

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
SEPTEMBER 16, 2010**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, September 16, 2010 at 8:15 p.m. in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairperson Patricia Speranza, Boardmember Kathleen Sullivan, Boardmember Jamie Cameron, Boardmember Fred Wertz (arrived 8:20 p.m.) Boardmember Bruce Dale, Village Attorney Marianne Stecich, and Building Inspector Deven Sharma

CITIZENS: Uncounted

I. ROLL CALL

I'd like to call the meeting of the Planning Board to order. It's September 16th, and the first order of business is always the roll. We may be joined by another Planning Board member, I'm hoping. Samantha, you want to take the roll, please?

I do want to give a warm welcome to Kathleen. First night on the Planning Board, welcome.

II. APPROVAL OF MINUTES

Meeting of August 26, 2010

Chairperson Speranza: Any changes or modifications?

Boardmember Dale: I have a correction of the correction.

Boardmember Cameron: I saw that.

Boardmember Dale: It should be "feedback."

Chairperson Speranza: Feed, F-E-E-D. OK, that's good. Is that it? Anything else?

Oh, I have one correction. Item number four was still listed as a request for the extension of the resubdivision approval for David Steinmetz.

Building Inspector Sharma: What page is it on?

Chairperson Speranza: This is no page, but it's agenda item number four within the minutes. And it should just be "*for David Steinmetz*" should be struck from that sentence because it was not his application. He was the attorney on behalf of the applicant.

Boardmember Cameron: I think we have a problem in that there are only three people here. We have to wait 'til someone else comes.

Chairperson Speranza: OK, we will defer that action until Fred shows up.

III. PUBLIC HEARINGS - NEW

Chairperson Speranza: We have couple of public hearings for this evening. The first is an application of Soon Ja Kim. It's for view preservation approval for a one-story addition and a deck at her home at 189 Warburton Avenue.

1. **Application of Soon Ja Kim for View Preservation approval for a one-story addition and a deck at her house at 189 Warburton Avenue.**

Chairperson Speranza: We make the recommendation to the Zoning Board of Appeals, who will actually move on that item, perhaps at their next meeting. But the action is for the Planning Board to make the recommendation to the Zoning Board of Appeals.

Ms. Kim? You do need to come to the mic and just state your name and address.

Soon Ja Kim, applicant: Before anything else, I have a particular hearing problem. I don't hear things clearly. Clarity is missing. So if I have to say something to hear from you, I might have to approach you to have your questions or comments clear. OK?

Chairperson Speranza: That's fine. I see you've got some boards there. Would you like to explain what you're planning to do? If you'd like, you can use the easel. You can rest the board on the easel over there.

Ms. Kim: OK. This is the same thing as that in the plan that I submitted. But a little more colors and better pictures. This house, as you may know, is where Pinecrest is and a little past the small red house. That is the house that I have now.

And what I'm trying to do is ... currently I live alone. So therefore, this is a two-story house. Upstairs it has two bedrooms, and downstairs kitchen and living room. So for me it's perfect right now. But the bathroom is the big problem. If I had a bathroom on the first floor I wouldn't do this. Why do I have to spend the money and increase tax? Why would I do that? I don't have anybody, just by myself.

But because of the fact that bathroom is upstairs, it's very steep stairs; 14 steps to go on. Soon I will be 74 years old, in January. In January I will be 74 years old. Sometimes it is very tough to go up there, too. Now, as you can see, I cannot run. It is a blessing that I am very happy with it, but you never know what might happen in the future since I do not have any children. I never married. I do not have any relatives. Friends are far away in different states – I cannot ask them – as old as I am, or older.

So while I am still capable, I decided to install the bathroom on the first floor. Because when I get old I will probably be abandoning the second floor and living on the first floor. Then I do not have any bathroom. I think you have ever gone through the kind of horrible experiences I have been through.

This is my friend's house that I inherited, and then I am living there. That friend had a stroke, a very strong man. Four men could not move a boat, but he could move by himself, in his eighties. But once you have a stroke it is useless. So later he could not go upstairs. Downstairs, no bathroom. Also you have reasoning capability lost. Then you do not know where you are doing what. But the mind is sound. Therefore, it is terrible. I witnessed when mistakes took place. It is a horror.

So I am going to do it. But again, this kind of picture you know where my house is. The reason why I need the variance is, number one, just today I made up this model for you to see why I needed some variances.

Chairperson Speranza: If you could just explain. You are putting an addition onto the rear of the house.

Ms. Kim: Yes, the rear of the house. This is the side that needs a variance because this is the kitchen, facing south. To meet the requirement, this is the kitchen and this is the living room. So this is why I do need it.

Chairperson Speranza: Just so that you are aware, this board will not be acting on the variance. We are just talking about the view. We will not be talking about the variance.

Ms. Kim: I know. I need a variance.

Chairperson Speranza: The view preservation. So we have your plan that has the views of the house. And I have to say, I am very happy that you were able to add on where the house ... indicate for us where the addition will be.

If there is nothing else, certainly your reasons for doing this are yours. We, as a board, will be looking at it. What I would like to do now, unless there's anything else you'd like to add, is just find out if there's anyone from the public here who would like to speak on the application. You know all those mailings that you sent out? I just want to see if there's anyone here who wants to speak on the application, since this is a public hearing.

Ms. Kim: I don't know about the Pinecrest people.

Chairperson Speranza: Is there anyone in the audience that wishes to speak on the view preservation application? Again, this is for 189 Warburton Avenue. No? Then we'll consider the public hearing closed.

Boardmembers, does anyone have any questions for the applicant? No? OK, then our action is to recommend the view preservation to the Zoning Board of Appeals for them to take up at their meeting, which will be next week. So can I have a motion for us to recommend that to the Zoning Board?

Boardmember Dale: I think the extension in the back is fine. It's clearly not even visible from the road. The deck, I understand, is also being built which would be visible from the front. Except the vegetation is so strong in front of it that it, too, will not be visible. So it's really not impacting on anyone's view of the Palisades or the river. So I have no objection.

On MOTION of Boardmember Dale, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved, approve view preservation aspect of the application.

Chairperson Speranza: Let me just read in for the record, I did receive correspondence:

"Due to travels out of the country I am not able to appear in person to support the appeal of Soon Ja Kim. Please accept my signature below in supporting the request. Theresa Nieves, 165 Warburton Avenue.

2. Application of Alex Cheng for Site Plan approval and recommendations for View Preservation approval for the additions & alterations to his property at 495 Warburton Avenue.

Chairperson Speranza: The next item on the agenda – again, it's a public hearing – is for the application of Alex Cheng for site plan approval and recommendation for view preservation approval to the Zoning Board for property at 495 Warburton Avenue.

Let the record show that Fred Wertz has joined us.

Ned Baldwin, architect for applicant: This is my client, Alex Cheng. Good evening.

Chairperson Speranza: Welcome.

Mr. Baldwin: Mr. Cheng has purchased 495 Warburton, which he intends to reconstruct into a two-family residence. The reason we're here for view preservation is that there is proposed to be two small penthouses added on the roof to provide roof access, and also for a day-lighting concept that we have for the building.

The photographs you see, on the lower left corner you see what the penthouses on the four houses south of Mr. Cheng's house look like. They're approximately 6-1/2 feet above the decks, which are in turn about 1-1/2 feet above the roof. Our penthouses will be very similar.

We looked for view preservation problems, and the only properties that overlook the roofs are the upper floor of the apartment building on the corner of Washington and Warburton, which is quite diagonally away from the property. And the photograph on the upper left side shows, from that property, what Mr. Cheng's house looks like today. The sight line is such that you do not see anything on the roof.

The other property is the River Town Lofts on Main Street, which you see in the distance in the upper right photo. I was unable to get any access to that to take a photograph to show whether or not this roof is seen. It would be extremely small. It's over 400 yards away. So there will be some impact, unquestionably, but it would be extremely minimal.

So what we're proposing is nothing more than what was granted for the four properties to the south some six years ago.

Chairperson Speranza: So it will all be level.

Mr. Baldwin: It'll be just like the buildings to the south, yes. That's the view preservation aspect.

Site plan approval, the site ... you have a plan drawing which shows a rear garden area which has a retaining wall which runs diagonally across the rear portion of the lot which effectively removes half of the land area behind the house from use. So Mr. Cheng proposes to build a small office, an accessory office space, on the front of that retaining wall, in the woods; the roof of which would be landscaped, and would be at approximately the same level as the existing garden.

It involves building a building which is very hard to see. It would be approximately 400 square feet of useful space at a lower level, hidden in the woods. We're proposing stairs down so that the space can be accessory to either dwelling unit. In conjunction with that effort, we are showing steps down to the municipal parking lot, the commuter lot. We went to the Board of Trustees two weeks ago to ask them for the possibility of obtaining some parking spaces for Mr. Cheng, which they were unenthusiastic about for lots of good reasons.

However, we would like, if possible, to get your board to recommend to the Zoning Board and to the Trustees that Mr. Cheng be allowed to have some sort of informal staircase down to the parking lot. The distance from that corner of Mr. Cheng's property is approximately 35 to 40 feet and there's a 15-foot change of grade. So you could walk down a very steep trail, but it would be not be very sightly. And we would like to get permission to build – that is Village land – we'd like to get permission to build a staircase of some sort, but informal.

I know that the Trustees and the Zoning Board would want your opinion on that issue, so we're asking you to please consider it and please consider making some recommendation to them on whether that would be allowable. I can tell you that the Trustees reaction was negative on parking, but ambivalent on the stairs. Some suggested that if there was a public use to the stairs that they would be much more enthusiastic.

We've investigated with the owner of 497 Warburton extending the stairs over to the end of the Warburton Avenue bridge so that it would be a public route from Warburton Avenue down to the parking lot. He is unenthusiastic about allowing the public to pass across his property, so that does not appear to help us. But we still think it's a reasonable request. It's a very short distance.

It's a slope which is now strewn with garbage and rocks, and it's a mess. We can clean that up, and Mr. Cheng would undertake keeping it well-landscaped and looking good. And we think it would be an asset for the Village and, of course, a great convenience for him. He

would have to compete for parking like everybody else, but at least he would have access from that lower portion of his property.

So that's the site plan. We meet all of the open space requirements and setback requirements that I know of. We have no variances.

Chairperson Speranza: Because I start with questions, because I have some questions, because this is a public hearing, let me just see if there's any member of the public who wishes to speak about this application. Yes, ma'am, come up. Just state your name. You have to come up to the mic.

Ann Meheny: I just have a question. I'm concerned about the Village's liability in terms of this extra staircase that goes through the Village land. I think you might be assuming some liability, and that's a concern. Thank you.

Chairperson Speranza: Is that anything you'd like to address?

Mr. Baldwin: In our proposal to the Village we stated that we would obviously have liability coverage naming the Village as a co-insured. So we would extend Mr. Cheng's liability coverage to the stair.

Chairperson Speranza: Any other comments, questions?

Let me start with one – the office space. It's a separate building. Is that something that truly is going to be accessory to the units, or is that something that you're thinking is going to be rented space? Because I'm not sure how this would work within the zoning code as far as it being an accessory structure.

Mr. Baldwin: It's an accessory use to a residential occupancy. It cannot be rented to a third party.

Chairperson Speranza: OK. That's what I wanted to make sure.

Boardmember Dale: When I first read about the request for the parking, it struck me that the parking spaces in the Village, and particularly in that lot, are done by lottery since there are inadequate spaces for the public as is – there are more applications than there are spaces every year – and decided that was definitely not a proposal I would support.

And as a result, I did not go down there to see what the staircase would look like, with or without. But it strikes me that, again, it's offering public land for a privilege to one particular residency. And I don't really see that as a valid use of public space.

Chairperson Speranza: Any questions or concerns with respect to the view preservation and the site plan?

Boardmember Dale: No. If I understand your proposal correctly, you're going to be at the same height as the existing buildings to the south of this, once your roof deck is built?

Mr. Baldwin: Within a foot or so, yes. Approximately the same height. Within a foot, probably, of the same height.

Boardmember Dale: No, I think it's a nice amenity to the house. And I'm actually very glad to see the project get completed because it's been an eyesore in the Village for a long time. And we welcome your having purchased it and finishing the construction on the property.

Building Inspector Sharma: There will be some projections, a bulkhead or something, above the roof. The roof line seemed to line with the other building, but you are proposing something that will come above the roof.

Mr. Baldwin: It's shown on the drawings. That's why we're here.

Building Inspector Sharma: No, I understand. I just wanted to clarify that the building itself, obviously – the roof itself – is the same level as the roof on the ...

(crosstalk)

Boardmember Dale: The roofline would be the same.

Building Inspector Sharma: But there's some projections above.

Boardmember Dale: They're not more than a foot above the ones ...

(crosstalk)

Mr. Baldwin: But the penthouses would also be the same as the ones next door.

Boardmember Dale: So that the ultimate result will ...

(crosstalk)

Mr. Baldwin: They'll all be the same.

Boardmember Dale: Do we have a photograph showing what that would result in? Because there was none in the package.

Mr. Baldwin: Those are the penthouses next door. In the diagram, it shows the penthouse of the neighbor next door.

Boardmember Dale: No, I've seen the drawing. I wanted to see the photographs.

Alex Cheng, applicant – 495 Warburton: That photograph shows the neighbor's penthouse, so we have something similar to that.

Boardmember Cameron: But does the penthouse line up with theirs on the roof so it's no farther forward than theirs?

Mr. Cheng: No.

Boardmember Cameron: So we're not going to hear from them, as they can't look to the left, or the right. I guess it's the right.

Mr. Cheng: No.

Boardmember Wertz: I think the renovation is good, it's really great, very welcome. My trouble was that I wasn't sure I was imagining what I would have liked to be able to visualize a little more concretely. Sometimes we have photographs where a new structure is drawn right on it so we can see how it lines up with other structures around it, and so on.

I guess I feel like maybe it's a good bet, but we're kind of taking your word for it rather than seeing it. I always like to see it. But if we can take your word for it, then that might be good enough. But I'm a little ambivalent because often we really have it laid out for us so we know exactly what we're getting, and I don't feel quite that comfortable in this case.

Mr. Baldwin: The problem was that there's no viewpoint that I could take a photograph to show you the infill of the new construction. If I can approach, I'll just show you the elevation, the rear elevation of the proposed house. These are the penthouses next door,

these are the penthouses we're proposing on this building. From the front of the house it's difficult; they'd be very misleading to draw them.

Boardmember Wertz: Difficult to represent?

Mr. Baldwin: Yes.

Boardmember Cameron: But you are saying there that on the front of the house that the cornice is within a few inches of the cornice next door. I see that, I just wanted to have it in the record. See the two cornices in the front?

Boardmember Sullivan: I found it hard to determine what was new, and existing, in the drawings, having spent some time with them.

Mr. Baldwin: It is an entirely new building. The only thing that is there that we are salvaging is a roof and the framing at the front wall and the framing for the party walls. But you should consider it. Look at the drawings. Everything is new because almost everything has to be rebuilt in some way. There's all sorts of re-strengthening and re-detailing that has to be done. So you should consider the drawings a new building. Look at it that way.

