

Boardmember Cameron: That may be so, and I hope I'm right. Because I hope you get those units finished so people can move into them.

Mr. Huang: I was saying from the other standpoint about it, I hope we are able to fill 45 Main Street quickly with people.

Boardmember Dale: But the reality is, if they actually defaulted on completing this building the banks would see that the project was completed. It's within their power.

Boardmember Hutson: What is the realistic projection at this point on the full completion of 422?

Mr. Huang: I think sometime in the month of July is what we're looking at, and we're hoping to have new tenants in August.

Boardmember Hutson: At 422.

Mr. Huang: Yes.

Boardmember Hutson: The time frame on this, that's why I was saying if we're talking about two or three months it's hard to imagine that the person who wants to buy that one apartment that those two or three months is that critical. But if you say they are, they are. It doesn't make a lot of sense but, again, I'm not in the business.

Boardmember Dale: In a slow market you want to sign contracts as fast as you can.

Mr. Huang: I was here earlier in the meeting when people were talking about the great French restaurant and the importance of having a vibrant downtown, and having activity and people who want to bring that energy to this Village -- being allowed to bring that energy. And I think that's true in our case, too.

Boardmember Hutson: Did these folks express an interest in French food?

Mr. Huang: I'll ask them.

Chairperson Speranza: I think we can simply make a modification to the original condition for the site plan.

Village Attorney Stecich: To the revised condition.

Chairperson Speranza: To the revised condition to the site plan that was adopted by the Planning Board 8-4-05. The way that it reads now -- "in the event Urban Green has not obtained a certificate of occupancy for 422 Warburton at the time it seeks a certificate of occupancy for 45 Main Street, Urban Green Builders designates three of the units in 45 Main Street, known as units 2D, 3F, and 3J on the plans filed with the Hastings-on-Hudson Building Department dated April 5, 2005 as affordable, according to the terms approved by the Hastings Affordable Housing Committee" -- I would like to propose that we simply take out "known as units 2D, 3F, and 3J."

Village Attorney Stecich: "On the plans," until the end of 2005.

Boardmember Dale: After "designates" you would have "add any."

Village Attorney Stecich: It designates three of the units in 45 Main Street as affordable.

Boardmember Cameron: I think to be fair to them you have to give them the ability to come back to the Building Department and designate three others.

Village Attorney Stecich: No, you just say three.

Chairperson Speranza: Just three units, whatever three units.

Boardmember Hutson: I think the three units that were chosen were chosen as representative of something.

Chairperson Speranza: Right. They were.

Boardmember Hutson: Again, how much real difference it makes, maybe any three comparable units to this. But again, that gets all murky.

Village Attorney Stecich: For what it's worth, David, I actually went to the open house. I went in and I got the floor plans. The truth is, these were the three least expensive units anyway.

Boardmember Hutson: Is that true?

Mr. Huang: No, that's not true, Marianne.

Village Attorney Stecich: They were the three least expensive in their range.

Mr. Huang: Oh, in their range. I'm sorry.

Village Attorney Stecich: So it was the cheapest one-bedroom, the cheapest two-bedroom, whatever.

Boardmember Hutson: They were different sizes, right?

Village Attorney Stecich: Yes, they were different sizes. But the point is, they were actually quite a bit less. So I don't think you're going to end up with the short end of the stick. Because the other three . . .

Boardmember Dale: Have to be on the upper end.

Village Attorney Stecich: Yes, have to be worth more.

Mr. Huang: Thank you, Marianne. That's correct.

Village Attorney Stecich: I was looking, and said, "Whoa, how did they get away with that?" But we didn't look at the time.

Chairperson Speranza: So I need a motion to revise the revised conditions to site plan for 45 Main Street.

Village Attorney Stecich: To eliminate the phrase beginning "known as" and ending "April 5, 2005."

Boardmember Cameron: No, no, no.

Boardmember Dale: Just eliminate the words "known as". . .

Village Attorney Stecich: Eliminate the phrase beginning "known as" through "April, 2005." All that's coming out, and that does it.

Boardmember Hutson: Her word "beginning."

Boardmember Dale: She went further than Patty had, but that's correct.

On MOTION of Boardmember Dale, SECONDED by Boardmember Cameron with a voice vote (see below), the Board resolved to revise the revised conditions to the site plan for 45 Main Street -- to eliminate the phrase beginning "known as" and ending "April 5, 2005" --

	<u>AYE</u>	<u>NAY</u>
Boardmember Logan	X	
Boardmember Hutson	X	
Boardmember Cameron	X	
Boardmember Alligood		X
Boardmember Dale	X	
Boardmember Wertz	ABSENT	
Chairperson Speranza	X	

Mr. Huang: Thank you.

