

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
PLANNING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
JULY 21, 2011**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, July 21, 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 Bruce Dale, Boardmember Ed Dandridge, Boardmember Rebecca Strutton, Boardmember Kathleen Sullivan, Village Attorney Marianne Stecich, Building Inspector Deven Sharma, and Deputy Building Inspector Charles Minozzi, Jr.

**I. ROLL CALL**

**II. APPROVAL OF MINUTES**

**June 16, 2011**

**Chairperson Speranza:** OK, we have a set of minutes for approval from our June 16 meeting. Are there any changes or modifications to the minutes?

**Boardmember Alligood:** Very minor, one sentence, page 37. There's just, I think, a couple words that got lost. So it says: "*I felt what you're saying ...*" just change the word "*because*" to "and I" and the insert "also agree."

That's it.

**Deputy Building Inspector Minozzi:** Excuse me. Could you [off-mic].

**Boardmember Alligood:** Yes. So in the first sentence, where I'm speaking at the top of the page, it says: "*I felt what you're saying ...*" change the word "*because*" and change it to "and I" and then insert "also agree."

**Deputy Building Inspector Minozzi:** Thank you.

**Boardmember Sullivan:** I have to apologize. I had some changes, but because of our new format I forgot to print them out. So could I submit them later?

**Chairperson Speranza:** Well, you know what? You could submit them and we can always change it next month. Are there substantive ...

**Boardmember Sullivan:** No. They're clarifications, which I don't even remember.

**Chairperson Speranza:** OK. No other changes to the minutes? Ed, good evening. Do you have any changes to the minutes?

**Boardmember Dandridge:** Other than it's exceptionally hot out now.

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of June 16, 2011 were approved as amended.

### III. OLD 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:** We have one item under old business. It has to do with the steep slopes application for property located on Prince Street.

Good evening. This was actually on our agenda at the last meeting, and there were some concerns raised by the Planning Board. And we did, in fact, hire an engineer, who is here today – hi – to go through and address some of the concerns of the Planning Board.

But first, we'll hear from the applicant again. Just state your name for the record.

**Tom Abillama, architect for applicant:** This is an application for steep slope for a single-family home. Thank you for allowing us to come back and show our case.

We have revised the plan in order to allow for less manipulation of the site than we have presented before. Although as you might see, the elevation from the front to the back is as gradual as it was in the previous application.

The issue of height that Madam Stecich raised, we resolved it by ...

**Village Attorney Stecich:** Do we have these plans?

**Boardmember Alligood:** No, we don't have them. We don't.

**Mr. Abillama:** I can give you a couple of sets. Hold on, please.

**Village Attorney Stecich:** Were they submitted?

**Building Inspector Sharma:** No.

**Village Attorney Stecich:** Did you submit them before, or are you just bringing them tonight for the first time?

**Mr. Abillama:** [off-mic]

**Chairperson Speranza:** OK. So you realize we won't be able to take action. But I think it's worthwhile to hear ...

**Village Attorney Stecich:** You need it for all the Boardmembers. Do you have them?

**Chairperson Speranza:** But I think it's important, given the fact that we did have some concerns, that we go through your presentation. But realize, there can't be any action on this tonight. And we'll hear from our engineering consultant, as well.

**Mr. Abillama:** All right. What happened with Madam Stecich, she stated that the overall height cannot exceed 35 feet. What we have presented last time is that the house was about 2 or 3 feet above what is allowed.

There's a diagram that the code requires us to provide in order to allow for the house to be enclosed in that diagram. If there's a slope on the site, the diagram is a parallelogram 35 feet in height. What happens is that with the ridge going back, towards the center of the parallelogram would help with the height. So it wasn't as though we thought before.

So we lowered the house by 1 foot, and by keeping the driveway at 10 percent as it was before. And we changed the slope of the roof from 8.5 to 7.5.

And then in addition, we addressed some of the issues that Hahn Engineering requested us to do. We received the letter via e-mail last Friday, we had a conversation with a representative from Hahn Engineering, and we revised certain items that are on this site plan here indicated.

And as you can see, with the revised plans, every item raised with the number indicated on it is bubbled and resolved. There are a few items that are still pending, and we'll discuss them later.

But all in all, we have provided for five drywells that are plenty enough for a 50-year storm. And then we have addressed all these issues that are ... most of the issues that are addressed on that letter. If you have any questions, please go ahead.

**Chairperson Speranza:** OK. What I'd like to do ... and you said you've addressed some of the things that were in the engineer report.

**Mr. Abillama:** Yes.

**Chairperson Speranza:** So what I'd like to do is, for the public who's here and watching, if you wouldn't mind coming up and giving us ... summarizing the report in terms of things that ... and I take it you have not seen these revised plans?

**Doug Hahn, Hahn Engineering:** I did see the revised site plan.

**Chairperson Speranza:** You did see the revised set of plans, OK.

**Mr. Hahn:** Yes. And he did address some of the issues that we had.

**Chairperson Speranza:** All right. If you wouldn't mind summarizing, and where you feel that they have been addressed. And again, we can't take action on this because we haven't seen these plans. So we can't make an informed ...

**Mr. Abillama:** We only got the letter by Friday.

**Chairperson Speranza:** I understand that. I understand that.

**Doug Hahn, Hahn Engineering:** We reviewed it for the Village code Section 249, Steep Slopes.

Our main concerns were the drainage, and then details and things like that. You know, steep slopes, one of the main concerns is drainage. As far as the fill, they're reducing the steep slope a little bit so, if anything, that kind of helps.

Our comment one was the existing conditions versus the proposed conditions. We'd like to see where the steep slopes are now, and then where they will be after the improvements were made.

**Mr. Abillama:** And if you see this diagram here, that addresses this issue.

**Mr. Hahn:** OK.

**Mr. Abillama:** The dashed line ...

**Mr. Hahn:** That one I haven't seen. No, I saw just the site plan.

**Mr. Hahn:** Number two, the drainage calculations. They don't really comply with the DEC manual or Westchester County. It's kind of a combination of the two. So I'm just looking for one method. And I spoke to the applicant about that.

The next couple are going to be with the drainage. The drywell, I'm not sure exactly how much area. He did make a revision to show the area going into each drywell separately. Filter fabric should be shown on the detail; prevents clogging on the drywells. Invert elevations: we need to see invert elevations, make sure it all runs downhill.

Pretreatment for the infiltrators: emergency overflow should be shown. The drywell detail should be dimensioned. Manhole covers should be shown. The revision was to show markers so they can locate each drywell. We wanted to see a driveway profile. It looked pretty steep. It looks steeper than the 5 percent, I think, that was shown.

**Mr. Abillama:** It's 10 percent.

**Mr. Hahn:** Now it shows 10 percent, OK.

Deep test and perc test: this ensures that the drywells will operate as they're designed to. A cross-section through the property, which I think you said you had, so you can see the existing slopes versus where they're cutting and filling. That should be shown.

**Mr. Abillama:** Yeah, this is the cutting. From the dashed line down to the solid line.

**Mr. Hahn:** OK. Was there any fill in the front, too, or is it just all cut?

**Mr. Abillama:** Just cut.

**Mr. Hahn:** Just cut. Tree protection details should be shown. Is there ... I didn't see too many trees out there.

**Mr. Abillama:** Yeah, there aren't any trees.

**Mr. Hahn:** There are no trees out there? OK.

Utilities: all utilities should be shown, the sewer and the water on there. Said electric's going to be overhead, is that right? The temporary structures where your fill is going to go, all that should be shown. I think you showed it on the revised plans.

**Mr. Abillama:** Yeah, we show a stockpiling area in the back here. Most of the soil is going to be taken away as we excavate it.

**Mr. Hahn:** OK. You know how much cut you have?

**Mr. Abillama:** About 900 yards.

**Mr. Hahn:** Separate plan for erosion control: it was just a little cluttered, but if you separate the existing and the proposed I think that might ... OK.

Maintenance notes for drywells: things like that, upkeep. Construction schedule: the process, what's going to go, what happens first; your erosion, then your cuts and fills and whatnot, we'd like to see that.

**Chairperson Speranza:** And can I just ... you just summarized that there's a whole, then, series of items that deal with the actual layout of the information on the plan.

**Mr. Hahn:** Yeah.

**Chairperson Speranza:** You certainly don't need to go into each of these; you know, the names and the mailing addresses.

**Mr. Hahn:** OK. Yeah, the rest, a lot of it is details: names, the owner, that kind of stuff just to show on there. And then a couple additional notes for erosion. That's basically it.

Our overall thoughts on it are that it's not going to have a significant impact on the steep slopes, but we would like to see some of the drainage stuff just to make sure it all works.

**Chairperson Speranza:** Now, one of the concerns that we, as a Board, had at the last meeting was how actually this gets constructed on a site that has been filled in. The applicant has mentioned that there's going to be a lot of the fill removed.

**Mr. Abillama:** Right.

**Chairperson Speranza:** How do you ensure that as that process is occurring that there is no impact to the individuals who live on the downhill side of this? And then beyond that, you're laying utilities, et cetera, and constructing on a site ... are you going to go down to where the original soil was?

That's what I'm trying to ... I think that was something we were grappling with at the last meeting.

**Mr. Abillama:** I'd like to say that what happened is that there has been backfilling occurring.

**Chairperson Speranza:** Yes.

**Mr. Abillama:** And luckily nothing happened. No soil erosion has occurred. So I would say the fact that when we removed the soil, bit by bit, very carefully, we had to do it in such a manner not to affect the neighboring properties. It's going to be much less of a problem than having it backfilled.

We're going to remove it on a daily basis until all the foreign soil, so to speak, is out. And then we have to deal with whether we're going to end up dealing with a ledge or whatever. We don't know yet because we don't see any natural soil.

But that's the only way I can explain how to relieve your concerns.

**Mr. Hahn:** They do have ...

**Chairperson Speranza:** OK, now me let me check with the engineer.

**Mr. Hahn:** They do have erosion controls in place. Maybe in the construction sequencing you can describe a little more in depth on how you're going to do that; whether you work your way from the back of the site, or ...

**Boardmember Sullivan:** A thing to keep in mind is, this soil that they're removing is unstable, manmade fill. So looking to have some idea if there are any controls that we can ask for, any protection that we can have, included in the sort of sequencing would be of help.

I mean, it's not a situation ... and I think when you see the existing situation they'll understand some of the concerns. This was manmade, and it has created very steep slopes very close to neighboring property lines. So is there a way we can ask for a certain process of removal in back of the site, or front, or only so much at a time?

The concern would be that we would create a situation where the fill would tumble into the neighbors in some form or fashion because of the removal of this unstable material.

**Mr. Hahn:** So you're almost looking for a barrier? Is that right?

**Boardmember Sullivan:** I'm not looking for anything. I think the concern is, it's a very unusual situation. And it looks, in casual inspection, that it has a potential for something to cause a hazard to the neighbors.

**Mr. Hahn:** I think it would be a good thing to put on the plans, the procedure of how he's planning on removing it. That way, we can get a better feel for it.

**Village Attorney Stecich:** I'm assuming, Doug, that's part of the erosion control and construction sequencing?

**Mr. Hahn:** That's the construction sequencing, I would say.

**Village Attorney Stecich:** But you haven't reviewed that yet.

**Mr. Hahn:** No, no, we haven't done that.

**Boardmember Sullivan:** That was one of the questions and one of the requests, so it would be very useful, I think. That was, I guess, my personal concern.

