

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
PLANNING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
APRIL 16, 2009**

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, April 16, 2009 at 8:15 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, Ed Dandridge, Village Attorney Marianne Stecich (8:30 p.m.), Village Planner Angela Witkowski.

**I. Roll Call**

**Village Planner Witkowski:** Marianne Stecich is on her way she should be here between 8:30 and 9:00pm.

**II. Approval of Minutes: March 19, 2009 meeting**

**Chairperson Speranza:** Does anyone have any changes or modifications?

**Boardmember Wertz:** I've got a few. Page 14, the fourth line down, the word "we" would just be "we've."

And then 33, the last one for me. Again, the first line where I'm speaking: "*They did a SWAT analysis . . .*," that would be "S-W-O-T."

**Chairperson Speranza:** Anyone else?

**Boardmember Dandridge:** I have one on page 31, where I'm speaking -- it's the third line. Delete the first two words there that say, "At much . . ."

**Village Planner Witkowski:** All right. Which one is it?

**Boardmember Dandridge:** Page 31, middle of the page, two lines after my name, it says, "*At much more expansively.*" You could just delete "*At much . . .*" those two words.

**Boardmember Dale:** Page 6, down towards the bottom next to the last time when I'm speaking: "*something quite tall because they use . . .*" cross out the "d," ". . .the backyard."

Then on page 19, middle of the page, where I'm speaking, at the last part of the sentence. It says: ". . . *fence for the full 1,200 feet.*" It should be ". . . for the full 100 feet to comply." Cross out the "have." So instead of 1,200, it's 100.

On page 23, the second paragraph, when I'm speaking, the last sentence it says: "*I'm thinking on Southside.*" It should be "of" Southside.

And page 31, the bottom of the page: “. . . *and then they do spot loans.*” It’s “N-Y-S-E-R-D-A Smart Loans.” Instead of “*spot*” loans, it’s actually “Smart Loans.” So it says -- “. . . *and the ‘serta’ XXX*” should become “NYSERDA.”

And last, but not least, 38, top of the page: “. . . *requiring that the developers need to look at*. . . “it.” Add “I-T.”

**On MOTION of Boardmember Wertz, SECONDED by Boardmember Dale with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of March 19, 2009 were approved as amended.**

### **III. New Business**

- 1. Public Hearing. Site Plan Approval Amendment; View Preservation Recommendation. Christina Griffin and Peter Wolfe, 433 Warburton Avenue** (Sheet 7, Block 618 Lots 23 & 31) in the MR-O Zoning and View Preservation Districts. Review and approval, of amendment to previously approved Site Plan, for the addition of parking in the front yard and guard rails at the second floor roof. The hearing will also be for the review and recommendations to ZBA, as required under §295-82, for the proposed construction in the designated View Preservation District.

**Chairperson Speranza:** The next order of business is a public hearing for a site plan approval amendment, including a view preservation recommendation for a property at 433 Warburton Avenue. We’ve seen the property before, we’ve seen the application before; this is a modification.

**Christina Griffin, applicant - 433 Warburton Avenue:** I’m going to put up a few drawings and hand out copies in case you can’t see it. They’re just 3-D views.

**Chairperson Speranza:** Just so people are aware of what the process is here, the Planning Board is the entity that approves the amendment to the site plan. We then make a recommendation on view preservation, which goes to the Zoning Board of Appeals for their formal action.

**Peter Wolf, applicant - 433 Warburton Avenue:** Good evening. We’re back, and because of at least one new face on the Planning Board we’ll give a brief intro of the project. While others have been talking about the environment, we’ve been doing something.

We are very familiar with the site of 433 Warburton Avenue because we lived there for over two years. We loved the location, asked the owner to tell us when he wanted to sell -- which he eventually did, and we bought the property. We viewed the project as the idea to rehab a

substandard structure with two dilapidated fire traps, similar to a building where there was a recent fire and fatality on the same street about a block away. We wanted to show that the rehab is possible at a reasonable cost, in an environmentally responsible manner. We wanted to maintain the neighborhood character, and bring practical, efficient, environmental solutions that will work for the homeowner, and the community. And we wanted to build a model that enhances the appreciation of nature around that site. And if you've been down there, you know it's the Hudson River.

The result, because we're about, hopefully, two months from completion, is that we will have the first Energy Star LEED for Homes-certified home in the River Towns. It will be gold, possibly even a platinum, depending on how the final tests go. For those who are not familiar with this, LEED for Homes is a green building council standard and it's pretty much generally accepted throughout the country. In doing so, we also may have the first LEED River Town architect in Christina, who has now been accredited. We were very pleased to have gone to see the new administration because one of the Trustee goals was to make Hastings a more sustainable and resilient community via policy, regulation, education, and facilitation. We hope that we're contributing to that process.

There are a lot of environmentally sensitive and efficient features that haven't been seen here. For example, we expect over half the energy to be furnished through solar; we have both solar panels and solar sheets. And we are also installing a green roof. We have been contacted by quite a few people, and I think you'll see articles about River Townhouse appearing this spring. We also, because of certain regulations -- and I think I heard the word "NYSERDA" in there -- the home will be open for viewing to the public probably sometime in June. What we've done, River Townhouse, therefore, has transformed these two railroad flats into two environmentally efficient, code-compliant, three-bedroom homes with expansive river views from every floor, which enhances the neighborhood. We're here for the two approvals: one is for parking, and the other is for the safety railing on the roof.

Turning to the off-street parking --

**Chairperson Speranza:** Peter, can I just interrupt for a minute?

**Mr. Wolf:** Sure.

**Chairperson Speranza:** That's what really creates the need for the amendment to the site plan. We don't act to allow the variance; that's an action of the Zoning Board of Appeals. But, again, just so people are familiar with the process.

**Mr. Wolf:** Okay. We were told that the structure was built in 1915 as worker housing for those to walk to their jobs on the waterfront. In 1915 there was one car for every 40 Americans. Today there are not jobs on the waterfront, and 31 cars for every 40 Americans. Now, this neighborhood -- and Warburton Avenue, in particular -- has a substantial parking problem. We lived here, and we know. And we come down here every day, and are told that

it's even worse -- partly due to the building across the street, where people apparently have been parking on Warburton Avenue instead of the parking behind the building.

So parking is a problem throughout the Village, but certainly on Warburton Avenue. Each of our neighborhoods have off-street parking, as does that project across the street. So we were trying to find a good solution. If you remember, we recognized the problem and came up with what we thought was a pretty innovative solution, which was to come up from Ridge Street. Although the Trustees endorsed the idea initially -- and we went through the entire, if you remediate -- it was not approved in the end and the plan was withdrawn. We then came back to this board, and the Zoning Board, of course, with a revised plan which we had parking coming in from the Warburton Avenue entrance. It seemed to be somewhat contentious. And rather than have that debate -- because we would have needed to have the approval from the county anyway -- we took it off the table, and told you we would return if and when we got the approval from the county, which we now have.

We've had four Westchester County engineers come down, and they now have approved the project. I think the letters are in your packet. I would like to point out that out of all the parking around us, I think the one that we have probably has the best sight lines and probably the safest means of egress. We're here to discuss because we understand from the previous debate that certain people have a predisposition against what they call parking in the front yard. We want to point out that the way we have this designed Christina has really designed it to make it an integral part of the property. It's discretely placed and integrated with existing specimens of trees that were there, and we'll have additional greenery. I want to point out that this will probably be the only one that's not paved, but probably uses green block so it's consistent with looking like a front yard. We would also like to point out that under the Village code, Section 295-22, it basically mandates off-street parking. And in a truncated quote, it says that "*all buildings substantially altered shall be provided with off-street parking.*"

We are now going to basically move on to the request.

**Chairperson Speranza:** One question. The letter that we have says you're planning for two off-street parking spaces in front of the house, and the drawings we have all show one vehicle. So can you just clarify that?

**Ms. Griffin:** In the letter it says one?

**Chairperson Speranza:** The letter says for two: "*The proposed curbcut for the driveway will remove one space from Warburton Avenue and provide room for two cars.*"

**Ms. Griffin:** You know, this is the exact layout that we gave the county and that they approved of. I think we are going to have to revise that to simply one. I think we were trying to see if we could do two, but I know this is *the* plan that they wanted. We spent five months working with them. It kind of went back and forth. They just feel this is the best

way to handle it. I think we have to revise it to one because they were not given two. I think we actually had that in an older application and we should have changed it. Because when we got their approval, this is the plan that they approved. We actually just simply changed the date for the Planning Board. But if you'd like, I could discuss how we got to this point.

**Mr. Wolf:** Do you want to discuss it?

**Ms. Griffin:** We took it off the table also because I knew that the county process is quite expensive. There is actually a building approval form for any significant renovation or new building that is on a county road, and they review the entire site. They have a drainage engineer, a highway engineer, a road superintendent, and a traffic engineer. I really felt that once we got through that process, that it would tell us whether we really should even attempt to look at parking on this front yard.

They gave us quite a few comments. The engineers came out to the site. They looked at the sight lines we had drawn to see if they felt comfortable. There's like an open area next to us, like an open lot. So, you know, the sight lines are nice, and also the building is set back. They also looked at the location of the building, and it's a little closer to Division but it's not very close to an intersection or a corner. They looked at the drainage; the drainage engineer actually looked at our calculations. At the time we started we had assumed percolation for the soil type, and they actually asked for on-site percolation tests, which we gave to them. We have all our drainage going back to [cold XXX].

Then their road superintendent looked at all the details. There is a note -- revisions to our original submission to the county -- and they were to say that the sidewalks would be as per Village of Hastings-on-Hudson. If Hastings prefers something other than concrete, I'm open to that. Right at the property line, though, we're not going to use concrete. We actually are going to use pervious surfacing. I'm afraid the grass may not grow because there's a lot of shade from this building.

This is a driveway; this is one possibility for the gravel. This is actually put on like "*Item 4: Gravel and Filter Fabric.*" We're surrounding it with a stone curbing. I have the same driveway at our house. This is to really make it as soft and green as possible; pervious paving helps with drainage, and also helps avoid any heat island effect you would get from black asphalt. We also recognize the fact that there is neighbor's window -- here. So our plan is showing a trellis. We'd like to have some kind of ivy over there or some vine to give them some screening when they're looking out the window. Actually, parking is on this side of the lot so the car would never be parked up against that building.

We are planning to put a 4-foot-high fence around this. I actually drew this like you're looking through the fence just so you can see some of this detail. And, of course, we're going to have plant pockets wherever possible. We're going to have greenery -- and that

might come up a little above the fence -- plant beds, surrounding the stone curbing. This is a really beautiful Japanese Maple. Somehow it's really jammed in the corner there, but we decided to save it. It adds some shade, and it's really attractive against that wall.

