

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
PLANNING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
JUNE 18, 2009**

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, June 18, 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, Bruce Dale, Village Attorney Marianne Stecich, and Village Planner Angela Witkowski.

**ABSENT:** Boardmembers Eva Alligood, Edward Dandridge

**I. Roll Call**

**II. Approval of Minutes: May 21, 2009 meeting**

**Chairperson Speranza:** Does anyone have any corrections?

**Boardmember Dale:** Yes, a couple. On page 28, two-thirds of the way down, where I'm speaking, the third line, where I say, "*I have the total view of my friend's backyard,*" it's "they" have a total view. Let's just say "I" becomes "they."

**Village Planner Witkowski:** "They." Okay.

**Boardmember Dale:** On page 31, two-thirds of the way down: "*I had that very problem in my backyard when they terraced it They dug it out, and I wanted a . . . 'planter' instead of 'to plant.'*" "*I wanted a 'planter' of 18 inches.*"

And then on page 32, in the middle of the page, where I'm speaking: "*The three-foot would allow for a one-foot thick wall plus . . . ,*" and it says "crosstalk." And I think what I said was "two feet to plant."

And that's it.

**Village Attorney Stecich:** On page 22, the top, where it says ". . . *it needs to be four feet,*" it should be "forty feet" -- where I'm speaking, fourth line.

**Chairperson Speranza:** Is that it?

Angie, I don't know if you notice that there are couple of names of page 46 that just should be corrected: Peter [Eshwiler] and [Lynn Oliva] and [Ann Marie Mitroff] just so that there's proper spelling.

**Chairperson Speranza:** Anything else from anybody?

**On MOTION of Boardmember Wertz, SECONDED by Boardmember Dale with a voice vote of all in favor, the Minutes of the Meeting of May 21, 2009 were approved as amended.**

### **III. New Business**

**Chairperson Speranza:** We have a couple of accessory apartment applications before us. These are both renewals, so we'll open the public hearing portion and hear public comment on these applications, close the public hearing on both of them, and then take Board action. So, Angie, if you want to start the first one. It's for a renewal at 40 Clunie Avenue.

**1. Public Hearing. Accessory Apartment Renewal. Mr. and Mrs. Joseph Dragon; 40 Clunie Avenue; (Sheet 38/Block 725A/Lots 17-19). Waiver required for square footage excess.**

**Village Planner Witkowski:** This requires a waiver for excessive square footage. The applicant is Mr. Dragon. The property is on the west side of Clunie Avenue in the R-7.5 zoning district. The applicant's requesting renewal of accessory apartment approval.

The 730-square foot apartment occupies 29.8% of the 2,450 square foot residence. Therefore, the apartment is more than 25% of the total floor area of the residence. The house is on a large parcel which allows adequate access and on-site parking. There have been no substantial changes to the property and no complaints during the last three years. The actions required are renewal of the accessory apartment approval and a waiver for the 4.8% excess floor area over the 25% maximum.

**Chairperson Speranza:** Okay, thank you. This is a public hearing. Is there anybody who wishes to speak with respect to this application? No? Okay.

Then we'll move on to the next one, which is an application again for renewal, for 21 Flower Avenue.

**2. Public Hearing. Accessory Apartment Renewal. Ms. Jill Shellow; 21 Flower Avenue; (Sheet 15 /Block 639 /Lots 1A2,1B,3A). Waiver required for square footage excess and parking.**

**Village Planner Witkowski:** This applicant is Ms. Jill Shellow, and this is also a new owner of the property. Also, it should be noted there was an error in the property identification number. I put that in your notes. The sheet is actually sheet 15, but the block and lot numbers were correct. The property's on the west side of Flower Avenue in the R-10 zoning district, and its north property line is shared with Dobbs Ferry [south] village limit. The applicant is a new owner, and is requesting accessory apartment approval.

The 442 square foot apartment occupies 27.8% of the 1,593 square foot residence. Therefore, the apartment exceeds the 25% of the house's total floor area limit by 2.8%. The

one additional parking space can only be provided as a tandem space in the driveway. There have been no substantial changes to the property other than ownership, and no complaints since the last renewal by the previous owner on November 20th, 2005. The actions required are renewal of the accessory apartment approval, a waiver for the 2.8% excess over the 25% floor area limitation, and a waiver for one parking space.

**Chairperson Speranza:** Okay. Thank you. Again, it's a public hearing. Is there anyone who wishes to speak to this application, 21 Flower Avenue?

**Jill Shellow, 21 Flower Avenue - applicant:** Madam Chairman, I am Ms. Shellow.

**Chairperson Speranza:** Just come up to the mic and say "hello."

**Ms. Shellow:** Hi. I am the new owner of that property. The only thing I would note for you is that in completing the required mailing one of the envelopes has come back to me by the post office as "Return to Sender, Vacant, Unable to Forward."

**Chairperson Speranza:** Okay. Thank you.

Anyone else wish to speak on either of these accessory apartment applications? Okay, then we'll close the public hearing on both of them, and open to action, questions, comments from the Planning Board. Anything?

**Boardmember Logan:** I would just like to make a motion that we approve these two.

**On MOTION of Boardmember Logan, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Board resolved to approve the accessory apartment renewal for 40 Clunie Avenue, with the waiver for excess square footage.**

**On MOTION of Boardmember Logan, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board resolved to approve accessory apartment renewal for 21 Flower Avenue, with the waivers for parking and excess for square footage.**

**3. Presentation of Resubdivision Plat for proposed lot merger at 663-665 North Broadway-initial review in preparation for formal submittal by John Cavallero, owner representative.**

**Chairperson Speranza:** The next item on the agenda is a resubdivision. It is a presentation of a resubdivision plat for a proposed lot merger, 663-665 North Broadway.

If you just wait one minute, Marianne I think it would be good if you could just explain the resubdivision. This is actually three properties that are proposed to be combined into one parcel.

**Village Attorney Stecich:** Under our code, and essentially any time you're changing lot lines -- even if it's making one big lot out of one -- it's considered a resubdivision, and you have to go through the subdivision process. That's why they're here tonight.

I should also point out to the Board that I know frequently on subdivisions -- not that we get that many of them -- it also involves site plan approval because generally there's more than one house involved or it's a multi-family house or something. You won't do site plan approval on this because it's a single-family house, assuming there's something you've got to sign that says you're never going to make it into another single-family house on the lot. I think you recognize that from the code.

**John Cavallero, law firm of Huff Wilkes:** That's correct.

**Village Attorney Stecich:** Once they sign that they won't be before this board for site plan approval. And they will have to come back before the Board for view preservation. I don't believe there are any steep slopes on the site. Am I right?

**Mr. Cavallero:** There are partial steep slopes.

**Village Attorney Stecich:** So it's conceivable it'll be for that. Because I know at least some of the members thought it was going to be back here for site plan approval. Be aware it's not.

**Chairperson Speranza:** Just one more question. This is, right now, a presentation. It's not a formal application before us for resubdivision?

**Mr. Cavallero:** That's correct, Madam Chairperson.

**Chairperson Speranza:** Because I see we also have a SEQRA, an Environmental Assessment Form, for us to eventually . . . do we have to do a 30-day notification on this? Assume we make ourselves lead agency tonight.

**Village Attorney Stecich:** I don't know. What other approvals do you need? I don't know that there's any other involved agencies. Do you?

**Mr. Cavallero:** We've just identified the Planning Board, obviously, for resubdivision approval.

**Village Attorney Stecich:** Probably, because it's a subdivision, the Department of Health. So that would be a good idea to tonight declare your intent to be lead agency, and have the notice go out. And then when they come back it'll be good to go.

**Chairperson Speranza:** Right, 30 days. Hi, welcome. You're going to have to state your name.

**Mr. Cavallero:** Good evening, Madam Chairperson, members of the Board. I'm a partner with the law firm of Huff Wilkes, located in Tarrytown, New York. I'm here this evening with Michael Robinson of the Hastings-on-Hudson Property, the owner of the premises, and Paul Patretti our civil engineer and land surveyor. Also from Mr. Patretti's office is Tom Goodwin. We're here this evening for a resubdivision lot merger application, whereby the lands depicted in the submitted subdivision map would be merged into one lot. We're here

this evening for the initial conference and review, the same as set forth in the subdivision regulations at Section 295-120 of the Village zoning code.

By way of background, the premises in question consist of seven tax lots that are sought to be merged into one lot. The seven tax lots are as follows: P-130F, P-130, P-130C, P-130E-2, P-127B, P-131, and P-131A. These lots are sought to be merged into one larger lot. The premises in question are zoned in the MR-2.5 zoning district, and the premises are, and would be, located on North Broadway in the Village of Hastings-on-Hudson. The total area of the parcel, as merged, would be 6.011 acres, with the area east of the railroad tracks comprising 4.577 acres and the area west of the railroad tracks comprising 1.4334 acres.

