

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
NOVEMBER 17, 2011**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, November 17, 2011 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 Eva Alligood, Boardmember James Cameron, Boardmember Ed Dandridge, Boardmember Kathleen Sullivan, Village Attorney Marianne Stecich, Building Inspector Deven Sharma, Deputy Building Inspector Charles Minozzi, Jr., and Deputy Village Clerk Mary Ellen Healy

I. ROLL CALL

Chairperson Speranza: Village Attorney Stecich will be joining us.

II. APPROVAL OF MINUTES

Meeting of October 20, 2011

Chairperson Speranza: Any questions or comments with respect to the minutes?

On MOTION of Boardmember Alligood, SECONDED by Boardmember Sullivan with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of October 20, 2011 were approved as presented.

III. OLD BUSINESS

- 1. Steep Slopes Approval – Application of Alan Sanseverino for the construction of a new two-story, single-family dwelling and driveway on the vacant lot next to 78 High Street.**

Chairperson Speranza: Next order of business is old business. It's for steep slopes approval for an application for construction of a new home on a vacant lot next to 78 High Street.

Steven Costa, engineer for applicant: I will be reviewing this case. Since the last meeting, this application has been revised from comments from the Board as well as the general public. In doing so, the previous application had two retaining walls in the rear of the structure and the lot area was being disturbed.

Based on comments, the second retaining wall and garden area was removed, and the house was lowered 1 foot and the retaining wall pushed in. So now the reduction in the disturbance of the lot area is 44 percent. Again, the house was pushed back so we can get the proper driveway grade. So it's lowered a foot. The general average of the first-floor elevation is only 2 feet, the average grade of the center line of the street. So the height is not an issue on this house. Additionally, additional drywells were added to compensate for the additional length in the driveway.

I'd be happy to answer any questions.

Chairperson Speranza: First of all, this is the continuation. We give public notice on steep slope applications. It's not technically a public hearing, but I'm wondering if there's anyone from the public who wishes to comment on the revisions.

Mr. Gonder, I know you were here at the last meeting so I want to give you an opportunity if you want to speak.

John Gonder, 153 James Street: I have one question before I make a comment. The question is legality. I did not get a letter in regard to the meeting, I think was October 20. I got it in the paper. I'm notified – I read it. But my neighbors that are also right on that line, the quadrant, never got any certified letter or any notification. They do not get *The Enterprise*.

Isn't it true that anyone who is within 300 feet of that line has to be notified by letter?

Chairperson Speranza: Not for steep slopes.

Mr. Gonder: OK.

Chairperson Speranza: It's adjacent property owners.

Mr. Gonder: OK. Because I did get one for today's meeting. But the Zoning Board, they had to get one.

Chairperson Speranza: Yes.

Mr. Gonder: OK, thank you. The only problem I have ... and I didn't want to get you upset at the Zoning Board about Ridge Street and water. It was an analogy. I'm just concerned with water coming down on my property. I don't think there's enough water collectors. I think you need a moat.

Mr. Costa: The Village of Hastings requirement is a 7-inch rainfall, and that's what the design coverage is – for a 7-inch rainfall. And there's 12 cultecs, which are drywells, and that is over 9,000 gallons of water storage. And that's per the village code.

Chairperson Speranza: And where are these located again?

Mr. Costa: Four are under the driveway, and eight are in the rear yard right here. They're dotted.

Chairperson Speranza: Got it.

Mr. Costa: Four under the driveway, and eight back here. And again, this is in the location to the northern part, next to the trail, away from the adjacent property owners as far away as we can get them. So that was taken into consideration. An 7-inch rainfall is a very, very high amount of water. Even in the past, the past rainstorms we've had, they've been 4-inch rainfalls. So we are providing drainage for above and beyond what is not normal.

Building Inspector Sharma: A 7-inch rainfall is a 100-year as opposed to 25 years.

Chairperson Speranza: OK. I believe there's an issue, and I want to make sure it's been resolved or it's understood. There is still a requirement ... it's my understanding that this house is a three-story house. So you may not have a height issue, but you've got an issue with the number of stories.

Mr. Costa: I have gone over that with Mr. Sharma. And due to re-grading around the house, it's not going to be a three-story house.

Chairperson Speranza: Because the plans that we had show a three-story house.

Mr. Costa: No. Because it goes from the average grade around the house.

Chairperson Speranza: We're not talking height, we're talking stories.

Mr. Costa: Right. The story is defined as, I believe, 5 feet below ... the average grade around the house can be up to 5 feet below the first floor. If it's more than that it becomes a story. If it's less than that it's not a story. So it's the average grade taken around the house.

Building Inspector Sharma: Our village code, by the way, talks about basements and cellars. If it's a cellar by definition of our village code, then it's not a story. I, by the way, have not looked into it. And I certainly will when the time comes before issuing the permit. But that's an aspect of steep slopes.

Chairperson Speranza: Well, one of the issues that I have ... again, it goes to one of the provisions in the Steep Slopes Law which requires, or allows the Planning Board the ability to give, a hardship exception to those properties or proposals that cannot be developed without exceeding the percentages. And while it's clear that the percentage of the slope that's to be disturbed has been reduced from the submittal we saw last month, I'm not sure if it was a smaller house, if it was configured differently if you couldn't get even closer to the maximum amount of slope that's to be disturbed.

Mr. Costa: Well, one of the issues that comes up as far as percentages, according to the zoning code you have to have certain setbacks.

Chairperson Speranza: Yes.

Mr. Costa: And the setback actually puts you back into the lot. That's why you can't get under that 35 percent without re-grading and putting in retaining walls. Obviously, you can't have a retaining wall adjacent to the structure. You need a little bit of room. On this side, there's about 6 feet, which is minimal from the house; on this side, there's about 8 feet. So due to zoning setback requirements, that's why the percentage of the lot is at 44 percent.

Chairperson Speranza: OK. I'm going to open it up to other comments from Boardmembers, if there are any.

Boardmember Sullivan: Well, I'm not convinced that a hardship exemption is applicable in this case. I mean, I haven't seen an analysis of where the steep slopes are on the lot. So we've been talking about percent of the lot that you're disturbing. So I'm going to go under the assumption that 100 percent of the lot is a steep slope because there hasn't been any discussion about where the steep slopes are in the existing lot.

Mr. Costa: On sheet one of the plans, the old plans.

Boardmember Dandridge: But where's the number?

Boardmember Cameron: Sheet one's the old plans.

Mr. Costa: This is a cross-section of the lot, OK? And the whole lot is over 15 percent of steep slope.

Chairperson Speranza: Right.

Mr. Costa: So the whole lot ... it's 100 percent of the lot is steep slope over the 15 percent. Right here, to the left, you can see the diagram. Basically, from the retaining walls up is what's being disturbed. From the retaining walls back is not. That slope is going to remain the way it is today.

Boardmember Sullivan: Right. In this case, you are fortunate because you have a very large lot.

Mr. Costa: Correct.

Boardmember Sullivan: So you can disturb more of it. If you disturb 35 percent – I just did some math – 35 percent of the lot that you have, you can disturb up to 4,800 square feet.

Mr. Costa: Correct.

Boardmember Sullivan: Using the 35 percent. Let me just finish what I want to say. The house right now, the proposed house ... the footprint of the proposed house is around 1,500 square feet.

Mr. Costa: Correct.

Boardmember Sullivan: So you have the ability to, in my mind, place that house on that lot and not disturb anywhere close to the percentage of steep slopes that you can disturb without triggering a hardship exemption.

Mr. Costa: Again, one of the factors is the size of the house is being pushed back.

Boardmember Sullivan: But my perspective is, is that you're attempting to put a garage underneath the house. And that's requiring you to lift the elevation of the house, the basement, in a way that you can make the driveway slope from the street down to that basement be compliant with the grading requirements from the Village. And that's, in my mind, the trigger of why you have decided to terrace as much as you have.

You're adding a tremendous amount of fill to this site, and I can envision a home being placed on this site if it didn't have a garage underneath it, and not disturb things as much as you have to – as you're proposing, I should say.

Mr. Costa: I appreciate that point of view. But the way the site is, that is one determining factor. If there wasn't a garage in the basement it's very uncomfortable for people to have the first floor of their house, as you state, down below the street level. And without filling, and making the basement or first floor close to street level, it gives an uncomfortable feeling to people living in the house below the street. And that's the way it would be if you didn't fill and terrace the front portion of this lot.

Boardmember Sullivan: What's the floor elevation of the first floor?

Mr. Costa: Right now, it's at 203.

Boardmember Sullivan: And what's the elevation of the street?