We really feel very strongly. There was one parking spot here, and we are trading, really, that parking spot for this little parking area. There is one car between this driveway and the next, and there will be another one. So we're taking one away to do this. But, you know, I just think it should be a policy that there is some kind of parking area, especially if you're doing a major renovation. You know, it's a really tough problem in this neighborhood. Right now our neighbor has a parking lot in the back, which I know was built after we lived here. So there must have been some acknowledgment that yes, we will accept some parking. And it is in the side yard; this is in the side yard and the front yard.

I do think it's in character with a lot of these properties. We have a lot of properties -- our neighbor's property -- that go down and then back out. There are many strips of driveways. I think there was a little concern about safety. So I only know that the traffic engineer felt comfortable with the safety issue. But, you know, I also talked to Antoinette, who's been there 40 years, and she's saying she doesn't know of anyone ever getting hurt because they came out of the driveway. So I don't think, really, that should be an issue.

**Chairperson Speranza:** Let's see if there are any questions on this. Then my thought is to talk about the railings. And then we'll open everything up for public comments. But I just want to see if the parking is clear to the Boardmembers.

**Ms. Griffin:** I think I'll leave this drawing open.

**Mr. Wolf:** Before I leave the subject, I wanted to add one thing that hasn't been brought out yet. That is, I think there's a great advantage to having that for the residents there, especially if they have young children, or if they have a lot of groceries, or if they have an elderly person or a handicapped person. Because, you know, the parking is so difficult you're sometimes parking two or three blocks away. Even though it looks like it's a [net-net XXX one thing], there really is a great advantage to the residents there if they're able to at least take advantage of having that space.

**Chairperson Speranza:** The residents who live in your building.

**Mr. Wolf:** Yes, yes.

**Ms. Griffin:** It's a difficult problem. When we lived in this house there was a man, may have been in his late eighties or something. He used to come out in the morning and say, "Where's my car?" because he would forget where he put his car. I know he always had some driveway -- I think it was overgrown -- but you really would almost lose your car. And I hear people feel it's definitely gotten worse after the affordable housing building. In fact, that parking lot's half empty. They just find it more convenient to be down below. I know there are people that come home . . . at a certain time of day there is no place to park. When

we lived there we sometimes had to park on the other side of the Village and walk to get home.

**Boardmember Alligood:** I have a question to clarify the process of approval from the DOT. They proposed this layout because they want the car to be able to turn around and come out front forwards. That's why they think it's safe?

**Ms. Griffin:** They asked me to see if I can get a car turnaround, and I said it depends on the car. This is the kind of project you can only have a smart car or maybe a little sedan. They went over this drawing, and they felt this is the only way they would approve it, drawn as this. If you had two cars you couldn't turn around. You'd have to have only one in order to do that. But like Peter said, they can't always guarantee a spot on the road.

**Boardmember Alligood:** My question, though, I just want to make clear. They're saying the reason they think it's safe is that the car will turn around and come out front forwards?

**Mr. Wolf:** Correct. It's like a K-turn, in a way.

**Boardmember Alligood:** Because when you last showed us your layout the cars would be backing out. So I'm assuming from the new drawing that they recommended the car would come out front forwards. Right.

**Mr. Wolf:** Right. Yes.

**Chairperson Speranza:** I think that's their policy that you can't back out onto a county road.

**Boardmember Alligood:** I think it explains the layout.

**Ms. Griffin:** Yes, they asked me to.

**Boardmember Alligood:** They're saying that in order to do that you can really only fit one car.

**Mr. Wolf:** Right.

**Ms. Griffin:** I think we put down two because we had submitted two to them and I didn't revise the letter. I would like to just simply review this layout, the exact layout approved by the county.

**Chairperson Speranza:** I don't know about other Boardmembers, but I didn't have a copy of the approval letter in my packet. If you happen to have a copy, let me just take a look at it.

**Ms. Griffin:** This is an approval, and after the process then you pay a fee to get the permit.

**Boardmember Dandridge:** Are there pictures on other rendering pages?

**Ms. Griffin:** Of this view? That's of the railing. This is a picture of the house in construction. You know, this is actually drawn over a photograph, but there's a construction fence and a porta-san right now. I had to take so many things away I didn't know if you'd even recognize it. But this goes right over a photograph of the building. This is a few weeks ago, what the building looked like. We now have all the siding on.

**Chairperson Speranza:** Any other questions from the Board. Can we move onto the railing, then? Do you want to speak to the view preservation aspects?

**Ms. Griffin:** Of the railing? That's handled separately. We're in front of you for the railing. I think Peter wants to say something.

**Mr. Wolf:** I just wanted to make sure that everybody knows what we're doing. We're putting on a green roof. A green roof is basically a roof that's predominantly, or completely, covered by plants. Green roofs are vitally important, with many major benefits. For example, generally speaking, buildings consume and use 40% of the energy that's expended in this country. If you go down to New York City 80% of the greenhouse gas emissions come from buildings in New York. What the green roof does is, it has a great number of benefits, in that it retains the heat in winter and reduces the heat absorption in the summer. There are also great benefits to the community because plants, of course, produce much more oxygen and reduce stormwater runoff.

Green roofs have been used by societies throughout history. There are thatched roofs and adobe roofs; they all had the same principle in mind. But green roofs as we know them came into vogue in Europe about a quarter century ago, with certain countries, Germany in the forefront and other Central European countries, actually passing laws about it. There are now other cities in the US, like Chicago, Atlanta, and Portland, who have taken the lead in promoting green roofs on all their buildings. New York City is coming out with a code this year that will speak to green roofs. It's a sufficiently hot topic that the Bronx Botanical Garden actually had a full-day program on green roofs last month.

What we're doing is putting in a green roof, and the change we're requesting is that the fence we originally had be extended out to the perimeter so the roof can be serviced -- in other words, basically watered at certain times. But that is a change so we are requesting that amendment.

**Ms. Griffin:** I'd just like to explain that. One of my keen interests in this project is so that I could actually try to do some kind of sustainable green building. Which hasn't been easy because so many clients want to see an example. They need to know. They really need to know whether they should invest their money in it, and what the results are. So by being owner/builder we're able to experiment. Originally -- you know, the process is really relatively new -- it was even hard to get the LEED provider. Actually, we're using an engineer who is a consultant, and he's following the project through the drawing phase into construction, and checking to see if we can get points for LEED certification.

We're at a stage where they have a list of many items: we have a solar system, and high-efficiency heat pumps as secondary heat, and gas last. We have foam insulation to seal the house and a lot of items like that. They've already given us a gold anticipated rating, and the top is platinum. In the last few months I've also studied and become a LEED-accredited professional, so I've become very familiar with a lot of the things you can do to make a more



energy efficient house. The house is also an Energy Star house, which means it has a high rating for energy efficiency. This is mandatory to be a LEED-certified home.

We had originally shown a deck here that aligns with our neighbor's deck and a railing that goes around. The railing has always been a cable rail because it is the most minimal type of horizontal railing. It's stainless steel cable, and it's stretched between posts and the wood handrail.

We would like to do a green roof, and have been up there many times to think about it. We've built the roof so there is an engineered panel sheeting for the deck. But this roof is actually covering rigid insulation. We had already built it, so this is where you would have people. It's only 9 by 9 feet. We looked into the details of a green roof. The only kind of green roof we can really get is a green carpet roof. You seed them, and they actually come in 3-inch trays. Then they come up above that a little bit. We have an image of that kind of roof, right here where it says "green roof." This is not meant for walking on. We just wanted a path to go through the green roof so you can water the plants. Just in case where the green roof is, by having plants on a roof it helps to mitigate the heat island effect, especially in the city. You know, cities are warmer than the countryside because there are so many absorbent, hard surfaces that absorb the heat from the sun and radiate it back. It warms up the climate. So by using plants, the whole evaporation and dew cycle helps cool the air.

We also know we're going to be headed towards a higher-rating LEED if we're able to do this. We've been out there a lot trying to figure out how we could do this. I'm a little worried that it just really won't be safe unless we have that railing going around. This railing doesn't go all the way to the end because we have an overhang for our passive solar side, so we've come right in line with the bearing walls around the building. There's going to be a rain barrel in the corner to pick up the rainwater to use for irrigation of the plants.

These are our elevations. This really, for your board, is a matter of view preservation. This is why we're here. I don't know if you recall our building. There was a little [gable XXX building] here that came up. Our building has minimal 8-foot ceiling heights. The building is higher than it was because the second floor only had a 6 foot 10 ceiling height. We had a first-floor ceiling about 8-6, but we cut everything to 8 feet. This railing is the most minimal railing, I think. To follow the intent of minimizing impact and view, we are trying to take into consideration our interests in a green roof, but also the interest of trying to minimize the effect of the view from the neighbors. We have a view; this photograph is looking from the neighbor to the south and is on our roof to the north. It's not easy to get that view. I also feel that, aesthetically, the green would be probably a nicer look. There are people that look down at this roof; at least two neighbors, maybe more.

**Chairperson Speranza:** Just to be clear, originally the railing was going to stop. Whereas on our plans it says "original railing."

**Ms. Griffin:** If you look at these photographs you'll see the corner of the deck. This deck coming out is where the original deck was going to end.

**Chairperson Speranza:** That's where the original deck was going to end?

**Ms. Griffin:** The railing was going to end, and we're showing no railing because the railing's now at the outer perimeter of the roof.

**Chairperson Speranza:** Is there anything else you want to add before I open it up to public comment?

**Village Attorney Stecich:** You're not exceeding the height limit, are you, with the fence?

**Ms. Griffin:** Out height limit of 35 feet, I think we have it on here.

**Mr. Wolf:** No. Because there's a structure that's there that's considerably higher than the railing.

**Village Attorney Stecich:** I just want to make sure.

**Mr. Wolf:** And the height of the fence is still the same as it was.

**Ms. Griffin:** It looks like it's not on this set, but the 35-foot height is way over this.

**Village Attorney Stecich:** Okay.

**Chairperson Speranza:** This is a public hearing so if anyone wants to speak to the application just come up to the mic -- you have to use the mic -- and state your name and address for the record, please.

**John Ciborowski, 433 Warburton Avenue:** I was one of the people that Mr. Wolf spoke of that was against the parking originally, approximately, I gather, two years ago. At this point there's nothing that has changed my mind except that it's probably gotten worse as a safety hazard, number one.

I disagree: he says the sight line is probably the best. The sight line is probably the worst of any of the properties that have existing driveways. It's only 20-foot wide lot. Some existing ones are double lots, 50 feet wide, that have space on either side. There's an angle going down. The Village has built 422 across the street, which has a lot more pedestrian traffic: Antoinette's, Saturdays, Sundays. Large pedestrian traffic: people go there for walks; baby carriages, bikes with their children. It is no place for a driveway. It's just going to open up a can of worms.