In connection with the merger of these parcels, there are certain lands on the water that are depicted on the subdivision map, located at the top of the map the way it's currently laid out. The premises are improved by two dwellings, a garage and a swimming pool, both of which are sought to be removed by the applicant. The premises are surrounded by the River Glen Apartments to the south; [Shandin] House Cooperative to the north; the Hudson River to the west; and North Broadway to the east. Also, the Metro-North Railroad is located to the west of the premises. The premises are affected by a 16-foot wide Westchester County sanitary sewer easement with a 39-inch county trunk sewer. The premises are also affected by an ingress and egress easement on the south, and an easement of right-of-way to the north.

Also to the north of the premises is the lot owned by [Hudsonview] 2007 LLC. This lot is improved with a two-story frame residence and a one-story garage. The lot maintains access to the public roadway, which is North Broadway, through an easement recorded at Liber 4626, pages 305-313.

**Village Attorney Stecich:** I think it would be helpful if you pointed this stuff out on the board.

**Chairperson Speranza:** Take the mobile mic then.

**Boardmember Cameron:** It would have actually been useful if all these lots were depicted on this map because you don't seem to have lines for all these lots.

**Mr. Cavallero:** If I could turn the easel to the Board, we have brought before, and after. These seven lots that are depicted.

**Chairperson Speranza:** We have plans, so that both the public and the TV public can see this.

**Mr. Cavallero:** The seven lots in question are the four lots that are depicted in the area that is located east of the railroad tracks: lots 1, 2, 3, and 4. The remaining three lots, which comprise the total seven, are located west of the railroad tracks and are located at lots -- I'll call them -- 5, 6, and 7. The total area, as merged when you combine all seven lots, would be 6.011 acres. The area east of the railroad tracks would comprise --- which is these four parcels here, including this small sliver parcel -- 4.577 acres. The area west of the railroad

tracks -- which are these three parcels here -- would comprise 1.4334 acres. Now, in connection with the merger of these lots there are certain lands that are underwater, which are depicted by the three top lots that are located here.

As I mentioned, the premises are surrounded by the River Glen Apartments to the south, which is located here; the [Shandin] House Cooperative to the north, which is located here; the Hudson River, obviously, to the west; and North Broadway to the east. The premises are affected by a 16-foot wide county sewer easement which runs across the property in this direction here. The property is also affected by an easement for ingress and egress on the south, which is located here, as well as an easement for ingress and egress on the north, which is located here.

Also to the north of the premises is the lot owned by [Hudson View] 2007 LLC, which is the lot depicted here. This lot is improved with a two-story residence and a one-story frame garage. It maintains access to the public roadway by way of an ingress and egress easement, a copy of which has been provided to the Board. That easement effectively runs here, through the property, out to North Broadway.

It's important to understand that nothing that we are proposing, nothing that we are applying for this evening, would affect the lot owned by Hudson View. We seek to keep that lot as a separate lot, unmerged from these parcels, maintaining ingress and egress through the easement that is depicted, or altering that in some way because we do have a right to relocate.

**Chairperson Speranza:** But that's a parcel that's owned by your client.

**Mr. Cavallero:** That's a parcel that's owned by a related . . . I'll call it "a related entity, where the principals are the same. Yes.

**Chairperson Speranza:** But it's not going to be combined as part of this.

**Mr. Cavallero:** It's not part of the application.

The reason underlying this merger is -- we've met with the Village Planner, we've spoken to the Village Attorney, and we've been advised that the merger of the lots would effectively be -- a threshold issue to the subsequent application such as the view preservation that would follow, as well as if we needed a steep slopes application.

What we seek to do by combining these lots is, effectively, decrease the intensity of the lots and increase the conformity. What I mean by that is that we would be replacing two homes with one; we would be creating a conforming parcel; we would be removing nonconforming structures, particularly the dwelling that is located here; we would be adding frontage to a parcel that otherwise lacks frontage, which is these two parcels, as well as the sliver lot; we would be adding frontage by way of what I'll call the [Midsman] lot, or the lot located off of

North Broadway; and we'd be ensuring that the necessary setbacks exist for the eventual construction of a single-family home.

That said, I hope that I've provided a summary of the application. And, certainly, I'm here to answer any questions, as well as I have our engineer, Tom Goodwin, with us as well to answer any technical questions.

**Chairperson Speranza:** Let's start with the Board. Jamie, do you have any questions?

**Boardmember Cameron:** First of all, those three lots out in the Hudson River are all underwater, I take it.

**Mr. Cavallero:** That's correct.

**Boardmember Cameron:** So what's the purpose of attaching them? I mean, what is the advantage to you of attaching them to the other pieces of land?

**Mr. Cavallero:** What we've decided, there actually is no advantage for the purposes of attaching it. But because they did make up part of these lots by way of the meets and bounds, we thought it would be best to attach them to the lands. But there is actually no discrete advantage to attaching them and including them in the gross floor area of the entire lot.

**Village Attorney Stecich:** I'm not saying this is what they have in mind, but what could be an advantage -- which I doubt that they would need to use in this, but the Board should be aware -- is, by making it all one lot, the lot has more square feet and there could be more coverage on the rest of it. So whatever the coverage limitation is, is going to be calculated based on all seven of these lots.

**Boardmember Cameron:** Percentage of steep slopes is what I was thinking.

**Village Attorney Stecich:** Everything, whether it's steep slopes or coverage, rather than on the base of the area of the four lots. So it could mean more development on these four lots, more coverage, than if those other three weren't included with it.

**Boardmember Cameron:** I was thinking, a little ridiculously, you could count underwater lots to increase your square footage and that we should do something about it if we don't have a way of stopping it. Because, quite frankly, that's ridiculous.

**Village Attorney Stecich:** I suppose, if that were a concern, it could always be a condition of the subdivision approval; that the underwater lots not be calculated, or whatever.

**Chairperson Speranza:** Not be counted in any kind of density.

**Village Attorney Stecich:** If that's a concern, that's one way to address it.

**Boardmember Logan:** I notice there's a footbridge that goes over the railroad tracks. Who owns that?

**Mr. Cavallero:** That's been a question that we've been trying to determine for some time now. We haven't precisely identified who is the actual owner of that footbridge. It's something that we're still working on. There are easement rights across that footbridge, but the actual owner we haven't actually identified through any concrete documentation as of yet.

**Boardmember Logan:** And whose easement is that -- does that benefit?

**Mr. Cavallero:** Well, there are several easements that are depicted on the maps that you have.

**Boardmember Logan:** No, not the driveways, but that particular footbridge.

**Mr. Cavallero:** Right. From the lot owned by [Hudson View], which is the lot located at the northerly end of the property, there are easement rights across that footbridge. And there were also easement rights located off of the driveway that's depicted as the ingress and egress easement on your map at D-4626, pages 44-47. There were also easement rights across that footbridge as well for access to the river.

**Boardmember Logan:** That's it for me.

**Chairperson Speranza:** Bruce? Jamie, go ahead.

**Boardmember Cameron:** As you probably know, we have this whole concept of the Hudson River Greenway, which is a path coming all the way down the Hudson River. One of the ideal places to have that path is right next to the Metro-North tracks, this side of the tracks. I have been down and looked at your bridge, and you could go underneath the bridge and keep on going. So I think one thing you might think about is how much the Village would like to add to the rights-of-way to other people up and down the river to get that pathway through it if you put down there, below, a big fence so it wouldn't interfere with your client's house up at the top. That's something you might think about.

**Mr. Cavallero:** That's certainly something we're giving thought to. Additionally, it's our understanding that the adjacent property owners on either side of this property have not entered into the Greenway pact, or the Greenway agreement.

**Boardmember Cameron:** It's the two apartment buildings.

**Mr. Cavallero:** The two, that's correct.

**Chairperson Speranza:** And they wouldn't enter into the Greenway pact. There's an initiative and, Angie, I seem to remember there being discussion -- and I think it was you -- about RiverWalk. Westchester County has a proposal to run a trail of some sort -- some on the river, some on the Aqueduct -- called RiverWalk. I'm wondering if they have outreached to you. I know they have made outreach to other property owners, but particularly in Tarrytown I know they were working with some people who owned land. Obviously they do everything. They want to find a way to, obviously, respect the property owners and the property owners' properties, but they would like to be able to do something along the railroad tracks or somewhere. [background noise - client moving papers against mic] I don't know if River Glen is either.

**Village Planner Witkowski:** When I initially met with the Shaws -- I guess it was a couple years ago -- I did mention to them that the county was interested in trying to get easements across properties that had any riverfront in order to do RiverWalk. So Mr. Shaw, at the time, was talking with River Glen, and he said that, potentially, they were looking into buying a little piece of their property, which they decided against doing. Anyway, at the time when he



had the conversations with River Glen they were not interested in doing that. Their thought was, why have this easement when neither one of the property owners on the other side . . . so I have been in touch with [Jerry Mulligan] and Pat [Natarelli] at county planning about it.