Mr. Costa: The average elevation, on one side it's 202 on the high side and on the low side it's 198. So the average is at 200. So it's 3 feet above the average of the street. If we were not to fill and terrace the lot, you'd be 5 feet below the center line of the street. And just from nature and comfortability (sic) of selling a house or living in a house, being below the street line for your living level, is very uncomfortable.

Building Inspector Sharma: But that below the street level would only be the front. In the back the land slopes down.

Mr. Costa: Correct.

Building Inspector Sharma: It would be well above the grade there. So the perception of whether you are below or above grade can ...

Mr. Costa: Well, part of your living level on the first floor is your living room, which would be toward the front of the house. If there weren't any fill you'd be below the street level.

Boardmember Alligood: You know, there are a lot of unusual lots in Hastings where the houses have been sited in a way that works with the property that's there. And when you get a piece of property that's unusual, you design around that. So that argument, that you have to

make it a typical house that everyone is expecting for marketability reasons, does not weigh heavily in favor in my decision-making.

Boardmember Cameron: Just to make life more complicated, I actually like the idea that the garage is under the house. Because I want to get the cars out of sight if I can possibly do that, and get less cars parked in people's front yards, which I think is an abomination. And you do have a very big lot so I think the concerns one has with steep slopes if something may happen, you've got ... speaking in your favor, you've got an awful lot of land down behind you which would allow you to make sure that nothing's going to slide on this property or be a problem.

I mean, I do wish the house was a little lower, too. But on the other hand, I'm very happy you're putting it farther back from the road because I think that leaves a front yard which adds to the greenery in the town rather than having the house right up next to the street. So I'm sort of speaking a little bit in the other direction. And it's something more for Deven.

Because I'm sure that trough, or drain, under your garage that's connected to these four rechargers ... and, hopefully, there's a pipe running out of the house that connects it to the back ones, too. Because I think at least one house in town had their basement flooded because they had a steep driveway coming down to their basement and the rains do occasionally rain more than you think.

Anyway, those are my comments.

Chairperson Speranza: Ed, anything?

Boardmember Dandridge: Just one observation, and then one question. The observation I would have is, it seems like we've been having 100-year storms more often than not of late. So if Deven is comfortable and confident that the nine drywells will address the neighbor's concern, as stated in the record, then I'm fine with that.

Mr. Costa: Excuse me, there are 12.

Boardmember Dandridge: Or 12, that's great. Seven inches used to be very impressive, but the way we're going we could see that any day now.

The question I had – and I wasn't sure I understood exactly. So is the interpretation that there will be a garage underground accurate, or not? You sort of said that's one interpretation. You didn't give a definitive answer yes or no.

Mr. Costa: Well, I believe she was saying you can put the garage on the first floor.

Boardmember Dandridge: No. She was saying she thought what you were attempting to do was to put the garage underground. I'm just asking if that is, in fact, the intent.

Mr. Costa: The garage will be in the basement. It won't be underground. It'll be half underground due to grading around ...

Boardmember Dandridge: At 3 feet, right?

Mr. Costa: Grading around.

Boardmember Dandridge: Right.

Mr. Costa: Three feet with respect to the center line of the street. This slopes down from the street, OK? The garage elevation will be at 194, which is actually 4 feet from the lowest point of the street.

Boardmember Dandridge: OK, thank you.

Chairperson Speranza: Well, I've got to say I'm not convinced either that there is a way to ... that this in its current configuration shows that the lot can't be developed.

Mr. Costa: No, no. What I'm saying is, the lot can't be developed below 35 percent.

Chairperson Speranza: Right.

Boardmember Alligood: You're saying it can't be developed below 35 percent ...

Mr. Costa: More than 35 percent has to be disturbed.

Boardmember Alligood: ...without the garage being in the basement. That's what you said.

Mr. Costa: That's irrelevant. It's the location of the house.

Chairperson Speranza: The lot in general.

Boardmember Sullivan: I think you've sited this house – you've sited the footprint of this house – within the zoning setbacks.

Mr. Costa: Right.

Boardmember Sullivan: The front yard, the side yard – the rear yard's not in question here. The elevation of the house, and how you want to locate it – be it garage, be it relationship to the street – that's your choice. And by choosing those things, you're saying you have to disturb the lot in such a way by adding the fill, adding still a 5-foot high retaining wall in order to flatten out the site in a way that meets things that you're bringing to this.

And I think Eva's point was interesting that there are many examples in our town, because of how hilly we are, where people have built homes that have fit in to the land instead of altering it as much as you have. I contend that you can develop this site within the requirements of steep slopes. You are fortunate, as I mentioned, that you have a very large site. And you have placed the footprint of the house very well.

Mr. Costa: Again, the location of the garage – whether it's on the first floor or on the basement – has no relevance to how much disturbance there is in the footprint.

Boardmember Sullivan: Correct.

Mr. Costa: Right now, I could put this garage on the first floor if I had to.

Boardmember Sullivan: Correct.

Mr. Costa: I'm still disturbing 44 percent of the lot. So the driveway grade, or the location of the garage, is irrelevant to how much disturbance of the lot you do.

Boardmember Sullivan: Well, what you've done is, you've added the retaining walls and added fill.

Mr. Costa: One. This is one retaining wall. Since the last revision it was eliminated.

Chairperson Speranza: Right.

Mr. Costa: This was revised since the last meeting. So now there's only one retaining wall. But again, the location of the garage – whether it's in the basement or the first floor – is irrelevant to the footprint. The footprint is what determines the disturbance of area that gets disturbed.

Chairperson Speranza: Right. I guess the question we are grappling with is, can there be more done to minimize even more. The 59 percent in the first application, now you're at 44 percent. Is there a way to reduce that further?

Mr. Costa: The objective is to have some part of usable yard. OK, right now this is still a slope so kids will not play here from the wall back because it's still a steep slope. Could I eliminate this wall totally and get it to 40 percent? Yes. But then you're going to have no yard and no space to put anything.

Boardmember Dandridge: I guess my question there is, what is the impact on marketability, particularly in a market like we're in now. I think we're making a bit of a tradeoff there. Is that 4 percent material in that then it deprives the owner of actual use a backyard that would actually make the house more valuable.

Boardmember Sullivan: Well, half the lot's, in that sense ... this lot's being built upon, and half the lot's being treated as unusable.

Mr. Costa: Under this scenario – under the first submission – that was your comment. This was going to be a playground area where kids could play – put in play sets or have a garden – and that was not going to be disturbed. This was eliminated, OK? That area was eliminated. So market value on this house compared to this one, it did come down a little bit just because of usable yard area.

Boardmember Dandridge: That's my point.

Mr. Costa: OK. Are we going to hold strict at 35 percent and have no usable yard area? I could remove the deck, and then we'd just have a house with nothing to do outside.

Boardmember Sullivan: The terracing was a little ... I didn't get into this, but there's an elevation change between each of those terraces of about 5 feet. So not really very accessible for the children to play.

Mr. Costa: This was a walk-down path. This wasn't steps; this was the natural grade to walk down that was being maintained to get to the lower level. OK? Again, that was removed, and we came back to the Board with a simpler plan with just one wall. And you can see, as compared to the house the wall is not really excessively far away from the house at all.

The deck is a modest 10 feet wide. It's not even a very wide deck in the back of the house.

Chairperson Speranza: This is one of the problems with some of these leftover properties, so to speak, that haven't been built on before. And it's one of the reasons that we enacted the steep slope rule. It's one of those situations where individuals shouldn't purchase or plan to develop assuming that they're going to be able to get waivers.

Mr. Costa: No, but that's also ...

Chairperson Speranza: To be able to build what they would like to build, as opposed to the minimum amount of what is allowed. And I understand the concerns with respect to marketability and making the lot attractive and being able to sell them. But again, this just does seem to go ... it seems to be more than what the intent of the ordinance was.

Mr. Costa: Well, the intent of the ordinance also has the hardship rule.

Chairperson Speranza: Yes, it does.

Mr. Costa: As well as the steep slope rule. And again, previous ... and more marketable and more desirable, for my client, would be this scenario, where you have a yard. Yes, it's lower but it is a yard where someone, or some kids, could play. Or you can have a garden over here, or anything else. This is a substantial difference between the two. So we are reducing, and it has been a major reduction.

Chairperson Speranza: And our code requires to the minimum extent possible.

Mr. Costa: Correct, and that's why we're here.

Chairperson Speranza: Well, I'm not sure that I'm ready to act on this. I would like to see an attempt to do some additional creative use of the land, as has been pointed out, with respect to the development or the construction of a home on the property. Deven, we also have to address the issue of the stories, basement-cellar. And I think it would be helpful if we could see it together.