Boardmember Sullivan: It was just difficult to follow because it was talking about being an addition, alteration, and a restoration of the existing.

Mr. Baldwin: Well, technically it is. It is an addition and an alteration technically because there is a building there and we are building an addition in the rear.

Boardmember Sullivan: And the addition's the accessory office.

Mr. Baldwin: The accessory office building, yes.

Boardmember Sullivan: I had missed the ... I think one of the requirements for a site plan submittal was to have a topography, a topo, plan of some type. I went out to the site, and the area that the office building's going to build in is quite steep at this point.

Mr. Baldwin: Well, it's a very steep slope, yes.

Boardmember Sullivan: I found it difficult, looking at just your indications of grades above and below zero, to really follow what was existing in the rear, as well. Because getting into the lot coverage, you're planning on using some of the landscaped roof over the accessory office as part of the open space requirement.

Mr. Baldwin: It is, yes. It part of the open space requirement.

Boardmember Sullivan: I think seeing a plan, one of the requirements would be potentially to see a landscape plan for that particular ... to understand.

Mr. Baldwin: Well, I'm happy to provide a landscape plan when it's fully designed, but at this stage we're just calling it "landscaped area," as it will be. But the detail of it, you did look at the side elevation which shows the elevation of that area with a landscaped roof. This is the office down here. It occupies the entire site. There is no setback. So topography, we're talking about topography for that little triangular wedge.

Boardmember Sullivan: Right. But it was just hard to find ... again, getting back to the comment, it was difficult to see what was new, and existing, and understanding where the existing grade was that you were keeping and then what you were adding. Because I think what you called the garden area was from the existing retaining wall over to the south side of the property line.

Mr. Baldwin: Right. That, we'll obviously maintain and that will be landscaped. And then possibly maybe a foot lower than that, the other triangle would also be a landscaped roof over the office.

Boardmember Sullivan: I don't know how that's considered open space if it's over a structure itself.

Chairperson Speranza: Right. Open space, as opposed to recreation area. Because that's a different kind of requirement on some projects, where they have to provide space for recreation.

Chairperson Speranza: Can we talk for a minute about how Boardmembers feel about the connection of the staircase down to the municipal lot? There's a part of me that says certainly if it was the owner's property I would say go ahead and make your connection. I don't know that I would recommend ... you had asked would we recommend to the Village that they consider it.

Mr. Baldwin: Well, I think we'd like your comment on the concept.

Chairperson Speranza: Again, I don't know. As we try to make the Village more walkable, again being that it would be for, really, just the benefit of the people that are occupying the structure, I think it's ... I don't know that I would encourage the Board of

Trustees to do this. On the other hand, it does make some sense in terms of being able to access a roadway right there, and potential parking. But then we're encouraging parking there in an area where we know that there are parking restraints.

Bruce, you've mentioned that you're not ...

Boardmember Dale: I would not recommend the use of public space for a private walkway.

Boardmember Wertz: I wonder if there's any precedent for that – have we ever done that before. And then there'd be the possibility if we did in this case, others might like to use public land for what's essentially private uses, too. And I don't know if there's a slippery slope there, but if there is I don't think I want to go down it.

Boardmember Cameron: We haven't done it for three months. The extension of Ridge Street is the use of public space for private use.

Boardmember Dale: That's true.

Boardmember Wertz: But is there a public benefit to that? I thought there was.

Boardmember Cameron: I think we do have a public benefit. I'll be candid. I like the idea because I'm sure what they would do is apply to every lottery and hopefully get a parking spot. And we'd get a car in the public lot 24 hours a day and get one, potentially, off the street. I understand there's a shortage in the parking, but that's what we would end up getting. And that's an advantage to me, to get cars off the street in a very tight area.

On the other hand, I would not want to give up the property permanently. You might have a temporary license as one thing, but I think the Board's probably thought of that. That's just another concept. I think it's very nice that the person could just walk out of their house and very quickly be to the ... not trying to add value to their house, but it would, which I'm in favor of.

I haven't, quite frankly, looked at it carefully enough. I'm like my colleague down on the far end. I'm not quite sure what the town is going to do with the land if we don't do that. And I'm in favor of, as a general principle, having pathways absolutely everywhere to get more people on their feet and out of cars. And maybe you can think of something innovative of how you get people up to the street. Because we've always talked about getting a pathway, bringing you up from the parking lot up to the street.

Boardmember Dale: If it was open to the public, and you could access all the way up ...

(crosstalk)

Boardmember Cameron: But we'd have to walk through their house. That's the problem.

Boardmember Dale: And I did go to the neighbors because that's the only access to the backyards. And I asked the gentleman who was there whether he would mind. He thanked me very much for having asked him. He said people are constantly going there and walking down and not paying any attention to his presence.

But I could see why that would be disturbing to him to have the public walking through there on a regular basis. He has a business in that space.

Boardmember Sullivan: It's also very steep. It's a lot of distance to cover.

Village Attorney Stecich: When you're done, I had a couple of issues.

Chairperson Speranza: I wanted to check – since this is steep – we don't have any steep slope issues?

Building Inspector Sharma: Yes, there would be steep slope issues.

Mr. Baldwin: No, it's less than 1,000 square feet.

Chairperson Speranza: That's what I wanted to make sure.

Mr. Baldwin: Deven, it's not a steep slope.

Village Attorney Stecich: Just on the stairs, there was actually a distinction on the Ridge Street thing. Ridge Street is a paper street so it's a different situation.

But I have a few questions about the accessory office. Now, you just called it an "accessory office building." There's actually a number of issues with it. One, is it a separate building? It makes a difference. What kind of office is it? For what?

Mr. Cheng: For my own use. It's going to be just ...

(crosstalk)

Village Attorney Stecich: No. Are you a doctor, accountant?

Mr. Cheng: I'm a technologist. I run a business by myself.

Village Attorney Stecich: See, this is the problem. If you have an accessory office for a customary home occupation it's got to be in the main building. That's one of the requirements. Is this accessible through the main building?

Mr. Baldwin: It's physically connected, the structure, to the main building.

Village Attorney Stecich: And is it part of the main building?

Mr. Baldwin: Well, yes, it's part of the main building, but you do have to walk outdoors to get into it.

Village Attorney Stecich: What triggered it was your saying, referring to it, as a building. I don't know if we have enough detail on these plans to know whether it actually meets the code definition.

Chairperson Speranza: For an office, or if it's two structures. Two uses, that's what I was concerned with.

Village Attorney Stecich: Yes. Again, it makes a difference. If it's a customary home occupation it specifically says it has to be in the main building, as a percentage of the main building. So it can't be a separate building.

The other thing – and this isn't really relevant to this board because this board won't be reviewing the parking because there is no parking – you seem to be requesting a variance for four parking spaces.

Mr. Baldwin: We're going to the Zoning Board for that, yes.

Village Attorney Stecich: Right. But you need more than because it's two units, right?

Mr. Baldwin: Four spaces.

Village Attorney Stecich: So you need two for each of the units. That's four, and then there's a parking requirement for accessory offices, too.

Mr. Baldwin: No. The way I read it, I did not see a space as long as it's an accessory use.

Village Attorney Stecich: No. If you look at the schedule, for a professional office or home occupation permitted in a residential district, then it's in addition to the space required for the ... it doesn't matter because you don't have any space anyway. Just fix your variance application so it's the required number. Look at the parking schedule, and you'll see down at the bottom.

Mr. Baldwin: Well, I did study it.

Village Attorney Stecich: No, we've always ... it's clear that there's a requirement for professional offices. You remember we had a big issue with the person that had the music studio, then the chiropractor. There's a requirement for a home occupation.

But I think some stuff needs to ... shake your head no – that's what the code says. But there really are some issues about this that are, I think, relevant to whether you can give site plan approval.

Chairperson Speranza: And I think there are some things. I think it would be helpful if the grades, if you could include something that will show the topography.

Boardmember Cameron: But it seems to be a question – and we don't have that answer – as to whether this is an office in which third parties visited. I have an office in my house. I have my desk, chair, and a lamp. And I call it my office, and it's inside my ... I don't have any third party visiting it. And I don't know if we know the answer to that question.

Mr. Cheng: That's what I was going to say. I didn't foresee any visitor or any client visiting this office. So to answer your question, I'm not a chiropractor.

Village Attorney Stecich: Had they come in with an application for just one big apartment, and you happened to have an office, any of us who work have an office in our house. But that's not what the application is for.

Chairperson Speranza: So I get the sense that there are still some things that need to be worked out with respect to the application. Is that what I'm hearing, both in terms of the structures – one building, two buildings?

Village Attorney Stecich: And the relationship of this office to the rest of the building. You may also ask them to address ... to get some photos, if they have to come back anyway, to address Fred's concern. Which was the problem I had with this application for view preservation is, I wasn't seeing perspectives.

Chairperson Speranza: We can certainly request that. I tend to agree, though. I mean, I can certainly see the applicant's point with respect to it's an infill structure. There are buildings on either side of it, and how that's depicted within the framework of the more traditional view preservation applications we see, like the one we just had.

Boardmember Cameron: I don't see a layout, a floor plan, for the office. Maybe I missed it.

Boardmember Dale: There is one – page 2-5, on the right-hand side – but it's confusing because the conservation of paper has cut off the building. It's separated so it doesn't flow continuously.

Boardmember Cameron: Oh, I see.

Boardmember Dale: So it's not really clear how it connects to the building itself.

Then we also don't seem to have an east elevation, which is the one that would have shown what would impact on the view preservation. You have a west.

Mr. Baldwin: No, I have east and west and north.

Boardmember Dale: I don't see it in this packet.

Boardmember Sullivan: Its on 4-5.

Mr. Baldwin: Drawing 4 has both the east and west.

Village Attorney Stecich: No, east is on the right part of that.

Boardmember Dale: Oh, it's not a full elevation.

Mr. Baldwin: It is a full elevation of Mr. Cheng's property.

Boardmember Dale: But not of the townhouses next door, either side. I see, I guess.

Chairperson Speranza: So what we need is a montage that shows this structure within the current streetscape, correct? As much as you can, any additional photos which could be taken to show that there is not going to be an impact on the view, the traditional grading plan that shows the topography of the property. And then there's still more description with respect to what the office use would be.

Mr. Baldwin: You understand that the proposed building completely covers the property. So the floor level that we're showing for the office space is effectively the grade. I don't know what I can bring you. I could give you a topographic survey of what's there now, but that won't tell you anything about what the building will look like once it's on there.

Boardmember Sullivan: I think the large scale that you drew, it's hard. It would be nice to see the site in one whole piece. I know you have a rough plan of it where you were showing certain parts of it at a smaller scale, but it would be useful to see at least the grade plan at that smaller scale so people can understand better.

Mr. Baldwin: Do you want a drawing at a smaller scale than what I've drawn?

Chairperson Speranza: Similar to what's on the front page?

Boardmember Sullivan: Yes.

Boardmember Dale: See, in the plane you show the roof plan.

Mr. Baldwin: Yes.

Boardmember Dale: OK? What we're asking for is that you show a plan that would show the office access and connection to the building on that same scale.

Mr. Baldwin: Well, I have done that. Page four is the same scale as the roof plan, and it shows the access to the office.

Boardmember Dale: No, it's a quarter-inch scale.

Mr. Baldwin: It's quarter-inch scale.

Boardmember Dale: We're talking about this.

Mr. Baldwin: That's an overall site plan.

Boardmember Dale: Right. If you drew that ground floor, with the office at this scale, it would show the entire building at once, at that level. And you would show what you're trying to establish, which is that the office is, in fact, part of the building.

Mr. Baldwin: You do have to go outside to get into it. It's part of the same structure. The walls are contiguous. You know, it occupies the whole site; the building occupies the whole site. You do have to go down some steps and enter the office space at the lower level from the outside because there is a 3-foot thick retaining wall that separates the office space from the rest of the site. So we have to go down in front of that, and then enter the office space.

Boardmember Wertz: Marianne, can you help us with the definition of a separate building?

Village Attorney Stecich: Let me leave that out of a definition of a separate building. So let me do it that it requires a home occupation. I have a suggestion: that the occupation is incidental to the residential use of the premises and is carried on in the main building by a resident therein – which isn't an issue – with not more than one nonresident and assistant working at the same time.

What triggered it was referring to "this office building." What's possible, since we're going to be going before the Zoning Board anyway, is ask the Zoning Board ... and I think the notice would be adequate for an interpretation of what it is. I would generally think that when you're talking about the main building you're talking about the same access.

Boardmember Wertz: In a way, the word "incidental" means something. I think what it means is that you happen to use a particular space in your home for work, but you could use it for something else just as well. So perhaps the question would be, is it conceivable that this space you're talking about could be used not as an office but as a bedroom or anything else, or a living room or something like that, so that you could argue that the use of work and office space is incidental. Does that make any sense?

Building Inspector Sharma: By the way, there is also a provision that two components of the building, if you connect them with an area-way – for example, the stair that connects the lower building with the upper building – put a little roof over it, it becomes an area-way. It becomes one main building instead of it being two buildings. Don't call it an accessory office. Call it whatever else you may want to call it – "media room."

Mr. Baldwin: Isn't there a definition for an accessory building?

Building Inspector Sharma: Accessory uses will be an accessory building; the definition of accessory uses.

Village Attorney Stecich: I just can't tell.

Chairperson Speranza: OK, I think we need from the applicant exactly what it is that we would like to be able to clarify. And then we have to spend a little bit more time ourselves being able to understand the layout of this and exactly what the functions are that go into it.

Boardmember Dale: The question is, you're saying that it's the same structure because the walls are projected forward into the office. But in reality, the house stops. There are steps down, and then the office wall extends and the office is underneath the extension.

Mr. Baldwin: Actually, we've cut the retaining wall back by some 4 feet or so. So there is continuous concrete structure that links the two spaces.

Boardmember Dale: But it's two separate spaces linked by a wall.

Mr. Baldwin: Linked by a wall and a stair. And as Deven says, if you want a roof on the stair then we could do that.

Building Inspector Sharma: It becomes connected with an area-way.

Boardmember Dale: Have they allowed 100 percent lot coverage on this site, in this zone?

Village Attorney Stecich: I think it's 80 percent.

Boardmember Sullivan: Well, 20 percent. They laid it out here. The rear garden was considered, stairs were considered. And then there was something about a front yard setback, and there seemed to be setbacks in this zone. That's why he brought up the point about the landscape. The majority was making up the difference. And you'd want some definition of what that is to understand if it's really contributing to the 20 percent.

Village Attorney Stecich: No. Because lot coverage is how much of the lot is covered. It's not open space, it's a different requirement. Just how much of the lot is covered by building – and only 80 percent of the lot can be covered by building – unless, I don't know, you're not going out any further than you did before.

Boardmember Sullivan: It's hard to tell on these drawings.

Village Attorney Stecich: I know.