Chairperson Speranza: James, how's the retail space?

Boardmember Hutson: It's available.

Mr. Huang: It's still available if anyone wants to open a store. We have talked to a couple of different people. I'll be honest, it hasn't been the ideal clientele we envisioned three years ago. And the point made earlier about some of the difficulties of renting in the Village of Hastings affect our project as well. We're seeing more interest from . . . it's not like we don't want, or would not rent to, a professional office. But we really would have preferred a great coffee shop, and I think everyone on this board would have as well.

Boardmember Cameron: By the way, retail space is not a unit.

Mr. Huang: Yes, I understand that.

Village Attorney Stecich: Residential units. Good point.

Mr. Huang: But we are seeing people and talking to people all the time about it.

Boardmember Dale: Do any of the stores have serious interest in them?

Mr. Huang: We have two people that have serious interest, but we don't yet have signed leases.

New Business (continued)

4. Request for Advisory Opinion to Board of Trustees - Proposed changes to Zoning Code

Chairperson Speranza: Lets talk for a minute about the advisory opinion to the Board of Trustees on the proposed local law amending the zoning code.

Village Attorney Stecich: This is part of a packet of found sets of amendments that I prepared for the Board of Trustees that the Board of Trustees held the public hearing on. They're really to enforce the state building code and the state buyer code. The Village, as you know or probably know, uses the state uniform code as its building and fire code. That pretty much covers everything, so we don't have those details in our code.

What the uniform code does not provide, however, are different enforcement mechanisms, whether it be certificates of occupancy or stop work orders. Those have to be provided for by the municipality. There were some amendments to the building part of the code and some amendments to the fire part of the code, and then some amendments to the zoning code. And any amendments to the zoning code have to be reviewed by the Planning Board and the Board of Trustees.

I'll just tell you quickly what they are. Several of them deal with creating a new document, a certificate of completion. That's really to close out a project. Right now we only do certificates of occupancy: when you get a building permit and close it out, you get a

certificate of occupancy. That doesn't make sense for things like a retaining wall. Most likely you're not going to occupy it.

Chairperson Speranza: That was the big question I had: what the heck is a certificate of completion.

Village Attorney Stecich: It's for those kinds of things you wouldn't occupy. So there are several provisions relating to that. There are provisions that five copies of building plans have to be provided. The Building Department says it just needs three. So it changed to three, which is a nice green change.

Boardmember Dale: What's the difference between a certificate of compliance and a certificate of occupancy?

Village Attorney Stecich: Certificate of completion?

Boardmember Dale: Compliance.

Village Attorney Stecich: I'm sorry. Where's that?

Boardmember Dale: That's in here also under section 20 on your page 8 on the bottom. It indicates certificate of occupancy and certificate of completion, but then in the text it talks about certificate of compliance.

Village Attorney Stecich: You know what? It's a typo.

Chairperson Speranza: That's in a couple of them.

Village Attorney Stecich: I picked them up. Good. Then there are provisions about inspections, the Building Inspector doing inspections while the work is going on. There's bits and pieces here; this makes it clearer exactly what the requirements are for inspections. Then there are detailed requirements for stop work orders. Right now the code is not that clear on how you issue stop work orders, so that's clarified. There was one other. There are changes that refer to New York State uniform building code, just saying it has to comply with that; which is sort of understood, but it just had to be clarified.

Then when you get to page 10, this clarifies the requirements for temporary certificates of occupancy. Right now the code just says the Village Manager has discretion to give temporary certificates of occupancy, but does not say in what situations. Here there are just minimal requirements, at least minimum requirements. They're still not required. It's within the Manager's discretion, but they can't be issued unless the building can be occupied safely, that any fire protection equipment that's required is operational, and that all the requirements of the rest of the building are provided.

Chairperson Speranza: I was wondering about that: under what kind of a circumstance you would get a temporary certificate of occupancy.

Village Attorney Stecich: Probably the Building Inspector would be . . . I mean, I know for the restaurant, Harvest on Hudson, I don't know if it's still operating on a temporary certificate of occupancy, but it had one for the longest time. Deven could probably explain that, although you didn't issue that temporary certificate of occupancy. That was before your

time. But the Building Department does sometimes give them. Deven could probably explain it.

Chairperson Speranza: A temporary certificate of occupancy, I'm just wondering why.