Now, the only benefit I can see is to the applicants themselves. It's not a benefit to the community. They say we lose one space; I say we lose two spaces at least. It's just a tradeoff for their benefit. I really am very strongly opposed to the idea of having parking there. It's going to, like I say, open a can of worms. You're going to get other people looking now to park in their front yard along Warburton Avenue. It will look terrible. And I think the reason they were denied the first time -- or not even denied, they pulled it off the

table -- was because I don't think it would have passed that time. And I still feel the same way, and I hope other people will feel the same way also.

Thank you.

**Mr. Wolf:** Can I just respond to that?

**Chairperson Speranza:** I want to get all the members of the public first. Okay? Then, definitely, you can talk.

**William Kennedy, 431 Warburton Avenue:** I'm directly south of their property. Are we speaking right now of the parking, or the roof?

**Chairperson Speranza:** Both.

**Mr. Kennedy:** In regard to the parking, I don't like the way the turnaround happens because there have to be several different moves. I have a window that's against the property. I have some pictures of my property in the window that I think would probably be hit. I know, during construction, my house has been hit by machinery because it's directly on the property line. I'm afraid that a car will go through the window. It's a steep slope, so once it rains or snows they'll be sliding. And if there's a lot of moving, I'm afraid my house is going to be hit.

Also, I have three windows right next to it and am worried about the exhaust from the cars. It's kind of a cove because the way the building's been extended there's no way for air to go through the area. So I'm worried about carbon monoxide just sitting there. I just don't think it is very safe, and there'll be absolutely no greenery or anything. It just doesn't seem like it fits.

Can I give you these pictures?

**Chairperson Speranza:** Sure.

**Mr. Kennedy:** The lot is only about 25 feet wide, and a regular car is about 15 to 18 feet depending on the type of car. You have to make a lot of moves to make a turn. Again, to give up one Village spot to put in one personal spot doesn't seem worth it for the Village.

My other complaint is about the view. Originally, in the plans, I'd spoken with Peter and Christina about scaling down the deck roof so it wouldn't block my view. We agreed that I would not object to the upstairs and the deck as long as the deck didn't go beyond my deck and wouldn't present any more view obstruction. The roof wound up being a lot taller than it was supposed to be. According to the plans, it's not supposed to be as high as it is. And they're planning to make it about 5 inches taller with the growth, and another 3 or 4 feet for the fence. The fence will block my view. I have a few pictures of my view right now. I have a nice view right over the building to see the water tower and all that, which I believe will be obstructed if it was put up.

Another thing, with the plans I see there it looks like instead of being a small deck it's opening up the entire roof, with a pathway. I know they tell me it's just for watering, but I don't like maintenance people -- and, on a path, there's no reason why a lounge chair wouldn't be put there for the people who buy the house. We'll just say, "Oh, it's a nice roof garden area. We could just change what the roof is, and just call it a deck." Once the railing is put around there and everything's there, I think it'll basically be done and I lose my view. I think I've been very patient and everything over the last two years, with all the noise going on next door. I don't want to lose any more of my view. This is a view preservation area, and I'm all for the green concept and everything. But I don't want to lower the value of my property just so my neighbors can make more money by selling their house as a green house.

Thank you.

**Chairperson Speranza:** Anyone else?

**Jim Metzger, 427 Warburton Avenue:** First, I would like to commend Christina and Peter on the house. I've been in the house, and it's extraordinarily beautiful inside. I think they've done a wonderful job on it. I love the fact that it's green. It's setting a standard in the Village that we all should be emulating.

That being said, I also have similar issues with the parking that were voiced in an earlier meeting. If we look at the Village code, Section 295.20, paragraph C, section 4 says: "*No site plan shall permit any structures, parking, or paving on a required yard.*" This is a required front yard. We're talking about putting a car there. And as Christina pointed out, there are many houses on the block that have parking. But the parking in most of these other residences, what you have is a driveway at street level, and then the parking occurs either at the side of the house in situations where it's grandfathered. In Billy Kennedy's case it's in the back of the house, not in a required yard. In Antoinette's case it's on a side yard, also grandfathered in. So nobody's technically parking in their front yard. There are driveways that get you past the front yard to be able to park.

The sketch that was shown with the car turning around is a 12-foot long car. As Christina mentioned, I think with the exception of a smart car, possibly a mini, I don't know of any other car that would be able to turn around in that spot. The issue we have in our neighborhood is one of convenience. If you pull onto Warburton Avenue, and you live on the street, if there's an available parking spot on the street you're going to take it. Because it is less desirable to have to pull in and out of a driveway, especially when you're trying to get in and out of a parking spot in the morning. It's a very heavily traveled street.

The second issue that we have is, we would be losing one spot which, to me, is extremely valuable because I don't have any other options. Many is the night I end up parking down by Brian's gas station. You do have to walk two or three blocks very often. What usually

happens, in front of my house we have space for exactly three cars. What typically happens when there's a driveway, somebody doesn't want to park too close to the driveway because they don't want to impede someone's access getting in and out. So what happens is, someone leaves 2 or 3 feet to the curbcut to Billy's house. Then they'll leave 2 to 3 feet to the curbcut to Antoinette's driveway. And instead of having three parking spots, which we can accommodate, we only have two in front of my house.

I fear that same thing is going to happen when we put a curbcut here. While you could technically fit three cars in between Billy's driveway and the proposed curbcut, all someone needs to do is park more than a foot or two away from that curbcut and you're only going to get two cars in there. So this becomes a serious issue for us. The same thing's happening at 422. It's much more convenient to park on Warburton than in the parking lot. Legally, you can park wherever you want. So I don't have an issue with that, except I don't want to accommodate somebody's personal parking area that would make the neighborhood's parking more difficult. I think that's it.

In response to the green roof, I love the idea of a green roof. I think it's something that would be extraordinarily good to have in the neighborhood and would set a great precedent. I believe the cable roof will probably not impede Billy's view as much as he might think because I've seen cable rail roofs. Here's my issue. Somebody buys the house, they end up having a child. That cable rail roof, while it satisfies code requirements in terms of preventing falls, if you have a child you're not going to want to have a cable rail up there. The first thing they're going to do is come to the Village, and say, "I have a safety issue. My child is out on that roof, and I need to now put a solid wall up there."

So once we allow the cable rail in, unless we can assure that that would be the railing that would remain, I think we have to think long and hard about what the future use of the roof might be. That being said, I'd love to see some accommodation for the green roof.

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

**Mr. Kennedy:** To add to what Jim Metzger was just saying about the roof can change; once it's there, people will use it for a different reason. There's a path out there. People aren't going to say, "Oh, it's a green roof. I can't walk out on it." We're going to have maintenance people. We have a view of my bedroom from out there a lot easier than from the side, where it's been agreed, and I was guaranteed, that the roof would not extend beyond . . . in the original plans I was told that it would not extend more than that small area. But now they're trying to extend it past that area.

So once it's there, then they might try to do something else. Maybe put a full deck out there or something else. I just don't think it'll stop, because any time I don't go over and make sure . . . and say something, they'll keep doing stuff until I say something. I don't know how

far I can go with that. Because it's not watched all the time, so things do happen and I'm afraid that it'll just keep going, my view will disappear. I was told there wouldn't be any structures out there.

**Chairperson Speranza:** If that's it, then we'll close the public hearing.

**Boardmember Dandridge:** I think they want to give a response.

**Chairperson Speranza:** Sure.

**Mr. Wolf:** Hi. I'd like to respond to each one. I'm always curious that Mr. Ciborowski comes up here and is so vehemently against parking and providing for parking off-street because when our neighbor was there about two or three years earlier he was very much in favor of having Mr. Kennedy having parking. Mr. Kennedy, who was speaking about parking, the Board about five years ago gave him five spaces and a swimming pool. When he came in here, the plans were changed from, he thought it was, 11 feet. I think Mr. Levico was up at the time. And then when they looked at it, oh, it was 1 foot 10 inches. Then there was supposed to be fencing, and Mr. Rockwood who owned the property before us came in and said, "Yes, there's a written agreement. They're going to put in plantings and so forth, and shield off all the parking." And that hasn't been done. So these are neighbor issues.

**Chairperson Speranza:** Okay, well, Peter, these are neighbor issues. And if it's an enforcement of someone else's site plan that's a different issue.

**Mr. Wolf:** I understand that. So I'd like to address this specifically. With regard to the parking, as we say, we think that it's safe and advantageous to both the people who will be there and to the surrounding area.

With regard to the other point, I think Mr. Kennedy and we do have a gentlemen's agreement about this not going beyond that. And I think that we would be willing to do something to accommodate this so that it could only be used as a green roof. You could have the cable railing; maybe we could put it in almost as a covenant to the people who were to purchase that unit that that is only for a green roof, it cannot be used for other purposes. And make it a covenant that they would have to return to a board or something in order to have a change because you can't put a blanket covenant on something. We want to live up to a kind of gentlemen's agreement that we have that we would not go beyond that area; that the living area would not be changed at all from what the original plan was. So I just wanted to make that point that something could be done to assure that it's only used for a green roof.

The last point, in a footnote, is that I didn't explain it correctly when I said that somebody would have to go out and water. We're not envisioning that it's maintenance people coming. It's going to be the owner who's going to come out and water the garden when it needs to be watered, hopefully from the rain barrel that's there. So there isn't going to be anybody from the outside.

**Chairperson Speranza:** Thank you. I'm just going to start this time because I think this project is a good project. I was very enthusiastic about it. I was concerned about parking

and the fact that there did not seem to be a way to accommodate parking except in the front yard.

What we had recommended, and what you had offered very generously, was to extend Ridge Street and, in fact, put parking on Ridge Street. I think that would have been a great solution: give you parking, and not have to deal with this issue of parking in a front yard. Because it is parking in a front yard. It's different. There are situations that I noticed where there are cars in, essentially, a front yard of the house. Maybe a driveway on the side, but they're not all the way down the hill, either, into the parking behind the buildings. But I think this sets a precedent for continuing that practice; for patterns along the street which have developed over the years or developed quite a long time ago.

You've tried to make it so that it will be not paved, so there will be some pervious surface and gravel. And I'm sure it would look really nice. But again, I think it's a bad precedent and that's my opinion. I think things moved a little too quickly out of control between our recommendations. . . then went to the Board to try to convince them to extend Ridge Street and solve the problem over there. Then you ended up going to the county to get their permission. Well, we'll see what the rest of the Boardmembers think, with this now as a potential action: to really put parking in the front yard.

With respect to the roof, again, I think it's a great idea, a green roof. But I remember at the meeting, when there was a discussion -- and it wasn't so much a gentlemen's agreement, it's on the record somewhere -- that, in fact, your deck would stop so as not to impede the views. You know, I look at the drawings and clearly there's going to be a difference in the views to your neighbor from what was previously approved.