Chairperson Speranza: Again, we have a number of things on the agenda. I hate to cut off the discussion, but we do have to move along.

So we have to hear more about the office use.

Mr. Baldwin: From us?

Chairperson Speranza: Again, we're getting back to the ... and it may be one of those situations where it's a very, very subtle distinction between accessory building versus home occupation. I think that's the thing that needs to be determined in order to then help us with one structure, two structures; what then are the implications with respect to the actual design and layout; the requirement with respect to open space; the additional perspectives that we could get with the adjacent buildings.

Mr. Baldwin: The office space requirement is outlined, on the cover sheet of the drawings, at 515 square feet. There's 408 square feet of garden area existing, which we're not affecting. The north side of the lot is 90 square feet, the stairs. The landscaped roof adds another 546 square feet, for 1,056 total, which is more than the ...

Village Attorney Stecich: That's not how you calculate lot coverage.

Mr. Baldwin: I'm not taking the landscaped roof. I'm pointing out that there is open space. We do not cover more than 80 percent of the lot.

Village Attorney Stecich: Patty, I just want to clarify one thing because I don't want to send them out of here under a misconception. If this is an accessory building, our code doesn't permit offices in an accessory building.

Chairperson Speranza: See, this is what I'm saying.

Village Attorney Stecich: So I don't want them to come back and say, "Well, you told us if you can show this as an accessory building ..." because, as you recall, we've had that issue a couple of times where we had a studio.

Boardmember Wertz: Want to show that it's not an accessory building.

Village Attorney Stecich: Exactly.

Mr. Baldwin: Could I ask a question? Could we get an interpretation from you that if we put a roof over the stairway that that will make it a unified single building?

Village Attorney Stecich: I can't give anything like that. But if you give a drawing of something, we'll do it.

Chairperson Speranza: What I would like to suggest, I think, Marianne, you had a good idea. The application goes to the Zoning Board of Appeals next week. I think it would be interesting to hear ... you're going to them for, obviously, view preservation.

Mr. Baldwin: And parking variance.

Chairperson Speranza: And a parking variance. I would be very interested to hear what they think; their interpretation of this proposed structure as it relates to the zoning code. Frankly, I think it's a very creative use of the property and the way that it's treated coming down the slope. I do. I'm just not sure that it works within what's permitted. And if it doesn't, but it's still the desire to move forward, then it may need a different action by the Zoning Board of Appeals to permit this.

Mr. Baldwin: I'd rather, if possible, anticipate that before next week, and modify the application so that we're not just rejected out of hand. I mean, we're very anxious to get this project underway.

Chairperson Speranza: I understand, and I know the history of the property.

Boardmember Wertz: I may be the only one thinking this way, but going along with the idea of incidental use as work, the structure that you're proposing, what other uses other than work might it have? For instance, if someone bought this building and occupied it at a later date, had no need to work in this other space, what might they do with it incidentally.

Mr. Baldwin: Storage, a garden shed.

Mr. Cheng: I got teenage boys. They'd probably love to use this as their bedroom.

Boardmember Wertz: OK. So something like that might speak to my issue.

Boardmember Dale: And it has a half bath, so it's possible.

Boardmember Wertz: If there were a half bath in there ...

(crosstalk)

Mr. Baldwin: There is.

Boardmember Wertz: ... that's a good ... I'm just trying to guide toward what you might be able to say to make a case for yourself.

Mr. Baldwin: Well, I'm sure Deven can speak to that. That, I don't think, would be permitted; to put habitable space into an accessory building.

(crosstalk)

Boardmember Dale: If it's an accessory building, you can't have it.

Boardmember Wertz: I think you've answered my question.

Building Inspector Sharma: If it's an accessory building that raises ... and so we have to figure out a way.

Mr. Baldwin: Personally, I've been through this I don't know how many times in many villages. The simplest way out is to make a unified building, treat it as one building. So all I'm asking is, if we put a roof – and I've had this interpretation accepted in other villages – if you put a roof over the passage connecting the two spaces, they've accepted that as unifying it as a single building.

I've also done it with subterranean tunnel. It wouldn't be practical for us, unfortunately. This retaining wall is extremely difficult to penetrate. But in this particular case, it would be relatively simple to put a roof over the stairway. And I would hope that might be sufficient.

Chairperson Speranza: Can I suggest that in order to do that we'd have to ... I think there's more that ... we'd have to see it again before we could sign off on that site plan.

Boardmember Wertz: We might want to see a drawing of the roof and see what it looks like.

Mr. Baldwin: Of course.

Chairperson Speranza: Very, very rarely does this board pass anything on to the Zoning Board of Appeals. And I think this is one instance where I would be very interested to hear what they have to say about the definition of this structure. This discussion has gone on, and I don't know that it can become any more fruitful this evening.

Mr. Baldwin: The view preservation is a big thing. We can't proceed without a permit. We can't get their approval for view preservation without your blessing on view preservation.

Chairperson Speranza: Well, I think you've got to come back to us anyway for site plan approval. Let me think. I understand your concern. Because if we went for view preservation, and they signed off on view preservation, you wouldn't necessarily have to go back to them.

Village Attorney Stecich: That could be the end of it.

Chairperson Speranza: Boardmembers, how do you feel about the view preservation item?

Mr. Baldwin: I'm a little perplexed as to what other photographs I can show. I can get access to the roof of the River Town Lofts. I might be able to get access to the roof of that, but it's not going to show anything significantly different from what you see in that lower left photograph.

As for an elevation of the whole street, I built the four houses to the south. I would have brought the elevations of all of those. They're partially shown, you know. They appear in the photograph.

Boardmember Sullivan: I spent some time walking around, looking for a way that this proposal would obstruct any views that the public has. I mean, you're going to private rooms, and I appreciate that effort. Given that there are penthouses and other things on the buildings to the south, it seemed very reasonable to consider putting penthouses on this particular structure. I think you were clear in your application you're planning on setting them back, and that, I think, I appreciated.

I had two concerns. And one, Fred was alluding to. And I think, again, it's a little bit just the clarity of the documentation. It was hard to tell how high they were in relationship to the other ones. Because you'd want to make sure, and I think we'd want to see that in some way that we were comfortable.

Boardmember Wertz: That's what I was getting at.

Boardmember Sullivan: I know you're going to point to a drawing, and I appreciate that; an indication of how what you're proposing relates to the setbacks of the buildings to the south. And since you designed them, you have those drawings, which is great. Because you have the drawings, you can let people know that you're going to be matching the setbacks, matching the heights. Or if not, telling us how much higher. I think the view preservation I was pretty comfortable with.

I may venture, Deven, into some territory. I was unsure about the deck which is being proposed. I see deck and I think railing heights – is this anything higher. So I'd want some understanding of what that height is and the enclosure. The other thing that concerned me was the notation that you were planning on putting mirrors on top of the roof. That bothered me because it's easy to talk about views I can see, but reflective light from mirrors can travel a lot farther.

Mr. Baldwin: No, the mirrors are totally internal in the building. There's nothing outside.

Boardmember Sullivan: I thought I noticed on the roof ...

(crosstalk)

Mr. Baldwin: Oh, yes. We're proposing to daylight the lower two floors using two heliostats mounted on the roof directing light into an inclined mirror and directly down through the house.

Boardmember Sullivan: I would like to know more about that, if that's going to be an issue of glare projecting out. Again, it would be just more information about it that would be helpful; seeing a picture of what these would be here, some information about it. But that just was my sense. I thought it was pretty reasonable as long as things were equal to what has already been put in that particular block.

Chairperson Speranza: Bruce?

Boardmember Dale: I have already stated the view preservation I'm fine with.

Chairperson Speranza: Fred, you would like to see additional information. Jamie?

Boardmember Cameron: I'm fine on view preservation. I'm allowing the fact that there's nothing higher than the adjacent places in front of them on the roofs. I think we do need to clarify the buildings. I do know the principle of two buildings connected by a walkway are often considered one. I don't know what our code actually says. We need to look at that.

I also have some sort of doubts whether he's going to get a large amount of traffic of people into an office vertically 30 feet down from the street. To me, it's like your own office at home, but I could be wrong. We should certainly look at the rules on two buildings joined by a walkway.

Mr. Baldwin: Unfortunately, there's no definition. It's the interpretation of the building official.

Chairperson Speranza: Right. And that's why, at the Zoning Board meeting, this can be raised. And that's something that we can request of them. We, as the Board, can request that they discuss that at their meeting next week.

The view preservation, I'm not overly concerned about that piece of this either. We can request that the Zoning Board, when they consider view preservation, take into account the additional information or the concerns that have been raised here today with respect to the mirrors, the fixtures.

Mr. Baldwin: I can bring more information on that. I would point out the terrace, the deck up on the roof, does not have 6-foot high wooden walls around it as the other houses do. It's an open railing, iron railing, so it's a smaller structure, in a way.

Boardmember Dale: Do the mirrors extend above that, on the roof?

Mr. Baldwin: There are two one-meter square mirrors that are mounted on trackers that track the sun.

Boardmember Dale: They're a meter tall?

Mr. Baldwin: They're a meter square, and they sit on a stand about this high. They track the sun through the day and direct that light into a window in one of these penthouses where there's an inclined mirror inside. There is no stray reflection anywhere.

Boardmember Dale: But they themselves are, what, 4 feet above the roofline?

Mr. Baldwin: Four to 5 feet, yes. Five feet probably.

Boardmember Dale: And the railings are at 3 feet?

Mr. Baldwin: The railings are 3 feet above the deck.

Boardmember Dale: And then the neighbor's terraces, you said, are enclosed.

Mr. Baldwin: The houses to the south have full-height wooden walls around their terraces.

Boardmember Dale: So they're, what, 6 feet, 7 feet?

Mr. Baldwin: Six feet above the decks, which are about 18 inches above the roof.

Boardmember Dale: So nothing on your roof will be above the level of the terrace to the south.

Mr. Baldwin: I can't promise that. The penthouses might be 8 inches higher or a foot higher, but very, very insignificant. The reason for that is that the former owner, when he built the roof, built it approximately a foot higher than the roofs on the houses to the south. So our starting point with our deck is slightly higher.

Boardmember Wertz: I think that's the kind of information we're looking for. If we know exactly what the height is, and configuration of the building surrounding it, we can see exactly what this one is. And it's parallel with the others, and it's not different significantly. And if you say it's a foot higher, and you explain why and everything makes sense, then we have the assurance we need.

Mr. Baldwin: The west elevation shows it.

Boardmember Wertz: But I guess when I went through the paperwork I didn't see all that, so I had questions.

Mr. Baldwin: Yes, it's on the west elevation. I could highlight the dimensions.

Chairperson Speranza: I have the sense that we're not ready to move on this this evening. So what I suggest is you go to the Zoning Board and have the discussion with the Zoning Board. They can always condition the view preservation upon a favorable recommendation by the Planning Board. We have done that in the past.

But in the meantime, you can prepare ... take the tips from the discussion tonight that these are things that the Zoning Board members may also be interested in. And then we'll make sure you're on the agenda back for October. And things, hopefully, will be resolved by then. OK?

Mr. Baldwin: Thank you very much.

Village Attorney Stecich: Patty, did you want me to ask the ZBA for its interpretation on this?

Chairperson Speranza: Yes, definitely.

IV. NEW BUSINESS

- 1. T-Mobile Northeast LLC, Application for the installation of antennas and associated equipment on the rooftop of an existing building at 1337 Saw Mill River Road. This property is outside the PWSF Overlay District.**

Chairperson Speranza: OK, we have some new business now this evening, T-Mobile. There's an application for the installation of antennas on the existing building at 337 Saw Mill River Road.

There is a personal wireless service facility overlay district within the Village of Hastings. It is in that overlay district where we generally encourage that these kinds of facilities be located. T-Mobile is here. I know you still have an application pending for another location. You're not withdrawing that one, and replacing it with this. Is that correct?

Douglas Warden, attorney – Snyder & Snyder, LLP: No, that's an entirely separate application.

Chairperson Speranza: And maybe you'll explain, and go through that, in terms of what it is you're planning to do?

Mr. Warden: Sure.

Chairperson Speranza: And you know that we are just the first step. Because there are a lot of reviews and there are a lot of things that have to go on with this.

Mr. Warden: It's a process.

Chairperson Speranza: Yes, in terms of the process. Right.

Mr. Warden: Sure. Well, hi, my name is Doug Warden. I'm an attorney with the law firm of Snyder & Snyder, here tonight on behalf of T-Mobile. It's my understanding this is not a public hearing, but I thought we might use this evening's meeting to good effect by having me introduce myself and introduce the application – just verbally tell you about it, and tell you what we're proposing – then turn it over to the Board for any procedural discussion.

Chairperson Speranza: Can you speak up a little bit? Is that on?

Mr. Warden: Is that better? OK.

So I thought I'd informally just present the application – since it's not a public hearing – so you're familiar with it, so you know what we're proposing. We're proposing a wireless telecommunications facility, and that will be located on the rooftop of the existing building located at 1337 Saw Mill Road.

What we're proposing to do, because there are some people that don't like visually to look at the support structures that these antennas are located on, is to stealth, or disguise, this facility as a flagpole. So what we're proposing to do is mount the flagpole on the top of the existing building. And within that flagpole, hidden within it, will be six panel antennas that will provide radio frequency. They'll provide telecommunication services to the area.

The existing building is a self-storage facility, Hastings Self-Storage. It's about 33 feet tall at its tallest point. The flagpole we're proposing is 35 feet tall, and it'll be located on the penthouse area which is the tallest area. As I said, antennas will be hidden within. And those antennas will be at two levels because we need six antennas and because it's a narrow shaft. We can't just put all of them at the same level.

So three antennas at a total height of 65 feet above ground level on this 68 (about)-foot structure. And then also at ... I think the other one is 59 feet. These are the center line heights of the two sets of three antennas, OK? I'll describe the dimensions of the antennas. It's not terribly relevant because they won't be visible: 59 inches tall, 13 inches wide, and 3 inches deep.

The flagpole will have a flag upon it, 12 feet by 8 feet. It will be lit according to the applicable federal regulations. And at the base of the flagpole will be the equipment that helps propagate the signal that provides the telecommunications services.

Chairperson Speranza: And that would be on the roof of the self-storage where the equipment would be?

Mr. Warden: Yes, ma'am, at the base of the flagpole. And specifically, on the roof it will be on the penthouse portion of the roof. And that involves, I think, three equipment cabinets roughly the size of small refrigerators. And we thought that because those cabinets may be visible that we would screen them. So we have proposed a screen that will go around the perimeter of the penthouse, which we hope will look like an architectural feature.

If the Board has any input on colors and things like that, we'll be glad to do what we can to incorporate those into the application. And that screen will be about 9-1/2 feet tall and, hopefully, will look like part of the existing penthouse on the existing building.

That is really all there is to the application. We're not proposing to locate within the overlay district. The overlay district is actually "overlay *districts*."

Chairperson Speranza: It's several sites.