**Mr. Hahn:** OK.

**Boardmember Sullivan:** And I would love to be proved wrong.

**Chairperson Speranza:** Jamie?



**Boardmember Cameron:** And part of that is –I don't know the answer to this, and maybe you have, having been there – some of the filling in of the site may have actually been done on the piece of land adjacent to it, which is not before us today.

And the relationship between the two of them as you clear off one and the other, these lines are somewhat odd as you look at them.

**Mr. Hahn:** Yeah, I noticed that.

**Boardmember Cameron:** And we don't have the other person before us today, but we need to be in a position that somehow the two fit together when they're all finished; we aren't just creating a problem on their site because he's rationalizing his piece of land and the other person isn't.

Maybe I'm not being clear.

**Mr. Hahn:** No, I did notice the fill.

**Boardmember Cameron:** If you look at the lines, they really are quite odd. Even on the completed one they're very odd.

**Boardmember Alligood:** Don't we have an issue ... I know the other ... you raised a good point. The other site is not before us, but it's out of compliance because it doesn't have a driveway or parking. And so they're interrelated issues that are going to have to get addressed by the Village. Because that was something they agreed to do is rectify that.

**Chairperson Speranza:** Yes.

**Boardmember Alligood:** So we really should be looking at it at the same time. I know it has nothing to do with your application, but I want to say that I think we need to state that. And get to the owners, and tell them ...

**Chairperson Speranza:** The properties are related, given the fact that they were both built on. Right.

Well, what I would ask is that ... again, we haven't seen these plans. You know that not everything has been addressed as our engineer has requested it. I think you got to get back together and come up with a way ... you've heard our concerns. I don't know if there are other items from the Board that are ... that is, our major concern is, how this actually happens in a safe manner.

And your request for the construction sequencing, as well as I don't know if the removal process is part of that, is included in that. I think it's going to be critical for this Board to take an action.

**Boardmember Cameron:** If I could just ask it slightly differently. It may be that because the next lot over is out of compliance that you are not capable of moving forward until we get them both in compliance. We just can't have one which is a real mess right next to one that works.

And so you are sort of like joined twins who have been taken apart, but you're not fully apart. And I think we have to look at that very carefully.

**Mr. Abillama:** All I could say to that is that my client purchased this lot and does everything free and clear. I think there are other methods of enforcement with regard to this.

**Chairperson Speranza:** Yes, and the Village has been in touch with the adjacent owner.

Bruce?

**Boardmember Dale:** At this stage, you don't know how deep the fill is and you don't know the condition of the original earth underneath it?

**Mr. Abillama:** We don't know. We're intending on having boring tests done. That's the first thing that my client indicated to me. Because we're worried about soil bearing capacity. We need to know what's the virgin soil, where the virgin soil is, in order to build a sound structure.

And we're going to end up doing that, it's just that we didn't know that we had to do it at this stage, or would it be a requirement to be done through the building permit process and will be monitored by the Building Department. And I think that's the normal way of doing it.

Because normally, on the larger projects, you include the boring tests within the construction documents, and they're not part of the so-called planning approval process. But that will be there.

**Boardmember Dale:** Well, putting aside economic concerns, it would seem to me that for us to feel comfortable that this project is adequately being built on solid earth, et cetera that there would be a break point after the fill is removed, or at least until the testing is done.

And could the testing be done on the other site, as well, to determine that, as Bill was indicating, if you remove your fill we're going to end up with fill that's going to float onto your side of the property from the property next door if that's fill, as well.

As you said, you may create ... so if we could do the boring on both sides of the property line, just make a determination that we know what we're looking at.

**Mr. Abillama:** My client, Tony Ivezaj, is here. We would like to address this issue, as he's permitted to do.

**Chairperson Speranza:** Oh, sure. Come on up.

**Anthony Ivezaj, owner/applicant – 12 Prince Street:** How are you doing? Good evening, Board.

In terms of the fill there, if it didn't exist before what would that have to do anything in terms of boring on that side? What are we comprising as far as structure? I don't quite understand.

**Boardmember Dale:** If you remove the fill on your side, and don't create a barrier for the fill on the other property, it could gravitate onto your property, causing problems for you.

**Mr. Ivezaj:** But if I excavate to the point, or to the grade, where it was before it's not going to disturb anything.

**Boardmember Dale:** You would still have the problem of the next-door property possibly having fill equally as deep as yours.

**Mr. Ivezaj:** Well, we wouldn't anticipate on going deeper than that. I mean, we would like to keep the grade where it was originally, if we could.

**Boardmember Dale:** But the property next door may not be at the proper grade either.

**Mr. Ivezaj:** But should that be an issue that we should be concerned about?

**Boardmember Dale:** Yes. It gravitates to your property.

**Mr. Ivezaj:** But in terms of excavating the fill there, we were going to gradually scrape it, where it wouldn't create any kind of erosion where it could compromise anybody's structure.

**Chairperson Speranza:** When you remove the fill, it could undermine the unstable property next door. Both lots have had fill placed on them. That's my understanding.

**Building Inspector Sharma:** Either they would have to remove it or create a retaining wall.

**Boardmember Dale:** You would have to build a retaining wall.

**Mr. Ivezaj:** But there's probably 10 feet of fill there.

**Boardmember Dale:** That's the point, why we need ...

**Mr. Ivezaj:** I understand what you're saying. But I'm saying that that fill there is not acting as a retaining wall to hold that structure up.

**Mr. Hahn:** But also we're not excavating and then trying to build new construction. That's the point.

**Building Inspector Sharma:** Tom, do you understand what we're saying?

**Mr. Abillama:** Right. See, this area here, the adjacent property, is flat, indicating that there was fill put in here. And all these lines here indicate a steep slope in here due to the backfill. What we tried to do is to stay away from the neighboring property by grading our property. What we could do at this point is put in a small retaining wall, gradually coming down, a couple of feet just to stop any flow from the neighboring property to us. That would stop it.

**Chairperson Speranza:** OK. And you know what? I'm sure you've got lots of good ideas, and there are ways to do this. But this isn't the forum to do them. And if you sit, you sit with an engineer – with the engineer that the Village has hired. That's the way to do it.

And then come before us with a set of plans that's going to work.

**Mr. Abillama:** But can I say something? We're dealing with our property.

**Chairperson Speranza:** I understand that.

**Mr. Abillama:** And you're making this application part of the next door property. And that's why we're trying to resolve it now. It's not our ...

**Chairperson Speranza:** We can't even act on this application as it stands now. So you need to find a way that's going to address the concerns and make this a site that is going to be

buildable, and not at the risk of the neighbors. Not just your next door neighbor, but the neighbors that are on the adjacent properties.

**Village Attorney Stecich:** Patty, there's one thing I wanted to ask you about the height. When you flip to the page that showed the parallelogram, now I'm assuming you understand that that maximum height ...

**Mr. Abillama:** This is the 35 feet.

**Village Attorney Stecich:** ... it looks like you could be a little bit over. But we'll check that. That has to be from either the existing grade or the grade you create, whichever is ...

**Mr. Abillama:** It's both.

**Village Attorney Stecich:** It's both. OK, fine.

**Mr. Abillama:** Because we didn't touch the bottom.

**Village Attorney Stecich:** OK, just make sure that's the case.

**Mr. Abillama:** Thank you.

**Building Inspector Sharma:** Could I just add something? [off-mic] know, all this area also has fill; fill maybe 5, 6, 7 feet of fill over there. Once you remove that fill here, [off-mic]. So that's the solution that I think we are all looking for: exactly where you stop removing the fill, and how far you go in terms of removing the fill.

Either you have to keep going beyond over into the other property, or you [off-mic] retaining wall.

**Chairperson Speranza:** Right.

**Mr. Abillama:** We're willing to address your concerns.

**Chairperson Speranza:** OK, thank you. And you'll stay on this case, and review the next set of plans.

**Boardmember Alligood:** Could we ... I just would like to say that it would be helpful ... these comments that you made on the plans are excellent. And I just want to make sure that the plans that we get for the next meeting incorporate all of what you ask for.

**Mr. Hahn:** We usually ask for a written response [off-mic].

**Building Inspector Sharma:** Speak in the microphone.

**Chairperson Speranza:** You're OK.

**Building Inspector Sharma:** I would ask him to file final plans, revised plans, with me. And I'll make sure a copy gets sent to you.

**Chairperson Speranza:** Definitely. You know, I should have asked if there's anyone here in the audience who wishes to speak on this application. No? OK, thank you.

#### IV. NEW PUBLIC HEARINGS

##### 1. View Preservation Approval – Application of Lynn and Jon Hock for alterations and a two-story addition to their residence at 102 Maple Avenue.

**Chairperson Speranza:** The next order of business is a view preservation approval for a residence at 102 Maple Avenue. It's a two-story addition.

**Boardmember Cameron:** I'm going down to the audience to observe from the other side. I'm the next-door neighbor.

**Chairperson Speranza:** I know. And there are three people on the Board who are in this notice area. It's a recommendation for view preservation approval.

**Village Attorney Stecich:** They'll have to recuse themselves. So they're going to get all four of the rest of you.

**Boardmember Dale:** Omigod.

**Chairperson Speranza:** That includes me. So will you chair this, Kathy?

**Boardmember Sullivan:** Thank you.

**Chairperson Speranza:** You used to be head of the committee. You chair this.

**Boardmember Sullivan:** Good evening. I'm your temporary chair.

**Christina Griffin, architect - 102 Maple Avenue:** This is a two-story addition to one of the sugar houses at 102 Maple Avenue. This building was built in 1850. It's very special. And we're planning to put a small addition on the back.

This is the addition. We are adding a den that's about 120 square feet from the first floor, and a small bedroom and bath that's about 107 square feet on the second floor. And then we're going to recreate the porch that is presently right here.

Now we're here in front of you because of view preservation. We took photographs of the house and also of all neighboring properties to see if there was any impact in view from the neighboring properties. I just put this picture here to show that this addition is very similar to an addition on another sugar house at 94 Maple Avenue.

I'm going to flip to our site plan. The house faces Maple Avenue, and has a porch across the front. We're planning to put our two-story addition on the back. This is the new porch that is presently here that we're going to rebuild on the back of the two-story addition.

This is our diagram going through the site, starting up on the other side of Broadway, cutting through the properties that are east of 102 Maple, through Maple Avenue, and then on the other side of the street. We made a copy of the tax map just to show the location.

This is right at the end of Maple Avenue just where it turns on to Maple Lane, at the corner there. These are labels that are keyed to photographs taken from neighboring properties; one in front of the house, two on the side, three in the back, four on the other side, and then uphill from the property.

As far as we could tell, we really could not find any views of the river or Palisades through this house presently. So I feel that we can demonstrate that there really isn't going to be any impact on view.

This is just our floor plan, just so you can see. In the back of the house, this is the new den that we're adding and the porch. And then on the second floor, a new children's bedroom and bath. These are our elevations. The front of the house is going to be preserved, restored. This is the east elevation, showing our two-story addition, our new porch.

We're also raising this one-story part of the house just so that we have the same look as the original house had, which has a very high ceiling and lovely porches with brackets on each

side of that one-story piece. This is the north addition, and this is the existing house. And this is our two-story addition and new porch.

This is the south end – and you can't see the addition from that side – which will be restored.

**Boardmember Dale:** Christina, does the roof level of the addition rise above the existing roof level at any point?

**Ms. Griffin:** We are lifting ... I don't know if you can see this photograph, but this view – which is the same view as this one – there is currently a one-story roof. And there's an angled roof that drops to it. It's very awkward. So we're going to lift this up – it's, I think, maybe 15 inches – just so that there's an alignment of these two rear porches and this roof.