That's my sense of where we are now. I would love it if you would say, "Hey, we have a new administration. We have new members of the Board of Trustees." Maybe they'll be more receptive to improvements to Ridge Street than what was requested of you the last time. I can understand why you wouldn't want to go back, but I think it's the best solution. That's my sense.

**Boardmember Logan:** I think I kind of agree with you on going back to the Board again and trying to get the Ridge Street parking re-approved. I mean, you've kind of been boxed in here and heavily constrained, and maybe there is a new sentiment about that.

With regard to the green roof, I think this will be an enhancement of the view of Mr. Kennedy effectively. The question is the railing and whether, actually, it is required by code. Because if this is going to be sedum you shouldn't need to water it. You know, you get an extra green point if you have zero potable water usage for landscaping. So maybe you can get an extra point for that. And I'm not sure, if it was a green roof, whether you would

actually have to get out there and provide a pathway, and whether the code would require you to have a railing. So I would look into that aspect of it, and that may also comfort Mr. Kennedy that this is not going to be transformed into a deck. And maybe we could look into ways of getting covenants to restrict that usage, but if this was literally sedum right up to the edge, maybe with a small pathway down the middle like you've shown but no railing, maybe that works. You might be able to get away without a roof. It's not a regularly occupied space. In fact, it may help enforce this as *not* a deck, basically.

So I would look into that. I think the code only requires it for regularly-occupied spaces. I have porches around my house, and I go out there to clean the windows I don't have to have a railing there. Nobody does. Maybe you could look at it in that light. But I think the green roof is a great thing. I think what you've done here is terrific. I would also suggest you propose it to the library to put a green roof over there and we could save the Village a lot of money on air conditioning and stormwater runoff, as well. So I like the green roof. I would look into just trying to eliminate the handrail, and see if you can do it under the code.

**Boardmember Wertz:** I think I agree with what both of you have said: it's a great renovation, with all good features. I think some of the residents have spoken to the parking problem on Warburton there, and it has gotten worse and it is pretty bad. I'm concerned about taking a public parking space away and giving it to a private residence. I think what the residents have observed -- that it might not even, in fact, be used by the resident, who might park in the street -- is a risk with the arrangement of parking in the front yard.

I completely agree with those who have encouraged the applicants to go back to the Board and try to revisit the Ridge Street arrangement, which was a great, creative idea. And I felt, as well as many of us here, that it was not only a solution to the parking and a benefit for this residence, but was also a benefit to the Village. I know it was a terrible experience for you, and I hate to suggest that you revisit it. But I think it's a much better solution than the one that's being proposed right now.

And Bill's suggestion, if there's any way to have the green roof without the rail -- and actually improve the view and not obstruct it and also, at the same time, discourage use of the roof as a deck -- it's a win-win and a good suggestion.

**Boardmember Cameron:** I guess on the parking, essentially what we're doing is taking one street parking spot and giving, somehow, to two units in the building. How they would share it, I have no idea. But you're taking people who are sometimes not in their parking lot and taking away a street spot, which is probably, virtually, always in use.

The second thing is, looking at the construct of this spot -- and notwithstanding what your agreement is with the state, or the county -- I could see three cars in there in 15 minutes; easily, all three of them pull in straight forward. You know, I could redraw the space so you



couldn't get more than one car in there, but the way it's drawn right here you'd have three cars in there, or two in there, or "I'm just pulling in to get my groceries out of there," and suddenly people will be backing in and out. What you're doing is adding an enforcement problem to our town. And I also basically object to parking in the front yard. I think we'd end up with more cars there than we think. I would encourage you to go back to the Board, the Trustees. Of course, we encouraged you to do that the first time, but I think that's, by far, the best solution.

I think the idea being suggested by Bill on the deck is an excellent one. If we could get there that way, and keep the fence around your own deck and then have sedum growing out there which grows with whatever water appears . . . or, God help you, put a little sprinkler system in, then you'll lose points fast. And also, you know, I would have some concern, depending on what kind of watering you put in, how tall the growth would be on your deck. I know sedum doesn't, but we haven't postulated it has be that. We don't want to have tall grasses growing up there and blocking people's views either. So I really endorse what the other Trustees have said.

**Boardmember Alligood:** Basically, I think all the points have been covered. I think there was a good solution on the table previously, and I encourage they try it again. It's all been said.

**Boardmember Dale:** It has been said. I felt you were mistreated the first time around on Ridge Street. So I've had time, and highly recommend that you try again.

**Chairperson Speranza:** And we'll go with you. I will certainly make that commitment.

Ed, any comments on this?

**Boardmember Dandridge:** I would just simply say don't give up. This is a really innovative and somewhat visionary concept. The parking, however, I don't think is and I think there's an alternative that may need a little bit more creative persuasion to achieve what you're trying to achieve. I think this is a really intriguing idea and the direction we ought to go, but I don't think the parking solution works. And I think we kind of get a mixed message about the roof: if it's going to be a green roof, it ought be green; it ought to have the agreement that you stipulated you had with your neighbor in force so that people's sight lines are intact.

I think it's what everyone else said. I think we're all pretty much on the same page.

**Boardmember Dale:** I have one comment on the rail. The point was made that it's dangerous for children because children could use the horizontal rails to climb over if there was a child who wandered out there; and wondered if a roof with vertical stripping would accomplish the same thing. As long as there's less than 4 inches, it's considered child-safe. I actually happen to have a picture of a rail that was done with rebar soldered down, and it's

very transparent and would not interfere with the view at all, but would be child-safe and might be a better solution.

**Chairperson Speranza:** I was remiss in not mentioning for the record that we did get correspondence from concerned neighbors. Normally, I would prefer that we get correspondence from people who have names and addresses, but there is a misstatement in here so I want to state what's in this letter and correct it.

*“It's our understanding that the house at 433 Warburton Avenue was to be modeled into another two-family home the same that was there originally. The structure that has been built at the site is not a two-family home, but a three-family home, with no parking facilities on the premises . . .”* and it goes on a little bit.

It is not a three-family home. I want to make that clear. So concerned citizens, it is not a three-family home; it is a two-family.

**Ms. Griffin:** I'd just like to say to go back to the Trustees about seeing if we can work with them to use Village property, I think that alone means a tremendous amount of time. We'll think about it, but we want to wrap up the project.

I just want to make a statement that when you live in this neighborhood the parking problem is such a problem, so huge. Really, it affects your whole life. Maybe it almost seems selfish getting a spot when so many people don't have a spot, but I really would like to see if we can find a creative solution. I mean, I know there are other towns in the country that, when they know the residents are parking, they actually create resident parking. I know that's probably something you can't get involved in, but I do feel like this neighborhood . . . and I feel very much a part of this neighborhood. I feel I want to find a creative solution. It's very sad when you have a major project go in place, and it makes matters even worse. It's just impossible.

So I think we need to look at other options; maybe talk to the Trustees. We have different people now, a different mayor. So I think we need to go back and look at other options. When you're trying to improve a property, you can't forget the car. This is the kind of property you actually get points because people can walk to the train station. But then people do have cars. So we want to improve it in every way possible. It just seems like that it is left out of the picture if we don't address it, and that's why we went in this direction. I was only experimenting, and was very happy with the way the county responded. I think they're looking more at very technical things. They don't even consider the effect of parking in a front yard.

But I have to say, to be fair sometimes you have to look at the community at large. We have this cute little terrace now in back of the house. We go out, and now we look into our neighbor's parking lot, which was never screened properly. So if we're going to have parking, parking in the front yard is one issue. But when we do have parking on these little lots, so close to each other, right up in the property line -- and that is in the side yard setback -- they should be properly screened and buffered. These are not just things that are conditions that are not enforced. They should be enforced because it's very critical in this kind of neighborhood. Because we are, probably, putting a fence up. We need to screen it so we don't feel like we're looking into a parking lot in the backyard.

About the railing, I truly want to do the screen roof. And I am going to look at maybe if we bring it back from the edges of the roof. I mean, I don't know if we can do it without a railing. I think we'd be very happy with that. And maybe there's a gate in the railing just in case you need to go out there, in case the drought-resistant plants don't survive -- we have to see. Again, it's also a little bit of an impact on his view. But, hopefully, it's actually an improvement because it's green.

**Chairperson Speranza:** That's true.

**Ms. Griffin:** So we'll take a look at that.

**Mr. Wolf:** I'd like to make a few comments, too. First, the idea is to have the green roof. So I think we could probably . . . I'll have to look at the code, but we may be able to do that without coming back because it won't be necessary.

Another footnote just to what you were saying, when I was Conservation chair I did actually go to the Board of Trustees when they were redoing the library. What I was trying to do was get solar panels put up there, because if you look at the attitude of that roof you could have heated all the hot water not only in the library but in the Municipal Building basically for nothing at that point.

**Boardmember Logan:** And shaded the roof at the same time.

**Mr. Wolf:** Yes, but people weren't interested in that point.

I do also want to speak about the project. You know, it's been challenging, what we've tried to do. And I think the Village needs to really look at what's going on. Because if you take our parcel of land, and you want to do something by right, you're supposed to have off-street parking and you're supposed to have 8-foot setbacks. So if you had a 9-foot wide driveway and two 8-foot setbacks you'd have 25 feet and no building. It is really unrealistic. To be honest with you, we are able to do this -- because I'm an attorney and she's an architect. I mean, anybody who would have to pay for these kinds of professional services to try to get these things done, it would just end up with a project that would be totally uneconomical.

I think, really, the Village has to look at how this whole system works because in a lot of areas it doesn't work. The thing that bothers me the most is that in the time that I've been in Hastings the downtown area has gone from vibrant to vacant. Part of the reason is that it's economically unviable to do things in the Village and get a proper return. I think this really needs to be looked at. I think it's vital to our village to explore how people can do projects; how they can upgrade something that really was a fire trap and was so substandard that it shouldn't be allowed to exist. And yet it's grandfathered in, and people either do repairs sub rosa or they're doing other things or they're neglecting it. And that just is not in the interest of the Village. I think people should really take a look at the bigger picture here.

Thank you.

**Boardmember Logan:** If I could just add one thing, while we're talking about this parking situation. I'm wondering, if we're hearing that the parking at 422 Warburton is not being used and the people are parking on the street instead of in those parking lots, a) is there something we can do to enforce it, or b) can that become a resource for the Village to use; can Village residents park in that lot. Can we rent those spaces, can we force the ownership there -- and I realize the Affordable Housing Committee is involved with this -- somehow leverage the spaces there and get them to be used one way or the other.

**Chairperson Speranza:** And I think it's almost the opposite problem: you can't prohibit someone from parking on the street. It's a public street, so you can't prohibit it.

