

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
JUNE 16, 2011**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, June 16, 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 Jamie Cameron, Boardmember Bruce Dale, 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

II. APPROVAL OF MINUTES

Meeting of May 19, 2011

Chairperson Speranza: We'll first go through the minutes from our meeting of May 19 and ask the Boardmembers if there any comments or corrections to the minutes.

Boardmember Sullivan: The only thing I noticed in them ... let me see if I can find ... Page 8, Chairperson Speranza: "*Oh, the Westchester 20 to 25,*" and the paragraph right below. That "*Westchester 20-25,*" that's "Westchester 2025."

Chairperson Speranza: Right.

Boardmember Sullivan: It's the year 2025.

And I had one notation – and I'll speak for Mr. Cameron – on Page 3, where you're speaking, and it's the accessory apartment application ... the sentence should be "I don't think we're particularly required to consider income." It just kind of ends at the word "*required.*" So we just make those notes, then we'll be good.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of May 19, 2011 were approved as amended.

III. NEW PUBLIC HEARINGS

1. **Site Plan Approval – Application of Eileen and Jeremiah Quinlan for the conversion of an office space on the second floor of a mixed-use building at 535 Warburton Avenue, to a two-bedroom apartment.**

Chairperson Speranza: Next we have a public hearing for site plan approval for the conversion of an office space on the second floor of a mixed building at 535 Warburton Avenue to a two-bedroom apartment. Yes, hi. Good evening.

Julius Twyne, project architect – 535 Warburton Avenue: I'm the architect for the owners, Jeremiah and Eileen Quinlan. The project is to, as you said, convert the existing second-floor office over Warburton Avenue from its current occupancy as an office back to an apartment – because it began as an apartment.

What we did was to show the existing conditions, and then convert them ...

Chairperson Speranza: Deven, do you know if the easel's around somewhere? Oh, wonderful. Thank you.

Mr. Twyne: The first drawing just shows what is there now.

Chairperson Speranza: You know what? Just hold off one second. If we set the easel up it'll make it easier for everybody.

If you want to turn it, because if there are any members of the public that want to see it, we have the plans so you can just talk from there. At least people might be able to have some idea of what's being proposed.

Mr. Twyne: The project is, as I say, to convert this existing office to an apartment. It was previously an apartment, so we're going back to where we were. My first drawing just shows what's there now. It is like three smaller spaces ... well, three spaces and a kitchenette. That's what exists now.

I might say that just below this exists a pizzeria. Of course, every building along Warburton does have a business on its first level, so it's the usual circumstances. But also, once you leave the first level I think each building along Warburton has an apartment above it – almost all of them – except for, I think, a couple of instances of maybe architects' offices and the bank.

But other than that, they all seem to have this configuration of having a business on the first level – second-, third-level if they have them – apartments. Anyway that's what we're trying to do in taking this back to its usage as an apartment. My second drawing just shows taking out the partitions that we're not going to use. And the third drawing just shows how this is laid out.

We are creating an apartment which has two bedrooms, living/dining room, and a kitchenette. And there's an open area out front which has no particular usage at the moment. It has equipment on it, et cetera. But the layout of the apartment is a fairly typical kind of one. We have one rather large bedroom and a smaller one, and this large area.

That's basically what we're dealing with. I believe there were some questions from the panel regarding the usage of one of the bedrooms.

Chairperson Speranza: Right. With respect to the compliance with the code, I believe is what it was.

Mr. Twyne: I think when we looked at this, Deven, and you brought this up with me, we looked at the reading of the code. I believe the problem was about exiting onto a public area. Actually, I believe all the other buildings along that block have a similar kind of exit onto that area, except for the building usage, I mean this particular apartment. I think almost all of them have a bedroom that might face those particular light wells.

Now of course, in the city we use this a great deal. I believe they do use them for the purpose of being able to exit from them. I'm not sure that in creating that sentence that the purpose was to deny its usage for exiting an apartment. It might be, possibly, an unintended consequence maybe in the development of this. Because all of the other units have this kind of accessibility to this light well as an exiting area. That's obviously something that you will have to do.

Chairperson Speranza: Yes, and we will talk about that.

What I'd like to do, because this is a public hearing, is, we can go through some of the issues that Boardmembers have. I would like to find out if there's any member of the public who wishes to speak about the application.

That being the case, then we'll close the public hearing on this. But I do want to have Board discussion as far as several aspects of this.

Jerry, come to the mic.

Jeremiah Quinlan, applicant – 525 Warburton Avenue: I can use the microphone. As you know, my wife and I own this building. The second floor was an apartment when I bought it, and I bought the building planning to put my office there, which I did. I applied for the C of O and it was approved, and is now a C of O for an office. We got the C of O for the office.

An office as the apartment is a principle permitted use in the code. We talked to the Building Department and were told we had to come to the Planning Board. Now I understand there's some problem with access to the second bedroom.

The air well, or whatever you want to call it – the air/light well – is 10 feet long and 4 feet wide. At the very end, for the first 8 feet running from Warburton to the Steinschneider parking lot, the first 8 feet are 4 foot wide. And then it does narrow down for the last 2 feet into a little cornice. Right across from the window, in that bedroom, is the window in the bedroom next to it.

This building was built by an attorney sometime in the 1920s. At that time, they put these air spaces between each one of the five buildings. There are five separate buildings there. It looks like one building, but there are five separate buildings. Between each one of the buildings, they put what I consider large air and light spaces that come down through each one of the buildings. And at first, when we spoke to it, one of the problems was, was the window large enough to be a rescue window.

We determined that it was large enough to be a rescue window. It's basically our position that if a fire occurred in that bedroom you have a large enough space. Also, it's very important that the window in that bedroom – the ground, the bottom of that air well – is about 2-1/2 feet from the window.

So it doesn't go down to the third floor. There's a blockage there, a roof or something. I've been out on that to clean it up. Because some people in the other apartments, every once in awhile they have a party and they throw bottles in there and everything. So I've been out there to clean it up.

You can go out to there. So I think that the firemen could access through the roof, they could come through the window in the other apartment. And if there were a fire you could, of course, run out of the small bedroom and you could either go towards Warburton or towards the back of the building where the fire escape is.

A public space? I don't know who owns that air tunnel. I don't know what building actually owns that. So it could possibly be a public space. I don't think I own it and I don't think Peter Capuano, who owns the next building, owns it either. I think it's a common space for the use of air, light, and rescue for firemen.

So I do believe it's safe and, as I said, the buildings along Warburton are all pretty much the same. I don't know if they even have the air shafts on the other side of the street. But these five particular buildings do. So that's about all I have to add. If you have any questions, we'll try to answer them. Thanks.

Chairperson Speranza: That particular issue with respect to the fire protection is a New York State building code issue. So that I leave to their purview. It's got to comply with New York State building code. It has to. We assume, when we're approving these plans, that our Building Inspector is going to review them per the correct code and make sure that they are in compliance with the New York State building code. That's kind of a given from all of us.

We do have a Boardmember who is an architect who's got some experience also, and this caught Kathy's eye as an issue. It's something that's got to be resolved because it's just got to be compliant with New York State building code. I don't know if there's a waiver process if, in fact, it's not in compliance, and there's a waiver that can be done. Deven, I think you've gone through that process for other applicants.

Building Inspector Sharma: The way it comes from New York State, this Board has no jurisdiction. It's a New York State issue, a code issue. And if you were to choose to seek a waiver you would have to go to New York State's code division. But that certainly is a code issue.

We'll talk about it, what the verbiage is, what existed and has continued to exist in a certain manner. That's OK, but once you change it the new code starts to apply. The new code does require each sleeping room area to have an egress escape opening of a certain size that opens onto a street, a public alleyway, or a yard, or a court that opens onto a public space.

