

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

A **Regular Meeting and Public Hearing** was held by the Planning Board on **Thursday, March 19, 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 (8:30 p.m.), Village Attorney Marianne Stecich, and Village Planner Angela Witkowski.

**I. Roll Call**

**II. Approval of Minutes:**

**Meeting of February 19, 2009**

**Chairperson Speranza:** Any changes, comments, modifications?

**Boardmember Logan:** I have a couple of small things. Page 19, I'm speaking, end of the first paragraph -- after it says, ". . . *floodplain avoidance* . . ." it says, ". . . *ground field redevelopment*." It should be "*brown field redevelopment*."

**Village Planner Witkowski:** Where was that again?

**Boardmember Logan:** That was page 19, next to last paragraph, third to last sentence. There are a couple of dots there.

**Village Planner Witkowski:** Oh, yes. I see.

**Boardmember Logan:** Also page 30, I'm speaking, second time. It starts out with, "Yes, smart cars . . ." -- this is sort of facetious, but we have like 10% sort of. It says ". . . *noble cars*." I meant to say "*normal cars*."

**Chairperson Speranza:** You could be noble or smart.

**Boardmember Logan:** "*Normal cars*," whatever those are.

**Chairperson Speranza:** Anything else? Bruce?

**Boardmember Dale:** I had one on page 22, the next to the last sentence, where I'm talking: ". . . *so grassroots environmental education was*," it says ". . . *the people*." It should say . . . the '*organization*' that made the presentation."

**Boardmember Alligood:** I have something, two different pages. The first is on page 17, the first paragraph, where I'm speaking, about halfway down the page, the third line up from the bottom where it says: "*It's a planning principle that*" . . . take out "*it's something*." Just take that out, and write "*we might want to work towards*." And then start a new sentence: "*That, when possible* . . ." just continue on from there.

And then one other -- page 20, the first paragraph, where I'm speaking, the last sentence, about halfway down the page, where it says: "*But there's still ways to* . . ." -- that word is

not “*cognizance*,” it’s “*incentivized*.” And that’s it.

**Chairperson Speranza:** I was trying to figure out what word would fit in there.

**Boardmember Alligood:** What was I saying? It makes no sense. “*Incentivized*” makes sense.

**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 February 19, 2009 were approved as amended.**

### III. New Business

**1. Public Hearing. Accessory Apartment Renewal. Ramona Grey Harris, et. al.; 114 Pinecrest Drive; (Sheet 1/ /Parcel 43 ). No Waiver required.**

**Chairperson Speranza:** The next order of business, we have a couple of public hearings for accessory apartment renewals. So we’ll open the public hearing on both applications, hear testimony, and then close the hearing and act on both of them.

Angie, would you walk us through this?

**Village Planner Witkowski:** The applicant is Ramona Grey Harris, et. al., 115 Pinecrest Drive. There is no waiver required. The property’s on the west side of the southernmost end of Pinecrest Drive in the R-10 zoning district. The applicant is requesting renewal of accessory apartment approval.

The 900 square foot apartment occupies 7% of the 12,360 square foot residence; therefore the apartment is less 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 only action required is renewal of the accessory apartment approval, as the property complies with parking and floor area limit requirements.

**Chairperson Speranza:** Is there anyone here who wishes to speak to the application? Just state your name.

**Maurice Grey:** I’m here on behalf of Ramona Grey Harris to answer any questions.

**2. Public Hearing. Accessory Apartment Renewal. Nicholas and Deborah Frascone; 331 Warburton Avenue; (Sheet 4 / /Parcel 42). Waiver required for Square Footage.**

**Chairperson Speranza:** The next application is for an accessory apartment for 331 Warburton Avenue. This is one of our affordable houses.

**Village Planner Witkowski:** Yes, Nick Frascone. It's 331 Warburton Avenue. A waiver is required for square footage.

That property's on the west side of Warburton Avenue in the R-10 zoning district. The applicant is requesting accessory apartment approval. The 675 square foot apartment occupies 33% of the 2,025 square foot residence. Therefore, the apartment exceeds the 25% of the house's total floor area limit by 8.3%. The driveway provides adequate on-site parking for both units. There have been no substantial changes to the property, and no complaints during the last three years. Actions required are renewal of the accessory apartment approval and a waiver for excess over 25% of floor area limitation.

Nick Frascone's not here tonight.

**Chairperson Speranza:** Being that it's a public hearing, let me ask if there is anyone here who wishes to speak to the renewal of the accessory apartment application for 331 Warburton Avenue. Let the record show that there is no one here to speak on the application.

The public hearing is closed. Comments, questions from the Board on either of the applications?

**Boardmember Wertz:** They both look fine to me.

**Chairperson Speranza:** Does that mean you would like to move one of them, or one and then the other?

**On MOTION of Boardmember Wertz, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to approve the application for the accessory apartment at 114 Pinecrest Drive, no waivers required.**

**On MOTION of Boardmember Wertz, SECONDED by Boardmember Logan with a voice vote of all in favor, the Board resolved to approve the accessory apartment application for 331 Warburton Avenue, with a waiver required for square footage.**

**Chairperson Speranza:** Thank you. Everything's fine.

**Boardmember Cameron:** You can *stay*.

#### IV. Old Business

None

#### V. Discussion

## 1. Fences - Retaining Walls

**Chairperson Speranza:** I'm really glad that as we went through the minutes, no one made any changes to the work that we were going to be doing for this week. What I'd like to do is take things in order as we have been speaking about them and what's shown on the agenda. Except there is one thing off. Retaining walls is on here, but we were also going to be speaking about fences.

If you recall, one of the things that each of us was to do was to look at our ordinance, look at the samples of ordinances, and determine the things that were most important to us with respect to -- I'll just say -- "regulation." Regulation being maybe we don't need to regulate it, or maybe we need to regulate things a little more, or maybe we need *real* regulations.

Let's start with . . . I did not do a writeup, but Jamie did, Eva did. Eva, would you like to go through what you've provided for us?

**Boardmember Alligood:** Should we do it that way, or should we go through, as maybe a framework, item-by-item talk about fences, and then retaining walls?

**Chairperson Speranza:** Oh, definitely. That's exactly what I was trying to say. First, start with the fences.

**Boardmember Alligood:** Just use the structure of my comments, and then not move right on to the next one but have a discussion running through all of mine.

**Chairperson Speranza:** No, I'm sorry. As pertains to each of the topics.

**Boardmember Alligood:** Maybe Jamie could coordinate how we do it because he laid it out in a similar manner. So we could start with fences. I just put it under a larger question because you had suggested that we put a framework around it. The first question is, do we think our code should be revised to provide for the regulation of the following.

Fences is the first one. My comment was, I do think there should be some administrative review of fences by the Building Inspector through the requirement of a building permit application, which we don't have right now. But it's not that uncommon in other villages. Actually, I've heard architects comment that it's unusual that we don't have a permit required for fences in Hastings. I think the purpose of the review would just be to make sure that we're conforming to the regulations that we do have, which don't have to be very elaborate.

But one of the things I thought about is that without any kind of review, how do we catch something that's a problem before it's already been built. For instance, even with the code the way it is now we have a restriction on obstructing views at the corner. So if you have a corner lot, you don't want to have a fence or shrubs or anything restricting visibility for

traffic. How does the Building Inspector catch that before someone even unknowingly just puts one up? And then by the time they've invested the money it's uncomfortable for the Village to say you've got to take it down, especially if they put it up thinking, "Oh, this'll keep my kids safe," or they haven't thought of the other issues.

So I think it even protects the investment of the homeowner if we have some sort of review where they go the Village and say, "I want to make sure I conform to your codes." And it could be a very simple matter. Right now, the other comment I had was that fences cannot be higher than 6-1/2 feet without special approval. We already have somebody on our planning board who said they got the approval. But it's good to just have that process in place. And as long as we don't make it so restrictive that we never make exceptions, I don't think it's something that should come to the Planning Board. Certainly it should really be under the Building Inspector.

Then the only other suggestion I made is that I think we should reduce the allowable height for fences in the front yard to 4 feet; again, unless special approval is sought. I can think of, actually, one case where a fence is higher in the front yard and it looks pretty good, and it's not out of character with the rest of the street. Again, I don't think we should be categorical, but I guess, in principle, there are places where it is a problem and it'd be good to have some way to have a conversation with the homeowner before they put it in.

**Boardmember Dale:** If you restrict it to 4 feet, but you're not uncomfortable with 6-1/2 feet in the proper context, how does the Building Department make that determination that it's okay? Do you give them guidelines of some sort?

**Boardmember Alligood:** That's a good question.

**Boardmember Dale:** The intent is to eliminate the abuses.

**Boardmember Alligood:** Right. The subjective.

**Boardmember Dale:** But yet you may be blocking everything from happening because he or she doesn't really have a basis.

**Boardmember Alligood:** I struggled with that because we had talked about aesthetics and, for instance, do we want to specify what kind of materials. Because some of us would prefer not to see 6-foot high, shiny, plastic, white fences. But I actually backed away from saying. . . I didn't specify in my thoughts what materials should be used, although we have discretion, of course, in site plan and subdivision review. But single-family homes, I guess the measure I would say is that if you had neighbors complain. I don't know. I'm open to suggestion.

**Boardmember Dale:** The neighbors aren't going to complain until after the fact. So you could require neighbor approval.

**Boardmember Dandridge:** But doesn't it seem that there are two different avenues here? One is the aesthetic, which is what I think you're sort of getting to and which we really don't have a lot of say in. But isn't the other one the whole issue of line of sight, and if it's a

particular type of material on the front yard where it may pose a traffic hazard because it's hard to see around depending on where it's located? That might be a different area where the subjectivity involved with respect to aesthetics is less the issue, and more someone who's an inspector, in his or her expert judgment, can look and say, "Well, wait a minute. We need to take a closer look at this. We might need a different type of material.

**Chairperson Speranza:** And I do think our code right now does prohibit them at the corner, on a corner lot.

**Boardmember Dale:** It requires a setback.

**Boardmember Alligood:** When you said that, Ed, I was thinking, well, that problem only exists on corners. But then I was thinking that actually it doesn't. Because when you're coming out of your driveway it is very dangerous. And even with hedges that could be a problem.

**Boardmember Dandridge:** It's a dual thing; not only for the person moving in and out, but people moving with speed on a major thoroughfare who are not going to see you until you actually clear your fence.

**Boardmember Alligood:** Or people walking down the sidewalk. You can't see them. Come to think of it, I have that issue on my street.

**Boardmember Cameron:** A lot of the ones we looked at don't allow you to have more than 4 feet in your requested front yard, which is a very easy way of doing it. I think we have to think of what's the rationale for needing a 6-1/2 foot fence in the front of your property. I think if you go through the town you'll find that 99.5% of the people do not have a 6-1/2 fence in their front yard. And that 4 feet is more than enough to keep the dog in and things of that nature, or keep the kids from running across the street. Because that's actually the height of our swimming pool fence.