**Boardmember Dale:** But no higher than the existing roofline.

**Ms. Griffin:** No. The existing roof, actually even the intersecting gable doesn't go higher than the existing ridge.

**Boardmember Dale:** All right. So the impact on the view from the house up the hill from this is actually not impacted at all?

**Ms. Griffin:** No.

**Boardmember Dale:** Because it doesn't rise ... does it interfere with any view they may have above the roofline?

**Ms. Griffin:** No. There is no view that I could tell from the photographs and walking on the neighboring properties uphill. But there isn't any view now of the river unless maybe there is a view way up on Warburton, or near ... I'm not sure. But I don't think any of the neighbors up to and across Broadway have any views of the river through this property.

**Boardmember Sullivan:** Well, I think this is a public hearing, if I'm not mistaken. So is there anyone in the audience who would like to speak on this, anyone who's here tonight?

All right, Patty, I close the public hearing.

**James Cameron, neighbor:** [off-mic].

**Boardmember Sullivan:** Oh, I'm sorry. It's opened up quickly.



**Mr. Cameron:** As the next door neighbor, I would just like to ...

**Deputy Building Inspector Minozzi:** Please state your name, sir.

**Mr. Cameron:** James Cameron. Yes, it was James Cameron when I was up there, and it still is.

I live next door, and I'm totally in favor of what they're doing. And I'm thrilled they're coming into our neighborhood right next door and doing great work on the house. Thank you.

By the way, nobody can see over our house, either – we're the next house over – when you stood up on Broadway because of all the trees up there. As much as Con Ed cut down, they didn't cut down that much. You actually cannot see anything from the other side of Broadway.

**Boardmember Dale:** And in the wintertime, when there's no leaves?

**Mr. Cameron:** You really can't.

**Phil Grant, 11 Riverview Place:** I echo what Jamie says. I live in the neighborhood and am totally supportive of their improvement of the neighborhood.

**Boardmember Sullivan:** All right, thank you. Is there anyone else who would like to speak tonight? All right, then the public hearing is closed.

Open for Board comment. That was very helpful, and kind of asking some questions. Eva, or Ed, any thoughts?

**Boardmember Alligood:** I think it's a beautiful renovation. I don't see any view preservation issues.

**Boardmember Dale:** I think the existing view is not changed. The neighbor next door has two windows, side windows, that look at this building. They will continue to look at this building, and see a slightly different configuration. But their view beyond this building is not impacted at all. So I see no issue.

On MOTION of Boardmember Dale, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Board approved recommendation to the Zoning Board of Appeals for the alterations and two-story addition at 102 Maple Avenue.

**Boardmember Sullivan:** All right, thank you very much. Get up here, Patty.

**Boardmember Dale:** See what happens when you're not here. We approve all kinds of things.

**Boardmember Sullivan:** That was enough.

**Boardmember Dandridge:** Run the table.

**Chairperson Speranza:** A quick learn.

**2. Minor Subdivision Approval – Application of Ed Young for the realignment of a property line between his two adjoining properties at 3 Whitman Street and 12 Villard Avenue.**

**Chairperson Speranza:** Next item on the agenda is a public hearing for a minor subdivision approval. It's for a property located on Whitman Street and Villard Avenue. We have seen this before in a preliminary fashion. And, Mr. Young, if you'd like to brief us on what you've decided to do that would be great.

**Chairperson Speranza:** Yeah, you're going to need the mic.

**Building Inspector Sharma:** Please mention your name.

**Ed Young, applicant:** This is a piece of property on Villard and Whitman Street, coming up from Warburton.

I used to own this piece of property on the line, which actually had a barn in the back. It was a horse barn, which I use as a studio. And since then, I've bought this piece of property on Whitman Street and I continue to use this as a studio.

What I'd like to do is to include the studio for that piece of property that I'm living in now. The borderline between them wasn't clear before. It cuts the shed and the bay window. It's a

feed, actually, interfering with each other at this old boundary. And I want to draw a boundary across here, to include this for that property.

Both these properties are nonconforming the way they're situated. So during the meeting that we had in April, I was advised to have the two pieces so they ... and a new line be drawn here, as suggested. So I got the survey done in June, and missed the last meeting. So I'm appearing here.

**Chairperson Speranza:** OK, thank you. Marianne, did this need to now go through the subdivision process?

**Village Attorney Stecich:** Yes. But I think, though, it's going to need a variance. Because I believe the blocks are undersized. So you can't approve a subdivision that would create noncompliance. So what he would have to do ... but remember, we wanted him to come back to this Board first to make sure that you liked the layout so you could recommend to the Zoning Board that this was a better layout if, in fact, you believe that.

Then I think that would help Mr. Young when he went to the Zoning Board. Because he's not making any new lots. He's just refiguring them in a way you may ... obviously it's better for him if the Planning Board agrees it's better for him. He is still going to have to go to the Zoning Board.

I assume you didn't apply for a variance yet.

**Mr. Young:** No.

**Village Attorney Stecich:** Yeah, OK. So that would be next month. Did he make a subdivision application? I think he made a subdivision application.

**Building Inspector Sharma:** Yes, I think so.

**Village Attorney Stecich:** So that's what is before us. So if you were so disposed, you could grant the subdivision subject to the variance. That's one way to do it. The other way to do it would be to send it to the Zoning Board and get the variance, and then he could come back to you. But if there are no issues, you may want to do the formal one.

**Chairperson Speranza:** OK. Since this is a public hearing, is there anyone here who wishes to speak on the application? Then we'll consider the hearing closed.

Boardmembers, any comments, questions, concerns?

**Boardmember Dale:** I have. How many variances are created on the nonconforming lot as a result? Because we have a driveway without a garage. What are the issues? What variances would be required?

**Village Attorney Stecich:** Oh, I don't know. We'd have to look at it. But just off the top of my head, they need a variance for insufficient lot size. Because there's no measurements on it, I'm not sure if it needs a rear yard setback. I mean, it's clearly noncompliant in the front yard and the side yard setback, but the subdivision is not affecting that. I mean, that's just what it is.

If, however, this lot line is drawn in a place that makes the rear yard insufficient, then it would be creating a rear yard issue.

**Boardmember Sullivan:** I'm sorry. There are those dimensions on the survey: the proposed rear yard is 23.7 feet.

**Boardmember Cameron:** And the other one on the stucco garage is probably a side yard, and it's for some reason 7 feet 3 inches.

**Village Attorney Stecich:** But I don't think you really need to worry about the variances because you really need to sit down with the code book and figure out exactly which ones he needs. But if you were comfortable with this subdivision, he's going to go to the Zoning Board anyway. But if you think that this reconfiguration of the lots make sense, then before he does his variance application we're going to figure out exactly which ones he needs.

Now, was there a garage before? That was never used as a garage, right?

**Mr. Young:** No, it's not.

**Village Attorney Stecich:** But theoretically it was so that could be ...

**Boardmember Dale:** It worked as a garage, whether it was used as a garage or not.

**Village Attorney Stecich:** Right.

**Boardmember Dale:** It was feasible to do something.

**Village Attorney Stecich:** So that's another noncompliance that might be created, this not having the off-site parking.

**Boardmember Dale:** And we have a driveway without a garage, which we had a long discussion about, if I recall.

**Village Attorney Stecich:** I'm not sure it's so much having a driveway without a garage, but not having the off-site parking ...

**Chairperson Speranza:** Well, it looks like there is a parking area, even without the garage.

**Boardmember Cameron:** Well, which one are you talking about? On lot 10 there's tons of parking. And matter of fact, there may be too much.

**Village Attorney Stecich:** Those might be recommendations you want to make.

**Boardmember Cameron:** Right. Well, I can't recall what the side lot requirement is for this stucco garage, but they put 7 feet 3 inches in there. If it was 8 feet, then I would suggest we have them make it so it's compliant. But if it's not compliant even at 7 feet 3, then you could leave it the way it is.

I'm just saying there's an easy fix.

**Boardmember Sullivan:** Jamie, I've been focused in on that, and I'll tell you why. Because you're correct, these side yards are 8 feet in this zone. But the rear yard's 25 feet. So I look at a smaller lot, and just wonder if that rear yard should be 25, and let the side yard off of the stucco garage potentially be smaller just to be able to give the smaller lot a compliance.

**Boardmember Cameron:** But his problem is getting in the cellar entrance.

**Boardmember Sullivan:** My sense on that was, at some point there may need to be a revision to the garage to accommodate that. And I guess I'm looking at a potential owner down the road of this other piece of property, letting them have the rear yard that meets zoning codes.

This area, however, there's zero setbacks on some pieces of property. So it's not at all compliant in the existing condition. But I was just thinking, as the person that might end up with that piece of property down the road, the property on Whitman is very sizeable. You're adding to that lot. And I just wonder if that isn't a potentially fair tradeoff, given we're looking at two setbacks that can't be accommodated in the right amount of space.

And I have no problem with it. I think what you're doing, I support it 100 percent. That was the only thought I wanted to bring up for conversation. I'm not sure what the answer is, and there may be a question that it should be just tabled.

**Boardmember Dale:** Can you enter the garage through the shed that's between?

**Mr. Young:** This area? That's a shed.

**Boardmember Dale:** There's a little shed at the back of the house on Whitman?

**Mr. Young:** On Whitman Street.

**Boardmember Dale:** The back of the Whitman house, there's a little shed that's against the wall of the studio. Is that a pass-through?

**Mr. Young:** That shed is no longer ...

**Boardmember Dale:** No the shed is actually by the house. That one, where your finger is.

**Mr. Young:** Oh, this one. Yeah.

**Boardmember Dale:** Can you enter into the studio through that shed?

**Mr. Young:** I could.

**Boardmember Dale:** So you wouldn't need the entrance on the other side.

**Mr. Young:** Well, yeah. If I were to have this, then I would definitely enter through the shed.

**Village Attorney Stecich:** Kathy, what plans do you have that have the measurements? Because I'm looking again at the one I have and it does not have the ...

**Boardmember Dale:** The double survey.

**Chairperson Speranza:** Right, the survey.

**Village Attorney Stecich:** This one. But where does it have the measurement from the rear of the house?

**Boardmember Cameron:** It says 23 feet 7 inches.

**Village Attorney Stecich:** Oh, from the rear. OK. And the rear yard requirement's 25 feet.

**Boardmember Sullivan:** Yes.

**Village Attorney Stecich:** And the side yards each have to be at 8 feet; totaling 20 feet, but each one has to be at least 8 feet.

**Boardmember Dale:** Well, here it's 23.1 feet.

**Building Inspector Sharma:** This accessory structure, either way, a two-story structural garage.

**Boardmember Cameron:** Given that the garage is up against the other property line, it's going to be a noncompliant structure no matter what we do.

**Building Inspector Sharma:** No matter what we do.

**Boardmember Cameron:** So we should probably just leave it the way it is.

**Chairperson Speranza:** My sense is that these are two lots that are already developed. The charge before, we could ask Mr. Young to go back and submit a proposed subdivision with the entire zoning code analysis, complete zoning code analysis, for each of the lots to be done.

Honestly, I'm not sure what that gets us except moving the lines a few inches here and there. And frankly, let's approve the realignment and then have him go to the Zoning ... or contingent upon the Zoning Board approving all the variances. And if for some reason they have a problem with any of the variances, then it would come back to us for a different subdivision.

**Boardmember Alligood:** Yeah, I'm inclined to agree with you, Patty. Because I think this is almost an urban situation, where things aren't compliant but you make it work, and you need this structure where it is. And moving it a few inches here or there is not something that greatly concerns me.

**Chairperson Speranza:** Anyone else? Comments?

**Boardmember Cameron:** Just a point of information. I take it that 12-A and 13-A were earlier transferred to the Whitman lot, because we have the dark line there?