Obviously, this Board will only act on the conversion of use from one kind to another. I don't believe they will address the New York State code issues.

Mr. Quinlan: I'd just like to say one thing. I understand that, and I totally agree with that. But I think that's something that could have been decided before I spent the \$250 application fee for coming to get a site plan approval. And I still don't think there's been a decision. I don't hear the Building Inspector ... when we went over the plans, we were told that the one room had to be 7 feet. So we changed the plans to make the second room 7 feet. We were

told there had to be a rescue window of certain dimensions, so we changed the plans to include.

Now, at this late date – after the mailings, after this, after that – I come before the Board and ask for site plan approval and I still don't hear a clear indication from the Building Department whether they're going to give me a building permit. So I'm asking for the site plan approval, and then I guess it'll be up to the hands of the Building Department to decide whether they'll issue a building permit based on their interpretation of the New York State building codes. But I think it's kind of been done a little bit backwards, in my own opinion.

Chairperson Speranza: Noted. Jamie?

Boardmember Cameron: I'm just sort of curious, and it really is more addressed to Deven. As you look here, you see there are actually two windows. It seems to me that somebody could leave the bedroom through window one, walk across a flat space, and enter into the apartment into a different space through window two. Does that fit into the language of an exit?

It always says a public space, but it's almost like having a second door, if I could use that phrase, by having the ability to walk through the space and out the other window.

Building Inspector Sharma: No, the language was specifically ... I did not bring it with me. Kathy and I exchanged a couple of e-mails. We sent the actual language from the code back and forth to each other. Each bedroom has to have at least one such escape, or rescue opening, of a certain size. And that must open onto a public alley, public street, yard, or a court that opens onto a public space. I can bring that to your attention later, but each sleeping room must have one such opening.

Boardmember Dale: New York City requires only two points of access per apartment; not an access for each bedroom.

Building Inspector Sharma: That will be a separate issue altogether. Here, I think if it's three or more dwellings then they say means of egress from certain apartments have to be there, have to be more than one means of egress.

Boardmember Dale: When is it that each bedroom is required to have an access? Is that in any type of building, or just multiple dwellings?

Building Inspector Sharma: The current building code applies to it, not the residential code. It requires that every sleeping area must have an egress/escape opening, a window.

Once it's open, it has to have a certain size and area, height and width. And that opening must open onto a space that has those characteristics. It could be a court, it could be a yard. But that must open onto a public area, where this one leads to nowhere.

So I believe that we had brought that to Julius' attention, and your attention, Mr. Quinlan. The thought was that the plans could be modified to satisfy the condition. But here, this Board is not really commenting on the interior layout of planning or design of the space. It's strictly a conversion from one kind of use to another.

Boardmember Cameron: I guess I was asking that, you know – and I'm far from the person to look to the code – usually if you see the word "open directly onto," then you have that idea. But "open onto" can mean you go to one space and then you go to another. It doesn't necessarily mean that you open directly onto it. You'd have to look at the code and see it in context.

Chairperson Speranza: Yes, absolutely.

Boardmember Dandridge: Two quick questions, one for the applicants. How long has it been an office, for how many years? I'm just curious. In the life of the building, it's been a two-bedroom apartment except for what I would imagine is a relatively short period, right?

Mr. Quinlan: It was around 1998 to 1999 that I converted it and got a certificate of occupancy as an office.

Boardmember Dandridge: That was the first question. The second question, I guess, for the Board and also for Deven, the way the language is written by New York State, if we're modifying a structure then this would be relevant. But I guess what I'm trying to get at is, if we're restoring it back to its original condition, does this not get grandfathered in because it's perhaps not a modification, it's a restoration to its original condition? Which, if I understand, was a two-bedroom apartment?

Village Attorney Stecich: I don't know the building code. I haven't been involved in this issue at all. But I would know that generally, grandfathering, you don't get to recover what you had before your current situation. It would be unusual if you did, but I haven't read the building code.

Chairperson Speranza: You know what?

Boardmember Dandridge: Is this material to what I'm trying to get to, the change?

Chairperson Speranza: This particular issue has to be resolved with respect to the compliance with the New York State building code. That goes without saying. With any kind of approval by this Board, we leave it in the hands of the Building Department to make sure that when the building permit is applied for and the plans are reviewed that it is, in fact, compliant with New York State building code.

Building Inspector Sharma: That's my job, to make sure that it does.

Chairperson Speranza: Right.

Mr. Twyne: If I can add one thing about this, it is that the layout generally of commercial areas in downtowns are of the type that have commercials on the first level and above that these other usages. Now, when one thinks about it, if you had these light wells that continued down into a commercial area, and some way out of that, you'd be creating such a disruptive usage that I think it would prove to be an unwelcome kind of usage of space.

And I think with the limitation of height, without checking all of these things, I think the limitation of height is some, what, two or three stories, as we have. We're looking at a different kind of situation possibly that would not get us into some of the more technical difficulties.

Building Inspector Sharma: Once again, it's a code issue, of course – interpretation issue. We need to go deeper into it. We can involve the New York State people and ask for their interpretation whether it can be accepted as a grandfather situation or not. But obviously, this is not an issue to be delved into here. This Board can't do anything about it. I, obviously, personally can't do anything about it.

If the Board approves the conversion of the use from one to another, then obviously I'll work with you and work with the New York State code division to see what they permit, and what can be permitted and what not. Obviously, plans may have to be modified. It's not that it can't be done. The plan may look different from what ...

Mr. Twyne: I merely mention it because it is possible that we are looking at this in a light that possibly it isn't intended to be considered. In other words, it's just such a universal usage of that kind of space, I cannot believe that it is accidental that it does end that way. But again, we need to look further into it.

Mr. Quinlan: If I can just add one thing, Patty, it sounds to me like what I'm requesting of the Board is to approve the change of use and then we'll work with the Building Department to either accept these plans or modify the plans. But at least we can get something done

today, and that would be approve the change of use from commercial – not commercial, from office – to residential. And then we'll work with the Building Department to modify the plans, if need be, to be acceptable so that we can get a building permit.

So I guess that's what I'm asking for tonight, if possible.

Chairperson Speranza: And the point is well-taken. The whole idea of having retail and then residential above the retail units in our downtown is something that we have long encouraged, and it's something that is very good. Of course, we do want to make sure ... it's got to comply with all of our zoning codes and especially New York State code, particularly as it relates to health and safety and safe fire rescue.

So we'll leave that in the hands of the Building Department. There were a couple of other things that we had talked about at one point, the first one having to do with parking and the change of use from office to residential and how that would potentially impact the parking. I know it's in the downtown, and there are some things that we can avail – clauses we can make use of – with respect to zoning in the downtown and parking. Marianne?

Village Attorney Stecich: Did you want me to go through the parking? There are separate provisions for parking in the downtown, fortunately, in the CC District. Because ordinarily, when you change a use from something to another you have to comply with current parking requirements. And the parking requirement for creating a residential unit would be 1-3/4.

There is something that says within the CC District, a retail use – but only retail uses, and they're smaller than 2,500 square feet – don't have to provide parking. But I did find another section that gives the Planning Board discretion. It's section 295-24(b)(2): *"The Planning Board may reduce or waive the requirements for off-street parking where it determines that a change of use within an existing building occupying more than 2,500 square feet of gross floor area located within, or proposed to be located in, the CC District will not generate a significant increase in parking demand."*

So the Planning Board could waive the parking requirement if it thinks it won't generate an increased demand in parking. But if you do approve this, you should explicitly waive that requirement if you decide to do that.

Chairperson Speranza: Right. And that'll be important for us to do, should we decide to approve the site plan application; that we're consciously meeting the requirements.

Village Attorney Stecich: So you should probably discuss whether you think it's going to increase parking demand.