Building Inspector Sharma: I can. For example, I will not – even if comes to this board or any board – permit any construction if it did not meet the criteria for half-stories and 35 in height.

Chairperson Speranza: And I have no doubt about that. But in terms of the difficulty that we're having with this property and the construction on the slope, I think it does warrant us being able to see what it is, in fact, that's being proposed.

Mr. Costa: Just to that point, on sheet 4 on the elevation there is the 35-foot height line. I don't know ...

Chairperson Speranza: Right.

Mr. Costa: And we're well below that.

Chairperson Speranza: It was more complicated than that with respect to the definition cellar-basement, what's actually a story.

Building Inspector Sharma: The criteria is the height in feet as well as the number of stories. If it's three stories, obviously it will not be permitted unless you go to the Zoning Board to get a variance. Up to 2-and-a-half stories it will be permitted as-of-right.

Mr. Costa: Well, this I will go over with you and adjust any grade that is required to get it under three stories. That is not in question.

Boardmember Cameron: One of the things here is that he's moved the house back 8 feet, which helped for the driveway. So that means 800 more feet of the back of the lot is being disturbed that if he had not moved the house back 8 feet. So he could get 800 feet by not moving the house back, but now it's closer to the front of the property. You've got a much steeper driveway.

Building Inspector Sharma: It's conceivable that by moving the house back the front part of the side may be 8 feet undisturbed.

Boardmember Cameron: That would be an interesting way of finding ...

[cross-talk]

Mr. Costa: See, in my calculations ... OK, in my calculations this area I counted as being disturbed.

Boardmember Cameron: Right.

Mr. Costa: But physically, that is not. That grading ...

Boardmember Cameron: Except the driveway portion.

Mr. Costa: The driveway portion, correct. But this area here, where you see the soil storage, that is not being re-graded. That grade is going to remain natural, the way it is. We're just re-grading adjacent to the house. So this is a very conservative 44 percent. If I go in here and actually carve out what slope is not being disturbed, I'm sure that's another 400 or 500 square feet easily.

Boardmember Cameron: Maybe you need to do that.

Boardmember Sullivan: No, that would be helpful. The point is, if you look at the law it says you're disturbing a certain percentage of the steep slope. I started my comments by saying I haven't seen where the steep slopes are analyzed – as we've seen some people – by the slope percentage. And if you do look at that tightly, and can come back, say, with ...

[cross-talk]

Mr. Costa: I will come back and say what area in this front ... quote, unquote "front side yard" we're not going to disturb.

Boardmember Sullivan: What I'd recommend, just from my reading the plans, is to use contours on both the existing and the proposal. That may be helpful for people to see where the new contours are in relationship to the old contours.

Mr. Costa: Not a problem. There was a drawing showing the contours.

Boardmember Sullivan: The existing only. It's the proposed that makes it hard to understand what you're doing.

Mr. Costa: Very good.

Chairperson Speranza: OK? Thank you.

Building Inspector Sharma: And before the next meeting I'll make sure to do what I need [background noise – engineer mic noise].

IV. NEW PUBLIC HEARING

1. **Subdivision Approval – Application of Natasha & John McDermott of 32 Ferndale Drive and Rose Marie & Norman**

Luetters of 21 Chestnut Drive for the subdivision of their properties to realign property lines between their two properties.

Chairperson Speranza: You know, what I would like to do is go a little bit out of order on the agenda. I hope nobody minds too much.

We have a subdivision approval, a public hearing for a subdivision approval. Let me make sure the applicants or their representatives are here. Natasha and John McDermott you are here. Do you mind if we take you ... are you waiting for anyone, or are you just coming to ... you're waiting for someone. No. Because I think there are other items on the agenda that may take a little more time.

Boardmember Dandridge: You think?

Chairperson Speranza: So why don't we go to that application first, OK? This is for subdivision approval, which is really a change in the lot line, for properties on 32 Ferndale and 21 Chestnut Drive. So we have a short Environmental Assessment Form. Wonderful.

Do you want to come up and explain what it is you'd like to do?

Boardmember Cameron: The other family's here, too.

Chairperson Speranza: Right. The application is made by the McDermotts. OK, got it.

John McDermott, applicant – 32 Ferndale Drive: The Luetters are our neighbors, and our lots are uneven. We have kind of an L-shaped lot, then they have a piece of land that is like two rectangles – one sticks out by the back of ours. So when we bought the house the Luetters approached us that we would like to square it off so that they could have a full garden. And we'd give them that little piece.

The agreement we came to is they would take that piece that would square it off. And they own a little rectangle at the back of ours, and we would swap those. So the outside boundary wouldn't change. It's just the line between our two properties.

Chairperson Speranza: OK. Is there anything you'd like to add?

Norman Luetters, applicant – 21 Chestnut Drive: We appreciate the opportunity to square off our land because it's part of our back lawn and the woodlands go up the hill. It just basically squares our land and squares his land up. Because the old subdivision plan was

very erratic back in the 1920s or whenever it was established. So this is a matter of convenience to have a pleasant yard for each of us. That's the substance of it.

Chairperson Speranza: OK, thank you.

Mr. Luetters: You're welcome.

Chairperson Speranza: Because this is a subdivision, this is a public hearing. Is there anyone in the audience who wishes to speak about this application? You've got to come to the mic, please.

Maryanna Furaro, 25 Chestnut Drive: Now, we are currently neighbors to the Luetters. Now, our back wooded, hilled property is part of the property which is now being transferred to the McDermotts, OK? It's all wooded, all trees, unbuildable. Now, we do not know where the border between the Luetters' property, their former property, and what the McDermott's new property is going to be. And I think someone should stake it or something because there are no monuments or no property markers in place.

All the neighbors who have lived there previously never stuck to lines, and nobody really knows where the lines of the segments are.

Chairperson Speranza: We do have information on this that could make things clear.

Ms. Furaro: OK.

Chairperson Speranza: Well, this is the "before." Do you have the "after" also? Oh, you have it. What I'm providing is the tax map information.

Ms. Furaro: All right, OK.

Mr. Luetters: This is before, and this is afterwards.

Ms. Furaro: Which is before and after? OK, after. Let's see, so we're 25. Yes, the lot number 7, which is going to the McDermotts, which is normally part of the Luetters', we need to know that line, where it goes to.

Chairperson Speranza: I'm curious what your concern is.

Ms. Furaro: Well, just in case they put a fence in. Or we had like a mesh fence that just went wiggly-waggly down some trees. We don't even know if those trees are ours. My concern is that they put in a fence or something, that we know exactly where it is.

Chairperson Speranza: OK. And you can't make that determination from the map.

Ms. Furaro: No. And we've had our property, you know, assessed and surveyed twice. Things are not like out of order on the two of them. And in the records here, in the town records here, they do not show like those upper hills, those upper wooded areas, as being part of the assessment in each neighbor's file.

Chairperson Speranza: OK. Mr. Luetters? He may be able to address your concern.

Mr. Luetters: The McDermotts and I want the parties that are concerned to know that anyone who wants to share the cost of a staking survey that can be done. The surveyor has indicated that a staking survey could be made on request. That would establish the line clearly, I think, for all parties concerned.

Ms. Furaro: That sounds good.

Chairperson Speranza: That said, Mr. Luetters, let me make sure I understood what you said. "The parties concerned," are you talking about you and the McDermotts, or are you talking about ... you would undertake the survey.

Mr. Luetters: Everyone that's involved can contribute towards the cost of the survey.

Boardmember Dandridge: Three parties.

Building Inspector Sharma: Yes. By the way, the surveys were done and they're part of this package.

Chairperson Speranza: Right. So I guess it's not a visual on the ground, and that's what I'm hearing.

Mr. Luetters: It hasn't been staked.

Chairperson Speranza: So the survey has been done, but it hasn't been staked on the ground.

Mr. Luetters: Well, we could get the surveyor back to stake it.

Chairperson Speranza: I'm just wondering in terms of Board action with respect to this being a subdivision; from the Planning Board perspective, whether or not there are going to be issues raised as a result of the staking of the property that are going to impact a decision that we might have with respect to realigning the lot lines.

Boardmember Sullivan: It's an interesting question. But with these surveys being done and, really, transfers being done along tax lots and boundaries that, when I looked at the after-plan – which now has disappeared – it looked pretty clear that it was going to be a continuation of a line between some other lot lines. It looks pretty straightforward.

Mr. McDermott: It's very straightforward. If you look at the map, these follow the exact original lots. So our property boundary at the back will now go up to the lot line that was there previously, and then the Luetters' would just square off. It's very easy to stake.