**Chairperson Speranza:** The ones right on the corner, the property on the corner.

**Boardmember Cameron:** Yeah, right.

**Chairperson Speranza:** That was an earlier transfer.

**Mr. Young:** You mean what's here?

**Boardmember Dandridge:** Yes.

**Boardmember Dale:** Yeah.

**Mr. Young:** I don't know who owns that. There are some bushes here, and there's a wall down here towards Hoffman's house.

**Chairperson Speranza:** Right.

**Mr. Young:** And it's on my level, but I don't know who the owner is.

**Boardmember Cameron:** Well, the dark line seems to indicate you own it, but who knows.

**Chairperson Speranza:** OK, then. If we're going to progress this, then we'll just take a vote. There is a SEQRA that we have to do that we find that there are no environmental impacts as a result of this application. We have the short form environmental assessment.

**Boardmember Cameron:** I just have a question. You currently have tenants in this house on Villard?

**Mr. Young:** Yes.

**Boardmember Cameron:** And you have a couple of gates going into this parking area back there.

**Mr. Young:** Yes.

**Boardmember Cameron:** But there don't ever seem to be any cars back there. Do your tenants not have any cars?



**Mr. Young:** I used to have a backyard for my teaching. I teach Tai Chi there.

**Boardmember Cameron:** Oh, I see. But when you ... OK.

**Mr. Young:** I don't usually encourage people to park there.

**Boardmember Cameron:** Well, with all candor, though, it pushes the parking people onto Villard Avenue. I know you teach Tai Chi. If they live in your house, your rental, and they don't have a place to park, they're undoubtedly parking on Villard rather than parking in this nice parking area back there.

So maybe when you sell it people will start parking back there. Because it just makes parking harder downtown.

**Mr. Young:** Probably, yeah.

**Chairperson Speranza:** So we need a motion that, first of all, we have reviewed the short form environmental assessment and find that there are no negative impacts as a result of the proposed minor subdivision lot line realignment. That's the first motion.

On MOTION of Boardmember Dandridge, **SECONDED** by Boardmember Alligood with a voice vote of all in favor, the Board resolved that the SEQRA action on the proposed minor subdivision lot line realignment is a negative declaration for environmental impacts.

**Chairperson Speranza:** And then the second motion is to approve the minor subdivision of the properties on Villard Avenue and Whitman Street to show the realignment of the property line.

**Boardmember Dale:** Were we going to wait for the Zoning Board first?

**Chairperson Speranza:** Subject to approval of the Zoning Board for any required variances. That would be the motion.

On MOTION of Boardmember Dandridge, **SECONDED** by Boardmember Sullivan with a voice vote of all in favor, the Board approved the minor subdivision of the properties at 12 Villard Avenue and 3 Whitman Street to show the realignment of the property line, pending approval of the Zoning Board of Appeals for any required variances.

**Boardmember Dale:** I'd rather hear from the Zoning Board before we vote.

**Chairperson Speranza:** Well, we're on the record.

**Village Attorney Stecich:** But, Bruce, if they don't approve it, it didn't happen.

**Boardmember Dale:** I'm not comfortable creating a nonconforming without understanding the degree to which it's nonconforming.

**Chairperson Speranza:** OK, thank you. Your next stop is the Zoning Board.

**3. Amendment to Previously Granted Site Plan and View Preservation Approval – Application of William Kennedy for an amendment to include approval of some “as-built deviations” from the previously approved plans for his property at 431 Warburton Avenue.**

**Chairperson Speranza:** All right, the next item on the agenda is an amendment to a previously granted site plan for property located at 431 Warburton Avenue. Mr. Kennedy?

**William Kennedy, applicant – 431 Warburton Avenue:** Hello. Good evening. I'm here, I guess, to reapprove the plans that were approved 8 years ago. In 2003, I went through this process over several months. I sought variances, which I received. I was cleared with view preservation and all that. And I went on.

I had a deck built in the back. There were a few little problems that caused us to slightly change the plans, and we did that with my engineer. My builder, and the Building Inspector, worked together on this and figured out what was the best thing to do. Kept within the spirit of the original plans.

However, the corners were originally supposed to be cut on 45 degree angles. One of the reasons was to make sure that the next door neighbor's windows would not be blocked. As it turns out, they wouldn't have been blocked anyway because ... well, we moved the deck, made the deck a little bit smaller so it was well within the ... the windows were not blocked at all.

So we did as I was supposed to do. I did the paperwork, I had as-built plans as of September 28, 2004. And with those plans, I was able to get the CO. I had the CO. I've had it for nearly 7 years. And I don't understand why I'm being challenged on this now.

**Chairperson Speranza:** OK. So, Deven, can you fill us in? Was it your eagle eye that spotted an inconsistency?

**Building Inspector Sharma:** Yes. It was brought to our attention by someone that there were discrepancies between what was ... slight differences between what was approved by the Planning Board – it was maybe a little bit before my time, before I joined you perhaps – and what was actually built.

We approached Mr. Kennedy and asked him to come before the Board and see if we can see whether the discrepancies are significant enough to affect what was the intent of the approval previously given to him. What's here, the deck is probably one issue that should have been chamfered at 45 degrees at the two ends.

He squared it. Whether it has a view preservation impact or any other environmental impact, that's what the Board needs to review and be satisfied – react one way or the other. If the Board doesn't approve it, he may have to change it and go back to modify the deck the way it was approved previously, or the Board may approve it the way it's been constructed now.

**Chairperson Speranza:** OK. But there has been a CO. He and his family have been living in the house since 2004.

**Building Inspector Sharma:** There's been a CO, yes.

**Chairperson Speranza:** OK, thank you.

**Mr. Kennedy:** Oh. I also feel that this is opening up a can of worms. Whereas anyone who moves into town can just come to the Building Department and look through all the plans of the neighbors. If they have a discrepancy, a personal problem, then you'd sick the Building Inspector on them.

I've had a CO since 2004. Nothing's changed since then. I went through all this process, and I don't feel that there is any justification in taking away a CO that I've had all these years. I don't think it should even be a matter that should have been brought up to this board.

I went through all this. I mean, it was a long process. I received variances. And even though there are slight deviations to the plans, nothing even came close to going over the area that I had the variance for.

**Chairperson Speranza:** OK. Let me see if there's anybody else who wishes to speak because this is a public hearing.

**Peter Wolf, 1 Scenic Drive:** I would like to speak on behalf of River Town House, which is the neighbor to Mr. Kennedy.

The first thing is that when we looked through the file we did not find an as-built survey. They surveys that were in the file when we last looked only reflected the plans that were approved by the Planning Board and the Zoning Board. We do not find any as-built survey. I have tried to see the file, and I have requested whether there has been an additional as-built survey, and I don't find any.

So it's very difficult to go through the discrepancies without seeing what was built as opposed to what was approved. Some of the things that we found problematical, Mr. Kennedy referred to those corners that were at right angles instead of cut at 45 degree angles. That is a major problem.

This is a situation where you have a zero lot line. So it has forced us to construct privacy barriers and try to deal with that in other ways. There are a lot of other nonconformities. There's a swimming pool there. Originally it was kidney-shaped. Now it is quite large. According to 295-52(k) of the Village code, the swimming pool is considered to be a structure. And they've enlarged the structure without any authority to do so, which is in 295-55 and 295-56.

There are other problems with the building. For instance, all the drainage goes onto our property and it's undermining the foundation, which violates 224-2 of the Village code. And there are other matters that, again, because of that zero lot line, are very important.

They're supposed to keep the property in good shape. There's a piece of siding missing, Tyvek is broadcast right through that whole thing. We've tried to ameliorate these conditions. We've put some arbor vitae in front of it. But we would like to see this brought up to code.

One of the things that we consider most important, of course, is that drainage issue. Because building on a zero lot line with a foundation, it can get undermined through the soil substrata. So we feel that these issues are rather substantial.

**Chairperson Speranza:** OK, thank you.

**Mr. Kennedy:** My response?

**Chairperson Speranza:** Sure.

**Mr. Kennedy:** OK, first of all I want to talk about the swimming pool. The original plans called for a 13 by 26 foot swimming pool, and it was kidney-shaped on the plans. We reduced the pool to a 12 by 24 foot to make it well within the variance we received.

It's a much smaller pool, not larger. And it completely fits within ... there's no ... as I was told, there should be no problem with that whatsoever because I built it smaller than the original plans and kept it in the same area.

As far as the drainage and the look of my siding, what does that have to do with my deck in the back? I don't think that has any reason to be even brought up.

As far as the foundation, the foundation was added a few years after I built the deck. It was a totally, almost completely, knocked-down house, and everything was changed on it. No walls had to be built behind his house -- or their house, *the* house -- to block any views. Because originally, when I built the deck, there was no third or fourth floor on that building.

There is no view issue whatsoever. I mean, this is a house that I had all of your approval and it was built, and then several years later it was purchased. The next door neighbor purchased the building, tore it down to build up a new structure. And if my old structure's in the way, it shouldn't really matter. My whole deck is on their plans, as you've seen when they went through the whole project, so I don't see any reason why that's an issue.

**Chairperson Speranza:** OK. Is there anyone else here in the audience that wishes to speak on the application?

**Mr. Wolf:** Well, just to use that swimming pool as a point, if it's 12 by 24, and it's rectangular, it is probably much larger than a 26-foot long kidney pool.

The point, really, is that there's no as-built survey by which to see what was approved, what was not approved, what was later approved. And to the extent that it affects our property -- and certainly this drainage issue does and some of the other violations, code violations do -- we think that they should be rectified.

**Building Inspector Sharma:** What does the Planning Board have to do with it?

**Chairperson Speranza:** OK, Deven, Deven, Deven. OK.

I have to weigh in. I know that there has been a lot going on between both of these property owners for a long time now. And I'm sorry it's come to this, I truly am. You know, we'd like to think that we're always going to be able to work things out. Clearly not.

My sense is ... and the CO was given by whoever was the Building Inspector at the time, based on the plans that were submitted for the house when it was renovated. Peter, when you purchased and constructed, or renovated, the property next door, this property was built as it is. I'm sorry, I'm just kind of speechless about this.

Anyway, my sense is that there are no changes proposed. It's simply to have the records catch up with what's built there. I won't say that I think that it should have necessarily been approved not in accordance with our plans. But it was done, it's there, and there's been a CO for a long time now.

I think this is ... you know, bad blood is just a terrible thing, and I think this is what we're dealing with here. That's my sense for the Board. Anyone else?

**Boardmember Dandridge:** I would just like to say, whenever a member of our community comes before us alleging violations of the code it's always nice to know that there's supporting evidence, or a report, or that our engineers actually look at it. I don't have anything in front of me that would support that.

So I take the seriousness of both parties here, but lacking evidence that would suggest that there are code violations – which I don't have in front of me – I don't know how we could even spend any time on this.

**Chairperson Speranza:** And there are some things that are clearly not in our purview. And to modify or reconfirm, which is essentially what we're doing, we confirm or approve as is written in the notice as-built deviations. And, again, it's a recommendation for view preservation approval that would go to the Zoning Board of Appeals.

There's nothing in here with respect to the drainage. And certainly, we like people to keep up the house, but it's got nothing to do with the purview of this Board.

Anyone else?

**Mr. Wolf:** Yes. I would just like to make two comments. One is that I tried to ... well, we actually met beforehand trying to come to an accommodation. So we're trying to do this outside of this room, but that did not happen.