**Chairperson Speranza:** But what about people walking in, or looking into, the yard? I was trying to think of that. Why would you want something that high?

**Boardmember Alligood:** Most people want it for privacy.

**Boardmember Dale:** There's a house on our corner of High and Broadway that, in the front, has no fence -- nothing blocking it -- but on the side it has something quite tall because they use the backyard.

**Boardmember Cameron:** So I would suggest that we think of nothing over 4 feet in the front yard, in the required front yard, but, in the back 6-1/2's just fine. And sometimes maybe even 8 if the condition . . . actually we got approval for, where they had fluorescent lights in the commercial district next to us.

**Boardmember Dale:** So you don't want to see them.

**Chairperson Speranza:** And then you go for a variance. You can always go for a variance to make the case that the lights are shining into your front yard and you want a 6-1/2 foot fence.

**Boardmember Alligood:** Then that would address the same issue. I was trying to put some

flexibility into it. There may be a legitimate reason why somebody wants a higher fence in the front yard. And it may be, for instance, there is a house that is not at an intersection, but a place where people's headlights always shine into their home; if they're at the bottom of a hill, and the cars coming down always shine . . .

**Boardmember Dale:** Cars coming up.

**Boardmember Alligood:** I think that's a hardship you could explain. I guess if you have to go to the Zoning Board you could explain it. I think most people would be sympathetic to that hardship.

**Boardmember Dale:** Is it the Zoning Board, or is it just something that the Building Inspector can do?

**Boardmember Alligood:** Well, when you said zoning, how does it work?

**Boardmember Cameron:** If there's a variance he goes to the Zoning Board.

**Village Attorney Stecich:** It's a variance. I wouldn't give it to the Building Inspector. But what you could do is say it can only be 4 feet except by approval of the Planning Board. You could make it either board. If it's a discretionary thing it's better off being done by one of the boards. You could write in if you didn't say anything it would go to the Zoning Board for a variance because it's a zoning code requirement. There are not too many instances in the code, but here and there there are instances, where the Planning Board can grant [off-mic] approval. So you could write it down [off-mic].

**Chairperson Speranza:** If it's an administrative action -- particularly for a single-family home, where somebody wants to put up the fence on their property -- I really don't see any reason why it should come to the Planning Board.

**Boardmember Cameron:** Right. No, I agree. The only time it should come to the Planning Board is if we're already doing site approval or it's a subdivision. Otherwise, I agree -- Building Inspector.

**Village Attorney Stecich:** [off-mic]

**Chairperson Speranza:** No, that's what I'm saying.

**Boardmember Cameron:** Oh, no. I said "variance," and that has to go. I think the Zoning Board.

**Chairperson Speranza:** For a single-family home.

**Boardmember Cameron:** Right. If it's over 4 feet.

**Village Attorney Stecich:** Just to put this in context, when we were making the changes -- I guess it was less than a year ago, all the changes about what's a structure and not a structure -- I had brought up fences. At that time, you said, nah, it shouldn't be a structure. And being a structure, it would have required a building permit. That was the only significance. So all we would have to do is just cross out that part about a fence isn't a structure, because by the definition it is.

**Boardmember Alligood:** But it should be a structure. You know, you could put barbed wire or, you know, you could put something up that's dangerous . . . just because it hasn't happened doesn't mean it couldn't happen.

**Chairperson Speranza:** I want to go to our favorite village on Long Island, Plandome. And do you know there's a Plandome Heights and a Plandome Manor?

**Village Attorney Stecich:** Yes, because I went on Google, and there were six houses in each.

**Chairperson Speranza:** Twelve-hundred people in Plandome, the last census.

**Village Attorney Stecich:** Including the "Heights" and the "Manor."

**Chairperson Speranza:** No, just Plandome.

All right, from their code -- and I like the way that they've structured it -- they have . . . the section on "Fence Has A Purpose," it says very specifically: "*A building permit shall be required to erect any fence. All fencing must be contained within the confines of the owner's property. Fences may be constructed in front yards, provided that the fence is no greater than 4 feet. Prior to the placement of any fill*" -- mind you, which gets to our other subject -- "*and is either located on a property line adjacent to an existing improved driveway or it's constructed so that at least 50% of the surface area of the fence is open space and allows visibility through the fence.*"

So I think that goes to address some of the backing out of your driveway, as well; that you want it to be visible. And the: "*Fences can be constructed in a side or rear yard*" -- although theirs says no more than 4 feet in height.

**Village Attorney Stecich:** You can just change that.

**Chairperson Speranza:** "*When a fence is erected, the finished side of such fence shall face the adjacent property, including the village street.*"

When I reread this, and went through the minutes from our last meeting, I thought, well, things do seem to be here except the 4-foot maximum. Six-and-a-half feet would seem to make sense. I think, Eva, it addresses what you've got in here. Jamie, how does that work for what you've summed up here?

**Boardmember Cameron:** I have the same 4 feet. I have it at 4 feet in the required yard. They have that indirectly, don't they?

**Chairperson Speranza:** They say 4 feet anywhere.

**Boardmember Wertz:** So we can change that, and it would fit with what you said. I think all the bases are covered there, Patty.

**Village Attorney Stecich:** No. Jamie's got the thing about no chain link fence. That's a different thing.

**Boardmember Cameron:** Well, we'll get down to that. So I have "*finished side facing out.*" They have that.

**Village Attorney Stecich:** Right.

**Boardmember Cameron:** "*Safety, visibility, restrictions on fence heights in corner lots.*"



**Village Attorney Stecich:** That's already in our code.

**Chairperson Speranza:** Right. Which we have.

**Boardmember Cameron:** Now, I have 8 feet in the business district, which they don't give you. We come to that later, if you want to do that. I have: "*Fences and buildings are included, but you can put a 4-foot high fence along a percentage open.*" In other words, we have this issue with people building fences on top of their buildings where they have a patio up there. I did go and check. I even pointed one out to Angie because I ran into her in the Village. It's very amusing: they have fences so it's solid on two sides in the back, and it's open on the front looking over the river.

So that shouldn't be, anyway, or maybe it should. I don't know. But if we say it's included in building height restrictions, then I think we solve our issue. But we say they could have a 4-foot high one. I put down 90%. Maybe that's not the right number, but you really want it to be quite open. Allow people with patios at the top of their building to have an open fence for safety reasons, but not to obstruct views or constitute . . . you're looking puzzled at me, but . . .

**Village Attorney Stecich:** No. I'm not getting it, but keep going and maybe I will.

**Boardmember Cameron:** The issue is, someone has a rooftop garden, and they . . .

**Village Attorney Stecich:** But does it matter to you whether the building is maximum, or not? Let's say it's a 35-foot height, and their building is 25 feet high.

**Boardmember Cameron:** I think they could put a solid one up at that point, subject to view restrictions.

**Village Attorney Stecich:** So you're saying only if they're over the height. The fence is going to bring them over the height; the fence gets included in the height.

**Boardmember Cameron:** I try to give them permission to put up a fence as long as it's 90% -- or you can pick the number -- open, even if it would exceed the height. Because where we have somebody who has a maximum-height building, and they want to use the top as a patio, I want to give them a chance to not fall off.

**Boardmember Dale:** But you're also allowing them to exceed the height.

**Boardmember Cameron:** But something that's 90% open.

**Boardmember Dale:** That's 90%.

**Village Attorney Stecich:** Then let them build the building 25 feet high.

**Boardmember Cameron:** The buildings are already there.

**Boardmember Dale:** I don't disagree. I think being able to use rooftop space as long as you're not obstructing somebody else's views . . .

**Chairperson Speranza:** Should there be a setback.

**Boardmember Dale:** I would also bring forth to you the restrictions in the CC and MR-C districts, which we labored over this last year. You'll have people building like that. We did that to encourage them to have patios, and now we're telling them, "Step back, guys. You can't go up that roof."

**Chairperson Speranza:** But should the fences, in a case like that, be set back from the edge of the building so that it doesn't seem, then, to be . . .

**Boardmember Cameron:** I put down 90% open, and I don't think you're going to see that very much, you know, if you're down 40 feet and you're looking at it. But we could also have a setback. I hadn't planned on that.

**Village Attorney Stecich:** Would that happen in other than multi-family buildings, do you think?

**Boardmember Cameron:** I think anybody who has a building and wants to go up on the roof, and has kids, is not going to have . . .

**Boardmember Dale:** If you have a flat roof, and it had an easy access to it. The problem is that you're not likely to have easy access to it -- particularly if it's the top of a building -- even if it is a flat roof. And your terrace, you're going to go from this piece out onto the flat.

**Boardmember Cameron:** I can give you three buildings that have that that were constructed in the last 10 years in this town and have these fences on them.

**Chairperson Speranza:** Now, are they fences, or are they railings? It doesn't matter.

**Boardmember Cameron:** They are railings on the river side and fences on the other three sides, the best I can tell. I haven't gone with a pair of binoculars. I'm trying to be practical. If the person does have access to the roof, and they want to use the flat top for safety reasons . . . and I got this, a bit, out of the fact that, as you'll see later on, which we will get down to, where people talk about retaining walls. They exclude from the height of a retaining wall a 4-foot high cast iron fence put on top of the retaining wall.

**Boardmember Dale:** For protection.

**Boardmember Cameron:** For protection from the other direction.

**Boardmember Dale:** For safety; I saw that, too.

**Chairperson Speranza:** We were doing really well until that one, so maybe we have to talk some more about that.

And then chain link fences. Now, if you're going to have something that's visible -- and I don't know that much about fencing materials -- you have chain, you've mentioned cast iron. What other alternatives do you have that provide that much visibility?

**Village Attorney Stecich:** Picket fence?

[crosstalk]

**Boardmember Dale:** A chain link fence provides the most visibility.

**Chairperson Speranza:** Right, exactly. What about if somebody's backing out of their driveway and there's a fence there? I mean, that's what I'm thinking, if you want the visibility.

**Boardmember Cameron:** I just don't think chain link fence is the most attractive.

**Chairperson Speranza:** Neither do I.

**Boardmember Cameron:** So maybe we better do a little research on fences that are inexpensive and open.

**Boardmember Dale:** Then you get into the whole issue of aesthetics and how much we can mandate through the code.

**Chairperson Speranza:** Right. That's kind of my concern, too.

**Boardmember Dale:** The aesthetic question: how much can you mandate through a code to say that's all you can do -- I want only natural materials.

**Boardmember Cameron:** I was going to go and take a look at the price of an 8-foot long, 4-foot high piece of cast iron fencing just to see how much it really costs, and compare it to chain link or aluminum -- narrow aluminum, you may find it's not that expensive nowadays. I just threw in aluminum.