We were hoping we could maybe set up a meeting also with the co-op boards as well. We were going to try and set something up, I guess, last week and then I talked to Pat [Natarelli] and we decided to just kind of hold off. Anyway, it's something that we've been talking about for awhile.

**Chairperson Speranza:** Okay. So they're aware of it.

**Village Planner Witkowski:** Yes

**Chairperson Speranza:** Jamie? Anything?

**Boardmember Cameron:** Not this second.

**Boardmember Dale:** A quick question. The Village Planning Board, historically, has worked on planning guidelines for the large sites in Hastings. And one of the recommendations is that any large site that fronts on Broadway, that there be a green belt to sort of maintain the character of Hastings through the Broadway stretch. One of the proposed requirements, which was not yet law, was to have a 100-foot deep greenspace before any buildings were built, or before the landscaping was changed.

The question is, I know we're not seeing the development site and what you plan to build where it's sited, but would this be something that the owners would consider?

**Mr. Cavallero:** It's certainly something we would consider, but it is something that I would have to take back to the architects. Because the architects, in their design -- and the design is by no means finalized at this point -- have been working off the required front yard requirements that are set forth in the Village code. Effectively, if I understand your question correctly, you're saying that by way of this greenway we would be increasing the front yard setback to a distance of 100 feet. It's certainly something I could raise with the architects.

**Chairperson Speranza:** Obviously you know the property very well. And there is a very nice setback and feel as you walk along Broadway; I'm sure you've noticed many, many people walking along Broadway these days. Between that and the setback of the buildings at River Glen, it does contribute to the green feel of the Village entranceway.

**Mr. Cavallero:** The one question that I do have is, the 100-foot setback, that would be to the eventual one-family home that we would be siting there. And it wouldn't necessarily apply to accessory structures, if I'm correct in my understanding.

**Chairperson Speranza:** My sense, when we were making that recommendation in the vision plan, was that it would be 100 feet: just don't build anything, keep it green.

**Boardmember Dale:** What kinds of accessory structures did you have in mind?

**Mr. Cavallero:** We would probably be thinking of a swimming pool and/or tennis court, a combination of the two; something that we would certainly shield with landscaping or other type of buffer. But the 100-foot setback, I guess that would be a pivotal question for the

architects: does it apply to accessory structures, or should it apply to the eventual one-family home.

**Boardmember Wertz:** I think it's really a functional concept -- at least the intent and the spirit of it -- to preserve that green belt along Broadway. So in that sense, a swimming pool or a tennis court could very well break that aesthetic.

**Boardmember Dale:** On the existing map, where the existing building is for example, that, if I follow the scale correctly, is more than a 100-foot setback now. So the amount of property we're talking about that would be left green would be fairly limited.

**Chairperson Speranza:** From the Mintzman house.

**Boardmember Cameron:** The Mintzman house is about 160 feet back from the road. Because you see the "190" on the side there, on the south side.

**Mr. Cavallero:** So we would effectively be speaking of a 100-foot setback at this area of the lot.

**Boardmember Dale:** Exactly.

**Boardmember Logan:** It doesn't even go that far back. There's a 70-foot dimension right to the left of that home. So 70 feet goes about two-thirds of the way back from Broadway to the existing house.

**Boardmember Dale:** It's pretty much what's there now, but more than what we're asking

**Mr. Cavallero:** Certainly. That's certainly something I will take back to the architects, and speak to them about their design.

**Chairperson Speranza:** This isn't a formal public hearing, but there are people here in the audience. If anybody wants to come up and speak or have a question to ask the applicant, you have to come to the mic. Just state your name and address for the record.

**Sheila [Shabid], 749 North Broadway:** We are the co-ops that are north of [Shandin] House, and north of the property that is owned by another entity close to your client. Just out of curiosity, we're here to see what's going on. And a couple questions came to mind, not about your particular property, but down the road when someone else buys it, potentially. And maybe thinking ahead like if the water rights are owned . . . and I'm a complete amateur -- so I have no legal background -- if the water rights are owned, does that mean a Piermont-type structure. Now, Piermont has built into the river. Does owning the water rights mean that a future developer could build a Piermont-type pier out there, or does it mean that anyone can build access to the river?

River Glen has an access to the river, like a kayak beach or something. Our property has a steep incline. We have no access but one of those old decrepit foot bridges. So in the future, what happens also when properties are merged together and one big structure is built, and then somewhere down the line that big structure is un-built and multi-family goes in or a big supermarket goes in? Someone said it's been zoned commercial. There are all sorts of rumors flying around.

So I'm just here as a curious neighbor to see what's going on, and a complete innocent in terms of how this stuff works.

**Chairperson Speranza:** The property is zoned for multi-family residential use right now, and there is no application to change that zoning. What we're hearing, though, is the combination of these lots, the intent is to build a single-family home -- should there be an application at some point to build multi-family -- that would have to come back to the Planning Board. And yes, what was raised earlier -- the fact that there is land underwater that's technically part of that parcel -- could, in fact, be used as part of the calculation for the number of units that could potentially be built for multi-family.

**Male Voice XXX:** [off-mic]

**Chairperson Speranza:** Right. No commercial development is permitted in the multi-family.

The experience with building into the river, I don't think anyone's done it in a very long time because it's made very, very difficult by people. I don't know if there is a plan to do a boat dock or anything as part of this.

**Mr. Cavallero:** Presently there are no plans to build into the river. As I mentioned, we are still in the design phase. But presently there are no plans to build into the river.

**Chairperson Speranza:** Okay. Does that cover it all? Anyone else? No other questions or comments.

This is not the formal application.

**Mr. Cavallero:** That's correct.

**Chairperson Speranza:** You've heard some of the comments from the Board. I think it is an issue: the underwater land, and the use of that in terms of the calculation of any future development. Would you consider having that somehow restricted so that should there be more than a single-family home built on that that it can't be used in any density calculations? That's one question.

**Mr. Cavallero:** As a condition, if there were a greater use than a one-family home?

**Chairperson Speranza:** For instance, we're going to make it one property now, somebody wants to build multi-family. Obviously, that land area is calculated into the total size of the property.

**Mr. Cavallero:** Right. I would verify, Madam Chairperson, if it's okay, with the architects and my client with respect to that. But my thought is, we have no plans for multi-family uses on the property. And that if the lands on the water could be counted for our gross area, with the condition that it not be counted if there were some future multi-family use, I think that would be a condition that may be acceptable to us. But I would just need to verify that.

**Chairperson Speranza:** Okay. And it sounds like it is necessary to meet the requirements of what eventually would be built by you client.

**Mr. Cavallero:** Right. I would just want to verify with the architects how they calculated the gross floor area -- the gross area, excuse me -- without making a commitment this evening.

**Chairperson Speranza:** Sure. Okay. And then the other thing is the 100-foot setback.

**Mr. Cavallero:** The 100-foot setback. That's correct.

**Chairperson Speranza:** To maintain some green.

**Village Attorney Stecich:** Why don't you leave it here, John. You can use that mic.

I'm not sure that I heard the Board say -- and maybe I did, but I think we should confirm so they don't go away with the wrong impression -- that their concern is with the bigger lot and the coverage only if it's a multi-family. I mean, there might also be a concern that there's going to be . . . if, in fact, let's say they were going to build to the maximum coverage, and all of the coverage is going to be on the 4-acre parcel; that it's going to look more developed, more built up.

**Chairperson Speranza:** That's what I just asked him.

**Boardmember Wertz:** That is a concern.

**Village Attorney Stecich:** I know. But that was not John's response.

**Mr. Cavallero:** Right. My understanding was that if there were a greater use than a one-family.

**Chairperson Speranza:** And that's what I said. I didn't make it clear.

**Village Attorney Stecich:** No, we're not saying the same thing. John was suggesting something different. So that's what I think has to be clarified.

**Boardmember Cameron:** I think we should ignore the 1.4 acres for all calculations, including steep slopes and the whole thing. Because otherwise we should get going and start changing the law. Because including underwater acreage in these calculations is just contrary to any logical thought whatsoever.

**Boardmember Wertz:** And that's, in principle, not . . .

**Chairperson Speranza:** I think it's case-by-case, frankly. I think there are some instances where it could actually be a benefit both to a property owner and the Village to include underwater land in the calculations.

**Boardmember Logan:** In terms of getting density.

**Chairperson Speranza:** Right. And a tradeoff for something else. But that's a conversation that we can have another time.

**Boardmember Wertz:** But it is a concern.

**Chairperson Speranza:** For this property.

One of the issues we always have when we deal with subdivisions -- or in this case, a resubdivision -- generally we don't know what is going to be constructed. Often, as we start

down the path, we need to find out a little bit more information about what would be constructed in order for us to better make a decision with respect to the subdivision or resubdivision. So I think the question that had been raised with respect to whether or not that land is needed for what it is that's being considered to be constructed will inform us as to whether or not we just say let's not include that underwater land in this instance.

**Boardmember Cameron:** Actually, you still have 200,000 square feet of land left on which to build a house. So it's hard to see, even despite the rumors how big of a house, where you're going to have a problem.