Boardmember Sullivan: So it seems, Patty, that it's a fairly straightforward subdivision decision. It's when people are talking about, well, where exactly is the boundary when I want to put a fence in, I understand. I live in a very strange lot, as well.

Boardmember Cameron: Yes. If anything, you're moving this one house further from his property line. So you don't have to worry about a side lot line because you're adding.

Chairperson Speranza: Right, there's more property.

Boardmember Sullivan: I feel we could act fairly comfortably, but that's my opinion.

Boardmember Dandridge: I would agree.

Chairperson Speranza: Eva?

Boardmember Alligood: Yes.

Chairperson Speranza: OK. My suggestion, work it out between neighbors, show your neighbors where the actual property demarcation lines will be, stake it out. In terms of the Planning Board, I believe we would be ready to make a motion tonight. We just received an Environmental Assessment Form. We do have to do SEQRA, since it is a subdivision. The proposed action will comply with existing zoning. It's residential. There are no permits or approvals needed other than the Planning Board, and there are no permits or approvals that currently exist with respect to either of these properties.

So I think first of all we could make a motion to, with respect to SEQRA, issue a negative declaration on the proposed subdivision for the property at 32 Ferndale and 21 Chestnut Drive.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved, with respect to SEQRA, to issue a negative declaration on the proposed subdivision for the property at 32 Ferndale and 21 Chestnut Drive.

Chairperson Speranza: Next is our action with respect to the subdivision. Sir?

Mr. Gonder: I'm just requesting a copy of the environmental form.

Chairperson Speranza: Oh, absolutely. We'll definitely give it to you.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to approve the subdivision and lot line realignment for properties at 32 Ferndale and 21 Chestnut Drive.

Chairperson Speranza: Deven, do you want to make a copy of this so we have one for the record?

V. OLD PUBLIC HEARING

- 1. Special Use Permit Site Plan Review/Approval, and View Preservation Recommendation - Application of Cuddy & Feder LLP on behalf of New Cingular Wireless PCS (AT&T) for the construction/addition of, or modifications to, existing antennas and associated equipment on the roof of the Municipal Building at 7 Maple Avenue.**

Chairperson Speranza: We'll go back to old public hearings. This is special permit and site plan approval, and view preservation recommendation, for an application by Cuddy & Feder on behalf of AT&T for modifications to existing antennas on the roof of this building.

We do have to fill people in where we are. AT&T has made an application. We heard it at the last meeting. We, the Village, engaged two consults – one to do the analysis of the radio frequency and the other to look at the structural capacity of this building. We have received reports, we have received responses from the applicant. So we'll hear where we are now.

Daniel Leary, attorney – Cuddy & Feder, LLC: Thank you, Madam Chair, members of the Board. We represent the applicant, AT&T. Since the continued public hearing, we did receive the RF evaluation from your consultant, Mr. Fishman, from RCC, who I met earlier and, I understand, is with us tonight. We responded to that with a submission that you should have received on November 9.

Chairperson Speranza: Yes.

Mr. Leary: And earlier this week, on November 13, we received Mr. Fishman's assessment of our responses. I believe that most of the items that were previously requested were deemed complete. There were a number of outstanding items, however, and our RF consultant team has been in communication with Mr. Fishman. We provided him with additional information. I believe we're at a point where we've come to terms with them. Of course, he's here tonight to speak for the Board.

Chairperson Speranza: Right.

Mr. Leary: Anthony Botta's our A&E representative. But we do have our RF representative, or one of them, here tonight, as well, Stefan Guillabert. And he can respond to any questions you may have. We did also submit, as part of our November 9 submission, updated policies from the DEC and the U.S. Fish & Wildlife Service. Someone had asked about that.

Chairperson Speranza: Kudos for getting that.

Mr. Leary: Right. And they are more up to date than was originally in the EAF. You know, they support the policies that with colocations on existing buildings there's no need to consult the other agency. The DEC has certain designated areas where you would have to consult them; this is not one of them.

Chairperson Speranza: Right.

Mr. Leary: So we responded to your comments. We did go to the ARB, and we have what I believe is a favorable report on the caveat that if there was any change to what they saw they would reserve the right to review the application. That was on the 7th.

Chairperson Speranza: And if you could just again, for the benefit of people who may watch this on TV, go through exactly what the changes are being proposed. What your application entails with respect to the equipment on the building.

Mr. Leary: Oh, we can rehash it.

Chairperson Speranza: Just very, very briefly.

Mr. Leary: Thank you.

Anthony Botta, AT&T project engineer: We currently have an equipment platform with four cabinets on it and six PAL antennas. We are adding three more PAL antennas, one per sector, and one more small cabinet. There's three regular-sized cabinets and one small cabinet. We're putting a second cabinet on top of that small cabinet, and behind the antennas two RRH units per sector, which will be on the inside of the parapet, not visible.

Chairperson Speranza: Thank you. What I'd like to do now is hear from our consultant engineer, Mr. Fishman.

Douglas Fishman, managing director – RCC Consultants: Hi. I was hired by the Board to evaluate the AT&T application. I've been working on the evaluation since the beginning of the month. I reviewed two separate submissions so far, and what's remaining I would characterize as relatively minor issues in terms of correcting some of the analyses, adding some more information – nothing that I feel is going to impact the ultimate safety of the site or visually impact the site, as well.

One of the issues that came up, I understand, previously, had to do with the need to add an extra antenna per sector, another three antennas. I can address that concern. AT&T has three distinct technologies that they're going to be using at their site. They're using two technologies today. One is GSM3, which you might have heard as the 2G technology. The other one is UMTS, which is also known as the 3G technology. What they're adding is LTE, which is also known as 4G. OK?

These, even though they're all colocated, really are three separate networks. The performance of the networks and the performance of the users, equipment, your cell phones, with these different technologies is different. So you really need to have a unique antenna, per technology, to allow the flexibility of optimizing your network so the performance for each technology can be adjusted independently as opposed to trying to combine multiple technologies and one antenna. Then you're limiting yourself and you may be helping one

technology and hurting the other one. So that's really the reason why you need an extra antenna here. And they've really made, from what I've seen, the most efficient use of antennas in terms of the number of antennas at the site.

And I think there was also a question about the size of the antennas?

Chairperson Speranza: Yes, whether or not they could be made smaller – the cabinets and the antennas. Because we've seen in previous cases where the equipment size could be shrinking.

Mr. Fishman: Yeah, from a visual standpoint I think because there's more of them you probably see the antennas more than the equipment. But I can certainly address the antenna aspect of it.

Because these antennas handle multiple frequency bands in each antenna there is a minimal size that you need to handle not only different frequency bands – but they handle multiple inputs per frequency bands. Because these technologies require, at least on the receive side, to have two separate receive paths into the equipment. That helps the sites hear the users better.

There's a certain minimal size to be able to do all that in one package. You can use smaller antennas, but then you're going to lose the benefit of having multiple frequency bands. And what that means is that you would need more of them. I would think from an aesthetic standpoint you would rather have fewer antennas that are a little bigger as opposed to more antennas that are a little smaller.

Boardmember Cameron: Well, our issue is that we have limited spaces where we can put these antennas in our town. And we will be under continuing pressure if we believe how many additional users, and for what they're going to have.

Mr. Fishman: Yeah.

Boardmember Cameron: And so we're trying to not lose our scarce resources by just having people leave equipment on our buildings which is bigger than it has to be. So we're looking to you to tell us, yes, from your experience that this is probably the minimal size antennas they can have in order to achieve what they're doing currently.

Because, quite frankly, we only have one Municipal Building. And then we have to start going to other buildings in order to deal with this pressure. And I understand we're not going

to get rid of GSM immediately, since it's used in the rest of the world more than here. But hopefully we'll get around to having less technologies with broader uses.

Mr. Fishman: At some point perhaps, but that's probably well into the future. So yeah, I think the way the site's set up now is probably the best way for the current configuration on the roof. I mean, in the future, if you have other carriers come, there certainly is still horizontal space available around the outside. You can always go up, but the higher you go up the more of an eyesore it's going to be.

Chairperson Speranza: Right.

Mr. Fishman: So that is an option for fitting more people, if you have to, in the future. But, you know, for now I would think this is the best configuration.

Boardmember Cameron: And the question about the equipment is, quite frankly, we do have some load limits on how much equipment we can put on this building. You know, we'd rather have three chimpanzees and one elephant, or two elephants. So we're looking for opportunities to get m more down here, if necessary.

Because, you know, you start to read about cars which are going to have receptors for eight units in the same car. I just read about the Audi that's going to have a way of transmitting through eight devices at once. That does show a certain demand may come.