But I think that it is important, not looking at this case specifically but generally, that there is a certain type of procedure. And if the procedure has an as-built survey, that type of document has to be in the file. It has to comport so that if a board – and, as you know, I've been on boards before ... if a board makes a decision, there has to be – and the decisions are made in public – there has to be a public way to verify that this has been carried out. Especially if it affects a party adversely.

**Chairperson Speranza:** I don't disagree with you.

**Mr. Wolf:** Thank you.

**Mr. Kennedy:** I just wanted to say that in order to get the CO I had to give as-built plans, which I did, and I received it. Just because Mr. Wolf doesn't seem to be able to find it doesn't mean it's not there.

**Chairperson Speranza:** And if it's not in the Village, then it's not in the Village.

**Mr. Kennedy:** I mean, I have copies of it here. The as-built plans I have are very little ... have very few differences from the plans that I had to submit as of 2011. There's really no difference. I think I went through a wasted expense to get them, but they're almost identical to the ones I handed in in 2004.

**Chairperson Speranza:** OK, thank you.

**Boardmember Cameron:** Like you, I don't think there's anything for us to do at this particular moment in time. On the other hand, we've had some problems in the past where we have put down conditions or plans and they're not followed. And I think that we need to think among ourselves of how we make sure that what we suggest and approve, and approve with conditions, actually happens and it isn't just carried on willy-nilly in any other way.

So I'm not suggesting we do anything. I'm suggesting that we, as a Board, think of mechanisms to make sure that what we have told the public is going to happen actually does happen. And not just something else, and no one discovers it for five years and then it's, "Oh well, there it is, and we're fine."

**Chairperson Speranza:** Right. I agree.

**Boardmember Cameron:** I'm not suggesting any now, but I really think that's very important we do that.

**Boardmember Dale:** Prince Street is an example.

**Chairperson Speranza:** Absolutely.

**Boardmember Dandridge:** Does that look like enforcement and compliance to you when you say that? Is that what we were talking about? I want to just be clear for people who are either not in the room or are watching what exactly we're talking about.

**Boardmember Alligood:** I think the Prince Street example is that ... but I think what happened here is more that if there was a deviation from what's approved it should come back to us...

**Chairperson Speranza:** At the time, right.

**Boardmember Alligood:** ... rather than being negotiated in the field and just written up. That is a problem. I mean, it's done, the C of O's there, I agree that there's not much we can do retroactively. But that's, in fact, what happened.

**Boardmember Dale:** That gets confusing because of the line you draw between what right does the Building Department have to make decisions as opposed to what rises to the level of coming to the Planning Board.

**Chairperson Speranza:** You're right.

**Boardmember Dandridge:** Speak to recording.

**Chairperson Speranza:** That's the issue with respect to enforcement and judgment and compliance.

**Boardmember Sullivan:** I just want to say something. I agree with you. But I want to just state, having gone out here to look at this piece of property, and look at the deck and see the condition as built, I don't believe it's an obstruction of the view.

**Boardmember Cameron:** Right.

**Boardmember Dale:** I agree.



**Boardmember Sullivan:** And the changes that were made were, yes, they shouldn't have been brought back. And I think you've spoken very well to the enforcement or the record issue, kind of making sure that decision's carried forward. But what's there right now does not appear to be an obstruction, as built, to anyone's view.

**Boardmember Dale:** I agree with that.

**Boardmember Cameron:** That's why I said I didn't think there was anything else to do.

**Boardmember Dale:** The windows still have their full view.

**Boardmember Sullivan:** I just wanted to address the view preservation issue.

**Chairperson Speranza:** OK. Then can I hear a motion for approval of as-built deviations to the site plan that was previously granted for the property at 431 Warburton Avenue? And that would include the recommendation for view preservation to the Zoning Board of Appeals.

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Dandridge with a voice vote of all in favor, the Board approved the site plan, with as-built deviations, and recommendation to the Zoning Board of Appeals for the property at 431 Warburton Avenue.

**Chairperson Speranza:** OK, thank you.

**Boardmember Cameron:** There's a wonderful expression. When you're doing nothing, how do you know when you're finished.

**Boardmember Sullivan:** When Patty says we can go home.

**Chairperson Speranza:** One more.

4. **A Special Use Permit and Site Plan Review/Approval – Application of T-Mobile Northeast LLC for the addition of Wireless Service Antennas on the roof of an existing building at 1337 Saw Mill River Road.**

**Chairperson Speranza:** Now I know the next application is for T-Mobile. Let me get my agenda. All right, this is a special use permit, site plan review/approval for the application of T-Mobile for the construction of a wireless service antenna on the roof of 133 Saw Mill River Road.

**Village Attorney Stecich:** 1337 Saw Mill River Road.

**Chairperson Speranza:** I'm sorry. Did I say it wrong?

**Village Attorney Stecich:** You said 133 – 1337.

**Chairperson Speranza:** It's getting late.

**Village Attorney Stecich:** Just so the record's right.

**Chairperson Speranza:** OK. Good evening. Welcome back.

**Mr. Warden, Snyder & Snyder – representing T-Mobile:** Good evening. Nice to see you. I'm here tonight on behalf of T-Mobile, who is, as you know, looking for approval to locate a wireless telecommunications facility at 1337 Saw Mill River Road.

There is still, at this point, an ongoing dialogue going on between T-Mobile and the consultant that has been retained by the Village to review the technical and radio frequency elements of this application. So since we've been placed on an agenda, I thought I would maybe use this evening as an opportunity to bring the Board up to speed as to where we are in that dialogue – what issues have been resolved, and what are we still looking at, and where we are.

That's not a lot to say, but I thought I'd go ahead and do that.

**Chairperson Speranza:** Good idea.

**Mr. Warden:** First, as you'll recall, in November the Village retained a consultant named Doug Fishman of RCC Consultants. He reviewed all the various technological materials we had submitted in support of our initial application: the coverage maps and the emission reports, et cetera, et cetera.

He generated a report that set forth his conclusions regarding what we had submitted. And then asked for some additional materials, information, affidavits, and reports that he felt he needed in order to render a final determination on the decision.

It took some time, but on June 9 we submitted a package of materials, information, affidavits, studies, et cetera that were responsive to Mr. Fishman's comments. Mr. Fishman reviewed those materials. On June 29, he submitted another comment letter, which basically sets forth what he thinks has been resolved, what has yet to be resolved.

And I thought I'd just proceed by sort of summarizing that letter so the Board knows where we're at. So what's been resolved in the eyes of the telecommunications consultant retained by the Village? First he states, with regard to radio frequency emissions – health and safety, things like that – that we are "comfortably" – this is his language – "comfortably within the FCC limits."

He says we're about "7/10ths of 1 percent" of what we can safely and legally emit. And again, that's his calculation, his words. Second ... and the first thing, that's a good thing with respect to that low number – with respect to radio frequency emissions, safety, et cetera. So comfortably within the FCC limits.

The second thing is that he is satisfied that T-Mobile does, in fact, have a significant gap in coverage in the vicinity of the facility. In other words, we're not making up the need for this facility. He has reviewed our materials. He agrees that we need this facility.

He also agrees that the facility we have proposed will remedy that significant gap in coverage in the vicinity of the property. He also is satisfied that the facility is proposed at the minimum height necessary in order to address the significant gap in coverage in the vicinity of the property.

In other words, he is satisfied that we haven't just built some large thing without any scientific reason to do so. And he thinks that the minimum height is right where we are. And he also, finally, notes that the applicant has made a concerted effort to make the site aesthetically pleasing. In other words, he's acknowledging this is a tower here, and we're doing our best and we've done our best to try and make it aesthetically pleasing.

So these are the issues that he has, so far, expressed some level of satisfaction on.

**Boardmember Strutton:** Before you go on, I don't have a copy of the letter. Thanks.

**Mr. Warden:** I'm sorry.

**Boardmember Alligood:** This is the letter we got today.

**Boardmember Strutton:** Right. I didn't get one when you passed them out.

**Mr. Warden:** And so with regard to what's outstanding, he wants us to do some more homework. He wants us to first reach out to the Catholic convent and retreat center to confirm again that they are not willing to lease us space – which we are doing, and working towards.

He also wants us to reach out to the Westchester County Parks Commission to see if that large property to the north, which is in the overlay district, is ... if they're still not interested in leasing to us. And so we are taking that to heart, and we're doing that.

And then he also wants us to review the feasibility of locating at the Manor House parking lot at 140 Saw Mill River Road, which we are looking into doing. I think it was our assumption that that small parking lot carve-out was part of the Parks Department property and therefore owned by them. But he has indicated that we should take a look at whether that is, in fact, the case. Because that is in the overlay district, and that's the only other property he has identified in the overlay district that might reasonably fill this significant gap in coverage.

That's what we're doing, and so that is a status update.

**Chairperson Speranza:** OK. I just want to say that – and we can have the letter, report, be made available to people – well, you're right. There were many issues that were clarified and accepted by the consultant. I just want to say that you somewhat enhanced, or showed a lot of enthusiasm toward, this than what's expressed in the letter. Well, I give you credit for that.

**Mr. Warden:** I didn't think ... I really didn't ... I thought that was a fair presentation.

**Chairperson Speranza:** OK.

**Mr. Warden:** I am enthusiastic about my work, though. I'll stipulate to that.

**Chairperson Speranza:** Yes, you are. The issue with respect to other locations I think is really very important. And one of the things that we want to make sure is, when you're reaching out to these other entities – such as the comment that you know that property is now the Order of the Sisters that are leaving. So there may, in fact, be a change to ... they were approached once before in terms of the possibility that that structure could be used.

Maybe not for a tower, but you will also look at it for other types of communication panels, the antennas, other types of antennas. There is also a property that has been the subject of much discussion in this Village. That's across from the old Ciba-Geigy property, which I think is another property. We call it the ShopRite property. It, right now, is simply a parking lot.

**Mr. Warden:** Is this in the telecommunications consultant report?

**Boardmember Cameron:** No.

**Boardmember Sullivan:** It's in the overlay district.

**Chairperson Speranza:** But that is something in the overlay district, and I don't know why it's not ...

**Village Attorney Stecich:** It's the property owned by Ginsburg.

**Mr. Warden:** Ginsburg?

**Village Attorney Stecich:** Ginsburg Development, right on Route 9.

**Boardmember Sullivan:** Have either of the cemeteries been considered as possible?

**Chairperson Speranza:** I don't see why not. I mean, because you're going outside the overlay zone there may be other properties that are better suited.

**Boardmember Cameron:** And one such property is the abandoned gas station just south of Farragut on the right-hand side. And I think the owner has indicated interest in having something there.

**Mr. Warden:** I'm sorry, the gas station where?

**Boardmember Cameron:** Just south of Farragut Parkway on Saw Mill River Parkway. On Saw Mill River Parkway just south. The first one on the west side, just south.

**Mr. Warden:** Is that a site that is preferable to this Board?

**Boardmember Dandridge:** Isn't it on the east side?

**Chairperson Speranza:** There's one on both sides.

**Boardmember Cameron:** There's one on the east side, and one on the west side. I'm talking about the one on the west side, but there's also one on the east. Either one. I think the state is interested in getting ...

**Chairperson Speranza:** Well, the state is looking for uses for it.

**Boardmember Cameron:** Right.

**Mr. Warden:** So the state owns that gas station?

**Boardmember Cameron:** Yeah.

**Mr. Warden:** OK. Are either of the sites referenced preferable to this Board? Because if they're not, we already have a lease with an existing property owner. And I think it would be ... if the Board likes those properties less than it likes the present property, then perhaps it might not be fruitful or even productive to explore them.