**Village Attorney Stecich:** You should also know that the coverage limits in this district are huge. It's 50% coverage, much higher than anyplace else. So you've got, what, 50% building coverage and 10% development coverage. You could have 60% of 7 acres. That's like 280,000. Sixty percent would be 180,000 all on one lot, all on the 4-acre parcel, which would be much higher.

**Boardmember Cameron:** I was saying it's a single-family dwelling. We can get agreement on that. There you are.

**Chairperson Speranza:** And the easements, of course, remain in play.

**Mr. Cavallero:** Well, there are easements that are depicted on the map, but there's the right to relocate those easements. That's actually expressly set forth in the copy of the easement that we provided to the Board.

**Chairperson Speranza:** We got that tonight.

**Village Attorney Stecich:** Could I just double-check on those easements? The easements, I'm assuming, don't run to the public or to the Village? They run to the neighboring properties?

**Mr. Cavallero:** They run to the neighboring property. There's nothing in the text of the easements that said they run to the public or they run to the Village.

**Village Attorney Stecich:** So they'll have to work that out with the neighboring property owners. I mean, we should be aware to make sure it gets worked out.

**Chairperson Speranza:** Anything else?

So the next step is you'd come back. I guess you would submit your plans with responses to our questions.

**Mr. Cavallero:** The formal application?

**Chairperson Speranza:** We can declare ourselves lead agency this evening for the purposes of the environmental review, and get that stuff out of the way.

**Mr. Cavallero:** Okay. Thank you, Madam Chairperson.

**Boardmember Cameron:** Could we get a map with the separate lots on it?

**Mr. Cavallero:** Sure. We could submit a copy of that.

**Boardmember Cameron:** That'd be great.

**Mr. Cavallero:** Effectively, Mr. Cameron, you're asking for the before and after. You have the after that we submitted.

**Boardmember Cameron:** Yes.

**Chairperson Speranza:** Has there been a topographical map?

**Mr. Cavallero:** The map that we've submitted -- not this map, the map that we've submitted -- does include a topographical analysis.

**Chairperson Speranza:** Oh, it does.

**Mr. Cavallero:** Yes.

**Chairperson Speranza:** That's it. Okay.

**Boardmember Cameron:** Actually, one more question. From what you know, while you're still in the planning stage, does any of your plan involve putting any portion of the structure on a steep slope?

**Mr. Cavallero:** It's my understanding and, again, to verify with the architects, that the structure would not be located on any portion of the steep slope.

**Chairperson Speranza:** Okay. Anything else? Oh, I'm sorry. You had another question?

**Ms. Shellow:** It was more just to the question of the groundwater. Both upper and lower neighbors haven't gotten involved, the co-op. But Hastings Gardens was never approached just because the top and bottom, the north and south neighbors, aren't going along with greenway.

**Chairperson Speranza:** RiverWalk, you mean?

**Ms. Shellow:** It's not in the motion yet so it wouldn't be a reason to not do what we had.

**Chairperson Speranza:** I agree.

**Ms. Shellow:** In terms of my understanding, we're not an official neighbor. But if there were ever something built on the steep slope, our view would be affected. So would we be notified?

**Chairperson Speranza:** For view preservation.

**Ms. Shellow:** Even though we're not on the border of the property, it still would go out to the other neighbors?

**Chairperson Speranza:** Yes.

**Ms. Shellow:** Okay.

**Village Attorney Stecich:** Just a quick calculation because I was thinking, when I did it before, those numbers don't make sense. If it were 6.5 acres -- it's roughly 260,000 square feet, and you can cover 60% of it -- that's 156,000 square feet that could be covered. And the 4 acres is 160,000 square feet. I'm not saying they would, but it's really coverage of almost everything. So it would not make sense for the Board to include that in one lot. Even if this plan doesn't show that, they would have the right to develop unless you put really severe conditions on the subdivision approval. So it certainly doesn't make sense from a numbers point of view to have that kind of potential coverage on that lot.

**Chairperson Speranza:** That's it? Do I need a resolution to declare ourselves lead agency for SEQRA for the resubdivision of the property?

**On MOTION of Boardmember Logan, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board resolved to declare themselves lead agency for SEQRA for the resubdivision of the property.**

**Mr. Cavallero:** Thank you very much for your time this evening.

**Chairperson Speranza:** Thank you.

**IV. Old Business**

**None**

**V. Discussion**

**1. Retaining Walls**

**Chairperson Speranza:** We have on our agenda to talk about retaining walls, regrading, and excavation. Those are very difficult. Bill, I know you said you had some issues to bring up with respect to walls.

**Boardmember Logan:** Just with regard to retaining walls. Last time we were talking about if a wall is over a certain height it should step back as it goes up the hill, and there was a debate about what it should step back relative to its height. All along, I've thought that was kind of a reasonable idea. We have the Boulanger Plaza parking lot and so forth. But as I walk around the Village I think it's a little bit more nuanced than that, the actual issue about walls.

I've been walking all over the Village and, basically, the reason you have retaining walls is because the Village is on a slope; which means that you have properties that want to be leveled, but the street is at an angle. So inherently the walls are triangular in shape, not rectangular.

**Chairperson Speranza:** Right.

**Boardmember Logan:** This is a nice, simple diagram, and it works for Boulanger Plaza. But if you go down Villard Avenue, if you go down Washington Avenue, if you go down Spring Street you really see that the walls taper. Even the Boulanger Plaza parking lot wall, the lower part is 10 feet. If you go up to Five Corners there are plenty of places where it's 8 feet, 10 feet. If you look at the Aqueduct, for example, it goes up to 16 feet high. If you go down Washington Avenue right by the Catholic nunnery there, the housing on the southeast corner, there's a retaining wall there. There's a retaining wall on the opposite side of the street which is up to 8 feet tall and then tapers as well. Even if you go outside the Municipal

Building at the library the retaining walls vary and they start at 8 feet. If you go down to the train station the wall is about 15 feet.

So I think the more common configuration that we're dealing with, with retaining walls, is this tapered shape, not a rectangle. And if it's a tapered shape, this whole idea of having to set back once it gets to a certain height just doesn't make sense in terms of constructability and the engineering of it and the amount of land you lose. Because if you go up 4 feet and go back, then it diminishes to 2 feet and at the other end it goes up to 6 feet. You just wind up with this mish-mash of wall configurations. I think even in terms of the engineering of walls that set back -- the footings and the pressures on the walls and the dead load of how the blocks stack up -- it's a very complicated sort of structure that results. I just don't think it's workable.

I think in the Boulanger Plaza instance it's a beautiful wall that works very well. We can put plantings in there. But I think that's the exception rather than the rule in this case. I do think we need protections. I personally like walls, and I think it's part of the DNA of the Village that we have all these retaining walls. It's a hill town, and my personal feeling about the walls is they're beautiful. That's part of the character of Hastings. But I think we ought to have some way to make sure we don't have massive concrete walls. I'm trying to struggle with some alternate language because I just don't think the setback thing works. I thought it might originally and that's been sort of my idea, and we've chatted about it for the last year or so. But I just don't think it matches reality. I made a list of the walls that I've looked at. I've been at Washington Avenue, Warburton Avenue, Villard, Main, Farragut, Spring, the Cropsey estate, the train station, Draper Park, the Aqueduct, Chemka Pool, South Broadway, Southside Avenue, Ridge Street, Boulanger Plaza, Maud's -- this goes on and on. And I think the more you walk around the Village this becomes pretty obvious.

I would propose a much more simple approach to these walls, and just say let's address the aesthetic issues by having them faced with natural stone. I think if it's a natural stone wall I don't have a problem with it, no matter how high it is. Maybe there's some other language, but I just don't think we can micro-engineer solutions to the complicated topography of the Village with formulas that limit the height to 4 feet or 6 feet, with a setback. I just don't think it works, speaking as an architect.

**Boardmember Wertz:** And you think the real issue here is aesthetics. So if there's a way of formulating principles in aesthetic terms we are achieving what we want to achieve without over-regulating the engineer and not achieving the goal we want.

**Boardmember Logan:** Maybe you could say that the wall inclines a little bit, that it sort of tilts, which is a natural thing to do with a large retaining wall anyway. But I think there's going to be a natural disincentive for anybody to build a massive retaining wall because they're just hugely expensive to do, and I think there'd be a tendency to avoid it at any cost.



Now, maybe we can zero in on it. I don't think there are that many properties that we're looking at that would actually require gargantuan walls. Some of the large tracts, say, where there's a steep slope that butts onto a neighbor's property, but you look at Draper and walk along Washington Avenue. They are huge, huge, dry-laid walls.

**Boardmember Cameron:** I love natural stone, but I think most people in the Village, even though they need a retaining wall, can't afford natural stone. See, you're postulating a building material they can't afford.

**Boardmember Logan:** You know, just look around the Village at all the residences that have been built up on the hillside.