Boardmember Dale: In the City of New York TCOs are very common. Like in the case of Urban Green, they could sell their units with a TC of O, where you don't have to wait until you have a C of O before you can sell it. You can do it with a temporary. I think you're right about it having to be safe. There are a lot of things that then happen to a building -- sign-offs and things of another nature -- that are not crucial to being safe in the building.

Village Attorney Stecich: Let's say the landscaping wasn't done. If the landscaping wasn't done you might. The building's ready to be occupied, but you can't do the planting until the spring; it's ready to be occupied in November. That's one thing I can think of, an issue you might want to give a temporary C of O. Deven may have others, I don't know. I don't want to put you on the spot.

Chairperson Speranza: It just seems like one of those things where you let people move into a building, obviously if it's not landscaping.

Boardmember Dale: In the city there are a lot of other issues besides landscaping. But I think most of them are decorative, and certainly not structural nor mechanical.

Boardmember Hutson: You move in at your own risk.

Village Attorney Stecich: I know it did come up with 45 Main when they asked for a temporary C of O. They just said no, there's no way you can get in until all the external stuff is done. So it isn't like something the Village issues easily. I don't know why it happened that Harvest had a temporary C of O, but I learned within the last year that it's been operating under one. I don't know why.

Boardmember Dale: Mostly I think developers would ask for it in cases of hardship where there's something they can't get completed, like the traffic light.

Boardmember Hutson: You know, there was a access to the park thing, which didn't happen right away. And there was some other stuff that they were going to do to the public area and to the walls. That may have been the reason why, and it didn't have to do with the building itself. You know, those things that come later.

Building Inspector Sharma: Marianne, we have issued temporary C of Os.

Village Attorney Stecich: I know. That's what I was asking you.

Building Inspector Sharma: Yes, there are provisions for it.

Village Attorney Stecich: Why don't you tell us the situations.

Building Inspector Sharma: There are circumstances where it's warranted and can be done, provided certain conditions are met. So TCOs are not unusual.

Village Attorney Stecich: I know that's the point, but what Patty was asking is what occasions would arise to issue a temporary C of O.

Building Inspector Sharma: For 45 Main, or for anybody?

Village Attorney Stecich: No, in general.

Chairperson Speranza: Don't worry about it. It's too late to be wondering.

Boardmember Hutson: We don't care anymore.

Chairperson Speranza: That's right.

Does anyone have any questions or problems or issues with this proposed local law?

Boardmember Cameron: Our building board is a one-person board, isn't it?

Village Attorney Stecich: No, it isn't.

Boardmember Cameron: Who is on the building board now?

Village Attorney Stecich: The building board consists of the chairperson of the Planning Board, the chairperson of the Zoning Board, and two members.

Boardmember Cameron: And Abba Tor.

Village Attorney Stecich: He's on it, and Jeff Bannon. In fact, they've actually met with them a couple of times.

Boardmember Cameron: I'll have to attend that meeting sometime. Just kidding. It's interesting, the building board can revoke a building permit issued by the Building Inspector, but the Building Inspector can only revoke a building permit he issues if it was issued in error "because of incorrect, inaccurate, or incomplete information." So even if he issued it in error, if the information was incorrect, inaccurate, or incomplete he couldn't revoke it.

Village Attorney Stecich: I'm sorry, what page?

Boardmember Cameron: It's 295-101.

Village Attorney Stecich: What page is that?

Boardmember Cameron: It's 5. I wonder where this language came from.

Village Attorney Stecich: Actually, most of the language came from a model provided by New York State.

Boardmember Cameron: You do have yourself covered. The building board can step in even if the Building Inspector can't meet these standards. They just step in and revoke it anyway.

Village Attorney Stecich: Probably what makes sense is for that sentence to read: ". . .if the Building Inspector detects that a building permit was issued in error or because of incorrect, inaccurate, or incomplete information."

Boardmember Cameron: That would work better. I thought you still could save yourself because of what it said.

Village Attorney Stecich: But to put "or" in there makes sense. Either "or" or a comma, but "or," I think, makes it clearer: ". . . that a building permit was issued in error, or because of incorrect, inaccurate, or incomplete information" -- or, "that the work' . . ." I don't know, I'll have to rework it so the structure's parallel.

Boardmember Cameron: We just want to give you all the power we can, you know.

Chairperson Speranza: Anything else on this? Are we ready to recommend to Board of Trustees the approval of the proposed local law, subject to the comments, modifications?

On MOTION of Boardmember Cameron, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board resolved to recommend to Board of Trustees the approval of the proposed local law, subject to the comments, modifications.