**Boardmember Logan:** But the flip side of that would be, could we open it up. If they're going to use the public street, can the public use their space.

**Boardmember Dale:** The reality is that some people have, and some of the residents are having trouble because they come home and somebody's parked in their space.

**Female Voice XXX:** Thank you for saying that.

**Boardmember Dale:** And Sue has reached out to Eric Anderson, to change the way the spots are numbered and named so that, in some way, 1) the people who have spots won't be forced to park on the street because someone is parked in their spot, and; 2) to come up with some way of trying to encourage them to use their spots. The belief is, it's only the people who live on the lower portion of the building facing the street as opposed to the people whose entryways are on the upper portion . . .

**Chairperson Speranza:** Near the parking lot.

**Boardmember Dale:** . . . and it's easier to use the parking lot. So it's only a couple of families that would likely be in violation. It's not a major objection.

**Chairperson Speranza:** We have Jen Corso, who's a resident up there.

**Boardmember Dale:** Six families.

**Village Technology Assistant Corso:** Yes, I'm a resident of 422 and I am in that parking lot every day. I have to say, from the beginning -- from when the building first opened until now -- it seems to me that almost every resident, as far as I could see, is parking in their spot overnight. Because I get home late at night after these meetings, I'm taking my dog out and

there's a few spots open. But that's because those spots aren't assigned to anybody. Not every spot in the parking lot is assigned. There's some visitor parking, but they're not marked as visitor spots.

I think the problem lies in that there's 14 new units there and people have visitors. Where are those people going to park? I mean, there are one or two spots that you could park, but there's 14 units there. There's people coming by, people spending the night, whatever they're doing. And yes, as Bruce mentioned, I have problems with my parking because when I come home at night there's someone who can't find a spot on the street who thinks they can park in my spot or park in the spot next to mine. I happen to have a spot right where you come into the parking lot, and people just pull right in there. And then where do I park? I've got to park on the street or park in someone else's spot in the lot who has it assigned, and then they go off to park on the street.

**Chairperson Speranza:** Right. It's complicated. And I think there are some actions, as you mentioned. Sue Smith is reaching out to the management.

But to get back to this application. We will take no action on it at this point.

**Village Attorney Stecich:** It's on for the Zoning Board.

**Chairperson Speranza:** Right. It's on the agenda for the Zoning Board for the next meeting, and we can submit that we recommend against approval for view preservation reasons, unless you want to come back.

**Ms. Griffin:** [off-mic]

**Chairperson Speranza:** Shall we hold it over?

**Ms. Griffin:** I think we should.

**Chairperson Speranza:** All right, that's fine.

**Ms. Griffin:** [off-mic] brainstorming session. I'm so glad you appreciate the challenges we have.

**Boardmember Dandridge:** We really do, and all that you've been through in trying to meet those challenges.

**Boardmember Alligood:** I just want to say that I remember that we made a point of saying that we didn't want to force this project into having to downsize to one-family just to meet code. And I think we all are very aware of the fact that it's a really tricky property to develop and we're excited that you found a way to renovate and keep it a two-family. I think just all along the issue has been how to address the parking. And we hope that the other solution, which is a great one, will come to fruition.

**Chairperson Speranza:** On the other hand, you mentioned that off-street parking is a requirement. But there is a reason why properties, when they're being renovated, are grandfathered in. It's so that you don't have to provide off-street parking for a structure that's been in existence. So the fact that you would like to have a parking space there -- and I can certainly understand that -- it's not we who are mandating that the parking be provided.

**Ms. Griffin:** I understand that. But, you know, one thing that no one ever discusses because it seems like it's an impossibility is the status of public parking. I know that in other parts of the country they've made changes. This has actually become more of a residential area. I know that a long time ago there were shops and things. So who really needs the parking there? The residents are parking on the street, so why not acknowledge that -- have resident parking so they always have a spot to come home to. Maybe not right in front of their house.

But I think that's a very creative way of looking at it. And, you know, if there are ways to do that it's something which needs to be looked at.

**Boardmember Cameron:** Just something that occurred to me on our affordable housing. You might ask the owner to require everybody to have a sticker on their car, which he would issue . . .

**Village Technology Assistant Corso:** He did. We do.

**Boardmember Cameron:** . . . with your parking spot number on it.

**Village Technology Assistant Corso:** Yes.

**Boardmember Cameron:** So then you could spot who's parking on the street, when they should be parking in their parking spot kind of easily.

**Boardmember Logan:** You could, but there's no enforcement of a violation.

**Boardmember Dandridge:** There's no enforcement.

**Boardmember Dale:** The only possible enforcement is if the license plate of the car were actually printed on the wall, and a policeman came up to see if the proper car was in the proper space.

**Village Attorney Stecich:** I don't think the Village can enforce it, but I think it could be enforced by the owner.

**Village Technology Assistant Corso:** The only thing, in our leases we have what spot number we have. So that would be the only way the management company could enforce it, I guess.

**Village Attorney Stecich:** At the moment.

**Chairperson Speranza:** I'm going to cut this conversation short because we have other agenda items. We can take it up at another time.

Okay, thank you.

**Ms. Griffin:** Thank you.

2. **Public Hearing. Site Plan and Special Permit View Preservation Recommendation. New Cingular Wireless PCS (AT&T), Represented by Cuddy & Feder LLP.** AT&T Leased area on roof of Municipal Building at 7 Maple Avenue (Sheet 9, Parcel 97 and Sheet 13, Parcel 109) in PR and View Preservation Districts. Review and

approval of Site Plan and Special Permit for the construction/addition of 3 Panel antennas and associated equipment. Hearing also includes review and recommendation to ZBA, as required by §295-82, on View Preservation.

**Chairperson Speranza:** Next on our agenda is a public hearing for site plan, special permit, and view preservation recommendation for the installation of three additional panel antennas on the Municipal Building, AT&T.

**Daniel Laub, Cuddy Feder & Worby:** I'm an attorney with the firm of Cuddy & Feder, back before you again. Previously, approximately five or six months ago, I was here before you for the MetroPCS installation on the roof here at Village hall.

I think I can kind of give you the broad-brush details of it. You're all very familiar with the site, as we had just kind of touched on this a few months ago for a different applicant. But as a matter of fact, this site -- AT&T has an existing site up on the roof. It was approved in 2002. At that time, a total of six panel antennas were approved, as well as four cabinets in order to run it, as well as attendant utility wiring and running those materials to the local telephone and electrical connections for the building. The equipment cabinets are positioned on a steel platform, which is located on steel dunnage that is located on load-bearing parts of the building kind of cater-corner. Don, if you could point it out on the roof plan, just where the platform is. It's set back further, as you'll recall. It is not on the portico where the MetroPCS site installation is going to be.

As I mentioned, the original approval for six panel antennas, two for each of three sectors, and additional equipment cabinets. It's unclear as to why, specifically, the additional panel antennas were installed at the time of the installation, and the additional cabinets weren't. As just a general point, sometime, as you can imagine, a network of literally thousands of sites, sometimes if you can make do with a site, once you start getting it up and running, and you realize, well, maybe we can forgo a couple of antennas, sometimes that's done just in order for expedience in order to try to operate the network efficiently. As a matter of fact, though -- for technological reasons, subsequent to that 2002 approval -- AT&T was granted additional license, which you kind of know is kind of broadband wireless service, UMTS. So what's necessary for that at this site is actually the use of the additional antennas which were originally approved -- the additional three antennas. And we would also need to swap out one equipment cabinet and replace it with an additional cabinet to service that. And then the addition of one equipment cabinet up there, for a total of three equipment cabinets on the existing steel platform which is there.

So it's basically a minor modification, for which we're before you, of the site. It's basically in keeping -- and actually still less than -- really, what was originally approved in 2002. But

nevertheless, under the code we're here before you for an amended special permit and, amended site plan, and view preservation approval. You know, being that I think you're all familiar with the site, I think maybe if we go into questions that may be the best use of our time.

**Chairperson Speranza:** Just clarify for me the cabinets. There's three there, or there's two there now. You're replacing one, the other existing one is okay, and you're adding another one? So there will be three.

**Mr. Laub:** A total of three. Right. So one cabinet is basically an upgrade to provide additional service; one is for this technology, and one is okay because it's basically continuing on with service that's already present on the site and being provided by the site. So it's a total of three, whereas four had been originally approved. And then one antenna for each of the three sectors, so a total of three additional antennas; total of six on the roof.

**Boardmember Logan:** A quick question. Those six were originally approved under the site plan and view preservation?

**Mr. Laub:** Yes.

**Boardmember Logan:** So, technically, why did you have to come back before us again? Is it because it wasn't built within a certain time frame?

**Village Attorney Stecich:** Your approval doesn't stay open [off-mic] [forever].

**Boardmember Logan:** So we've exceeded some sort of a time frame trigger here.

**Chairperson Speranza:** Generally it's a year.

**Mr. Laub:** Essentially, the approval is for so long. It's somewhat [stale-dated XXX] essentially. The site was built, a CO was obtained, and now they've gone for a modification. And really, under the code, when you're coming in to modify the site . . . I mean, I imagine swapping out of wiring or certain connections I imagine would still just be electrical for building permit approval. But, given that this is a change in the equipment and the antennas, that's why we're looking for the amended approvals.

**Chairperson Speranza:** Marianne, I see you want to say something.

**Village Attorney Stecich:** I don't see anything in the material indicating this was referred to Dick Comey, who was the consultant we've been using to review all of these applications. Given that the approval's almost seven years old and this is different equipment, well, six-and-a-half years -- September, 2002 -- I think that Dick Comey's company, the Municipal Solutions or whatever . . . that it be referred to them to take a look at it.

Also, since there is quite a bit more equipment now, I would be concerned about the roof handling it all. There may have been the approval before, but since -- I think on Mr. Laub's application for MetroPCS -- we allowed more stuff. And at that time we needed to have a study done that the roof could handle it all. And I think that would need to be done again.

**Boardmember Dale:** Angie's cover refers to the fact that she did refer this to him: "*Since Richard Comey did the MetroPCS inspection, I will contact him to get an estimate and inspection.*"



**Village Attorney Stecich:** I'm sorry, where is it?

**Chairperson Speranza:** Her cover memo.

**Village Attorney Stecich:** Wait one second. Let me see what this is.

**Chairperson Speranza:** Traditionally we request that an escrow be set up to cover this.

**Boardmember Cameron:** I see this new [TE-21 XXX] cabinet weighs over a ton, for example.

**Boardmember Dandridge:** See, that was the question I was going to ask. Where are we in terms of well-being load assessment. Because if this is solely a matter of upgrading or a necessity of capacity because of new technology, we can't be in the business of just incrementally approving them as we go without stepping back and looking to see if there's a more strategic way. Because beyond the sort of sightlines, which I think is a considerable issue, there's a weight issue.