**Boardmember Logan:** It is going to be orders of magnitude more expensive for cast iron than chain link.

**Boardmember Cameron:** Right.

**Boardmember Dale:** A significant change, the difference.

**Boardmember Logan:** I've been fairly quiet here because I don't have strong feelings either way. But I am a little concerned about cooking up new laws based on sort of our feelings and our aesthetic judgments. I think we have to have a purpose for this law. We can't just go around willy-nilly creating new laws because we have some aesthetic feelings, and I have some aesthetic feelings as strong as any of you. I think, as part of this, we have to state what is the purpose of this. If we had a rash of accidents because people have been backing out of their driveways, if we had collisions at corner intersections because of high fences, I think we're already covered with that because the code has a corner language in there.

You know, I just don't see this as an issue that we should be spending a whole lot of time on unless we can identify a purpose here and what is driving this. I don't like some of the fences. I know the one on Euclid is out of character. Should people have the right to some privacy, is 6-foot-6 really that catastrophic for the Village. I frankly just can't get worked up about it unless somebody tells me that there's a real need for this and that we're endangering the citizens of this Village because we don't have this law.

**Boardmember Cameron:** Well, I'm not sure we're talking . . .

**Boardmember Logan:** Maybe we can present some need language for this, but I think it's important that we do. Any kind of new piece of legislation or amendment, we should point to a reason why we're doing this and it's not just because some of us like this type of fence and others don't.

**Boardmember Alligood:** Well, I think one reason to at least require a building permit is the point I made earlier, which is that even with the few exceptions that we have now there's

really no way to catch an error before it's already happened. And I have an example of one that's an existing condition that has not been addressed and it's very dangerous. I don't think we can measure danger based on whether an accident has happened yet, or not. We can assess whether an intersection is dangerous because you have zero visibility.

**Boardmember Logan:** Yes, but isn't that already addressed?

**Boardmember Alligood:** No. Because in this case that I'm thinking of, the fence is there, it's been there for a long time. And I think if there were a requirement that you had to go to the Village and find out what the requirements are before you put up the fence, then I think that condition would not exist. I wouldn't have the heart to go to this family and say please take it down now that it's there, but it shouldn't be there. It's a traffic hazard that has been discussed at length in many settings in this Village, but nobody's doing anything about it because it's already there. And nobody wants to ask somebody to take down what they've already put there.

So that, to me, is a very concrete situation that we could address just by having that one requirement.

**Chairperson Speranza:** To go to the Building Inspector.

**Boardmember Alligood:** Yes.

**Chairperson Speranza:** So people have to know that.

**Boardmember Alligood:** But I agree with you, Bill. That's why I said, when I was putting my points down -- when I got to the part about aesthetics and materials -- I didn't feel comfortable putting that in the language. Even though I might have personal feelings about what looks good, I don't think we should be specifying that.

**Chairperson Speranza:** And I think we ended up on fences because we started out on steep slopes and dodged the question of retaining walls. We have to talk about that another time. We ended up, then, talking about walls, and are here now at fences.

**Boardmember Logan:** The other thing that comes up -- I think I mentioned this last time -- when is a hedge a fence and when is it not.

**Chairperson Speranza:** Right.

**Boardmember Alligood:** Well, I put in my memo I didn't think we should regulate hedges.

**Boardmember Dale:** They don't listen anyhow.

**Chairperson Speranza:** So we've got a couple of things. And we may, in the end, decide we don't want to go down this path. But I think we can try putting something together, Marianne? Just draft something for us for the next meeting?

**Boardmember Alligood:** Or should we take a vote?

**Village Attorney Stecich:** I don't know that you have agreement. I mean, there are a few issues here.

**Chairperson Speranza:** No. I'm just talking progress now; I'm not talking about everything.

**Village Attorney Stecich:** No. It's easy to write something up, but I see agreement on a

couple of things and not on everything. That's why I need to know what there's a consensus on.

**Chairperson Speranza:** But let me carry the thought through in terms of how we could progress. Something could be drafted -- and, yes, you're right, we have to go through everything, what specifically we want drafted -- and next time cross things out or, hopefully the last time, add anything. And then make a decision whether or not it's a substantive enough issue to move it into the code.

**Boardmember Dale:** We can decide whether we actually think we need to have something, as you said. I mean, I agree very strongly with what Bill just said. And I also don't think you should legislate based on a single example.

[crosstalk]

**Boardmember Dale:** There are abuses to this. They happen, but we don't make laws . . .

**Boardmember Logan:** We could do some diligence, and say the reason we're doing this law is because of these six situations: here's one, here's one, here's one, here's a photograph. This is changing the character of our Village, we don't want things to go in this way, we don't want there to be an enclosed set of houses that are sort of ignoring their neighbors, and there's a purpose behind it. But I think we have to do the foundation work to justify this change in our laws. Maybe it's there.

**Boardmember Cameron:** I think it would be fair to say that you had about 30 or 40 homeowners very upset on the street when someone put out the 6-1/2 foot front fence on their property. And it was a thing of great controversy, and if we want to get an audience here of a decent size -- we could just go up and down and knock on doors on that street -- and they would all show up. They were truly furious.

**Boardmember Logan:** Okay.

**Boardmember Cameron:** So I think you have an issue. It's just that most people have not actually gone and done that. Okay? And I don't see anything wrong with a 4-foot fence. I understand your concern about a chain link fence and, fine, we'll back off that one. But I think the other ones we've gone through, I thought we had basic feelings that's what we wanted to do, or at least would like to see a draft and think about it.

**Village Attorney Stecich:** You know, I spoke with Deven this afternoon because I asked Deven to look at the fences, walls, and excavation law just to see what thoughts he had on them. And I asked him about the fence that you've been referring to. He said apparently there were some people up in arms about it. Deven's position is, "There's nothing I can do. There's nothing in the code." So it isn't that the Village hasn't been faced with it. I was frankly surprised that nobody came to the Board of Trustees or this board or some board that could do something about it, but they did come to the Village about it.

**Boardmember Wertz:** I buy Eva's argument that it's good to think ahead and be proactive about this. There are safety issues involved. I think there are some aesthetic issues involved.

I like the idea of having to apply for a permit, having the Building Inspector review it.

I sensed a fairly decent consensus that 4 feet is enough. If someone wants to have a higher fence, they could apply for a variance if they've got good reason. I don't see any problem with this. I think we've seen a number of other villages have codes like this, and they must think that they're worth having. And if we have a few examples of where it could have benefited us, I don't see it as too onerous on homeowners or on our Building Inspector to be reviewing these things. So I would be for it.

I think the Plandome pattern, as Patty suggested, is a perfectly fine one. It covers the main points of both Eva and Jamie. And whether or not we wanted to get into the fine grain issues of fences on roofs, or we want to get into the aesthetics of chain link or not, I think those are issues that are too over-regulative. But that the basic pattern of the Plandome code works for us, with the modification of the 6-1/2 feet for the side- or backyard. Go with the 4, and it looks good to me. I would go for that.

**Boardmember Cameron:** Actually, my suggestion of a fence on a roof is the reverse: it's giving someone permission to do something they would otherwise have to go and get a variance for.

**Boardmember Wertz:** But I'd like to get this set first, and then we could argue over the roofs. The question is how much consensus we have over the major issues. Let's do that first, then do the exceptions.

**Boardmember Alligood:** I agree. And if the majority of this board really feels this is going too far with regulation, I can live with that. I just want us to kind of read that now before we spend a lot of time drafting something. Because I think we might as well be done tonight if there's a majority that doesn't want to go forward with it.

**Boardmember Dale:** I think that was the point that was made before also; that we need some agreement before you can do any drafting.

**Village Attorney Stecich:** I guess I heard four people.

**Chairperson Speranza:** And I'm on the fence.

**Boardmember Wertz:** You're the swing vote.

**Chairperson Speranza:** I think there should be something done, but I don't want it to be overregulated at all. I don't see any reason, though . . . I think that a fence should be considered a structure; I think there are enough ramifications for it not to be at least to go to the Building Department so they know what the rules are. So that you don't end up with something at the corner and impacting visibility.

I do have a problem, very much so, with this whole idea of what the material should be. I don't like chain link fences. There have been fences in the Village that have just been horrendous. But I am concerned about, again, going too far with this with respect to the aesthetics. I would rather let the property owners calculate in the height of a fence for their

terraces on the tops of the buildings.

**Boardmember Cameron:** What do you mean by “counted in?”

**Chairperson Speranza:** Into the building height. So that if the maximum height is 35 feet, let them know that they can only build 31 feet and then you’ve got a 4-foot high fence. Let them start there, or come back for a variance.

**Boardmember Cameron:** You just lowered all the heights of all the buildings in the CC and MR-C district by 4 feet.

**Chairperson Speranza:** I don’t think we should pass a law to fix something that’s -- already in existence -- done improperly. But the new buildings that are going up, people should take that into account or they get a variance for a fence on top of the roof.

**Boardmember Wertz:** But the first issue is, do we need regulation. Do we want the Building Inspector to even look at this. And if we have a majority of the Board that wants that, then that’s the first piece in place. Then we go to the next level of what do we want to specify in the code. But if we really have a majority of the Board that doesn’t want this regulated at all, then we don’t even have to discuss anything else.

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

**Boardmember Logan:** One thing about the rooftop. By code, for an occupied roof, you have to have a balustrade, which is 42 inches. You have to have it, or otherwise you can’t occupy that thing. It has to have stanchions that are spaced no more than 4 inches apart so a kid can’t fall through it. But that’s inherently a transparent item, and it allows people to use their roofs.

**Boardmember Dale:** But it could also be a solid parapet.

**Boardmember Logan:** It *could* be a solid parapet and will fulfill the safety requirements.

**Boardmember Dale:** But then you have the problem of visibility.

**Boardmember Cameron:** We could define a cast iron fence as not open structure.

**Boardmember Logan:** Ninety-percent open would probably address the concern about fulfilling the safety requirements without creating a visual obstruction. So there’s another spin on it.

**Chairperson Speranza:** But as far as working on this, incorporating a section in our zoning code with respect to the regulation of fences.

**Boardmember Logan:** I guess I feel I would go as far as saying you could consider it a structure and refer it to the Building Inspector, but I’m afraid it’s overreaching a little bit when we start to play around with language that has been in our code for God knows when -- since, you know, the flood. How long have we had a code, you know? This 6-foot-6 thing has been there forever; it’s part of our Village . . .

**Boardmember Dale:** We’ve talked about manufacturers who make these things at 6-1/2 feet intentionally.

**Chairperson Speranza:** Very standard.

**Boardmember Cameron:** But they also make them at 4 feet intentionally, too.

**Boardmember Dandridge:** Thank you, Eva, for the time you put in the memo. I find it to

be instructive in sort of guiding us.