**Boardmember Cameron:** All the old natural stone, sure. Costs have changed.

**Boardmember Logan:** But I think if you had to evaluate the cost of doing a stepped wall on a complicated configuration . . .

**Boardmember Cameron:** Actually, I'm having trouble understanding why the step wall is so hard. You just step it back in as it comes down this way. You could start out with a 4-foot wall, and then when you get it to its height you step it back and just keep on going up.

**Boardmember Logan:** Yes, but there's steps on top of steps.

**Boardmember Cameron:** There is [nips]. That's steps on top of steps, and the idea that it's on an angle actually doesn't make any difference. What? you only need a 4-foot wall there, and you get farther out you need an 8-foot wall. You can do that very easily.

**Boardmember Logan:** I don't think you can do it.

**Boardmember Dale:** Of course there's an issue. I think this stepping-back solution is much more expensive because of the amount of foundation that has to be poured before it could carry a wall of this size. And you're doing it, requiring it to happen, with many such laws.

I really like very much what Bill said. My approach would be to set a maximum beyond which we want to see it, and just say that it's a natural fact of life in Hastings: if you're going to level a property so you can use it, you're going to have retaining walls. This issue surfaces when we talk about walls that are, say, greater than 12 feet, or where suddenly it becomes part of defining the environment in a way that's less pleasant -- particularly if it's a solid concrete wall that rises 15 or 16 feet in the air. So I think I'd approach it more that way.

**Boardmember Cameron:** You're approaching with a variance -- then it is what it is -- for approval.

**Boardmember Dale:** Beyond a certain height.

**Boardmember Cameron:** Right. I think we had that already, quite frankly.

**Boardmember Dale:** Then there's no need to change the law.

**Boardmember Cameron:** No, no. You're having a limitation which you can have, and then have people come in for variances when they want to have something bigger.

**Boardmember Dale:** If they want something greater, then at least we get a say about what it looks like and whether stepping back, in that case, is feasible.

**Chairperson Speranza:** Some of the changes that we made to the Steep Slopes Law do address at least some of the concern that prompted the re-looking at that, and looking at this. We don't have any control right now on the placement of a retaining wall for someone who's come in for steep slopes, or we didn't used to. Now we do because we strengthened the Steep Slopes Law by dealing with more issues than simply drainage, by having them show us that the impact to the adjacent neighbors is not going to be detrimental. Because those were, frankly, the applications that really bothered me: when the retaining wall's right next to the neighbor, their neighbor was going to be 10 feet, 12 feet tall.

So I think by strengthening the Steep Slopes Law we might have addressed some of that. Of course, I don't know. We just set a maximum, and then have them come in for a variance. Suppose that doesn't work. How do we determine the maximum height? Just leave it at the 6-1/2 feet that we have now?

**Village Attorney Stecich:** We don't have 6 feet.

**Chairperson Speranza:** No, not for retaining walls, but for fences.

**Boardmember Cameron:** We could use the fence one, and then have people either have to step back or come in for a variance if they need a taller one.

**Chairperson Speranza:** I'm trying to think of the instances where you're going to need the retaining wall. Certainly site plan we see it. You know, we're going to see an application for site plan, as you mentioned, Bruce. We're going to get these applications in a different way. Getting them for site plans; sometimes we'll get them for view preservation, particularly anything along the riverbanks. Steep slopes site plans for other than housing or other than giving it to the family, but kind of covers it. Would you need a retaining wall to build a single-family home on a site that's not on a steep slope?

**Boardmember Cameron:** No.

**Boardmember Logan:** No.

**Chairperson Speranza:** So we're watching that steep slope.

**Boardmember Dale:** It is the response to the steep slope. And where we started in the discussion was houses being cantilevered over and then required . . . you know, that we would look at.

**Chairperson Speranza:** Okay, all right.

**Village Attorney Stecich:** I don't think we got the revisions to the code yet. Does anybody happen to have their revised Steep Slopes Law?

**Chairperson Speranza:** I don't have the code book.

**Boardmember Cameron:** I didn't bring it with me.

**Village Attorney Stecich:** I do. I take it back. We do have the revised. Let me just make sure that it would be covered.

**Boardmember Cameron:** I wanted to mention something, too. They put in that very nice new wall back here where the parking lot is, and they told us up and down and sideways they

were going to cover it with vines and trees and what have you. There's not a single thing there. You've got a straight 30 feet of white concrete wall when you stand there and look. I was down there when we were having a music fest, looking at it on my way back.

**Chairperson Speranza:** We'll talk to John. Sure.

**Boardmember Dale:** That's what we need, more watchdogs.

**Chairperson Speranza:** The other thing related to retaining walls had to do with the fences, safety fences on top of the retaining walls. Is that still something that we want to permit? That you could have a 4-foot high fence on top of a retaining wall so that's certainly something we say?

**Boardmember Cameron:** We did say that, and I'm certainly in favor of it. In fact, I pushed for it. But I'd like it to be a wall which is -- whatever the definition you use -- 10% obscure site or something like that. In other words, it's a wall you see through.

**Chairperson Speranza:** A fence.

**Boardmember Cameron:** A fence you see through. Whatever the formula is -- 80%, 90% -- in other words, visually it only blocks . . .

**Village Attorney Stecich:** I'm sorry. I was looking at this. I missed this last point.

**Boardmember Cameron:** A fence that only visually blocks 10% of your sight. That would be allowed on top of a retaining wall, a 4-foot one, for safety purposes. You see those definitions in your notes.

**Village Attorney Stecich:** I didn't know you started something else.

**Chairperson Speranza:** Marianne, go to steep slopes. You were looking at the revision. So there is a section in there that does mention that they have to show us how they are addressing potential impact on the adjacent property owners.

**Village Attorney Stecich:** You remember we didn't put standards in.

**Chairperson Speranza:** But we were very clear. I believe it was with the submittals as part of the submittal of information.

**Village Attorney Stecich:** It's certainly in the intent. There's language that you could use. We require them to show, well, the landscaping plan that would include the plans, the walls.

**Chairperson Speranza:** There's something in there as well right in that same area: a description of how they were going to be dealing with the adjacent property, or how it was minimizing impacts to the adjacent property owners. And Eva was strong and actually came up with some language for that clause.

**Village Attorney Stecich:** We have the thing about "*protecting the property in adjoining properties by preventing erosion, creep, and sudden slope.*"

**Chairperson Speranza:** What did it say about the landscaping plan? Maybe it's in there.

**Boardmember Cameron:** I think it was in the list of those things.

**Village Attorney Stecich:** "*The location of the area of disturbance and its relation to neighboring property, structures, roads, water courses, and wetlands.*" No. The landscape plan just says ". . . for the applicant's indicating proposed paved areas, storm drainage facilities, retaining walls, and ground cover. The methods used to minimize the impact of

*changes in topography on adjacent and nearby properties through landscaping, retaining walls, and terracing of garden.”*

**Chairperson Speranza:** That’s it.

**Village Attorney Stecich:** But remember, this is what they have to submit.

**Chairperson Speranza:** That’s it. Okay, good. So it is in there. While you were looking that up, since now it’s confirmed that there’s something in there that gives us a degree of comfort with respect to protection, we started talking about whether or not we’d still want to allow a 4-foot fence *on top* of a retaining wall.

**Village Attorney Stecich:** Before we get to that, did you want to reinsert retaining walls in this fences and walls section? Remember we changed it to fences and boundary walls, and put the limit at 6-1/2 and 4 feet.

**Boardmember Cameron:** Yes.

**Village Attorney Stecich:** You want to include retaining walls.

**Chairperson Speranza:** Yes. A maximum height for retaining walls.

**Village Attorney Stecich:** So “*boundary*” has to come out.

**Boardmember Logan:** And once you exceed that, that triggers the review. You have to come for a review of some sort. Because I don’t think we should ban it outright.

**Village Attorney Stecich:** You’d have to get a variance. All right. I don’t know if it makes a difference that then the retaining walls in the front can only be in that area we finally agreed on in the front. It could only be 4 feet. Is that an issue?

**Boardmember Cameron:** I think the idea is that we can have them 4 feet, and then stepped back, and then have another wall. And then if that doesn’t work they can come in for a variance. That’s where we were going.

**Boardmember Dale:** A retaining wall’s different than a fence or a wall that’s there and is a necessity of the property. And the view of the property starts at the top of the wall, not at grade.

**Boardmember Cameron:** Right. But seen from the person on the street, they see the 4-foot wall. You’re looking at it from the homeowner’s point of view.

**Boardmember Dale:** Exactly. But that is one of the building tools of this Village. You need to have these walls in order to be able to use your property.

**Village Attorney Stecich:** Then maybe the way to deal with it is leave that section as just fences and walls and boundary walls. So it wouldn’t return retaining walls.

Then you have a separate section on rewards, which may be roughly what we had there. “. . . *a retaining wall no higher than*” and we change it to “6-1/2 feet” *may be erected anywhere on the lot.*” That’s the limit we want? Six-and-a-half feet?