Old Business (Continued)

3. Recommendation to Board of Trustees. Proposed Steep Slopes Law revision.

Chairperson Speranza: Last item. The one that John Picone has been here all night to listen to, right? We're glad to have a member of the public in the audience this late.

Jamie, how did we make out with the Architectural Review Board?

Boardmember Cameron: Actually I made out very well with them, I think. I did get to spend the first hour there while they talked to Saw Mill River Lofts about the complete redesign of the place, so they will be coming back here again.

Chairperson Speranza: Yes, they will.

Boardmember Cameron: The Architectural Review Board told us they thought the electricity should not be in the garage, so we'll see what happens on that and go from there.

Anyway, the questions I had proposed to them was, was the language something they thought was understandable by architects. And the second one was, did they believe the concepts were something they could work with or live with as an architect. The last one was, did they see problems or loopholes, any suggested changes from the concept and the wording. They answered no to all three of those.

The one thing that did come up was, they were somewhat concerned about some powers they didn't think they had, even though I think they do have. That is, some thought that the roof, as we had at 45 Main, was a little shiny with these flat roofs and maybe they need more flat roofs with this new concept there -- that we should have some power over those roof surfaces. They asked me to try to put some of it into this draft, which I haven't done.

That was last Monday, but what I did in the interim is went and looked at their charter, the Architectural Review Board charter. Part of their charter gives them the power to rule on the appropriateness of other significant design features, such as material or quality of architectural design, roof structures, chimneys, exposed mechanicals, service and storage and closure signs, landscaping routine, etc. So it seemed to me maybe the language at some point needs to be tweaked slightly. But they would have had the power to say no reflective materials on the roof.

Boardmember Hutson: Marianne, the thing is not that it's a topic within their scope, but their enforcement power is the question. Isn't that the issue with the ARB?

Village Attorney Stecich: It can be an issue, although I don't think that was the issue Jamie was looking at.

Boardmember Cameron: It comes down to whether the thing they are commenting on would be "impairment of benefits of occupancy or value of improved or unimproved real property in the immediate area or neighboring areas." So the question is, if they didn't do it would it impair the value of the other properties adjacent to it. It may be this language needs to be tweaked a little bit to give them more discretionary power -- even though I think the power of persuasion can be very strong.

Village Attorney Stecich: But I think David's question was different, right? What's the enforcement. The Planning Board can make site plan approval subject to ARB approval. That's where the enforcement comes in. If the Architectural Review Board says we want this, then it becomes part of the site plan approval.

Boardmember Hutson: Right. But I'm saying it's really the Planning Board that would, in effect, either delegate to them specifically or it would come back here.

Boardmember Dale: It sounds like you empower rather than delegate.

Chairperson Speranza: I don't think that anything's been passed, but they were working on -- and I believe they've distributed for discussion -- design guidelines.

Boardmember Cameron: Yes, they've got them.

Chairperson Speranza: To guide their actions, and to be accepted by the other Village boards, which would be us. I know they've been working on those for quite a while.

Boardmember Dale: Is that various zones, or districts, or general?

Chairperson Speranza: I haven't seen the document so I don't know.

Boardmember Hutson: Again, in order to really give any kind of independent authority those would have to be established somewhere in the code.

Chairperson Speranza: Exactly. Did we include something like from the CC district, when we made the reference to future design guidelines?

Village Attorney Stecich: Yes, there was something in there about that.

Chairperson Speranza: Because we did want to make sure that the ARB could, in fact, be proactive and not just act on our recommendation.

Boardmember Hutson: I think, Jamie, probably what they're thinking is to put some more teeth in those things which are in the ARB structure -- the reason they thought you might want to put those in the slope issue or the height issue. No? You don't think so, Marianne?

Village Attorney Stecich: No, it doesn't make any sense to put it in here.

Boardmember Cameron: They have these powers. Because the lead-in sentence says: "The Building Inspector shall promptly refer to the Board any application for a permit for any building, sign, or other structure, but not for attached single-family residential structures except those as part of a development or a subdivision." So they're supposed to see all the multi ones and all the subdivision ones.

Boardmember Hutson: It's just that anything that comes out of there is still advisory, in effect, to the party that says, "Please tell me." So I think what they were hoping, perhaps -- I don't know if I'm trying to read too much into it -- is that somehow it becomes more of a binding matter, even if the ARB didn't have anything particularly to say about it.

Boardmember Cameron: The language I read from actually has a lead-in. It says: "In advising the Building Inspector and Planning Board, the Architectural Review Board shall consider the following." So it's them advising us.