Mr. Fishman: There's always the option for equipment – and I don't know what kind of space you have inside – but that's another option perhaps in the future. Rather than adding more to the roof is putting some somewhere on the second floor and running cables up through. Again, I don't know what your equipment space is, but that's done occasionally, as well.

Chairperson Speranza: Which leads to another issue that had been expressed by the Board at the last meeting. There was a concern or a question as to what the exposure was for individuals working in this building – the below-rooftop exposure – and ensuring that that was within the appropriate guideline, the appropriate requirements.

Mr. Fishman: Right. And the applicant did do a study. And the study included emissions on the level below the roof. The emissions were well below FCC limits. Where there were emissions that exceeded it was just immediately in front of the antennas. And there will be signage put up right by the antennas. I don't know if anyone's ever going to have a case of actually being in front of the antennas, which are mounted above the parapet. But there'll be adequate warnings signs to indicate the danger of doing that.

Chairperson Speranza: Does anyone have any other questions of Mr. Fishman? There was one that I mentioned to you that was requested of us at the last meeting. There was someone who had submitted a comment because it's still a public hearing. But the question was, could the cellular company – and you've said that you could do this – explain the difference between a GSM signal and a CDMA signal, and what the equipment that's proposed actually uses.

Mr. Fishman: I can certainly talk about that ... you know, the AT&T guys, if they want to add to it, of course they should. But basically, they have ... there's unique equipment put in place for the two different technologies: separate antennas, like we talked about. They are based ... they're technically very different in terms of how they operate. They're both digital technologies, but apart from that there are many differences. And I'm not sure that you really want me to go into a lot of technical gobbledegook.

Chairperson Speranza: Are they significant in any way with respect to the equipment needs?

Mr. Fishman: Yes, unique equipment. You cannot use a receiver-transmitter that's designed for UMTS for GSM, or vice versa. It's a unique technology.

Boardmember Dandridge: In the same way you would have to buy a different handheld to go up from 3G to 4G. I suspect we'll be seeing the same parties in front of us in the not too distant future telling us that there's now a 5G. Which is my whole issue. It speaks to incrementalism and the failure, or the inability to consolidate. We are going to run out of real estate, and I think that's what I suspect people at home and the people in town are thinking about: which is, on the one hand they like the fact that they're getting innovative technology, on the other hand there has to be a more efficient way to consolidate your needs.

Boardmember Cameron: Well, the new iPhone uses two of these technologies. It can use GSM or the LTE, I believe.

Mr. Fishman: And it uses the 3G also, actually. So yeah. The handsets, they're building in multiple technologies to the handsets. That is happening.

Boardmember Dandridge: I just don't like us being put in the position as a planning board of having to take each one of these in isolation without having any ability to look at the long-term effects. Because, quite frankly, you will be back. We will end up having to retain you, or someone else, in the not too distant future the next time it's expedient to roll out yet

another platform that is some how, in some fashion, not deployable on existing infrastructure.

We're going to run out of space.

Chairperson Speranza: Maybe some old ones come down.

Mr. Fishman: Right? Again, don't forget. The 1G – let's call it 1G technology – no longer exists. The old analog technology isn't out there anymore.

Boardmember Cameron: That was the string with two cans, too, right?

Mr. Fishman: Right. So I would imagine, in the future – as new technologies come out – the users keep on migrating to the newer technology. So GSM is ultimately going to go away. At what point, we don't know at this point. But it ultimately is. And right now, LTE is just being used for data services. Could that be used for voice in the future, and maybe absorb some of the 3G? Perhaps. So it's an evolving thing.

Building Inspector Sharma: A question just occurred to me. Has it ever been necessary to check the levels of emissions after the installation has been done to see that they are what they're projected to be? Or have there been instances where significant differences were experienced, or measured?

Mr. Fishman: There certainly is equipment out there to do that. The emission ... the analysis that was done was very conservative. I would expect the actual exposure levels are going to be lower because they made worst-case assumptions – like these transmitters were on all the time – and that they were transmitting 360 degrees around; all things which aren't true. Exposure levels are based not only on power, but on time of exposure.

And the way the cellular carriers is there's basically one channel on all the time, but everything else is only on when people are using it. So the actual exposure levels are going to be quite a bit lower than the worst case which was calculated. So I certainly don't imagine any kind of RF exposure issues. As a matter of fact, the highest RF exposure is actually coming from the municipal antenna that's up there. Of course, that's operating at quite a bit higher power level.

Chairperson Speranza: OK, thank you.

We also had engaged – Deven, maybe you want to speak to this – Mr. Costa because of the question with respect to the structural load on the roof of the building. And I'm not sure if

this was circulated to everyone, but I'll read this into the record. There were some requests that were made with respect to the clip angles and support angles, the structural class.

"The Calculation Review: The structural calculations properly covered the live loads – snow loads and dead loads – the additional cabinet loading of approximately 250 pounds can be supported by the existing platform without modifications. The additional cabinet and antenna loading can be adequately supported by the existing parapet wall."

He recommended "the wind loading calculation be modified. A revised detail should be permitted."

That was it. So with respect to the structural capability of the building to handle this equipment, we do have the report from our engineer that confirms what the applicant has said in his submittal, as well.

Building Inspector Sharma: The details about how the clip angles will be secured to the wall or wind load, I think that can be resolved. The main concern was whether this addition of 250 or 300 pounds of cabinet, and what the existing loading on the platform currently is. It's up to 3,000 or so pounds. And the capacity of the building to take that load, we're not compromising in any way those capabilities and capacities.

Other details. Wind load calculation is another that I think can be resolved quite easily.

Chairperson Speranza: OK. This is a public hearing. Anybody wish to speak on the application? Boardmembers, any other questions or concerns or comments? We have a number of items to take with respect to this.

Boardmember Sullivan: Well, Marianne walked in and I just wanted her to read her notes to us: the calculation of the total area covered by their equipment, and what's been provided.

Chairperson Speranza: Right. That's one of the things. This is with respect to the lease agreement.

Mr. Leary: Right. We're under the threshold. I that that was going to be raised at the lease level.

Chairperson Speranza: Yes, it will. But you're here.

Village Attorney Stecich: I need the information.

Mr. Leary: OK. We'll get her the information.

Chairperson Speranza: OK. And did I hear that you went to the ARB? Buddy, do you handle ARB? Do you want to speak to what they had to say? Not that we don't trust you. We like to hear from our staff.

Deputy Building Inspector Minozzi: The ARB didn't seem to have an issue with the current configuration. But they do reserve the right to ... if there's anything different than what is on the plans that's installed that it can definitely come back before the ARB for resubmission. Ok?

Chairperson Speranza: OK, several actions. The first of which is ... Marianne, I am glad you're here so I get these in the right order – the first of which has to do with the negative dec?

Village Attorney Stecich: Yeah, do SEQRA first.

Chairperson Speranza: So the actions that were taking – site plan approval, special permit, and view preservation ... view preservation recommendation. So let's start first with the issuance of a negative declaration on the application before us for special permit, site plan approval, then view preservation recommendation.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Sullivan, with a voice vote of all in favor, the Board resolved, with respect to SEQRA, to issue a negative declaration on the proposed construction/addition of, or modifications to, existing antennas and associated equipment on the roof of the Municipal Building at 7 Maple Avenue by AT&T.

Chairperson Speranza: Special permit. We'll just call it the special permit, rather than a special amendment to the special permit. So I need a motion to approve the special permit for the modifications, including additional antennae and cabinetry on the roof of the Municipal Building by AT&T.

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to approve the special use permit for the construction/addition of, or modifications to, existing antennas and associated equipment on the roof of the Municipal Building at 7 Maple Avenue by AT&T.

Chairperson Speranza: And now I need a motion for approval of a site plan for the additional AT&T equipment on the roof of the Municipal Building.

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Alligood with a voice vote of 4 to 1, the Board resolved to approve the site plan for the additional AT&T equipment to be placed on the roof of the Municipal Building at 7 Maple Avenue.

Chairperson Speranza: You're opposed?

Boardmember Dandridge: I'm opposed.

Chairperson Speranza: Oh, I wish I'd known you had concerns.

Boardmember Dandridge: No, it's a philosophical opposition to approve it, when down the road we're going to back here again. I recognize that we're not in a position, but I still think it needs to be said, we need to be sustainable as a planning group. And I would hope that the next time AT&T comes without divulging competitive, proprietary information they be more resourceful in giving us some understanding of when they might either replace GSM, or start to consolidate.

Chairperson Speranza: OK.

Boardmember Dandridge: It's only fair.

Chairperson Speranza: OK. So four approvals, in disapproval. Site plan approval carries.