**Boardmember Cameron:** Actually, maybe what we want to do to solve this problem -- and we have to do this very carefully, of course -- is to remember that it is where we put in language that saying “would have a hardship on the owner.” What was that?

**Boardmember Logan:** That's inherent in any kind of variance.

**Boardmember Cameron:** But we were working on some language. All I'm saying is, if we put the restrictions in I know, in the end, it's a variance. But I think we should give people a little more comfort that it's not a usual variance; that this is something we recognize is very hard to legislate this kind of stuff. Therefore, you ought to be able to come in and more freely get one than you would for a normal variance.

**Village Attorney Stecich:** That's saying a bunch of different things.

**Chairperson Speranza:** For what, though? For the height of a retaining wall?

**Boardmember Cameron:** If I'm on this part of my property and I want to put up a bigger wall it is, as Bruce said, on a slope: "I'd like to put up a bigger wall and I have a good reason for it," I think we should certainly consider that -- especially if it's going to be a hardship. But the person who's sitting back there and has 100 yards of property, I have no sympathy for them. But if it's only the sixth great feature, they get to the top of the hill, then maybe you get them a bigger wall.

**Village Attorney Stecich:** What you could do is just say unless permitted by the Planning Board a retaining wall no higher than 6-1/2 feet may be erected anywhere on the lot, provided . . . and I guess what you could do is eliminate the problem of a 6-1/2 feet and then a foot behind another 6-1/2 feet by saying "it must be located more than, let's say, 4 feet from any other wall or retaining wall that's aligned more or less parallel to it."

**Boardmember Logan:** Could you repeat that?

**Village Attorney Stecich:** This is if it's more than 6-1/2 feet.

**Boardmember Logan:** Right. They just come in for a review.

**Village Attorney Stecich:** No. A 6-1/2 feet, then they'd go back 6 inches and they'd build another 6-1/2 feet.

**Boardmember Dale:** They could do 6-1/2, then step back 4 feet as-of-right, then go up another 6-1/2 feet.

**Village Attorney Stecich:** Right, by what I just read. That's what I'm asking you. Do you have the last draft?

**Boardmember Cameron:** I didn't bring it with me.

**Village Attorney Stecich:** Let me see if I have more than one here because it's so much easier to read this stuff.

**Chairperson Speranza:** Well, there's that. Or do we want to simply say no retaining wall can be higher than 6-1/2 feet.

**Boardmember Logan:** The problem with that is, you walk around the Village and almost every one you see is 9, 10, 12 feet.

**Chairperson Speranza:** Unless waived by the Planning Board, or requires review. Someone who may come in with a 13-foot wall, we may say, "Well, go 6-1/2, terrace back, and go up 6-1/2."

**Boardmember Logan:** Why didn't we do that at Boulanger Plaza or at the train station or at Maud's or any of these other places, or the library?

**Chairperson Speranza:** We'll say this is a special property.

**Village Attorney Stecich:** Then why put a limit of 6-1/2 feet?

**Boardmember Cameron:** Because you've got to make sure you have to come to the Planning Board and make sure it's something the person really needs.

**Boardmember Logan:** We need a trigger.

**Boardmember Cameron:** You're citing all sorts of ones where there's . . .

**Village Attorney Stecich:** And the other thing is, if you're putting the 6-1/2 limit, the reason people have the step-back is so you can't say, "Oh, no. I don't have a 13-foot wall. I have two 6-1/2 foot walls, and one's right behind the other." And what you really have is a 13-foot mass. Maybe that's okay. I have a sense it's not okay with everybody.

**Boardmember Logan:** It's okay with me. I like big walls.

**Boardmember Dale:** Retaining walls, done properly, I think add to the aesthetic of the Village.

**Boardmember Cameron:** Just two caveats on the end of it.

**Village Attorney Stecich:** That's right. That's a big qualification.

**Boardmember Dale:** The issue, in a way, is if the land is sloped and you don't have enough level land to build a house or to use your property comfortably, you're allowed to build a retaining wall in order to be able to level it. And if you have to start setting back you're giving up property. So then you almost defeat the purpose of having a retaining wall.

**Boardmember Cameron:** Up Villard people tuck their parking garages into the retaining wall. It becomes part of the structure. This would basically prohibit you from doing that.

**Village Attorney Stecich:** No. You could come to the Planning Board for permission. You'd say, "Unless permitted by the Planning Board no retaining wall shall exceed 6-1/2 feet in height."

**Boardmember Cameron:** We're all coming up with examples, but the fact of the matter is someone's sitting there and they've got 50 feet in their front yard. If they can put the retaining wall in the front, they've got a 50-foot front wall, we make them step back they've only got a 45-foot front yard. And they want to have a 50-foot front yard, so they put a big one right on the road even though we would look at it and say, "Aesthetically, you should step back and be satisfied with 45." I understand that someone who only has a 30-foot or 25-foot front yard we may be more generous to them. But that's really what's going on. So we can all make up examples, and one is egregious one way and one's egregious the other way.

**Boardmember Dale:** What are we trying to avoid?

**Boardmember Cameron:** I think we're trying to avoid an unnecessary towering wall facing neighbors or streets.

**Boardmember Dale:** Okay. What defines a towering wall? When does it become towering?

**Boardmember Cameron:** That's why it has to come back here, I think.

**Chairperson Speranza:** I agree with Jamie.

**Boardmember Dale:** Is a 7-foot wall a towering wall?

**Boardmember Cameron:** We can make it so that it's not towering, but then you're coming up -- and I'm not blaming you -- with examples where a person desperately needs this wall. We're trying to give the person a chance, when they desperately need the wall, to have it. But other than that, I think we can come up with a definition -- and many other towns have -- of how high you go, and then step back, and how high you go. And what we're trying to do is to give an exception for the example which Bill and you bring up -- or you could say it's in Hastings' veins or New York City's veins because they built the Aqueduct -- they're used to tall walls. But I just think we should have something which the average person in town would say, "Well, that's reasonable to me, judged aesthetically." And then have an exception that allows us to give a taller wall if the person really needs it because of the nature of their property.

**Boardmember Dale:** Conceptually I don't have a problem. The problem I'm having is what is a towering wall and what is an acceptable wall. I think the 6-1/2 feet, for retaining walls, is much too low.

**Boardmember Logan:** Because basically if you walk down Warburton Avenue or Main or Villard or Five Corners it would basically make nonconforming a huge proportion of those existing walls. I think that ought to be the threshold: that you look at Five Corners, you look at Warburton Avenue, you say . . . I think 8 feet is more like the number because there are so many walls that are 8 feet and they're just everywhere. So I think the 6-1/2 is a little too low I could even go up higher than that. I just don't think we should make nonconforming, huge areas of the Village where these things exist already.

**Boardmember Cameron:** You're saying examples on streets, and streets that go down at a very steep slope. What I'm more concerned about is the person who lives right next door to me, let's say -- and I'm a bad example -- on a flat piece of land, where they decide they want to have a bigger backyard and they're going to put an 8-foot wall up right on the property line right next to me. And I have a very small backyard and I've suddenly got this 8-foot towering wall, with a 4-foot, 90% opaque [transport on it] for safety purposes. And I might be a little unhappy about that. I understand. Obviously, you take any street in our Village which has more than a 30% grade and, by definition, you're going to have that wall bigger at the bottom. I understand that. We've probably walled in both sides of the street already, but I'm more worried about the adjacent land. That's what I worry about.

**Boardmember Logan:** Are there really that number of cases, though? Because the Village is so built out already.

**Chairperson Speranza:** But what has happened is, people are using this as a way to make more buildable land by taking the slopes and pushing them in. And then the person who's down here is suddenly looking at this wall instead of the slope. But the person who owns the

property up here has, via a retaining wall, pushed the land and made that property flat to be able to build the house.

**Boardmember Cameron:** I have to tell you, I live on a piece of land, that cottage, 60 vertical feet. We have walls, and none of the walls exceed 6 feet. But it's just one after another, little garden in between, 4 feet apart all the way down. And it works very well. Makes you think you're on flat land all the time, even though it just keeps stepping up.

**Chairperson Speranza:** Why don't we do this. Marianne, you said the most recent version that already had . . . we know we're protected somewhat for applications that come to us for steep slopes. And there are going to be the ones that would come to us, say, for view preservation on a single-family home or whatever. But, Marianne, you said that the version that you have is almost what we're talking about.

**Village Attorney Stecich:** I think so.

**Chairperson Speranza:** Okay. Why don't we do this. Why don't you circulate that. I think it would be good -- we'll have Eva and Ed, hopefully, at the next meeting and go through this one more time.

**Village Attorney Stecich:** You know what I'll do. I'll send them just that section, with nothing else, so you have to pay attention to that. And don't jump on me about why did you do this or that. I'm just going to give you something to work from.

**Boardmember Cameron:** But we'd like for you to have the language that says that on top of a retaining wall, as measured from the inside of the uphill side, you can have a 4-foot, 90% transparent fence for safety purposes.