Mr. Warden: In the sense that it is broken up into several different areas. We have provided, as an exhibit to our memorandum in support of the applications, an affidavit from a radio frequency engineer describing why we can't necessarily go in those overlay districts. We'd like to – the process is easier – but we can't, for the reasons that are set forth in that affidavit.

Speaking of exhibits, we have included, as Exhibit 1 to the memorandum in support, a visual resource evaluation, which includes computer-generated simulations which show roughly what we're proposing so you get kind of a rough sense for what we're looking at. What we did is, we took photographs from all around the Village, and then we did sort of a before and after in some areas just to get a sense for what it's going to look like.

Now, you mentioned another application. That is in a completely different section of the Village; more northwest-ish. It is designed to fill in a different gap in coverage. Radio frequency, the cell phones that we all have – most of us have, many of us have – require antennas to ubiquitously blanket the coverage area so they can hand off from site to site. This is for a different portion. And the radio frequency emissions, the signals from that site, cannot reach this one and this one cannot reach that. These are completely and utterly separate applications in all respects.

Chairperson Speranza: So it's not as if you get one, you drop the application for the other. You're looking at two sites.

Mr. Warden: Yes, a grant of one does not preclude the need for the other.

And so that's the nature of the application. That's my informal verbal explanation. I hope I've given a sense for what we're proposing. And so if the Board has any procedural or other issues they'd like to go over, that's great.

Chairperson Speranza: I think there are some procedural things. The council has not yet reviewed the application, right?

Village Attorney Stecich: The escrow has not yet been paid up on the other application, so I haven't reviewed this. You'll need to require a separate escrow for this one. And given the history on the other one, neither I nor Richard Comi or whoever we use for the telecommunications engineer on this will review it until the escrow is paid. So I can't even determine whether the application's complete yet.

Mr. Warden: If I may speak?

Chairperson Speranza: OK. And this is not a surprise to you.

Mr. Warden: No. I've had a discussion about it with Marianne and she's, I think, very articulately stated the Board's position. No, we have a disagreement. Sometimes that happens among reasonable minds. My perspective is that these are separate applications. And I reviewed the section of the code that talks about delaying applications, not hearing applications, where the escrow isn't quite full.

I don't see anything in the language that allows completely different applications to be held up. Now, your cable counsel sees it differently.

Village Attorney Stecich: That's really not my position. The position is nobody has to review this – no professional has to review this – until the escrow's in place. Frequently we go ahead and review it while they put the escrow ... you know, we go ahead and review it even before the escrow's paid. Given the history on the other application, where the escrow to this date is not paid even though there's been a lot collected, I'm not going to go ahead with my review. And we can't ask the telecommunications engineer to go ahead with the review until the escrow is in place.

The code reads that at the time the Board establishes an escrow account nobody can review – no professional can review – the application until the escrow's paid up.

Chairperson Speranza: OK. So in any case, there will be the process. You do need to set up the escrow. The application review will then start. We do want the telecommunications individual, Richard Comi, whom we've used in the past – you may know him, he's been working on the other ones – to review it. So let's consider this the start of the process.

There are people here, I know, that would like to speak on the application. It's not a public hearing, but you might as well hear what the public has to say while they're here.

Mr. Warden: First of all, I'd like to just talk a little bit more about some of the issues that came up. I just want to make clear, nobody's asked us for an escrow on this application yet.

Chairperson Speranza: OK. So consider us requesting that you establish an escrow of \$5,000. Typically it's \$5,000. It's for legal or radio frequency engineering or any other professional service which may come up. And you can work that out with the Deputy Village Manager in terms of getting that set up.

I understand the legalese that this application is separate from this one. But as a show of good faith in moving forward, just settle up the bills.

Mr. Warden: We'll settle up the unrelated bill, and we're glad to set up this bill.

Now, you had touched on the idea of review by a telecommunications consultant. There is a little bit of an issue because the code – I think it's 235-85 – requires that "*materials be submitted by a New York State professional PE specializing in electrical engineering, or a qualified radio technician with expertise in radio communications facilities.*" And we believe that the professional that you retain should have similar qualifications, or some qualifications.

Unfortunately, the radio frequency expert that you've retained in the past doesn't have any. And, in fact, during a recent deposition for another case, the MetroPCS had sued the city of Mount Vernon based upon recommendations made by Mr. Comi. In actions taken in furtherance thereof, he had said that he's not a licensed PE, he's not a licensed architect, he's not a certified planner, he's not a radio frequency engineer. He has no formal training in radio frequency issues and no formal training in health and safety or environmental effects of radio frequency emissions.

I do have a copy of that deposition, which I'd be glad to submit if that would be helpful. Now, the reason why I bring that up is because there are lots and lots and lots of telecommunications consultants out there who do have those qualifications. And I think that this Board, I would suggest, has a fiduciary obligation to make sure that its escrow funds are discharged properly.

Moreover, there is the issue of the amount of the fees. That same case invalidated the fees that were charged by this telecommunications consultant as being excessive. My point is that ... and I have a copy of that case, and I understand that your counsel hasn't reviewed it. And I want to make sure that I'm not sandbagging her. I have a copy, Marianne, if it would help you at all.

Village Attorney Stecich: I didn't pick him. It's the Board's choice.

Mr. Warden: If I may continue, they held that ... they say that ... the court held that the assessment of fees based on work done by CMS and Mr. Comi was overstated, and they invalidated them. So I am just ... and I know you want to say something. I promise I'll wrap up quickly because I want to make sure I don't filibuster.

I am just here to respectfully request that this board properly discharge its fiduciary obligation by getting a communications consultant in who is appropriately qualified and who has not been recently found to have overcharged.

Chairperson Speranza: Noted. And do you realize that the Village selects the consultant?

Mr. Warden: Yes. Yes, I do.

Chairperson Speranza: OK, as long as that's understood.

Mr. Warden: Yes, I do. I do.

Chairperson Speranza: And thank you for bringing that to our attention.

Mr. Warden: And if the Board is interested, I have provided Deven with just a few of the many alternative, duly-qualified experts out there in case you would like to perform the appropriate inquiry.

So that having been said, I will stop talking.

Chairperson Speranza: Thank you. Michele, you wanted to say something?

Michele Hertz, 62 Euclid Avenue: Within the last year I was made very sick by the microwave radiation that was transmitted into my home by the digital electric meter placed on my house by Con Edison. That meter works by pulsing radio frequencies on home wiring many times per minute, 24 hours a day.

For this reason I now own this device, which measures microwave radiation. This helps me avoid places that are uncomfortable for me. I just want to demonstrate how much radiation there is in this room. And I will remind you that there are cell phone transmitters on the roof of this building. So in my home, where I don't have any radio frequencies except for background levels that are coming from outside, this meter is quiet.

There are measurements on here, there are numbers. It's blasting with radio frequencies, which is microwave radiation, in this building because there are cell transmitters on top. I'm not here to report my health problems, but I do want to explain why I have this device and why I do not think there should be any more cell towers or transmitters placed in our vicinity.

I have nothing against T-Mobile. As a matter of fact, members of my family use T-Mobile. And, by the way, on September 11th of 2001 T-Mobile was the only company whose phones were working, and that is how I stayed in touch with my husband who was at the World Trade Center that day. T-Mobile is asking to place more transmitters in our area, and we don't need any more transmitters. We already get perfect T-Mobile reception in this area.

I suspect this is about competition and not about reception. The problem is that the levels of microwave radiation throughout Hastings are already extremely high, especially near transmitters. Once the cat gets out of the bag on this issue, no one is going to want to live here. The value of our properties is going to take a nosedive. It is not like this is everywhere, but here in Hastings we are getting bombarded. An expert on the subject came to my house to help me with my own house, and reported that inside my house, although there is a background of radiation from outside transmitters which is somewhat low, outside my house it's 10 times worse than inside my house.

So please, T-Mobile, either come up with technology that does not emit such high levels of radiation or go somewhere else. Thank you very much.

Chairperson Speranza: Are there any other questions or comments? We might as well hear them now, since it's an agenda item. Again, we do have a process that we have to go through. Did you want to say anything else?

Boardmembers, anything?

Boardmember Cameron: I have at least one question. Looking at this "stealth" – I use that with quotes – flagpole, how big is it in diameter?

Mr. Warden: Thirty inches.

Boardmember Cameron: It's 30 inches? And that's the top, the bottom, the middle, all parts of it?

Mr. Warden: I think at the base. It may be the same at the top. I don't know what the taper is, but 30 inches certainly at the base.

Boardmember Cameron: Thirty inches in diameter. So about this big.

Boardmember Dale: That's about right.

Boardmember Cameron: It's quite monstrous, actually.

Boardmember Dale: The thing to compare it to, in a way, is the lighting poles that were put around the pool, which stand, I think it was, 48 feet tall and are about maybe 8 inches thick. In comparison, it's bigger than a chimney that Con Edison uses. And it is visible. It would be visible, since it's 65 feet tall. It's visible pretty much from any direction.

Boardmember Cameron: Right. The irony of the whole thing is, it's using an American symbol of our freedom, which makes it even more visible. That's the stealth, the stealth of the flag. Then you can't object to it.

Boardmember Dale: Right, correct.

Boardmember Cameron: In fact, it's even more visible because it has an enormous flag on it. And it's mounted ... as I was reading your diagram, it appears that it's mounted over the elevators and, I guess, the elevator shaft. And I guess the elevators are on the front of this building? This is why it sits out so clearly as you go down Saw Mill River Road, or will if it goes up?

Mr. Warden: The elevators are towards the front of the building.

Boardmember Cameron: So there's no opportunity to mount it on the back side of the building, or farther back? Because that would certainly make it less visible to all of us.

Boardmember Dale: Not really because of the height.

Boardmember Cameron: Look at View 2, BP-2. You'll see how visible it is.

Boardmember Dale: The other question I have, is there a tax implication to this? Does the Village earn taxes for having this facility mounted on top of this building?

Chairperson Speranza: I don't know.

Mr. Warden: May I respond to a few of the ...

Chairperson Speranza: Yes.

Mr. Warden: First of all, I have great sympathy for the woman who spoke regarding her health issues. Health is a ... it's an important thing.

I do note, however, that this issue is federally preempted. The federal government ...

Chairperson Speranza: Right. Understood.

Mr. Warden: We're not really ... we don't have the authority to go into that here.

As far as tax implications, you know, you'll have to talk to your assessor. But I think it's an improvement. The Village can do what it does with any improvements. I'm not going to ... you know, I can't advise you there. But I can also ... I also want to state that this board has a number of very specific criteria that goes into its deliberations. And I'm not sure that tax implications are properly part of the inquiry here. So that is my thought on the issue.

Chairperson Speranza: But we're always going to ask the question.

Mr. Warden: That's what democracy is about, certainly. And then I'd be glad to ask my structural engineers about the feasibility of moving it to the back if that's what the Board wants us to do. So those are a few of my responses to some of the issues that have come up.

My last comment is, you know, I think you had mentioned that the thing to compare it to is the Chemka Pool light poles. I mean, I would just say I understand that. But perhaps a thing to compare it to is another telecommunications tower that isn't disguised somewhere. What does that look like? What's the impact of that?

And I do point out again that we would make it smaller if we could. We like the idea of making it less visible. But as I said, we have these antennas, and there are six of them mounted radially within the tower. And so we're doing our best to try and make it look less obtrusive.

Boardmember Dale: My comment on the photograph: for example, the thickness of the pole, I think, is understated. Because you can see the windows below it, and if this thing is 30 inches wide the typical window is, in this case, equally 30 inches. The pole is a lot narrower than the windows. So I'm not sure it's accurately representing the thickness of the pole.

Mr. Warden: It is towards the front of the building, but it's not at the front of the building. It's not at the same level as the building. And so therefore it will visually, from that vantage point, appear narrower.

Boardmember Cameron: Of course, I look at the building and see 20 years from now we'll see six flagpoles in a row running down the center line of the building.

Mr. Warden: I'm sure this board would give thorough review to any subsequent flagpoles that came in.

Boardmember Cameron: That's right.

Boardmember Wertz: And we will to this one.

Boardmember Dale: We'll show our patriotism having six flags in a row.

Chairperson Speranza: I think we wait until we hear, from counsel, the application is complete. We'll start the SEQRA process. You know that it's got to go to the Zoning Board, as well. I don't have to explain the process to you.

Mr. Warden: OK. So the process from here will be that we'll submit our money. We will submit our escrow for both the unrelated application and this application. And then from there what will happen?

Chairperson Speranza: We will select the consultants that we would like to have begin the review. Potentially, at the next Planning Board meeting – once we hear that the application is formally complete – we could initiate the SEQRA process, where we would declare our intent to be lead agency.

Mr. Warden: Is that something that might be done tonight?

Chairperson Speranza: No.

Mr. Warden: Why not?

Boardmember Cameron: Could you tell us where there is another one of these fine flagpoles that we can go and look at?

Mr. Warden: Another one of these what flagpoles?

Boardmember Cameron: Where is another flagpole we can look at?

Mr. Warden: I don't know off the top of my head. I'll be glad to see if there's anything in the ...

(crosstalk)

Chairperson Speranza: That would be very helpful.

Boardmember Cameron: Yes, it would be helpful because I do agree with Bruce that the flagpole actually is bigger than it looks. I hate to say, it's like seeing something four times the size of a telephone pole painted white is what it actually is.

Mr. Warden: I do have confidence in the visual engineer who did that. I'm not sure if there's something in there that would address your concern. But you might take a moment to review the methodology portion of his visual engineering.

Boardmember Cameron: I'm not worried about that. I want to go and see what one actually looks like, you know.

Mr. Warden: Fair enough, fair enough.

Boardmember Cameron: I think that's the important thing about it.

Mr. Warden: Is that it for this ...

Chairperson Speranza: Yes. I just want another ...

Ms. Hertz: I just want to make it clear that I'm not here to talk about my health. I just mentioned it. I'm actually here to talk about the value of our real estate in this village. Thank you very much.

Ms. Hertz: Thank you all.

2. **Preliminary review of application of Hastings-on-Hudson Affordable Housing Development Fund for subdivision and steep slopes approval for one-family house with an accessory apartment proposed at 184 Farragut Parkway.**

Chairperson Speranza: The next item on the agenda, two that are related, have to do with proposals for affordable housing projects within the Village. Mr. Keaney, would you come up and tell us what's going on? I know there's two properties.

James Keaney, 27 Villard Avenue: I'm standing in for Sue Smith for the applicant, the affordable housing fund.

Although the affordable housing fund is the applicant, we do not own either one of these sites. The Village owns the site on Mt. Hope, and they have indicated a willingness to sell it to the fund, or convey it to the fund. And the private owner of the Farragut Avenue site is willing to sell to the fund. So we do have site control, although we don't have ownership.

We are pursuing both applications in tandem to take advantage of the economies of scale and, frankly, the funding sources – county and state and other sources – looking for more bang for the buck. By bundling these, we can spread the acquisition costs over four units. There would be an ownership unit and an accessory unit in each one of the two sites. So that's four units.