Mr. Quinlan: Can I just address that issue for one second? That is, in the office use – I believe we went over this with Deven – that the parking requires at least four to six spaces in an office use? And in the residential it requires less parking. So what you'd be actually doing in this application is, we're actually asking for less parking than it would be in an office space. I think you can check the code.

Village Attorney Stecich: No, that's what the code says. But do you have any parking right now?

Mr. Quinlan: No, I have no parking.

Village Attorney Stecich: I don't think it's going to be an issue. My guess is that the Board can find ... my guess is that an office use ... because you had an employee, right?

Mr. Quinlan: One part-time employee.

Village Attorney Stecich: Yes. That an office use, and the use for a ... well, I'm not going to prejudge it, but I don't think ...

[cross-talk]

Chairperson Speranza: Right. It won't be an issue. I know at one point we had talked about possibly having to go for a variance because it is a change of use. We can waive that if the Boardmembers so find.

Village Attorney Stecich: But that's only because this is CC. I mean, it's only because this is in the CC District. And when the CC regulations were redone, they were redone sensitive to some of the unique situations in the downtown, which is why it gave the Planning Board flexibility here.

Chairperson Speranza: And there was one other issue that came up, and actually we were researching previous Board minutes for a case to be heard later this evening relating to the recreation fee that is required for creation of new residential units. That's something else that we would need to have a discussion with, with respect to whether or not we see a significant use and need for recreational facilities. Maybe you want to just go through that.

Village Attorney Stecich: You remember in December, when the new lot was created. We obviously had a really lengthy discussion because the applicant, as you know, argued ... but anyway, that was a subdivision. But the same requirement is in the code for site plans. The

state law allows that requirement for both subdivisions and site plan. There's essentially the same provision that the Planning Board can require that a site plan containing residential units also contain a park, or parks.

But if you think that it's not suitable to have parks on the site you can require the fee, which is why I've explained that there was a rec study done, and what the fee is. The other one, the fee was for a new lot. And that was \$10,000. But the fees for units two-bedrooms and under is \$7,500. But again, you have to make a finding of the parking, you have to make a finding that it would generate the need.

Mr. Twyne: Of course, the one thing we do have here on the recreation is the fact that this building utilizes the total amount of the parcel, and the additional amount is actually in parking. I don't know if that has any bearing.

Village Attorney Stecich: That actually counts against you because it says, well, it can't be located on-site.

Mr. Twyne: We're really saying that this building occupies the total site.

Chairperson Speranza: The whole space, yes.

Boardmember Cameron: Oh, the light well. I forgot the light well.

Chairperson Speranza: Boardmembers? Comments, questions, concerns, anything that you want to discuss? We should talk about parking, we should talk about the rec fee just so we get on the record.

Boardmember Sullivan: Personally, I think this change of use is welcome in the downtown. Residential is traditionally retail space, commercial spaces, on the ground floor. So having this conversion is, I think, something we should support.

I also believe we should support waiving the parking requirements and also waiving the recreation fee. I think in this particular instance, since this is in a multi-use, mixed use building which already has residential in it that it would just be potentially inappropriate to put a fee also on top of the applicant's ticket.

So I support the conversion of use. I support not requiring, or waiving, the parking. And I support waiving the recreation fee.

Chairperson Speranza: Anyone else? Comments, questions?

Boardmember Cameron: On the parking, I think even though they don't have any parking right now, if we were just to look at the downtown, and say, "All right, does this conversion mean there's going to be less stress on our parking, or more stress on our parking?" the statistics quoted by Jerry, and also the fact that parking is a problem during the daytime and not at night, would say that parking is ... there's going to be no change whatsoever. In fact, it's a positive, potentially, on parking. So I would agree with the waive of parking.

I must say I do feel a little funny imposing a rec fee on a conversion back to what it was before in a building that already has one apartment like all the others. So I would also waive that.

Boardmember Dale: The planning goal of having downtowns become more dense and have more residential, and requiring that people use public transportation – not require, but facilitate people using public transportation – for work and things like that, in fact a number of villages, a number of towns are rezoning their downtown area so that they don't have to have as much parking in the downtown area.

Because it becomes a real burden, then, and contrary to the goal of people living in a world that's changing in terms of climate change. And the necessity for greater density near public transportation is evident. So I have no problem waiving the parking requirement.

I think the change to residential use, I agree, is welcome. I think there is enough space in the apartment to design it without having to use the air shaft as an access point. I think it just needs a little bit more thought about designing it.

The recreation fee I would read as being ... you know, people choose to live downtown because their recreation is, in fact, urban and not necessarily seeking open space parks. So I don't think this will necessarily add to the use of the parks. But better it be a family who's more interested in urban living; perhaps an older family, or a family that does not have young children.

So I would support all three.

Chairperson Speranza: OK. Anyone else? If not ... I mean, I tend to agree with everything that's been said.

Boardmember Dandridge: I would just make one point. I agree with everything as it pertains to this. The one area I would just, for the record, say is I'm probably a little bit looking different than some of my Boardmembers.

I believe particularly in this economic environment that property owners ought to have a flexibility. And I know that we want to encourage residential use of the second floor. But I hope we'll continue to keep an open mind for folks who want to experiment with innovative ways to make it both commercial and vibrant, and contribute to the economic tax base of our village if, and when, possible as long as it's in keeping with the character of the Village overall.

But I do, in general, support the residential use. We've got to give property owners some flexibility to make a buck here and there.

Chairperson Speranza: OK, then can I have a motion? And the motion would be ... well, we have a SEQRA form here.

Village Attorney Stecich: Yeah, you can just neg dec that. It's a non-listed action. It could be a neg dec.

Chairperson Speranza: Right. So we note the SEQRA action on this is a negative declaration for impacts, environmental impacts, as well as approving site plan with waivers of the recreation fee and the requirement for parking pursuant to the section of the code allowing a waiver of parking in the CC district. That's the motion.

On MOTION of Boardmember Alligood, SECONDED by Boardmember Dandridge with a voice vote of all in favor, the Board resolved that the SEQRA action on this is a negative declaration for impacts, environmental impacts, as well as approving site plan with waivers of the recreation fee and the requirement for parking pursuant to the section of the code allowing a waiver of parking in the CC District.

Chairperson Speranza: OK. Work out the state building code issue.

2. Site Plan Approval – Application of St. Matthew’s Evangelical Lutheran Church for an ADA-Compliant Ramp at the Fellowship Hall at 7 Farragut Avenue.

Chairperson Speranza: Next on the agenda is site plan approval for the application of St. Matthews Evangelical Lutheran Church to install an ADA-compliant ramp at Fellowship

Hall at 7 Farragut Avenue. Again, this will be a public hearing, so anyone who has any comments will be permitted to speak on the application.

Hi, how are you? You know what you got to do? You're going to have to take the mic so we'll be able to hear you.

Building Inspector Sharma: Take the microphone, please.

Chairperson Speranza: And name and address for the record, please.

Eva Klein Bouhassira, architect for applicant: We also have one representative from the church this evening. Ready? Yes?

St. Matthews Lutheran Church is located at 7 Farragut Avenue, and the property has two buildings which are located on the site. The first building is the chapel, which is to the left of the parking lot. The second building is what they call a fellowship hall, which is the building at the end of the parking lot.

There are some black-and-white pictures, or copies of the pictures, in the submission package. So I believe there is some representation, but I suppose everybody's familiar with it. The fellowship hall is a two-story building which is a split-level structure. The main door leads directly into a hallway. And the upper level is half a story up, and the lower level is half a story down.

The lower level is used for a nursing school and has some ground level access from the rear yard into the classrooms. The upper level is a big open space which is used for social functions such as meetings, classes; it can be rented for private events. It's just used for ... of course, the church uses it. There's also the church office and a kitchen.