**Village Attorney Stecich:** Well, you have to explore any of them in the overlay district.

**Mr. Warden:** Agreed. But these are not within the overlay district.

**Village Attorney Stecich:** I think there's only one mentioned that wasn't in the overlay district.

**Boardmember Cameron:** The last one we mentioned ...

**Village Attorney Stecich:** Just the gas station. The other ones were all in the overlay district.

**Boardmember Cameron:** Speaking personally only, I prefer them to the one that you have in front of you now. I prefer the two gas stations to the one sitting on top of the storage unit. That's me.

**Boardmember Dale:** Here's two.

**Mr. Warden:** I'm sorry. Was there another ...

**Boardmember Dale:** I agree with Jamie.

**Chairperson Speranza:** I'm not convinced.

**Boardmember Dale:** I just don't like it at the entrance to the Village.

**Boardmember Cameron:** I also ... I'm sorry.

**Chairperson Speranza:** I was just wondering – the state of the application to the Zoning Board of Appeals, and where that ... nothing has been ... no application has been made?

**Mr. Warden:** That's correct. At this point, we need to figure out the issues that have been raised by the telecommunications consultant with respect to alternatives within the overlay district. That is the Zoning Board's jurisdiction. That's what they do. That's actually their decision, not this Board's decision.

And so we need to pursue what we have been told to pursue by the consultant. Soon as we figure that out, we'll be able to submit – move ahead with that.

**Boardmember Alligood:** I just want to point out that what the consultant suggests is that what you pursue is not just a lack of response to the letters, but actually evidence that they actively don't want to lease the site to you.

**Mr. Warden:** You know, we noted that and we're going to try and do that. I want to know, though, as a practical matter. Sometimes you just can't get somebody to talk to you. And you know what? If that is the case, then what we'll do is we'll sort of detail the process that we've gone through: we called so-and-so, we called this guy, sent an e-mail to this person, and knocked on this door – that kind of thing.

**Boardmember Alligood:** That's reasonable. It would be more evidence than just "We didn't hear back," or, "We don't think they're interested."

**Mr. Warden:** I noted that. Good.

**Boardmember Cameron:** And it may be hard to get a hold of a group of departing nuns. You may have to reach up to a different level.

**Mr. Warden:** I haven't been to the Vatican in some time.

And may I ask? You had mentioned – I'm sorry to engage in a dialogue about this here, but I figure since you suggested we reach back out to the convent, and you seem to have some

knowledge – do you know who the new ... is it a new order of nuns, or is it a new owner altogether?

**Chairperson Speranza:** I would imagine it's still the church.

**Mr. Warden:** OK, all right.

**Chairperson Speranza:** I don't believe that ... I haven't heard that the property has been sold yet. Just that they're vacating.

And you did send us additional ... we did receive additional materials: the cut for the lighting, and there are a number of things also that have gone also to our communications consultant.

**Village Attorney Stecich:** But, Patty, he specifically said he's not dealing with the lighting; that's not within his expertise. So this Board should be aware of it. He also is not dealing with any acoustical stuff.

But you may not need to get to that yet if it's going to be a panel antenna someplace else instead of this flagpole. But we should keep a running note that that's something we have to look at.

**Chairperson Speranza:** And we have lots of the material.

**Boardmember Sullivan:** As I look through the application, I just noted that the EAF was incomplete. It was missing part two, and the applicant filled out in a couple of areas things that we would fill out. I would just like very much to have that resubmitted.

**Chairperson Speranza:** Oh, yeah. Did you get that then?

**Mr. Warden:** Something about the EAF being incomplete? Was that the originally-submitted EAF?

**Boardmember Sullivan:** Correct. It was missing part two, and then the applicant filled out the visual assessment form, as well as some items on part one.

**Mr. Warden:** You're missing part two?

**Boardmember Sullivan:** It's missing part two.



**Mr. Warden:** That's the issue. And then we need to do an EAF?

**Boardmember Sullivan:** No. If you look at that, you'll see that the applicant filled out parts that are really for the lead agency to fill out.

**Mr. Warden:** Oh, OK. Some municipalities ask us to ...

**Village Attorney Stecich:** No. You checked "*The project won't have any ...*" You issued a neg dec on it.

**Mr. Warden:** Oh. If I could, I would.

**Boardmember Sullivan:** I appreciated the thought process, but that's the kind of thing ... just fill it out appropriately with all the parts. We'd appreciate it.

And I'd like to bring up one other comment, just because I took a look at it. The engineering report references the New York City code, so I believe your engineer will have to re-look at that.

**Mr. Warden:** Which engineering report?

**Boardmember Sullivan:** It's the one that was sent in initially.

**Mr. Warden:** The first one?

**Boardmember Sullivan:** Yes. So it was in your memorandum in support of application, I believe. In one of those exhibits. It just has the wrong code.

**Chairperson Speranza:** The one that's bound.

**Mr. Warden:** If you would just point me to which page, and what you're doing.

**Boardmember Sullivan:** Sure. I dropped this on my way in.

**Chairperson Speranza:** Do you have any kind of time frame for when you might expect to get information back to our consultant?

**Mr. Warden:** As soon as we can. You know, I don't know how responsive the comment's going to be.

**Village Attorney Stecich:** If I could just point out, actually the consultant is essentially pretty much done looking at the technical stuff. He just mentions in his letter the alternate locations. Those aren't for him. Those are for this Board.

So it's getting back to you. I mean, although at some point – let's say they come in with information, and said, "OK, the church says it's OK, but it's not going to work for us," you'll want the consultant to look at that.

**Chairperson Speranza:** To verify that.

**Village Attorney Stecich:** But right now, I think the consultant felt he was done. He mentioned in our conversation – because we asked that to be mentioned, he mentioned it – but those are really matters for your Board. You may have to kick questions back to the consultant later.

So mainly what's he's got to do is get back to this Board.

**Chairperson Speranza:** Right, OK. That's right.

**Boardmember Sullivan:** My comment about the structural analysis report is actually on page one. The exhibit, the structural analysis report by KME Design Group, is in section two on page one.

**Mr. Warden:** Great. We'll look into that.

**Boardmember Cameron:** She just brought out the fact that the locations were tossed in by our consultant. They're not really his purview, but it's really our purview.

He makes one other comment which, quite frankly ... we hire engineers for technical expertise, but he makes the comment that he's tried to make ... that you guys have tried to make the pole aesthetically pleasing by concealing it with a flagpole/monopole.

Personally – and I have my aesthetic, too – that's about the worst use of an American flag I've ever seen in my life. And I support the American flag. The idea that these people next door are going to have this 4-foot pole that never tapers, lit up at night with a huge flag on it – and I know you're going to say we can take the flag down and never put it up again – I think it's obnoxious, personally.

But he made that comment, and I thought I'd just make my comment so you're aware of where some of us come from on this thing.

**Chairperson Speranza:** I just want to mention that in the subsequent documentation we received it's not going to be ... this is not going to be a manned, staffed facility. So it will be lit, and that is the proposal.

**Boardmember Cameron:** And it'll be up 24 hours a day, yes. That's just ... anyway.

**Boardmember Dale:** And some of the others that they have, the flag is not there and it's just this pole standing in the middle of the landscape.

**Boardmember Cameron:** It's one thing to have a flag in a parking lot of a large shopping center sitting out there. But to have one in the middle of a residential community I think is ... my comments stand.

**Mr. Warden:** And if the Board decides they would not like the flag then, of course ...

**Boardmember Cameron:** I'm just dealing with his comment that you have made a certain effort to hide it in an un-hideable condition.

**Mr. Warden:** Bear in mind, that's not our ... that's the person that the Village has retained. I didn't ... that's not mine.

**Boardmember Cameron:** Yes, I know. I'm just making it clear.

**Village Attorney Stecich:** Jamie's point is a good point. Actually, I was going to make the same thing. That's not a technical ... so whatever he said, it's the Planning Board's call whether it's aesthetically appropriate.

**Chairperson Speranza:** OK. This is a public discussion, public hearing. Yes, come on up.

**Michele Hertz, 62 Euclid Avenue:** First of all, I don't like hearing our consultant's report from the attorney of a company that wants to build a tower in a neighborhood where we don't want it. So I'd prefer to hear about that report not from him. OK.

The other thing is, I'd like to ask this attorney when were the FCC limits for radiation emissions last updated.

**Mr. Warden:** If it pleases the Board, I would very, very much not like to get into a dialogue with all the ... with anybody stating anything. If the Board should at some point, after contributors have made their statement, choose to echo ...

**Chairperson Speranza:** Request ... we will request the information.

**Mr. Warden:** Then please do so. Thank you.

**Ms. Hertz:** So I think it's important for us to know when the last time the FCC regulations for radiation emissions was updated. And I am a T-Mobile customer, although I'm thinking of stopping being one. And there is no gap in service in Hastings, period. Zero. Other members of my family are also T-Mobile, and there is no gap of service.

OK. But I'm sorry to see that the Tarricone/T-Mobile cell tower proposal is before us again. Especially because there are 34 huge cell towers and 446 cell and other antennae all within four square miles of Hastings. Recently, the World Health Organization classified radiation emissions from wireless equipment – which includes cell towers – as a Class 2B carcinogen.

This places wireless radiation in the same category as lead, engine exhaust, and chloroform. Children are 60 percent more susceptible to wireless radiation than adults. In light of this new information, I would like to ask a question. Who in this room, including the attorneys here, would buy a house with a giant, hulking cell tower that's emitting radiation looming over it?

The Tarricone/T-Mobile cell tower proposal would destroy the neighborhood it is proposed for. Also, when you mention on the Saw Mill those gas stations, they are right on top of those neighborhoods also. Unless I'm thinking of a different gas station. But that is right on top of that neighborhood.

Again, I'm a T-Mobile customer for the moment. I have no gap of service. Thank you very much.

**Chairperson Speranza:** Thank you. Anyone else wish to speak?

**Danielle Goodman, 28 Ashley Road:** I'm here on behalf of my neighbor, Daniel Baum. Daniel is the new resident in Hastings who has been knocking on doors and has alerted us all to his concerns. And they have become our concerns.

He could not be here tonight, so he asked me to read his letter into the record, which I do so with pride

"Ladies and gentlemen of the Board, please accept this letter in my absence. I would be here speaking before you today if not for my wife, Heather, having given birth and being in the hospital.

Living in Hastings, and raising our, now, two daughters, only a few hundred feet across the Saw Mill River Parkway from the site proposed, most of my fellow residents and I share a common belief that cell phone tower radiation is harmful to our health.

However, that is not the reason I petition you today to reject the special permit of T-Mobile. The reason for rejecting this permit lies simply with the perception and the stigma that comes with it. As a professional real estate broker for over 11 years, I can unquestionably testify, and show proof to the fact, that when a flaw exists within a property – regardless of real or imagined – it has a definite negative impact on the value buyers will then place on it.

More to the point is that, real or imagined, this negative health perception creates a real and lasting stigma on our properties which did not exist prior to our purchasing our homes. Then, to add insult to injury, while our home values are reduced, another property owner will become enriched from our loss.

It is no secret that mobile phone carriers pay thousands of dollars a month to property owners who will house their towers and relays. It should be clear to all of us here that the initial Board which set forth the borders for cell towers in our Village deliberately left this area out.

Therefore, I respectfully request that the members of this Planning Board, all of whom are our neighbors and likely homeowners themselves, follow the same resolve, and do their utmost to protect our homes' values and not allow this potential financial travesty be perpetrated on fellow residents.

Respectfully, Daniel Baum, 35 Nepera Place."

May I now speak for myself?

