

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
AUGUST 18, 2011**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, August 18, 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 Rebecca Strutton, Boardmember Kathleen Sullivan, Village Attorney Marianne Stecich, Building Inspector Deven Sharma, and Deputy Village Clerk Mary Ellen Healy

I. ROLL CALL

II. APPROVAL OF MINUTES

Meeting of July 21, 2011

Chairperson Speranza: As usual, first order of business is the approval of the minutes. Our last meeting was July 21. Are there any questions or comments about the minutes?

Boardmember Alligood: One, as usual.

Page 23 at the bottom, where I'm speaking, in the second line where it says: *"where things are compliant, but you make it work,"* it should be "... *"where things 'aren't' compliant."*

Chairperson Speranza: "Aren't compliant." OK. If there are no other modifications, can I have a motion to approve the minutes as amended?

On MOTION of Boardmember Dale, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Minutes of the Meeting of July 21, 2011 were approved as amended.

III. NEW PUBLIC HEARINGS

- 1. View Preservation Approval – Application of Richard Wechsler for roofing over existing stairs on the side of the front porch at 18 Minturn Street.**

Chairperson Speranza: We have a couple of public hearings tonight, the first one being an action for view preservation approval. It's an application for roofing over existing stairs at 18 Minturn Street. The applicant is Richard Wechsler.

Again, this is a public hearing. The action of the Planning Board is to make a recommendation to the Zoning Board of Appeals, which makes the final determination and takes the final action on this.

Would you like to come and speak about the application?

Dick Wechsler, applicant - 18 Minturn Street: I'm 22 years in Hastings.

It's a safety issue, the roofing on an addition that we put on the house over 10 years ago. It was never adequately protected, the entrance area, and it freezes over in the winter and it creates quite a hazard. We have the same issue on the south side of the house, as well.

We wanted to add roofing along the lower eaves of the house, well below the sight lines in the area, to provide enough coverage and enough gutter to collect the water and properly deal with it so we don't have icing in the winter. On the north side, we need to extend it out a little bit to cover the stairs that lead up to the porch. And on the south side we wanted to extend it out so we could cover the entire porch that wraps around the house.

It really creates no interruption with the views from the Aqueduct or from any of our neighbors, they've all endorsed the project, and we hope you'll consider it favorably.

Chairperson Speranza: OK, thank you.

This is a public hearing, so before we have discussion among the Boardmembers I do want to see if there's anybody here who wishes to speak about the application. No?

We did receive a communication from one of your neighbors, 31 Sheldon Place, Pru and Clark Montgomery:

"Dear Members of the Planning Board,

We would like to add our support for the Wechsler roof extension project at their home at 18 Minturn Street. In our view, this project will continue the great improvements made by the Wechslers to their residence."

If there's no other comments from the public, then we'll close the public hearing on this and take it up for Board discussion. Any comments or questions from Boardmembers?

Boardmember Dale: I think it's actually ... I have no questions. I think it's a very sensitive solution to what is evidently a difficult problem. And I think it doesn't interfere with the site of any of the neighbors in any way. As it is designed to be consistent with the existing architecture, I see no problem with it.

Chairperson Speranza: Any other comments?

Boardmember Sullivan: One question. The application, it appears, is for the addition of the roof over the existing front stairs?

Mr. Wechsler: Yes.

Boardmember Sullivan: Because you mentioned putting in an extension on the southern side, but in your drawings ...

Mr. Wechsler: Well, if you look at the plans, you'll see that there's ... it was the front stairs that was the concern of the view preservation, not the back. OK? That's well below on the fence line of the property, and wouldn't interfere with anything. So I think that might explain why it was written that way.

Chairperson Speranza: If you could just come up.

Mr. Wechsler: This piece on the right.

Chairperson Speranza: You are talking about this piece?

Mr. Wechsler: This is the front stairs, and this is the back. This is the front. This is the north face, this is the south face.

Boardmember Dale: When the comment's corrected, this description does not include the second ...

Chairperson Speranza: The south piece.

Boardmember Dale: But it basically has the same impact.

Chairperson Speranza: Right. Especially from the photographs that we've seen, and by going up to the Aqueduct and what you're going to be able to see.

Boardmember Dale: Right.

Chairperson Speranza: So we'll just make note in the record that this covers the improvements to the entire structure for view preservation.

Boardmember Sullivan: Because both sections will be covered on this.

Chairperson Speranza: Right.

Boardmember Sullivan: And I'm only mentioning this for clarity. I think it's a fine addition. I'm not arguing with it. If you want both covered under view preservation let's talk about them that way.

Chairperson Speranza: Then let's do it. If there's nothing else, then can I have a motion to recommend to the Zoning Board of Appeals approval of the application for view preservation for improvements to the entire structure?

On MOTION of Boardmember Cameron, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board approved recommendation to Zoning Board of Appeals for view preservation covering improvements needed to add roofing over exterior stairs on north and south side of home at 18 Minturn Street.

Mr. Wechsler: Thank you very much for your time.

2. Site Plan and View Preservation Approval – Application of Atlantic Richfield Company (ARCO) for the installation of security lighting and cameras at the waterfront property at 1 River Street.

Chairperson Speranza: The next item on our agenda. Again, it's a public hearing, and it's for site plan and view preservation approval on an application from Atlantic Richfield for the installation of security lighting and cameras at the waterfront property on River Street.

Is there someone here to speak to the application?

Keith Aragona, PE - Haley & Aldrich of NY: I'm with Haley & Aldrich, representing Atlantic Richfield. And I brought a couple of ...

Chairperson Speranza: Feel free. You're going to have to talk from a remote mic, or a portable mic.

Mr. Aragona: So about a year ago, Atlantic Richfield had internal audits of security on the site by their security group. One of the issues that came up on their security audit was the fact that there are certain areas of the site that were not as secure as they wished they were.

The main observation that was made was that the site is very large and, as a result, can be very dark over most of the area. This is presenting a problem for us for a number of reasons. First of all, we sometimes will have trespassers coming up from the south, entering the site. We just have a lot of physical hazards on our site which can really present harm to anyone coming onto the site.

In fact, this boat slip here is in just major disrepair, and if someone fell through that it could be just a really bad experience. The other issue is that we have full-time security personnel that have a trailer right here where they hang out in. In the event that someone were to come up on-site with the intent of doing harm to someone in the trailer, they would really have very little warning that's happening until it's really ... until the person is very close to them.

So we thought a lot about it, and our solution to the problem is installing security cameras on the site in order to be able to give the security folks full view of the site. We're going to install infrared illuminators on the cameras so that these areas can be illuminated even in darkness.

That will take care of the Village, and protect people once they're on the site. But our main goal is to be able to deter people from coming on the site in the first place. So our proposal, from that standpoint, is to provide perimeter lighting around the entire perimeter of the site where it's not currently lit so that people that want to come on to the site undetected would see a well-lit site and just turn away and decide to go elsewhere.

The areas to the north are pretty well lit from the Tennis Club. The area right in here on the west is pretty well lit from the Metro-North station. So our proposal is to illuminate the entire western edge, the south edge, and a portion of the eastern edge of the property.

The goal is to point the lights outward towards the river so that we reduce glare for the neighbors. And on lights that are in closer proximity to neighbors, we'd like to point those

lights downward so that we're illuminating just the ... I can actually show you our illumination plan. It gives you an idea of [off-mic] shine light.

So the red areas are areas of higher intensity light. Green areas are lower intensity lights. And blue areas are areas where light will not make it. You can see here that in the areas that are closer to our neighbors we're really focusing light straight downward onto our property so that we're not having glare go up the hill.

We're talking about putting one security camera here and another security camera on the southern end of the property so that we can monitor what's going on on our property.

So that's our proposed plan, and we hope that you all will see it as important as we do.

Chairperson Speranza: OK. I'd just like to ask a question before we go to the public. How many ... I had a little bit of a difficulty figuring out ... these are all poles? These are all pole-mounted? You're not having anything that's ground-mounted, say along the western edge?

Mr. Aragona: Correct. No, these will all be overhead utilities.

Chairperson Speranza: And how many poles?

Mr. Aragona: Oh, how many poles. We'll be installing around 35 total poles, and I believe on 27 of those poles we'll have fixtures.

Chairperson Speranza: All right, so let me open it up now for public comments. Sir, you wanted to come up? You've got to come to the mic and state your name, please.