Also, we have wanted to produce affordable housing in areas of the Village other than where we have done it before, which is on Warburton Avenue. Our proposals are meant to minimize disturbances and development impacts. We look forward to your comments and suggestions. And our presentations will be made by Gary Warshauer and Michael Stein, our architects.

Chairperson Speranza: Again, this is a preliminary meeting. It's not a public hearing on anything to be acted on by the Board tonight.

Welcome.

Gary Warshauer, principal – Warshauer Mellusi Warshauer: We me, actually, is Michael Stein, who is a principal with Hudson Engineering. We are consultants working on both of these projects.

I think the first was the Farragut Parkway site, so let me start there. Our proposal ...

(crosstalk)

Chairperson Speranza: Since we have this, could you tilt it a little bit so that people in the audience and on camera could see? You know what? Maybe come back a little bit – that way you're still talking to us – so people can see. OK? Good. Because we have the plans.

Mr. Warshauer: Fantastic. OK. As Jim indicated, our proposal on this site is to build a new three-bedroom single-family residence that would also have a one-bedroom accessory apartment, and that meets the affordable housing criteria as has been outlined. On this particular site, we are proposing to take an oversized lot and subdivide that lot into two lots, and put the new home on one of the new lots that are created.

Just looking at the aerial, there is an existing residence. There is also an existing accessory garage that goes with the existing house. Our proposal is to keep both of those as they are, and behind the existing garage – in the area of about where there's an existing retaining wall – to place the new residence. So it would be behind the garage. Our proposal is also to maintain the existing curbcut and access into the site, and then just add parking adjacent to the existing garage and actually behind the existing garage.

Chairperson Speranza: Can I just ask one question, since you mentioned it during your remarks? This is an existing curbcut of this width.

Mr. Warshauer: That's correct. It exists. I'll try to quickly go through this.

The residence that we are proposing, the architectural character of the residence, is laid out in a way that the accessory apartment and the main residence work with the existing grade. So the house is designed to actually step up with the existing grade. And as I indicated, there is an existing retaining wall, so we are placing the house at the location of the retaining wall.

So the accessory apartment would be two stories, with access from the front. Actually, both homes have access from the front, but access to the accessory apartment from the front. And then you would also enter up ... you would come up from the existing plaza. Actually, there's an existing terrace area behind the garage, between the garage and the wall. You would come up to a balcony that would come in to the main residence.

You can see that the residence is designed, again, to step with the existing grades and behind the existing garage so that the backyard of the main residence is the existing yard behind the building and behind the wall. We're asking for ... and I'm going to let Michael talk about some of the engineering issues ... one of the things that we noticed, this is ... although the site steps with existing walls from the street and up into the backyards, the site then slopes fairly steeply up behind this property.

There is a driveway – or actually there's a road – that comes up and serves lots up behind this property. There is existing drainage that occurs coming down the hill that I understand has created some issues with the existing residences there. So one of the things that we're

proposing – and again, Michael will talk about that – is to actually pick up that drainage and connect that into the storm system to try to help prevent those flooding conditions.

There are a lot of ... what we're asking the Planning Board to do, to look at, is the subdivision of the property. We are before the Planning Board also for the accessory apartment permit. We're also asking for the size of the accessory apartment to be larger than the 25 percent of the main residence. It's about a third.

Basically, the main house is about 1,400 square feet and the accessory apartment is about 700 square feet, as is shown in the layouts. We also have a slope permit that we're requesting from the Board. That being said, we are also before the Zoning Board of Appeals – and will be, actually, informally at their meeting next week – because in our effort to maintain the existing structures as they are, there are a couple of issues that we're asking the Zoning Board to address.

One is that the subdivision, the lot width ... although the lot meets all of the requirements of area, it does not meet the lot width requirement. So we're asking for a reduction in the lot width. We are also asking the Zoning Board to allow both of the existing structures to remain. They're currently existing nonconforming in terms of their front yard setback. So we're not moving anything, but they are nonconforming. So we're asking them to grant us that existing nonconformity.

The other thing that we would like to do in an effort to maintain the existing conditions, the parking for the main residences is in the existing garage. With this layout, the existing garage is now on the other lot. So we're asking the Zoning Board to allow us to park on an adjacent lot. Again, physically it's exactly what is happening there now, but we would need a variance in order to accommodate that.

Village Attorney Stecich: How many parking spaces are in the garage?

Mr. Warshauer: Two parking spaces in the garage which serve the main residence. And then we're proposing, again, adjacent to the garage to extend the paved area and put in the three parking spaces that are required for the new residence and the accessory apartment: two for the main residence and one for the accessory apartment. And we're asking that they be placed in that location adjacent to the garage. They are outside of the front yard setback, and actually they're behind the line of the garage – that front yard defined by the garage – and they are outside of the 24-foot requirement of the front yard.

So that, briefly, as an overview is our proposal. Michael can talk a little bit about the engineering – because we've addressed those issues, as well – if you like.

Village Attorney Stecich: Patty, while we're on that could I just point out a couple of other procedural things that they're going to need to do?

Chairperson Speranza: Can we just wait 'til the presentation is over?

Village Attorney Stecich: OK, fine. Except that they related to Gary's thing. But that's fine.

Chairperson Speranza: OK. This way they'll finish.

Michael Stein, Hudson Engineering: As Gary had mentioned, there's a drainage situation that occurs coming from the driveway and the roadway from behind, where the runoff comes down through the driveway and enters both the parcel that is involved for this subdivision and also the neighboring parcel to the south. So when we looked at the stormwater design we actually broke it down into two separate components.

The first component was basically for the design of the stormwater to mitigate the impacts the actual development would have. Basically, we looked at the site, the new driveway areas, the new house, all the roof leader drains. We already ran percolation tests. So we designed a stormwater system to fully mitigate up to a 100-year storm. It takes all the water from the 100-year storm and fully infiltrates it with no release going into the Village's system. Thereby, we were reducing the volume of water coming off the site with the design.

We then looked at collecting the runoff that was coming down on to the parcel and conveying it from the upper streets, and conveying that down to the Village's drainage system within Farragut. Actually, to the rear of that house, when you step out, it slopes back towards the rear of the property and creates a low spot where any of the runoff coming down, coming off the hillside, would flow into this low area. We put in an area drain, which would then convey it down and directly into the Village's system.

Right now, that's where the water is running off and going down to. We're just preventing ... we're trying to bring as much as possible into it and pipe it to that location, to prevent it from going both into this property and also to the property to the south.

Chairperson Speranza: Let's go through procedures.

Village Attorney Stecich: Yes, there's just a couple of things.

Chairperson Speranza: And then we'll have comments and questions.

Village Attorney Stecich: You guys did a good job on catching the little things. Just a couple tiny things, though.

I think you're going to need ... not only are you going to need steep slope approval from the Board, you're also going to need a hardship exception because I think you exceed the limits a little bit. Not very much, but you do exceed them. As you know, because you need a big one on your other application, you do need this hardship exception permit. So just note that. Because you're familiar with it on the other one, but you need it for this. If your numbers are right, you're just a tiny bit over the limits. OK.

Mr. Warshauer: Let me just address the slopes a little bit on this site, if we can. The analysis that Michael had done initially, which was included in the information we submitted, didn't really take into account the fact that there are existing walls that are on the site and some existing terraces. So I think what that analysis did was sort of showed the property prior to any work having been done. So you're seeing slopes in areas that are actually flat. If you look at the area behind the garage, that is literally a flat terrace between the garage and the wall. It's shown as a 25 percent slope.

So I think that we need to make some adjustments with that in order to accommodate that. And the same thing is true, the area behind the wall sloping between the two walls is not as steep as it's shown there because it's presuming the wall doesn't exist and that 10-foot grade change is somehow a slope. So I think we want to address that.

The other is that if you look at the whole property – and, again, we're showing the slopes at the whole property, and the disturbance of slopes on the property are significantly less than what the requirements are – because you have existing structures that are already in existence there, they're technically not making any disturbance. So I think that we can make it.

I think when you look at the property – which I presume at some point you'll go and look – I hope you'll agree that the placement of the new structure is done in a way that really works with the existing grade. Because, again, there's that wall that works there. We've designed the house so that it steps with that existing grade to have minimum impact.

Village Attorney Stecich: So if the numbers work, they work. But just be careful that disturbance isn't just the finished disturbance. Just so you realize, it's any re-grading or anything you're going to do.

Boardmember Dale: Marianne, if I'm correct in visiting the site, if I place the house properly you're actually on the terraced area and you're not moving any earth to build the house.

Mr. Warshauer: That's right.

Boardmember Dale: So the site remains essentially what it was originally, except you're inserting a house on a terraced area.

Mr. Warshauer: That's correct. We're removing the wall and inserting the house, which becomes the retaining wall of the house itself.

The other thing is that there is some disturbance in the back of the site. Michael described the new area where we're picking up drainage. We're doing some grading there, which obviously is disturbing that area close to that wall. The purpose of that, really, is to help solve an issue that currently exists in that area. So we feel that that would be a good public benefit.

Village Attorney Stecich: Just get the numbers to work. I mean, it's not a huge thing, the hardship permit.

All right, on the parking on another lot. In addition to the Zoning Board approval, there needs to be a recommendation from the Planning Board on that. So don't forget that. Just include that on your list of stuff here, on the notes down there.

I think you're going to need a variance for the one house, aren't you? Because if there's two spaces in the garage ... each of the houses needs three spaces, correct?

Mr. Warshauer: I think the main residence requires two spaces.

Village Attorney Stecich: It doesn't have an accessory apartment in it?

Mr. Warshauer: No. The main residence is just a single-family residence.

Village Attorney Stecich: No issue. All right, forget it.

Mr. Warshauer: The new residence requires the third space because of the accessory apartment.

Village Attorney Stecich: And then you don't need a variance for existing. You said you have to ask the Zoning Board for a variance to continue what's there already. If it's already existing you don't need a variance for it.

Mr. Warshauer: Thank you.

Village Attorney Stecich: So that one you don't need.

Mr. Stein: Just to be sure, we included it in our request. Just identified it.

Village Attorney Stecich: You don't need it. That's it.

Building Inspector Sharma: Although the parking for the affordable house is not in the front yard, the driveway – the paved area to give access to it – happens to be in the front yard. Our code doesn't permit any kind of paving in the front yard. That is also something you're going to have to deal with with the Zoning Board: a variance for paving in the front yard.

Village Attorney Stecich: Except it's a driveway, right?

Mr. Stein: I thought a driveway serving parking would be permitted.

Village Attorney Stecich: Except for driveway, so it's OK.

Boardmember Cameron: It's 25 feet wide. I think, just looking at this, that I'm totally in favor of it. We need to take some lessons of what people do, and this looks like a shopping mall you're going to have so much paving in the front. And you're taking out an 80-foot tree in doing this thing – if I read this diagram – an 88.9-foot tree.

W really need to get it so when people drive up our major road they don't just see a plethora of cars there – you know, five, six, seven cars. We want the cars to be there, but we want them to be hidden. I think you need to work on that.

I'm just looking at this one here. I could be wrong. It looks like a tree symbol.

Mr. Warshauer: I think that's a grade elevation.

Boardmember Cameron: Eighty-eight-point-nine, 14-inch.

Mr. Warshauer: I think that's the elevation.

Boardmember Cameron: All right. Anyway, I just think it's unfortunate that you had a 25-foot cut there, and I think in the course of getting your other parking you should do something about it, think about it carefully. Because we're just going to see eight or nine cars sitting there and it'll look like a parking lot sitting on Farragut Parkway, which I don't think is going to help us get more housing into this town, which we need. So you've got to do something to make it work better.

Mr. Warshauer: Thank you. I'll absolutely take a look at that. I think that it's logical to reduce the width of that curbcut. There's no reason not to. We're just indicating that's what's existing, and I think we can make it better. I agree.

Boardmember Cameron: Good.

Chairperson Speranza: I do want to give people who are here an opportunity to speak. Ma'am, you had a question earlier? You have to come to the mic.

Ms. OK. I really need to move over there because I can't see.

Chairperson Speranza: OK, that's fine.

Ms. I live up on Burnside Drive, right behind it. Could I take a look at the other picture? I just have a hard time. This is the existing house, and this is the new house? I just have a hard time, going past there, figuring out where you're going to fit it.

Mr. Warshauer: OK, this is the existing house, this is the existing garage. There is a retaining wall, as you go by, in that location behind the garage. This is the proposed new house. But this is just the proposed parking for the apartment spaces. So this is low, but this is where it has to be. The scale is consistent with the scale of the other houses in the neighborhood.

Ms. So it's not going to be much taller.

Mr. Warshauer: No, two stories.

Ms. I agree about the parking.

Chairperson Speranza: Does anyone else in the audience have any questions or comments about this proposal?

Mary Wirth, 335 Mt. Hope Blvd.: A quick question. So the property now is just owned by one family, and they're dividing it up because the lots are sort of equal to the other ones that are on the rest of the road there. It could be divided. So what are they doing? They're donating that land to the Village, they're selling it to the Village?

Chairperson Speranza: That's a Mr. Keaney question.

Mr. Keaney: They're selling it.

Chairperson Speranza: And it's not to the Village.

Mr. Keaney: They'd be selling it to the affordable housing fund. We would be accessing acquisition funds from the county.

Ms. Wirth: So that's been a double lot.

Mr. Keaney: It's close to a double lot.

Ms. Wirth: So then you have to get a variance.

Mr. Keaney: To subdivide. We're asking for subdivision.

Chairperson Speranza: That's one of the actions that this board will take.

Planning Board members? Anybody? Questions, comments? I echo the sentiment about the parking, or the pavement.

Boardmember Sullivan: I have a couple of questions. Why aren't the lots divided so that they are compliant? It appears there's enough width to be able to divide them into halves in a way that make the frontage the correct amount.

Mr. Warshauer: There is not enough width to ... there's enough frontage because there's a requirement allowing ... the frontage works, but the lot width, which is measured at the front yard setback, is not enough in the total to make two conforming lots. So the question is, why did we put the line where we did.

We could have put the line in a lot of different places. The reason we put it in the location that we did is because then the existing garage that is going to remain would be compliant with the setbacks from the new lot. Even though it's on the other lot we have that issue; but at the setbacks related to that property line, new property line, work with the side yards for the

existing garage. Otherwise, we had more variance requests. So that seemed to be the most logical place.

Boardmember Sullivan: Well, thank you. A small point, but I think it's worth looking at. I think you were measuring height in a different way than the code asks for it. The height in the zoning code is measured vertically, and you're going perpendicular to the slope. It's not as much of an issue on this site as the others, but it could impact.

Mr. Warshauer: OK, I will look at that.

Boardmember Sullivan: The triangle works against you.

Mr. Warshauer: I will look at it. Actually, because I know it was an issue, we did a height diagram which we included.

Boardmember Sullivan: You did.

Mr. Warshauer: So if I need to amend that, I will do that.

Boardmember Sullivan: Thank you. It was a very good package, to be honest with you, and I want to thank you for that.

