

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
NOVEMBER 19, 2009**

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, November 19, 2009 at 8:20 p.m.** in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairperson Patricia Speranza, Boardmembers William Logan, Fred Wertz, Jamie Cameron, Eva Alligood, Bruce Dale, and Village Attorney Marianne Stecich, Building Inspector Deven Sharma, Administrative Assistant Kevin Hay

ABSENT: Boardmember Ed Dandridge

I. ROLL CALL

II. APPROVAL OF MINUTES

October 15, 2009 Meeting

Chairperson Speranza: The first item of business is approval of minutes from our October meeting. Any changes, corrections, modifications?

Boardmember Dale: Page 18, two-thirds of the way down, where I am talking and it says that there was [crosstalk]: “. . . *and they will cause the wall to be . . .*” the word missing is “compromised.”

And then on Page 26, in the middle of the page, where I’m talking, the sentence that begins: “*My own company has just launched a green program . . .*” that should be a period, and then a capital T – “*That, through our Westchester office . . .*” small “I,” “. . . ‘it’ would be available to people in Hastings, as well.”

And then on Page 29, top of the page, last sentence in the paragraph: “*That was following “our” use of preferences.*” Just cross out the word “*up.*”

Boardmember Cameron: I just have one thing. I think, on Page 3, two-thirds down, it says: “*Boardmember Cameron: I watched, and was quite surprised. I watched it Sunday afternoon, and was quite amazed, actually.*” I think that’s Bruce. I actually have not seen it.

Boardmember Dale: Right. That’s correct.

On MOTION of Boardmember Dale, SECONDED by Boardmember Logan with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of October 15, 2009 were approved as amended.

III. PUBLIC HEARINGS

Old Business

1. **Cont'd Public Hearing Blue River Valley, LLC- resubdivision of land to merge Parcels 130, 130C, 130E2, 130F located at 663 – 665 North Broadway into a single lot.**

Chairperson Speranza: I do want to remind Boardmembers and the audience, you have to speak into the mics.

We have a continued public hearing for Blue River Valley, resubdivision of land, which is merging parcels into a single lot, 665 North Broadway.

John Cavallaro, attorney - Huff Wilkes: Good evening, Madam Chairperson and members of the Board. I'm here this evening with Michael Robinson of Blue River Valley, LLC and Hastings-on-Hudson Property, LLC, the owner of the premises. In addition, I'm here with Steven Holl Architects, the architects on the application.

As you are aware, we are here this evening for a resubdivision lot merge application, whereby the lands depicted in the submitted resubdivision map would be merged into one parcel; and that is the lots east of the railroad right-of-way.

Chairperson Speranza: Can I stop you there for a minute? There is a plan. Is that your plan?

Mr. Cavallaro: Yes, we do have some plans to present, as well.

Chairperson Speranza: We might as well get them up so people can see them. And I'll fill this time just my noting that there was an Environmental Assessment Form which was circulated whereby the Planning Board had said we would be lead agency, and that's in circulation now. We're waiting for the comments back. The Department of Health was the other agency we're waiting on.

Mr. Cavallaro: Members of the Board, in effect what we seek is the erasure of the internal lot lines that are depicted on the submitted resubdivision map. Since the time of our last meeting we met with Chairperson Speranza, Boardmember Cameron, the Village Attorney, and the Building Inspector. At that time, we reviewed certain preliminary materials and plans which we hope to use in a future view preservation application to provide a sense of what we propose to construct on the property.

After that meeting, we submitted those plans and materials to the full Board for informational purposes. Noah Yaffe of Steven Holl Architects will take the Board through the materials and the plans, so I'll turn the presentation over to Mr. Yaffe to present this material. Thank you.

Chairperson Speranza: You've got to take a mic. And just one more thing. If you could tilt that for the audience. We've got the plans, so it's more important that members of the public here and those watching at home can see. I think that's fine. Jamie, are you okay with that?

Noah Yaffe, architect – Steven Holl Architects: First I wanted to apologize to the Board. I understand at the last meeting some questions came up regarding the current design that John was unable to answer. What I wanted to do this evening is walk you through the current design. What we're trying to do is provide you with information to further allow you to understand what we're currently designing for the site. But what we do intend to do is submit a full package for view preservation when the time is appropriate.

The project we are proposing in the merge lots is a single-family house sited at the edge of the hill. Really, when we first came to the site – and the client can actually speak much more eloquently than I – they fell in love with the nature of the open space on that beautiful lot, the large trees and the amazing views. So really what our project tries to do is maximize the views, maximize the open space, and preserve as many trees as possible in the siting of the house.

Here's where the house is sited, at the edge of the property. That is approximately 400 feet from North Broadway. It has also an accessory structure tennis court 100 feet off North Broadway. It proposes a new curbcut that goes into an underground parking space for the house that is attached to the primary structure. Really, the house is sited within these clusters of trees here. When we did our analysis of the site, the primary viewing corridor we found for the public down to the river was actually through that current curbcut and through this space of open trees. So we were very conscious of trying to site this away from that, and maintain that, and really trying to maximize the open space here between North Broadway and the current design.

The house, you can see in the cross-section. It sits right on the edge of the bluff. It's two stories, with a cellar level primarily below. There are existing houses on the property. The existing Arno house is 39 feet off of grade, as measured from this point. This would actually, as measured from this point, be 25 feet off of grade, approximately, in the current design. And then here what we're doing is, we have the tennis court and there's also a pool house. But again, to preserve open space and to allow for the most unobstructed view possible, we're submerging that pool house underneath the tennis court.

Really, the character of the trees on that particular property are quite spectacular, so the house and the geometry of the house is very much configured to minimize any removal of

any trees. And, in fact, the intention is to plant the lot with more trees than currently exist there; understanding, of course, that later we'll have to go through tree preservation.

One of the questions that came up in the informal meeting we had with Chairperson Speranza and Commissioner Cameron was what is the appearance of the house, or the massing of the house, as seen from North Broadway. This is the east elevation, which faces North Broadway, and you see there some of the height – really the low massing that we're trying to achieve with that.

One of the additional things that we'd not submitted to the Board, but we intend to submit as part of our view preservation package, are these diagrams. This first diagram shows the existing condition, the red line representing the height of the current Mitzman house and the green line representing the proposed height of the tennis court fence that would extend in front of North Broadway. I can pass these around, and then collect them.

The other thing we did want to discuss going forward, this is my office's first opportunity to design a house in Hastings. So one of the things we wanted to discuss today with you was, in anticipation of a view preservation application, which views the Board would like to see us capture in those view preservations. Also, I have a sample that shows what we would intend to submit. These were shown to Chairperson Speranza and Commissioner Cameron when we had our informal meeting.

Here's where you can see, on the red line, the outline of the proposed lot merger. Then, what we're actually proposing is essentially three views from the neighboring property to the north trying to capture the view from Temple Beth Shalom, trying to capture the view from the bottom of Minturn Place and the view from up on the Aqueduct, the view directly across from that existing curbcut on North Broadway, and two views from the neighbors to the south – the adjoining properties to the south.

The view I did want to show today – and again, I'll circulate these around – but let me show first the existing view from North Broadway of the property. There, you can see the curbcut I was speaking to and the view down to the river there; that being the primary. We did try and take these pictures with the leaves off the trees to allow you to see what would really be the case in a winter condition, as it might be now or even later from now.

The second is what the proposed current design of the house would be. This is a view, again, for the public that you would see from North Broadway. Really, you can see here where this large setback of the house really makes the house and whole strategy of reducing the massing of the house by incorporating it into the hillside show very clearly. Again, let me pass these around to the Boardmembers.

That's the current design.

Building Inspector Sharma: No cupolas or bell towers?

Mr. Yaffe: No cupolas or bell towers.

Chairperson Speranza: I want to thank you. Generally, for subdivision approval and the construction of a single-family home, there is not the requirement to have site plan approval for a home, for any single-family home. The view preservation requirement exists because the property's in the view preservation zone. But because of the extent of the combination of the parcels, we did want to have a sense from the applicant as to what was actually being built. Just in case people are wondering why there's this type of presentation for what is a single-family home, it is an important parcel for the Village. It was studied in the large tracts, and the combination of the lots into one property was something that we wanted to make sure was something that would result in something that was consistent with the Village. That's why we're going through this effort.

We've heard the plans. View preservation will be coming. Let me get a sense, first, from the Boardmembers if there are questions or comments. And then, obviously, anybody from the public who wishes to speak because it is the continuation of the public hearing.

Boardmember Wertz: I appreciate the effort to keep the views preserved. Your analysis of where the views, the important views, are is a really great start, it looks to me right. And to preserve the trees on the site is very important. They *are* gorgeous, and I appreciate the effort to build around them and to create a building that's going to work with them.

It's an interesting design. I love those old buildings there so I'm kind of sad to see them go for a more modern architectural look. But it is lower, and so in that sense it does kind of blend into the ground and allow maybe even better views in some ways, as far as the height goes. So I really appreciate the way you're thinking creatively about this and trying to preserve the good things. And I look forward to other comments maybe looking at other angles.

Boardmember Alligood: I appreciate the information. I think it's very clear what's being proposed. It certainly doesn't look like a major view preservation issue because it is going to be lower than what's there now. I agree with Fred. I've already expressed I love the old buildings, but that's really not our decision to make. We're here to just make a decision about the merging of the lots and to deal with that, as Patty explained. I feel the information helps me feel more comfortable with that.

Boardmember Cameron: On the places to take pictures, it's not really – as Patty surely would say – up to us to choose the places. I just suggest to you to do slight overkill on that. It's not that hard to do. Go up the street behind and see what you can see; see some of the houses up there. Because none of us want to be sitting in here while we're looking at view preservation and have someone come in, "But I see it from my porch," and you're left there

speechless. Overkill is always a good thing, and you can find a lot of things which we might not see. We get in our cars and drive around and walk up and down the street, but you really should do that.

I also appreciate that we've been able to see these diagrams now because you better build this one. I'm just kidding. It helps us get a great deal more comfort as we sit here wondering what happens once we combine the lots together. So I thank you for that.

Chairperson Speranza: One of the things we did notice on the plans was that the driveway ends in a parking garage underground. Is that what's being contemplated now?

Mr. Yaffe: That is.

Chairperson Speranza: And I don't know what's involved with respect to any kind of emergency services sign-off. Do we need the fire department to look at something like this, depending on what exactly it is or how big it is, or if there's sprinklers? We just noticed that it kind of disappears.

Mr. Cavallaro: The idea of siting the garage, because it's a roof plan, is not shown. And because it's underground it will have grass covering it. But essentially it has sort of an outline – with the trees on top of there – but essentially has an outline of that approximately six-car garage.

Chairperson Speranza: And it's got to be sprinklered. I'm asking. We don't have many of them in Hastings. That's why I'm wondering.

Building Inspector Sharma: New construction, according to local law – any new construction of any kind, of whatever size – is to be sprinklered anyway. So this would definitely have to be sprinklered by local law. Not by state law, but because the local law requires any new construction has to be sprinklered.

Boardmember Cameron: But following up on Patty's comment, we have a volunteer fire department and a volunteer ambulance service and what have you. If something should happen to somebody out there or, God help us a fire, they're going to need to be satisfied they can get to the building. You're going to need to talk to the Fire Chief and things of that nature because you don't have a driveway to the building.

Mr. Cavallaro: I think when we work through the landscape we'll probably make something that would allow for emergency access.

Boardmember Cameron: Sounds like the right idea.

Chairperson Speranza: Anyone from the public wish to make any comments on the application, or have any questions or suggestions as to where they might like to see photographs from? You mentioned you're going to have photos from that, or look at the views from the south. Do we need something from the north for any reason?

Mr. Cavallaro: We have that those are proposed, as well. We've walked around in these. We do feel these start to identify some of the primary ones, but certainly we can take another pass at it.