**Chairperson Speranza:** You're right.

**Boardmember Cameron:** Quite frankly, as technology moves on, I would hope the antennas would get smaller rather than getting bigger.

**Mr. Laub:** As a matter of fact, no. I think the proposed antennas are actually smaller by about 5 inches from the other ones that are there.

**Chairperson Speranza:** Traditionally, what we've done -- what we initially did with AT&T and what we did with MetroPCS -- is request that an escrow be set up so we can have the independent examination done for the radio frequency and then for the structural stability of the roof. I realize that AT&T already had someone, and maybe it was you, who evaluated the appropriateness. But we're going to do it based on the Village's interests.

**Mr. Laub:** In Tab E, Exhibit E, of the application that we submitted to you, you know there is a stamped and sealed statement by the engineer, who took into consideration . . .

**Chairperson Speranza:** You're right, and I saw that. And one of the things that struck me was that it says "the existing platform -- a structural evaluation of the existing platform." I guess, not being of an engineering mind, you've got the platform but the platform on the roof. I don't know, it just seems to be . . . I think we need it for the overall roof, and it doesn't mention if it includes -- or if there's a realization -- that the MetroPCS is going up on there also.

In any case, that's what we would be requesting is an escrow for those two studies.

**Boardmember Dandridge:** I'm sorry. It does make reference to the MetroPCS new equipment here. It says it "will not have structural impact on the existing AT&T frame." But more importantly, it says, "This assessment does not constitute a full structural analysis of the steel frame." You know, they're looking at it, as they should be, in a very narrow context. I think our job, as you pointed out, is to take that step back.

**Chairperson Speranza:** You're right. Procedurally, this is a public hearing so I do want to see if there's anybody here to speak on the application.

**Mr. Laub:** They're all here in support of the application. We're all kind of the same team.

If I could make one request, I understand that Angie is going to send this out to Dick Comey for his firm's review. The one thing, I think just in terms of cost considerations for my client, we just did have a site visit five-and-a-half months ago. I was here in October, up on the roof with Mr. Comey. I think we went up, and we had the police up there, and we had the Village Director of Technology up there. I was just wondering if we could forgo that this time so we don't have to get our entire team down here, I don't have to come down here or Mr. Comey. Because he tends to like to have a site visit to look at what's up there with the existing antennas and things like that, but I think nothing's really changed substantially within the last five, six months.

**Chairperson Speranza:** Wait. You were there for MetroPCS?

**Mr. Laub:** For MetroPCS.

**Village Attorney Stecich:** He was representing MetroPCS.

**Mr. Laub:** Yes.

**Chairperson Speranza:** So your request is to forgo the site visit.

**Mr. Laub:** Just simply Mr. Comey's site visit.

**Village Attorney Stecich:** No. Mr. Comey will do whatever he's got to do for the Village's interest. And I'm sure, when the Village addresses it, they'll say do what you need to do.

**Chairperson Speranza:** I will follow the advice of counsel.

**Boardmember Dandridge:** You had to ask.

**Boardmember Logan:** I'm wondering if this is before us for view preservation.

**Chairperson Speranza:** It's before us for special permit approval. They require special permit approval. Part of that special permit is we sign off on a site plan, and then we recommend to the ZBA for view preservation. So there are three steps.

And I've got to ask about SEQRA, and I know the Environmental Assessment Form is in here. I can't think of any other approving body besides us and the ZBA. Is there a reason to do a lead agency notification?

**Village Attorney Stecich:** I suppose the Board of Trustees. I'm going to have to look at this; whether they need permission from the Board of Trustees. Probably not because it's Village property that it's going on.

**Mr. Laub:** Well, there's no approval from them. We already have a lease agreement with the Village.

**Village Attorney Stecich:** Well, I would have to look at the lease agreement and just make sure that it covers this. I don't know whether this equipment was included in the lease agreement, the modification of the equipment.

**Mr. Laub:** But the lease area, as they were agreed upon under those terms, are still in place. And that's what's being used here.

**Village Attorney Stecich:** It may be the lease area, and I don't remember how this lease was structured, but more recent leases have been pretty detailed about what's allowed. It

may not be anything. You may not have to go before the Board. But the lease has to be looked at, as well.

So as I say, this escrow is for any professional services. If it requires extra legal work, too, than that's all covered by the escrow. But it may be that the lease covers it, and that's fine. Your lease is a 10-year lease, I think, automatically renewable.

**Mr. Laub:** Yes, I believe so.

**Village Attorney Stecich:** So I have to just take a look at it because the lease, actually, is probably close to up. You may not have to go before the Board, as long as this would be covered by the lease you have now.

**Mr. Laub:** Right, right. But I think as far as SEQRA's concerned, that particular action wouldn't be subject to SEQRA by the Board.

**Village Attorney Stecich:** Well, if the Board has to take an action, yes, then it would be. But I don't see the SEQRA, but you mean just in terms of everybody getting the notification. I would say that it's probably not a bad idea to put the Board of Trustees on so it's circulated to everybody.

**Chairperson Speranza:** That's my question. Do we need to officially send out notification that we're declaring ourselves lead agency and wait 30 days on this if we really are the only approving agency.

**Village Attorney Stecich:** You're not the approving agency because, at a minimum, the Zoning Board is.

**Chairperson Speranza:** The Zoning Board.

**Village Attorney Stecich:** So as long as you've got to circulate it, it may as well be also to the Board of Trustees. As long as it's going out.

**Chairperson Speranza:** So we do have to circulate this.

**Village Attorney Stecich:** I think it's probably a good idea. And I don't think it's going to hold anything up. When's the next meeting? Because this thing is fairly early.

**Chairperson Speranza:** Out next meeting is May 21st.

**Village Attorney Stecich:** So it'll be more than 30 days, assuming it gets out right away. Because today's the 16th.

**Boardmember Cameron:** You've got more than nine days left in the month.

**Mr. Laub:** But if you're going to do a coordinated review, I think it would probably make sense to probably at least . . . you know, like you said, if you deem it necessary then you can include whatever agencies as potentially interested agencies.

**Village Attorney Stecich:** So what you should do tonight is move to declare your intent to be lead agency. Then I guess we'll tell Angie to circulate the notice tomorrow, and there won't be any issue with meeting the 30 days by the next meeting.

**Mr. Laub:** At least that there's no questions at the next meeting.

**Chairperson Speranza:** Right. And within that time we should have the two analyses done. So the May 21st meeting we'll make sure that you're on the agenda.

I wanted to see if there were any other questions from Boardmembers with respect to application. Jamie, you had some comments, questions.

**Boardmember Cameron:** First, one always hopes as we go along -- since our roof, as I jokingly say, is beginning to look like the headquarters of the CIA 00 that we could get less antennas or smaller antennas. So I was sort of curious whether your new antennas were the same size, bigger, or smaller than the prior ones. And always, the hope is that before you ever come around again for more attends you'd come around to tell us you'd like to take down all six and just put up three, new, more modern ones that'll do the same job without taking up so much of the roof.

So I am curious about the size of the antennas compared to ones you previously got approval for. You know, people often don't notice the roof after awhile, but often they do notice the roof. And if you do take the time to look at the roof -- and it's not entirely you, of course, you only have three up there and you've got the best corner to hide your equipment -- people are going to react as they see more antennas on the roof. So I'd be curious that maybe we should look at prior documents to see what size antennas you asked for before. And when you were here before for another client we had a problem because they were in a more prominent part of our parapet. And when push got to shove they came around with the fact that yes, they did have smaller cabinets. And, in fact, they came around and put smaller cabinets in. I was looking at the size of these cabinets, and these guys are 84 inches high. These aren't what we call half-size cabinets, and they're battery cabinets that weigh over a ton.

So I'm sort of curious and would like just to push a little bit on your client to say, "You know, we understand the need for communication and we want to have it -- and I'm not so much worried about that position because you really can't see it -- but people really should make an effort to make their equipment smaller." Otherwise, they're going to find, as they go along and they want to put up more equipment, the answer's going to be no because the view will have been destroyed by then. So you're gradually destroying your nest if you put up things that are too big and too ugly, when you can actually put up smaller and more elegant ones.

**Mr. Laub:** On those two points, I did look back. I'll confirm this, but I believe that the existing antennas up there for AT&T are approximately 15 inches wide, whereas the ones proposed are 10 inches. And I did ask if these are the smallest available. So they are an approximately 30% reduction in the width; I think the height and depth are approximately the same.

Knowing the process we went through with MetroPCS, I did inquire as to whether these were the smallest cabinets available; is there another form factor. And that's a question that does

come up in other communities. I just had one similar to this one in Rye Brook where the same question came about, and they had their independent consultant take a look around. Basically, the answer comes down to what kind of technology you're employing because not all wireless technologies are the same and the different licenses are different. I'll follow up on this and confirm again, but the answer I have so far is basically that this is a different license and a different capacity for AT&T, in that they're serving a higher capacity, higher speed -- providing more data-rich services than MetroPCS was. That's a different type of service, which is more for voice and takes a little bit less in terms of the technology to run the antennas. As far as that goes, that ends up making some cabinets more available for MetroPCS that aren't available for AT&T.

But I will follow up on that just to affirm. I did inquire as to that.

**Boardmember Cameron:** And you're not volunteering to take down those big, wide, 15-inch antennas that [took a new mount which runs up there XXX].

**Female Voice XXX:** They're definitely narrow [off-mic].

**Mr. Laub:** The new antennas. Right.

**Chairperson Speranza:** I think that's a good question: is the potential there to replace the wider ones with the newer technology -- with the narrower panels.

**Female Voice XXX:** There's a definite potential to replace the existing ones with narrower ones, similar to the ones that are [off-mic] now.

**Chairperson Speranza:** That would be terrific.

**Mr. Laub:** So why don't we look into that. I think what we'd have to do, then -- if that's possible -- is just amend the application before next month.

**Boardmember Cameron:** Probably get more power out of the new, narrow ones.

**Boardmember Dandridge:** I don't remember the details of the other antennas that were put up since you had your approval and didn't put all up that you were approved for. But it's a new situation now because the landscape of the roof has additional antennas. So the argument that it was already approved isn't going to fly so far because we have to consider the new situation now. So any way that you can remedy the situation as a whole is going to be looked upon favorably in this situation.

**Chairperson Speranza:** Anybody else?

We did receive an email on this. I'm not sure if it went to all of the Board. I got this one from Angie, from Kelly Topilnicki, who lives across the street on Maple Avenue:

*“Living across the street from the town hall, we have a concern regarding the height and positioning of the antennas on the roof. Certainly, within our view there are already many antennas and other electronic items that aren't particularly pleasing to the eye. And they block the view from our home: upper windows, neighbor's balcony, etc. We would ask that the antennas be placed on the far side of the building away from Maple Avenue or the town*

*hall driveway side. Our home, as well as our neighbor's home, look directly on these positions, so we would be appreciative if any future items added are somehow shielded from our view."*

Again, I wanted to make sure that's on the record. I believe it's technology that drives the location as well as the load-bearing walls.