The space is accessible from the interior stairway or from an existing outside stairway which is on the south end of the building. There is no ADA-accessible way to get into this level. There is no elevator, there's no other ramp, there's no other way to actually access the space. So the church has decided that even though this is a grandfathered condition they would like to make the space accessible.

We are proposing to construct a ramp in place of the existing exterior staircase. The site has a line which is 8 feet and a little bit away from the south side of the building. This is a result of subdivision, which is pretty recent. In about 2007, the parsonage was made a separate property with the adjacent lot, and the property line was established to make sense of these two different lots.

So what happens is, the side of the building is the most practical and expedient location for this potential ramp because the outside door is in place. It actually has no other function. As I described in the package, there's really no other purpose for this part of the property. And also, it leads nicely to the ADA parking space, which is designated at the end of the parking lot in front of the entrance closest to the building.

So for all these reasons, we are proposing to build a ramp which follows the side of the building and comes back to the parking space. We have considered the possibility of an elevator. However, any mechanical equipment not only is expensive to install originally, but also places the burden of the maintenance fees onto the church, which is really not something that they would like to take on.

That's about it, in a nutshell.

Chairperson Speranza: OK, thank you. All right, this is a public hearing. I want to find out if there's anyone here who wishes to speak on the application.

OK, if not, we'll close the public hearing and any comments or questions by the Planning Board members? I have none.

Boardmember Dale: The variance for this side yard variance has to go to the Zoning Board after this?

Chairperson Speranza: Yes. It will go from us ... next week they're on the agenda.

Ms. Klein Bouhassira: Yes. We have that application submitted to the Zoning Board.

Chairperson Speranza: OK.

Boardmember Cameron: Point of information. Do you still own the parsonage building?

Ms. Klein Bouhassira: No.

Boardmember Cameron: You don't.

Ms. Klein Bouhassira: No. That has been sold off to a private owner.

Boardmember Cameron: Did you notify the private owner of your plans?

Ms. Klein Bouhassira: Yes. And, in fact, we handed all the work notes to them, we did a regular mailing, and I actually did talk to them in person and so did a boardmember of the church. And they are well aware and had absolutely no objection to that. They don't feel it affects their property or their use of their backyard in any way.

Boardmember Dale: The only question I would have would be, if they were to redevelop that site in some way that your having built to the lot line at that point would create a problem, they would still have the same side yard setback that they have now? The fact that the ramp is there doesn't limit them in the space?

Chairperson Speranza: For the church, or the neighbor?

Boardmember Dale: The neighbor.

Chairperson Speranza: The neighbor?

Boardmember Dale: It wouldn't impose?

Chairperson Speranza: It has no impact on what the neighbor might want to do.

OK, then again this is an unlisted action under SEQRA so we need to just note that there are no impacts that are associated with this proposal. And we need a motion for approval of the site plan. Let's start there: a motion to approve the site plan.

On MOTION of Boardmember Dale, SECONDED by Boardmember Dandridge with a voice vote of all in favor, the Board approved St. Matthew's Evangelical Lutheran Church's request for the construction of an ADA compliant ramp at the Fellowship Hall at 7 Farragut Avenue.

Chairperson Speranza: Since this does go to the Zoning Board of Appeals, we can also make a motion approving – recommending approval – if we so choose.

On MOTION of Boardmember Dale, SECONDED by Boardmember Sullivan with a voice vote of all in favor, the Board approved recommendation to the Zoning Board of Appeals.

Chairperson Speranza: So we'll send a recommendation to the Zoning Board of Appeals recommending approval of the variance for the side yard.

Ms. Klein Bouhassira: Thank you.

Chairperson Speranza: Thank you.

3. View Preservation Approval – Application of Kyunghie Raad for the construction of a sunroom at 770 North Broadway.

Chairperson Speranza: Next on the agenda is view preservation approval for an application at ... oh, sorry. I thought it said "road." This view preservation approval for property at 770 North Broadway. You're here for this application also?

Chairperson Speranza: Oh, great.

Boardmember Sullivan: It's a very efficient day.

Boardmember Cameron: You're the man of the day.

Building Inspector Sharma: Please do speak in the microphone.

Mr. Twyne – architect, 77 North Broadway project: I'm representing Ms. Raad, the owner of this property. The project is really to add a sunroom, if you will, to the south side of this residence (if I can ever find what I'm looking for).

The south side of the residence ends thusly. Next to that is a flagstone terrace, and beyond this a wood deck. So what the project is to do is to add a one-story sunroom to the south side of the building. It is less ... the height of that sunroom is less than the height of the existing building. And looking from the Aqueduct – unfortunately, I'm a miserable photographer – you get a chance to look right across. And this does not affect your view because it's well below that.

In fact, across from the current site are apartment buildings. They're four stories. And as it turns out, they are even a little taller than this proposed addition. So it is a very small addition, and it is not as tall as the existing building. I don't think this is of any value; it's just the location of the site for you. The floor plan I've shown is 16 feet added to the south side of the building, and it's about 18 feet wide.

The deck, the wood deck that's shown, is exactly in the location of the existing deck. It does not add to ... or not adding anything to the existing site. The foundations ... in fact, what we

intend to do is use the foundations that now exist. The deck that's there is not in such bad condition, but it's beginning to deteriorate a bit and we want to replace it.

From the front, Broadway side, it's basically a roof. You see the roof, and there's a glazed mid-part and brick, which is the main material of the residence. So it blends in very well. We have a nice overhang for a bit of shade out there – this is a very sunny area – and the deck, which is just a rebuild of the existing deck.

Of interest from the view preservation point of view is the rear elevation, which is, as you can see, well below the peak of the existing building. Our little addition comes well below that; some 13 feet from the existing floor. And, of course, the deck itself just has the XXX railing around it and doesn't affect anything.

From the south side, looking back up from Broadway being over here, this is the profile. It's rather narrow, it's less than half the width of the house so no interest there. As I say, it's just a small addition. Underneath this proposed sunroom is, existing, a utility room. The current terrace is on top of that. We are trying to add another couple feet to the sunroom, but that's inside of the area and it does not add to the ... it does not impinge on the setback in any way.

This is just a section through, showing a couple of skylights. But that is the extent of it. It's just trying to get a little sunroom for Ms. Raad, and trying to keep it a fairly low area and one that she can walk out and sort of enjoy the sunshine and the beauty of the surrounding area.

Chairperson Speranza: OK, thank you. Again, this is a public hearing. If anyone has any comments, any members of the public wish to speak on this application, this is the time. No?

OK, then we'll close the public hearing. I just want to remind people that our involvement in this is to make a recommendation to the Zoning Board of Appeals. I'm very glad to see that you marked up the plans, the photographs, to show where the structure would be. Because that's something that we couldn't view on the documents we had. So that's fine. And we've been to the locations, and we know exactly what's being proposed.

Any comments, questions?

Mr. Twyne: Thank you.

Boardmember Sullivan: I guess my only comment is, I think it's a very sensitive addition. Having gone out to the site, I was more concerned that the neighbor behind would have some concern. But their home is quite a bit higher. The existing home is sort of tucked into the hill, and I can't see how this has any real obstruction on anyone's view of the Palisades.

The Aqueduct, it's hard to find the home. The home above the hill blocks it completely from view.

Mr. Twyne: Right. As it turns out, there is a house behind there. But we're actually well below it.

Boardmember Sullivan: Quite a bit, amazingly so.

Mr. Twyne: Yes. Because that photograph – one of the photographs of the house, on the top right I believe it is – shows the front yard of the residence behind. It's well above the house that we're looking at.