Larry Nardecchia, licensed professional engineer: I have some parcels across the street. Do you have a location map that shows that in relation to the overall Village? I'm having trouble locating myself.

Mr. Aragona: This is the Metro-North railroad tracks and this is Southside Avenue, which is the road right on the other side of the railroad tracks. So there are condos or apartments pretty much right at the end of the drawing.

Mr. Nardecchia: OK. I'm on the other side of Southside, I'm level with the tracks, and I'm undeveloped. I'm further south, I believe. That's why I'm trying to see where this is in reference.

And my second question would be, what would be the height of these poles and the diameter of these poles?

Mr. Aragona: The diameter of the poles is yet to be determined, but they're going to be in the 18-inch range. We'll figure out the diameter of the poles once we ...

Mr. Nardecchia: Then what would the height be?

Mr. Aragona: The heights of the poles. The poles on the western side of the property will be about 30 feet. Actually, I'm sorry, the poles themselves will be 40 feet. The light would be mounted at 30 feet. The poles on the south and on the east will be about 30 feet, and the lights would be mounted at 22 feet.

Mr. Nardecchia: Why the extra 10 feet? Are we going to get aerials or communication applications next?

Mr. Aragona: I'm sorry. What was the question?

Mr. Nardecchia: Why the extra 10 feet above the light fixtures?

Mr. Aragona: Oh, just because that's the standard length of the pole.

Mr. Nardecchia: No, it's not.

Mr. Aragona: Well, see, the links of the poles are in 10-foot lengths. I'm sorry, they come in 10-foot increments, and once we place the pole if we light at 22 feet we'll need an extra however many feet. But in addition, we're going to be running overhead power that will need to be housed above the light fixtures.

Mr. Nardecchia: OK, so there's going to be power lines between these poles also?

Mr. Aragona: Yes, this is all overhead power.

Mr. Nardecchia: That would explain the extra 10 feet. OK, I think I've heard enough.

Chairperson Speranza: OK. Anyone else wish to speak? Yes, ma'am?

Eileen Bedell, owner - Hudson Valley Health & Tennis Club: I own the club at 100 River Street, and I'm in support of the project. Anything that improves the safety along the waterfront is very important to our facility, as well.

Mr. Aragona: Thank you for your support.

Chairperson Speranza: Anyone else wish to comment? Mr. Gonder?

John Gonder, 153 James Street: Even though where I live I can't see that, I travel around this Village all the time, every street – sometimes 10 times a year. And I love the property of Atlantic Richfield – prior Anaconda Wire and Cable Company, and now BP. And I'm concerned when I hear the word "BP." Anything that BP does is usually unsafe.

I'll give you three things. The pipeline up in Alaska corroded. A lot of loss of oil because BP was doing a lot of improper things at the time. BP in Texas, an oil refinery blew up. Thousands of ... several people died in the explosion. BP, the Gulf, everybody knows what happened there. People are still being unpaid for the disaster that happened.

I don't trust BP. I have stock in BP, and I can't see that we have a site plan and 30- or 40-foot poles at intervals with overhead power lines. Now, there are always alternate solutions. One would be to hire guards with half-mile lights that they could go and make a round. We need jobs. This country needs a lot of jobs. So consider that as an alternative.

No one wants to go in that property. All you have to put is a sign, "PCBs - Contaminated." Apparently, to the DEC, they say they're not worried about copper, lead, mercury or any other things. They're only concerned about PCBs. So you put some signs, "Contaminated - PCBs – Stay Out Of Here."

Now you have no buildings except one, Building 52, that's left. You may have a couple of trailers. You got to dig. Now, you're going to dig I forget the amount of poles. They're may be PCBs in there. You're digging two sets of poles, two lines of poles, if I'm not mistaken, and 27 or something – I'm not sure the amount of them.

Are you going to be digging contaminations? Have you had approval from the DEC? What environmental impact will this have? So I think there's a lot of things to consider. Forty-foot poles when I go across Warburton bridge in the daytime, I don't want to see that. I just don't want to see it. One or two maybe I could see.

But you have no buildings. The only thing you're protecting ... one building, I should say, and we're not sure if that's safe yet. There's still a lot going on with that building. If it's safe the pilings go outward, not down, and it's stabilized. The Village got a million-dollar grant, and they don't even own the building.

And I don't understand Atlantic Richfield, but that's one building. And to me, it's a monstrosity. It should have come down. It's one of the worst things this Board, our Village Board, did is maintain it to keep it.

But I think that this public Board should review all the things that I said. Contamination – every time you dig do you have permission to do that? I thank you.

Chairperson Speranza: Thank you. Mr. Nardecchia?

Mr. Nardecchia: Yes. I'm not sure what the Board is planning on doing, but I would come forward and say that the application's certainly incomplete. It's a view preservation review, and there's no elevation; there's no cross-section showing the river, the profile, the heights of these poles.

And I think it's also been misleading to say this is a safety issue when I see these poles coming up and I see a transmission line going across. We just tried to get the railroad to put as much of their stuff underground as they could, and guess what? We're bringing something back up.

I have a problem with any overhead lines. I think the lighting could be reasonable, but when I hear poles 40 feet high I see grander plans than are evident here. And I have seen no profile, and we haven't even got the detail of the poles which would show the base that this gentleman is concerned about how deep they're going into the ground and how high they would be up.

View preservation, I know they're already 25 feet higher than my lot. And I'm not positive where my lot is, but I've got 30 opportunities to see these things. I think that more information is due. I don't want to say whether I'm for or against it, but I see a lot of things that haven't been explained yet.

I would like to see a cross-section and a detail of the poles, and the footings that are forthcoming. I think that would be required to make this a complete application.

Chairperson Speranza: Thank you. Let me just see if there's anyone else who wishes to speak at this point.

Boardmember Strutton: We also got the letter, the e-mail letter. Do you have a copy of that?

Chairperson Speranza: Oh, yes. Eva, do you want to read that?

Boardmember Alligood: Sure. Sure, I have it.

Chairperson Speranza: There was a communication that we received via e-mail.

Boardmember Alligood: So I can read it. It's from Jim Metzger, who couldn't be here tonight. What he wrote is:

"One of the hallmarks of our waterfront, at least as it currently exists, is the ability to actually see the river and the stars above at night. Security lighting may be necessary, but it will impact and negatively affect our enjoyment of nighttime views from downtown, from the Warburton Avenue bridge, and all the properties along Warburton Avenue, River Street, Southside Avenue, Maple Avenue, and properties further up the hill which overlook the river."

"Views from Library Park, MacEachron Park, and Waterfront Park to the Palisades and New York City, at dusk and dark, would also be impacted. One only has to look across the river to see the orange glow from West Nyack and beyond. Locally, I experience light pollution from the MTA trailer on River Street."

"I would ask that the Planning Board, if they approve this request, require the minimal amount of shielded lighting to accommodate the security concerns. Security cameras can provide night vision options. ARCO should also be required to follow the recommendations of the International Dark-Sky Association to minimize light pollution on the waterfront."

And he also asks if a SEQRA review would be required to gauge the effect of light pollution on the Village.

Chairperson Speranza: Let me just clarify. This is both view preservation and site plan approval. So there are two actions that we would ... that are here before us in the Planning Board. And as I mentioned earlier, view preservation is a recommendation of ours to the Zoning Board of Appeals, who makes that final determination.

Mr. Aragona: So am I able to just elaborate on some of the ...

Chairperson Speranza: You want to ... oh, absolutely. Sure.

Mr. Aragona: I just wanted to point out that the lights we are proposing putting up are pointing downward as much as possible in order to make sure we are preserving the views of the river. We're not pointing them ... we're pointing them down just so that we can illuminate the shoreline, and all of these lights here are pointing straight down. They're shielded so there is not going to be glare coming up the hill.

Mr. Nardecchia: I can't read the chart from here. Is the wattage of those lights on there?

Mr. Aragona: Four-hundred watts per lightbulb.

Mr. Nardecchia: Sodium, mercury vapor?

Building Inspector Sharma: Please speak in the microphone. It's being recorded.

Mr. Nardecchia: I'm sorry. And are they sodium, mercury vapor, or ...

Mr. Aragona: Metal halide.

Mr. Nardecchia: Halide? OK. So this is the halide that has a slight pinkish cast to it?

Mr. Aragona: No, clear.

Mr. Nardecchia: Clear?