Boardmember Hutson: That's all right, they're their guidelines. I'm just saying I think that if we were going to recommend some changes in the code that that's where they're coming from. Let's get them in the code, and then it carries more weight.

Village Attorney Stecich: That is in the code.

Boardmember Cameron: It *is* in the code.

Village Attorney Stecich: It's from the section in the beginning of the ARB. But anyway, it really doesn't have anything to do with the definition.

Boardmember Cameron: No. I couldn't see how putting anything in this language I've been drafting worked because you're suddenly having this thing sticking up by itself -- they're supposed to look at roof lines sort of idea -- and it didn't just make sense. It made much more sense to go back into here and take a look, under their charter, how we'd strengthen them on a go-forward basis. I think actually if the Planning Board and the Building Inspector are listening to the ARB, then they've got whatever powers we have if we actually listen to them.

Boardmember Dale: It's an interesting problem because it goes back to legislating aesthetics.

Boardmember Cameron: Right. I was leery of that. That's another reason I'd like to have your vote on this.

Anyway, I think that went very well. And since that time I've taken the regulations and stuck diagrams in them which, hopefully, will make everything much more understandable.

Boardmember Hutson: The point is fairly well taken. At least it seems like it would probably result in more flat roof areas.

Boardmember Dale: Only in the case where the developer is trying to build out to the maximum bulk that he can. But the fact that the project is already staggering down inside, and stepping down inside, of the hill, already that design element becomes much more important. You can't legislate and say they have to have peaked roofs because you're adding cost to the construction. But I think the way you've handled the stepping-down creates the opportunity for architects to do something creative. I think most will attempt to do something.

Boardmember Cameron: What it is that I also distributed -- I don't know if you copied both of these -- the other one is a black line. If you go to the second page you will see some things underlined. Those are the changes from the prior drafts. Marianne and I have

discussed this before, and I went back and put it back in. Anyway, where it says “may extend at such height,” I just wanted to make it clear that you get to a certain place and you’re not extending -- you can’t go higher. In other words, I want to negate that “at that height.” Obviously you always go lower, but extend that height. And then using the word “severally” I got it into the next one. So there really are very few changes, and Marianne and I can fight over the language later.

Chairperson Speranza: So we’ll look at this. Of course, we have to think of this within the context of the steep slopes ordinance.

Boardmember Cameron: Well, you don’t because the steep slopes ordinance is going to apply everywhere else, and this is going to apply in CC and MR-C.

Chairperson Speranza: For height. This is for determining the height, not for the actual slopes. This is for building height.

Boardmember Cameron: This is for building height in CC and MR-C. And the question is -- and I thought we’d come to a tentative consensus on the fact -- that it might be too hard to make the cutback provisions of the steep slopes apply in these two districts. Whereas we could make the other provisions apply because they apply everywhere right now.

Chairperson Speranza: You mean the deductions.

Boardmember Cameron: The deductions, yes.

Chairperson Speranza: Going through the minutes and notes from the last meeting . . . since Deven is here, your experience with the Village of Croton: could you give us just a little bit of input on the Croton Steep Slopes Ordinance, how much experience you’ve had with it or if you know anything with respect to why they felt there were changes that needed to be made.

Building Inspector Sharma: Honestly, not a whole lot has come before the planning board for the nearly three years I’ve been on the board. The changes they’re making, the planning board is not involved with it the way we are involved here. They have their own office of the village engineer and the manager, and they have a consultant who they’re working with. As a matter of fact, there are some members on the planning board that are very much concerned that nothing is really being discussed with them or being brought to their attention. We just happened to get one draft copy of it, and we are waiting before it comes before us so we can really look at it thoroughly and give some input about it. They’re saying there’s a possibility that the Planning Board gets private citizens who may be able to give their input when there’s a public hearing on it. So the way development is growing there’s some people who are not very happy about it.

As for my experience as a boardmember there, we had to deal with a few hardship cases that were kind of easy, and a few subdivisions which are, again, nothing really exciting. You know, so much slopes and how much you can disturb and how you can distribute and things like that. So there isn’t a whole lot I can bring to this board that could be of much help,

based on my personal experience in the last few years I've been on the board. If something develops of interest I'll write to you and bring it to you, and we can discuss it at that time.

Chairperson Speranza: Great.

Boardmember Hutson: They don't know how lucky they are.

Chairperson Speranza: That they haven't had a lot of discussion.

Boardmember Hutson: We've been talking about steep slopes for many years.

Boardmember Cameron: Well, we can offer training classes.

We sort of have two types of bills we looked at for a steep slopes program. One of them is the one we presently have, which is a cutback. What was the word you used?