Boardmember Sullivan: Right. I think by making the addition to the roof a little bit lower, the size of it, it really is a nice addition to the home. And no obstruction for any views at all, in my thoughts.

Chairperson Speranza: Can I hear a motion that we recommend approval of the view preservation application for 770 North Broadway to the Zoning Board of Appeals?

On MOTION of Boardmember Alligood, SECONDED by Boardmember Cameron with a voice vote of all in favor, the Board approved recommendation to the Zoning Board of Appeals for the construction of a sunroom at 770 North Broadway.

Chairperson Speranza: OK, thank you.

IV. NEW BUSINESS

- 1. Steep Slopes Approval – Application of Anthony Ivezaj for the construction of a new one-family dwelling on the newly-created building lot at 12 Prince Street.**

Chairperson Speranza: Next item on the agenda is steep slopes approval for the application, construction, of a single-family home on 12 Prince Street. And thank you for bringing your easel. While you're setting up, there is one issue with respect to this property that needs to be brought to light.

This property was created in a subdivision that we had approved back in December. And there was a condition on that subdivision approval that the original house submit to the Building Department plans for how they were going to handle off-street parking.

Mr. Building Inspector, I'm wondering if you can tell us if you have received anything from that individual.

Building Inspector Sharma: No, I have not.

Chairperson Speranza: OK. That is a follow-up item that has to be done.

Village Attorney Stecich: This was the same architect on it. You weren't here for the subdivision? Oh, I'm sorry. That was Ed Weinstein, OK.

Boardmember Sullivan: He was here for the ...

[cross-talk]

Chairperson Speranza: That's right. The same neighborhood. So Deven, you will follow up?

Building Inspector Sharma: I have been following up with Tom here, and I definitely will need to follow up with the owner of the property.

Chairperson Speranza: Absolutely, please.

Building Inspector Sharma: We went ahead and signed the subdivision. And maybe we should not have, but I'm sure we should be able to still do something about it. So I'll definitely approach the property owner to make sure that that's done in conjunction with a permit for this site, or before that.

Chairperson Speranza: Absolutely. OK, that's independent of this. This application stands on its own.

Go ahead.

Tom Abillama, architect - 12 Prince Street: Good evening. I am the architect for the applicant.

In relationship to the issue here, I would think that my client doesn't have to bear any responsibility in regards to the neighbor being required to have two parking spaces.

Chairperson Speranza: Which we ... we've agreed to that. We recognize that.

Mr. Abillama: No, as far as the building permit being issued. On the record, I would like to see that this has nothing to do with the building permit issue. Thank you, I appreciate it.

Chairperson Speranza: Marianne, you want to say something?

Village Attorney Stecich: I don't think anybody's saying ...

[cross-talk]

Chairperson Speranza: Right. Nobody's saying ...

[cross-talk]

Eileen Loveless, 11 High Street: I [off-mic] something about how it impacts the neighborhood.

Village Attorney Stecich: Well, Patty ...

[cross-talk]

Chairperson Speranza: OK, OK. We're talking about one side issue. We're not talking about this. And we will have public discussion on it.

Village Attorney Stecich: It's an unusual issue, and we're going to have to look at it. A really serious problem; that there were several conditions to this subdivision approval, and one of them was that a parking area be shown. The final plat was presented without that driving area on it.

So, you know, I haven't seen this situation come up. I don't know how you deal with it, but it's got to be dealt with. And I don't think the Board should say it's irrelevant. I'm not going to say it's relevant to, but I'm not going to ... I don't think the Board should say it's irrelevant to the issuance of a building permit.

Boardmember Dale: If we say it's irrelevant, we lose control over the whether it actually happens or not.

Village Attorney Stecich: Just for tonight, all you have to do is deal ...

[cross-talk]

Chairperson Speranza: Right. We have to hear ... we're hearing this application.

Village Attorney Stecich: I'm not talking about the substance of whether it's relevant our irrelevant.

Chairperson Speranza: Right.

Village Attorney Stecich: The point is, as a legal matter unfortunately it's done and the plat's been filed. But the issue is what happens if the plat was filed and the conditions weren't actually met, one of those conditions wasn't met.

But hopefully it can be resolved by communications with the owner of the existing house. But you shouldn't waive anybody to do it.

Building Inspector Sharma: As a legal matter, though, Marianne ...

[cross-talk]

Village Attorney Stecich: Just ... I don't think we should discuss legal matters at a Board meeting.

Building Inspector Sharma: OK.

Chairperson Speranza: OK, why don't you go ahead. Present the application.

Mr. Abillama: This application is in regards to a steep slope that exists at the present time. What happened is that in the past, this lot has been dumped on with material that's not sound for structure-bearing. And we believe that it should be taken out, removed from the site, to allow for the construction of the new house.

By doing so, I think naturally – if you can see the dark lines – the new contours would allow us to create less than 15 percent slope. And if that can be permitted to happen, we'll be providing less of an impact on the site as far as soil erosion and such. So if you can see that

from the neighboring on the left side – the neighboring property on the left side – we ... without disturbing the neighborhood property, we allowed for the grades to diverge to a point to allow a flatter slope. And that's a natural 13.7 percent plus-or-minus slope.

The proposed house will be a two-story building with a basement that has an exposure to the back once that's done, and with a garage that's 2 feet below the rest of the floor. Which the natural slope that's created would allow this to happen very naturally.

This is ... I would like to show the rendering of the house as it would appear when it's done. The driveway slopes down 2 feet, allowing to have a few steps to go up to the main level. And then it'll slightly go down to the rest of the site by allowing for somewhat of an exposure in the back of the house for the basement.

If you have any questions, please.

Chairperson Speranza: Let me start. This is a hearing. Ma'am, I know you've been waiting patiently. Come on up.

Ms. Loveless: I'm a homeowner on 11 High Street. This is a very small block, if you've visited it. This is a very small road. So I live on the corner of High and Prince. You make a left on Prince. There's one home in between this home and my home.

I was at the last meeting, where his proposal – or your client's proposal – for three two-family homes was denied based upon steep slope. And there was a significant concern. Well, the last meeting I came to, that I got notified for, I came to because each time I get notified I come to the meeting. Because I have seen 16-wheel trucks come and put all this debris down. I've called the town, and they say they're not going to do anything about it. But we're talking about pieces of concrete and literal debris.

My friend – who's not here tonight who's in the property in between – has a chain link fence that has pictures of all this debris abutting her chain link fence.

Now, the parking is a great deal of concern in this neighborhood. When I had come to a former meeting – I'm not sure about the sequence of meetings – there was a proposal by the people who own this property to have a cul-de-sac. And their original plan was to drill through the stone at the end of the road, which wasn't even their property. It was town property that's abutting Uniontown. That was their plan to resolve the parking problem that we have.

Now, there exists a parking problem on the lower half of Prince Street between Amjo's and High. So we get the overflow. And I personally know this – because my house is on the corner of High and Prince – that the people who can't park on Prince Street, which has now become a very busy, trafficked road – Prince between Amjo's and High, because people loop around for the deli – we get their additional parking up in this little tight spot.

In addition, this small block has an apartment across the way from me. It's a three ... it's a four ... it has three apartments and a business. It has Gem Appliance, I can't remember his name, has three apartments and his business of Gem Appliance. He removed the driveway, the owners, before he purchased the property. Those three apartments, in which some apartments have two cars, are also trying to park on this spot.

I imagine you've all driven down this road, and you've seen that there's another property that has been built upon. So I have a number of concerns. Number one is, I'm worried about the impact on the environment of the neighborhood because parking is horrendous and I do feel like if you're going to absorb the parking. I also know that the people who live on Farragut Parkway below this property will be looking up to a building so high I can't imagine how the runoff would not be a steep slope concern.

I'm concerned that ... what is the space between this ... is this a two-family home?