Mr. Aragona: It's white.

Mr. Nardecchia: Clear white.

Chairperson Speranza: OK, did you want to respond to any of the points?

Mr. Aragona: I just wanted to make sure you knew that while we will be digging holes, we are working closely with the DEC. And while we are bringing soil to the surface, we're properly managing it, we're following proper health and safety protocol. And we're properly managing it to get it to landfills. The DEC is intimately involved with any digging that we do on-site.

Vincent Restivo, Damiano Barile Engineers, P.C.: Can I just say one thing?

Chairperson Speranza: Absolutely. Just to the mic, and tell us who you are.

Mr. Restivo: I'm the electrical engineer on the project, and I work with Damiano Barile Engineers in White Plains.

The illumination that's going to occur here on this property, the purpose of having 40-foot poles along the shoreline – and why the fixtures need to be put at 30 feet high, the fixtures need to be put at 30 feet – is to minimize the amount of illumination out in the water. It's to maximize the lighting on the shoreline, but minimizing ... because what happens is, depending on what type of angle you take on the lighting, you create a lot of glare and you're maximizing the amount of glare out on the water.

Mr. Nardecchia: [off-mic]

Mr. Restivo: I just want everybody to understand what's the purpose of why the poles are at the height they're at.

So we'll have the fixtures at 30 foot, with 40-foot poles. The transmission lines are not transmission lines like what you see on the street, meaning 13.2 kV, high-voltage lines that are powering their homes. It's 480 volts that's going along the power lines, OK? so it's not the same type of voltage that's on the street. It's a lot lower.

Mr. Nardecchia: Is that voltage being supplied solely for the lights, or for other ...

Mr. Restivo: There is power associated ... the majority is all for the lights, and there's going to be some power associated to power up the cameras and the repeaters in order to have the wireless cameras out on the premises. That's the purpose of the power that's out on the lines. That is all that the power is serving is outlets on the poles. I believe it's about every 300 feet – 300 to 400 feet.

There's going to be power on every pole. The poles are separated by 120 feet apart.

Mr. Nardecchia: [off-mic]

Chairperson Speranza: Mr. Nardecchia, you've got to be able to ... we want to make sure that everyone hears.

Mr. Nardecchia: Yeah, absolutely. Let's definitely discuss it, absolutely. If it's a vacant parcel, could these be installed under ... could the electric line be installed underground and save the extra 10 foot of pole?

Mr. Aragona: OK, I'll answer that question. Answering that question is going to answer his question. The reason why we're going overhead is to minimize the amount of excavation to minimize any contamination coming out of the soil.

And what BP is doing in order to minimize the amount of contamination, they're using a special type of vacuum versus using an excavator. To make a hole, they're bringing in a vacuum cleaner. To put it simply, it's a vacuum cleaner. They put it in, and they suck up the soil straight up right into this vacuum cleaner. And then it goes into a ... it goes to a special ... it gets removed from the property on the special conditions to a specific type of dump that's associated with contaminated soil.

So that is in order to avoid any contamination being airborne and any of that nature. OK? So that's the point of that. Now, if we would go ... there was consideration going underground. But the concern of going underground is the amount of soil that would have to be removed from the property. So we're trying to minimize that by going overhead.

And even with the poles doing the same thing. I think it was a little overboard with a vacuum, but you know what? After hearing this discussion, I don't think it's overboard anymore to bring in this vacuum just for poles. Because normally, what the vacuum is really used for is to avoid hitting pipes in a gas station. So what they do is, they vacuum it all out so that way they don't penetrate any pipes.

But they're taking an extra step over and above that so that way there's a minimum amount of contamination flowing in the air or anything of that nature. OK? Hopefully, that makes it a little bit more clear. And if there's any other questions, please ask.

Mr. Restivo: Just to clarify ...

Chairperson Speranza: And after you speak I just want to have some comments from the Board. The public hearing's not closed at this point, but I do want to get Boardmembers to have an opportunity also.

Mr. Restivo: Just to clarify, we are using the vacuuming technique which is referred to in order to minimize the potential of hitting utility while we are digging. We will need to be using some augers in order to put the poles in.

The water table is very shallow. These poles are going down to 7 or 8 feet, so we can't vacuum such a large hole in the water table. So we will be using augers in addition to the air knifing that was talked about.

Chairperson Speranza: OK. We'll open it up for Board comments.

I have to say one thing. Because this is a view preservation application I'm really having a difficult time visualizing how this is going to look. So maybe through further discussion we can figure out a way that you can better show us.

I think of lighting, and it is unfortunate. We had a previous Boardmember who lighting was his thing so he would have come up with lots of things. But I think about lights that have gone up even just next door for over a stairwell, and the glare, the white brightness of it is horrendous compared to what's next to it – the previous fixtures, the previous lighting.

Mr. Restivo: Those previous fixtures ...

Chairperson Speranza: It's not the fixtures, it's the bulbs which have turned it from a nice soft kind of yellow to very, very cold and bright and lots of glare. And I'm really afraid that that's what our waterfront is going to look like.

But let's find out other ... I'd like to hear other comments from other Boardmembers.

Boardmember Dale: I agree. I'm very conflicted about it. I understand the necessity to cooperate with BP in cleaning up this site, and how important it is. And if security has been, or is, an issue on the waterfront, particularly at night, I can see a necessity for it.

But I also think we have a huge responsibility for what is a major landmark in the United States, the Palisades and the waterfront on the Hudson, and what this is going to look like at night. I don't pretend to have the expertise to envision is this over-lighted, is it beyond what is necessary to have security. Can a system be involved where the lights are down, outside the reach of somebody who wants to break them, perhaps 15 feet, enough to cast a carpet of light on the ground?

How intense does that light really have to be? Is it the cameras that are driving the need for more lighting than is necessary? I think I have more questions than we can answer on our own. And I know in other cases we bring in outside consultants to evaluate for us what we can't answer technically.

Mr. Aragona: Can I answer that one specific question that you had?

Boardmember Dale: Sure.

Mr. Aragona: One of the reasons for the height of the lighting – and Vince, please correct me if I'm wrong – is the fact that we're trying to bring the poles far away from the shoreline. And the reason for wanting to bring the poles far away from the shoreline is that we have undermining of this concrete by the wave action.

So there are a lot of places we may or may not have soil touching the bottom of the concrete slab. So our goal was to push these poles as far inland – well, further inland – as we could because of the structural issues you have actually putting in the poles.

Boardmember Dale: We had a discussion in the Village when they put light poles around our swimming pool, which is sort of buried in the woods. And there was a huge uproar of objection to those poles. They were 40 feet tall, if memory serves me? And that was just two poles, or four poles.

You're talking about 27 or 35 poles, with bright lights on top. I just ... you know, I need a sense of proportion here, and I don't think we're getting that.

Mr. Restivo: May I speak?

Chairperson Speranza: Let us talk, and then you can ...

Mr. Restivo: No, I just wanted to answer that question while it's still fresh in everybody's mind.

Boardmember Cameron: You can answer it once we've finished.

Mr. Restivo: OK, I'm sorry.

Boardmember Sullivan: I'm sympathetic to the security issues. The area – and correct me if I'm wrong – the area that's pink, or red, whatever you want to call it, those foot candles are going to be equivalent to a brightly-lit parking lot.

Mr. Aragona: Can you help me with what 3 and 5 foot candles looks like?

Mr. Restivo: I thought you were asking.

Boardmember Sullivan: I sort of was, but I'm not going to. I'll take back the question.

So from my looking into the foot candle levels, it appears to me that what we're looking at where it's indicating red is something as bright as a well-lit parking lot. I have concerns that that's required for the cameras that you are planning on using on the site.

For me, there makes – and I'll be real blunt ... I don't understand why there is some sense that there is going to be intrusion from the waterfront side. I can understand wanting to have some kind of security lighting at your perimeters, and people coming from the south or coming from along Metro-North makes sense. But I think maybe you're a little incorrect.

It appears that the light fixtures that you're using on the two land sides Jim was referencing. They're full cut-off; they're going to have very little light that goes up in the sky. It's basically focused on the ground. But the fixtures that you're planning on using the length of the site, and the way that you're angling them, are basically going to create just a wash – a huge expanse of light – and I don't understand the sense that you need to protect that part of the site from someone coming onto it.