Boardmember Cameron: How tall are the pergolas, by the way?

Mr. Cavallaro: Those are still being designed, but we're looking at something in the range of 10 feet, 8 feet, something like that.

Village Attorney Stecich: I'm sure you know the steep slopes review, too, will have to be . . . this has steep slopes, right? So it doesn't have to be done now, but when they come back for view preservation do steep slopes at the same time.

Mr. Cavallaro: We're intending to, but thank you.

Village Attorney Stecich: It's just nobody mentioned it.

Boardmember Cameron: And the width of the curbcut? Do we have a limit on how wide the curbcut can be?

Building Inspector Sharma: Twenty-four feet.

Boardmember Cameron: So long as you stay within 24 feet? It might be hard off Broadway, so you're going to have to think about that.

Building Inspector Sharma: The driveway maximum width is 24 feet, the maximum area of the driveway is 960 square feet. I have a feeling they would need a variance from the maximum area of the driveway.

Boardmember Cameron: That's true.

Mr. Cavallaro: We had discussed that at one point. One of the things, just to be clear, when we do the driveway surface we'll look for permeable surface. It won't be an asphalt surface. And we'll basically work with the fire department to set a minimum width that they're comfortable with for a road and access for the driveway.

Chairperson Speranza: Anything else from the public?

We do have to wait for the 30 days to go by for the SEQRA review. That being said, again thank you.

Village Attorney Stecich: Patty, can I just ask a question? Would you want, for the next meeting . . . because I know we don't do them for all applications, but you may want me to draft a resolution of approval for this. Because we do have at least the one condition. We wanted to put a condition that you're approving – I'm assuming the Board still wanted this, we talked about it before – the merger subdivision subject to the property being used for – on the condition that the property be used for – a single, one-family house.

Chairperson Speranza: Right. Let's talk about that. I don't think we were in agreement on that.

Village Attorney Stecich: But there certainly has to be a discussion about that because it has to be hammered out.

Chairperson Speranza: That's right, because we were not in agreement. If you recall, this property is zoned for multi-family use. We had raised the possibility of having a condition on the approval that it be only used for a single-family home. There was no consensus on it. What's the sense? Eva, I know multi-family could work in this location.

Boardmember Alligood: My thought was I wasn't clear that we wanted to put that restriction in place because we don't know what proposal may come 50 years from now, and it just didn't seem to make sense to me. That was my feeling about it.

Chairperson Speranza: Let's get a sense of the Boardmembers. Fred?

Boardmember Wertz: I think what Eva said makes sense to me, although I had originally thought a one-family house would kind of restrict it from becoming something that's really inconsistent with the Village's desire to preserve the open space and the bulk and all of that. But she makes a good point: 50 years down the line, who knows what's going to be going on. And if we place restrictions on it now, they may not be relevant then. With difficulty predicting the future, maybe to be more conservative and just leave the zoning as it is makes sense. But I can't say I'm decided. If there are other views that weigh in and make a good case for making it a single-family house zone, then I'm open to that.

Boardmember Logan: I think some of this has to do with legal technicalities: would this be a condition in perpetuity, or could it be reviewed after a certain number of years. I like the fact this is low massing, but we at some point may want to have higher density in that area.

Village Attorney Stecich: What you could do is make it a condition, or a deed restriction, that runs in favor of the Village. And then the Village can undo it if it wanted to. Of course, it wouldn't be you. It would be the Board of Trustees that would undo it.

Boardmember Wertz: How would that work, Marianne?

Village Attorney Stecich: We'd have to work on it a little bit, but probably you could do it by a deed restriction that runs in favor of the Village. And it would say that this lot can only be used for a single, one-family house. Not necessarily this house, but a one-family home, in case they decide not to build this one and use one of the older ones. And if, at some point in the future, it doesn't make any sense for that, the Village can just undo the . . . assuming the property owner wants to, you would just agree to lift the restriction.

Boardmember Wertz: Does that satisfy your concern?

Boardmember Alligood: That makes me more comfortable. I think what I see there as the potential eventually, if it ever was not needed as a single-family home, it could be very useful for building up some density near our downtown zone within walking distance of the train. That's really the smart growth concept of planning. I hesitate to, in perpetuity, have this huge piece of property zoned single-family. It doesn't seem quite the sustainable strategy over the long term. But if there were an option to have the Village make a decision to lift that restriction, given other circumstances that will be the case in whatever time this property turns over, then I'm more comfortable with that.

Chairperson Speranza: I think we should be clear. We're not proposing that the zoning for the property be changed. Because it would still be zoned for multi-family, residential development.

Boardmember Dale: It's a deed restriction.

Village Attorney Stecich: John, were you uncomfortable with that?

Mr. Cavallaro: With respect to the deed restriction, what I was going to suggest to the Board was the condition of the approval. Because if we're concerned about perpetuity, the deed restriction would obviously run in perpetuity even if in favor of the Village. But the condition on the subdivision approval could be lifted by the Board at some future date if they decided that they would prefer to have multi-family zoning.

Village Attorney Stecich: You know what?

Mr. Cavallaro: Can I talk to you more about this?

Village Attorney Stecich: I'm not sure about that. Because I just represented somebody up-county where we did get the deed restriction lifted.

Mr. Cavallaro: I've had a similar experience with that, where it couldn't be lifted. But maybe we could speak more about that.

Village Attorney Stecich: I understand what the Board wants. If, in fact, you may decide you don't want any condition at all, just let it go. If you do, I can work with John to come up with something, whether it be a deed restriction, whether it be a condition. It's not something that happens commonly so I'll have to think about it a little bit. It just may take a little time to work it out, once we understand the direction the Board's going in.

Boardmember Dale: At least my concern is, if they choose sometime in the future – if there's no restrictions and they choose sometime in the future to no longer use the house and choose to make it a development, the question then becomes what role does the Village have in participating in that decision about what gets built on this. Since it's zoned as multi-family, they can build that by right, based on the existing zoning, sometime in the future; tear the house down, or leave the house and add an additional building, or subdivide it at some point.

The concern is, what role will the Village have in controlling future development on the site. If the deed restriction accomplishes that, then it would seem to me that's exactly what we're trying to protect: that we participate in the future development of the site.

On the flip side, there's a concern about if we impose restrictions now are we, in fact, taking value from the property that rightfully belongs to the owner.

Village Attorney Stecich: They agreed to it. We've had these conversations.

Mr. Cavallaro: Right. I've spoken with my clients. The deed restriction they're actually relevant with. But the condition on the property, we understood that there may be a condition if there was an approval, that there would be a condition on the approval that it be used for a single-family dwelling. I think that would give the Village the most flexibility. Because the Village actually controls that restriction, and it's a condition of the Village's approval, obviously.

Chairperson Speranza: And let me understand that. Then if a new applicant, a new owner of the property, were to come back and say, "We want to build 35 units on this property now – we're going to tear down this house and submit a proposal for 35 units with multi-family zoning," it's still got to go through the process. There's a Village process for approval for that development.

Mr. Cavallaro: That's correct. It would still be subject to your zoning. Right, that's correct.

Boardmember Alligood: I think, Patty, the only thing is that, presumably, we've added value to the property by combining all the lots. We're allowing new types of development to occur that wouldn't if we didn't give this approval. So that's the way I look at it, why we'd want to give this special consideration.

Chairperson Speranza: And we'll work out the methodology. Jamie, did you want to weigh in on this?

Boardmember Cameron: I'm not against, sometime in the future, having greater density of housing on that because I agree with downtown development. We went to that seminar. I'm more concerned about things between a single-family dwelling and that kind of housing, like a not-for-profit organization. Because the thing we can't afford to do is to have this piece of land taken off our tax roles. So I'm worried about something in between. I'm all in favor of housing, I'm all in favor of the single-family dwelling if that's what they want to do with their money. I'm worried about the situations in between. Because we need to keep everything we've got on our tax roles.

So the deed restriction may allay my fears. I just wanted to bring that up, but I'm doing it for a different reason.

Boardmember Dale: And you're proposing not a deed restriction, but a condition of approval?

Mr. Cavallaro: The condition. It's my experience, at least with the deed restriction, that would create a permanent cloud on title going forward. Whereas the condition of the approval is something that would give flexibility, from what I'm hearing from the commissioners of this board. It would give them the most flexibility to remove the flexibility should, 50 years in the future, the Board decided it would like to be in favor of multi-family housing, for example, if the zoning remained consistent. Because the deed restriction is going to forever be a cloud on title once it's recorded in the county clerk's office.

Village Attorney Stecich: Well, it's not true it's forever a cloud on title.

Boardmember Cameron: No, you can take it off.

Village Attorney Stecich: You could take it off. It can be done. I've got to tell you the problem. If you don't want it, it doesn't matter. But the problem with conditions on subdivision approval, they get lost. The conditions are in the Building Department file if you can find the Building Department file, if you think to look at the subdivision approval. It is on file in the county clerk's office. And somebody buying the property, God forbid

something happens and the Applicants aren't around to describe what the situation is with the property, and somebody buys this huge piece of property thinking that they can build an apartment building on it or an institution because it's permitted in the zoning. It's not as obvious.

If you would find it when you did a title search, see, you're not going to find a subdivision condition when you do a title search.

Mr. Cavallaro: But, Marianne, you could put on the face of the deed that the property herein is subject to the subdivision approval granted in 2009. And then that puts prospective owners forever on notice that the property is subject to a subdivision approval. And then that is forever recorded, and that is the means by bringing that condition to the surface, if you will, by putting it right on the face of the deed.

Village Attorney Stecich: That could work. Okay. We'll come up with something.

Chairperson Speranza: I was going to say, because we can't do anything until our next meeting in December, we will trust that our couple will work something out.

Village Attorney Stecich: Okay. Now that I know which way the Board wants to go on it, we'll come up with something.

Chairperson Speranza: Because that does seem like a reasonable approach.

Mr. Cavallaro: Okay. Thank you.

Excuse me. Is the public hearing closed this evening, or will that be continued?

Chairperson Speranza: I think we'll wait. We will be going through your EAF at the next meeting.

Mr. Cavallaro: For the next meeting. Okay, thank you.

Chairperson Speranza: Yes, to issue our dec. So we might as well just leave it open for them. Okay?

Mr. Cavallaro: Okay. Thank you for your time this evening.

2. Cont'd Public Hearing on the application of Ben Diep for the approval of View Preservation and Site Plan Approval for the addition and alterations to an existing mixed use building located at 385 Warburton Avenue.

Chairperson Speranza: Two minutes to close up the plans and move on to the next item, which is also a continued public hearing.

This is for view preservation recommendation, site plan approval for addition and alterations to a building at 385 Warburton Avenue. We had had some discussion with Mr. Diep – am I saying it right? – about this proposal. And we did ask for some additional information, which I'm hoping you have.

John Adams, architect: This is the owner, Ben Diep.

Since we saw you last, one week after our last meeting here we did meet with the Zoning Board. One of things that came up in the Zoning Board, which is a modification of what we had shown you before, was that they made it very clear that this little wall that we were proposing at the front of the parking area needed to sit behind the property line. Previously, it was aligned with the stone wall that exists there now, which we had done for aesthetic reasons more than anything else. They made the point that that's Village land and you can't place your wall on Village land unless you go to the Trustees to get some special approval. Right?

Building Inspector Sharma: To build that wall, the Zoning Board has no jurisdiction over it. It can't give you permission, so it's out of the variance process itself.

Mr. Adams: So I just want to make the point that the plan has changed slightly there.

One of the other issues – I don't know exactly how it came up in the last meeting – we started to talk about parking and whether or not we'd actually be able to get two cars to park there. Since our last meeting I have had discussions with the Department of Public Works of the county. They went over their criteria in terms of the curbcut, one being it needed to be 5 feet off the property line, which we are. It needed to be, for a commercial space, no more than 30 feet wide. We're proposing, actually, that it be 12 feet wide. So it's quite a bit smaller. It's 18 for residential and it's, I think, 30 for commercial. So we're even below what it would be for residential to minimize the impact.