**Boardmember Wertz:** Right. We had discussions about that, and I know there are many different issues that are difficult in placing the antennas. And the residents who are concerned about the views may not understand all the technicalities of where the antennas have to be, but if you can take that kind of comment into consideration and push the envelope as far as possible to minimize the effect, the visual impact, again, that's going to be a factor we'll certainly consider.

**Mr. Laub:** I think what you're referring to in terms of the technical constraints, obviously the antennas -- as situated both by AT&T and the incoming MetroPCS facility -- basically you'll see that they're positioned to go up and down and inland. Putting them on the water side doesn't really help matters because that's not really the area you're trying to serve in terms of walking or traveling, or homes. You know, you're not really, obviously, getting homes out that way. So it's really constricted and a line-of-sight technology. So you're somewhat restricted. And as I indicated, there are some police whips and things on the roof which kind of limit where we can go. I think this was basically the lease area we were given. But again, we'll see what we can do.

**Chairperson Speranza:** One other thing I just want to make known. This application was submitted to the Westchester County Planning Department for review under the municipal referrals of the county charter. They did send correspondence back to the Village stating that they consider it a matter for local determination. They don't think it's going to have any impact on any county or state road. So that's good, that's in, that's been done.

The action we will take tonight is to declare ourselves lead agency, and request that notification be circulated for review to all interested and involved agencies.

**On MOTION by Boardmember Wertz, SECONDED by Boardmember Alligood, with a voice vote of all in favor, the Board resolved to declare itself lead agency for review of the AT & T application.**

**Chairperson Speranza:** Anything else on this for tonight? We'll see you May 21st?

**Mr. Laub:** Thank you for your time. See you next month.

**Chairperson Speranza:** Bill Logan has some ideas here for screening.

**Boardmember Logan:** We were thinking of fiberglass caryatids, like Greek statues, and we could just put the antennas inside. I said that seven years ago, when you first . . .

**Mr. Laub:** I don't know if you recall, but the issue from the beginning -- and this came up with AT&T -- is that SHPO had come back and said there was not to be any screening. It's not a singular situation to Village hall, but any historic or potentially historic sites, what SHPO would rather see is equipment that can be quickly removed, not huge structural things that change the architecture and the overall look of the building. So it seems counterintuitive to a great degree, especially here where you can see something could really be done. But that's part of the problem, though, with additional screening or structure.

**Boardmember Dale:** They prefer the real versus the artificial.

**Mr. Laub:** There are certainly solutions available for screening -- screening platforms and things -- but it's not something that could be done here, for various reasons.

**Boardmember Logan:** Well, in five years these antennas will be that big so we won't have to worry about it, hopefully.

**Mr. Laub:** Ideally. Okay, thank you very much.

#### IV. Discussion

##### 1. 2010 Census

**Chairperson Speranza:** We have just a couple of other things I wanted to get through tonight. We're going to defer discussion on the census information. Angie wasn't feeling well and went home, but the census is very important; it really does bring money to the community. So please, everyone who's out there watching, when the census comes -- when you get the census package -- please fill it out and return it.

##### 2. Fences and Walls

**Chairperson Speranza:** We have some proposed legislation on zoning changes -- on our amendments on fences, walls, and excavation and fill -- that Marianne prepared for us before she took off and left the country.

**Chairperson Speranza:** Let's just go through. Marianne, you've got section 2 in here, when I read this -- "*Except as set forth in Subsection E below, fences or a fence on top of a wall, in total not higher than 4 feet, may be erected in the required front yard.*" You meant this to be stand-alone fences, not only a fence on top of a wall.

**Village Attorney Stecich:** See, right now, it always refers to fences or walls, or fences on top of a wall. We're dealing with walls separately. I don't know, and I guess that's an open question. If you've got a fence on top of a wall, I'm assuming, in the front yard, you still don't want it to be higher than 4 feet.

**Boardmember Cameron:** There'll just be a way around the limit.

**Chairperson Speranza:** If I'm reading this the way I want it to read, "*fences*" -- meaning just somebody who wants to put up their fence, put up a fence.

**Village Attorney Stecich:** Right.

**Chairperson Speranza:** Or a fence on top of a wall can't be higher than 4 feet in the front yard.

**Village Attorney Stecich:** You know, maybe what I could do is put "*fences, or a fence on top of a wall, in total not higher than 4 feet.*"

**Chairperson Speranza:** Okay. I think that would do it.

**Village Attorney Stecich:** I say "*a fence, or a fence on top of a wall.*"

**Boardmember Dale:** You think a fence on top of a retaining wall as opposed to on just a wall?

**Village Attorney Stecich:** Any kind of wall.

**Boardmember Dale:** The idea being that you would put a fence on top of a retaining wall because you don't want people to walk off, but on top of a 4-foot wall you're not going to put a fence.

**Village Attorney Stecich:** And then "*in front of.*" The total can only be 4 feet.

**Chairperson Speranza:** Of both the wall and the fence.

**Village Attorney Stecich:** So if you've got a short wall, and a fence on top of the wall -- or a tall wall -- the total can only be 4 feet in the front yard and 6-1/2 feet elsewhere, which is what it is now. Right now it's 6-1/2 feet for a fence, a wall, or a fence on top of a wall. The total is 6-1/2 feet. This just does the same thing, but in the front yard it says it can only be 4 feet.

Plus, Deven had raised a point with that that I think is a pretty good point. It was in my cover memo, which I didn't incorporate in here because we didn't talk about it. If the house is not a full setback -- let's say it's a district where the front yard is 30 feet, but the house is set only back 15 feet or 20 feet, which is actually fairly common -- maybe the 4-1/2 foot limit should only be as far as the house is.

**Chairperson Speranza:** Right. Four feet.

**Village Attorney Stecich:** So that everything in front of the house will be the 4 feet, but along the side it could be higher.

**Boardmember Cameron:** We should think about that because the only confusing thing about that is that my house is set back 35 feet and yours is set back 15, whose fence is it and where does it start. You know, you've just postulated it can start 15 feet from the yard, and it goes back 35. Anyway, I just think we need to think about this a little bit. The houses and fences don't sit by themselves; they sit between two houses. I don't know the answer, by the way, I'm telling you.

**Boardmember Alligood:** Maybe with your example, maybe that's when you want some sort of further review.

**Village Attorney Stecich:** Like I said, it's not in this draft, but it was an issue Deven raised.

**Boardmember Logan:** I'm just thinking of the Five Corners where there's First Reform Church and Christ Church and they have retaining walls. If, for some reason, they wanted to



put a protective railing on top of that wall would this effectively prohibit them from doing that?

**Village Attorney Stecich:** Unless they got a variance.

**Boardmember Dale:** That's why I made the distinction in my question between a wall and a retaining wall. Because on top of a retaining wall you want to be able to put a fence.

**Boardmember Cameron:** But there are a lot of codes that allow you to put a 4-foot fence on top of a retaining wall.

**Boardmember Logan:** Because you don't want people to fall off the wall. We have to be careful about this.

**Boardmember Dale:** A wall from a retaining wall. The wall that just works as a fence -- I mean, the difference between a wall and a fence is the nature of the material that's used in building it. Where a retaining wall is a structural element of an entirely different type. I sort of have problems calling a fence a structure, which is what we predicated all this on. It's not really a structure.

**Boardmember Cameron:** I do think we should go back and look at some of the language we did see in other bills, where you had a retaining wall you put a 4-foot fence on top of it. I'm using the word "retaining wall." In fact, the 4 feet, it wasn't a 4-foot fence. It was that you could have between the retaining wall and the fence, on the uphill side, it could be 4 feet high. So you might actually have 2 feet of stone wall and 2 feet of retaining wall. But you could have 4 feet to stop somebody from falling straight over. And there is some sample language of that in some of the bills we were passing around on the last one.

**Village Attorney Stecich:** So you'd want to distinguish the retaining wall situation.

**Boardmember Cameron:** A retaining wall is different.

**Chairperson Speranza:** I think that makes sense.

**Village Attorney Stecich:** Okay.

**Chairperson Speranza:** Anything else for fences? So Marianne, you'll look at that and see if there's something else?

**Village Attorney Stecich:** Right.

**Boardmember Cameron:** The other thing we need to look at here eventually -- and I think we're deliberately not talking about right now -- is the two adjacent walls. You know, we were talking about how far apart walls should be before you could put up another retaining wall. This is sequential retaining walls.

**Chairperson Speranza:** Right. And in going through the minutes from the last meeting, we said we were going to speak more in depth about retaining walls. So that's a discussion that we still do have to have.

**Boardmember Cameron:** And a very good example of sequential retaining walls is as you drive from Ardsley over to Central Avenue, where you turn left or right.

**Village Attorney Stecich:** At Sprain.

**Boardmember Cameron:** Right there there's an example of that which really stands out.

**Village Attorney Stecich:** Well, did you want something in there about that?

**Boardmember Cameron:** Well, I think you should put it in, and then we should discuss how many feet laterally you have to go before you can go vertically, since that's something which I'm not sure we've decided yet.

**Boardmember Dale:** Because of Boulanger Plaza and the parking lot example.

**Boardmember Logan:** Exactly.

**Boardmember Cameron:** But if you draft it, and we just leave blank the vertical and lateral, we can then figure it out.

**Village Attorney Stecich:** Okay. I didn't have the minutes at the time. They weren't ready yet.

**Boardmember Cameron:** I had one comment on evacuation and fill, a question. That is, in this one we use the word "abutting" landowners. I just think we need to look at all our laws - you know, "abutting," "adjoining," "adjacent" -- and have to figure out which word we want to use and what it means. Because I would hope that this one would include people across the street from you. That's just a lawyer's thing.

**Village Attorney Stecich:** Let me look at that.

**Boardmember Cameron:** And then we have the question in E.

**Village Attorney Stecich:** Wait. I just wanted to respond to one thing about fences not being structures. Actually, the way a structure is defined a fence would be pretty clearly a structure. The basic definition is out there: "combination of materials constructed or erected at a fixed location." It really was. Which is why, when we discussed this last time, we excluded fences because it otherwise fits within the definition of structure. But the reason it's put back in here is -- the significance of it is -- that there are two reasons a structure is significant: 1) that you have to get a building permit, and then; 2) the setbacks. But the setbacks aren't an issue here because this whole section 295.20 is an exception to what can be within the setbacks. So it's okay. Because under our code, nothing says you apply for a building permit for this or that. It says "for any structure, a building permit is required." So that's why.