I just want to mention two things, mainly about character. It concerns me seeing this house set so far back. To me, it becomes not in character with many of the other homes that are on Farragut which are closer to the street, have a closer relationship. So this gives the sense that this becomes sort of a second-class structure because of the distance. It's purely related to the need or to the desire of the owner of the property to keep the existing garage, so I see that as a potential detriment in the way that it's sited.

The other thing goes directly to the request for an accessory apartment hardship, or waiver; it's the front part of the house being the apartment rather than the home. It, again, gives it a different type of character. Because the accessory apartment is greater than the code asks for in relationship to the main structure's area, it gives it a prominence that I think, in just looking at this, makes me feel like this isn't necessarily, again, in character with the other homes that are on that street. The same comment will come up in your other location, but those are just two general reactions.

Mr. Warshauer: Our goal, architecturally, was to try to make this look like a single home. So even though the accessory apartment is the piece that's in the front, I think the composition of the whole house I see as one. And I didn't envision that it would appear as if

it were actually two separate homes. It's intended to really appear as a single home. So we can address that a little bit as we go through some of the architecture. I'd be happy to look at that.

Boardmember Cameron: Yes, but picking up on her comment, the accessory apartment feels like you're living on a parking lot. The property is behind, and this is the main house I take it.

Mr. Warshauer: That's correct.

Boardmember Cameron: Yes. The apartment is on a parking lot. I don't know how you get the parking around behind.

Boardmember Dale: It's higher. The accessory apartment is higher than the parking. It terraces up so it oversees, overlooks, the parking lot. I mean, it's not a parking lot. It's three cars in front of the house.

Mr. Warshauer: And the windows also, the living space from the accessory apartment looks out at the end. But in any case, architecturally our challenge was to try to make it look cohesive. And I agree with you. Our goal was to try to blend it in with the neighborhood. The challenge here was to try to maintain as much of what is currently there as possible. And really, one of our thoughts was to keep the garage.

So we could look at alternatives if you felt that that would be worthwhile. The goal, again, was to try to work with what we had and not change the character of what's there, and actually set this building in a location that could work, I think, very nicely with the existing grade and the composition for that property.

Ms. Mahaney: I got a question. Any thought given to making it handicapped-accessible, or did I miss something?

Mr. Warshauer: Again, the nature of the single-family, it doesn't have to be. And the nature of, actually, the fact that it's setting into grades makes it somewhat difficult for handicapped-accessibility. And it's not required under the code for a single-family. The accessory apartment could be because, again, it has direct access.

So the accessory apartment could very well be accessible, and we would try to do that. But the main residence, and what we've planned is actually similar – the architecture is very similar – for both sites. And the goal was really to plan this in a way that we could have it work with the grades to minimize impact.

Boardmember Sullivan: Well, you really have a two-story unit, right?

Mr. Warshauer: That's correct.

Boardmember Sullivan: So it wouldn't become handicapped-accessible?

Mr. Warshauer: I'm sorry. You're exactly right. I mean, we could get into the main level, but you're correct. And with the stairs, the code doesn't require it.

Boardmember Wertz: I think the main thing is the character and fit with the area surrounding. And I think Kathy's comments about the setback is good. The isolation of the accessory apartment is an issue, and that large paved area is, just visually from this angle, looking like the most incongruous aspect with the neighborhood.

Chairperson Speranza: See, I have a little different take on the layout. Having the garage where the garage is – aside from the pavement, which we've talked about and you've heard our opinions – I think does give it a more normal feeling. Because the garage is almost at the same setback line as the adjacent house. And when I look at the elevation of the front of the house – the accessory apartment and the house – again, I think it's a nice use of the slope to be able to get a little bit more housing in there.

So again, you're going to have a variety of comments and opinions about these kinds of things. I'm glad very glad – and I'm sure everyone feels this way – that there is a site that really is seriously being considered now for affordable housing. We have given waivers and made modifications for some other units down on Warburton Avenue – same thing, single-family home with accessory apartments – that have turned out very, very well.

I think this is good. I like the location. It's certainly within walking distance of everything; to go to school, and then down to the shopping center. So if there are no other comments or questions on this ... Marianne?

Village Attorney Stecich: Something was just hitting me wrong about the garage on the other lot. I couldn't figure out why it doesn't conform. The problem is – and this may just require you getting another variance – that a garage is allowed, off-street parking facilities are allowed, if they serve the permitted principle use on that lot. The problem with this garage is, it's not serving the permitted principle use on this lot; it's serving the permitted principle use on another lot.

That's an important requirement because you could see what could happen. But anyway, you deal with it one way or another. One could be a variance. But just be mindful of that section in the code. It's 295-67(c)(6).

Mr. Warshauer: We actually, in our Zoning Board application, requested a variance for the parking on the adjacent lot. So it is one of our variance requests.

Village Attorney Stecich: Well, no. That's a little different. There's two issues here, and that other issues hides this one. Because the thing about being able to park on a neighboring lot, that was a provision that's pretty much intended, I think, for commercial.

Chairperson Speranza: Right.

Village Attorney Stecich: And clever of you to use it, and it obfuscated for me what the issue was. That's why I realized you've got a second issue. The other issue is having a garage on a lot that it's not really the garage for. So just look at that. It's part of the same package, but just get that.

Chairperson Speranza: Marianne, suppose the garage was used for two cars for the new structure. It wouldn't matter.

Village Attorney Stecich: That's a different issue.

Chairperson Speranza: Right, it wouldn't be an issue.

Village Attorney Stecich: I know. But see, it relates to kind of what Kathy said. So that the people selling this house are getting the advantage of the subdivision without having the parking; the parking's next door. I'm not making any value judgments about it. I'm just saying it's a code thing. It's something that has to be dealt with.

Mr. Warshauer: I may talk to you just to make sure I get it right in the application in the meantime. But I tried to address it our zoning application, and basically it would be subject to whatever cross-easements are necessary for that.

Village Attorney Stecich: We did talk about it before.

Mr. Warshauer: But in any case, I'll ...

Village Attorney Stecich: Don't be surprised if, when you call me, I forget again. Because I remember the same thing happened the last time when we reviewed that. It hit me later, but I'll write it down this time.

Mr. Warshauer: OK. And then next week we'll be here with the Zoning Board so we'll go through it again.

Chairperson Speranza: OK. Is that it for the Farragut Parkway?

Boardmember Sullivan: I just have one question, and I'm sorry I've forgotten your name.

Mr. Stein: Michael Stein.

Boardmember Sullivan: Michael, I'm sorry. Could you tell us how big, wide, and deep the storm structure is and what's on top of it?

Mr. Stein: Which? For the on-site? We're bringing in the roof leader drains, which I believe are 6-inch PVC. And that's bringing in six Coltech units. They're the plastic infiltrators that are roughly 30 inches high, 4 foot wide.

Boardmember Sullivan: How long?

Mr. Stein: Seven feet.

Boardmember Sullivan: And so how long will the whole depression be that you're creating?

Mr. Stein: Up here?

Boardmember Sullivan: No. How big is the ...

Mr. Stein: Well, this is all underground. So they're basically drywells under the ground. They're approximately 14 or 15 feet long by 13 feet wide. There's approximately 2 feet of cover over the top of it.

Boardmember Sullivan: [handheld mic malfunction – needs battery]

Mr. Stein: [handheld mic malfunction – needs battery]

Chairperson Speranza: So are we ready to move on to Mt. Hope now?

Ms. Wirth: Could I ask just one last question? It's regarding variances and who grants them.

If there are right now, with this proposal – and even if there are some refinements to the drawings, or design, but it will still require a variance – that is the Zoning Board that grants those?

Chairperson Speranza: The Zoning Board grants the variances. The Planning Board does the subdivision and, in some cases, waivers which may be necessary – for instance, for a steep slope application.

Ms. Wirth: Right. Because I just have to say that even though in theory I am in favor of us being compliant with getting affordable housing in town, I was thinking just back to the previous applicant, an earlier applicant, with granting variances. And I'm thinking, with setting precedence and building something new, that it's one thing in this town where people already have houses that are noncompliant like these structures are. But to build new things that are going to add to the noncompliance, I just feel like is that not setting a precedent just because this is a project we'd like to do.

Down the road, if a family comes in and has a property that's got similar problems that require a variance, will they be granted or not granted just because people in the neighborhood don't want it? It's just the whole thing about granting something because you ... and you're not doing the granting, but I'm just saying like, you know, just that whole idea of it's something we want to do, but ... and I'm a little bit more concerned about a different location.

But this one seems, on the outset, that it is a logical place to do something and it seems like there's a lot less blasting or clearing of land that needs to go on. But I just feel a little concerned about the whole idea of multiple variances just to shoehorn something in there.

Chairperson Speranza: Well, one of the things that the Zoning Board does take into account – and we, the Planning Board, when we grant waivers – is the character of the area. We do make sure that whatever it is that we are permitting is something which will fit in with the character.

The Zoning Board – and Marianne, you're more versed in this than I am – does have criteria that have to be met in the granting of a variance. So they are much more objective. There are more specific guidelines for the granting of a variance from the Zoning Board.

Mr. Warshauer: In this case I just wanted to point out, on this lot, that the variances that we're asking for are really to allow existing conditions to remain. The house that's proposed meets the requirements of the zoning. So in terms of the location of the house, the setbacks, they all meet the zoning criteria.

So the issue is the nature of the lot. And the lot itself, of course, has some issues that we're asking for a variance for the lot width. But other than that, the other things are met and it's just to allow existing things to remain.

Building Inspector Sharma: By the way, if I may make a comment, the drainage in that area has been a problem for the longest time. A very, very menacing issue it's been. We've tried to work with the county to do something about it in that portion of Farragut Avenue. And by doing it, of course I'll work with them, look at the calculations, and see that the right amount of retention is done. But I think that's a very positive thing that'll come out of this project.

Boardmember Cameron: Just one more question on parking. Given that this is one paved area, I take it you are going to have an agreement with the owner of the other house that they cannot park in, I will call it, the left-hand side of the new parking area?

Mr. Warshauer: Yes, there would have to be cross-easements and agreements. Well, yes – the answer is yes.

Chairperson Speranza: Then let's move to Mt. Hope.

3. Preliminary review of application of Hastings-on-Hudson Affordable Housing Development Fund for steep slopes approval and parking issues concerning a one-family house with an accessory apartment proposed at a vacant parcel of land on the east end of Mount Hope Boulevard, Sheet 33, Block 707 and Lots 19, 20 and 22.

Mr. Warshauer: The Mt. Hope property is already an existing lot. We are proposing to build a very similar-design house on this lot. And for the economy of scale and economy of construction, again the design is much the same as what you saw on the other.

The challenge here is that it is a steeply-sloping property. There is an existing sidewalk, there is an existing wall that is right behind the sidewalk, and then the property slopes significantly up to the back of the site. When you get to an area about halfway up the site,

there is a significant rock outcropping that you can clearly see when you stand and look at the property.

The design here is, again, to try to have this house have minimal impact on the site. And so we've stepped the house in a way similar to the other site, but stepped it in a way that allows it to work with the existing grades in a similar way to the other site. Our proposal is to have access to walk, a pathway that walks to the entrances that would both be on the low side of the house. So you would enter the home on the low side, and then there would be internal circulation that gets you up to a private yard in the back of the site.

Parking is an issue here in terms of site disturbance. Our goal is again to minimize the site disturbance, so we are going to be requesting from the Village Trustees permission to park in the right-of-way. There is a significant right-of-way, and as you look at the other houses in the area there already is paving and parking in that right-of-way. So our proposal is to try to utilize that, as well; again, to minimize impact to existing trees and to the site.

The architecture, you have it and you've seen it, and it really is very much the same as the character that I showed before. We're before the Planning Board for, again, permission for the accessory apartment, the same square footage relief of the accessory apartment to the main structure and, of course, a steep slope permit. And this site, the whole site, is steeply sloping. So our goal here, again, in moving the residence as close to the front property line as possible is to minimize the impact on the slopes.

We are also before the Zoning Board of Appeals, and our application there is that this is an existing lot but it doesn't meet the lot requirements. So we're just there to ratify the fact that it's existing in terms of, again, the lot width. We are also asking for a front yard waiver, the front yard setback, similar to the other homes adjacent to us where the proximity to the stone wall, or to the sidewalk, is similar. We'd like to bring the residence as close to the front as possible to again minimize the impact to the rear of the site; maintain as many trees as we can; and, again, stay out of the rock outcroppings.

So that basically is this application. Engineering-wise – I have to click down – in site plan, again, this shows ... you can see where the rock outcroppings are and the existing sidewalk. There are some openings in the existing wall. Our goal is to park in an area in proximity to that existing opening, and then try to work our access up in a way that works with the grades and maintains as many existing trees as we can, and stays out of the rock.

So that is our application. Architecturally, again this is similar in design to what we had done before. What we have done is, we have the ability with the way this design has been planned to disengage the elements of the home in a way that they can step as the grades step.

So the goal here, again, was to try to have the building step with the existing grades and sort of work with the existing site conditions to minimize impacts on the site.

Engineering-wise, I don't know if you want to talk about the drainage and the grading.

Mr. Stein: As far as engineering on this site, we were primarily just looking at treating the stormwater coming directly off the new impervious areas, both the driveway and the new structures. We had designed it the same way we designed the other: we designed it to fully retain the 100-year storm event coming both off the roof and off the driveway.

The driveway system here – since the driveway and parking areas would be located within the right-of-way – had to be designed also down in the right-of-way because there is no Village drainage system in the area, and not even close by. That's pretty much it. We're actually working on coordinating with Mike Gunther. He is supposed to come out, dig some deep test holes to make sure that the areas we're utilizing right now for this stormwater will not give us any issues with rock. We've already done the percolation tests, and gotten down 36 inches without any problems.

Chairperson Speranza: Questions, comments?

Ms. Wirth: I was just going to ask, you went 36 ... can I just look at this closer? You went down 36 inches, where like the ...

(crosstalk)

Mr. Stein: Right here, and right here, and also right up in here.

Ms. Wirth: So this is Mt. Hope Boulevard, and this is the house. So what about like back up in here, like at the back of the house where all the rock is showing?

Mr. Stein: Back up here is where the large rock outcropping is. Based on the location of the house, we wouldn't be able to get the drainage going to the back. So that's why we brought everything to the front. And with the percolation tests here, and also waiting for the deep test holes, again utilizing this area down here to take all the runoff coming from the driveway area.

Ms. Wirth: And putting it where?

Mr. Stein: That's going to be in a drywell system adjacent to the driveway.

Ms. Wirth: The driveway.

Mr. Stein: Yes.

Ms. Wirth: So where does it eventually go?

Mr. Stein: It's percolated into the soil, into the ground.

Ms. Wirth: Have you ever been up on Mt. Hope in that area after any kind of a storm?

Ms. Mahaney: Try the winter.