I've also produced a diagram relative to the parking, which I'd like to give you. I don't know how I came up one copy short, so if you'll share that would be great.

Chairperson Speranza: We'll share.

Mr. Adams: What you're looking at here, ideally we would like to try to park two cars here. We think that this will work. What the diagram's actually showing is that one car, you can park toward the back of the parking structure. And the other you would park, probably, in front of the parking structure. But when it's time to back out, you can open the garage door, you can pull in slightly, and then you can make a three-point turn and get out. That would be, of course, equally true, and even easier for the single car that's parked in the garage. One of the conditions for the county is that you be able to accomplish that turn within your own property and not, as we talked about last time, back out into the street. They seem to be satisfied with this, but we haven't made our application officially yet, which we plan to do after we get through whatever Board provisions there might be.

We also submitted to the Zoning Board, on the second sheet, just a calculation of the number of parking spaces under current zoning, under the existing condition of the building what

we're proposing. And there's actually a reduction of three spaces in terms of existing conditions. And it's a degree of nonconformity versus our proposed condition and its degree of nonconformity; nonconformity because there is no parking provided.

Chairperson Speranza: There had been one other. The item that I remember we requested was additional photos showing, particularly, the dormer and how the building might look with the new dormer put in.

Mr. Adams: Yes, I have those for you, as well.

Boardmember Dale: Patty, I have a question on the parking. The fact that the second car has to be removed from the space – pulled out into the street – in order for the first car to back out.

Mr. Adams: No, no. It's not pulled into the street. It's pulled into the garage.

Boardmember Dale: No, you have one car in the garage. We'll call that Car 1. You have the second car, which is in the open space. For the first car, the one that's in the garage, to leave the second has to pull out into the street before the first car can exit.

Mr. Adams: Right, yes.

Boardmember Cameron: These are only 13-foot cars.

Mr. Adams: It's based on a compact-size car, yes.

Boardmember Cameron: Because they can just pull the first car up on the right-hand side and back the second one straight out, as it's being backed out now. There's room to get the first straight up against the garage on the right-hand side.

Boardmember Dale: All the way in the corner.

Boardmember Cameron: If they have 12-foot cars. In fact, you could get a second one in there backed against the wall, too, if you wanted to.

Boardmember Dale: And not be able to pull out, though.

Boardmember Alligood: Not with this turnaround.

Boardmember Cameron: What I'm always concerned about is whether they are going to turn around.

Boardmember Dale: I'm thinking this issue of the parking came up on the accessory housing discussion, where the comment was both cars had to have equal access. The driveway had to be wide enough that both cars could pull out independently, and this does not meet that condition.

Chairperson Speranza: Right. My recollection is that was all brand-new construction. Warburton Avenue, you're talking about?

Boardmember Dale: No, on Farragut.

Chairperson Speranza: Oh, the accessory apartment. Yes, that's the tandem parking; that whole issue of tandem parking.

Boardmember Cameron: That issue you just put up actually can be satisfied. You just take one car and you put it there, and the other car you put up against . . . right up here, or right there. Then you bring the first car out, you turn around, and leave. Or you can take this one, turn around, and leave. You can get both out easily – independently.

Chairperson Speranza: And the solution to that was simply to give a waiver.

Boardmember Dale: Well, the question is, is a waiver necessary here.

Chairperson Speranza: The remedy for that particular application was a waiver from the off-street parking requirement.

Boardmember Dale: Agreed. Then we granted that waiver.

Chairperson Speranza: This would not be a waiver situation because there is no provision for a waiver for this kind of application for reuse. The accessory apartment permit has a provision in the code for us to grant a waiver if there can't be compliance with the off-street parking requirement. We cannot give a waiver in this instance. There's no provision in the code for a waiver.

Village Attorney Stecich: But I think the more significant thing is, before you have an accessory apartment there's a requirement that you provide two parking spaces. Just as if, when you said there's new construction, you have to have two parking spaces for a single-family house. This already exists. There's no parking now. They're creating new parking so that wouldn't really be relevant.

Boardmember Dale: And better is an improvement.

Mr. Adams: Well, the issue had come up the last time. Because we're making a curbcut, you're losing one parking space.

Chairperson Speranza: Right.

Mr. Adams: That's one of the reasons why we're also trying to make a big point of getting two cars in there, besides the fact that they have two cars.

The additional photographs that we gave you . . . the last time we were here we provided a photograph that didn't show you anything about the dormer. In our meeting with the Zoning Board there were some questions about the dormer. I believe we're going to be submitting some additional material to the Zoning Board. They seem to want to see a different design or material or something. Right now, we're thinking that the dormer will be probably clad in copper so that it doesn't conflict with the very specific geometry of the gable of the building, etc. But that's still to be worked out with the Zoning Board whether they're going to grant that variance or not.

Building Inspector Sharma: By the way, the Zoning Board had issues with the shape and size of the dormer, and in subsequent meetings of the Zoning Board that might change. They might go with the size and shape of it just by changing the cladding material. So what we're seeing tonight of how the dormer would look might become moot. I'm not sure.

Mr. Adams: Couldn't we say, with any certainty, that the dormer won't be getting any larger?

Building Inspector Sharma: It wouldn't be getting any larger, that's for sure. The Zoning Board, actually wanted to do away with the dormer altogether and find another means of getting the northern light for the painting or artwork you want to have in a studio-like setting.

Mr. Adams: Well, there are a number of issues with the dormer and the Zoning Board that we need to clear up. One had to do with questions about did it constitute a story as opposed to a half-story. We've done those calculations. We don't believe it is a story. We're not even sure it's a half-story actually, by the strict legal definition, but it's certainly not a full story.

Building Inspector Sharma: I think the issue was the already nonconforming height of the structure.

Mr. Adams: Well, that's the specific variance that we're applying for.

Building Inspector Sharma: And adding to that nonconforming definition, and whether or not that was necessary.

Chairperson Speranza: Did you have anything else in terms of completing your presentation?

Mr. Adams: I was just going to make a few notes about the photographs. The one set of photographs . . . I think James had asked to see other photographs from the Aqueduct. So that's what those are there for. Certainly we'll see the dormer from the Aqueduct. I don't think it is particularly blocking much in the way of view, but at least from a couple angles it's partly visible.

Then the other set of photographs, we tried to show how, when you move to different parts of the lots across the street starting from the sidewalk, which is public, to further up the hill on the sites across the street, the vanishing point, or the horizon line, of the Palisades changes it. It moves further up. We modified this diagram that we showed you last time with a series of three dotted lines. The lowest one represents where the top of the Palisades occurs when you're standing at street level and you're standing at sidewalk level. The middle line represents where the top of the Palisades would be when you're standing at the first-floor level of the houses – the typical houses across the street – which represents probably a midway point in the lot. Then the top dotted line represents where the Palisades line occurs at the rear lot line of the properties across the street. So it really varies a lot depending on where you are.

This photograph that we had given you before, which is really a rendering, represented where the Palisades would be from the first-floor level across the street. So if we were to extrapolate the view from the sidewalk we would expect that the line of the Palisades would pretty much coincide with the top of the garage. You can see it in this diagram here. The main point from last time that we're making again is that we feel, from a view preservation district point of view, that the garage – because we are removing this tree, which is a significant obstruction for six months out of the year – we are actually providing, I think, over the entire year, more of a view than what's actually there now.

Chairperson Speranza: I want to recap who's got what actions. The lead agency determination – or the Environmental Assessment Form, and our request to be lead agency – was sent to the ZBA. The ZBA has no problem with us declaring ourselves lead agency. We have a Short Form Environmental Assessment, which we can go through when we're ready to take action on the SEQRA.

We have site plan approval and a recommendation to the Zoning Board of Appeals. The Zoning Board of Appeals has the final recommendation with respect to view preservation and variances. You're still working things out with respect to view preservation. I want to be careful not to be in a situation to send you back and forth between the boards where, should we approve the site plan and you go back to the Zoning Board and they disapprove variances, you have to then come back to us. I don't know that SEQRA would change. So there are several steps with respect to this application.

First off, let me find out from Boardmembers any questions or concerns; have the previous concerns been addressed with submittal of the additional material. Recognizing, of course, that there would still need to be an approval from the county Department of Public Works with respect to any curbcut. And certainly, almost any action would have to be conditioned on that. Bruce?

Boardmember Dale: As I said the last time, I think it's a strong project and a major contribution to the Village. I'm not concerned about the view preservation.

Chairperson Speranza: Bill?

Boardmember Logan: I think if there is some uncertainty about the final configuration of the dormer, if we can assume that this dormer arrangement shown here is the maximum envelope anticipated, I think an evaluation about the impact on view preservation is that if it gets smaller the impact will be less. I personally think this is going to be a big improvement removing this tree. I would like to have some description in the minutes about the nature of the handrail above the garage so that it remains a transparent handrail and doesn't bite into the view, and that it remains at that height. We could say "as a transparent handrail, as illustrated on a rendering" so forth and so on.

Mr. Adams: Our intention is to make it out of a thin 4-mil steel, which would be painted black – which also makes it somewhat recessive.

Boardmember Logan: I think we're contemplating giving our recommendation tonight to the ZBA regarding view preservation. So my personal feeling is that this is fine and it's an improvement.

Chairperson Speranza: Okay. Fred?

Boardmember Wertz: I agree, too.

Boardmember Alligood: I have a question about the height of the wall that encloses the parking area. Do you know how high it is?

Mr. Adams: Our intention was to match the height of the typical . . .

Boardmember Alligood: Yes, I don't know what that height is.

Mr. Adams: Is there not a dimension listed there – 58 inches or something like that?

Chairperson Speranza: Maybe on the original.

Boardmember Logan: It says “a line.”

Boardmember Alligood: It just says “a line.”

Mr. Adams: It's 53 inches above grade.

Chairperson Speranza: Right. That's what's listed on the original, 53 inches.

Boardmember Alligood: Looking at it, I guess I have a safety concern about coming out of that driveway; safety in terms of a small child running up. You would not be able to see. With that, to me, it's an obstruction, that wall. Even if you're coming out head first you won't see what's coming that's lower than that wall. I think about that only because when I come out of my driveway my neighbor's hedges block my view and I have to look through the branches to make sure no children are running down the street as I come out. This is a solid wall?

Mr. Adams: Yes, that's how we've designed it now.

Boardmember Alligood: With my own driveway condition, it just raises concerns.

Mr. Adams: One of the issues that we were trying to solve is – and I don't know if you noticed it in the photographs – all the garbage kind of sits there. That was going to be a continued way to keep it behind that wall.

Boardmember Alligood: So you're going to have the garbage still there?

Mr. Adams: Behind that wall.

Boardmember Alligood: So how does that affect your diagram?

Mr. Adams: We have the room.

Boardmember Alligood: But it's not shown.

Mr. Adams: You can see how much room there is here.

Chairperson Speranza: We need to elevate the voices just so people can hear.

It's clearly, I think, enough room.

Boardmember Alligood: So you're proposing keeping garbage on the other side of the wall.

Mr. Adams: Right. The need to screen that, that's one of the few things the neighbors have all commented about through the process. They were all very happy with the possibility of not having to look at the garbage anymore. What if we made it wider, the opening, and not necessarily the curbcut. Right now it's 14 feet wide.

Chairperson Speranza: Is it also possible to – I don't know what the architectural phrase is – cut off the corner of the entrance? They've done this, I think, in one of the roads in Ardsley, where you actually just trim the corner of this wall, or step it down a little bit.

Boardmember Cameron: Step it down would do something, but . . .

Boardmember Alligood: It might look odd. You have to weigh the aesthetics. I mean, you've solved an aesthetic problem.

Chairperson Speranza: Everything's a balance.