Mr. Abillama: It's a one-family.

Ms. Loveless: One-family home. What is the space between the property line of this planned property with the existing property that already exists, and how much space is between this home and the existing property? Because I already know that their plans are, after you build this home, to clear the next home that they're actually living on and building another tremendous home like this one.

So I'm concerned about the space between this home and the existing property line. Because I'm imagining that this is a very tight squeeze that doesn't allow for the normal variances of two properties. And I would like proof that you've resolved the steep slope issue. Because I know that dumping it – which I'm glad you resolved – was not done well; that I know that it would be done so that at least the people who live on Farragut Parkway won't get these mudslides.

Thank you.

Chairperson Speranza: Thank you.

Mr. Abillama: In response to the questions in regards to separation between the two properties, it's about 25 feet between the two houses. We comply with all the zoning requirements as far as the side yard setback.

Ms. Loveless: And the driveway. Do you have a driveway, a garage, on the right or something?

Mr. Abillama: There's a garage. There's a garage and a driveway. And you're asking for what's ...

[cross-talk]

Ms. Loveless: Well, the previous picture you showed, it seemed to have a building on the right.

Mr. Abillama: Yes.

Ms. Loveless: And what is the building on the right?

Mr. Abillama: That's the existing building on the right, right now.

Ms. Loveless: So can you show me the other picture?

Chairperson Speranza: Yeah, you've got to go to the mic.

Ms. Loveless: OK, I'm sorry. Now, that building on the right ...

[cross-talk]

Chairperson Speranza: Excuse me.

Ms. Loveless: The Board ...

[cross-talk]

Chairperson Speranza: You need the mic.

Ms. Loveless: Oh, sorry, sorry.

I'm inquiring what is the structure on the right of that building.

Mr. Abillama: That's the existing house right now. That's on the neighborhood property.

Ms. Loveless: And you're telling me that's 25 feet?

Mr. Abillama: Yes, it is.

Ms. Loveless: And what is the typical variance between each property? Is it 25 feet to the property line, and then 25 feet to the property line, to not need a variance?

Mr. Abillama: We could go as little as 10 feet between the property line and any house.

Village Attorney Stecich: This is [R-7.5] XXX, right?

Building Inspector Sharma: Yeah, 8.

Village Attorney Stecich: Eight feet. The side yard setbacks are 8 feet.

Ms. Loveless: Well, I'm asking as I've been a resident of Hastings since March of 1993, and I have been a happy resident of Hastings. And frankly, I have not been happy since 2000, when I've been living at High Street and I saw the turnover of this home. And I've seen a great deal of turnover in the six houses that accompany my short dead end.

And I'd like you to drive down the street and see what the parking impact is like for me.
Thank you.

Mr. Abillama: Also, on the other hand, my client – who has just purchased this lot – has nothing to do with the neighboring lot. And we don't have any plans to do anything with the neighboring lot. We're just strictly doing this house right now.

Chairperson Speranza: Let's talk for a minute about the steep slopes and this specific application.

You are creating ... you keep saying that you're going to create a natural slope. And I'm just ... I'm getting a little confused with respect to what's there, what you're doing. It's been filled, and we did try to have some resolution, and pass – request that – a law be passed that would prohibit exactly that kind of activity, where people could come in and basically fill their property and make a level grade.

Now we're hearing that it's even more of a problem on this site, in that the fill that was put in is just completely ...

Mr. Abillama: Right. Completely debris ... there's a lot of debris in it. It's not sound for structural-bearing, and my client didn't know at the time when he purchased it. And when I examined the site, I made him realize the problem that ensued.

Now, what happened is that I examined a GIS map from the Westchester Web site. It shows the steep slopes in the area. This red spot here is a 25 percent slope. The lot is right above it, which indicates that only about ... naturally, about 20 percent of it is 15 percent slope, maybe 25 percent.

So that's why, when I keep saying "natural" – meaning go back to how the site was originally, before it was altered with the fill – if you take this grading into account, the dark lines, you realize that it can't be less than 15 percent. Although, you know, a portion of it was. And that's how ... and we're making a situation a lot better, improving the soil erosion. The steep slope is not existent anymore.

By creating such a lot ... and if this lot existed naturally like that we wouldn't be here before this board because it's less than 15 percent slope. And I believe that this is a good solution for the site.

Boardmember Sullivan: I've been confused because I'd asked Deven, thinking that it would be helpful, to get an analysis of the existing slopes as they stand. There's history, there's dumping, there's this, there's that. But this is sort of an unusual situation because the way the Steep Slopes Law is set up is to protect natural slopes from being deteriorated, being demo'd in a ...

[cross-talk]

Mr. Abillama: Negative manner.

Boardmember Sullivan: ...an appropriate way. However, here, I have gone to the site and am very concerned about these slopes and how steep they are. In a sense, I'm more concerned about you attacking these slopes, or the contractor working and modifying these slopes, and the potential for collapsing on the existing properties; to the upper part of the sheet, and then over to the side.

I mean, they're incredible. They're not a natural angle of repose. As you mentioned, they're incredibly unstable. And so I'm more concerned about this, and I think maybe by taking

away the debris you're going to leave the site in a better condition for the neighbors, as well. But I'm very concerned about the process. And I don't know how that can get addressed in the steep slopes application.

I think it's ... I'm more concerned about the unsafe condition that they're in, and the potential for an unsafe condition to occur during removal of the soil. However, there are steep slopes. I think [background noise] not analyzing, and then working back from that analysis and showing us how you'd improve the situation, or how you're going to address the situation.

The soil erosion plan, right now, where your straw bale line is, is not appropriate necessarily. And I'm not a civil engineer but, you know, it's away from your neighbors. And it should be, along the property line, keeping this kind of material from even coming close to them. And straw bales might not be enough.

I guess, Patty, the last comment I want to make – because I really have just more concerns, given that this is such an unnatural situation – would it make sense for an independent engineer to potentially look at this for us and give us some suggestions so during construction and during the modification of this site we can be assured that this will not create hazards for the neighbors?

Chairperson Speranza: That's a very good suggestion.

Boardmember Alligood: And I'd also like to point out that there's just some illogical presentation here which just has to be resolved with the explanation that the applicant feels that these steep slopes were not originally there and they were created in a hazardous way. Because right now, the application on the site – covering site plan – says: *"The proposed project will disturb the steep slope area to the minimum extent possible, since there will be less steep slope than presently exists."*

That makes no sense.

Boardmember Dale: I think they're referring just to the back of the site.

Boardmember Alligood: That statement does not ...

[cross-talk]

Boardmember Dale: So the back of the site, it just falls off into this steep ... and that's going to be removed, if I understand correctly. That'll become a much more gradual slope towards the top of the site.

Boardmember Alligood: But we can't ... I mean, that's not disturbing ... I understand the case that you're saying that the steep slopes have to be disturbed to fix the situation that was created – a manmade situation. That's what you've just presented tonight.

Mr. Abillama: Right.

Boardmember Alligood: That wasn't clear to me from the paperwork, but now that you're saying it I understand that. But the presentation here to us has to make sense because here ... I mean, the law was created to protect natural steep slopes. So this statement here is trying to address that, but it's really illogical.

Chairperson Speranza: It has much more to do with the construction, the way that this is worded.

Boardmember Dale: Could you also describe a little bit how you're going to handle the water on the site, the runoff? How it's being collected and whether it's adequate? Right now, I think there is a real risk of, in a heavy rain, that very steep slope would flow down to the neighbor below.

Mr. Abillama: See, right now, at this moment, we have a plateau here, from here to here. And then a very steep slope that comes down. This is a situation where a lot of erosion can happen. What we have created is shaved the site to a point where with think it's the old, natural soil so that we can utilize the natural soil for bearing. It's dangerous to put a house on a landfill, so to speak.