**Chairperson Speranza:** Yes, you may.

**Ms. Goodman:** Thank you. First, I want to say that I was sort of offended when I read the notice and it was called "a stealth flagpole." There's nothing stealth about this. This is a residential neighborhood, and there's also a recreational use – the South County Trailway – which the county has spent thousands and thousands of dollars on.

So it's a recreational area. People come from all over to use the trailway. They come to Hastings. They don't come to Queens, they don't go to Riverdale, and they don't go to Yonkers. They're coming here. We have a view shed. We have a beautiful community. And all of our boards, over the years, have worked hard to conserve it.

I'm concerned about the precedent being set here, and that is anybody who owns a two-story building can make it their business to line up for a cell tower. The need ... why here, why now? Go down to Yonkers, go to Ridge Hill. I'm sure there are plenty of other places. And the lease, if you don't get approval it gets invalidated. So I'm sure there's some contingency clause.

For the public's information, if we could please be advised of how we could get copies of the reports or any of the other documents I think some of the neighbors would appreciate reading things. So maybe you could post them online, or make the file available. We would appreciate that.

And thank you all. Thank you.

**Chairperson Speranza:** Anyone else? Anything else this evening? Do you have anything else this evening, or are you finished?

**Mr. Warden:** Just one quick request. I noticed tonight there were some alternatives referenced that had not been previously referenced.

We're deep into this process now, and we're actively ... we're looking at all these alternatives. And so I would just sort of ask the Board, you know, sort of speak now or forever hold your tongue. It's been ...

**Chairperson Speranza:** No, we never forever hold our tongues.

**Boardmember Dandridge:** I don't think you want us to speak now.

**Mr. Warden:** No, no.

**Boardmember Dandridge:** With all due respect, I don't think you want us to speak now.

**Chairperson Speranza:** With respect to locate alternate ...

**Boardmember Dandridge:** So with all ... I think you want us to be deliberative and give you as much flexibility as we possibly can in the face of what you have heard and what you're likely to continue hearing. So I think we're being every bit as constructive in this process as you are. You don't want us to speak now.

We're continuing to dialogue. We'll continue to offer suggestions and alternatives. With all due respect, that's our responsibility.

**Mr. Warden:** I understand. Sir, I don't think you understand ... perhaps I mis-conveyed it.

**Boardmember Dandridge:** No, I understood you entirely. I don't think you're understanding me.

**Mr. Warden:** What I'm asking is if anybody has any other alternatives that they would like us to look at, please tell us and we would like to look at them. That's what I'm saying.

**Boardmember Dandridge:** When they come up ...

**Boardmember Alligood:** I also know that part of the process is, it's your job to be looking at the alternatives. It's not our job to come up with that. We may help you by coming up with some, but that is part of the process. It's laid out.

**Village Attorney Stecich:** [off-mic] show that everything in the overlay ... you have to look at all the properties in the overlay district to show that they don't work. So the Board is helping you out. They could just deny this, and say, "Hey, you haven't shown us all the other properties don't work." It was your responsibility to look at all the ... you found some of the properties, but you didn't find them all.

**Mr. Warden:** Listen, let's back up.

**Boardmember Cameron:** There is a list.

**Mr. Warden:** Let's back up. I'm just asking if anybody knows of anything, you know, we would like to know of it, we would like to take a look at it. And I understand. I think you're accurately stating where the burdens lie as far ... and we're really doing out best.

We've submitted some extensive reports, and we have paid for a consultant for the Village to retain, to review ...

**Boardmember Dandridge:** You know what? You know the one report I haven't seen, I haven't seen the report ...

**Chairperson Speranza:** Ed, Ed, Ed, let him just finish, OK? And then you can ask the question.

**Mr. Warden:** All I'm saying is, you've accurately said the burden and we're trying to fulfill our burden.

**Boardmember Dandridge:** I just have not seen the report from the Hastings residents who are T-Mobile subscribers complaining of chronic dropped calls and a coverage gap. So if we're going to talk about extensive reports, let's put it all out there. I haven't seen that. Is it in the record?

**Mr. Warden:** Sir, no. And the reason it's not in the record ...

**Boardmember Dandridge:** So ...

**Mr. Warden:** May I respond, with all ...

**Boardmember Dandridge:** I'm just challenging you on your language. You're asserting ... and there are people who are not here who are going to want to know what you mean by "extensive." And I'm just making sure we qualify that. You do not have sufficient customer complaints from Hastings residents who are T-Mobile users complaining of a service gap. You don't have that.

**Mr. Warden:** If I may, sir, we have submitted sufficient evidence, including drive test data, that shows where the calls are dropped and where they aren't. We've submitted evidence from duly-qualified experts which have established these dropped calls.

We have paid for a consultant from the Village to review this information. And that consultant has confirmed – the consultant that the Village retained has confirmed – that there is a significant gap in coverage in the vicinity of the service. And I think that the case law bears out quite strongly that petitions of customer complaints are not the standard of science that is applicable to the consideration of whether or not there is a significant gap in coverage.

With all due respect.



**Boardmember Dandridge:** We weren't talking about the burden of proof in a court of law. I was simply asking you to be transparent in your comments here. And if you're saying you have submitted substantial evidence I want to make sure the residents of this town, to whom we are accountable, understand exactly what you mean and don't mean.

**Boardmember Sullivan:** I want to just add something to that, and it's a little bit of a question that Ms. Hertz mentioned. But out of curiosity, one of the gentlemen that spoke talked about where you could cell tower locations. And I just was exploring that a little bit.

I found myself on T-Mobile's Web site. And I don't have large copies, but I looked at the personal coverage maps for T-Mobile in this vicinity for both voice and data. And they actually show that the Village is well-covered. So I'm confused, and I guess that's kind of where the drive test data and the level, in building or in vehicle ... and quite why, on the business's Web site, they'd show that the coverage was fairly well. In fact, this one's at the high level for the data in the vicinity of this particular facility.

So I guess, for my edification, I'd like that question answered in some fashion. It feeds into what you're suggesting.

**Village Attorney Stecich:** Well, I would suggest that would be a really appropriate question to direct now to our consultant. To look at it. "Why did you say that there's a gap in coverage, when it shows ...."

**Boardmember Alligood:** When it's being advertised as well-covered.

**Village Attorney Stecich:** I would think that would be a good ...

**Chairperson Speranza:** That there is no ... right.

**Boardmember Sullivan:** Being advertised on the Web site – if I'm a new cell phone consumer ...

**Village Attorney Stecich:** Kathy, if you could give me that, if you could give me what you found, I'll write the consultant and ask that question.

**Boardmember Sullivan:** Happily, I'll send you the screenshots and the links.

**Village Attorney Stecich:** OK.

**Boardmember Sullivan:** Happy to do that.

**Chairperson Speranza:** Is that it for the ...

**Mr. Warden:** No. I would just agree that, you know ... I would agree that your consultant's a good person. I have some observations on that, but I think it's probably best that you hear it from your consultant.

**Boardmember Sullivan:** I have one other question just because, again, I'm trying to make sure we have all the information. Not only was there the need for a list, or documentation, that you've communicated or contacted other locations and considered other areas in the overlay, but there's been many mentions of needing a report on existing tall structures in the overlay zone. And tall structures are church spires and phone towers – you know, phone poles – and those kinds of things.

And I don't know if we've gotten that, as a Board, or if the Village has gotten that on other applications. But it seems so potentially very pertinent to get from this applicant. So it's mentioned, it's referenced, in our code in a number of ways.

**Chairperson Speranza:** Yeah, and I think it was somewhat addressed by our consultant. Why they don't work.

**Village Attorney Stecich:** Yeah, because I'm not sure that there's tall structures ...

**Chairperson Speranza:** Right. Nearby.

**Village Attorney Stecich:** In that area.

**Boardmember Sullivan:** It asks for a reporting of what they've considered, and it's just not the building as a structure, but they did mention some other things.

**Mr. Warden:** If I may respond, I think that that is ... I think if you review some of our ... particularly perhaps the Medina affidavit might have been the first, or maybe the [McKelvey] XXX, too. I think they both address, to one extent or another, tall structures.

I will review them both – I trust that you will, too – and confirm that.

**Chairperson Speranza:** OK. Anything else from the Board? No?

**Boardmember Dandridge:** I could go on all night, but I suspect you don't want me to. So I will just be quiet.

**Chairperson Speranza:** OK. So the public hearing remains open, and we'll await additional information.

**Mr. Warden:** OK. Are we scheduled for the next agenda? Is this adjourned 'til then?

**Chairperson Speranza:** Are you going to have anything new for us?

**Mr. Warden:** I hope so, I sure hope so.

**Chairperson Speranza:** Well, let us know. And then we'll schedule. Our next meeting is August 18.

And if you don't mind, I'll do a little bit of housekeeping. August 18, does that work for Boardmembers? Everybody going to be here? Yes? OK.

**Mr. Warden:** Just one last thing. Listen, these are difficult issues and I appreciate you all really taking the time to roll up your sleeves and look into them. And you're all passionate about the community, and that's a good thing.

And I'm looking forward to continuing the dialogue. That's all.

**Chairperson Speranza:** OK. And I was remiss in not making note of an e-mail communication that we got. Lynda Merchant, who is away, also sent an e-mail expressing her concerns. And she's been here to the Board meetings before. She also is concerned about the size of the tower and the location in the neighborhood. So I just want to make sure that that's also on the record for tonight.

That concludes that agenda item. And I'll leave it to the Boardmembers.

**V. NEW BUSINESS: None**

**VI. DISCUSSION ITEMS**

- 1. Amendments to Steep Slope Law of the Village proposed by Boardmember Kathy Sullivan.**

What do you want to do with the next two items? I've kind of lost track of time here. We can talk a little bit.

Let's talk very, very quickly. Because, Kathy, I took a look and I didn't see in the packet the four changes.

**Boardmember Sullivan:** No, I don't think ...

**Chairperson Speranza:** Your suggested changes.

**Boardmember Sullivan:** I know I sent those to you, Marianne, and Deven.

**Deputy Building Inspector Minozzi:** I think you have to speak into the mic.

**Boardmember Sullivan:** I'm so sorry. I sent those, in advance, to Marianne, yourself, and Deven. So let's just table that until people get it in the package. Maybe put it off to next month. There's no reason to talk about it.

**Chairperson Speranza:** OK, but I think you're right. And I really appreciate the fact that you took a stab to address some of the recent issues that we've had for applications where there really is not a steep slope issue – pertaining to the steep slopes – but it's come before us because the property contains a steep slope.

**Village Attorney Stecich:** Patty, on that? Actually, frankly, I think that that addressed it. I still think you don't get around it. And what I did ... what you might want to consider along with Kathy, when you all get it, is I just scribbled in language that I think might help on the issue you're talking about; where now, if the property has ... let's say it's a 5-acre piece of property and it's got a steep slope with an edge going down to the river, and what they're doing would have nothing to do with the steep slope.

And the way it reads now, if the property contains a steep slope it has to come before the Board. So I'll give it to you. I suggested that you might want to change the language to "applications for building permits on lots that may affect, or create, a steep slope." That, of course, gives a lot of discretion to the Building Inspector.

But take a look at it. You may want to scribble more with it. But you might want to look at it along with Kathy's, which I think addresses a different issue.

**Boardmember Cameron:** What you're really talking about is if the lot is of sufficient size that if you eliminated the portion with the steep slope you could still build the building or structure, and it'd be a compliant lock. Isn't that what you're really talking about?