Boardmember Alligood: There's garbage visible from the street, but I'm not sure I have a solution. It's just something that struck me because one of our considerations is the safety of the proposed new parking. And that is something . . . with a solid wall there, with it being a street that has pedestrian traffic, it's not . . .

Boardmember Logan: So your concerned with not being able to see somebody who is shorter than the top of the wall.

Boardmember Cameron: Shorter than 4 feet.

Boardmember Alligood: It's just something to consider.

Boardmember Cameron: The other thing about that, while we're thinking about it, is how to make sure that people do not back out of this spot.

Chairperson Speranza: I don't know how we solve that, though, honestly.

Boardmember Cameron: Neither do I, except threaten to take away their parking if they start backing out. But that gives us a police problem. That would make it doubly dangerous.

Boardmember Alligood: And does the garbage have to be on that side? That's just where it needs to be?

Mr. Adams: Well, the lot is very small on the other side.

Boardmember Alligood: There's no room to put it on the other side.

Mr. Adams: I mean, this is actually the corner of the lot right here. Unless one kept the garbage in their garage and just wheeled it out.

Boardmember Cameron: So how much garbage is there? Because you could put most of it on the north side of that corner, and thus make the wall shorter, or lower.

Mr. Adams: The north side here, you mean?

Boardmember Cameron: Yes.

Mr. Adams: Well, I think that' the best thing to do is make the opening wider.

Boardmember Dale: There's no space here.

Mr. Adams: That certainly gives more visibility.

Boardmember Alligood: Because it is a street that people walk down with their kids.

Mr. Adams: I think, Ben, you were concerned about having some sort of a gate that could close, and you need a certain amount of excess on either side of the opening perhaps for that to happen. But there are technical ways to get around it.

Boardmember Alligood: Okay. It's just something to think about.

Boardmember Logan: If you look at this diagram, with this new wall now set back further than it is in the rendering, it's not impossible for a driver to get far enough out that they have a view before they actually cross the sidewalk. So it's not an impossible situation. It

requires some reasonable behavior on the part of the driver, but that's something we can't control. The situation doesn't preclude having a cautious and judicious exit from the lot.

Boardmember Cameron: The same problem actually exists on the other side, by the way. It sits on this, too.

Chairperson Speranza: Anything else? Anything from the public? Anybody here from the public who wishes to speak about the application?

So are we ready, then, to take action on this?

Boardmember Cameron: I would like to bring up the thing which I brought up last time. Our action should be subject to them actually getting it down to this single-family home and office. Otherwise, they have different setbacks they have to live with because they're not living within this thing.

Chairperson Speranza: Right. And we can definitely condition the approvals on that, yes.

Boardmember Dale: We had that issue initially between getting DHCR's approval of the reduction to a single-family home; giving up the rentals, the rent-stabilized units. So there's a mutual condition here, I believe. That you have to get our approval for them to give you approval, and we want their approval before we're willing to release our approval.

Chairperson Speranza: Then the first thing is, Marianne, we have to go through the SEQRA. Right?

Village Attorney Stecich: Yes, before you can do anything.

Chairperson Speranza: So we have a Short Environmental Assessment Form which was sent to us separately. It was not included in this packet. We got it in the mail, and I didn't know anything. It came in a separate mailing to us after the last meeting. It wasn't included in this packet.

Boardmember Dale: So we don't have copies of it.

Chairperson Speranza: You have copies probably someplace at home in your mail. I'm just looking to see. This isn't like our regular form. It's simply that there are questions asked: *Whether or not there are adverse effects associated with any of the following: air quality, aesthetic, architectural, archeological, natural resources, vegetation, a community's existing plans or goals, growth, subsequent development long term/short term, cumulative effects, or other impacts.* Again, this is the short form version of the Environmental Assessment Form.

The last time we declared ourselves lead agency there were no objections to it, so now we recommend or state that we do not see any kind of impacts. We issue the negative declaration. Is that the correct terminology, Marianne?

Village Attorney Stecich: Yes.

Chairperson Speranza: So I need a motion, please, for a negative determination on the site plan approval for the property.

Village Attorney Stecich: That the whole action be variances.

Chairperson Speranza: Right. Because this encompasses the view preservation and the variances.

Village Attorney Stecich: Right. So just a motion that there won't be any significant negative environmental impacts, by the proposed action.

Chairperson Speranza: So I need a motion stating that there will be no significant environmental impacts for the proposed application.

On MOTION of Boardmember Wertz, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved that there will be no significant environmental impacts for the proposed application.

Chairperson Speranza: The next step is the site plan approval, which would be conditioned on this, in fact, being converted to a single-family residential use.

Mr. Adams: With commercial.

Chairperson Speranza: With commercial; lower level commercial space. And subject, also, to there being a permit issued by the county Department of Public Works for safe access, egress, from the proposed parking.

Village Attorney Stecich: And subject to the fence being transparent.

Boardmember Cameron: Right.

Chairperson Speranza: The railing on top of the garage.

Village Attorney Stecich: And did you mention the condition about it being converted to a single-family house?

Chairperson Speranza: Yes.

Boardmember Dale: That would require a DHCR approval.

Building Inspector Sharma: So the site plan approval is for specific applications. This application says it's going to be a single-family. That doesn't have the condition. When you approve the site plan, they're approving a site plan as it's currently applied for. It says single-family dwelling in there. It doesn't have to be a stipulation, the way I see it.

Chairperson Speranza: You're right. With added emphasis.

So I need a motion with those conditions; motions for site plan approval. Was there anything else aside from the handrail? Single-family DPW approval for the egress.

On MOTION of Boardmember Logan, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Board approved with the following conditions: railing/fence on top of garage must be transparent; Site Plan approval is only for a single-family house; County Department of Public Works must approve the driveway.

And then a recommendation for view preservation to the Zoning Board of Appeals.

On MOTION of Boardmember Logan, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Board resolved to recommend to the Zoning Board of Appeals that this has minimal view preservation impact, and that we accept it, subject to the above conditions: the transparent handrail and the dormer being no bigger than as shown on the drawings before us.

Chairperson Speranza: Thank you.

Mr. Adams: We'll see you again, actually. What is the process? Do we come back to this board?

Building Inspector Sharma: No, you don't.

Chairperson Speranza: The Zoning Board of Appeals, unless something changes.

Building Inspector Sharma: You come to me tomorrow.

Mr. Adams: Okay. Thank you.

Boardmember Cameron: This is going to make the dormer bigger because then you have to get back there.

Chairperson Speranza: Right. If the dormer becomes larger in the back here, with new photos.

New Business

- 1. T-Mobile Northeast LLC for Special Use Permit, recommendation for View Preservation and approval of Site Plan for the addition of Wireless Service and associated equipment on the roof of apartment buildings at 555-565 Broadway.**

Boardmember Logan: Before we get into this, I have to recuse myself because I'm in the notification district for that.

Chairperson Speranza: Okay. I thought you were going to say you were working for T-Mobile now.

I just want to say that the applicant is here before us. We've gotten some briefing on this proposal. This is not included within the wireless service overlay district so it will have to get a variance from the Zoning Board of Appeals. There are certain procedural things that we will need to make sure occur. But it's listed as a public hearing. There was a notice out. So why don't you make your presentation, and then we'll hear comments from the Board and the public, and then we'll go through the actual process moving forward.

So welcome.

Douglas Warten – Snyder & Snyder, LLP: Okay. Nice to be here again. I am an attorney with the law firm of Snyder & Snyder, here on behalf of T-Mobile, formally known as Omnipoint. They've had a name change. T-Mobile, as you know, is seeking approval to allow location of a wireless structure on the existing building at 565 Broadway. We were here before, a few months ago, for a preliminary hearing on this matter. As you may recall, at that time the Board had briefly reviewed the application and granted permission for us to file our formal application, and that's what brings us here this evening.

It's been a little while since we were here last, and this is a public hearing so I thought I'd tell you a little bit about the application, as you requested. It's a rooftop application. So this is an existing apartment building, an existing tall structure. The facility that we are proposing will provide wireless telecommunication services to the area. The facility will consist of the following. It's nine panel antennas and related equipment on the rooftop. The nine panel antennas will be divided into three separate sectors. So just doing some quick math, that's three antennas per sector. There'll be a sector facing roughly north, roughly facing south, and facing east. The north and south sectors will be parapet-mounted, and the sector facing east will be mounted to the existing chimney – flush-mounted. It won't stick up above the existing chimney or add to its visual profile in that regard.

The antennas themselves are each 53 inches tall, 13 inches wide, and 3 inches deep. The related equipment will be located on a dunnage platform towards the center of the building so that they will have minimal, if any, visual impact from the ground. They will consist of three equipment cabinets roughly the size of refrigerators, a battery cabinet, and then a telecommunications cabinet which will be smaller.

With our application, we have submitted a visual analysis which, I think, may be at Exhibit 1 of the memorandum of law that we submitted in support of our application. That visual analysis includes pictures that have been taken from, I believe, 14 different locations around the Village. We did our best to come up with a good cross-section of different areas. What we did is, in those areas where we determined that the facility would be visible we included a computer depiction, a computer rendering, just to give the Board a sense for what's going to be proposed and what it's going to look like.

I hope the Board will agree, and conclude after reviewing it, that there will be minimal visual impact to the area, due mostly to the varied topography of the community that we're locating in. And also to the height of the building. You have to look up in order to see these antennas. We did try and do a good faith effort to come up with a good cross-section of different areas. It was only visible from four of the 14 areas, and one was minimally visible.

In addition, in support of our application, we submitted a report from a radio frequency engineer which was certified by another engineer who is a PE and specializes in radio frequency engineering also. Which establishes that although we'd like to locate in the overlay district, we can't for technological reasons. The signal isn't going to reach the significant gap in coverage that we need to fill.

That's why we're here, and that's why we're in this particular location. The fact that it's an existing tall structure, it avoids the use – the need, I should say – to construct a tower or something like that. And it provides good coverage of major arteries and portions of the Village that have a lot of density and need to be covered.

All that having been said, I hope that the Board will view this application favorably and I'll be glad to answer any questions that the Board may have.

Chairperson Speranza: I think it's a benefit to everybody to hear why the existing overlay district won't work. I know that in your materials you mention that it would be duplicative if you were to locate in an existing overlay district. That it would end up being a duplicative coverage. Is that correct, and is that from a different type of, or different location of, your antennas that may not be in Hastings?

Mr. Warten: Well, let me give you the Cliff Notes version. Then I'm also lucky to have the radio frequency engineer, who can give a more technical and more thorough – but nevertheless very straightforward – explanation of what I'm about to describe. I think the site that you're thinking of, there are several different overlay areas where you can go. I believe there are some to the east which are shielded by hills topographically from providing coverage to the area. There are some to the south which are extremely close to existing T-Mobile communications facilities and which would therefore create redundant coverage; there would be no point.

There would be interference issues. And in any event, if those facilities could cover this area, then they would be covering this area. I think there are some to the north, and my radio frequency engineer will give more thorough testimony. Then to the west we have, in the overlay district basically, Village hall. Now, Village hall would potentially work. And I think there are already antennas on Village hall, correct?

Chairperson Speranza: Oh, yes.

Mr. Warden: So it would work from a radio frequency engineering perspective. It would require a tower of about 147 feet.

Chairperson Speranza: A tower?

Mr. Warten: Yes, a tower of 147 feet, or a monopole, a flagpole, a tree; there's any different number of ways that it can be done. But 147 feet, I don't know if that's something that the Village wants to consider. That's one thing but, you know, it is in quite close proximity to the Village. You have some beautiful views here. I leave that to you.

That is the Cliff Notes version. If you'd like a little bit more of a presentation, perhaps with some visual support, I do have an engineer here that would be glad to speak to you.

Chairperson Speranza: You know what? I don't want to jump the gun. I was curious, but that is something which you have to satisfy the Zoning Board of Appeals. So we can get through that process.