Recommendation for the Zoning Board of Appeals for the application. And again, subject to ultimate approval signoff by the Architectural Review Board, in conjunction with what they've recommended – that they be able to come back and request modification should things ... well, obviously, if things aren't built the way that you say they are, the way that the plans are – and the plans that ARB has seen – you're violating site plan.

Building Inspector Sharma: I'll cut the cable. They will not be able to use it.

Chairperson Speranza: Excuse me? Oh, you'll cut the cable.

Chairperson Speranza: All right, I'm just going to treat this the way I normally do. Recommendation for view preservation approval to the Zoning Board of Appeals. Need a motion, please.

On MOTION of Boardmember Cameron, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Board resolved to approve view preservation recommendation to Zoning Board of Appeals as it relates to the construction/addition of, or modifications to, existing antennas and associated equipment on the roof of the Municipal Building at 7 Maple Avenue by AT&T.

Chairperson Speranza: OK, unanimous.

Boardmember Cameron: Could I ask one question to our consultant while we still have him here?

Chairperson Speranza: Sure.

Boardmember Cameron: As I understand the 2G technique is also ... isn't that the one used in Europe?

Mr. Fishman: Yes.

Boardmember Cameron: Yeah. So until the Europeans give it up, we sort of have to use it here in order to get Europeans to be able to ... well, some of them anyway. Maybe we don't.

Mr. Fishman: It certainly helps with international roaming. They're also using UMPS.

Building Inspector Sharma: Please speak in the microphone.

Chairperson Speranza: He has to get up.

Mr. Fishman: Is this on? They're also using, or rolling out, the UMPS, or 3G technology out there also.

Boardmember Cameron: OK. So until the Europeans roll out the 3G technology, I guess we may have 2G here in the United States to satisfy the use by them of their phones while they're in the United States? Or people in the Far East, I believe use GSM.

Mr. Fishman: Right. It's probably going to be quite a while before GSM goes away. But it can certainly be reduced in terms of the amount of equipment that's being used compared to today.

Boardmember Dandridge: Yeah, I would offer a different view. Which is that if you look in the fastest-growing parts of the world – Brazil, Russia, India and China – they have adopted 2G and will stay at 2G principally because it allows for encrypted transactions.

Boardmember Cameron: Right.

Boardmember Dandridge: And as we do more – as part of the global economy – there will not be less than 2G.

Boardmember Cameron: Right. I was dealing with the fact we're going to have those three.

Boardmember Dandridge: Right.

Boardmember Cameron: That's where I was going.

OK, thank you. That's all I need.

Chairperson Speranza: OK, thank you.

Mr. Leary: Oh, I'm sorry. I don't think we received a copy of that structural ...

Building Inspector Sharma: No, I will forward it to you. I meant to.

Mr. Leary: OK, I'll call you tomorrow.

Building Inspector Sharma: I'll definitely send it to you.

Mr. Leary: Thank you.

(IV.) NEW PUBLIC HEARINGS (continued)

2. View Preservation & Site Plan Review/Approval – Application of Arthur Riolo for the addition and alterations for conversion of an existing two and a half story office/commercial building at 32 Main Street into a single-family residence and an office space on part of the first floor.

Chairperson Speranza: OK, the next application on our agenda is for view preservation and site plan review and approval for the conversion of a 2-1/2 story office/commercial/residential building into a single-family residence, and office space on the first floor. This is for Mr. Riolo, who I know is here.

Boardmember Dandridge: I think we owe the Riolos a note of condolence on the passing of their loved canine.

Village Attorney Stecich: Let me just point out one other action that the Planning Board would have to take, if they're so disposed. This was not in the notice, but I think the notice is good enough to cover it. And that's approving a residential use on the ground floor.

Chairperson Speranza: Right, because of our zoning code.

Village Attorney Stecich: Because in our CC district, residential isn't allowed on the ground floor. But you can permit it as long as it's not abutting the street. And there's some other findings I mentioned in my memo. So that's the third action you would have to take.

Chairperson Speranza: Right, OK. Tell us what you want to do.

Arthur Riolo, applicant – 32 Main Street: Good evening, and thank you for having us. I would speak to the view preservation part of it.

As you know, this building – or maybe you don't – it's a building that was built in 1886. There were four of these Queen Anne in a row. We own 32 and 36; our office is number 30. From the view preservation standpoint, I've submitted pictures to you from the top floor of 40 Main Street, which has Arturo's barbershop. There are two windows that face to the west. There are pictures here that show you that they're basically looking into the roof of 36 Main Street, and you do see the chimney of 32.

I also took pictures from the roof of 45 Main Street, which is the new building across the street, to show elevate-wise and projection-wise how it really, I don't believe, would affect

the views from that building. Those are the only two buildings that are actually of the same ... they're taller, and they're the only ones that would have a view looking to the west.

So if you have any questions about the pictures, or about the view preservation part, I'd be happy to try to answer them.

Chairperson Speranza: OK. Let me just say "public hearing." Anybody wish to speak on the application? There is more to it. All right, and you understand that the submittal of photographs to show the view preservation – the view to be preserved, or the way in which the view might be impacted – is just something that's a formality in terms of the application. And that's one of the things we base our decision on.

Mr. Riolo: Fine. OK.

Just to kind of continue in reference to how we're approaching ...

Chairperson Speranza: What you're doing, yes.

Mr. Riolo: OK. We are going to be using the existing windows. It's very much of a green concept that we're going to with this, to reuse and to use recycled materials in our insulation. We're basically going to reuse materials of the building. Some of the rafters we'll be reusing. The flooring is going to be the existing yellow pine flooring. So most of this is to keep the building in its integrity, material-wise, and also to take the aluminum siding off and the asphalt shingle off which is underneath that, and then re-shingle it, re-side it with a natural material, which will be cedar. And it will look as 36 looks when we did 36, which is the building next door. Our intent is to have these revert back to their original luster.

Village Attorney Stecich: Could I just ask one question? The whole building you're doing that to, changing the siding on the whole building?

Mr. Riolo: That's correct.

Village Attorney Stecich: So then the design guidelines do kick in. You have to go before ... probably there's not going to be an issue, but if you change the façade at all there's new guidelines that were adopted either at the end of 2010, beginning of 2011, or that the CC for the downtown district. If you haven't seen them, you should read them. There's probably not an issue, but you do have to go before the ARB to ensure compliance with the design guidelines.

In fact, I think, in the CC district, it may have to be that they serve in an advisory capacity to you, and you can't approve it until you know that it complies with the design guidelines.

Mr. Riolo: We do know that we have to appear before the ARB.

Jessica Riolo, co-applicant – 32 Main Street: We did that with the previous building.

Village Attorney Stecich: But the design guidelines were just adopted so that's probably new. The ARB is one thing, but it's just fairly recently ... the Board of Trustees worked on the design guidelines for awhile, but they were just finally adopted recently.

Mr. Riolo: Well, hopefully, they'll like what happened at 36.

Village Attorney Stecich: Yeah, there's probably not an issue.

Leonard Guglielmo, engineer – 32 Main Street: I was going to speak to the site plan, setbacks and the height.

Chairperson Speranza: Perfect.

Mr. Guglielmo: If I could, I'll hand out some photos. I'm going to be addressing the upper right and lower left photos. Let me start here. If you look at drawing A-2, I'll call your attention to the area of interest. And basically, the area of interest is the rear left section. There are four notes on drawing A-2, and I think I'll just go through them very quickly. If you have any questions, I'd be happy to answer them.

Basically, the scope of work is to convert an existing 2-1/2 stories to 3 stories. So that would raise the third floor up approximately 4 feet past its current ridgeline. The drawings show 33 feet 6 inches. It'll probably be 35 feet because at 33-6 the slope is very low; we'd have to put in a rolled roof. And architecturally, and from a just general desirability standpoint, it would be desirable to put a shingle roof on there. Thirty-five feet is still below the required 40 feet. So that's note number one.

Note number two, we would propose that we square off the building by expanding the existing footprint by 13 square feet. So if you see that hashed area in the back, it's 2 feet wide by 6-1/2 feet long. That would go up three stories. So pretty much, if you look at these photographs this back shed area would be taken down, and the building would be squared off and go up three stories.

Boardmember Cameron: Is that the way it is right now with 36?

Ms. Riolo: Yes.

Mr. Guglielmo: Basically, I just covered note three in that explanation.

And then note four, it's proposed that a side egress from the basement be put in, with stairs coming up in two directions. Now, if we interpreted the code correctly, because this is in the CC district, the side yard requirement's zero. If you look at this, the existing survey will more than meet the rear yard. And then again, the height's 35 feet.

Village Attorney Stecich: Just on that one, can I ask him what's the building next door? It looks like a residence, but it may not be.