**Boardmember Logan:** I'm not too sure about the 90%.

**Boardmember Cameron:** Or 80%.

**Boardmember Logan:** I think that may mean that you wind up with a chain link fence as opposed to a 50% open cedar lattice, which may look better. We pick a number.

**Boardmember Cameron:** Pick a number, and we work from it.

**Chairperson Speranza:** We'll start with 50 -- right in the middle.

**Boardmember Logan:** Fifty, I think, is safe.

**Boardmember Dale:** It's a good start.

**Boardmember Logan:** Because nobody can afford the wrought iron, which are 90%. Go to the next one, which is chain link, at 95.

**Chairperson Speranza:** Stronger and bigger. Did we give you clear direction, Marianne? As clear as we can be at this time tonight.

## 2. Regrading and excavation of property

**Chairperson Speranza:** Do we have to do anything else with regrading and excavation? Did Deven take a look at what it was? My recollection was that somebody was going to come up with a number.



**Village Attorney Stecich:** No. We were like, "Where did that number come from?" And I was saying I just pulled it out of thin air. Then I looked, and I thought, well, it wasn't exactly out of thin air; I took it from Croton. I think what we decided we were going to do was take that out, and just say whenever the Building Inspector thinks it's appropriate he'll send it to the Planning Board.

**Chairperson Speranza:** Right.

**Village Attorney Stecich:** I think we came to agreement so you could just look at that again. I think this is the only thing that was left outstanding, the retaining walls. So I'll circulate something and people can just mark it up.

**Boardmember Dale:** Two feet and six inches.

**Village Attorney Stecich:** Let's just try this and see if it works, and then if those numbers don't . . . they were numbers that came from another code -- hopefully, thank God. And we'll see whether it works, and if they don't work we can adjust it up or down.

**Boardmember Logan:** Plandome. Right?

**Village Attorney Stecich:** No. Actually, most of the excavation came from Croton. But I know the person who wrote the Croton one -- they're pretty good.

**Boardmember Cameron:** Are we on to the next?

### 3. "Greening" the Code

**Boardmember Cameron:** On "greening the code," this has every second page of their minutes.

**Boardmember Logan:** So are mine. I missed every other page, too. All the odd pages or something.

**Boardmember Dale:** It's not legible.

**Chairperson Speranza:** As we know, because we had discussions for a couple of months . . . and the gist of what you heard is that the Board of Trustees has charged us with coming up with a way, a methodology -- or, as they said, "doing a study" -- of how we can green our code. So I did have discussions with Bruce and the mayor and, obviously, we're not going to be getting any consultant dollars for this. But there is a sense that since we've already done -- we, ourselves, have done -- quite a bit of research, all you got to do, and we all know this, is put in "green code," or "greening your community" in the search bar on the Internet and you can be there for three weeks just looking at things.

But we do have a lot of resources in the Village, and I've been put in touch with one gentleman who's interested in helping us undertake some of this work. He's a resident here; he's an environmental attorney. We have yet to sit down and talk about exactly what he could do for us, for the Village. We also have the chairman of the Conservation Commission, who's been involved in some Saw Mill Coalition activities. They themselves, the Saw Mill Coalition, as part of a grant that they have is now discussing hiring a consultant

to review the codes of member villages -- one of which is us -- and having them determine where we could use some improvement. So that's certainly a free professional resource that we can have by virtue of our involvement with them.

What I did, I just took a stab at trying to find some way to organize things that we might want to look at as part of this initiative. If I had a double-sided printer I would have printed on the back the protocol; exactly how we're going to go about doing this. I'm going to email this. Marianne, you should take this, too, because this is something you'll have to be involved in. This is kind of a list of things that came to mind that I tried to organize. I was going to email it to Eva and Ed, as well. What I would like to do is also start discussions, and maybe at our next Board meeting -- at our July Board meeting -- maybe we could have members of the Conservation Commission here to speak with them about it: you know, who's what, who's willing to take on what kind of work in terms of evaluating some of these.

**Boardmember Cameron:** It's interesting, and I can't remember her name even though she sent me a big, long note, there's a woman who lives in Hastings but is the coordinator for the Town of Greenburgh on green development. She's a resident of this village. When I went to the discussion group Greenburgh had I said, "Well, greening the code is one of our objectives." So she sent me back some information on it. So I'll track that down and send it to you.

**Chairperson Speranza:** Oh, that would be great. She lives in Hastings -- terrific.

**Boardmember Dale:** My concern was that if we start to take the code apart paragraph by paragraph we'll be here forever and make a mess out of it. Where there are, I gather for example in California, where they just overlaid one of the LEED standards on top of the code.

**Chairperson Speranza:** And there are pros and cons to that.

**Boardmember Wertz:** One concern that I had that came out of our previous discussions about this is that I think often times there's that catchphrase, "greening the code." But when we've really gotten down to business with the code, I think we've sometimes started to approach the conclusion that you don't achieve the best goals by over-regulating the technicalities of the code. So maybe if we rephrase this study and the scope to include the code as part of what we're looking at, but to consider broader issues like community education guidelines that the Planning Board can use . . .

**Chairperson Speranza:** The checklist.

**Boardmember Wertz:** Some kind of checklist, with guidelines. There's sort of this spirit of greening the Village. That's what we're really after, and not the code. I think when you lay it all on the code it can become almost impossible and not desirable.

**Boardmember Logan:** That's true. And I think Bruce Jennings came up with a list of things. Obviously, I agree with you: we should talk about greening the Village, and what piece of that that relates to us as a planning board is the code piece. You can talk about

greening out schools, about greening the municipal buildings, about greening the truck fleet or bus fleet, turning down the lights and so forth.

**Boardmember Wertz:** It's a question of the role of the code in greening the Village. And we have to be critical about how we approach the code rather than just assume that the code is the answer.

**Boardmember Dale:** Somebody who works for our company, who is creating a green program for us to lend on -- and I gave out what his simple recommendations were -- would have 20 items on his list of what each homeowner could do that would seriously reduce the energy use in that house. Some of it is simply caulking holes in your attic where insulation has disappeared over time or whatever happened. So there's that scale of greening, which is almost like a maintenance code for the Village as recommended.

But I think Peter Swiderski's thinking about the fact that we have a limited number of sites that could be developed in the Village. He says why shouldn't we ask them to meet LEED standards.

**Boardmember Cameron:** I think we've got to look at every developer who comes to the door. We talked about this before. That person's going to build 40, 50, 60 units, and to get more bang for the buck out of having a checklist of what we're going to ask the developer to do when we go through site plan review.

**Boardmember Dale:** I may have mentioned the fact that 45 Main meets LEED standards, even though they never applied for it.

**Chairperson Speranza:** Right. And that was the case.

**Village Planner Witkowski:** Sorry I had to go over a couple of things with them. That's why I had to leave for a couple of minutes. All this information that I passed out and left for you, I thought this article that was on the DEC's Web site -- the one I highlighted that promotes community-wide climate protection through land use tools -- was a really good summary of an approach to use. And that's actually the last section of this guidebook they have online. I didn't want to give you the whole guidebook because it was 29 pages, but I did want to point that out: that link is on there on the top and bottom.

I got those PowerPoints: "Why Build Green," and the other one. Those are on the US Green Building Council Web site. Then this is the homepage for the New York chapter of the US Green Building Council. They now call it "Urban Green Council," but it's the same organization. The other thing I printed up for you all is this whole list on that page. These are all references that the Green Building Council has. You can link right to them if you go to that page.

There's just so much information.

**Boardmember Logan:** That's the problem.

**Village Planner Witkowski:** But the one other thing I wanted to tell you is, I went to that sustainability forum. I think I put the letter from the county in your package. I went to that, and the county is setting up this sustainability forum. They're sort of dividing the county into three sectors and they have these forums, and they'll be having more of them. It's to try and share information on ways to make your communities and your planning process and everything more sustainable and more environmentally friendly. And also to encourage some potential joint applications for the incentive funds.

**Chairperson Speranza:** Sustainability agenda?

**Village Planner Witkowski:** Yes. I've been getting more involved with that, but I've been to two of the meetings they had and I was the only one there from Hastings except for the very first one. That was Kevin Hay, Susan's assistant. He was there also. I think it would be good for the Planning Board members, when they start having more of these, to at least have a couple of you get involved with that. There was one woman there from the Sustainable Hastings organization.

**Boardmember Cameron:** I think that's that same person. This thing's on Monday, the next one. I'll go look it up.

**Village Planner Witkowski:** I just went to the one on Monday. They had it same night as the meeting here, the town hall that they had here for the plan.

Then they're going to have another one for the Sound Shore communities. They have the North County, the River Towns, and then the Sound Shore communities. It's all sort of being coordinated through county planning and Andy Spano's office. So they have a lot on that. There was a woman I met Monday night, and they have a Web site. She works for a non-profit that put up this Web site for the How Green Is My Town.