Boardmember Dale: Could I hear a little bit of the history of the overlay district, and how that was chosen and what kind of public discussion there was of that before that might clarify why that was limited to that area? And why this area, which clearly has a greater range, was excluded?

Village Attorney Stecich: It just was. The Manager at the time picked the areas that he felt were suitable to be in the overlay district, and that's what the overlay district is. Actually, I think it was created 15 to 20 years ago; whenever the law was enacted. I think was right after, actually, there had been an application on it, on the same building.

Chairperson Speranza: Exactly, yes.

Village Attorney Stecich: This same building there was an application, and then that's when the lights went on: "Hey, listen, we better have a law regulating this." And then the law was enacted and the Manager at the time picked the areas that he thought would work. Because they were high.

Boardmember Cameron: I guess my question is, we do have AT&T up here, and they use it to, I think, cover the areas you want to cover. They don't have a 147-foot tower, and maybe you could explain what's different between T-Mobile communications and AT&T, and the other vendors up there. Now, there may not be room for you up here – that may be a different issue– but the issue is why you need a 147-foot tower and they seem to be quite happy without one.

Mr. Warten: Well, different carriers have different technologies and use different frequencies, which propagate in different ways. I'm not really privy to what their internal models are, but you will find from carrier to carrier that coverage from the same facility at the same height in the same location will differ radically. You'll also find that different carriers also have different nearby sites in different locations, which can obviate, or create the need, to fill a site in another part of the area. It's called cellular telecommunications because each site functions as sort of a cell, a unique cell, which must be adjacent and overlapping without another one. So different carriers, depending on where their facilities are, where their leases are, and what their business model is and how their radio frequency signals emit have different coverage layouts.

Chairperson Speranza: There are a couple of aspects to this. First of all, again, this is an action subject to SEQRA, subject to the environmental review. The first action there would be to declare ourselves lead agency, should the Board decide. The Zoning Board needs to issue a variance to even have us really consider this for site plan approval. Do we want to, as a board, take on the role of lead agency for this application?

Okay. Let me say, I think, given that we have the role of recommendation for view preservation and we also have the recommendation for site plan approval, I think it's probably a good idea for us to do so.

Village Attorney Stecich: And the special permit.

Chairperson Speranza: Right. And the issuance of the special permit. We can declare ourselves lead agency, and then wait for the Zoning Board to determine whether or not they will grant the variance. But can they grant the variance? No, they can't.

Village Attorney Stecich: If I might make a suggestion, let's say you declare yourself lead agency tonight – you declare your intent to be lead agency tonight. It'll circulate. At the next Zoning Board meeting . . .

Chairperson Speranza: Which is next week.

Village Attorney Stecich: My guess is that they'll say it's okay.

Chairperson Speranza: For us to be lead agency.

Village Attorney Stecich: The first they'll be hearing of it is next week's meeting, and they'll probably . . . I would imagine they would want to refer this to the Village's telecommunications consultant to actually confirm that it's necessary that it be 147 feet high and that kind of stuff. So they're not going to be able to make a determination at the next meeting anyway. It'll go before them, they'll say it's okay. The next meeting, then, you can go through the EAF if you're ready to go through it at that point, and whatever. And then you're going to have to wait. And I would suggest you do that at that meeting because you would have to make the SEQRA determination before the Zoning Board can do anything.

Chairperson Speranza: Right.

Village Attorney Stecich: So then, at their next meeting or a meeting after, whatever, they'll decide whether this application can get a variance to be outside the overlay district. At that point, it'll come back to you.

Chairperson Speranza: But in the meantime, we can move on our intent to be lead agency, we can request that an escrow be set up to have the radio frequency review, all of this to make sure that both we, and the Zoning Board are satisfied and comfortable with the material, the representations, that the applicant has made. And then that information can be used by the Zoning Board to grant or deny the variance.

Village Attorney Stecich: Right. Because it's information that you're both going to need.

Chairperson Speranza: Any other Board questions? This is a public hearing. I want to open it up to the floor, and I do have some communications. But let me first see if there's anything else from the Board or the applicant before we open it up. And then, of course, you can speak again.

Mr. Warten: If you'd like to open it up now, that would be fine.

Chairperson Speranza: No Boardmembers? Anybody from the audience wish to speak?

Michelle Croquets, 565 Broadway: I was here 10 years ago, when we were having this discussion initially, with the tenants from my building. I'd like to remind the Board that

when T-Mobile was on the point they started to install equipment at 555 Broadway without a permit and there was a stop order. Our buildings are bull's-eye targets for companies like this because of their height. Also, our buildings – both of them, if I understand correctly from what I researched then – are over height code for the time they were built. So they're super-good that way.

It would be efficient for them to finish off where they started, and that really concerns me. Actually, the fact that we even have to be here kind of makes me wonder did they really look at everything, are they negotiating in good faith. And I know about technologies and 3-G and Spectrum and all that. I really think this would be better suited to a public area, if the Village could make revenue from that; put it back into the community. There are concerns that we cannot discuss because the Telecommunications Act of 1996 doesn't permit that.

That was 13 years ago. If you look at the EU and you look at other countries, they're way more progressive than we are. And I'm not going to bring those things to the table because I know they're not arguable. However, negotiating in good faith is. In September, 2008, in the *San Francisco Chronicle* – and I can give this to the Board – you will find evidence that T-Mobile was notorious for doing things illegally and not providing proper information. It's something you should look at. I think that's important, and I think you have to take a look at the lives of the people in the building, how they're going to be impacted.

I'm concerned about safety. I'm concerned about the firemen if they have to go to the roof of the building, if there's a fire issue, or repairmen or people who have to ride the elevators where there's proximity. Or the fact that I live on the 6th floor and I have an open terrace. You know, I have a wireless router for my Internet. Is it going to interfere with that, because cell phones do. How is that going to affect my quality of life.

So I bring those things to the table, and I really hope you examine all the details from what got us here 10 years ago and brought us back here now, and see what it is that they're asking for. And please be thorough, and see if what their electrical engineer is saying is, in fact, true and not just a matter of convenience.

Thank you.

Chairperson Speranza: Anyone else in the audience?

A.J. Jaykett, Hastings Terrace: I just wanted to emphasize again the fact that the Zoning Board rejected the same offer 10 years ago. I would think there'd be no reason it should not be rejected again. Because what has changed, ostensibly, between now and that that would give them a legal reason, or any other reason, to construct towers or antennas on that building. If you went through the thorough research, as Michelle referenced, I think that

pretty much says it. Perhaps you can look at it, and we're obviously against it. I hope you'll consider that.

Thank you.

Chairperson Speranza: We also got an email from . . . oh, my goodness gracious, I'm going to butcher this name. I apologize. [Parashiri Svrinvasin]. Again, I apologize.

Dear Mr. Sharma,

Greetings. We learned yesterday that there's a move to install wireless equipment on the top of the two apartment buildings, 555 and 565 Broadway. This is the first we have heard about this. There are 120 tenants in the buildings, many senior citizens with health problems and families with young children. We need sufficient information regarding this move, and we must also be given sufficient time to consider health effects, if anything. Has this been approved by appropriate government agencies?

Please propose this meeting to a later date.

Obviously, we're not proposing the meeting; we're in the middle of it now. We are prohibited by rules, by government regulations, from discussing the health impacts of this – of any cellular service or this type of technology. I'm not exactly sure what the law says, but I know it's been determined that there are no health impacts. Maybe you know.

Village Attorney Stecich: Presuming it's in the . . . if it's within the limits. If it's within the FDA limits.

Chairperson Speranza: Right, okay. So municipalities cannot consider health impacts of this.

There's another email here from an N. Waller-555 Broadway, 2C:

I'm a long time resident of this apartment complex, and have witnessed and endured the foibles of management past and present. I'm appalled to learn in just a few moments that there will be discussed at tonight's meeting some plan to install some kind of equipment on the roof.

Since such a plan was fought, and defeated, some years back I look upon this venture with much trepidation. I urge the meeting be tabled, and tenants are fully apprised of the plans and consequences that may occur.

That's something else you may want to consider: if there is any kind of tenants meeting. Clearly, people who live in the buildings are not fully versed in what's being proposed, and that may be an outreach effort that may be considered. But there are going to be plenty of opportunities for public input as we proceed through this process.

Is there anything else that you want to add, and we'll take the steps then?

Mr. Warten: Not a lot. Just a couple of quick comments. I think counsel had made the point that we can't consider health and safety impacts as a matter of law, provided we're within the applicable FCC regulations.

Village Attorney Stecich: I said FDA.

Mr. Warden: I was not trying to contradict you.

Village Attorney Stecich: No, you're right.

Mr. Warten: The statement was otherwise perfectly good.

I just want to point out that our memorandum that we submitted in support of the application as an analysis of the FCC emission and our compliance with those emissions. It's at Exhibit 4, and on Page 11 of that exhibit it notes that the maximum calculated RF level from the proposed antenna operation – this is the maximum, going at full power – is 0.248% of the FCC limit, which is 400 times below the FCC limits. So we are an infinitesimally small fraction of what we are legally and safely allowed to broadcast. And in a worst case scenario – this is if the antennas were going at their highest, most possible output – this is a very conservative analysis. I wanted to put that out there.

The other thing I wanted to put out there is, I'm not aware of any T-Mobile applications 10 years ago on this building. I will look into that.

Chairperson Speranza: It was Omnipoint.

Mr. Warten: I'm not aware of Omnipoint, and perhaps it might have been Verizon or something like that.

Chairperson Speranza: No, it was definitely Omnipoint.

Mr. Warten: Okay. I'd be glad to look into that. And I'm also not aware of any Zoning Board resolutions that resulted in a denial for that. I'd like to look into that, too. I think that a lot of the other concerns that I'm hearing – and I want to be careful to dignify these concerns because you're allowed to have concerns about what's going on in your building – I think a lot of these are related to things that the FCC has preempted. You know, wireless telecommunications are an essential part of our communications and emergency response infrastructure at this point. And I think the Board and the community and all of us would be well served to the extent that we focus on the things the code says we can focus on, rather than the things that perhaps we ought not to.

That's really all I have to say, if you have some procedural things you'd like to do now.

Boardmember Cameron: Patty, I have one quick question. You've given us a list of equipment, you've given us nine antennas. Is that everything that's covered by your lease that you entered into with this building, or is there other equipment that you also have permission to put on but you're not applying for now?

Mr. Warten: I'm not aware of any other equipment. I'm not sure what you might have in mind.

Boardmember Cameron: And you've read the lease.

Mr. Warten: I have the lease. I'll look it over again.

Boardmember Cameron: Just give us a little assurance that this is all we're really talking about.

Mr. Warden: Listen, we're coming here for approval for this and this only. We couldn't put something else up there. You have an able Building Inspector.

Boardmember Cameron: That I understand. I'm just asking that other question. If you could do that, it would be useful. Thank you.

Mr. Warten: I'd be glad to.

Chairperson Speranza: Again, it may be good to have management or your company set up some sort of meeting for the tenants so people are aware of what's being proposed, so that there is no nervousness about the equipment. We know how rumors go. And for those of you who are interested in the application, the analysis – the submittal – is here for viewing in Village hall so people can come in and take a look at the information.

I would need a motion to declare ourselves lead agency, or the intent to declare ourselves lead agency, for circulation. The Zoning Board has to agree?

Village Attorney Stecich: There also has to be notification. Are you trying to figure out who needs to be notified?

Chairperson Speranza: Right. I'm looking at the approvals that are required, special permit, use variance, Architectural Review Board, and county planning, under 239.

Village Attorney Stecich: Under our code, there also has to be notification. So I would assume also the notice to be lead agency . . . well, not that they have an action but just to give them notice, if they haven't already been noticed, on Dobbs Ferry, Yonkers, and Greenburgh. Did they already get notified?