Mr. Riolo: Number 36 Main Street is commercial on the first floor – it's my wife's studio – and residential on the second floor.

Village Attorney Stecich: See the problem is, the setback in the CC is zero unless it's next door to a residential building.

Mr. Guglielmo: All of the buildings on Main Street are mixed-use.

Village Attorney Stecich: I guess you could say it's a mixed-use. So if you say it's mixed-use, that's not purely residential. So I think it's OK, if the Board agrees with that interpretation.

Chairperson Speranza: And you own that building.

Mr. Riolo: I do. We do. And all the buildings on Main Street are mixed-use.

Chairperson Speranza: Right.

Mr. Guglielmo: Continue? Now it's also proposed that that area, that the building be residential, with an extension of Riolo Real estate in the front first floor abutting the street. Arthur, you might want to ...

Mr. Riolo: Yes. At present, we have outgrown 30 Main Street, and our conference room is being used regularly. There is a need for us to have more space. So the conversion of the front room would be for our office space for meetings and also to see clients.

Chairperson Speranza: OK. Question or comments, anyone?

Boardmember Sullivan: A couple of comments. I just think that in the future – and this is sort of a general comment – I'd like to see ... your explanation of what you are doing was helpful, but it was not in the drawings that we received, which is problematic; understanding what was existing and what was new. So that's just a general comment. Making a distinction like that would be helpful, but you were very clear in your explanation so that was appreciated.

Personally, I fully support this transformation in the downtown. We've had one other application like this where there was an office that was being converted to apartments. I think having the type of flexibility to the downtown to those kinds of uses go back and forth depending on what people perceive as the need. In your case, choosing to come and live here, it's wonderful to have that kind of flexibility in the downtown.

So even though the character of this appears very much to be a single-family home, and the one next to it seems to be a single-family, I appreciate the flexibility of the downtown for people to change between commercial uses and residential uses depending on wherever they are in time and whatever their need is. I initially wasn't supporting the idea that this was to be thought of a mixed-use, but it really does appear, in character, to be a single-family home and so does the one adjacent to it. But I think allowing people to have the flexibility, I would hate to start arguing that particular point.

The only other thing I need to mention, because I think also in some of the other applications that we've seen that are similar to this, is that we do have to address parking and the recreation fee because of it being this kind of site plan.

Ms. Riolo: Site plan, and what?

Chairperson Speranza: The recreation fee. There is a requirement for new units, new bedrooms, that are being created in the downtown – well, being created town-wide – to pay a fee to go toward the recreation fund.

Boardmember Sullivan: And I guess that said, my feeling – again, in order to allow people to have flexibility in an existing structure to move between residential and commercial – like the other application that we saw in the downtown, I would like have it not waived in this case. I think it's more fitting to do that when you're creating a new unit from scratch.

Mr. Riolo: Just in reference to the parking part of it, there is an existing two-car garage.

Boardmember Sullivan: Thank you for mentioning that. I saw that from the survey, but it's something that we have to talk about. So thank you.

Boardmember Alligood: I have a clarifying question. The building currently has an apartment, right? In your application you said it does.

Mr. Riolo: OK. The building currently, on the second floor, has an apartment with the kitchen in it and a bathroom. But it was not used as an apartment for 18 years. It was used as offices for psychologists. But it is hooked up, the gas is working, refrigerator and bath; a stairwell up, a separate doorway. And there was an art gallery on the first floor. There were offices for judges and assemblymen and stuff like that over the time. So it was always used as a mixed-use.

Chairperson Speranza: OK.

Boardmember Alligood: in terms of my interpretation of whether or not the rec fee applies, it would be more that there already is an apartment in there and you're making it a residential use. You're not really creating an extra unit. If we waive the rec fee, that would be the rationale I would use. I think we're on a slippery slope if our rationale is, well, we want people to be flexible so we just don't apply it. That makes me a little uncomfortable because it's not fair to the people that we do apply it to. We have to be consistent in our reasoning when we don't apply the rec fee.

Boardmember Dandridge: I would agree. I think the operative language here that I've heard repeatedly is "squaring off" something that's already there, right? We're not starting from scratch, or creating something new.

Boardmember Alligood: Because, clearly, we have a provision in our code that says if you're creating an entirely new unit you must pay a recreation fee, and I think we should stick to that. But in this case, I'm hearing the same interpretation that there's already a residential use in the building. So I just want to put that on the record: I think it's very important what our rationale is.

Boardmember Cameron: Do you use the driveway between 32 and 30? Is the garage usable right now?

Mr. Riolo: Yes. There's a vehicle parked in the garage right now.

Boardmember Cameron: You're going to continue to use the garage.

Mr. Riolo: Yes, we're going to continue to use it as a garage. And yes, we do use the driveway. If you've ever driven by you'll see the Chinese fire drill. We try to keep as many cars off the street as we can for the real estate office, so we load the driveway.

Boardmember Cameron: Could you move them all off the streets where you're selling the house, and put them back later?

Mr. Riolo: Well, OK.

Boardmember Cameron: I agree with my compatriot next to me on the rec fee. I think their units are already there, personally.

Chairperson Speranza: OK. And I really have nothing to add. It's there, mixed-use, it's our downtown.

So we can go through ... I just want to understand, in terms of, process, Marianne. We're OK to make these subject to approval by the ARB? Why don't we do that?

Village Attorney Stecich: You could do it one of two ways. You can send it because they're supposed to be in an advisory capacity. You could send it to the ARB, and then bring it back. Or you could approve is subject to, and if they don't get ARB approval then they have to come back here. Make it subject to their approval.

But Kathy did raise a point about parking. That there's more than one use in there, so there's enough parking for the residential use but not for the office. I was checking the section about the downtown in the CC district, that you don't need parking. But that's for retail space.

Boardmember Alligood: But it's under a certain amount.

Village Attorney Stecich: It's 2,500, but it's retail. I don't know, would you count a real estate office as retail?

Chairperson Speranza: I would have to say isn't there also the provision that you're within so many feet of a municipal lot? There's no change to the office space. You know, it's not an expansion the office.

Village Attorney Stecich: I know, but there are two spaces. The office isn't the problem, but there's the office and the residence in a mixed-use building. You have to combine the parking requirements.

Boardmember Dandridge: A real estate office wouldn't count as retail. That's traditionally considered professional services.

Village Attorney Stecich: How many square feet is the office?

Mr. Riolo: The front room is, say, 12 by 14.

Boardmember Alligood: It says 15 by 12.

Mr. Guglielmo: One-hundred square feet maybe.

Boardmember Alligood: Fifteen by 13.

Village Attorney Stecich: While you're looking at that, let me see how there could be an agreement if it's within so many feet, if that's the way you want to go. But Kathy's right that parking isn't an issue. And it doesn't usually come up with us for the CC district because most of the things that come are retail. And that was what the assumption was for, retail.

Chairperson Speranza: Well, why don't we talk about view preservation? Because that's something that we can do, I think, fairly easily: make a recommendation to the Zoning Board of Appeals on the application for view preservation. So if there's no discussion or concern, can I have a motion for recommendation to the Zoning Board of Appeals to approve the application for a view preservation?

On MOTION of Boardmember Dandridge, SECONDED by Boardmember Sullivan with a voice vote of all in favor, the Board resolved to approve view preservation recommendation to the Zoning Board of Appeals as it relates to the addition and alterations for conversion of an existing two and a half story office/commercial building at 32 Main Street into a single-family residence and an office space on part of the first floor.

Village Attorney Stecich: Oh, there's another section.

Chairperson Speranza: OK, good.

Village Attorney Stecich: This is also just for the CC district. *"A change of use or expansion of use in existing use within an existing building, structure, or portion thereof occupying 2,500 square feet or less shall be exempt from providing off-street parking."*

So you could say the office is exempt, and they have the parking for the house. So then the parking's OK.

Boardmember Cameron: They're probably putting six cars down the driveway anyway.

Ms. Riolo: There's actually going to be less activity because it's just Arthur and I and his office. And it used to be two consultants upstairs with their whole practice and all the people that brought in.

Village Attorney Stecich: Well, it's not an issue.

Ms. Riolo: It's going to be more modest than it was, actually.

Chairperson Speranza: OK, so we need to, first, if I recall this, make findings on the Planning Board allowing that residential use be permitted on the first floor of the building in the CC because it is not going to be on the street side of the building. One of the first findings that we ...

Village Attorney Stecich: Yeah, but there's two. You also have to say ... Patty, I'm sorry. The first thing you should do is SEQRA.

Village Attorney Stecich: There was no EAF form submitted.

Chairperson Speranza: Yes, there is.