**Chairperson Speranza:** Well, it's not even built.

**Village Attorney Stecich:** No.

**Chairperson Speranza:** The gentleman who was in here, they were making a change to the façade of the house.

**Boardmember Dale:** Right.

**Boardmember Cameron:** Right. Well, that's a different one.

**Chairperson Speranza:** Yeah, and it had nothing at all to do with steep slopes.

**Boardmember Cameron:** It's not going to be easy.

**Village Attorney Stecich:** So that's why the language is a little bit broader: that it may affect, or create, a steep slope. Take a look at it.

**Chairperson Speranza:** As opposed to contain.

**Village Attorney Stecich:** Containing it means if it's got a steep slope on it you got to come no matter what. Although to put it in context, we did discuss that at some point, and decided, "Hey, listen. If it's got a steep slope, it's got to come in."

But I think the experience has been, there have been more than a handful of applications where people have come in for steep slopes review where it really had nothing to do with it. This language would leave a lot of discretion to the Building Inspector, but maybe that makes sense.

**2. Creation of a panel/committee to consider exempting cases with minimal to no view preservation, and environmental and/or area variance implications, from the full PB/ZBA actions.**

**Chairperson Speranza:** And we're also going to talk ... and this is something that may ... you know I hate to put things off, but it is awfully late. Having a smaller ... the creation of a

smaller group/panel to look at cases which may not really need to necessarily come before the full Board.

We'll just have to determine what some benchmarks are, if that's even something that the Board wants to entertain. And it then becomes a change to the code also, right? Because then some things would come to the full Planning Board.

I don't know exactly, Marianne, how you would implement something like that.

**Village Attorney Stecich:** There are some things I would say you can't. As tiny as the variance is, they have to go before the Zoning Board. You don't have any discretion, it's set by state law.

I would also say that's true for subdivision. If it's a subdivision ... and when these subdivision regs were written, they were written, I don't know, when I first started, maybe about 25 years ago. And there really was ... the intention was, even for lot line changes, that they have to come in. Because you can have death by a thousand cuts. You can do this one and that one.

So I would say for subdivisions, they may be little but they have to come before the Board. But it's entirely up to this Board ... not to this Board, to the Village, to decide when site plan review is required. So you could make a recommendation to the Board of Trustees to amend the code so that site plan review is only required for this, this, and this, or same thing.

So if it's ... but you're right. The code does have to ... the code would have to be changed. It's something the Board of Trustees would have to do to change the code. And then obviously you want the mechanism first. But I would say, when you're thinking about it, forget about variances in subdivisions. But the other approvals.

**Building Inspector Sharma:** Say view preservation, for example.

**Village Attorney Stecich:** Yeah, that's within your discretion.

**Building Inspector Sharma:** View preservation, steep slopes. There are some issues, and I think I've been talking about it, that very clearly don't require any kind of review by this Board or the Zoning Board. Christina's case currently, there's no view preservation impact at all.

Mr. Cameron at one time spoke to me. He might want to do a pagoda in the backyard that will have no view preservation impact at all. And yet the language, the way it is, any construction.

**Chairperson Speranza:** Right.

**Building Inspector Sharma:** So similarly, steep slopes ... any construction. Michael Lewis' case, he's adding tenants on the first floor. You know, it has no new steep slopes implications at all. Why should such cases be brought ... you know, should take up your time.

And also, why should the taxpayer be subjected to that kind of having to jump through those kinds of hoops? It takes time, takes money, and doesn't serve any purpose. So we're talking about discretion. Instead of giving individual discretion, that's the reason you started giving the Building Inspector the discretion.

Let there be two or three people. Although the Building Inspector can do it, there could be some mechanism to override the Building Inspector's discretion, or that discretion could be appealed. But other than that, I was just trying to go a little bit beyond that. Let's make it a three-people panel so it's not just individual discretion, but three people who work on it.

**Boardmember Cameron:** Just to take a slightly opposite tack, there's two parts to the view preservation discussion. One is, is there really any blocking. And the other thing is to give the neighbors a chance to air some of their feelings about it in these critical areas in our town.

I was talking before this meeting with somebody who – I won't name them – who actually had a view preservation issue on their house. And boy, was it minor. It was they wanted to extend the back of the house out 2 feet and down. And it went up and down before I came on this Board, or just before.

Gradually, they didn't get it. And it's the most minor thing you would think in your life. I was talking to them, and they were the ones who didn't get it. And they said, "You know, actually they were right. It was minor. It was literally extending our back wall 2 feet. But someone had this little alleyway of a view there to the river, and it was very important to them."

And it's a very hard decision. And I can make another one. We can look at a certain very large property being built in town. You could take the position that all those trees, there's no view.

**Chairperson Speranza:** Right.

**Boardmember Cameron:** And that may indeed be the case. But it was very important, I think, to air all that in the town, among the people, that this was going up. And it was another way of introducing the same topic without actually it really being a view preservation issue in the final analysis.

I think it was very important that we did it that way. Now, I understand there are trivialities and we do need to think about how to avoid them, but there are also arguments on each side.

**Chairperson Speranza:** Agreed.

**Building Inspector Sharma:** By the way, I know another unit with the same case. I don't know the names of the people, whether they were wanting to do a little dormer. The people living behind them made a big issue of, "Of course, that was not approved here."

You can see there is, however small, some implication. I'm not saying to keep them from the Board. I don't want to use discretion there. But there are some issues where they really ... absolutely, you can see, I can see, anybody else can see that there is no implication and two or three people agree to it. Why waste anybody's time and resources on those kinds of cases. Steep slopes, the same thing.

**Boardmember Cameron:** It may be that we have it so that they don't have to go through your approve, but there's still a notice. I'm just throwing out an idea.

**Chairperson Speranza:** Yes, I agree.

**Boardmember Cameron:** Because there are 20 sets of eyes out there, and as good as one set of eyes – let's say the Building Inspector ...

**Building Inspector Sharma:** No. I'm saying we're three sets of eyes.

**Boardmember Cameron:** Well, whatever.

**Village Attorney Stecich:** What are they going to do? Go to all the neighboring properties and look at the view?

**Boardmember Cameron:** Yeah.

**Village Attorney Stecich:** How can you decide until you ...



**Boardmember Cameron:** Anyway, I'm just being cautionary. And I understand that there are some things that come up that are ridiculous. I'm ready to sweep them away, too, if we can do it.

**Chairperson Speranza:** Well, maybe we should think about what our favorite cases like that have been, and see if there's any similarity, or see if there's an approach there we could develop.

**Boardmember Cameron:** I think the one in Kathy's backyard was my favorite.

**Chairperson Speranza:** So we'll have more discussion on that.

### **3. Affordable Housing**

**Chairperson Speranza:** I did also just want to catch up. Affordable housing, which had come up a couple of meetings ago, I did speak to Sue Smith. She's more than happy to talk about ... to come to one of the meetings. And, Bruce, you know what's been going on with respect to the review of the model code as has been put forth by Westchester County.

**Boardmember Dale:** Right. There's a very interesting issue built into that. What the county is recommending is that certain variances that building affordable housing you run into continuously be put into the affordable housing law so that they don't have to go to the zoning board.

And the case in point would be one of the current projects would not have had to go to the Zoning Board and, hence, would not have been turned by the Zoning Board had those variances been preapproved to be part of the affordable housing law. It's recommended that way by the county.

**Chairperson Speranza:** Really?

**Boardmember Cameron:** Actually, you and I were at a very interesting conference over at Greenburgh. And one of the speakers said that one of the ways that affordable housing proposals get killed is that when they have to go from one board to another and then back to another board that they just don't have the ... they're not making enough money off it, they don't have the wherewithal to do it.

And we need to think of streamlined ways that help them, quite frankly, to get those things done on a more expedient basis.

**Boardmember Dale:** No, there's a lot of truth to that. And that's the issue in a nutshell.

Actually, when I missed a couple of meetings, I've watched it on tape. And I had all my notes prepared, but I didn't bring them tonight.

**Chairperson Speranza:** And we can talk about it at the next meeting.

**Boardmember Dale:** I could talk about the conference, which primarily showed the progress that the county is making and the variety of projects that they have approved which is fairly wide. Sue now has an abundance of proposals. After years of having to scrape, there are a lot of proposals right now.

Part of the argument is that affordable housing is always countercyclical. So in a down market people go for the subsidy. And there are subsidies available through the county and others that would make affordable housing possible now.

**Boardmember Cameron:** Have you seen those maps. They come up with email that shows the number of houses in foreclosure by little red dots, by community, all around the country? It's just amazing that you go from one ... they don't have anything in Westchester, but they have all these other ones.

**Boardmember Dale:** And the impact of what's going on now is devastating. And it's going to be much more long-lasting than any of us hope.

#### 4. Miscellaneous

**Chairperson Speranza:** Did we have minutes from Tuesday, the Board of Trustees meeting?

**Boardmember Sullivan:** I actually did not attend.

**Chairperson Speranza:** I wasn't there. Marianne?

**Village Attorney Stecich:** I'm sorry. What was the question?

**Chairperson Speranza:** The Comprehensive Plan?

**Village Attorney Stecich:** Yeah, they adopted it.

**Chairperson Speranza:** They adopted it Tuesday evening. OK, that's great.

**Village Attorney Stecich:** Although there were changes. Up until almost the end there were some changes made. Nothing really very significant. So it's not in final form yet until the changes are put in. I think it'll be pretty fast. They weren't big deals, but it just has to be put in final form. But it's all done.

**Chairperson Speranza:** OK, good. That's great. We'll have to catch up with them and find out how they're going ...

**Village Attorney Stecich:** Oh, well, you messed up. They had some champagne.

**Chairperson Speranza:** Oh, is that right?

**Village Attorney Stecich:** Apple cider.

**Boardmember Cameron:** Non-alcoholic, I hope.

**Village Attorney Stecich:** But it was in like champagne bottles. Anyway, they had that. They broke and had a little celebration.

**Chairperson Speranza:** Oh, wow.

**Village Attorney Stecich:** See what you missed, Kathy?

**Boardmember Sullivan:** I know. I felt bad.

**Village Attorney Stecich:** Some apple cider.

**Boardmember Sullivan:** I had to choose between two good things.

**Chairperson Speranza:** OK. Well, we'll catch up with them and figure out how we start the implementation and how that all will continue through the process.

**Boardmember Sullivan:** Very exciting.

**Boardmember Dale:** Are you planning to set something up with Sue?

**Chairperson Speranza:** Yeah, I'll have a conversation with her. I want to find out what we're going to have ... we're all here in August. That's really good. What will be on the agenda for August or September. And I was even thinking – and maybe we won't do it this time of year – about having an extra meeting to really tackle some of these things independent of the applications.

On the one hand, it could be good if we were all around this time of year prior to school starting again. I don't know. We'll have to think about it. We'll see what happens as far as the application load for the August meeting. And Deven, have you heard anything for what we might have before us in August?

**Building Inspector Sharma:** No. T-Mobile.

**Village Attorney Stecich:** They're not going to have anything.

**Boardmember Cameron:** I did mention at several meetings that I will not be here in September. I've said that at every meeting so far, and I'll just say it again.

**Chairperson Speranza:** Thank you. Because for some reason, I was thinking it might have been July.

**Boardmember Cameron:** No, no, no. That would have been too much fun not to be here in July.

**Chairperson Speranza:** Not in September. And that'll be in the minutes, so that's good.

**Boardmember Cameron:** It's in other minutes, too.

**Chairperson Speranza:** And it'll be in the next minutes in August, and those are the ones I'll be looking for.

## VIII. ADJOURNMENT

On MOTION of Boardmember Dandridge, SECONDED by Boardmember Alligood with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:28 p.m.

PLANNING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
JULY 21, 2007  
Page - 61 -