I would like to take the issue of terrazzos in the roof and move that separate. I'm sure where Fred is: let's see if we can get to something that's sort of foundational and move from there. I, like most people here, sort of have a visceral reaction to overregulation, but I do think we're at the level where there might be a justifiable safety concern that would warrant that. Although I would also argue that we need to stay as far away from the aesthetic issue as possible. But then I could argue the other side, and sort of say that, you know, if you've ever seen an old chain link fence that is clearly a safety hazard, as well. So I just throw that in as an aside.

But I think we can start with something in the way of language to look at that starts with, yes, we recognize it as a structure; we're not going to delve into any areas other than safety; and leave it at that.

**Boardmember Logan:** I think even if you talk about safety, you have to reference the standard of why having a 6-foot-6 fence that's not in the corner is a safety issue.

**Boardmember Dandridge:** But I think that's when we get into experimenting with language and trying to work out something that might ultimately end up in the code. We can kind of get to that level of detail in a subsequent session, but I think if we're trying to sort of get it down now, without actually having a drafting session or something to react to, it's going to be kind of difficult. I think what we're trying to do now is just directionally reach some consensus on where we think we might want to play with some language further.

**Chairperson Speranza:** I want to make sure Marianne has enough to actually do a draft for us, to then look at and react to, rather than elements from Harrison and Plandome and our own code.

You raise a good issue, Bill, with respect to what's already covered under code. Swimming pool fences, I know, is part of the building code. Right? You have to do that, we don't have to worry about that. And this rooftop . . .

**Boardmember Logan:** Rooftop, if it's an occupied roof, has to have a balustrade around the perimeter.

**Chairperson Speranza:** Okay. Is there anything else?

**Boardmember Logan:** And we have the language already about corner lots having visibility.

**Boardmember Alligood:** Can I just offer a perspective on this question of whether we see it only as a safety issue and that's why we put it in the code? I actually think we have a strange exception in that it is a structure and we don't call it a structure. We have regulations in our code about what is allowed in your required yards. So everything else that you place in your front yard or your side yard is regulated by the fact that it's in the code. In a sense, we have this nonconforming definition in our code. We've exempted fences from the same



requirements we have for other structures.

There are reasons why we don't want people to put things in their structures -- in their side yards and their rear yards and their front yards. So by that same logic we can say we want to put some restrictions on fences in those yards. See what I'm saying?

**Chairperson Speranza:** Yes.

**Boardmember Alligood:** So it's not just a safety issue. Whatever that logic is that we have, for the other things that are defined as structures and they can't be in your required yards, we could apply it.

**Boardmember Dale:** But the other structures all have different functions. Fences have one function. It's a barrier in a space. And the only issue that it raises is that we do not want it to fall down, So that's a safety issue. We want to be able to see through it to the extent that it's necessary for traffic possibilities and access. When we talk about playthings or other things people put in their backyards, they have other functions and impede other things -- such as drainage and other issues -- that the fence, for the most part, is exempt from.

I go back to the point you made in your earlier presentation: that it should be the Building Inspector's decision, the Building Department's decision. Now, you require an application, and in reviewing that application the determination is made does it meet the safety issues, does it meet structural issues of being anchored and all of that. And that it doesn't impede drainage on the property; that water is not going to puddle there or puddle on the other side, depending on the slope of the land. It can cause some other problems. Other than that, I don't see that any of it rises to Bill's concern about having a purpose. That's what fences do.

**Boardmember Alligood:** I've never thought of it this way before, but what is the purpose of our restrictions on the other structures that we don't like.

**Boardmember Dale:** You have to take it structure by structure. You can't just generalize the structure.

**Chairperson Speranza:** Say, your garage. You have a garage.

**Boardmember Alligood:** That's something that's . . . we have that problem in our yard, that we wanted to make renovations to our detached garage. And we ran into problems because it was built up to the property line. But what is the logic of that? Why is it a problem to have your garage . . . it's actually logical in terms of using the space.

**Chairperson Speranza:** For you.

**Boardmember Alligood:** Yes.

**Chairperson Speranza:** Except it's that much closer to your neighbors.

**Boardmember Alligood:** So the same reason why he would have a concern about having the fence. Why is the fence different from having the garage there?

**Chairperson Speranza:** Let's go back to the reason people have fences, just to keep . . .

[crosstalk]

. . . from going up to your property and grazing on your land.

**Boardmember Cameron:** Well, the cows.

**Chairperson Speranza:** And then it becomes a privacy . . .

**Boardmember Cameron:** And that was just a split rail, by the way.

**Chairperson Speranza:** It's a demarcation of properties. A fence is privacy, safety, and also . . . don't let your dog come over onto this property, get him off my property. That's the other thing that I see on this. There may be people who are thrilled that the neighbors put up a fence, or they put up a fence on their own property so they don't have to look at the mess in their neighbor's yard.

**Boardmember Alligood:** I guess what I'm saying is that it isn't that illogical in terms of fitting with the other things that we've already regulated in our yards.

**Village Attorney Stecich:** Like you're saying no paving in the front yard, and that had nothing to do with drainage. It's because it looks horrible. And that's why they say no paving in the front yard. That's why the change came in. So there are things that aren't necessarily aesthetic.

**Boardmember Dale:** Well, we talked about having to have permeable surfaces.

**Village Attorney Stecich:** No. But I'm telling you, that was put in there long before anybody worried about drainage. And you still could be within the square footage. I think somebody saw someplace in Ardsley that a whole . . . and, actually, it's along Ashford Avenue, where it's all paved. They don't like it, so no paving in the front yard. So I'm not saying whether this is good or bad, but there are things in the code.

**Boardmember Alligood:** Precedent.

**Village Attorney Stecich:** And also on there for the safety thing, I'm not sure because I've never been in the position of a building inspector. But when I was talking to Deven about this, he did seem to have a concern about the 6-foot solid fence. He seemed to be able, as a building inspector, to want to be able to see the house. He thought that there was a safety concern not being able to see a house. You have a 6-foot solid fence, the police can't see what's going on. . . in the back, there's some concern for privacy. You know, you want the kids to play or, you know, you want to sunbathe or whatever. I'm just saying that he raised the concern of it's as high as 6 feet and it's solid you can't see through it and you can't see what's going on.

**Boardmember Cameron:** Plandome.

**Boardmember Alligood:** Plandome, they have two purposes under their section for why they regulate fences. The first: "*is safety of children, protection of residents from pets.*" And the second one is to "*deter criminal activity by requiring that residential buildings, structures, and grounds be visible by limiting the height of*"-- etc. So those are the only two reasons they cite for having a fence.

**Boardmember Dale:** I got problems with that one. I got serious problems with that. That was probably written in the period of high crime during the crack epidemic or something like

that. I mean, attitudes about privacy change, as we've seen politically in the country.

**Chairperson Speranza:** The median income in Plandome is \$200,000 a year. Twelve-hundred residents, the median income.

**Boardmember Alligood:** I don't suggest that we insert that language in our code.

**Chairperson Speranza:** I agree.

**Boardmember Alligood:** It is silly. But when you're trying to look at why you would . . . no, Bill, I think that your question is very helpful. Because we should be asking why would we be doing this.

**Boardmember Logan:** I share your sentiment about hedges. I like the way they look. But saying that even the tall ones in the front yard are okay dilutes this whole argument about safety.

**Boardmember Alligood:** I'm backing off of that one. And based on this discussion, I think it has to be consistent. You're right. So if the issue is backing out of my driveway -- if somebody has either a fence or a row of high hedges that blocks my view or their view when they come out of their driveway -- it's a safety issue either way. So I actually think my logic wasn't carried through in making that point. I hesitate to regulate hedges, but it's the same issue and I see it backing out of my driveway.

**Boardmember Dale:** But you're raising an interesting question. If the safety is limited to the backing out of driveways then the limitation should be limited to that area. If you have a 100-foot front on your property and a 12-foot wide driveway, why it is the fence for the full 1,200 feet to comply.

**Chairperson Speranza:** See, I don't think it's only safety. And honestly, just knowing now that it's 9:15 and we have to wrap up the discussion at some point, sure, there are safety issues, but I think privacy is a big thing also. And I do feel that people should be able to remove themselves from their neighbors for whatever reason they may have. You know, maybe there's a problem; maybe they're not comfortable with their neighbor; maybe there is a pet situation -- you know, a cat house next to a dog. I think I'm going to stop talking for tonight.

**Boardmember Cameron:** I think what we're talking about is the ambience of a village and how it looks as you go down the street. And it certainly is a lot nicer to see, actually, the houses that people live in. And people . . . I'm sure if you asked the real estate agent as they're driving down the street which would work better for them, they would tell you the houses are more valuable if you actually could see the houses as you go down the street. I understand, if you have a large property, maybe you wanted a huge fence and don't want to see anybody. But a smaller property with a big fence in the front, I don't think is very attractive. And I don't think it adds to the economic value of the houses in this town. I understand that people may want to have it. I think it adversely affects the value of the people adjacent to it. And I think you'll see most of the codes we look at have a 4-foot limitation in the front yard.

So I'm quite happy to get rid of the chain link comment I brought up. And we figure out balustrades on the top of a building. Because I would like to give people the economic value of having a terrace on top of the building and not force them to a variance every time they want to have it.

**Boardmember Dale:** But they're not. The existing law says they can have it.

**Boardmember Cameron:** And you assume a balustrade is not a fence.

**Chairperson Speranza:** Okay, you know what? Let's leave this level of detail for the next discussion. Because otherwise all we're going to do tonight is fences.

So I think I'm hearing we're in agreement that this is something that we do want to have addressed in our zoning code. Is that what I'm hearing? Fences in general. Okay. We'll have to work on the purpose.

**Village Attorney Stecich:** You don't need a purpose. We don't have purposes for most of this stuff. Because it fits better into the code; there's sections it fits into.

**Chairperson Speranza:** I think when we take action we should be very clear about why we're doing this.

**Village Attorney Stecich:** Well, you can certainly say that I don't think it has . . . and then we're referring it to the Board of Trustees or whatever. But I don't think it has to be in the code. But right now I would be able to draft one change: that it's a structure and it needs a building permit.

**Boardmember Dale:** And it needs to be approved by the Building Department.

**Village Attorney Stecich:** By being a structure it needs to be -- that's it.

**Boardmember Cameron:** You have to put the nice face out, too.

**Village Attorney Stecich:** No, I haven't heard any agreement on that.

**Boardmember Dale:** You won't get much argument on that.

**Village Attorney Stecich:** Okay. And what about the 4 feet?

**Chairperson Speranza:** I have no problem with 4 feet in the front, and then 6-1/2 max.

**Village Attorney Stecich:** Okay, how many people want 4 feet?

**Boardmember Cameron:** Four feet in the front.

**Village Attorney Stecich:** Okay. That's how I'll draft it.

**Chairperson Speranza:** We're not going to talk about the materials or anything. What does a chain link fence look like if the wrong side's out?