Village Attorney Stecich: There is. Then do SEQRA.

Chairperson Speranza: OK. So the first thing we have to do is a motion to, having reviewed the SEQRA, noting that we're issuing a negative dec on this action. So that's the first motion. The motion being the site plan approval for the modifications to the building at 32 Main Street.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved, with respect to SEQRA, to issue a negative declaration on the proposed modifications to the building at 32 Main Street.

Village Attorney Stecich: And then on the findings, it decides just that it's not in the primary wall. So we have to make a finding that the residential use on the ground floor is

comparable with neighboring properties and is consistent with the commercial nature of the CC district. And if you can make those findings, then you can approve it.

Chairperson Speranza: OK. So can I have a motion from the Board that we're making findings recognizing that the proposed renovation at 32 Main, noting that we recognize that it will include residential on the first floor, or the ground floor, of the unit, but noting that it does not face the streetscape; that it is consistent with the adjacent properties.

Village Attorney Stecich: And consistent with the downtown, comparable with adjacent properties.

Chairperson Speranza: And consistent with the character of the downtown.

On MOTION of Boardmember Dandridge, SECONDED by Boardmember Sullivan with a voice vote of all in favor, the Board found that the proposed renovation at 32 Main Street will include residential on the first floor, or the ground floor, but that it does not face the streetscape; and that it is consistent with the downtown and comparable with the adjacent properties.

Chairperson Speranza: OK. And then we move into what I believe is the final action on this application, which is site plan approval for the proposed modifications to 32 Main Street, subject to approval by the Architectural Review Board.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board resolved to approve the site plan for the proposed modifications to 32 Main Street, subject to approval by the Architectural Review Board.

Mr. Riolo: Thank you.

Chairperson Speranza: Thank you. This has been a night of many motions on many applications.

Yes, I understand that you wanted to come up. You're not on the agenda so we may not do anything formal. Certainly, if there's something you want to bring to our attention, feel free.

Mirjana Alilovic, 12 Prince Street: Yeah, I just have some questions for what I maybe don't understand, and maybe you guys can help me before I put in an application.

Chairperson Speranza: OK, sure.

Ms. Alilovic: You just approved a bill where lots are subdivided for the house. What I would like to do, I want to use that soil, the dirt, and move ... in my backyard. Not level my backyard, not change any sloping. Because I'm going to show you the pictures. All the yard is going like this, waving. Just want I wanted to make nice and clean down. We don't like to have any retaining walls in the back, nothing, because it's county property in the back.

We just want to make nice and clean because we're not able to do landscaping and not use that backyard. I understand I need some permit. I need something for that. You know, that soil is already tested; you guys tested, you have proved the soil is nice and clean, all dirt. I don't know if you can see what I'm talking about, what I want to put over here just around the house to make nice and smooth for landscaper to go down. I have the picture here of the land. You can see how they look now.

Chairperson Speranza: Right. One of the problems that we had is because there had been fill on the adjacent property, which used to be your property.

Ms. Alilovic: [off-mic] we're going to move then, nice and smooth, around.

Chairperson Speranza: Right. And it created some issues with respect to development on that parcel. And as a matter of fact, it's one of the reasons that we're making modifications to one of the ordinances now. So you must understand we would be hesitant to say yes, it's OK to go ahead, without having a real clear indication as to what it is that you're planning to do. And I know that mean the expense of going through and creating the plan which would show what are the grades now. Because one of the things that we do want to make sure is that there is no ... we go back to this whole issue of the steep slopes on the property.

Also, we know your neighbor – the architect for your neighbor – who was here in October.

Ms. Alilovic: The same architect.

Chairperson Speranza: The same architect was prepared to talk to us about the parking area that you're going to be providing.

Ms. Alilovic: Yes.

Chairperson Speranza: So what you might want to do is ... and if he's done this plan, and would like to have ... I mean, if he can show the change in contours and how you plan to use fill on that property as part of one application, that's fine. But you do have to go through the process.

Ms. Alilovic: I know everybody's confused when I'm talking to them. But I talked today to (inaudible) also. He's supposed to come here, but he's at the [wind bake]. Because we have nothing. We don't want to build any retaining wall. We're going to come down the hill. I want to show you the pictures. It's too much waving, rocks and everything. We just want to fill it up and make it nice and smooth around.

That's it, what I want to do. We're not going to raise property. I don't know how someone's going to (inaudible) that (inaudible) is waving down. You know, I just want to make nice and clean to be able to lawn (sic) my lawn and use the property down there. Now how it looks, that's why I want to show you a picture if you want to look at it just to see.

Chairperson Speranza: The problem is we have a process. Just because we're concerned about the implications that this has on drainage.

Ms. Alilovic: I just want to move the earth and make it nice.

Chairperson Speranza: I can understand that. But with these kinds of applications there are unintended consequences, and that's what we have to make sure does happen. So my suggestion to you is to have your architect come in and just show how the grading on the site would be changed at the same time he comes in with the parking.

Ms. Alilovic: I know, but the guy [off-mic]. I don't know [off-mic] because it's nice, clean dirt and I want to use. If I give to him to do [off-mic].

Chairperson Speranza: But we can't allow you to do it without understanding what it is you ...

Ms. Alilovic: Can I just ...

Chairperson Speranza: No.

Ms. Alilovic: [off-mic].

Building Inspector Sharma: Speak in the microphone.

Ms. Alilovic: It's on? And I going to make a plan. I have this, I'll show you this. You see, this is how they're going to look now, my driver for the cars and everything. But I'm stopped because I cannot do it. My electricity line is still so low after this damage happened a couple of weeks ago. And now it's still (inaudible), and I'm waiting for Con Edison to fix that. And that's how they're going to come now.

Chairperson Speranza: OK. But we can't take action and we can't ...

Ms. Alilovic: Yeah, I know you cannot ...

Chairperson Speranza: Before we do the public notices and anything else that might be required. So we've just got to go through the process?

Boardmember Dandridge: Patty, don't we need to see something like this?

Chairperson Speranza: It may not be this kind of an application, but we certainly have to have an understanding of what it is that you're intending to do. Because again, we're right now in the process of changing ... making, or we've actually sent it to the Board of Trustees, and they're going to be holding a public hearing on revisions to the steep slope ordinance.

Ms. Alilovic: OK. Because, you know, I thought it was going to be the same slope from the bottom to top. I'm not going to change nothing, just what's there.

Chairperson Speranza: But we need to see that.

Ms. Alilovic: Sure, I know. OK, I guess I'll have to ask them to wait because it's a lot of money. I just can't afford to lose that. I'm late for a meeting on the 15th, December 15?

Chairperson Speranza: No. You mean in terms of getting on the agenda? Not at all.

Ms. Alilovic: Not at all? Because somebody told me I have to bring everything in four weeks before.

Building Inspector Sharma: For a steep slope application, since we don't need to put a notice in the newspaper, you just need to notify your neighbors. You can bring me the application within four weeks.

Chairperson Speranza: Adjacent neighbors.

Building Inspector Sharma: Even three weeks before the meeting, and we should be able to handle it. We should be able to put you on the agenda for the next meeting.

Boardmember Alligood: But she does need to have her architect do the plans.

Ms. Alilovic: You mean it's going to take me a couple of months?

Boardmember Cameron: You could have started this six months ago if you wanted to.

Ms. Alilovic: If I know, I would. But I don't know. Nobody told me.

Boardmember Alligood: We've gone on record voicing our concerns about what you did to the piece of property that you subdivided. So we've been very clear that there were problems with what was done on that property. And now you want to do something similar, so it shouldn't be a surprise.

Ms. Alilovic: No, I'm not doing nothing similar. I bring them before there to be able to ... I'm not even to think I'm going to sell the property. That happened overnight I sell it.

Chairperson Speranza: So the best thing to do, you are not too late to get on the calendar for December. You get the plans in, you make the conversation, you have the conversation with Deven in terms of exactly what it is you're going to do, and engage your architect/engineer for whatever paperwork needs to be filed.

Ms. Alilovic: OK.

Building Inspector Sharma: If I get the application and everything within the next week I should be able to put you on the agenda for the next Planning Board meeting.

Ms. Alilovic: OK, thank you.

Chairperson Speranza: OK, thanks.

Boardmember Cameron: I would mention, while she's still here, we talked about their property, and then coming in and doing the parking.

Chairperson Speranza: Yes.

Boardmember Cameron: We talked about putting the parking on the other side of the building, and she seemed to be putting it straight down the left side, from what she just told us.

Chairperson Speranza: OK. You know what? Let's have a conversation after we adjourn?

Any other business tonight?

VI. Adjournment

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:05 p.m.