The cameras that you're using, being infrared, are in the ... they're pan/tilt/zooms. So those are actually going to be controlled, I assume, by someone. So there's going to be somebody monitoring this. So I have a little issue with using the terminology that these are going to be always focused away from the Village in some fashion.

They're actually operable. You're planning on using them to sort of scan the site. They're infrared. Infrared can go to very low light levels. You can use thermal cameras, which emit little or no light. Those are some options I think that need to be explored.

The other issue I have, you've talked about these things being on photocell. I understand that. I wonder if they shouldn't be on motion sensor so they're off until they're needed for someone coming across. I also would like to make a recommendation that I support the idea of potentially having someone assist – that we only allow these for a certain length of time. That this isn't a blanket – put some kind of fixtures up forever and ever.

Let's have it be a sunset law, or terminology that this permit is for a certain length of time, so you can come back and we can talk about whether it's been successful. But I have issues with the extent of light that's being planned down there.

I went down to the waterfront last night at night deliberately. And it's a pretty remarkable place right now. You can go up by the library and look over there, and you are just stunned by the black Palisades, the moonlight off the Hudson, and the fact that there's not light keeping you from that view.

So I appreciate the folks who live around the area or own property around there speaking, and being concerned. I think the suggestion to get some more 3-D ... and I think three-dimensional might be the way to go rather than just an elevation. But I'm not convinced. And I'm not a security expert, but I've worked a lot with security folks. And I'm really not convinced mainly that you need to illuminate the shoreline for some kind of security measures for the site.

Nothing's on it. I can appreciate those people that are on-site. But there appears to be a level of monitoring already intended by using these cameras, as well. So they're going to be up there recording video that gets observed later on when there's some incident that you need to look into.

So thank you.

Boardmember Alligood: I have a lot of concerns about this proposal. It seems, bluntly, overkill. And I was going to mention the pool because I was thinking about that a lot. People were really concerned about the two poles that went up, and still to this day people talk about those poles and the light that they emit.

So I think we need to see something scaled down, or a better case for why. I mean, I agree with Kathy. I don't understand. It's been in the current state this whole time. I've never heard of any incident. So I just don't understand why this is being proposed at this scale.

Boardmember Cameron: I, for one, like the Dark Sky Society, too, and I've read a lot of their stuff. I think motion detectors would solve most of your problem. This is a security issue. You've been treating it a little bit like Yankee Stadium. You're lighting it up 24 hours a day, seven days a week. We don't want that.

We're a little old town. We're not some big Wal-Mart parking lot, and we don't want to look like that. And it'll destroy that part of the waterfront of our Village. I think you can come up with other solutions. It may be more expensive for you. But motion detectors, less number of lights, that may work.

But this is just like a huge parking lot, and we just don't need this in our town. It's an eyesore at nighttime, and our view preservation does apply 24 hours a day.

Boardmember Strutton: Well, I agree with what's been said. I mean, I am not a lighting expert. I had a hard time reading this plan and understanding exactly what this is going to look like. I agree with what Bruce said about perhaps getting someone to come in and help us understand it a little bit better.

I thought, as I read the letter that you sent in, I didn't understand what the standards that you're working toward are so I had no way to put them in perspective. It's a 400-watt bulb; the average is 30 feet. The right height is 20 – you say 20 on here – and then you say in your presentation 22 feet is the right height for the inland.

I just have no context to put any of that in. I noticed on the SEQRA application you say the current surrounding use is industrial. I don't know that all of us would agree with that. This is certainly treating it as an industrial use, and I don't know that the people in Hastings are ready to have something that looks like an industry back down on the waterfront without further thought.

And then I think as far as making a case, I'd like to see maybe some documentation of how many trespassers you've had; the existing lighting; as well as, you know, just a map of the existing lighting as well as to compare and contrast with what we have here.

I think you've answered the question on how deep a hole, which I was curious about. So 7 to 8 feet down to dig. But I think those are my main thoughts as I read through this.

Chairperson Speranza: You've heard our concerns, and if you can address any of them or if you want to discuss them or ...

Mr. Aragona: Well, I guess one thing I would like to just make sure we understand is the reason for the lighting is not for the cameras. We're not putting light out here so we can illuminate the area so we can see it with a camera. We will be able to see at night.

I just want to reiterate that the reason for the lighting is to prevent people from coming onto the site *before* they come on the site. And we have ... I don't know how many we have had. I know we've had at least one person in the past year walking up from the south. And I'll tell you, if you got to here it would be very bad.

This southwest slip is in very poor condition. If somebody fell through ... so the main concern for the lighting is to essentially deter trespassers from coming onto the site in the first place. And I can certainly understand your concerns about view preservation. I work here. A lot of weeks I'm here at night working. It is a very beautiful view of the Palisades, and so I can certainly appreciate those concerns.

I guess we just want to increase the safety of people that are coming on the site that should not be there in the first place. And also the folks that are working on the site all night long.

Boardmember Dale: The projection is that the cleanup is going to take something like 8 to 10 years still before it's finished. And we're going to have to live with whatever this is for 10 years. It's depriving us of the landmark, this magnificent waterfront and the Palisades, which are unique in the world.

Boardmember Alligood: A couple comments. One is a question, actually. What kind of fencing is there now, and why is that not adequate to keep people out? And why couldn't that be improved instead of putting all the lighting in?

Mr. Aragona: Well, the fencing that's on the site now is inland some amount of feet. So there is a strip of concrete that is not fenced.

Part of the problem is that we have subsidence in the area on the shore. And so whenever there's some subsidence we pull the fence more in because the fence is falling over and falling into the Hudson. So part of the reason for the fences being where they are is just the fact that the ground's unstable. And right now I think they're 6 feet high chain link around the site.

Boardmember Dale: There are much better fences than chain link fence for security. In the City of New York, the Department of Transportation is now enclosing their sites with stuff that is much ... you can't get your fingers, you can't get your toes, in between the ridges because they're tightly-knit and it's almost impossible to scale. And they're significantly higher than 6 feet.

Chairperson Speranza: Can you still see through them, though?

Boardmember Dale: You can see through them, yeah.

Boardmember Sullivan: You probably don't have to dig down 7 feet to put the posts in.

Boardmember Dale: But they don't need to be more than, say, 8 feet tall.

Mr. Aragona: As it currently is, there is definitely evidence of people being here doing things they shouldn't be doing.

Chairperson Speranza: Wouldn't be surprised.

Boardmember Alligood: I also had a comment. That was the question that I asked, and then I also had a comment which occurred to me based on the recent controversy of the 2nd Avenue work being done at night. There's been a lot of complaints about the MTA had

promised not to do the work at night, and they were. And so they just recently agreed to stop doing the loud construction work at night.

When I see this plan it makes me think that it's going to make it possible to do work at night, and that could also potentially be a problem.

Mr. Aragona: Well, there's city ordinances that disallow that. We're not allowed to work past 8 o'clock, or before 7:30 I think. We certainly could, but there are very few people that can't see what we're doing down there.

Boardmember Alligood: Well, I still want to put it out there as potentially something that we, as a Village, need to think about.

Boardmember Dale: One intrusion in a year. This seems to be an awfully expensive and large-scale response.

Mr. Aragona: Well, but it isn't the intrusion that we're concerned about. It's the injuries and the potential loss of life that could happen if you fall. If you fall through the boat slip ... we're trying to avoid injury. It's not ... we're not worried about people stealing our stuff. Because as you point out, there's nothing out there. But the real concern is protection of the public.

Chairperson Speranza: And I guess I have a question. Several individuals have brought up the idea of motion detectors. And that's something else that I'm not exactly sure how ... you know, I have a sense of how they work, and I don't know how they could be used on a site like this except maybe somehow tied into the camera network.

If the camera sees something, then it goes back to the ... I would imagine the cameras go back to the on-site guard station?

Mr. Aragona: Yeah, they ...

Chairperson Speranza: It was mentioned that they're viewed remotely, and I wasn't sure if it was remotely here ...

Mr. Aragona: Yes.

Chairperson Speranza: ...or remotely at a different facility.

Mr. Aragona: No, remotely here.

Chairperson Speranza: So it would be here in Hastings.

The other question – and I know this is used an awful lot – what about dogs? Having dogs as part of your security team. I mean, rather than light up the place, you know, if you have lights in certain areas of the perimeter. I know they're used at many transportation facilities that I've been at anyway, and I find them to be extremely intimidating.

Mr. Aragona: That's true.