Ms. Wirth: And in the winter that whole area in front of this gentleman's house, the entire street is a sheet of ice. Because from his house ... well actually, the property there probably holds all the moisture, but the house next to it – Susie Mehrotra and Sandeep's house – and just that whole area, the water just runs down, and gravel and rock. And actually, if you go down Mt. Hope, there's a big gully there on the side of the road right in front of these properties because the water is just running, running, running.

There are no storm drains on the whole length of Mt. Hope coming from Overlook. There's one, actually, maybe two. And so I'm just a little concerned about, you know, a French drain, or what was it called?

Mr. Stein: Drywell.

Ms. Wirth: A drywell, like where is it going to go? Because we're so close to the ... you know, when the Saw Mill floods, and it floods across and that whole area down there is wet, I just wonder where's that water is really going to go. Because it's not great as it is now, and if you take ... I'm looking at where the trees are because in the front there are quite a few big trees.

Mr. Stein: Here, and here. These are two ... here's a 14-inch and a 14-inch that would be the closest to the road.

Ms. Wirth: And then what about ...

Mr. Stein: On the site?

Ms. Wirth: Yes. This is the house, so what about this one?

Mr. Stein: Yes, these trees would have to be removed.

Ms. Wirth: They're huge.

Mr. Stein: No, there are large trees in there. There's no question there are large trees in there.

Ms. Wirth: Like I said, I also have a little side thing, which is that ... I don't know if this is true, so maybe you can correct me if I'm wrong. But when we met ... when there was a meeting in the Community Center talking about eligibility for this housing, local residents and our own local fire fighters and policemen are not going to get any kind of preferential, top-of-the-list kind of thing.

So shoehorning a house into a neighborhood like this, and knocking down that many trees and disturbing really ancient forest almost, to get one house with an accessory when how many are we supposed to be getting into this town? Like 200, 150? It's like we're not going to be any more closer to our goal for one house that is really going to ... I'm not really worried about, you know, the people or how it's going to affect my property value because I really don't think it will. And I know the issues with how the taxes and the tax roll and all of that, how it will not affect my property value.

But I'm just concerned about one little patch of green in there that is really natural. And like seven deer live in there, and where are they going to go? And it's just there's a lot of different things to think about for that particular thing. And like I said, my son's a policeman. I'd love for him to be able to be one of the people in line for that.

Leonard Mastrangelo 350 Mt. Hope Blvd.: I live in that house next to it. I'm in this town 35 years, and I've spent a lot of money to fix that drainage in the street. You see the trough in that street is done by me. That's put in. That cost \$15,000. All the new sidewalks – when I came there you couldn't walk on those sidewalks. The walls were all broken. There was a big trench between my house and the house down the street, overgrown, everything. I spent a fortune to fix that.

I went to buy that property that you're talking about here. Now, this is what bothers me to no end. I have the letters from the people that owned the house before me, the German people, Mrs. Werner. They made an agreement with the people of this town to buy that property. I don't know if it was \$1200-\$1500 – I have all the papers at home – and they had made an agreement. And then they reneged on the agreement, sort of, because they told them one price and then they started adding a bunch of stuff into it.

Those old-time people were very stubborn. She said, "I can't go for this because we made an agreement on that." This is all hearsay, but I have papers. Now in 1975, when I bought this house, I wanted to buy that property. I had a friend of mine that worked for the county executive at the time. I said to him, "Can you please find out about this property." I have a lot of papers on it. That it was owned by the Hudson P. Rose Company, and it was given to the Town of Greenburgh on a foreclosure and they gave it to Hastings.

I wanted to buy the property [mic malfunction] long search, which they don't have to take and go and look in the Internet. You can look in the Internet, and look. He went through pain, certainly. Took all the pages out and found it for me. He went on to find out that the town was donated this property from Greenburgh. They were not looking to sell it because they were looking to keep greenspace.

This piece of property and the one on Ravensdale Road – you know, as you go up to the top there's a big piece of it that's empty there – on Ravensdale up by a ... there's a big piece of property that's still empty there. So they said to me, "Why would you go further and look to buy this when the town wants to keep it like that?" You're going to [problem with mic] but they really didn't want to sell it.

My uncle advised me – he was a real estate lawyer for MetLife – he says, "Buy the property, donate it to the town. This way nothing can ever be done." Never say never. That's a nonconforming lot, OK? Now, they can do what they want to do. If that property was ever my property – and when this big building boom came – I would like to see the restrictions that were put on me to put a house there, with old growth trees. There's some trees in there ... I just had the trees pruned on that property. My wife was almost killed in that snowstorm.

The town has never maintained it. I cleaned the front of that. You'll see it's cleaned all the way up to that first opening where you go in. I cleaned the stairs. Somebody got hurt on those stairs. They went to sue the town, the town reneged and said "title unknown." I have papers from it. They went to sue the people that own my house. That didn't belong to them.

All of a sudden, now this situation comes to a head that you want to do what you want. And if I wanted to buy it I would never been able to do what you carry on. And that's my feeling. I'm here 35 years. If it ends up I have to leave I'm going to have to go, but I don't feel I was treated right. That's all I have to say.

Chairperson Speranza: Thank you. Anyone else?

Joyce Harrington, 327 Mt. Hope Boulevard: I'm worried about the water business.

Chairperson Speranza: Can you just come up.

Building Inspector Sharma: Say your name and so forth.

Ms. Harrington: We have such a water problem from where I am. I am about ... from you, I'm quite a ways up.

Mr. Mastrangelo: Yes, but you know how it runs. Everything ends up down the street.

Ms. Harrington: The construction on the house that was done on Overlook, very gorgeous. They did a great job. No one considered the water problem. It's coming off that house, draining down. The top part, the very end of Mt. Hope that comes down towards Cliff Street, there's not a drain in sight – not a drain. It comes around, last week my whole garage got flooded when we had that big rain. I never had that before in my life.

Shelly has the same problem. She lives right next door to me.

Shelly: You can't walk behind my house.

Ms. Harrington: You can't walk out.

Shelly: We can't cross the street.

Ms. Harrington: We had to get sandbags. Susan, unfortunately, couldn't be here tonight because her husband had this important meeting to go to. She gets it too now. We never had this problem before. They want to put in another structure like this – and no offense to you or you – but they want to put another structure in, no drainage situation even being considered.

We're talking about a drain that I had to even put in on my own time. The town didn't pay for it. I paid to have my curb put in so the water wouldn't come down my driveway. I had the fellow that was here before you come up and tell me ... I even asked him, "How can I do this?" He helped me out with it and I was able to put in a sidewalk. But now I'm getting it back again.

Now, with this new structure I feel sorry for the people that are down by Mary and all them. They're going to get water up the wazoo. I'm being honest with you, it's horrendous. It's horrendous. I mean, you can go out there, it's ankle-deep. So my concern is, I know you're going to have to blast this place to get into that house. There's not a shot in hell. You can't do it. Because it's like this, the property's just like this.

It's a problem and, you know, I pay \$20,000 a year taxes. No one's telling me they're going to put a drain in – even a drain, a lousy drain – so my house doesn't get flooded. And that's all I have to say.

Mr. Mastrangelo: How could the house be built on that property for the price that they're saying? You think about it. Just tree removal, taking away old growth trees – which I think this town should be concerned about – one. Two, I had a guy come up that's from GalaxyConstruction. He told me they charge \$28 a square foot for rock removal. You know how much rock to do that house right?

All right, you're going to build it up. But now you want to go for more variances. Look, when I had to put that garage up they gave me a problem. Go look at the size of my property. For what I have on there, look at the size. I told them I wanted to build a house, when I was doing that, on the top of my house. You know what they said? "You cannot divide the property up. That property is one way, and it has to stay that way." OK?

If I would have bought the man's house up there when he sold it I could have a driveway and have access to that. OK? This is the problem here: things work for the way the people want them to work. They don't work the right way. This flooding, go by my house – how many times I've fixed that thing – and you'll see. You'll see what was done there to try to keep that water.

Those people, I can understand that water comes around there in the wintertime. You get a heavy rain and then it freezes. You can't walk out of the house. It's impossible, OK? I don't know. Maybe you're Houdini.

Shelly Foxman, 323 Mt. Hope Boulevard: I just wanted to add to this that, in addition to what we're talking about here, there is a really huge erosion problem, OK? We get sink holes all over the area. So just underground, whatever's happening underground is just another thing.

Joyce's driveway that she put in – or parking area she put in, in front of her house – you look at it now. It's all lumpy-bumpy. It's all from erosion underground. My property has tons of holes. And if you walk in this area just up the street and so forth, you have to really watch your step because there are a lot of holes.

We walk our dogs there, and other people are parking cars there. It's not maintained. And if you try to fill the hole it just keeps going down.

(crosstalk)

Male Voice: [off-mic]

Mr. Mastrangelo: No. I have to mow that lawn four times a season. They will not mow that lawn from that property down to the people's house down the street.

Ms. Foxman: No, I don't think this is the place for that. But don't get me started on that.

Chairperson Speranza: OK. Thank you, Shelly.

Mr. Mastrangelo: and you know what they tell you?, they don't have the money, when my wife calls up. OK, this here where this property ends, over here with a stairway, all it is ... this here was a ravine full of old tires, tree stump in there. This was completely a disaster. I may have pictures of that when I bought this house. This is the water runs down the street from up here. It's like turbulent water, OK?

You're going to disturb this. When I built this house there was people down the street that own that house. He called Maleska, forget it. Go check how many times. You know what they used to do? They would sit outside with the police car to give me a summons to come to court. And telling me about the dirt running down the street. I'm building the house, I have everything set up there so that everything could stay no matter how much we try.

When they signed off on that house I had to have them come with a big rubber tire loader to clean that street down the street. And that cop had to come over to sign it off that he came and saw that everything was done. This is unbelievable. You want to do what you have to do, you have a set mind. But I think you should open it up and take another look at this and see other people's point of view, OK? This is a problem.

There's a problem with old-growth trees there. There's one tree there that's about what, four feet wide, up in the top there. Don't tell me. There's all rock here.

Mr. Stein: There are major trees there.

Mr. Mastrangelo: There are major trees. You people would like to cut all these nice trees down, that's up to you. But I think the people here would like to keep something like that, OK? What do you think? You're only the architect, I understand that. This piece of property, you got to look at it and look at it well again, OK?

You drill down a little bit and you see how much rock is there. I put an extension on that house, and I had to cut a good substantial portion of rock. It's lucky my friend is in the business, and we did it. That was a tremendous job. We had to pour the foundation on the rock, OK? That's the way we did it. And you know how we did it? We did it as they did down on the buildings in New York. We put a six-inch sand on top of the rocks so that when the new house settles it won't crack.

Maleska came to look at the job, he couldn't believe it. Because the guy who built that house with me was the head of the New York City building department, Tom O'Flaherty. He died. This is a tough site, and you tell me you can build that house for \$350,000 with the water, the sewer, the electric, building the house, the driveway excavation, take the trees down? You're lying.

Mr. Warshauer: I think that, certainly, the issues that you've raised are issues we need to address. And I absolutely agree with that. I think what you just told me is that you did some work in this area re-grading.

Mr. Mastrangelo: Listen, there's a hole cut next to it. [off-mic] I keep putting cold mix in there even, and it won't stay.

Mr. Warshauer: I guess the answer would be ...

Chairperson Speranza: Drainage is a huge issue.

Mr. Warshauer: ... drainage is a major issue. And I think our charge is to extend what you've done and try to deal with the issue as you've done.

Mr. Mastrangelo: [off-mic] the water. It comes through the middle.

Mr. Warshauer: Oh, through the swale. You mean there's a ...

Mr. Mastrangelo: No, where the easement is.

Mr. Warshauer: Through here. I understand.

Mr. Mastrangelo: You look at ... come here on a real heavy rainy day. Come to my house and try to walk up the stairs on a big thunderstorm. That water is coming down like you opened a fire hydrant.

Mr. Warshauer: I should have stopped on my way here tonight.

Mr. Mastrangelo: No, it was last week when we had the rain. When we had the rain last week, you could not walk out of my house.

Chairperson Speranza: OK, can we move on? Or you're going to have to come back to the mic.

Mr. Mastrangelo: No, I'm finished.

Chairperson Speranza: So you hear one of the concerns.

Boardmembers?

Boardmember Dale: I have a couple of questions, actually. One is, you're asking for parking that is perpendicular to the sidewalk, the way everybody else on the block is currently using the right-of-way. Is there enough space to have normal parallel parking ...

Mr. Warshauer: Yes.

Boardmember Dale: ... in the front of the lot so you wouldn't need any variance if you were to park ...

Mr. Warshauer: We would still need permission to park in the right-of-way. But the alternative to this is actually to do parallel spaces off of the street, which would be less of an impact. And I will absolutely look at that. That's one of the things we're studying.

Boardmember Cameron: Yes, we can't have people backing into that road, is what you do currently with the way you've laid it out.

Mr. Warshauer: Thank you. We'll look at that.

Boardmember Dale: And again, if I understand correctly, not unlike the other site, you've chosen to work in the most level piece of the land, which is down near the broad base at the base of the hill. And that the house is, again, terraced so that it would climb up the hill in a more natural way with minimum disturbance to the land at that point?

Mr. Warshauer: That is correct. And our request for the setback variances, the purpose of that is to keep the building as close to the bottom of the site so we minimize not only the rock excavation, but we minimize the tree removal.

Boardmember Dale: And how many trees will be removed?

Mr. Warshauer: I knew you were going to ask me that. There are probably one, two, three ... there are at least five trees in this area. Six – there are probably six or seven significant trees in that area that would have to be removed.

Boardmember Dale: Six or seven trees.

Female Voice: [off-mic]

Mr. Warshauer: That's correct, they're big trees. There's no question that this whole site is heavily wooded and there are major trees. And it's not just in the front. The major tree coverage continues up the whole site.

So again, our goal is in developing the property. Our goal is to minimize the impact. We've been asked to come up with a design for the site, by the Village, to work with the site. So we're trying to do that in as responsible a way as we can to minimize the impact.

Boardmember Dale: And the plan also shows that there are three areas where you have drywells. There's two – one on either side of the house.

Mr. Stein: Correct.

Boardmember Dale: And that would handle all the water that accumulates from the site, or just from the house itself?

Mr. Stein: Just from the house itself.

Boardmember Dale: And the drywell you're proposing on the right-of-way would handle the runoff from the hill?

Mr. Stein: That's to handle the runoff from the driveway area.

Boardmember Dale: From the driveway area.

Mr. Stein: Correct.

Boardmember Dale: And so what would happen to the water coming – cascading down from the slope, the top of the hill?

Mr. Stein: From Mt. Hope Boulevard, or coming from within the site?

Boardmember Dale: On the site, from the top.

Mr. Stein: Within the site, we're proposing to put swales to swale it around the house, and that will continue the way it is now.

Boardmember Dale: So it would just flow to the ...

Mr. Stein: Yes. But all the runoff from the house itself, there's not ... we're taking in ... we're actually reducing the amount of water that would be coming down and coming off the site because we're taking all the runoff from the house and percolating it into the ground. Same with the driveway area. We're taking all the water from the new driveway area and fully percolating it into the ground.