Chairperson Speranza: Deductions, for subdivisions.

Boardmember Cameron: I think what we talked about was, were we to go with that bill to apply generally -- except perhaps not in the CC and MR-C districts -- we would have a hardship clause in there to deal with it when we weren't clear; whether it be on a single dwelling or multiple dwellings or what have you. We'd put a hardship clause in it, and that was one way to go. I think, Patty, you were leaning that way.

The second one is the one that does not have deductions -- which is the new Croton one -- which is the one in which they have a whole bunch of principles and leave it more to the discretion of the planning board. I'm a big person on discretion, however I can go the other way. I could go with the deductions followed by a hardship clause. I think maybe some of the standards coming out of the hardship clause we'd actually find a lot of the principles in the Croton bill, those kinds of things, or the things you think about when you're giving somebody a hardship exception. Maybe it's too long, maybe it's not. And I don't think these provisions on the height restrictions . . . I mean, they could go on ahead if we wanted to, and then we could do the steep slopes separately. But maybe we should look at the steep slopes one with the deduction, the hardship clause, and the list of principles.

Chairperson Speranza: Why don't I try to get to everybody a summary of where we are with all of this for us to really be able to focus on it. We can do this separately, but I think when we started this off this became such an integral piece to the actual discussion of steep slopes and what were the concerns of the Board with respect to development on steep slopes -- aside from some of the older concerns, and the basic concern: should this apply to all lots individually, or should deductions apply to all lots individually or just to subdivisions, which is the old question.

So why don't I create a little bit of a package with this stuff that we can think about for the next meeting. John, anything?

Boardmember Hutson: Are you going to have a wall-warming one of these days?

John Picone, 33 Maple Avenue: I'm going to get buried in it soon, but it's coming along. Maybe July 15th it'll be done, hopefully. They're going to start pouring cement in about a week-and-a-half. The wall itself is up.

I just wanted to ask, this is actually for CC and MR-C. It really doesn't affect the residential building lots, then. It's just another tangent that you're stuck on to decide where you're going to go.

Chairperson Speranza: Right.

Mr. Picone: So there really is no change in what we have to talk about with the residential lots yet?

Chairperson Speranza: Right.

Mr. Picone: Right now it is as it is.

Boardmember Cameron: You'll have to come to the next meeting.

Chairperson Speranza: Well, we'll make it early. Maybe we'll have to put it on the agenda first.

Mr. Picone: That'd be fine with me.

Chairperson Speranza: I think we have to do that. I think that's fair, don't you?

Boardmember Hutson: We've been thinking about that for a long time.

Mr. Picone: The problem is, I can't tell what's happening unless I come to every meeting. I can't get any information of the different machinations that might take place between the Boardmembers, nor should I, I guess.

Boardmember Hutson: You know, why don't we put the agendas on the Web site?

Chairperson Speranza: The agendas are on the Web site.

Mr. Picone: I know nothing about this presentation, nor should I maybe. That's what I'm saying.

Chairperson Speranza: That's something that we're going to try to rectify. Because the calendar and the agendas and supporting materials is something that's becoming problematic.

Mr. Picone: Well, it's a little different because this is something you're deciding. It's not really publicly decided. I'm just trying to give input that hopefully things won't go in a direction it would be hard for me to deal with.

Boardmember Alligood: On that Patty, when we get our packet are the materials then officially available to the public? We get these things by email, everybody who's signed up for the Village email. So if Mr. Picone wanted to see what exactly we were considering when it comes to old business number three, could he have access -- or should he have access -- to it?

Mr. Picone: I get the Village email.

Boardmember Alligood: That's my question. When you see this, can you call and say could I have the materials the Planning Board got that we're considering.

Mr. Picone: The last time we spoke you were going to try to get me some materials.

Boardmember Dale: Since it's on the Web site, couldn't the backup materials be included on the Web site as part of the agenda so that if you're interested you can go a step further.

Boardmember Alligood: That would really force the case, having the materials done.

Boardmember Dale: They could be open to the public if they're interested. That way you could have access to it the same way.

Mr. Picone: And I can come when it's something that's germane and not necessarily a CC. I have a building in CC, but it's not on a steep slope.

Boardmember Cameron: I would like to see us get this thing off our table and onto the Trustees' table either the next meeting or the meeting afterwards.

Chairperson Speranza: So would the Trustees.

Boardmember Cameron: I don't really want to go into August. We've been working on this for, it must be, a year-and-a-half.

Chairperson Speranza: And before that. No, you're right.