Chairperson Speranza: But I think you get a sense that we're really grappling with how this is going to look. And we're obviously not comfortable at all with this.

Boardmember Cameron: As an example, you could put ... where the ground is more solid you could put a fence across the site a quarter of the way up and have no lights above it, and only have them down below. This site has sat for 36 years with nobody on it and no lights, and suddenly we have Yankee Stadium or Shea Stadium appearing here.

There's a little corporate overreaction someplace, and maybe lighting people get paid by how many units are put in. I don't know, but this is just ... this is shocking, quite frankly.

Village Attorney Stecich: And, Jamie, add to that no accidents in those 36 years.

Boardmember Cameron: Right. So I think there's some ...

Boardmember Alligood: It makes me think there's another reason for it.

Boardmember Cameron: Yeah, put a little more imagination into it.

Boardmember Alligood: It may not be the work at night, but that's just my reaction to it. It doesn't seem to fit with the need for just protection from lighting.

Mr. Gonder: You're talking about 40-foot poles. That's equivalent to a four-story home. You're talking about a 440-volt system on the top. Now, is that going to have a cross arm with insulators, or is it going to be one insulated cable?

I mean, if it's going to be a four-wire or three-wire system you have to tell the Board more details. Why isn't it a conduit on the ground? There are a lot of questions you don't have here to answer. I don't think you're really prepared. Thank you.

Chairperson Speranza: Mr. Nardecchia, and then we're going to sum up here.

Mr. Nardecchia: Yeah, I had two things that I've been thinking of while my wheels have been spinning. Firstly, I'm assuming if you're working with the DEC that there's going to be air quality monitoring.

Mr. Aragona: Yes.

Mr. Nardecchia: And I would be interested in having an air quality monitor on my side of Southside Avenue, where there are residential homes above me. And, in fact, I have an undeveloped site which may never get developed, depending on the airborne readings.

The other thing I was going to say, if this is only temporary – even so far as 10 years down the road – I would suggest that possibly if ... I'm pretty sure that sometime along the line here you will approve something. I would just suggest that it be approved in the form of a license that would be renewable so there would be some way to reverse or to stop it if it turns out that it's not as it was represented.

I mean, I realize they have to do something with their property and that seems reasonable. If we make a mistake, as long as it's reversible I could live with it. But I thought that might be an element you might want to add to any final approval.

Boardmember Cameron: And the other sort of question that just occurs to me as I look at the railroad side of the thing, you seem to be content with the amount of light that the railway platform provides where the platform is. And so I'm sort of curious if that's OK where the most likely place for people to go and try to jump your fence is. I know you also have your guards there, but you're worried about their security.

Why wouldn't you be content with the same level light going all the way down the line rather than the much higher poles with the much heavier lights – which I think they are – that you're proposing. Because you've got no lights in here, the best I can see.

Mr. Aragona: Right. Yeah, we stop where the Metro-North track starts.

Well, the reason for that is that ... you're right. The Metro-North poles provide adequate lighting at that point, and we want to continue it on. And the reason for the height of the lights is to get the coverage. Now, all that light is pointing downward. It's not pointing up, or up the hill.

And, as are the Metro-North lights, they're also pointing downward and they illuminate I think probably a 15- or 20-foot area on the platform. We need a larger swath in order to get to the property line. That's the reason the lights are higher. Although those lights are probably 15 or 20 feet high. I'm not sure of the height.

So actually, our lights would be lower than theirs. On the pole they're 22 feet, but also the platform is probably over my head. And so 15 from over my head is higher.

Boardmember Strutton: That's why it would be nice to have a comparison of what's there now versus what you're proposing.

Chairperson Speranza: Yes? You wanted to add something?

Mr. Restivo: The poles that are along the train, the train line, those poles are ... they are 30-foot poles with 22-foot ... the fixtures are mounted at 22 feet because of the 480 volt. They have to be mounted 22 feet. The wattage on those bulbs is 250. And because the fixture is placed further away from the property because of where we need to place them in order to illuminate that whole area, that's the purpose of the illumination.

Even on the shoreline, part of the reason why we have to ... in order to maintain an amount of foot level where you could see somebody ... not that you're going to be able to make out who the person is walking on the property, but you'll be able to see along the water's edge a person going across.

In order to be able to do that, the fixture needs to be at 30 foot high in order to maintain ... to get that level so that you could see.

Boardmember Cameron: You don't have a person out there watching. You have a camera which is infrared that doesn't need the light. For some reason you're lighting this entire site up, and we're having a terrible problem with it. And you just keep talking like it's fine to light it like Yankee Stadium and leave it in this town for an unlimited period of time. It's just not acceptable.

Mr. Restivo: OK.

Boardmember Cameron: I know you're a lighting guy, but you're not listening to what we're saying.

Mr. Restivo: No, I'm just making you understand why things are. Because they kept saying that nobody's giving us clarification why.

Boardmember Cameron: This whole thing is the problem, OK? I understand you know how to light an area so it looks like a patch of Yankee Stadium. But that's not the end result we need. You've got to find a better way to do security.

Mr. Restivo: OK.

Chairperson Speranza: So we can handle this in a couple of ways now. Obviously we could vote, and that might not be in your best interests. It might be in our best interests.

We can leave the public hearing open, and you can resubmit. Or, you've heard what we're talking about with respect to motion detectors and other types, other ways, to deal with this problem and still get a kind of security that you need.

At the absolute minimum, we need to have a better representation of what this is going to look like, be it an aerial or a street view of the poles and the wires and the lighting. And we may need to ... I mean, I think the idea of a three-dimensional representation. I don't know how you represent lighting, but there's probably a way to do that.

Boardmember Sullivan: There is.

Village Attorney Stecich: Just get a lighting expert.

Chairperson Speranza: I was going to say ... and that may be something that we as a Board want to do. If you wish to pursue this whole idea of this specific plan, where we bring on – we, the Village, bring on – a lighting expert.

Boardmember Cameron: Lighting security expert.

Chairperson Speranza: A lighting security expert?

Boardmember Cameron: Not just a lighting ...

Boardmember Dale: Yeah. Security is the issue, not so much visibility.

Boardmember Alligood: Yeah. I want to just echo what Jamie just said. I think they could come back and give us more information about this plan, but I think some of us here are saying come back with something else. Because even with more information, I have a big problem with this solution.

I haven't been convinced that there really is a problem and that this is the right solution for whatever problem you've identified.

Boardmember Sullivan: I think one thing we should also ask for is to see the security report that initiated this so that maybe something ... if we do Jamie's suggestion of a security person to review this, then you may want them to understand where the assumption started from. And then he can potentially give us other options.

Boardmember Dale: My questions on that are, was this generated by the insurance company saying you have a liability here and you have to respond to it, and hence you hired a security study and they recommended lighting? Is that what we're dealing with?

Because it seems to be there are lot of ways to solve the security problem here, and you haven't even established that there really is a security problem. There's a potential risk for somebody who goes on-site, but there are a lot of ways to keep people off the site.

Mr. Aragona: Right. No, it was not an insurance inquiry. BP has an internal group called the Security Group, and their security folks came out and did an audit of the site. And one of the things that they came up with was that it's poorly-lit and there is a potential issue with safety of personnel on the site.

So that's where we got to thinking about how is it that we can improve security for folks coming on and people that are working on the site. So no, there were not insurance issues.

Boardmember Dale: But if I understand correctly, there's no personnel on-site except for the guards after 8 o'clock, or 7:30.

Mr. Aragona: Correct. There is a single guard.

Boardmember Dale: So then there's not an issue.

Mr. Aragona: I'm sorry?

Boardmember Dale: The security guard is the ... the two or three security guards are the only personnel, and you're going to light this place up so they're safe?

Mr. Aragona: Right. There is a single security guard on-site. That's right. And so our concern is just making sure that that person is safe by himself.

Mr. Nardecchia: Get him a dog.

Boardmember Strutton: I'm just curious if the same group that generated the security report is the group that came up with the lighting plan. Or is it that the lighting plan was done externally, but the security audit was internal?

Mr. Aragona: Well, the security audit was internal through BP, and we worked together. Well, the security group didn't work with us. But BP has got a lot of groups, and we're one group. The security group came in and did their audit, and we as a group talked about what could be done in order to improve the security on the site.

Boardmember Strutton: So it wasn't the security group's recommendation that you light it like Yankee Stadium, as some of my colleagues have said.