Building Inspector Sharma: No.

Village Attorney Stecich: Under the personal wireless service facility law they have to be notified, so probably the best way to do that would be to circulate this to them, as well.

Building Inspector Sharma: Let me take my answer back. I do not know.

Village Attorney Stecich: So this will make sure they are.

Boardmember Cameron: And who's going to hire, or talk to, our electronic expert over the need for a 147-foot tower if they come here?

Village Attorney Stecich: We did, but that's the next step. So we have the motion to declare ourselves, or the intent to declare ourselves, lead agency.

On MOTION of Boardmember Logan, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Board resolved the intent to declare ourselves, lead agency.

Chairperson Speranza: Then we do want to hire someone to review the materials on behalf of the Village, so we would request that there be an escrow set up to cover both any legal fees pertaining to the application as well as the engineering review.

Mr. Warten: If I may, if we're going to be, I guess, paying for a radio frequency emissions expert our only request is that expert be somebody who's qualified and somebody with the appropriate degrees in the field.

Village Attorney Stecich: There's somebody we've been using.

Mr. Warten: Okay. And that maybe we could speak off-camera later about it. Because there are certain engineers that, in the past, we felt have billed too much and are not qualified, are not local, and are billing for travel and things like that. If we could just speak off-camera. I don't want to mention any names in public, but we would like to just make sure that the person we're paying for has the appropriate degrees and certifications.

Chairperson Speranza: So that's something you'll agree to.

Mr. Warten: I'll be glad to correspond with counsel about that, or whomever you would like me to correspond with.

Chairperson Speranza: I think Deven and Marianne.

Village Attorney Stecich: Well, the Village picks its own engineer. I mean, we've had one engineer, we've been using him forever. So I don't want what you say today, for him to be able to say, "Oh, yes, but you're supposed to get agreement from us." We use who we use.

Chairperson Speranza: Right. I don't see that there's any reason, though, that there can't be . . . we do have to make sure.

Building Inspector Sharma: What I would do is give him the name of this company and see if he has any specific objection to it.

Chairperson Speranza: Right. If you know, for instance, that he's not . . .

Building Inspector Sharma: We can look [off-mic].

Mr. Warten: Very good.

Chairperson Speranza: Anything else on this now?

So your next trip is to the Zoning Board of Appeals.

Mr. Warten: Okay. And will be an amount that we'll need to forward you in terms of a check?

Chairperson Speranza: I think we generally request \$5,000.

Village Attorney Stecich: Susan Maggiotto handles that, the Village Clerk.

Mr. Warten: Well, thank you all very much for your time this evening. I'm looking forward to working with you going forward, and have a nice evening.

2. **Fay & Rosemary Devlin for View Preservation, extension and an amendment to the previously approved Site Plan to permit a restaurant on the first floor, a wellness center on the second floor and third floors, and a roof terrace, for Hastings House at 555 Warburton Avenue.**

Chairperson Speranza: Welcome back. Our next agenda item is a request for an extension to an approved site plan as well as changes to an approved site plan having to do with the old Hastings House Restaurant. We're happy you're back, and we're anxious to hear what's new with the building and how things are going to progress moving forward. We're all in the downtown. We are curious as to what's been going on.

Christina Griffin, architect – 555 Warburton Avenue: [off-mic] XXX. I think these boards help a lot [off-mic] XXX the approved set of drawings so we can compare that to the amended site. We're actually asking the Planning Board to look at three aspects of the project. One is to look at the amendments to the site plan submission that was approved on December 17, 2008. And also to look at a new stair bulkhead at the roof level, which is in the view preservation district. Then third, to take into consideration a request for a six-month extension.

The reason why we've come back is because we're having a recession, or had a recession.

We actually went as far as going to, two ARB meetings, and we have quite a bit of detail now for how we're going to renovate the façade and the windows. But at some point last, I think, at the end of February we put the project on hold. The concern was that this was a large food establishment and, in a recession, whether this was really going to work business-wise. The owners got together and actually put a tremendous amount of thought into rethinking this so there would be a lower seat capacity, a smaller restaurant, and a different kind of business to make use of the upper levels.

The change that we've made is that the restaurant is now just on the first floor like it was originally. There's a room for events, or catered events, in the basement similar to what was in the old Hastings House. On the second and third floors, that would become a wellness center. Our original submission had the second floor as a mezzanine level to the restaurant, and the third floor was going to be used as a banquet hall. We also would like to consider a roof deck and green roof. That is why we would like to have the stair going to the roof level.

The restaurant has been reduced from the capacity of 170 seats to 124, plus it actually breaks it down into an 85-seat restaurant in a 31-seat room, and the basement for meetings or catered events.

Chairperson Speranza: Christina, could you just say those numbers again?

Ms. Griffin: I'd like you to look at the site plans that I've just handed out because I don't know if you'll be able to see the numbers on the page here. The first site plan is our amended plan that I have in front of you here, and you see there is parking [off-mic] XXX. So [off-mic] XXX we have existing [off-mic] XXX for the former Hastings Restaurant. Under "Proposed," I had highlighted the total for the building, which is 89. And 89 is based on our calculations for the area for the restaurant. We have one space for 100; we have 52, plus a space for employees. So we need 63 spaces for the new restaurant plan, and then 26 spaces for the wellness center using the code calculation for a personal service business of one space per 200 gross square feet.

We're using, for the restaurant, the requirement based on area because the code requires that we use the greater of the two calculations; the other being based on seats. We are required, for the new scheme, 89 parking spaces. I want you to look at the next sheet: that is the [rustling papers] XXX plan [off-mic] XXX December 17, 2008. You'll see the total for the building was 125, the [off-mic] XXX. That was based on a restaurant that required 88 spaces, and a banquet failure that required 37. So we've actually reduced the parking capacity by 36 spaces. We are still considering the restaurant as a nighttime business, and still are planning to keep the Chase agreement in effect.

I'd like to take you through the plans just to compare the site plan [rustling papers] XXX and our proposed plan, our new amended plan. The site plan itself has had very little change. The delivery entrance is in the same location; our waste area, same location. We moved it back from the street at the request of the ARB so it wouldn't be so visible. Our main entrance is here, and we're going to plan to use the corner entrance. We're going to keep the look of an entrance as the historical entrance, but it's going to have French doors that are really all during warm weather. The main entrance will be back where it was originally. But that would be, really, the only entrance most of the time.

There have been no other changes. We're still planning to have these two delivery areas in effect – you know, one for smaller trucks, one for larger – just as we had in the original plans. These plans are very, very similar. The change is in the floor plan. And then, of course, our Chase lot, which has the 41 parking spaces, including valet, is the same layout that we had before. I should call it the Chase/Devlin lot because we all should remember the Devlins own [seven spots] XXX. They own part of that.

I'm going to go to view preservation after we discuss the restaurant and wellness center. I want to compare. We have downscaled the restaurant, and have decided to go with a smaller kitchen, because we now have a restaurant that has a total of 85 seats; 74 dining, 11 bar. It's similar to the old Hastings Restaurant. Actually, the old Hastings Restaurant had 170 seats, and we have a restaurant with 85, plus the 39 for the meeting room in the basement. So if you add those two together we have 124 seats.

The kitchen has been downscaled. We have a meeting room for 39 seats here. Reception, toilet areas are a little different than it was before in the Hastings Restaurant. The first-floor level is very similar. This is our main entrance. This is our historical entrance that will just be opened. That really is there to keep the look at the corner of the building. We're using this as the main entrance because there are steps here and it's very hazardous. We're going to have our handicapped entrance on the side here because it's the closest to the first-floor level. The sidewalk is sloping upwards.

This is our waste area. The only change from the original plan is we've moved it back to keep it a little bit less obvious from the street. On the upper levels . . .

Chairperson Speranza: Christina, say again how many seats. Seventy-four, is that what you said on the first floor?

Ms. Griffin: The first floor is 85 altogether. Remember, in our original approved layout we had a total of 170 seats. That's because we had a first floor, plus we had a mezzanine level. At the time, we were trying to re-match the capacity of the new restaurant with the old, which was 170. Now we're planning to have a restaurant that has 85 seats, and instead of a banquet hall we have just a meeting room that has 39.

On the second floor, instead of our mezzanine level there we'll have the wellness center. Our second floor was going to be a dining/mezzanine level, but now where we're going to go with a less intense use. This is intended to be a place where you can go to have spa treatments. There's a reception area with a small retail space to sell certain products that are . . . this is all about a healthier lifestyle to promote a different way of living. There's a [unintelligible] XXX kitchen that people meet, and then they decide what type of treatment. It could be a massage, facial [off-mic] XXX right here. There could be . . . I think we counted up . . . this is a very low-intense use, I think, if you add up all the people in each treatment room. There's an office area. There could be 12 to 15 people on this floor at a time.

On the upper level, which is the third floor, instead of the banquet hall we're planning to use this as yoga studios. It's a wonderful space, a huge open span [working] XXX for high ceilings. So it's conducive to that kind of group activity. These rooms will have about 12

people each, and then the smaller studio will have about six people. We have toilets on each level.

In this [stair kettle] XXX [off-mic] the infrastructure's being upgraded with new code-compliant stairs. We'd like to get some access to the roof for a number of reasons. There is no access now to maintain it and, except for a hatch, it's very difficult to get up there. Also, we'd like to do a [green] roof and have some kind of a roof terrace just in case there might be some activity – yoga, or something related to the wellness center – that could happen up on the top of the roof in warm weather.

We have a very nice high-parapet wall on this building, so this stair bulkhead is actually going to be less than 5 feet above the parapet because the parapet wall is about 5 feet above the roof. We have shown this on our elevations. These are our elevations we showed to the Architectural Review Board. You can see we've actually described replacement of the cornice and matching the details of it here. It will be a very handsome building.

On the west elevation, again, you will see that bulkhead that comes up and is about 4 feet 4-1/4 inches above the parapet wall. This is our south elevation but, remember, this [unintelligible] XXX tower is tucked in the back. We deliberately designed this so that stair is in the back northern corner rather than towards any of the façades, the west and the south, facing Main and Spring Streets [I mean] Warburton] and Spring.

This is our north elevation. This is the bulkhead coming up. And this is our waste enclosure area. This is our handicapped ramp so they can have access on the upper end of the site.

I have also distributed some photographs of other stair bulkheads that we have found in the Village. I [off-mic] XXX see the photographs down here. But you'll see on the four photographs [off-mic] XXX, the first one is a [rustling papers] XXX on Main Street that has a stair bulkhead on the roof. You can find quite a few of them. The next photograph, on the right, is a stair bulkhead that you have on top of a three-story building at the corner of Warburton and Main. Down below that's Spring Street. You see a small little [box puppy] up above. Again, three-story building. And then another one on the building facing Boulanger Plaza. This is a similar idea. We're just doing what was necessary to get access to the roof level. But it's in the view preservation area.

We have also taken photographs from the properties east and uphill from the building so we can examine if this bulkhead affects views. This is the location from where the photographs were taken. Actually, [off-mic] XXX building, but we were able to go into the VFW. This photograph is on the [vehicle] XXX of this property, and you can just about see that bulkhead here. From inside [off-mic] XXX you can also just about see – if you're on the

northern end of the building – that bulkhead. This is also taken from [off-mic] XXX. The other photographs are taken from [Whitman] XXX. We went in back of [off-mic] XXX, but we just could not seem to find [off-mic] XXX of this building from this property.

I've actually jumped [the view] XXX to the view preservation aspect of this. I hope you'll see that even though we have made these changes, we are going to a less intense building. We have a lower parking capacity, and we're still keeping the Chase Manhattan, the Chase and Devlin lot, in operation [and] XXX agreement. So I hope this is going to be something that is going to work, not just [off-mic] XXX, but also for [off-mic] XXX.