**Boardmember Dale:** There is no wrong side.

**Boardmember Cameron:** No. I worded it very carefully: "dual-sided fencing."

**Boardmember Alligood:** Where do we stand on the question of hedges, and do they fit a structure definition as well?

**Chairperson Speranza:** They're not a structure.

**Village Attorney Stecich:** They're not a structure.

**Chairperson Speranza:** In my mind, a hedge is not a structure.

**Boardmember Alligood:** So we're not going to regulate. Okay, good. You all are pointing

out my inconsistency.

**Boardmember Dandridge:** Sounds good.

**Chairperson Speranza:** Oh, my goodness, we didn't even do retaining walls. Jamie, let's use your outline first for walls; retaining walls.

**Boardmember Cameron:** I said that "*walls and residential and commercial areas are subject to the same restrictions as fences.*" So basically, it's 4 feet in the front and 6-1/2 feet -- or in my case, 8 feet -- in a business district. We didn't get to that, but we can cover that later.

The one thing I did do in the next page, which you may not have seen yet, is I've said that a 2-foot retaining wall needs absolutely no approval whatsoever. There's a lot of buildings with little walls in their backyard, and I use 2 feet. If it has a different number, they have a different number. But in the back here I said that "*no approval is required for a 2-foot wall or retaining wall unless closer than 2 feet from an existing wall or fence.*" That's to stop people from 2 feet, 2 feet, 2 feet right next to each other, or some language to that sense. I just wanted to get that out of the whole thing. So if someone's piling stones in their backyard we're not going to visit.

**Chairperson Speranza:** What is "cribbing -- visible cribbing?"

**Boardmember Cameron:** We'll come to that. Why don't we do the wall part, and then we come to cribbing.

**Chairperson Speranza:** Oh, that's not part of a wall.

**Boardmember Cameron:** It's "Other Issue." Cribbing are railway ties. And that's in the aesthetic area which, I think, we've decided not to look at, at the present time.

And then just get it going I took this out of another one -- and that is, where you have a retaining wall, some of the codes have said -- and they give an example of a cow fence -- that on top of the retaining wall, the upper end, the person has permission to put on a 4-foot high fence for safety purposes. So that some kid up on their property who's up there running along above the retaining wall doesn't fall over and go straight down the hill 6-1/2 feet or two times 6-1/2 feet.

**Boardmember Dale:** You're saying that's optional.

**Boardmember Cameron:** That's optional, it's allowed. In other words, it doesn't count. In other words, even though we all know it's a fence it doesn't count as a fence as long . . . and I put 90% open. I'm no master on this; just wrote a number in. You can figure out what the number should be that somebody should be able to do.

And then I put here -- and this, I think, needs some work, but at least we get the idea across -- that "*substantially parallel retaining walls not permitted unless they are no closer than their heights as measured above.*" In other words, I sort of felt that in order to deal with this issue of people putting one wall after another -- and I spotted this in several codes --that you

shouldn't have anything more than a 45-degree angle. So if you simply state it the way I state it here . . . if you have 4-foot walls they've got to be 4 feet apart; if 6-foot walls, they've got to be 6 feet apart. Because that gives you a 45-degree angle. And anything above a 45-degree angle, in my view, looks like a single massive thing.

**Boardmember Dale:** In the Boulanger parking lot, that's two retaining walls parallel to each other. And they're only about 2 feet apart.

**Boardmember Cameron:** They're 3-1/2 feet. I went and measured them, actually.

**Boardmember Logan:** They're 6-feet-something.

**Boardmember Dale:** And aesthetically it's fine.

**Boardmember Cameron:** And that was built by someone who didn't need our permission, and so were all the ones in the corner which you brought up. They were all built by the State of New York for the Town. And those were caused -- reasons which we can try to deal with -- by the fact that the highway was there. It was probably a one-lane highway, and it became 1-1/2 lanes, and then became 4 lanes. And every time they pushed it out they couldn't move the buildings behind it and the walls got higher. Actually, the one on the west side of Farragut is actually only 6-1/2 feet high. It's only the ones around the church on the corner that are . . .

**Boardmember Dale:** They're significantly higher. One side is fairly small, and the other side is big.

**Boardmember Cameron:** They're 8-foot-6 and about 8-foot-4. I measured them.

**Boardmember Dale:** In all the pictures I've taken the only retaining wall I found objectionable was the one in the A&P parking lot, which was approved, I gather, by the planning board.

**Boardmember Cameron:** Actually, I have the comment on that. I wasn't here when it was approved, and I have no doubt that the people who approved that site plan also put in place for them a planting requirement for that, just guessing -- I think we should . . .

**Chairperson Speranza:** I'm sorry. Which one?

**Boardmember Cameron:** The A&P. And I would suggest that we get our Building Inspector to pull the file on that and see whether they actually had planted the trees and are maintaining the trees. Because I agree with you. I object to that fence on the back side. But there's a nice space there with a few half-dead shrubs and some growing shrubs there. I have a feeling that person has a requirement to have full-height trees there which, I think, would solve your problem and mine, too. So I think we need that kind of monitoring, and maybe we should ask Deven to pull the file and see what it says on site approval. Because I remember that was a long, drawn-out affair.

**Boardmember Alligood:** How high are the retaining walls in the new affordable housing project on Warburton? Those are pretty high.

**Boardmember Logan:** They're at least 15 feet higher.

**Boardmember Cameron:** But they were approved.

**Boardmember Alligood:** So we make exceptions during site plan review based on the

requirements of the site.

**Chairperson Speranza:** But there's no regulation.

**Boardmember Alligood:** Right.

**Boardmember Dale:** There's very little regulation in our code concerning retaining walls, and they clearly are a necessity of life in building in a village such as ours. So the question becomes how much restriction, how much control, do you have. Yes, in a site plan review you can even require different finishes and planting requirements and things of that sort.

But I think where this gets us into some trouble is in the steep slopes discussions we had. Now somebody is going to build a house and needs a retaining wall, and can point to a dozen retaining walls which we've just made very difficult for them to have and to take full advantage. I'm thinking of Southside, where the affordable housing may actually get a couple of pieces of property, building on those properties without retaining walls will be impossible.

**Chairperson Speranza:** Right.

**Boardmember Dale:** And they'll be significant retaining walls.

**Boardmember Cameron:** Will be part of the building, though, in that case.

**Boardmember Dale:** Restructuring the land in such a way that you can build on top of it.

**Boardmember Cameron:** I'm sure that'll happen, and that's how we'll do it. If somebody wants to put up a 10- or 12-foot retaining wall I think we need to have some sort of approval process for that. Now, they could set them back one from another. And I understand that on Southside, yes, we're going to end up with buildings there -- affordable housing and what have you -- and that'll be part of the approval of the site plan of that house, as well. I mean, we have an exception in here for walls like that which are part of the basement or part of the building.

**Boardmember Logan:** I think I agree with you, Jamie, that we need a standard. I think the standard should be derived from sort of the Village context. When we have a Village like at Five Corners, with Grace Church wall and First Reform Church wall and the Boulanger Plaza wall. Boulanger Plaza steps back. Let's say it goes up 7 feet, steps back 3-1/2; up 7, 3-1/2. That this is kind of what the Village is about. I think a 45-degree angle is for some other place, and there are so many examples of walls that are 7-, 8 feet high even. It's just really part of the context of the building.

**Boardmember Cameron:** Actually, I've driven around town and I can't find that many. I took a couple hours off and drove up and down every road I could find. You picked a corner, and I understand. And you've also picked commercial areas, and I understand that -- particularly where we try to get parking in. But I don't think, if you drive up and down the roads of the town, you're going to find it, And I drove up High Street, which I lived on for 20 years.

**Boardmember Dale:** I'm thinking of Mount Hope, but not on Mount Hope itself but on the blocks that run perpendicular to it, between the houses on those blocks. That's all a very

steep hill, and individual lands end up being terraced as a whole. The hill ends up being terraced. There are significant walls in there.

**Boardmember Logan:** And the Aqueduct. I mean, the Aqueduct's a wall that runs right through the Village.

**Boardmember Cameron:** But that was built in 1845.

**Boardmember Logan:** I know.

**Boardmember Dale:** But it's there.

**Boardmember Cameron:** I know, but it's not what we're going to expect to see built now. I mean, it was built for a particular purpose.

**Boardmember Logan:** No. But what I don't want to see is . . . of course, 422 Warburton, I think that was really necessary for that project to be feasible -- to have that corner park. We wouldn't have that corner park without that big retaining wall. And I think that's totally justified and there are things you can do to mitigate it, but I wouldn't want to see a 16-foot wall sprinkled in a different-density neighborhood. But I think 45 degrees may be a little bit severe. I would say like a 1:2 ratio or something like that: for every 2 feet you go up you have to go in 1, and no higher than, say, 7, 8 feet.

I mean, I don't disagree with you in principle. I think we're in kind of a steep place here in Hastings. And the steepness isn't really the issue, the scale I think is the issue. And I think we can address that, and leave more footprint and usable land for people to have. I mean, if you have a 45-degree -- 4 feet up, 4 feet in, 4 feet up -- you're really losing a lot of your potential lawn area and usable ground, or a park, or whatever it may be. In my opinion, it's just a matter of degree.

**Boardmember Cameron:** Certainly, we should do some calculations on that. I'm not sure there's that much property in Hastings, other than in the CC and MR-C, which is over 45 degrees. That's a very steep hill. And you do get a running start under the formula I just gave you because you get the first 6-1/2 feet right at the property line without any degrees. In other words, you're cheating in a sense; you're using land in the street to create your 45 degrees. So you can get yourself, in 6 feet of your land under this formula -- 6-1/2 feet of your land -- you can get 13 feet of height. That's what you get. That's amazing, you know, because the first 6 feet comes free from the town. So you've got 13 feet of height in the 6-1/2 feet of your land, and I would hope that would be -- in most of our cases -- more than enough. But we can all go look at it. You can ask Deven to think about it.

**Chairperson Speranza:** How often do we end up in a situation where it's a single-family home that's being built that's not coming to us for site plan approval?

**Boardmember Logan:** I can think of one, I think, in the last 10 years. There may be more.

**Chairperson Speranza:** We're either going to get them on steep slopes or we're going to get it because it's a subdivision.

**Village Attorney Stecich:** Who was the one right on the side of the Saw Mill River Road? There was one that put up a great big retaining wall.



**Chairperson Speranza:** That was steep slopes.

**Village Attorney Stecich:** No. It never came in here.

**Boardmember Alligood:** On Cliff Street?

**Village Attorney Stecich:** Yes.

**Chairperson Speranza:** Yes, I think that was steep slopes. I think that one came in as a steep slope.

**Village Attorney Stecich:** I was starting to think that probably mostly they would be here. I can't imagine the need to build such a big retaining wall unless it was a steep slope. Maybe you're getting at it that way.