Boardmember Dale: This is separate and apart from the other discussion because it limits to these two districts.

Chairperson Speranza: Does anybody want to have a separate meeting?

Village Attorney Stecich: It's not a steep slopes issue. It's a definition of height issue.

Boardmember Cameron: I know. It's completely different. And I think it's very important that we get this thing done and off our table.

Boardmember Logan: I'm wondering, to that extent, Patty, are you brave enough to volunteer to kind of condense and shape everything for the next meeting? Could it be boiled down into three or four alternate motions that we consider up or down, heads or tails instead of continually tweaking the language? It's been a great exercise to get to this point, but I think we're at a point now where we say what are the fundamental directions we can go in -- let's get a motion ready. We may not all be prepared to support that motion, but what's an alternate motion so we can just move this thing along. Jamie, maybe you two can work together?

Boardmember Cameron: I think it would be useful tonight, if we could -- I know it's late -- really focus in on the steep slopes so you don't spend too much time spinning wheels. That is, we focus on what we want. I'm quite happy, from my perspective -- and maybe I've thought about it more than anybody else -- to go with the deduction method; and apply it to everything, but don't apply it to these two districts, and have a hardship clause.

Chairperson Speranza: Apply it to the lots, all lots, except for those in the CC and MR-C.

Boardmember Logan: This has no deductions.

Boardmember Cameron: And then have a hardship provision and a couple of alternatives to the hardship provision. We have a hardship provision for any development -- we have a hardship for single-family or whatever you want to have the hardship for. If we put the hardship provisions in the right way, the things we judge, then I don't have a problem with putting more than a single-family development into the hardship provisions. At one time you brought that up, Patty: maybe we should just have a hardship provision for single-family

homes. You get to put a house on a piece of property, but we could go farther than that as long as we make a good list of things we use to judge what the person gets, what we use in making our decision.

Boardmember Logan: The criteria for a hardship.

Boardmember Cameron: Which I think could come out of the Croton bill, quite frankly. You run down the Croton bill and you look at them, and those are the tests.

Mr. Picone: You already have a hardship clause which is generic. Wouldn't you make it hard on yourselves if you put a criterion in? Either way, everyone's going to say they have a hardship and it's up to them to present to you their hardship and for you to agree whether it is a hardship or not. And if you don't agree, you already have a situation where you just won't approve it. Why tamper with it?

Boardmember Dale: We've had that discussion whether the existing law is adequate.

Boardmember Logan: Some of the hardship tests are, has the applicant created this hardship from their own action, is it a self-created hardship. There's a whole bunch of other things that you could rattle off that are pretty clear criteria.

Village Attorney Stecich: Those are the ones for variances. But that's kind of hard. I'll tell you, the self-created hardship is so hard. You buy the property knowing it. Is that self-created? And generally, as a matter of law, it's considered it is so that doesn't really get you too far, whether it's self-created or not.

Boardmember Cameron: But we did find one. There was one other community that had a hardship provision.

Village Attorney Stecich: Yes, they're out there.

Boardmember Cameron: Maybe we should look and see what tests they have. I just brought this other up because it was a good list.

Village Attorney Stecich: Could I ask -- I'm really confused -- I don't remember the Board talking about -- and I guess I don't understand the rationale for saying -- the steep slope deductions would not apply in the CC and MR-C districts -- what's the rationale? Is it that you want more density down there? I don't remember discussing it.

Boardmember Dale: That was the topography of the study.

Chairperson Speranza: That's how it ended up going from what the implications are for a piece of property in the CC district -- given the density, given the fact that we want it to be more dense: if the deductions apply to all lots. That's when Jamie took it upon himself to say, well, the problem in the CC is not necessarily the space of the slopes but what it looks like in the heights within those districts.

Boardmember Dale: We started out asking the two of them to work together on all sites. Pick a series of sites that are representative of what we have in the Village and do a review to see what the issues would be. What came out of their discussions, it appears, was that in these two districts this was a method of approaching both steep slopes and height simultaneously in solving those problems. I think he accomplished that. So it leaves behind what we do in the other sites that are not in these two districts.

Boardmember Cameron: We do have to be careful because, with all candor, there is another area of the town which has very steep slopes which is running along Warburton. I was almost tempted to say, well, maybe we should front along Warburton and add that to this district because that piece running along Warburton is just as steep as anything else. So we may decide that this phrase is going to expand and include that area.

Chairperson Speranza: But that's residential. That's the only reason I would see that it wouldn't. It's residential, single-family. The southern end.