As far as the drainage, we calculated the ... we have a calculation for all the impervious surfaces, allowing for all the roof and the driveways and all the hard surfaces to be drained into drywells. You can see the circles indicating 6-foot drywells everywhere. The rest of the site is less of an impact as we propose it than exists right now. So that's why we're saying ...

[cross-talk]

Boardmember Dale: You're not going to collect the runoff water on the site before it goes down?

Mr. Abillama: Well, we can do that. But it's not really a required item because we don't have that steep slope any longer. We don't have the 15 percent steep slope. I understand in terms of some of the members of the Board that we need to protect the steep slope if it's

natural. But also, the code requests that we can work around the steep slope to create less of a hazard to a steep slope.

That's our point of view in this remark in here. The purpose is not to protect the steep slope. The purpose is to create less of an erosion while developing.

Boardmember Alligood: But the purpose of the law is to protect steep slopes.

Mr. Abillama: But when we develop on a steep slope, and we're allowed to on a steep slope, this is different than this project. It's a different case. When we're allowed to develop on a steep slope, we have to prove that we're not disturbing and we're not creating erosion, soil erosion, or containing the soil erosion as much as we can.

That's what we meant by the statement.

Boardmember Alligood: The intent of the law was to disturb slopes to the minimal extent practicable, which is why ...

[cross-talk]

Mr. Abillama: But this is not a natural ...

[cross-talk]

Boardmember Alligood: ...is not in the spirit of what the law is intended to do.

Chairperson Speranza: Right.

Village Attorney Stecich: But the problem here, remember the Board ... not everybody who was on this board ...

[cross-talk]

Ms. Loveless: That's what I want to say. The original steep slope ...

[cross-talk]

Chairperson Speranza: Just wait. I can only do one person at a time.

Ms. Loveless: I'm sorry.

Chairperson Speranza: Go ahead.

Village Attorney Stecich: We had ... this was the ... remember, we worked on a law. Deven and I had worked on a law on excavation and fill. And actually it was this particular lot that we had in mind as problematic. We did come up with a pretty good law, but then the Board of Trustees didn't want to pass it.

So we end up with a really difficult situation like this. That's why the Steep Slopes Law doesn't work. Because that's what Deven and I were trying to get at with the draft law that's kind of the opposite problem. So the Steep Slopes Law applies here, but it doesn't quite fit.

Chairperson Speranza: It doesn't fit at all.

Building Inspector Sharma: The steep slopes here were artificially created.

Boardmember Alligood: No, I understand. I just want to ...

[cross-talk]

Building Inspector Sharma: ...I think that's not the intent of the law.

Boardmember Alligood: I get that. I understand the law.

Ms. Loveless: May I speak? Thank you.

I actually feel like I've been at all these meetings and this has been many years in the making. And what people don't seem to remember is that the original variance was denied before they came in with the 16-wheel truck to do the dump. Let us remember that the original steep slope that this man is saying was natural and can be built upon was denied by different people sitting in your seats.

So the original steep slope – which obviously this man bought the property from the people next door – was originally denied. Hence, they came in with a 16-wheel truck to do the dump. Now what I'm hearing is ...

[cross-talk]

Chairperson Speranza: And that may be ...

[cross-talk]

Ms. Loveless: And now we're talking about how this 16-wheel dump street problem instead of realizing that it was already denied in the original steep slope form.

Chairperson Speranza: OK. Whatever the history is at this point is the history.

Ms. Loveless: Yes. Well, I am the one person who could tell you the history. That if we're talking about the natural steep slope, that is ... we've already been there, or I have been there. So I'm trying to give you information that we're all surmising. Until the fill is removed, we can do the analysis of the steep slope and see what can be built upon. But it's just very frustrating for me, being the resident watching this – which is why I come to all these meetings, and I'm saying the same thing over and over again.

So I'm sorry if I seem passionate, but I actually have been to many of these meetings about this. And I just wanted to tell you that originally it was denied in its original, natural, steep slope form.

Building Inspector Sharma: By the way, how long ago was that?

Ms. Loveless: Well, it's the same people who own the Euro Deli so it was before the Euro Deli XXX was ...

[cross-talk]

Village Attorney Stecich: [Unintelligible] ...Steep Slopes Law, and it's never been ...

[cross-talk]

Chairperson Speranza: OK. Regardless, we have to determine what we're going to do with this application.

Village Attorney Stecich: Could I raise one other question because it may be relevant? Go back to your elevations. I think this is too [unintelligible]. Go to your elevations.

Boardmember Dandridge: We don't know what it is. That's the point.

Village Attorney Stecich: No, no. Look at the ... here: "*At no point can it be higher than 35 feet*" – remember, with our new height definition? And I'm looking at this elevation here, and when I added it's 919, 27.8 – it's 40.

Mr. Abillama: Well, the 35 feet is to the average roof.

Village Attorney Stecich: No, it's not.

Mr. Abillama: It's not? I'm sorry.

Village Attorney Stecich: So it may have to be redesigned. It's too tall; that house is not permitted under the code.

Building Inspector Sharma: That will be my call, to make sure.

Village Attorney Stecich: It may be your call, and you may do that at the last minute. But the point is, right now it may affect how he designs the house. And it certainly will be relevant to that.

Right now, the house is too tall at many different points. Do you understand how height is measured in Hastings?

Mr. Abillama: Well, no.

Village Attorney Stecich: It's a little bit different. Look at the definition of height: "*At no point along the*" thing "*can it be higher than 35 feet.*" So take a look at it. Because that may well change a lot about the house.

Chairperson Speranza: In terms of how it's constructed and how it's sited, and yes.

Village Attorney Stecich: And how it's designed. It could affect the whole ...

Mr. Abillama: Well, here's what you can do. Instead of having this coming to here, you can bring it back to here and this one back to here. And by doing such, we can elevate by 2 feet or so that are needed.

Village Attorney Stecich: You've got a lot more than 2 feet. You're over 40 feet.

Mr. Abillama: OK, 40 feet. Five feet then, if we can create the 4-foot.

Village Attorney Stecich: It doesn't work. Either it's measured ...

[cross-talk]

Mr. Abillama: Believe me, it works.

Village Attorney Stecich: No, no, no, no. No, architecturally it may work. It doesn't work under the code because you have to measure from either ... you have to take the before, or the after. You can't like change the slope, and then make it ...

[cross-talk]

Boardmember Alligood: We can't manipulate the land to allow the developer to just build what they want to build.

Boardmember Dandridge: I was just going to ask, back to the point that was made awhile ago about the soil, I guess to me that's the fundamental issue. And maybe I'm just being too concrete, literal, about this. But until I really know what the composition of the soil is, I'm having a hard ... I mean, it just seems that there are some real clear issues in need of at least clarity to help us put this together.

And I appreciate your trying to fix it on the fly, but that's just really more confusing me than giving me guidance here. So can we come back to that issue about an independent analysis of the soil so we can figure out how much remediation has to happen to begin with. Because I think that's the one thing we can all agree on, which is until we know what's there, and what's safe and what isn't, a lot of this stuff is not hypothetical, but it's conditional.

Mr. Abillama: Can I suggest something? On board, we have an engineer who signed the statement and who's required to sign the statement, as per code, as per the requirement for the steep slope. And he's a very, very good engineer. He's worked on the Ridge Hill development, deviating ...

[laughter]

Chairperson Speranza: OK, point taken.

Mr. Abillama: ...deviating a lot of streams and so on and so forth, so very, very cognizant of all these problems with the steep slopes. And he can be on board along with us when we apply for the building permit, and the Building Inspector can coordinate with him insofar as dealing with the ways and means of how to remove the soil.