**Chairperson Speranza:** Right.

**Village Attorney Stecich:** But I thought it was that house.

**Village Planner Witkowski:** We had that one from view preservation.

**Chairperson Speranza:** See, that's another angle that we get these at.

**Village Attorney Stecich:** Anything in the CC or MR-C, it's going to be here for site plan.

**Chairperson Speranza:** Right. If it needed a retaining wall that large we are probably already going to be reviewing. The other idea is that you do want to give people the parameters by which they have to develop their plan.

**Village Attorney Stecich:** The zoning, yes.

**Boardmember Cameron:** I brought up my example because I would think that we would want to regulate walls bigger than 13 feet of height, 6-1/2 feet of running space. So I think this 50/50/45 works and that was my theory; that the 45-degree actually worked because we didn't need a steeper angle.

**Chairperson Speranza:** Bruce, Ed? Anything on this? I'm not quite sure where to go with retaining walls on this now.

**Boardmember Dale:** I guess the point that I would make is that there is a necessity of building in the Village. And the question is, at what point do they get to be too tall that they need to be regulated from something beyond just the structural strength. But the impact it has on typology in the Village.

**Chairperson Speranza:** And you know what? I would like to be able to look at this more with respect to the steep slope law we just passed. Because we did put more of an emphasis in that law on how the proposed plan is supposed to be mitigating the impact of building on the steep slope. So we may have more to contribute now on allowing, or limiting, the height of the retaining wall, given the new Steep Slopes Law than we used to. Remember? Prior to that law, we were really only looking at building on steep slopes with respect to the drainage.

So the gentleman who built up in Uniontown and wanted a 10-foot high retaining wall on the property line, we were looking primarily at water issues. So we couldn't say, "No, it's only got to be 4 feet or 6 feet." I think now, with the new Steep Slopes Law, we've built in better parameters for us to make a decision yes or no.

**Boardmember Dale:** Part of the debate on structuring the Steep Slopes Law was, indirectly, the elimination of retaining walls.

**Chairperson Speranza:** Right.

**Boardmember Dale:** That was part of impetus of reviewing that law. We argued about buildings that would terrace over the property and be held up by a 15-foot retaining wall, and then it wouldn't stick out. And then it came up on the south Main Street project, also, when we looked at the back side of the garage.

**Chairperson Speranza:** Right. When it was too big.

**Boardmember Dale:** And complained that that wall was too high. And the Steep Slopes Law doesn't address . . . at least it brings both of those situations to a plan review.

So I'm not sure there are a lot of other situations, where you're going to need a retaining wall above 6 or 8 feet, or something of that nature; that that's not going to run afoul of the Steep Slopes Law.

**Boardmember Logan:** I wonder if there's a way to test that using the language we have.

**Chairperson Speranza:** You have another assignment.

**Boardmember Logan:** Oh, God.

**Chairperson Speranza:** I know. It's a busy time of year.

All right, well, why don't we try to do that over the next plan. Does anyone mind deferring this? Fred, what's your sense of this?

**Boardmember Wertz:** I think the whole issue of steep slopes and retaining walls is one thing, and we probably need to discuss that further. But the other one has to do with the functional equivalents of walls with fences in the front yard. I think maybe we could have consensus that we would include walls with fences on that 4-foot restriction in the front yard, and let that kind of hold for tonight.

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

**Village Attorney Stecich:** Wait, Fred. I'm confused. What about if it's a wall without a fence, just a wall in the front?

**Boardmember Wertz:** Yes, the wall in the front. That's what I'm talking about.

**Village Attorney Stecich:** Then it would be regulated the same as fences.

**Boardmember Wertz:** Yes. As Jamie suggested: walls in residential and commercial areas subject to the same restrictions as fences.

**Village Attorney Stecich:** So you have the 4-foot limit in the front yard. Okay.

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

**Boardmember Cameron:** And over the page, I have accepted from this 2-foot high walls. I'd be glad to accept 2-foot high fences, but I thought they were vaguely ridiculous myself.

**Boardmember Wertz:** So you're saying if it's 2 feet or less, then it doesn't even have to be submitted for a permit to the Building Inspector.

**Chairperson Speranza:** Right.

**Boardmember Wertz:** Is it then not a structure?

**Boardmember Cameron:** I have a feeling if you lie down in your backyard you're a structure.

**Village Attorney Stecich:** Right now you would have to come. It clearly is a structural wall, whether it's 2 feet or whether it's 4 feet.

**Boardmember Wertz:** So then the 2-foot designation doesn't function in any way because it's under 4 feet. So it goes before the Building Inspector anyway because it's a structure, so we don't need to address that.

**Boardmember Cameron:** I was just going to mention that I thought that I'm not saying a 2-foot wall is not a structure. I think it is a structure. I was just saying -- and we can ask Deven about this -- that maybe the person doesn't have to have a building permit for putting up a 2-foot high stone wall. Because people do go in their backyards and they push that garden a little bit and put some stones down. They're building up this little thing.

**Village Attorney Stecich:** You could say that a structure shall not include a wall. You know, when you say a structure those definitions are, in a way, fictional. You could just say a structure over . . .

**Boardmember Cameron:** Just say no building permit is required for a 2-foot high wall.

**Village Attorney Stecich:** If everybody agrees with that, that's easy to fix.

The other suggestion Deven made that I think everybody would agree on is that if a wall's over 4 feet it should be engineered.

**Chairperson Speranza:** Absolutely.

**Village Attorney Stecich:** Right now we don't have that in there. So I think that should be added, too.

**Chairperson Speranza:** All right, so we'll leave retaining walls for now and give a little more thought to it, and look at our steep slopes? All right.

## 2. Regrading and Excavation of Property

**Chairperson Speranza:** What I would like to do tonight with respect to excavation and grading . . . I was so happy with fences and walls from Plandome -- maybe we'll have to go visit there -- that I pulled up their code on excavation and fill. And it's interesting how they regulate that. They actually term that kind of a change as "alteration of the land." Marianne, you might have seen something like that in other zoning.

**Village Attorney Stecich:** I did, and that's really funny. Because when I asked Deven to look at the Pleasantville law he said that he thought that was pretty good. But he would call it changing the -- what was the language he wanted to put -- almost the same thing: modification of typography of land. So a similar thing. That's what Deven said he would call it. Without changing the substance I guess he's saying that was what it was really

driving at.

**Chairperson Speranza:** And actually, the definition of alteration of a lot does include other things that we've already talked about and have made changes to in the zoning ordinance. "*Modification of the driveway*" -- remember when we talked about that, and we said, well, no, it should go to the Building Inspector. There should be a building permit for modification of your driveway when you want to expand it. "*Regrading of land which changes existing contours of the land by more than 2 feet; placement, or removal, of more than 20 cubic yards of fill material within any 12-month period and not performed in connection with a valid building permit*": that these are simply actions that are categorized as alteration of a lot, and any alteration of a lot has to receive a building permit.

So what I'd like to do, I can send you the citation. Just take a look at it, and see if it's simple enough. Because, again, regrading and excavation, this board doesn't have a whole heck of a lot to do. If we're mostly focused on people coming in and filling in their land and changing the grade before they come in to building, well, we just notice it as something that has to go to the Building Inspector.

**Boardmember Cameron:** You said it's more than 2 feet or 20 cubic yards?

**Chairperson Speranza:** "*Regrading of land which changes existing contours of the land by more than 2 feet within 20 feet of a property line, or by more than 12 inches within 5 feet of a property line.*" That's regrading. And then there's also the next category: "*The placement or removal of more than 20 cubic yards of fill material within any 12-month period not performed in connection with a valid building permit.*"

**Boardmember Cameron:** Well, the 2 feet fits in nicely with our 2-foot wall not being a wall.

**Chairperson Speranza:** So let me send this around. Again, I don't know that we've got it, but let me hear from people if people have regrading/excavation concern. It seems to me it's primarily Deven's concern, and, "What do I do when people start to fill in their steep slopes and I can't tell them that they can't?"

**Village Attorney Stecich:** Well, just to say he has to get a building permit doesn't mean . . .

**Chairperson Speranza:** But at least he can say you have to have a building permit.

**Village Attorney Stecich:** But there are no guidelines for him -- does he give one or not give one. I mean, that's nice that they have to go, but he can't just decide. He just decides whether he wants to give a building permit?

**Boardmember Dale:** That was the point we made earlier.

**Village Attorney Stecich:** You need more than that.

**Chairperson Speranza:** But then he goes out and he sees what they're doing. And the guy says, "Well, I'm going to be building a house, I'm going to flatten the land before I submit my plans," it's very clear that no, you can't do that.

**Village Attorney Stecich:** Where does the code say you can't do that? He can only enforce either the code or state laws. He can't just say, "It doesn't make sense to me. You can't do

it.” He can only enforce regulations.

**Boardmember Dale:** But Patty’s proposing giving him those regulations.

**Village Attorney Stecich:** Pardon?

**Boardmember Dale:** Creating those regulations that say you can’t do this.

**Chairperson Speranza:** No, Angie, I do understand the difference. Okay, so somebody’s supposed to come in for the building permit, how does Deven decide whether or not to grant the building permit.

**Boardmember Dandridge:** Then he says no, they can come back on appeal.

**Village Attorney Stecich:** You need some standards. Pleasantville’s very easy, and I went through it with Deven. There were a couple of changes he suggested we work through, and he thought it worked.

**Boardmember Alligood:** I agree. That’s the one I cited as an example that I thought we could live with.

**Boardmember Wertz:** That was good, and then I thought that was a good basic structure. And then I went through Peekskill and Harrison, and I circled all the things they specified in addition, but I think it’s going too far. I think we could go through that list and see if there are any of them that we would want to include in addition. But I would be very happy not to do that in most cases, and just go with the Pleasantville.

**Boardmember Cameron:** Well, one of the problems I had with the 20 cubic yards is that you could take some property and just bring it in as top fill to plant new grass seed or something, except that we have the building permit. Because you can get 20 cubic yards very easily on an acre of land.

**Village Attorney Stecich:** Where?

**Boardmember Cameron:** Pleasantville I’m talking about.

**Chairperson Speranza:** And looking at Pleasantville again, there are definitely standards in here.

**Boardmember Wertz:** You know, all the toxic stuff is all in there, and you can’t put garbage in.

**Village Attorney Stecich:** Deven had a question about that, but they must have a big cemetery in Pleasantville or something.

**Boardmember Cameron:** Well, we have some graves on some of our properties around here. People have private graveyards.

**Village Attorney Stecich:** He thought some of those thresholds maybe didn’t make sense. He thought 6 inches was kind of a lot to go up, and he said he would like to think a little bit more about the thresholds.