Boardmember Cameron: I'm not talking about the southern end. I'm talking about the first couple thousand feet, up to Antoinette's, a bit past Antoinette's. That's very steep.

Boardmember Dale: There are other areas in the Village that are very steep. Like on Jefferson going downhill, there's a huge drop-off.

Chairperson Speranza: But again, it's single-family residential.

Boardmember Dale: Most of them.

Chairperson Speranza: In terms of the type of development, you don't have the capacity or the legal authority through zoning to build a large structure or to build several units because it is all single-family dwelling. The one property, or the one area, that bothered me was the northern portion of the Village next to River Glen, which is zoned multi-family. The slopes that are in there, if someone came in through site plan approval to put up a multi-family development there they would not be subject to deductions. Then that could be problematic.

Boardmember Dale: Why would they not just subdivide?

Chairperson Speranza: Because if they're not doing a subdivision they're not subject to it.

Boardmember Cameron: The problem with that law is you don't subdivide the property. If you just put up a whole bunch of attached buildings you're not subject to the thing because you're not subdividing the property.

So the one thing I thought of as we were going along is that we might look at these going down as far as the Quarry Trail, roughly, and maybe that should be subject to this. Because those pieces, you'd have a hard time with deductions not to make it any more complicated than it is.

Chairperson Speranza: Let me see what I can do.

Boardmember Dale: The point I think you haven't quite recognized is that you might say that if a site is made up of a certain excess amount of slope -- where subdivision would make it impossible to build -- you then apply a different formula, this formula or some variant to it. You base your rules based on the nature of the site, and define those by the amount of slopes a site has. That's what you're essentially saying: this whole area south on Warburton has that problem, so you should use this as a solution on any site that has . . .

Boardmember Logan: No deductions.

Boardmember Dale: Yes, that adopts this method instead.

Boardmember Cameron: We just have some areas where we have a high density of buildings and population, and we've just always had them. What we're trying to do is find a

way to create that and have it existing. We're all bending over backwards, when an adjacent building tries to build something, to try to make it so that they can live next to each other. But we're accepting the fact that all these buildings will be within 10 feet of each other and they'll be fairly large. I think this kind of planning works for that, but on areas which are wide open and have never had that history I don't think we should be doing planning for that kind of density.

Chairperson Speranza: Right. That's my key on that too, the density.

Boardmember Hutson: I think the thing about Warburton, even though certain parts are very much like that, it's a bit of a gray area. I think I would almost feel more comfortable dealing with those problems through a hardship process than through that, and keep it kind of neat and clean to the center of the Village that we use this. And I don't see why we can't go ahead and move this. You feel we kind of have to kind of deal with the whole steep slopes thing before we move this way?

Chairperson Speranza: I don't want to lose sight of it. I'd like to have it as a package that goes to the Board. Because otherwise they, then, ask a question.

Boardmember Hutson: How does one thing fit with the other?

Chairperson Speranza: Right. If this were to move ahead as something that goes for action by the Board of Trustees they're going to say, well, how does this fit into steep slopes.

Boardmember Cameron: I think that if we can't get there by the July meeting we should send this off. I don't want to wait.

Boardmember Hutson: I guess I still see things as I have for the past 18 years on this. I think it should apply to all properties outside of the CC and MR-C districts, and I think it should have a hardship provision, and that we should have area deduction based on slope. Obviously, when you're thinking about it, when you have options that you might have with large subdivisions to position structures in such a way, you've got more options. You've got more territory to work with, more property. Therefore you would be more inclined to understand hardship in regard to a single-family property than in regard to major things. We used hardship on Dudley, if you remember. It had to do with the access, the slope. So Dudley was a subdivision kind of thing, and we used hardship in order to allow that.

Again, there's no magic. I like the idea of people understanding ahead of time that you're likely not to be able to build on a whole lot of the very steep slope. Now, there are other people who say, "Hey, look, nothing wrong with building on a steep slope, could be very attractive and interesting. It's river village kind of building." I just think to have it somewhat more restrictive and then be able to say, "Yes, okay, this will work, based on the design, based on the surrounding circumstance," and so on and so forth is wiser than leaving it wide open to these general principles and then have different people applying them in different ways. Different people will still give different hardship relief on deductions, too. But I don't know, it just seems it provides better guidance and continuity over time for boards.

But I'll be happy to talk about it the first meeting you'd like.
Chairperson Speranza: We'll try to do it in June.

Anything else, or are we all tuckered out now? It's after 11.

V. Adjournment

On MOTION of Boardmember Dale, SECONDED by Boardmember Logan with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 11:15 p.m.