Mr. Aragona: No, not specifically.

Boardmember Strutton: OK.

Boardmember Dale: The other thing that would be helpful is if you could show us sites where this type of lighting is being used with this level of intensity at night so that we could see something.

Chairperson Speranza: Again if, in fact, this is still a course that you wish to proceed with.

Mr. Aragona: Right.

Chairperson Speranza: And that's something I think that's going to be important for us to know. Because if you want to consider a different type of security system or lighting system, then we would want to know that. If this is still something that you wish to pursue, this particular plan like this – and I don't even know with any justification or ... you know, we would want to bring someone on board.

So you've got a couple of ways to go here, and it's going to be up to you as to whether or not ... I will ... shall I assume that you don't want a vote tonight?

Mr. Aragona: I think that probably the way we'd like to go is not voting tonight.

Chairperson Speranza: Not voting tonight, OK.

Mr. Aragona: So did I understand you to say that if we wanted to continue down this road we would need to provide enough information in order to provide to an external ...

Chairperson Speranza: And for the justification based on the comments that you've heard as to why this system of security is better than other options. And then continuing down that road, getting us ... or finding a way – and if it's by maybe we hire an outside consultant or request a 3-D representation – for what exactly is this going to look like.

Because this is a flat plan, and our waterfront is anything but structures on a piece of paper. So we really want to understand how this works. I mean, it seems like it's going to be overkill.

Boardmember Alligood: And I think it's obvious to most people, from a view preservation perspective, this impacts the view. But also from a site plan approval perspective there's a piece of it that we look at about how it affects, impacts, the neighborhood. And again, from that perspective, this is problematic.

Chairperson Speranza: And one of the views that is prized from the Warburton Avenue bridge is of the river and your site. And this would just be changed so dramatically.

Boardmember Sullivan: Well, the library's amazing.

Boardmember Cameron: The library's the big one.

Boardmember Sullivan: You get the view of Manhattan. I mean, there's a lovely park and sitting area up there.

Boardmember Alligood: Waterfront Park.

Chairperson Speranza: Yeah, this is critical.

Mr. Aragona: Well, I appreciate you guys' time. We spent a lot of time on this. I appreciate the input you gave us. You gave us a lot of things to think about, and we'll go back and talk more about it.

Chairperson Speranza: OK, thank you.

IV. NEW BUSINESS

Preliminary review of, and discussion on, a proposal by Architect Lanny Lerner for the construction of townhouses at 400 Warburton Avenue.

Chairperson Speranza: OK, we have another applicant who's here tonight so we'll move on. The preliminary review and discussion of a proposal for townhouses at 400 Warburton Avenue. Lanny Lerner, that's you? OK, there you go.

And again, this is preliminary review so there is no action on this tonight. You're here to hear what we have to say.

Lanny Lerner, LR Lerner Architecture PC Scarsdale: That is exactly why I'm here, yeah. After meeting with Mr. Sharma on a couple of occasions, he encouraged me to come before the Board and get your opinion about what this project is proposing.

I myself live on Warburton further down toward Yonkers, and I pass this building – you have a picture of this, each of you, right? – most days. And I kept asking myself for the last 7 or 8 years what else could that be? I decided to just go a little further and do a proposal for the possibility of making this a residential project.

Now the building as you see it – and did you get the survey?

Chairperson Speranza: Yes.

Mr. Lerner: The building covers virtually the entire site as it is now. It's currently a warehouse/garage type of building, with some accessory offices in it; one-story, kind of a hulking, ugly building in the middle of a residential neighborhood. It's all three-story and four-story ... well, if you could look at these.

Boardmember Cameron: Can we pass these out?

Mr. Lerner: Yeah, sure. Just a lot of pictures of the neighborhood on there, too. And it just doesn't make sense to me. It's that, and the building next to it, which is a roofing company, are the only non-residential buildings in that entire neighborhood.

It's in an MR-O district, which is multi-family, residential, single-family – offices also allowed – but no warehouses and no garages. So it's completely nonconforming.

What I'm proposing is to add two stories to this building to cut off ... there's a very high parapet wall. Cut that wall down, and add two stories to that. And the total height of the new structure, at three stories, would be probably about 37 feet.

Now, you have to understand that all of this is sketches. It's very preliminary. And I didn't want to go a whole lot further until I talked with you. So I need to get your feedback about whether this is something that the town would consider.

The downside here is that because this building is built to the entire lot it's nonconforming bulk-wise, as well. So what I'm proposing to do is to set the additions back 10 feet, which is what's required on the front; 15 feet on the back – which is a two-family setback, not a four-family setback – but that would be a legal two-family setback. And to build it to the outside ... to the sides of the existing structure.

Now, to the south is Quarry Road, and Quarry Road is a paper road. It will never be built. It's not physically possible to build a street through there. And to the north is that commercial ... it's Brown Roofing. The place is a mess, and I'd sure like to see that changed, as well.

But I think this project ... well, let me show you. These are the plans, not particularly important at the moment. But I think what you might see on the street would add a great deal to the neighborhood in terms of the visual architectural quality.

I guess the question is about the setbacks, and whether you'd be willing to consider granting ... I know you don't grant the variances, but at least to recommend to grant variances for the side yard setbacks, which are nonexistent now and would remain that way.

So I look forward to your comments.

Village Attorney Stecich: Just preliminarily, I think one thing that wasn't included in the application, the Board should be aware that while this is permitted it's permitted by special permit in this district. So you would have to grant a special permit.

And then the other preliminary question is, do you own this property?

Mr. Lerner: I do not, no.

Village Attorney Stecich: Are you the contract vendee?

Mr. Lerner: No. I am working ...

Chairperson Speranza: Which is why there's no formal application before us.

Mr. Lerner: That's right.

Village Attorney Stecich: OK, you might be the contract vendee if you were interested. OK, just to recognize that you can't go beyond this until he does have an ownership interest in this property.

Mr. Lerner: No, I understand. And I would not take an ownership interest until I was sure that something like this could be done.

Chairperson Speranza: OK. Well, we'll open it up for comments. It seems to me that what you're proposing is a heck of a lot better than what's there now. That's for sure.

Mr. Lerner: I agree.

Chairperson Speranza: We like to always say the devil's in the details, but certainly to replace this building that has been there for who knows how long I think would be certainly a welcome change. I like the fact that you're providing parking on-site also, which is in your proposal.

Mr. Lerner: Yes, all seven spaces.

Chairperson Speranza: But that's my feeling. Maybe we'll start with Rebecca.

Boardmember Strutton: Oh, sure. I have a couple questions and thoughts. First, the current building is unoccupied and used to be a business. Is that correct?

Mr. Lerner: I'm not sure what the use was, but it's currently unoccupied, has been on and off for as long as I've known it. And it's been for sale on and off for as long as I've seen it.

Boardmember Strutton: And then my second thought is that the paper road on the side is actually a trail that connects the Aqueduct to, hopefully some day, the riverfront? And I would hate to see this in any way interfere with that trail. And actually, if something went through here I'd love to see that maybe improved as part of this to help make that a better trail there.

And the third thought I had as I drove down the street after looking at this is that we're really starting to see Warburton be built many stories up and very close to the street. And it's becoming a bit of a corridor, a very sort of closed-in corridor. And I think that we ought to think about the neighborhood in general and how much of that we want to be a four-story or three-and-a-half/four-story corridor all the way down as you come into town.

And I think that perhaps we also ought to revisit our new Comprehensive Plan and see if that talks at all about development here, and then the move as well from commercial use to residential. And there actually are some ... some of the businesses along Warburton there have office space. There's a therapist, I think, physical therapist, within a couple blocks just down on the first floor.

Chairperson Speranza: And that's exactly part of the reason that this was recently rezoned. I don't remember exactly when, but it was part of the rezoning of the area. Because we were finding that the mixed use was, in fact, happening and we wanted to make sure that as far as use it would be more formally recognized as a mixed use area.

Boardmember Cameron: I think the first thing is a question, and you may not have looked at it closely enough yet. You're intending to leave the existing exterior wall up except for the parapet?

Mr. Lerner: Yes, all the exterior wall because it's foundation, it's structurally sound, and I would ...

Boardmember Cameron: You can put the three-story building ...

Mr. Lerner: Right on top.

Boardmember Cameron: ...right on top.

Mr. Lerner: Well, with interior structure added.