The other suggestion, it was something that confused me. And I was glad it confused Deven, too. Not confuse me, but I didn’t understand why they say “no excavation at all” -- you know, just none. And Deven’s suggestion was, “Why don’t you require, if there’s going to be any excavation, that they need a permit just the same as you do for filling.” And pretty

much that was it, other than the thresholds. So if there was some consensus that this worked -- if you want it -- I could ask Deven, or work with Deven, on maybe coming up with some reasonable thresholds just to put in a draft. And then the Board could work with that.

**Boardmember Wertz:** I think that's a good idea.

**Chairperson Speranza:** I agree. Okay, that's good.

### 3. "Greening" the Code

**Boardmember Dale:** I actually have some comments.

**Chairperson Speranza:** Go ahead.

**Boardmember Dale:** Reading the code, I think we have to decide which code we're greening. And I don't know that we're greening the zoning code particularly. And that the language that's available for greening that would impact on the zoning code is really broad stuff that says if you follow the LEED descriptions of what you can do. For example, you want to build higher density where there's public transportation which, in our case, would mean increasing the density of the downtown area, after we've just done this whole process with the limits that were set, and then whether it's historic preservation that's being proposed now, setting historic limits that the Architectural Review Board is proposing.

So I don't think it's the zoning code that we're after but, rather, the building code. I did give out something that my company has just produced recently. The first one is really simple. It's what individual homeowners can do to green their houses at a very low cost, and reduce their fuel costs by a significant amount. It's just an example of the kinds of things that are being reduced in general. Peter Swiderski pointed out that Greenburgh uses the New York State building code as the general code. And they overlaid over the building code the requirement that any building that's built in the Village use Energy Star standards.

Those are relatively simple. This is something that exists. We could review it, and consider whether we want to use Energy Star standards or LEED standards, and just compose that over our existing building code. And that would accomplish a great deal. That's something that's being done in many places across the country.

**Boardmember Alligood:** Can I ask you something, Bruce? When you say "apply the LEED standards," do you mean that the applicant would have to actually file with LEED to get certified?

**Boardmember Dale:** No, he just has to follow the standards.

**Boardmember Alligood:** Because there's a big difference. There's cost involved.

**Boardmember Dale:** You don't want to mandate that somebody go through the LEED procedure because it's complicated and expensive.

**Boardmember Alligood:** I want to make sure that we're not proposing that.

**Boardmember Wertz:** The last time we discussed this there was a distinction that came out as to whether these standards are to be written into the code or whether they're to be used as a checklist, and guidelines, for us when we're reviewing site plans. I think in the Westchester planning meetings that they had earlier in the week, that some of us were at, they made the explicit point that LEED was never intended to be written into codes and that it's very much meant as a voluntary action. However, it's very informative to planning boards, to people who care about these things, to be aware of them and to demand consideration of these issues. But I think it may be going too far, again, to write them into codes.

Maybe some Energy Star designations might be worth it. But greening, if we go through the things that matter to us and keep such a list, and somehow have that as a reference frame for us, that might be sufficient -- rather than, again, this problem of overregulating.

**Boardmember Dandridge:** Actually we talked about three levels. You covered two, and then the third one -- which I sort of agreed that I would take on -- was the opportunity to look more expansively into public/private partnerships that would make funding and other tax credit incentives, public and private sector incentives, available to not just homeowners, but more importantly to builders who were coming into the town. So if we're going to have a discussion about that we could sort of build it in. But I do think we sort of agreed the focus is going to be less on sort of actually getting into the nuts and bolts of our code and try to rewrite it with a green pen, and more so coming up with things that might be voluntary opt-in in the way of best practices for homeowners and then stretch a little and look at other incentives and other programs to encourage investment and encourage what we might consider responsible, sustainable exploration of development.

**Boardmember Wertz:** That sounds right to me.

**Boardmember Dandridge:** So I did some homework, which I think I sent you guys by way of a link. And at the risk of being sort of self-defeating I also printed it out and sent it to folks as well.

**Boardmember Logan:** Did you email?

**Boardmember Dandridge:** I did. I sort of responded. I might be in your junk email because you guys probably never received an email from me. But I sent it earlier in the week.

**Boardmember Alligood:** No, I got it.

**Boardmember Dandridge:** So some of you got it, some of you didn't. Okay. I literally took Angie's list and just hit "reply to all." So it might be sitting somewhere in people's spam filter.

**Boardmember Dale:** I didn't send this out, I don't think, but I could. And the NYSERDA program, this is what's available and they do make grants. And then they do SMART loans. This is an existing New York State program that's in place. My office has done a number of loans with them. They are very difficult to work with. They keep promising to improve

their procedures and make it easier, but they do give away money.

**Boardmember Logan:** So it basically allows you to discount loans that you already have?

**Boardmember Dale:** You get a loan, and they will give you a grant that will allow you to write down the interest rate of that loan. That's one of their formulas, and there are other formulas where they actually contribute the dollars directly to the construction loan. There are a series of programs, and they run the gamut from the size of the building -- the greater the building size -- the more grant money.

**Boardmember Logan:** Patty, you circulated some stuff from Peter, I think, to everybody on the Board. He's obviously done his homework, and I don't want to speak for him. But in his preamble to some of the attachments he said that he would support some sort of a green code perhaps tied to LEED for new construction and major renovations. I think he was mentioning a standard of LEED goals. I heard what you said, Fred, too, and I was there at the same meeting about it never being intended to be written into code. But if we debate these different reference standards, I think the limitations of the Energy Star program is it only addresses energy efficiency. But we have, on our plate, I think, much broader issues that relate to sustainable sites, stormwater management, criteria for open space, habitat preservation, and Brownfields redevelopment as well as energy; environmental quality, lighting, etc. And I think it provides a broader set of references for the issues that come across our plate rather than just energy efficiency in appliances.

So I think as we're searching for reference documents we should think about ways that we can perhaps quote them in the codes and refer to them, or have benchmarks.

**Boardmember Dale:** The Energy Star thing was a simple step that we could do. That's what Greenburgh has done.

**Boardmember Logan:** They've got a score rating that they have to achieve. So that was fairly simple.

**Boardmember Dale:** We can go beyond that, as well, but I think I made the suggestion that we do the easy things -- the low-hanging fruit, as they plan -- so we accomplish that and make it clear that's the direction we're going in. Then that becomes part of the reputation of Hastings.

As we pursue other issues, I think there are probably a lot more -- as you enumerated -- that we could explore. But they're going to take time and digging, and I'd rather not put it off.

**Chairperson Speranza:** And I think you're right: what code are we amending? Well, we're not amending just the zoning code. The Comprehensive Plan Committee is doing some work in this area, is my understanding. There is the building code. Bruce, I'm sorry I had to step out while you were speaking. The Town of Greenburgh, the way they approach the Energy Star requirements, is in their building code. Did you mention that?

**Boardmember Dale:** They are related. That's what I said. It's overlaid, and their building code is the New York State building code. That's what they use, and it's the standard New



York State building code.

**Chairperson Speranza:** It simply says: *“No building permit shall be issued for any one- or two-family dwelling, or multi-family dwelling, of three stories or less unless the applicant certifies that the dwelling will meet the requirements for a New York State Energy Star-labeled home.”* Very, very simple, and it’s in their building regulations, their building code.

I think you’re right. If that’s something we wanted to recommend to the Board of Trustees, that it’s something we could do. The Village is part of ICLEC -- and I can’t remember what it stands for -- so they’ve already taken a step to participate and, quote, green the community. Part of what we’re grappling with now is what is within our purview that we could go ahead with. We’re finding something like this, and it’s fine. And I also agree, I think there are many different ways to do it -- from incentives in terms of working with the businesses, to looking at the Comprehensive Plan and the LEED standards for neighborhoods, and how we incorporate all of those.

So where do we want to go from here with this? Anyone? Just bring things to my attention. . . . let me find out first, the discussion and, Fred, I know you were at the work session Monday. Were you able to touch base with the Comprehensive Plan Committee and just get a sense of what they’re doing in this regard?

**Boardmember Wertz:** Well, they did a SWOT analysis: strengths, weaknesses, opportunities, and threats. Certainly, in that analysis the value of sustainability and going green was prominent. So it’s on their radar screen and it’s going to remain there, and I think as they interact with residents as well as the boards like ours that will remain front and foremost in their consideration. And they’re moving forward with it. I think that’s good. So the table’s set for our dialogue with them, and I think that as we specify the things that matter to us for our guidelines and our checklists they will be doing the same. And I think the collaboration back and forth, we’ll get a unified front going in the Village as far as sustainability and movement toward sustainability. So that’s good.

I think that’s all moving forward nicely. We could talk among ourselves to identify the various items that matter to us for our guidelines, for our checklist. But I think what Bruce has just been saying, though, about going with Greenburgh and at least moving with the Energy Star criteria is one thing we can do now. And then we can build further, through discussions, on what other values there are. And as Ed said, explore incentive possibility as well as guidelines. And I think one thing that came out on Monday night was just the value of communication and education. I think a lot of this is a matter of talking, educating people, making it a topic of discussion among ourselves on the Comprehensive Plan Committee and whenever a developer presents a site plan to us. I think it’s really a consciousness-raising process that will take time, and that we’re moving in the right direction with it.

But I think, then, as far as what we can do right now maybe the Energy Star lead that Greenburgh took, we could follow through on that.

**Boardmember Cameron:** Well, I certainly think we should put that on our list. And perhaps by the time we get through fences and retaining walls we can present that as a package -- as one more thing.

**Chairperson Speranza:** Right. To the Board.

**Boardmember Cameron:** I don't think we should hit the Trustees with too many little pieces. And I would also like us to see if there are other things we might want to include in it just so we don't nibble at the desk. I would also -- as I think I suggested last time -- like us to begin to think of things that developers not of single-family homes but what we call subdivisions, because they're not dividing it, we'd like them to do which they're capable of doing which may not be too much of a burden on them. Because if we were to look forward to the next 10 years we'd find the vast majority of dwellings created in Hastings will be created by those people. I mean, we have the Saw Mill River Road development, which is 54 townhouses. Start counting -- we're not going to have a lot more.

So I think we can get a lot of bang for the buck. As I think I said last time, we've got geothermal in two units here. In fact, the developer volunteered it. We should really think about making that something on our checklist of things we ask the developer to do. Water recycling and things of that nature, I think we could really think of a list like that. I think it's very hard to write these things into the building code because we're going to take somebody by surprise. You know, it just doesn't work for them. But if we have it on a list of things to do and we see an appropriate opportunity, I think with most of the developers we end up negotiating with them as it is, and it could be part of the list of things we would like to see them do. And we would be nicer to them if they did them than if they didn't. We could go from there.

**Boardmember Dale:** LEED has a manual which they give to people to study, which goes through all of these issues one-by-one by category, and provides you with exactly the kind of checklist you're looking for.

**Boardmember Cameron:** Who has that? Sorry?

**Boardmember Dale:** LEED.

**Boardmember Cameron:** Sure, I've seen that one.

**Boardmember Dale:** And it's exactly what you're describing in terms of familiarizing yourself with what the issues are and arms you with that in the discussion you want to have with the developers.