**Boardmember Dale:** No, I understand why we did it. I'm just not comfortable with it.

**Village Attorney Stecich:** But it actually fits the basic definition.

**Boardmember Cameron:** It says "not including a hedge." Don't worry.

**Chairperson Speranza:** I had one question about the excavation and fill, and I probably should know this better but I don't. The Village codes, rules with respect to stormwater and wetlands, we mentioned in here that in determining whether or not to issue a permit "*the Building Inspector shall take into consideration all applicable laws and regulations of the Village of Hastings-on-Hudson and other governmental units.*" So I would imagine if there's a piece of property that has a DEC wetland it's going to have to go . . . that's a whole different . . . and if it's in a floodplain it's . . .

**Village Attorney Stecich:** Sure, all those laws have to be met. The problem is -- not a problem -- our stormwater law kicks in only at, I think, 10,000 square feet. The area has to be 10,000 square feet. So it doesn't cover most of it. But no, this is in addition to any other laws.

**Boardmember Cameron:** So we don't have to worry about them laying down 6 inches of topsoil in the wetlands?

**Chairperson Speranza:** Because Deven will catch it.

**Boardmember Cameron:** It alters the natural contours of the land.

**Village Attorney Stecich:** Yes, that was actually language Deven suggested that's actually probably better. Because you can say 6 inches one place and maybe it'd be less someplace else, but it's changing the contour. The important thing is that the contour stays.

**Boardmember Cameron:** I assume that our wetlands law says you can't fill in a wetlands.

**Chairperson Speranza:** We don't have a wetlands law.

**Boardmember Cameron:** But we need one.

**Chairperson Speranza:** I know.

**Village Attorney Stecich:** We just don't have wetlands, or many.

**Chairperson Speranza:** I don't think we have a law that regulates wetlands. I think that was one of the recommendations we were going to be making; that we develop almost conservation kind of rules like we have steep slopes. To also have something with respect to wetlands. Because it came up on the Andrus School property when we were looking at large tracts. Because there's a wet area over there. So in any case, Deven could not issue a permit for something which is in a state-regulated wetland unless they said it was okay.

This question of "over a certain threshold," should it go to the Planning Board.

**Boardmember Dale:** Can I make a suggestion that it be a percentage of the lot covered? That would be a significant change. If the person was going to change -- whether it's a fill or excavation -- then you could set some sort of standard there. Fifty percent of the lot. It's arbitrary. Why would somebody want to change more than 50% unless it was to do some major stuff.

**Chairperson Speranza:** Right. In which case, we might see it anyway under a different rule.

**Boardmember Cameron:** I guess we'll see subdivisions, we'll see steep slopes? That's a question, by the way.

**Village Attorney Stecich:** Would it create a steep slope?

**Boardmember Cameron:** I'm talking about filling in a steep slope.

**Village Attorney Stecich:** It's going to affect the steep slope if it were a big piece. You probably would. There's probably going to be some overlap.

**Boardmember Cameron:** I was talking about filling in a steep slope.

**Village Attorney Stecich:** It's just 50% seemed a really high threshold. Because that figure, a big part of the land is covered by the house and driveway and everything else.

**Boardmember Cameron:** My problem with 50% is that if one person owns 5 acres and one person owns 0.25 of an acre. Then 50% of 5 acres is a lot.

**Village Attorney Stecich:** But actually, 50% of 0.25 acre is a lot if all the other houses have 0.25 acre. So there's a certain feel to the percentage thing.

**Boardmember Dandridge:** Proportional.

**Boardmember Dale:** I'm not wed to it. It's just that if you have to set a standard where most of the time they'll go to Deven and he'll say yes or no based on what it is they're trying to accomplish, if it reaches a point where they want to change the nature of their land then they should come back. They should come to us. At what point does it become minor to a major intervention on the land. That's the point where we want them to come to us.

**Boardmember Cameron:** I think we should give Deven the ability to refer anything to us he wants to. So maybe that's certainly one thing we should put in there.

**Boardmember Dale:** If he's uncomfortable.

**Boardmember Cameron:** So I would start out with that.

**Chairperson Speranza:** Can we simply say that at the discretion of the Building Inspector it will be submitted to the Planning Board?

**Village Attorney Stecich:** "When appropriate?"

**Chairperson Speranza:** Right.

**Boardmember Cameron:** Right. But do we also want to have some standard. That's what we're asking ourselves. But it seems to me we should give him the ability to send it on to us.

**Boardmember Dale:** Well, if he has the discretionary decision, then anything above 50% would be mandatory.

**Boardmember Cameron:** Did you find stuff in other things, where people could refer it over to their plans?

**Village Attorney Stecich:** Let me look and see. You know, that was one of these things that I said to Deven, "At what point, do you think?" And Deven says, "Well, that's really something for the Planning Board to decide." But you know what? I'll look at other laws and put some samples in, maybe A, B, C, and you can pick what you want.

**Chairperson Speranza:** Anything else on this?

### 3. Miscellaneous

**Chairperson Speranza:** I have no idea right now what is on the agenda for May 21st, other than I'm sure we will see the AT&T folks back here. So hopefully we'll be able to continue our discussion on these things.

I've also received some information with respect to the other topic, greening our code; more specific information on what New Rochelle's requiring and Greenburgh's requiring. So I

think that would be good to keep that dialogue going. It was kind of nice for three months that we were able to talk about these things.

**Boardmember Dale:** I looked at Energy Star. It's not terribly useful, but it helped. There's not as much out there as one would hope.

**Chairperson Speranza:** With respect to standards, yes.

**Boardmember Dale:** How you approach it for the Village as a whole, or for a town. It seems California is the model all over the place. And they do use a LEED standard. Our company has recently hired -- we call him, the green man-- an expert on this stuff. I sent him an email asking him if he could find us some research that's been done to sort through this. There are places that have rewritten the code, and it's a question of finding out which one comes closest to the situation we're identifying.

**Chairperson Speranza:** Interestingly enough, it was actually a New York State law document that I saw, or an article in the law journal, that mentioned some of the good things, different ways, to approach greening your code. One of the things that came out, they mentioned the Town of Greenburgh, but said that, ironically, having a requirement that the new development be Energy Star compliant actually hurt the ability of owners to get financing through NYSEERDA because NYSEERDA uses the money as an incentive. So if it's a mandate, and they have to comply, NYSEERDA will not give grant funds for that. It's one of those things you want to do something good, but by doing that you're hindering the ability to financially make it happen. So there are lots of balances.

**Boardmember Logan:** Well, NYSEERDA has a limited amount of funds, too, and they've already topped out on those.

**Chairperson Speranza:** But they're trying for a lot of stimulus money.

**Boardmember Dale:** The program that we're using with the Smart Energy loans is predicated on you do the work at your expense, and if at the end of I think a year you can demonstrate you have a 20% savings as a result of what you did . . . you have to have the data of what went on before, then you'll get this incentive money which is used to write down the interest on the loan. But you have to demonstrate a year later you have a 20% savings. That's what it's predicated on.

NYSEERDA is very difficult and there are complaints about working with them. Particularly the state has troubles with the state weatherization program.

**Boardmember Logan:** The other issue is, it's only about energy. There are a whole lot of other issues in terms of green. It has to do with site plan and water runoff and heat island and lighting that aren't addressed by this.

**Boardmember Dale:** This does do insulation and some other things, but you're right. It's not as complete as LEED is.

**Boardmember Logan:** Recycling, recycled materials.

**Boardmember Dale:** No, LEED is clearly the most complete and thorough standard to use. The question is, how far can you go.

**Boardmember Logan:** And do we provide local incentives for people to get LEED certified, and what might they be.

**Boardmember Dale:** Well, Peter Swiderski would like us to adopt LEED for the Village, period. Instead of Energy Star, you overlay a LEED standard. It doesn't have to be platinum. It could be silver, which is what California uses.

**Chairperson Speranza:** And there's also the option of not necessarily having the LEED certification, but techniques that comply or mimic them without the certification, without being certified.

**Boardmember Dale:** Applying for the certification is the expensive part, and difficult.

**Chairperson Speranza:** So we'll keep discussion on greening the codes.

**Boardmember Cameron:** It would be nice to find what other people have done on wetlands.

**Chairperson Speranza:** And you know, we have a couple of good forums that are coming up. May 2nd, you want to talk, Fred? I'm not sure I have the dates right. I know it's May 2nd in the morning.

**Boardmember Wertz:** It is May 2nd, it's Saturday, it is the morning, and it'll be the second community forum for the comprehensive planning process. I believe the session will be run by John Shapiro. And I'm not 100% sure, but the Comprehensive Plan Committee has recommended to our consultants that the two major issues that would be addressed at that -- along with a sense of the common themes of our planning documents that appear to be fairly consensually accepted -- and beyond that, the question would be the vitality of the downtown area in Hastings and a combination of the waterfront and large tracts as a whole in considerations of developable land in Hastings.

And maybe to mention along with that, we've also started to approach the Westchester County Planning Board because they have some new, interesting tools analyzing complete buildout in all the villages. They're working on a new Westchester 2025 plan. As part of that preparation, they're analyzing all the villages in the county what it would mean to build out completely and under different scenarios, different kinds of development. I've been talking with them, and telling them that this would be a really good time to get Hastings boosted up to the top of that list. So that if they could do those analyses and even give 3-D renditions of what our downtown waterfront would look like with different scenarios of development, if they could give us some of these great, new technological tools and analyses right at the time when we're doing this comprehensive planning it would be really great timing for the Village. And since they're going to do it anyway, I'm hoping they'll be willing to help us out.

**Chairperson Speranza:** Oh, we're not that big compared to other communities in Westchester, so they should be able to nudge us up there, as you say. That would be good.

**Boardmember Wertz:** But I definitely want to encourage everybody in the Village to consider coming to the forum on May 2nd, Saturday morning because it'll be one of the really major opportunities for residents to give their voice on such important problems as the downtown vitality, large tracts, and the waterfront developable properties.

**Chairperson Speranza:** And the following week, in the morning, May 9th, at the Irvington library there's a forum on the River Coalition, Westchester Community Foundation, Groundwork Yonkers, FCWC. They're all putting together a forum on stormwater, a stormwater roundtable. So we'll get some information about what people are doing as far as wetlands. It's a perfect opportunity to be able to find out what's going on in other places.

**Boardmember Cameron:** And runoff is also a topic.

**Chairperson Speranza:** Yes. And the keynote speaker there is Peter Eshwiler, who was formerly the commissioner of planning for Westchester and is now the chair of the Westchester County Flood Action task force. So I think it'll be a very good program. I'm sure we'll probably be able to get something out of it.

Anything else for this evening?

## **V. Adjournment**

**On MOTION of Boardmember Dale, SECONDED by Boardmember Logan with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:40 p.m.**