Chairperson Speranza: Let me ask you, the first thing that you need is an extension of the existing site plan approval. I'm trying to figure out how this works.

Ms. Griffin: [crosstalk] XXX that we might need to do that because it's already November, and I think it was a suggestion by Marianne. I thought it was a good idea just to make sure that we're not coming so close. There's been so much study on this with the traffic studies. I was so happy to see everyone here that have been here almost the whole time. We're just afraid that that information might have to be repeated or just dismissed if the approval expired.

Chairperson Speranza: Got it. I have a question and, certainly, everybody should chime in. What happens to this proposal if there's no access to the roof for any of these services: the outdoor terrace and green roof, and the staircase? Realizing you want the staircase to be able to also maintain the roof but, obviously, it's been without it for a very long time now.

Ms. Griffin: I [off-mic] XXX to use the roof, even in exploring existing conditions. There has been someone on the team that went up there, and it's so precarious I was surprised when I started the project that we didn't have any access because if you have [a roof leak] XXX problem. We're also going to upgrade the heating system. We can tuck units behind the parapet very nicely, but how are we going to maintain them. It's impractical not to have the stair and, if we do, we certainly would like to do something with the roof. Maybe mitigate the [heat aisle] XXX in effect. We'd like this to be a very LEED-certified building, and [off-mic] XXX be able to maintain the [[off-mic] XXX stair access.

Chairperson Speranza: Certainly, some of the things that come to mind – and I know it's on the mind of at least one resident in the Village, also – is the level of activity up there and the hours of activity up there. It's something that has the potential for noise if there is any kind of food service up there, recognizing that your thought right now is that it's part of the wellness center. But are the people going to be able to order from the restaurant and bring food up to the roof, or is it being that level of usage up there?

Ms. Griffin: I don't think the owners' plans are that well-developed yet. I'm looking at Paul to see if he has an answer to that question.

Paul Walter, restaurant general manager: At this point we are just going to have the restaurant as part of the wellness center. We're going away from the heavy-state fine dining.

And the roof, I haven't discussed it with him. So I'm not sure. I understand the concerns about the noise and all that stuff, but I don't really know what they want to do with that.

Boardmember Logan: If I could just add something here, I think this is potentially a great amenity. I mean, I would love to go up there and have a drink. This has got to be one of the best views in the whole Village. And if that could prime the pump to get the restaurant to work by drawing traffic through there . . . I understand there may be some concerns about hours of operation, but I think this is also a way of injecting vitality into our downtown. And I think this could be a phenomenal space. It's got to have the best views of anywhere.

So I see this as a really great thing if we can put whatever constraints we need to on it. But I think you might be well served to include that as part of your scenario now so you don't have to come back later. We can discuss the merits and the issues and the hours of operation, but I see this as a great thing.

Boardmember Dale: Will there be separate ownership? Will the wellness center be contracted out?

Mr. Walter: No, both would be owned by the Devlins. We're still deciding, actually, whether we're going to go with the whole lifestyle. They're going to tell you what to eat, and give you cleansings and say you should eat such, such, and such. Right now they're sort of deciding: do we keep the restaurant and go with the fine dining, which I want – you know, I want my steak – or do we integrate the two. And right now they're leaning towards integrating the two, and making it a less fine dining experience, a little more family-friendly, and more oriented to health. Without being an organic health restaurant, but just geared towards taking care of the patrons up there; geared towards them, but not committed to them. You know what I'm saying?

That's right now. But either way, it's going to be a restaurant and a wellness center.

Boardmember Logan: But you could have a connection between the roof and the restaurant that bypasses the wellness center, correct?

Mr. Walter: Absolutely.

Boardmember Logan: And I don't know whether you have a liquor license or what the limitations are of what you can serve up on the roof, but I would allow for that possibility of linking the roof with the restaurant somehow and not having it have to go through the wellness center in order to get there, and have that tenant veto whether or not you're allowed through. This is an operational issue, but I just see an opportunity here.

Boardmember Dale: It is three flights up, and there's no elevator.

Boardmember Logan: Fortunately, after you have your drink you only have to walk down.

Boardmember Wertz: Everybody will be so healthy they'll have no problem with the stairs.

Boardmember Alligood: Could I just point out one potential . . . because I think it's an interesting concept which wasn't presented in these plans. But what it affects is, it goes back

to having your parking requirements because you're going to be adding seating up on the roof. Which you don't have in your plan now. So I just point that out.

Boardmember Logan: We have the capacity, but we've dropped, basically, 45 seats more or less.

Mr. Walter: Eighty-five seats, technically.

Boardmember Logan: We're at 85, but we were at 125 before. So it's 36.

Boardmember Cameron: Yes, but you have to declare the roof as restaurant, otherwise you can't park in the Chase parking lot.

Boardmember Logan: You would have to have the seating capacity.

Boardmember Cameron: Because the Chase parking lot only allows you to park there if you're at the restaurant.

Mr. Walter: For a meeting, though.

Boardmember Logan: But if the restaurant has part of its seating on the roof, that's considered part of the restaurant.

Boardmember Cameron: I guess my question is, how high is the parapet above the floor is what you would put in there? Because I think one of the concerns of people in the adjacent area – which you're going to hear from, I'm sure – is people leaning over the parapet. So if the parapet's tall enough, or if you have a fence back far enough from the edge of the roof so there's nobody looking over, that might be a more interesting thing. But I don't know how. And, of course, you have to put a floor in because right now they're walking on tar paper or whatever they're walking on. So you have to lay in a floor which would be a foot or so.

Boardmember Logan: They could have a green roof, and they could have a floating deck or something on top of that. Setback handrail.

Boardmember Cameron: How high is the parapet?

Ms. Griffin: I have it at 5-8 from the ceiling, but to the top I think it's 4 feet 6 or so. I'm not sure. We've given this a lot of thought and we've talked about it. It's just that we haven't been able to make decisions for this meeting. I think the owners have talked a lot about looking at how the business is going to grow first. I'm not sure. We did consider a bar area, and we decided not to put that into the submission because we're not sure how that's going to work. I've been to the [off-mic] XXX there, but [off-mic] XXX it's a long walk up. It's [quite a draw] XXX [off-mic] XXX. They have 40 seats up there [off-mic] XXX. They're quite used, but they love it because it's actually a draw for the restaurant. People go up there when they're waiting. We're concerned about how the Board might see that as another occupancy. It would be used, and we weren't able to get an agreement on whether we would include that at this point. We're just looking at the stairs.

I think we've talked about even coming back to the Board in the future because I think they're interested in trying to get started as soon as possible. If we do change the use, we can always go back. All these businesses [change] XXX over time. They have a small wellness center now that's very successful, and they're confident this will work. But we haven't

really sorted out the concept of the bar or the gallery space, and how that ties with the functions below them. Do you think that's the case, Paul?

Mr. Walter: Right now it's basically can you give us our restaurant and our wellness center. And the roof, we may come back to you, and say, "Can we do yoga classes up there right now." But I agree with you. I would want my three-story restaurant with the bar up on the roof in the summertime, but it's not going to happen. So right now they're downscaling everything, and saying, "Can you give us this? We'll come back to you if we want yoga classes." Then if things work out, and the restaurant's going and the yoga doesn't need it, we could come back to you and say, "Can we use the upstairs? And we'd have to figure out the parking and the whole nine yards. But at this point they're trying to just get going. So keeping it as simple as possible is what the object is. It's saying, "Give me an 85-seat restaurant and the yoga classes and wellness, and can we come back to you in the future." They haven't decided is basically what it comes down to.

Boardmember Logan: If I could just add one more thing, I know there is some strategizing you have to do financially, and what you can do to get a business to work, but if you already have approval for a certain number of seats and you want to dial it down a little bit I would say consider dialing it down maybe less, with the provision for additional seating on the roof that somehow works within that limit so you don't have to come back later and face an uphill struggle about getting more parking from what was approved from a reduced site plan.

All of us, collectively, invested a lot of time with you looking at the parking situation. We had George Jacquemart here giving his opinions; we studied it; we had public reviews. And that's got a certain value to it which I can see you don't want to lose. So I would say don't dilute it more than you have to. I'm not trying to give you business advice.

Mr. Walter: No, that's fine with me. I agree. So then we should present it as having X amount of seats.

Boardmember Logan: Do an analysis maybe with a scenario on the roof combined with a reduced scenario as a restaurant and see where that takes you. Just consider that before you submit another plan for amended site plan review with a bulkhead, etc., etc., etc.

Ms. Griffin: I just appreciate you taking the initiative to say that.

Boardmember Logan: We're all trying to get light in the downtown and we're trying to get things to work. I think we can be a little proactive on that sense and encourage things which maybe some of us think could help the downtown.

Ms. Griffin: I think they're in a cautious mode right now.

Boardmember Logan: Okay, that's fine.

Ms. Griffin: That's great encouragement because I think we could [off-mic] XXX.

Boardmember Dale: Well, if you get the approval for it you don't have to necessarily implement it.

Boardmember Alligood: I just always think of one decision leading to another. The only thing I could see happening with applying for it that way and not applying for it the way

you're proposing today is that it probably will raise more community concerns because now it's going to be something that wasn't in there before. It's just a potential that there'll be more review required just because people will have concerns about the noise more than a rooftop for yoga.

I'm thinking also that I'd like to see the project happen, and I'm excited about the design. And I think this downscaled version probably will be received – my guess, I don't know, I can't speak for the public – in a way that is very acceptable. That's just the caution I have: it opens up a new can of worms if you propose a restaurant on the rooftop. And if we're trying to avoid going through a whole nother process, potentially get out of it.

Boardmember Dale: It's still less than the approval they already have.

Boardmember Alligood: But it's different.

Chairperson Speranza: There are different issues.

Boardmember Alligood: It's different. Remember the restaurant? Comfort wanted a very small outdoor space.

Chairperson Speranza: And there were concerns.

Boardmember Alligood: They had neighbors come right out and say, "We don't want the noise outside." I'm just thinking about that potential.

Chairperson Speranza: I agree with you.

Boardmember Cameron: It'll also give you a chance to design the roof, if you're doing it for yoga, so that it still has a view. It has a nice view, but it doesn't actually bring noise to the people below, or if you feel like you're peering over it. I just suggest again, the views are there, it's not there. So if you bring back an interior rail or something so it comes back from the parapet you still have this wonderful view but they don't know you're there. Not that we don't have to tell people you're there because it's appropriate, but they won't visually know that. You probably don't need that many thousand feet of terrace, either.

Chairperson Speranza: This is a public meeting. There is a gentleman who's been here this whole meeting. Did you want to comment on this application?

Male Voice XXX: No, no. I'm fine.

Chairperson Speranza: No? Okay.

We did receive something from a resident here on Maple Avenue, Kelly and Steve Topilnicky, pertaining to this:

"It's with concern we reviewed the newly-proposed plans for the 555 Warburton building. They were given site plan approval; it was for a restaurant with no banquet hall."

And I do want to make that correction. It did have a catering portion to it.

“And the parking issues were resolved with a contract between them and Chase Bank. Obviously, that’s no longer the case. With the new proposal comes new concerns. A wellness center on the second and third floors, and a terrace on the roof, would obviously have customers attending classes, dining, etc. The wellness center would be a full-time center. It would require more parking than was previously approved in the site plan.”

There’s then a discussion about parking being a serious issue in the Village and, yes, it is.

“The terrace is another concern. The building’s already tall, over the current limit set by town codes. Adding a terrace enclosed, . . . “

And I haven’t seen anything that it’s proposed to be enclosed.

“. . . adding to this height, would bring it to 51.9 feet. This is a concern to all residents that live in the area. Many of our homes are directly in view of the this building; we can see them, and they can see us. There’s a privacy factor to consider with the residents, along with the noise issue – especially if the terrace is open in the evening. Will there be parties that take place on the terrace? What happens with a proposed elevator and other mechanical equipment.”