Boardmember Cameron: Right, you'd have pillars, what have you.

Mr. Lerner: Yes.

Boardmember Cameron: And is there any particular reason, other than our zoning rules, that you decided to go only 10 feet in the front and 15 in the back? Would it still work if you pushed it further back, the extra two stories, and we had more open space on the front? It might give less of a corridor effect on Warburton.

Mr. Lerner: Well, I always take the zoning as a guideline.

Boardmember Cameron: Yes, but was that the reason you did it?

Mr. Lerner: Yeah, the 10 feet seemed reasonable and it seemed like a large enough area for a deck, which is what that setback creates. And to do the same thing on the back.

Boardmember Cameron: But it may be that 10 is more than adequate as you look down the street. But if we slipped it, and ended up with 15 on the front and 10 on the back, is it ... I don't know how steep ... how low is the back? Because you're really going one floor up in the back here at 15 feet. The hillside's fairly steep.

Mr. Lerner: It is, yeah. The top of the wall – the top of this wall in the back – is probably close to grade.

Boardmember Cameron: So your decks in the back would be ...

Mr. Lerner: Close to grade, yeah.

Boardmember Cameron: ...close to grade in the back.

Mr. Lerner: That's right, yeah. I haven't done any topo surveys, so I couldn't tell you for sure.

Boardmember Cameron: And I guess the other thing is, obviously, to go with what you were saying, it would be an opportunity for use – at least this is my view, and everyone has a different view – of getting a way of walking from the Quarry Trail up onto Warburton. And getting some sort of attached stair right there so you could actually be walking along Warburton and go down a stair into Quarry Trail in the future.

So that would be a very nice amenity to start linking our trails together. I think it's very interesting. I have to think about it more, but I think the nice thing is that it's close to downtown and it's flat ground, easy to get into town. There's two different size family units. How big are they? I know they're different sizes.

Mr. Lerner: The overall units do you mean?

Boardmember Cameron: The square footage of the three units.

Mr. Lerner: Three are at about 2,400, and the smallest one is about 2,000.

Boardmember Cameron: We can ask one of our real estate people here what sells best.

That's all the questions I have right now.

Boardmember Alligood: I think the property could use improvement. I looked at it today. I actually happened to run into a neighbor across the street and he was curious why I was looking. So I told him about it, and asked him. And he thought yes, something should be done. So that'll be good to hear a neighbor in support of improvement.

And housing seems like an appropriate use there. I guess I have the same concern as Rebecca just about having a wall along that corridor. And it's interesting because that's actually pretty typical going north. But your building is the last that's really up to the lot line, and from there on all the houses down south are set back.

Mr. Lerner: That's right.

Boardmember Alligood: So I think you want to make sure the design somehow transitions and respects what's happening to the south. So I think more details, more design consideration, can happen here. But I think overall it seems like a good idea. Certainly, having housing in the downtown is what we're, I think ...

Mr. Lerner: Walking distance, yeah.

Boardmember Alligood: And certainly having parking ... the parking is always a big issue. So having the parking is a good thing.

Boardmember Sullivan: I'm not a big fan of the bulk of this building, and building out to the lot lines and the side setbacks. I appreciate the gesture in the front to do the 10-foot setback, and I can understand trying to retain the existing building. But given that in the zoning, by right, you can do a two-story, two-family building – and accomplish the parking on-site and accomplish the lot coverage and potentially the rear setback and side setbacks – it bothers me.

I feel it's a very broad building, 50 some feet. And there's certainly a way to develop this and up-develop it in a way that could be as fitting into this neighborhood. Because this is ... when you go down that neighborhood – and I appreciate Rebecca's comment – the sense I have are thinner buildings that have some height to them and you have a sense of space between them.

And the reason I requested the survey is because I wanted to see what Quarry Street was. But when I went and walked it over the weekend, you know, it's a trail. And so this would be three stories looming over you as you're already going down into the trail underneath Warburton.

So for me, as one to try to keep that ... and that trail needs some assistance from the Village, I have to say. And I know they put in a ... recently the Board's going to go after construction money to complete it, which is fantastic because it's a really neat, neat thing – neat experience.

So I have real issues with not respecting the side setbacks in this particular area, especially since I can envision it being developed comfortably within the current zoning as a two-family.

Boardmember Dale: I think the proposal is certainly a major improvement over what's there now. And I kind of like the façade that you've created, and reflecting what's existing there. And I can understand your not wanting to demolish any part of the existing building; that the economy of it would be destructive to the proposal that you're thinking, to have to go through that cost.

I don't have the same concern about it. I think this debate happened when Division Street was proposed, and whether or not it was overbuilt for Warburton Avenue. And there's a significant number of buildings on Warburton that are three and four stories high. So I don't really have an objection to your adding two stories.

I think there is a concern about the issue of the Quarry Trail. There is a concern about looming over it with a building that's that massive. So that perhaps there is something you can do on that side of the building that would be more respectful of creating the use of the Quarry Trail, encouraging that, without that sense.

But I think I would encourage the further development of this proposal. I think residential is appropriate in this case.

Chairperson Speranza: There are people here in the audience.

Village Attorney Stecich: There were a couple things I wanted to point out just to be aware of. I think you still would ... even though there is a deck in the front, I assume the deck is coming out to edge of the property. You still would need a front yard variance because a deck can protrude only a certain amount.

So be aware, if you went forward with that, that you would need a front yard variance. You're probably going to need a variance for open space. You seemed a little bit short on that. Not a lot, but it wasn't on your list of variances.

And then the other thing you should be aware because you're creating new residential units is that the Village does have a recreation fee law that you have to ... is it \$7,500 for multi-family? Check it. When you create any new residential units you have to pay an impact fee, a recreational fee.

So I'm not sure what it is for multi-family. I think it might be \$7,000. But in any event, you can check with the Village Clerk. They would know that. And just be aware of that because that's something you have to figure in to your calculations there.

Boardmember Sullivan: I have one question. I appreciate your assessment that this structure is able to take the addition of two stories without significant modification. Is there any way we can request a structural analysis if this goes forward? Because the premise of allowing this particular bulk is that we're looking at an existing building that's on the site.

Mr. Lerner: The walls are 16 inches thick. It's a masonry building, it's not going anywhere.

Boardmember Sullivan: I guess I appreciate your assessment. I would want just to question that, given that's now ...

Chairperson Speranza: An engineering assessment.

Boardmember Dale: Well, he would have to have a special engineer.

Boardmember Sullivan: He would have to, yes. But I'm requesting potentially that we get an analysis to confirm that this structure will, once construction starts, actually survive and not be ...

Mr. Lerner: That's something I would want to know, as well.

Boardmember Sullivan: But my point is that we're ... it appears to me that we're entertaining this building which doesn't have setbacks – front yard, backyard, side yard – because there's an existing structure that you're using as the base. And the assumption is that that structure is structurally sound enough, be unoccupied on and off, all that.

My question is, can we have that verified. Because for me, that's the driver for allowing this to be presented in this fashion. And if it's not the case, and you end up demolishing this from scratch and then coming back and building it out, then I have an issue with it.

Mr. Lerner: So do I.

Boardmember Sullivan: So I appreciate your sense ...

Mr. Lerner: It wouldn't work financially either. So I'd have to know that before I'd get involved in it myself. So it's a good point, and it would have to be resolved right up front.

Boardmember Sullivan: OK, well, you're here ... I guess the point is, you're here with a proposal that's making that assumption already. So I would like, potentially, to see something that confirms that before we move much further with it, looking at ...

Chairperson Speranza: Well, and it may be that should you decide that you're going to go ahead and obtain an interest in the building so that you can make application to us, that would be one of the things that we would like to see as part of the application.

Mr. Lerner: Fair enough.

Boardmember Cameron: Just one more thought. And one always hesitates to propose taste. But one of the things about your building – and I understand why you did it because you're sitting on top of an old warehouse – is, it's quite a modern-looking structure whereas the entire neighborhood is older-looking buildings.

Mr. Lerner: And all different kinds, yes.

Boardmember Cameron: And different kinds, but older. And recently, we've had rebuilt a number of the townhouses farther towards Warburton bridge. One thing that might help your building look less big would be if it was designed to look like two buildings side-by-side – same height, same everything – which fits with the rest of the neighborhood.

It might not look as large to people. But I couldn't figure out how to make the bottom look old.

Mr. Lerner: It's the bottom is the driver.