**Chairperson Speranza:** Okay. I've seen that.

**Village Planner Witkowski:** And they're going to be doing a lot more. Also, Mike Gerrard was there. He's an environmental lawyer with Columbia. He is going to be working with Pace law school, and they're also going to be working with these other people -- How Green Is My Town, or whatever it is. Anyway, they're going to be pulling together all this information from all sorts of resources on model codes and model ordinances. He was at the table for land use and building codes. They said, really, when they're talking about greening the code they're really focusing more on building codes. Also, in a couple of places I've been, they've mentioned, with LEED, that because of its being so cost-prohibitive and . . . there are things that can be done that are consistent with LEED.

**Chairperson Speranza:** We were just talking about that.

**Village Planner Witkowski:** That is the approach that New Rochelle took. When I talked to Ed, the planner in New Rochelle, he said be real careful because just over-regulating can be too restrictive. And there are things that can be done without having to be LEED-certified. They do the Energy Star thing and all that, but he said as far as LEED is concerned people say LEED and most people don't even know what it stands for.

So I just wanted to share that all with you because I know that this is going to be a long-term project.

**Boardmember Logan:** That's the issue.

**Village Planner Witkowski:** But the thing is that there's all this stuff being done on a regional basis so I didn't want you all to have to be chasing around when this stuff is being done.

**Chairperson Speranza:** No. Thank you. This is good material.

**Village Planner Witkowski:** And also to get involved with that forum. I don't know why nobody else is going to it, but nobody else was going. And that's going to be important. Just even learning what the other communities are doing because it's very helpful.

**Chairperson Speranza:** I think some of the discussion that we've already had, I think we have a good sense of how complicated and how much material is out there. My sense in speaking with Bruce and Peter is that, "Okay, now bring it all home." And that's what we have to do; that's this study that he wants done. And, of course, you think about studies like the transportation planner: there's no study that is smaller than 500 pages.

Seriously, I put together this outline just to try to categorize some of the things that I think we need to do or some of the ways you would undertake a study -- the agencies or the groups that would be involved for Hastings, get them engaged, and find out what they know about our tree ordinance. Something as seemingly simple as that -- we have a tree ordinance. Maybe we need to look at the tree ordinance, and what does it say and what's the goal. Maybe we find a way to put it on our development checklist.

**Boardmember Cameron:** The tree ordinance is classic Hastings. When they tried to get a tree ordinance passed, people came and objected because they didn't want to be stopped from cutting down their trees. They gradually made the piece of land bigger and bigger until it got down to where there were only about 10 people in town who had a piece of land that big, and then passed the ordinance. That's how it works. We applied for the first permit after it had been in there for three years. Nobody else had ever applied.

**Boardmember Logan:** I think the timeliness of this is really important. I think we should try to find the nearest thing to a silver bullet in terms of looking at language that people have already come up with, one-liners. We can talk about the tree committee and the Conservation Commission. We can go on and on with these subcommittees, but I think we ought to find something very concise and very quick that we can plug into the code. I mean, Peter Swiderski, one of the ideas he threw out a couple months ago is, "Why don't we just make a requirement for all new construction be LEED gold, end of story." Okay, well, that's not a bad idea. But there are some consequences that follow from that.

Okay. What's an alternative. Let's make all new construction has to conform with NYSERDA X, Y, Z.

**Chairperson Speranza:** Energy Star.

**Boardmember Logan:** That's candidate two. Candidate three: all new construction shall have Energy Star appliances. You know, are there half a dozen that we could come up with that we could post as candidates for this silver bullet, that we can put in the code very quickly without going through three years of study. Just like we're plugging in some language for walls or retaining walls or fences, let's find something we can do expeditiously and not have this baggage about endless review.

**Boardmember Dale:** That's exactly the issue. Because the State of California, evidently, used silver LEED rather than gold. And I'm sure there's some concise report about how successful that has been.

**Chairperson Speranza:** Yes, and that's what's coming out.

**Boardmember Dale:** What the issues are or are not. I know I've mentioned that the Town of Greenburgh has the Energy Star, and that caused a problem with NYSERDA: you can't get a NYSERDA grant in Greenburgh because it's supposed to be an incentive program, and if it's by law . . . New York City is about to pass a law.

**Chairperson Speranza:** Yes, I saw that. Thank you. You sent the material around.

**Boardmember Logan:** I think it sounds like you're in a great position to do this. Just to put out some of the language that's been tested and then maybe has some positive things. But get this candidate language out here.

**Chairperson Speranza:** Well, one of the things that I included on the sheet is best practices -- what are other communities doing, and who's doing a mandate, who's doing incentives, how can they work hand-in-hand, success stories and pitfalls. Some have worked with language. For instance, the Town of Greenburgh requires Energy Star appliances: this has created a problem. There was one gentleman that I have been speaking with about the problems that face a property owner when the architect and the builder, and the town or the approving agency, all have different interpretations. And then there's this poor property owner who suddenly has a house half-finished because, well, this doesn't meet LEED, or this is an Energy Star, or, "Sorry. To meet this *new* standard it's going to cost you \$10,000 more."

I think this is a good point. Because some of the agencies that have moved ahead in implementing some of this stuff have actually now had some issues.

**Boardmember Wertz:** Tested.

**Chairperson Speranza:** Yes, they've been tested. And we're in a position where we can say, "We'll do this or this or this."

**Boardmember Logan:** How do we reap the benefits of that testing of results?

**Chairperson Speranza:** I've got some stuff.

**Boardmember Logan:** So do you Google testing . . .

[crosstalk]

**Chairperson Speranza:** Our Conservation Commission, they're involved with people and the; Sustainable Hastings. We are part of ICLEI, NYSERDA. Angie, you have something?

**Village Planner Witkowski:** One thing I just happened to think of at that meeting the other night, somebody brought up a good point that I don't know if people realize. The way you word that it has be LEED-certified is real important because the building has to be up and running for a year, I think, before it gets the actual certification.

**Boardmember Logan:** That's only for parts of it. That's only for commissioning. There are lots of ways to get LEED points, and that's a commissioning language. You can do it with stormwater retention, site planning, habitat with restoration location. You know, you can meet certain energy goals. The commissioning part of it is very complicated, but that's for much bigger buildings and that does take a lot of effort. But for a single-family home, maybe we don't go LEED gold. We do something where they can have reduced impact of stormwater runoff rather than some other more complex issues.

**Village Planner Witkowski:** But then if you end up getting a big building somewhere, the way you have it worded might make a difference. It was just something that occurred to me when you were talking. Because there were a couple of communities that ran into some problems with that because of that. They were bigger cities, but they ran into bigger problems because they had worded it as they had to be LEED-certified, but it had to be up and running.

**Boardmember Dale:** Well, you could say you want to build to a LEED standard without requiring . . .

[crosstalk]

**Village Planner Witkowski:** That's what I meant: to make sure that it's worded that way.

**Chairperson Speranza:** So just take a look at the outline, email me any thoughts that you have. I do want to see if I can get Sandy and his group, or representatives from the Conservation Commission, at our meeting in July.

**Boardmember Dale:** I think we need to do exactly that.

**Chairperson Speranza:** And maybe somebody like the woman from Greenburgh. That'd be great.

**Boardmember Dale:** Somebody needs to be able to lead us through this maze, and simplify the process so we can come up with choices.

**Boardmember Logan:** And soon.

**Chairperson Speranza:** Over the summer because there's going to be nothing going on.

**Boardmember Logan:** I think we should put a deadline on this.

**Boardmember Dale:** And speaking about energy saving, this building is over-air conditioned.

**Boardmember Logan:** Yes, it is.

**Chairperson Speranza:** Now it is. It was really warm.

**Boardmember Cameron:** This is the new way to look at it.

#### 4. Miscellaneous

**Chairperson Speranza:** Our next meeting, July. Do you have a calendar? The 13th.

**Village Planner Witkowski:** July 16th. I put it at the bottom of your memo.

**Chairperson Speranza:** Does anyone have anything else for tonight?

Angie, I just want to say thank you to you. This is Angie's last meeting for us as our Planner.

Thank you. Of course, we wish you the very best and we wish you well. I'm sure our paths will cross. The planning world is a very small one.

**Village Planner Witkowski:** Yes. I'm not going anywhere. I'll be in the neighborhood.

**Boardmember Logan:** Yes, thank you very much, Angie. We really appreciate it.

**Boardmember Wertz:** Thanks so much for all your contributions to the Village and to us.

**Village Planner Witkowski:** Thank you. You're very welcome. I wanted to let you know about this. Next week, the Housing Trust Fund has these free seminars. There is one in Yonkers, if anyone is interested. I signed up for it. I knew what it was about, but I couldn't remember the title of it. Anyway, if you go to the Department of Housing and Community Renewal they'll list all their seminars and they have them in various places. And they're all free. You just have to register because of space being limited. They're supposed to be pretty good.

But thank you all, and it's been great to know you all.

**Chairperson Speranza:** Thank you.

#### VI. 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 10:15 p.m.**

**NEXT MEETING AUGUST 20, 2009**