**Boardmember Cameron:** Right. And I think we should get a reputation that these are the things we're looking for. Because when the developer comes to us, they usually come with a plan already which they're going to try to pop on us and see if we'll accept. And trying to turn that ship around is always harder than if they say, "Oh, this is Hastings, and Hastings wants to have this sort of thing." They get it in their plans to begin with, or some of it.

**Boardmember Wertz:** And that's why it's important that it is included in the Comprehensive Plan. Because I think developers will be consulting that in their initial stages of the proposal. And also, I think if we, as a board, get a reputation for taking those issues really seriously that's the best protection for the Village rather than trying to over-specify in regulations what people have to do.

**Boardmember Cameron:** Sure.

**Boardmember Alligood:** I agree with you, Fred. I like the approach of it being part of the conversation. You know, there's a back-and-forth, and there are plenty of things that we talk about, look at, and mull over with the applicant. So this can be part of that conversation. We should be knowledgeable about it.

**Boardmember Dale:** At the comprehensive planning meeting the planner actually said the reason for having a comprehensive plan is to provide the Village's intent, that then justifies your zoning laws and gives you the protection because you've laid it out clearly. If that spells out what we mean by sustainability, etc., then what we do add to the discussions here has the greatest legal support. We can oppose more things.

**Boardmember Wertz:** I think it also reinforces the decisions of the Planning Board. I think when we emphasize an issue and we have certain requirements -- and those are supported by the Village's Comprehensive Plan -- then developers are in less of a position to be able to litigate against us for the kinds of requirements that we're expressing.

**Chairperson Speranza:** And I think this checklist we keep talking about is something that's got to go beyond . . . and I pulled out what's in our code for site plans. It is very much site plan: what is the minimum an applicant has to come in with, or eventually put on, the final site plan. And I think what we're talking about goes much more towards the buildings, when we're talking about a specific development, and particularly building systems. Or how, as a community, we want to become more sustainable.

So zoning and site plan review, it's there. But this whole idea of greening . . . it's a different level. It's a different level than what we normally look at in site plan. It's just a different level of review.

**Boardmember Cameron:** But the problem is that we have the LEED standards, which are wonderful if somebody wants to do them, but they're too high-level to impose on anybody at this time. And then we have Energy Star, which I think is a great idea, which is down at the lower level, which everybody should be doing. And we don't have a set of standards in between which we would feel comfortable imposing on somebody. We're just not there yet. It'll be years before we get sophisticated enough, or the industry does, that we come with a level where we feel, as a town, "Okay, we're going for LEED right now, guys. We're working on it."

**Boardmember Dale:** There is an element of research. If you're good at research, particularly on the Web, there are a lot of things happening across the country that might

give us somebody else's mid-level plan that we could play with, rather than trying to create one of our own.

**Village Planner Witkowski:** What about those checklists they had on that LEED site that I was able to get? What about just including those with the site plan application just sort of a suggestion or a guide. So you're not really requiring it, but maybe somebody didn't think of doing those things. Maybe having it included in there so as they're doing their plans they can kind of maybe think about incorporating some of those standards into their plans. Or even putting it on the Village Web site along with the documents in the zoning just for them to kind of look at as a suggestion.

**Chairperson Speranza:** I think that's fine. Once we reach a decision with respect to policy, that that's something we're either to require, incent, or suggest.

**Village Planner Witkowski:** Right. But in the meantime it could be put there just so people can kind of think about it.

**Chairperson Speranza:** You mean somebody who's making an application.

**Village Planner Witkowski:** For somebody who's making an application.

**Boardmember Wertz:** These are issues to address.

**Village Planner Witkowski:** Just suggestions because they may not be aware of those standards.

**Boardmember Wertz:** Like how you're dealing with water conservation, what about indoor air quality.

**Village Planner Witkowski:** Just gives them something to think about.

**Boardmember Wertz:** Just list these issues and they can address them as they will, but they know this is going to be a matter of discussion. This is something we're going to be looking at.

**Village Planner Witkowski:** And they may think it's a good idea anyway, and just decide to do it.

**Boardmember Dandridge:** I have to say I come at this from a substantially different point of view, having done a little bit of research in terms of consumer behavior with respect to environmental standards. This was in a much different economic environment, but I would be very concerned about sort of putting forth a checklist even as a sort of advisory thing without some companion incentives or other guides that offset it. And I would be very careful about sending the right message to developers, to prospective buyers and realtors, about what we stand for as a town. And I think we stand for the right issues, but in this economic environment in particular I think we run a really, really dangerous risk of even informally saying, "Oh, we want to talk about these checklist items" without giving people more guidance or structure or, in fact, incentivizing -- particularly residential homeowners -- to comply. I mean, I think it's great to sort of put that information out there, but, you know, we're in a very, very competitive and tight real estate market where there's not a lot of movement. And any perception of how a town is perceived, I think, is something we need to be aware of.

I think we're seen as a smart, progressive town around these issues, and I wouldn't want us to think through this only halfway. I think there's a carrot-and-stick component to this, and if we want to get people to engage in the conversation . . . a conversation can't just be a checklist of here are all the great things you might consider at a state or a federal level. It needs to have the private sector component as well: here are programs, here are grants, here are incentive programs that we encourage you to explore. Because if you just do one, the message is, "Well, that's a tough town to get anything done in."

**Boardmember Dale:** That's our reputation.

**Boardmember Dandridge:** Well, I'm not sure we want that reputation. Because the endgame goes back to what Jamie said before about the vast majority of the development moving forward is going to be in larger developments. I think the endgame, we all know, is down on the waterfront. I would go a little bit further than just wanting to be kind of passive and putting the information out there so that developers who have a plan sort of consult with us. I think that there's world-class work being done in towns and villages like this one around the world with really progressive developers who are picking and choosing those spots. And to some degree we need to say to them we're open for business to have those sorts of conversations.

**Boardmember Dale:** You raise an interesting point, which is the waterfront. At this planning session that the Comprehensive Plan Committee had one of the discussions was exactly how the waterfront gets developed, and whether you're putting out incentives and other things to have the development take place. Or is that already all built in to the Comprehensive Plan itself when it's printed and approved.

**Boardmember Logan:** Well, they did that at Battery Park City. Everything had to be minimum LEED silver, at least from a certain date forward. I don't think we should rule that out.

I think there's also a fallacy about green buildings being more expensive than non-green buildings. Especially if you look at them over their life cycle. So it's not necessarily true that encouragement for green benchmarks is going to be an impediment to construction because the initial first-cost is higher.

**Boardmember Dandridge:** There are three things there. The life cycle is something that . .

**Boardmember Logan:** First-cost is possibly 10% higher, and then you recover.

**Boardmember Dandridge:** We all know, in this environment, people are not looking 10 years out. They're not.

**Boardmember Logan:** Well, you know, that's something we should maybe make sure they do.

**Boardmember Dandridge:** People are not looking 10 months out.

[crosstalk]

**Boardmember Dale:** When a village makes a decision it wants sustainability it's talking 10 years out, and it's requiring that the developers need to look at.

**Boardmember Cameron:** If you're going to sell it in a year you're not looking 10 months out. That's the problem.

**Chairperson Speranza:** What I'm thinking might be good is if, at the next meeting -- again, depending on whether or not we have another free evening, so to speak . . .

**Boardmember Dale:** As long as the economy stays the same.

**Chairperson Speranza:** I'm thinking maybe we can invite the Conservation Commission to come and speak with us about this issue. Somewhere recently, as I was on the various Web sites, I thought I read that the Conservation Commission actually did a baseline emissions for the Village. I'm very interested to hear about that, and whether or not it was just the baseline emissions document, or whether there were strategies that were included with it.

**Boardmember Cameron:** Or whether it was just our Village buildings? I think it was village buildings.

**Chairperson Speranza:** For emissions, though? I don't know, but I'm going to find out.

**Boardmember Dale:** It was basically an energy audit.

**Boardmember Cameron:** Patty, I did go to the Board of Trustees meeting. And at that meeting there was being presented to them the long-awaited ARB design guidelines. Forgive me, but I did pipe up and say that maybe the Planning Board would like to look at them too just in case we had some input. Because they were busy working on a meeting with the Board of Trustees on the 12th of May at which they would discuss them. So you may be getting them.

**Chairperson Speranza:** That's what I thought the process would be.

**Boardmember Cameron:** I did, too.

**Chairperson Speranza:** They always send everything to us anyway to review.

**Boardmember Cameron:** Well, they might have done that anyway. But they were busy planning a meeting on the 12th of May in order to discuss these guidelines. So I got up in the audience and said, "I'm sure the Planning Board would love to see them." And then Lee said, "Well, maybe they should have a meeting with all three of them." I didn't add anything to that. But I think we will be seeing those. They're going to be posted on the Web maybe even today or tomorrow.

**Chairperson Speranza:** So that's something else that'll be on there.

**Boardmember Cameron:** It'll be on our list.

**Boardmember Dandridge:** So I guess we're not going to take any action about putting stuff on the Web site, LEED stuff? No?

**Chairperson Speranza:** I don't think right now. I think we should discuss it a little more. I'd also like to see how you handle things like that. It's very important. As you mentioned, you don't want to close the door to people. But at the same time, it is nice to be able to make them aware of the things we are going to be looking for.

**Village Planner Witkowski:** You could do that, just put this on the Web site. It doesn't mean it's required. It's just for information.

**Chairperson Speranza:** Yes, but don't do it tomorrow. I think there are so many of the organizations that are looking at doing things like the ICLEC stuff. Enough said now.

Anything else for tonight?

#### **4. Miscellaneous**

**Boardmember Wertz:** There was actually one really interesting workshop, and I don't know if any of the others of you who were at the land use planning event on Monday night went to it. But the one on trees -- nobody else went to that? It was really an interesting hour presentation on trees and protecting trees. It was pointed out that trees are an obvious oversight of LEED. You know, when you talk about greening, of course trees are a major element of what's green. And yet there's nothing said about conserving trees, protecting trees. They had a lot of great suggestions about guidelines for site plans and site plan reviews. For instance, they said trees often die 10, 20 years down the line after there's a development. And one of the main reasons why that happens is that on the site plan review the trees are just a dot. They suggested that there really ought to be a whole root zone circle around each tree so you can see what's cutting into that root zone.

So there were a lot of very interesting, concrete suggestions I think we can use. And that would be an item that we would add to the list of things we're interested in, and really could affect our site plan reviews. Tree protection, as it relates to the Conservation Commission also.

**Chairperson Speranza:** That's good. I'm glad the sessions were good.

Enough for tonight?

#### **VI. Adjournment**

**On MOTION of Boardmember Logan, SECONDED by Boardmember Dale with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:30 p.m.**