Because no matter what we do and what we say, and if we come back and discuss it again, what are we going to do other than, practically, trying to resolve the situation? If that condition can be put by the Board on the situation, that can be an ideal situation to resolve.

Chairperson Speranza: Well, I will say I'm not ready to sign off on a steep slope approval for this project. We do not have a Village engineer on board. It may be helpful to hear more from an engineer. I am thinking that if we were to hire or, you know, contract with, a professional engineer, with an engineer to help us in the review of the application, and to have a discussion with the engineer from your firm, that may be one way to go.

Boardmember Dale: It seems to me that you're applying for approval to build on a steep slope. We don't know what the slope of this site is. It is a hypothetical proposal that you've put together. It may be accurate. We don't know that.

It would seem to me it would be a precondition of our going forward with our analysis to know what the slope is, and right now we don't know what the slope is. We know it was there; we don't know where the fill ... how much, what was originally there. So if an engineer can make a presentation to us to establish what the steep slope is, what the slope is and what the site actually will look like when it's cleared, then we can approve or disapprove your proposal.

Mr. Abillama: We are representing this picture. Of course, we have to deviate a little bit because of the height considerations that we were just made aware of. But regardless, I mean there's ... how can an engineer tell you what to do other than being on the site and, you know, on hand dealing with the debris removal?

Really, it's a debris removal situation. It's not removing of natural soil. It's as simple as that. It's really ... it's unnatural stone that was put in there that we're taking away.

Boardmember Sullivan: I guess I don't see it as easy as that. Because I see it as a dangerous condition as it stands right now. And I'm concerned about, during the removal, that it could become unstable and collapse and go on and damage the neighbors.

So my suggestion would be not so much to look at what the slope was and try to analyze it that way, but just, if it makes sense, get guidance on what the proper protection should be required in the reworking of these existing steep slopes that are not natural. I mean, it's not stable soil.

So it's more looking ... I'm looking at it from protecting the neighbors from what we may approve down the road as a new steep slope application. I think your approach is fine: it's

bad soil, it's fill, it needs to be removed, it needs to be reworked, the building needs to be the right height, be the right setbacks, follow our zoning code. But I'm very concerned about the situation as it stands, and it looks like it could be a dangerous situation.

I'd like to know what you should require of you and your contractor instead of having it worked out in the field as you go forward. That's just my take on it, having looked at that and looked at ... like I said, that's not soil in a natural angle. It's a very scary situation from my perspective.

Mr. Abillama: Well, I respect your point. Except that I want to say something. In case we leave the soil the way it is right now, it's more dangerous to keep it now the way it is.

Boardmember Sullivan: Well, if you would leave it then I would say you need to come up with the required steep slope analysis that you aren't doing.

Mr. Abillama: No. What I'm saying is that if we don't ... if we delay the approval process, we go on for months and delaying it by studying engineer-wise, this soil might collapse any minute. It's not natural the way it was installed.

Boardmember Dandridge: No, I appreciate that. But what I'm failing to see is how by getting approval here that's somehow going to change the homeowner requirement to rectify what we all acknowledge is a situation that is dangerous.

You're not, surely, sitting here saying to us that we're going to delay it and we're going to put the neighbors at risk because we're forcing you to get an engineering study. I don't think that's what you're saying, correct?

Mr. Abillama: No, I'm not saying that.

Boardmember Dandridge: I didn't think so.

Mr. Abillama: But also I'm trying to put everything in good light. That's that if we keep it, if we keep this dirt right now, it's more dangerous than trying to remove it. Trying to remove is not a ... I don't think it's much of a problem, but I understand your concern.

Boardmember Dale: I don't think those two things are mutually exclusive. You need to know how you're going to remove ... we need to be confident the dirt can be removed, the debris can be removed, in a safe manner. And we need to know what the result is going to be so that we know what we're approving in terms of what the house will be, and on what slope. And right now, we don't know either of those two things.

Boardmember Alligood: I felt what you're saying, and I also agree with everything Kathy's saying. But I would add, I really do hear what you're saying, and I think our approval has to be based on our sort of mutual understanding of what the original condition is. And we don't know that right now. So that's what you're saying: there's two parts to it.

Boardmember Dale: Right. And your trying, what he called, a "fix on the fly," moving the contours around, is not a solution to the steep slope problem. So once we know what the slope actually is, then we'll know whether your house is compliant with our code.

Boardmember Dandridge: Another way of saying it is, the faster we remove it and get some sort of sense of what the original slope is, the faster we can give you some sort of conditional guidance and the faster you can get to yes or no.

Mr. Abillama: I see. So what you're saying, Mr. Commissioner, is that if we get permission to remove the fill right now – carefully removing it with ... along the guidelines, certain guidelines ...

Chairperson Speranza: No, that's not it.

Mr. Abillama: I'm wrong.

Boardmember Cameron: I guess this site is significantly messed up that we're going to be part of the process, and not give you permission to let you go and do what you want. We also want to try to figure out how high the house really is, and look at the site in its natural condition to figure out how big the house is. Not after you've moved dirt around to get it so the dirt is high enough so the house isn't too tall.

Because that was what you were saying earlier, and the record will show that. So we would like ... I know you don't want to do it, but you're going to have to get an engineer to help us do this. OK?

Mr. Abillama: But please understand that we're not trying to ...

[cross-talk]

Boardmember Cameron: Oh, I think we do understand.

Mr. Abillama: We're not trying to pass anything by the fly or anything.

Boardmember Cameron: Well, good. Then you agree with us, and that's a great relief.

Village Attorney Stecich: To move this along, the code ... there's a code provision that says that the Board can require, if they think it's necessary, to hire an engineering firm to review any application. They can, and you would have to require that an escrow account be set up to pay for the fees.

So I would recommend that you do that tonight so it can get moving.

Boardmember Alligood: And, Marianne, it's our discretion who the engineer is.

Village Attorney Stecich: I will make a recommendation. The engineers we use in Irvington deal with this stuff a lot. If you're interested, I will mention that to you afterwards.

Chairperson Speranza: OK, so that is the way that we do want to proceed. And there is enough of a concern that we bring in someone who can assist in the review of this application and, in fact, the formation of what ends up being developed on this property.

So that's what you're going to have to bring back to your client, an escrow. It's generally \$5,000. We hire the engineering firm, and the contractor is drawn up with very specific tasks.

Boardmember Cameron: And I just have a question. Maybe it's here someplace, but who is your client and are they going to live in this house? Or are they doing this on spec?

Mr. Abillama: They're thinking about moving in here, but not definitely.

Boardmember Cameron: And who is your client?

Mr. Abillama: Anthony Ivezaj. His name is on the memo.

Boardmember Cameron: It is. OK, I missed that. I'm sorry.

Chairperson Speranza: OK? Yes, so we'll work ...

Mr. Abillama: The process will be, then, I'll have to work with Mr. Sharma?

Chairperson Speranza: Yes, we'll get it set up through Sue Maggiotto, the Village Clerk, or Deputy Village Manager, as well.

Village Attorney Stecich: You have to set up the escrow with her.

Chairperson Speranza: Right.

Village Attorney Stecich: Set up the escrow account with Sue Maggiotto.

Mr. Abillama: Thank you.

Chairperson Speranza: Thank you.

V. DISCUSSION ITEM

None

Chairperson Speranza: I'm requesting a session for advice of counsel. And from that session, we will adjourn?

Village Attorney Stecich: No. Adjourn now, and then have the session.

Chairperson Speranza: Oh, adjourn now? OK, thank you.

Village Attorney Stecich: Did you have to do the ... were the minutes done?

Chairperson Speranza: Yes.

VI. ANNOUNCEMENTS

Next Meeting Date – July 21, 2011

VII. ADJOURNMENT

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

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