Boardmember Dale: So in your opinion, replacing the house on the site the way you are increases or decreases the flow of water that the neighbors are complaining about?

Mr. Stein: We would actually be reducing the volume of water coming off the site because we're taking ... we're basically taking the entire footprint of the house and taking it out. So there's no ... there won't be any water running off the site that would have landed on the roof of the house.

Mr. Mastrangelo: At this point there isn't water running from that site.

Chairperson Speranza: Right. And that's certainly something ...

Mr. Mastrangelo: At this point there isn't water running from that site because it's absorbed into the ground, that you just say. So you're contradicting yourself.

Mr. Stein: That's actually incorrect. There's a certain amount of water that is absorbed into the ground, and we will be submitting calculations to the Building Department and they'll be fully reviewing it.

Mr. Mastrangelo: You have to make the calculations when there's a heavy rain.

Chairperson Speranza: OK, I think we've heard a commitment from them that they will take a look at it. And I understand your point, sir. It's not going to ... the runoff coming from this site, even though it may be captured with this construction, is not going to address necessarily what we're hearing the other areas of Mt. Hope.

Mr. Stein: That's correct.

Boardmember Dale: Right. And it's not making that problem any worse.

Mr. Stein: That's correct.

Mr. Mastrangelo: [off-mic]

Boardmember Dale: Other than that, I think ... other than those issues, I'm very pleased with what is proposed here. I think the house, like I stated on the other site, is in character with the neighborhood. It has made every effort to sit on the land with the minimum amount of disturbance. In fact, in spite of the fact that it's a fairly steep slope, a very steep slope. And I think the social benefits to the Village are very important, and the attempt to meet those social benefits are admirable. And I would like to see the project go forward.

Boardmember Sullivan: I respectfully disagree with a few of your points, Bruce. This is a really steep area; the slopes are all over 25 percent, which is the steepest slopes we look at. I did some quick calculations, and the allotted – or not allotted, the allowable – area of footprint for this site is about 2,500 square feet, and this is 3,500 square feet. So it's substantially over the amount of disturbance that would be allowed in that particular slope.

So that concerns me because the reasons why the Steep Slopes Law was put into place is to protect development, or protect slopes from development that's out of size. So the respectful disagreement is, I think, it would be really hard to find a flat spot on this site, Bruce, because of the information we have. You know, it's basically a steep slope.

I appreciate the knowledge of the folks that live around there about how this has been an important greenspace. I think that's an important issue to keep in mind.

I was concerned about the use of the right-of-way for parking and also for some of the storm drainage as kind of a precedent. I drove down in that area and saw a lot of people using the right-of-way. Because it's quite large, 80 feet. You know, Mt. Hope Boulevard never really was the boulevard it was meant to be. And I see people taking ... you know, making good use of some very beautiful space.

But I just think as a matter of precedent I'm concerned about that: trying to put ... here's a site that's very steep, it can't handle the development that's needed. And development, I mean the parking and some of the drainage. So I get concerned about putting it into a public right-of-way.

I don't know if the Village has ever thought about what they would want to do with that right-of-way. You know, is there any other use, is there any need to expand that road at any point? And I'm not promoting this, but I don't know if there's been some longer-term thinking about Mount Hope. It's a very unusual part ... I live further down Mount Hope where it's still sort of split, and so I am familiar with more what happens right past Lefurgy Avenue.

Mr. Mastrangelo: Yes, your right-of-way sort of ends at my house, where the train station property went through.

Boardmember Sullivan: Just my point, it's an interesting remnant of what this village didn't bring. It would be interesting to think about what it could be for the community from start to finish. So putting this in – you know, putting some required pieces for building on this property into the right-of-way – that raises a concern for me.

I mentioned some of the other concerns about the accessory apartment being larger than the percentage for the main residents; same issues about the character and kind of the relationship of people to the street. Not as much of a problem here in that sense of the setback because there's a lot of unusual setbacks in this area. So I don't think it's quite as pertinent. And the house is not set further back.

So those are just some thoughts.

Boardmember Wertz: I don't know if I have that much to add to what's already been said, which is a lot. But I think to just sum it up as I've taken it in and how I see it, it is a real conflict. I think we want affordable housing. We've made a commitment and have a responsibility to get it. We know we have difficult spaces to find in this village. Just about every potential area has been looked at again and again and again and again.

And I think that's ... the consequence is that what we've found here is an extremely difficult spot to build on. And the challenges are huge. And I think also the outcomes give us ambivalence. And I think we've heard a whole lot about the difficulties in the area, and even what we're losing even if we succeed. So even the best case scenario has a downside that leaves me with conflict. And I guess as I ... I'll just have to hear more, and get all these angles, and somehow probably come to a difficult decision.

But at this point, what originally seemed doable seems a lot more forbidding than it did when I looked at it on paper, having heard particularly the testimonies of people who live in the area and who understand some of the problems that I wasn't as aware of before I heard that.

Boardmember Cameron: Well, I made my comment earlier on the parking. You just can't have people backing into that street, particularly in the wintertime.

The other thing is that I think we do need to make sure we know where we're going on the amount of water coming down that street and how it affects ... you know, you tell them they're going to have to do a really good job, but maybe we even have to find someone else to look at it as well in order to make it that if we go ahead on this that it actually works and it doesn't mess up the water in that area. Because that would be a real mess. I guess that, and the earlier comments, are just all the comments I have.

Chairperson Speranza: And I tend to agree with you. I mean, I'm not ready to give up on the site. I think there is a lot of work that still needs to be done, particularly to address concerns of the residents with respect to the runoff. And even though this is one site ... and I know our steep slopes are only ... you only have to treat the water that's coming off the property and not make the situation any worse, I think there is an obligation to try to find a way to solve this issue, as well. Because it's just something that's got to be done.

Boardmember Wertz: Well, the people who are living here are going to suffer from it, too. So if we're making a place for people to live, it's got to be a good place to live.

Chairperson Speranza: I mean, there are a variety of home styles here. There are people who are parking all over the right-of-way now. So those things I'm not so concerned with but, obviously, the drainage is just a huge issue.

So we're going to hear more. Our responsibility, our action on this, will be steep slopes. So again, the drainage information and making sure that that does not have an impact, or is somehow mitigated on this, is something that's going to be key to us.

Boardmember Cameron: Also the size of the curbcut, too. Because right now it's huge.

Female Voice: When we talk about the right-of-way and the parking issue, I just want to say that all the houses that are on that side of the street have garages on the proper side of the wall and sidewalk. And there's no provision here to put a garage.

Chairperson Speranza: Right. But clearly, nobody's using them.

Female Voice: Yes, they are.

Chairperson Speranza: Well, I shouldn't say nobody because there are cars ...

Female Voice: There are extra cars ...

(crosstalk)

Chairperson Speranza: Maybe you never saw this. See, this is what we gave ... and when I went down there the other day there were cars all over the right-of-way. So again, it's something that we will be cognizant of, for sure.

Female Voice: I know. I'm just saying...

(crosstalk)

Boardmember Cameron: That was true today when I was down there.

Female Voice: [off-mic] Sandeep and [off-mic], they have it. [off-mic], the people [off-mic] they have a garage. And it's all on the other side of the wall and the sidewalk.

Chairperson Speranza: Fair point.

Boardmember Cameron: And there is a large ...

(crosstalk)

Female Voice: And they do park in their garages, but they have more than one car – one-car garages.

Boardmember Cameron: There's a large box with a big rack in the back of the property. He was there this afternoon, sharpening his rack for the fall season.

Chairperson Speranza: What?

Boardmember Cameron: Deer, or buck. It was a huge rack, and he was rubbing it on the trees.

Mr. Mastrangelo: On the [off-mic]?

Boardmember Cameron: Yes, he's getting warmed up for the fall season.

Chairperson Speranza: OK. Marianne?

Village Attorney Stecich: I just have one technical thing, and that's on the lot width. Either you need a variance for the lot width, or if your position is it's a prior nonconforming lot – if you can show that in the prior zoning it was a legal lot – then it would be. So one or the other.

Mr. Warshauer: And we've requested a variance.

Village Attorney Stecich: Oh, I thought you said you didn't need one for lot width. I didn't see it on the list, either.

Mr. Warshauer: No. Lot width we actually requested ... we have ... that's our zoning application. Correct.

Village Attorney Stecich: OK, good. Because it wasn't on this. Great.

Mr. Warshauer: Yes, it's in our application to the Zoning Board.

Chairperson Speranza: OK, anything else on this? David, you're waiting in the back?

David Skolnik, 47 Hillside Avenue: The last ... I'm not sure which one of you just mentioned – it may have been you, Pat – about the steep slopes being the issue on which you would be basically addressing this.

Chairperson Speranza: That's an action by the Planning Board. We have accessory apartment and we have steep slopes. Those are the actions that we take, under the application as it is right now.

Mr. Skolnik: OK. So while you might have feelings about what was mentioned here by various people, those aren't the issues that you would be making a judgment on whether ... it's steep slopes so, for instance, trees that were mentioned.

Chairperson Speranza: Those are part of ... if you were to look in the criteria under we make a decision on steep slopes, those are things that have to be taken into consideration when we look at those.

Mr. Skolnik: I see.

Boardmember Cameron: And water, too.

Mr. Skolnik: OK.

Chairperson Speranza: Yes. How development on the steep slope is going to impact the surrounding area.

Mr. Skolnik: I see.

Chairperson Speranza: And it's not limited to only water. We just changed that.

Mr. Skolnik: I missed that one.

Chairperson Speranza: So we're not limited to just water.

Mr. Skolnik: The only other clarification, if it's not too difficult, the auxiliary apartment in any of these situations ...

(crosstalk)

Chairperson Speranza: Accessory apartment.

Mr. Skolnik: Accessory apartment. How does that work? The house itself is sold to someone. Is that right? Someone purchased the house.

Chairperson Speranza: Yes. This is going to be a Jim Keaney question. Go ahead.

Mr. Skolnik: How does the accessory apartment – is that what ... how is that related to the owners of the house? Is it theirs to then, in turn, rent out?

Chairperson Speranza: Yes.

Mr. Skolnik: Or is it if they didn't want to rent it, do they have to rent it?

Chairperson Speranza: Jim, do you want to ... and again, this is something that does exist now in the Village.

Mr. Skolnik: That's right. I'm just looking for clarification.

Mr. Keaney: The model that we have on the Warburton Avenue houses probably would be used here, too. The main unit – the unit itself – has to be affordable for 99 years. The accessory apartment has to be rented to somebody who fits within the income criteria of

affordable housing, whatever that means. And there's a list compiled, and if a person came to move out the owner would have to go first back to the list and they would work something out.

It's been working out fine on Warburton Avenue. But the object would be that the person that bought the house would keep it affordable for 99 years. If they were to sell it, they could not make a lot of money on it. They could get back capital improvements they put in, they could get back a COLA. But the idea was they would sell it to somebody who, again, is within the affordable housing limit.

So we want to maintain the affordability; not just create it, but maintain it.

Mr. Mastrangelo: This house, you say, is \$350,000, right? I'm saying that's what it said, \$350,000. OK. How does that affect the assessment of the other houses? I'd like to know that because my uncle told me to ask this question. If that house is \$350,000 – a two-family house – then my house should be assessed at less than \$350,000, OK? This comes to a tax issue now.

Mr. Keaney: I'm not an assessor, sir. I don't know what the assessor would take.

Mr. Mastrangelo: I'm only telling you a problem that's going to exist here now. Because this lady wants her house at \$350,000 also.

Mr. Keaney: But remember, if a house has a conveyancing restriction against it where you can sell it at fair market value – you only have to sell it at a lower price – I would think the assessor should take that into account.

Mr. Mastrangelo: OK. Also, if you go to sell a house, and you let the people know there is an affordable house next to you, you see people look at your first and tell you they'll think about it. That's why if that house is \$350,000, a two-family house, the houses in that area must be assessed at what that house is assessed at.

Chairperson Speranza: No.

Boardmember Dale: There have been a number of studies done across the country – they're easily documented, you can find them on the Web – that the assessment of this house is based, as Jim indicated ... that it's blocked by the fact that they can't rent it for whatever they want and they can't sell it for whatever they want. So it's an exception to the assessment. It has no impact, according to all the studies done, on the value of the house next door.

Mr. Mastrangelo: But does it show fairly for the people that are paying \$20,000, and someone is going to pay \$9,000?

Boardmember Dale: The people who are paying \$20,000 can accumulate the equity value of the house: as the market raises, your value goes up. Not true of the affordable house.

Mr. Mastrangelo: [off-mic] rent on that house.

Boardmember Dale: The rent is set, is limited by, the same law that limits their income. And they would have to meet the guidelines set by the law in the financing.

Mr. Mastrangelo: [off-mic] on a house that the other houses don't have.

Boardmember Dale: The family who's buying the house needs that income to afford to buy the house. Because their income is such that they could not afford a \$350,000 house.

Mr. Mastrangelo: I bought my house ...

(crosstalk)

Chairperson Speranza: You have to go to the mic.

Mr. Mastrangelo: When I bought my house and said I would like to put a two-family house in there, they told me absolutely not, you have to live here 15 years. Now here we go, another exemption to the law. I'm there 35 years, I understand that. But if was to sell the house, and the people wanted to put a two-family house there, they can't.

Boardmember Dale: One of the reasons why they are here before this board is to get an exemption to be able to have that accessory apartment. The justification for it is that it's an affordable house to a family who cannot afford the regular market rents.

Mr. Mastrangelo: Well, suppose I can't afford to [off-mic]?

Chairperson Speranza: And excuse me, you can make application. You can make application just like the affordable housing is making application.

Mr. Mastrangelo: [off-mic] right now because I was told about this already. And this is going to be a problem because people's houses should be assessed at the same value that the other houses are assessed at.

Chairperson Speranza: OK, we've gone through ...

(crosstalk)

Village Attorney Stecich: It's not a Planning Board ...

Mr. Mastrangelo: We can talk now in a round robin. That's all we're going in. But this is a problem that exists right now.

Chairperson Speranza: And that's not something that we ...

(crosstalk)

Mr Mastrangelo: [off-mic].

Chairperson Speranza: Right. Anything else? OK, thank you.

4. Miscellaneous

Chairperson Speranza: Anything else, Boardmembers, to bring up? We've got a notice here.

Oh, our minutes. Yes, thank you. Fred, we were waiting for you to approve the minutes.

V. APPROVAL OF MINUTES

Meeting of August 26, 2010

On MOTION of Boardmember Wertz, SECONDED by Boardmember Dale with a voice vote of all in favor, the Minutes of the Regular Meeting of August 26, 2010 were approved as amended.

Chairperson Speranza: And Kathy abstains because she wasn't here.

VI. ANNOUNCEMENTS – Next Meeting Date-October 21, 2010

VII. ADJOURNMENT

PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
SEPTEMBER 16, 2010
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