So, again, there are concerns with respect to, I’m hearing, primarily the outdoor space and how it gets used.

Boardmember Logan: Keep reading. You didn’t get to the real kernel of the problem. It’s the pigeons.

Chairperson Speranza: Yes, there’s a concern also about the pigeons.

Boardmember Logan: The pigeons will have no place to live.

Chairperson Speranza: Which will be there or not despite whether or not there’s a terrace.

Ms. Griffin: I’ve never responded to the comment on the pigeons, but I am going to do it this time because [off-mic] XXX that parapet, the cornices [off-mic] XXX. It’s riddled with holes, and you can’t get them out of there. We need to [unintelligible] XXX the building. If we take down that cornice it’s going to look even worse. So I’m really torn here because I don’t know if we can continue to analyze the building when we have to do major renovations. You walk into the Hastings House and see, they went through a period where, perhaps, they could afford it but they had to [off-mic] XXX major upgrade of the heating, electrical, and plumbing.

We have a lot of work to do. So the sooner we get started, too, we can take that cornice off. And we know, once we take it off, it's going to look really bad. So we're going to [replicate] XXX this [off-mic] cornice. But I think that's the only way we can actually [get rid of] XXX the problem. The owners couldn't come tonight so we're representing them. If we decided to ask you for a decision tonight, without making any further changes – leaving the roof as just simply space with the stair access – would you be able to make comments or a decision?

Chairperson Speranza: Frankly, I think I would rather know a little more about the future plan for the terrace, even with respect to hours of operation and lighting. I, too, want there to be life downtown on that corner. I think it is very, very important. But I think it is important to have some of these factors addressed, some of these items addressed. And I love the idea of doing yoga up on the terrace. Now, with yoga maybe at 6 o'clock in the morning comes music potentially. And it goes back to some of the operational characteristics. I would be happy if we could get a little bit more as to that.

I don't have a problem granting an approval of a site plan, or granting an extension of the approved site plan, so there's nothing that lapses. That's easy.

Boardmember Logan: Maybe that's what we should focus on tonight.

Boardmember Alligood: I was going to suggest that.

Boardmember Wertz: Well, let me just devil's advocate more than that. And appreciate your concern that this really does make sense.

But with regard to the new stair bulkhead at least, maybe if this project is going to move forward in steps, and the owners are willing to take some of the first steps without knowing what the next steps are and without even having approval for what might eventually be there, the bulkhead will enable you all to service new equipment that's essential to the renovation and there's value to moving forward soon – and I think we all want to see this project move forward soon – if we can analyze . . . I mean, not that I want to be here until 12:30, but if we can analyze the impact of the bulkhead and recognize that it isn't necessarily attached to one of the new uses that may go in up there, but at the very least will be necessary to service equipment that's required for the renovation, maybe we can give the extension. I don't know if we can. Can we approve the bulkhead?

Chairperson Speranza: View preservation and site plan. It has to be two.

Village Attorney Stecich: I think it needs a variance, too, doesn't it?

Ms. Griffin: To the height.

Village Attorney Stecich: It would be a variance to height, but you could. I'm not sure that the Zoning Board would be ready at its next meeting which is, I think, December 10th. But you're not going to meet again before their next meeting. If you were comfortable making a view preservation recommendation about the bulkhead, then if the Zoning Board were ready to act it could.

Boardmember Wertz: I'd like to explore that.

Boardmember Dale: I'm ready.

Boardmember Logan: Yes. I'm ready, too.

Boardmember Alligood: We could all weigh in on whether we recommend the approval of view preservation.

Boardmember Logan: As well as the extension.

Mr. Walter: We were actually looking forward to that because we were planning to go to December's meeting.

Village Attorney Stecich: And it has been noticed for a public hearing tonight, so if nobody's here no one's here.

Chairperson Speranza: So the Zoning Board would take it up for both the variance and view preservation.

Village Attorney Stecich: They could do the variance without hearing from you, but not the view preservation. Your recommendation should come first.

Chairperson Speranza: And then, potentially, the meeting in December – depending on how much more information you have about how you would treat the terrace, the roof terrace – that would then be the appropriate time for us to consider a revised site plan.

Boardmember Wertz: That's a good compromise, a forward-moving compromise.

Boardmember Cameron: Or in December we could do a revised site plan without a terrace on the roof. You're going to be working on this for six or eight months. You can come back during that period of time and talk to us then.

Village Attorney Stecich: If they didn't get the height variance from the Zoning Board that would also be helpful. Then it's going to change the plans. So that probably makes some sense.

Boardmember Wertz: That makes sense.

Chairperson Speranza: So let's take one step at a time. A motion, please, for extension of the existing site plan approval.

On MOTION of Boardmember Wertz, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Board resolved to extend the existing site plan approval.

On MOTION of Boardmember Logan, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to recommend to the Zoning Board of Appeals to approve view preservation for the stairwell bulkhead, as depicted on the drawings presented today.

Chairperson Speranza: Work out your plans, seriously taking into consideration those other issues.

Boardmember Dale: Did we set a time limit on the extension?

Boardmember Cameron: Six months.

Boardmember Dale: It wasn't in the proposal.

Ms. Griffin: Thank you.

IV. ANNOUNCEMENTS

Chairperson Speranza: I had one announcement having to do with a program being put on by the Mid-Hudson South Mobility Advisory Forum, being held at the county center on December 9th. There are actually going to be two presentations. One is on the regional transportation plan, and the second on Westchester 2025. These are pure planning programs.

V. MISCELLANEOUS

Boardmember Cameron: We had a discussion – you and Marianne and I – about the offer by The applicant for the right-of-way. You said we should discuss it here before we visit with them.

Chairperson Speranza: I think we talked about this a little bit at the last meeting; the fact that the county's RiverWalk, as proposed, goes through the northern portion of Hastings along the Croton Aqueduct. In the discussions we had for the combination of Blue River, we had been speaking with them about reserving some space for a right-of-way at the back of their property along the railroad. But that was at least prior to my knowing that the county RiverWalk was along the Aqueduct. As far as we know right now, there is no public easement along River Glen, no public right-of-way. The question becomes, do we want to consider having a right-of-way along the property independent of the RiverWalk right-of-way.

Boardmember Cameron: Even after his lawyer mentioned that he was aware that Westchester was looking at going along the Aqueduct, The applicant volunteered to give us a right-of-way if we wanted. Even if we have the right-of-way it doesn't mean that we have to use it. It just means 20 years from now somebody may find a wondering use for it. Right now maybe the other two property owners on each side want to do it, but this is a chance to get something. If they follow through on their offer I, for one, think we should take it. Can't lose.

Boardmember Logan: Absolutely.

Boardmember Wertz: Yes, absolutely.

Chairperson Speranza: Now let me ask you because I heard things a little different. I didn't hear them volunteer the right-of-way.

Boardmember Cameron: That's what I heard David . . .

Chairperson Speranza: I heard him say, "It'd be kind of neat to have a bike path or something back there. But I don't know if he was thinking of it only as his property. My impression is that it was all around the entire length.

Boardmember Cameron: Well, it's not necessarily going to his portion.

Boardmember Dale: That may be the ultimate goal.

Boardmember Cameron: That's the ultimate goal.

Chairperson Speranza: That may be the ultimate goal.

Boardmember Wertz: You've got to start somewhere.

Chairperson Speranza: The question is, is this something that we want to require. We can bring that up with them again if it's something that we want to require of them as part of subdivision.

Boardmember Cameron: I think we say we'd like to take them up on The applicant's fine offer to give us a right-of-way down there. And if they say something different, then we'll have to do it then. But I would like to start with the positive attitude.

Boardmember Logan: Let's seize the opportunity.

Boardmember Cameron: Seize the moment.

Boardmember Logan: Then maybe we should look at a plan of the overall Village and see how it might eventually weave into adjacent properties, and how it's part of the bigger vision.

Boardmember Cameron: It would, actually.

Boardmember Logan: And somebody sort of got the Trailways Commission to look at that, or could we look at it?

Boardmember Cameron: No, but our comprehensive plan. Although River Glen isn't exactly dying to give us a right-of-way, there's an unbelievably nice one. You just walk through Squirrel Alley and keep on going. It curves right down there and joins right up to going under their property.

Boardmember Wertz: Having the ultimate goal in mind to move toward it even if there are other obstacles.

Boardmember Cameron: And a positive factor in that direction is that River Glen already has a right-of-way going right down there and over the bridge. I actually talked to Peter Arno. Some of them have buoys down there still in the river, some of the River Glen.

Chairperson Speranza: That's River Glen. It's not public.

Boardmember Cameron: All I'm saying that as you look at whether they want to give us a right-of-way they already have somebody who has a right-of-way. It's not like up until now nobody could go across.

Boardmember Logan: Through their property.

Boardmember Cameron: Yes, and over their bridge, actually. But I'm not talking about the bridge. If you look at the map, their security fence is above the piece we'd want to go on. Anyway, I think it would be nice to get that, and then we could work on the adjacent landowners in future years.

Village Attorney Stecich: Could I just make the suggestion, then, that somebody communicate that to them before the next meeting because they're gone now. And I don't

think there's anything else holding up the subdivision. So you wouldn't want that to hold it up.

Boardmember Logan: It was communicated in their last meeting here. We asked them to indicate it on the site plan, a right-of-way.

Village Attorney Stecich: But then, Patty, I thought at that meeting, once somebody said the county didn't need it anymore I don't know that they took it off the table. But I think that's why it didn't get on the plans. I think it was an obligation of the Board to follow up on that.

Boardmember Wertz: Well, if we want it we should follow up on it.

Boardmember Dale: It was earlier today.

Boardmember Wertz: It got by us, but that doesn't mean we can't communicate it now.

Village Attorney Stecich: I would just suggest that somebody communicate it now.

Boardmember Cameron: That's why I brought it up with the two of you right after the meeting. I should have, at the meeting, just gone for it. But I brought it up right after the meeting.

Chairperson Speranza: Yes, we will follow up. I will follow up. And that's something . . . I think it is a little unfair. I'll find out what they say, and then we'll see if they're going to come back. We're going to continue to have discussions. I have some real reservations about it. I think it's not a good idea to hamstring someone with their property with the idea that maybe some day each of the other parcel owners will let through, as well. That's my feeling about it.

Boardmember Wertz: Well, my take – and it could have been entirely wrong – was that I was reading them as receptive to this, but they wanted to hear more about the plans, how serious are we about it, what other obstacles might be in the way. And then once they hear that there are two other properties that seem to be quite unwilling to give an easement they may argue back, well, why are we being the ones to make this sacrifice when no one else is. But on the other hand, it may be that they appreciate the long-term plan and they're willing to participate in it and they're receptive to it. So I'd say the first way to approach them is that it's something that we would really like to see, but I don't think we're in a position right now to say it's a requirement or anything like that. But just start out exploring it with an open mind, and hope that we get cooperation receptivity. And then see where we are.

Boardmember Cameron: And it's a right-of-way we can't use unless one of the other two owners give us access.

Boardmember Wertz: So if they're concerned about the others, not much is going to happen until the others agree also. Maybe they could take a leadership role in advancing us toward our goal.

Boardmember Dale: It sounds like once the county piece was taken off the table their obligation, or their willingness, to cooperate really no longer is required. It would be wrong to require it now because we don't have anything to support it. It's just a possibility in the

future. I think I agree with Patty that it's an imposition on them at this point. You can ask them if they're willing to do it voluntarily, period.

Boardmember Cameron: I think I phrased it that we would like to see whether we can take up David's kind offer.

Boardmember Wertz: It's really a request. It's no more than a request.

Boardmember Logan: I think there is a way we can do it without coercion. It's an opportunity that was suggested, and let's follow up.

VI. ADJOURNMENT

On MOTION of Boardmember Logan, SECONDED by Boardmember Dale with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:45 p.m.