Boardmember Cameron: No, I know. I understand that, but I'm just throwing that out for your creative genius to think about.

Chairperson Speranza: Does anyone in the audience want to make any comments about what you've heard?

Boardmember Cameron: Well, who's across the street?

Boardmember Alligood: On the board, there are pictures of the houses there?

Boardmember Cameron: Across the street?

Boardmember Alligood: And then there's one that's in construction now that we approved.

Boardmember Cameron: Which is the one across the street.

Chairperson Speranza: It's further down.

Boardmember Alligood: It's sort of between those two.

Boardmember Cameron: Oh, it's that house.

Chairperson Speranza: Because the Quarry Trail is right next to it. And then we approved modifications to a building on the other side of Quarry Trail. That one with the big wrap-around ...

Boardmember Cameron: It's just closer to town from that. Because it's Quarry Trail on the other side of that building. It's on the north side, and your Quarry Trail's on the south side.

Boardmember Dale: It's the red brick building next door. Is that a brick building to the north of your site?

Mr. Lerner: No, I think they're renovating it.

Boardmember Dale: When I was there, it looked like it was just ...

Mr. Lerner: Oh, that one. I think it's the roofing company's office.

Boardmember Cameron: That's our most important local business.

Village Attorney Stecich: I think this is probably in the view preservation district, right? I assume it's in the view preservation district, too, so be aware of that.

Mr. Lerner: I think everything behind me is way up high.

Village Attorney Stecich: Yeah, I know. But you just have to be aware.

Chairperson Speranza: It's another step.

Boardmember Dale: Yeah, but clearly it would have no impact on anybody behind it. I mean, the hill is so steep at that point.

Boardmember Sullivan: The Aqueduct is up high, so I believe it's worth looking at.

Village Attorney Stecich: Well, you have to in any event.

Boardmember Alligood: Since Jamie commented on the architectural style, I just wanted to say personally I don't think ... I wouldn't want to suggest that you have to make this look old like the other buildings.

Mr. Lerner: Thank you.

Boardmember Alligood: I think putting something modern in there could be very good.

Mr. Lerner: And certainly there's precedent. Just look at the library, for goodness sake.

Boardmember Cameron: I was just trying to make it look smaller.

Mr. Lerner: I agree.

Boardmember Dale: I think people forget that Hastings is a series of styles that evolve over time, and that there is no dominant style.

Mr. Lerner: What happens next?

Chairperson Speranza: OK, well, you make application to us. But in order to do that, you have to have an interest to be able to make application to us.

Mr. Lerner: Well, at this point I think I've ...

Chairperson Speranza: You heard the idea of having some sort of engineering analysis that this building is, in fact, structurally sound. You wanted it on your own also. So that's going to be important for you – it's going to be important for us, of course – a licensed engineer's report, what have you.

Mr. Lerner: OK.

Chairperson Speranza: And then you start through the application process, and Deven can walk you through that.

Marianne, I can't think of anything beyond the regular procedures for site plan review, view preservation.

Village Attorney Stecich: Special permit.

Chairperson Speranza: Right, the special permit you mentioned.

Building Inspector Sharma: I guess he was looking for the Board's impression. He's trying to figure out ...

Chairperson Speranza: Oh, I hear that.

Mr. Lerner: Yeah, what's my next step.

Boardmember Dale: I think it's an issue of risk at some point.

Chairperson Speranza: Yes, sure. Well, we didn't say, "No, this is a horrible idea." And we really want it to stay the way that it is.

Mr. Lerner: No, you didn't. I'm feeling rather encouraged, actually. Thank you very much.

Chairperson Speranza: OK, you're welcome.

V. DISCUSSION ITEMS

1. Amendments to Steep Slope Laws of the Village proposed by Boardmember Kathy Sullivan.

Chairperson Speranza: Other business. We had started talking about, at our last meeting, modification to, specifically, the Steep Slopes Law so that we would not have applicants go through the entire process for actions that may be taken on the property that quite obviously are going to have no impact on the steep slope.

Kathy, you had submitted some recommended changes. And Marianne, at the end of the last meeting you also just made a couple of wording changes. I just found Marianne's recommended change: section 249.7, under Building Permit Application Requirements. It

was really very simply, *"Applications for building permits on lots that may affect or create a steep slope shall include the following information."*

Thereby, making just the change from a property that simply contains a steep slope to something where an action is proposed that's going to affect the steep slope or create a steep slope.

Boardmember Strutton: So, sorry. She would strike *"contain, or are proposed to contain,"* and just substitute "may affect or create."

Chairperson Speranza: Right. And if you recall, the one application that really stood out was where the individual was making changes to the front façade of the house, steep slope in the back, and that was the only change. It was ridiculous for him to have to come to the Board twice.

So that's one change. Kathy, do you just want to go through what you proposed?

Boardmember Sullivan: Sure.

Boardmember Dale: Do you have an extra copy?

Boardmember Sullivan: I can share.

Chairperson Speranza: You can't share, I can share.

Boardmember Sullivan: What I added, what I'm proposing to add, are some definitions: first one being "disturbance, which is excavation or fill or any combination thereof, and shall include the conditions resulting from any excavation and fill." And then a definition of excavation, a definition of fill, and then a definition of customary landscaping. So there's some things that would be normal maintenance that wouldn't be affected.

And the other modification would be under 249.4, striking *"any lot that contains a steep slope,"* and adding, "any disturbance at any steep slope as defined by this section." You're basically setting up that you have to have a steep slope that you are excavating and filling on to trigger this chapter.

And the last item is at the very back. It's adding an exemption, which is customary landscaping. So basically trying to clarify that you need to disturb a steep slope to trigger the provisions of this chapter; or create a steep slope, which is something we've run across also in another application.

So that's what I'm just submitting for discussion to the Board.

Boardmember Strutton: I didn't see Marianne's suggested language.

Village Attorney Stecich: I passed it out last week.

Boardmember Strutton: No, I'm sorry. I missed the e-mail.

So if we took that suggestion, do we need Kathy's changes? Because isn't this really all about making a building permit?

Village Attorney Stecich: Could I just say, Kathy, that the problem ... and I understand what you're getting at. But I think not quite throwing out the baby with the bathwater, but it has some other consequences.

Boardmember Sullivan: Sure.

Village Attorney Stecich: Because there's a lot more ... right now, what we control is not just excavation and fill. I mean, huge replanting jobs, building retaining walls, all of that are actions that I don't think would necessarily fit into excavation or fill.

And so the reason nobody ever defined what's a disturbance is because what 249.5 says is what you can't do without coming to the Board: develop it, pave it, re-grade, or strip it of vegetation without replacing it. And that was language that was really worked on a lot – the stripped of vegetation – to get around the customary landscaping and getting rid of weeds and stuff.

So I think what happens is by ... I suppose there's another way to describe "disturbance." But I think what the Board, when we were drafting this law many years ago, wanted is to define the actions that would require you to come in. And there definitely has been a problem with the way it was drafted, although we discussed it when we talked about the steep slope revisions about changing that language.

And I don't know why we ended up not changing it, but I think it would work if you did say that the application has to affect or create the steep slope. And affecting the steep slope would be these actions in 249.5: developing, paving, re-grading. I also don't think paving would fit into excavation or fill. And definitely the Board would want to review any paving that's done on a steep slope.

Boardmember Cameron: Could you get in her comment on normal landscaping?

Chairperson Speranza: Customary landscaping.

Boardmember Cameron: Customary landscaping, by putting that as an exclusion?

Village Attorney Stecich: Well, you could, but it doesn't fit in to developing, paving, re-grading, or stripping of vegetation. It's already not covered. All that's covered is developing, paving, re-grading, or stripping of vegetation. Which none of those things include customary landscaping.

So it wouldn't be necessary. I mean, you could put it in, but it wouldn't be necessary.

Boardmember Cameron: OK. We had a problem, and we still do. Do we think that the language in A gets rid of that problem – the "*may affect or create*"? Does that get rid of our problem with people having to apply when they're not touching the stuff?

Village Attorney Stecich: I think it does, but the downside on it ... I'll tell you what the downside is. It's then ... and I think this is why the Board decided not to change it. Then it's a determination of the Building Department does this affect or create. I think that was a bit of concern.

Now, I don't remember when we first did it, but we haven't always had Deven as the Building Inspector and we're probably not always going to have Deven as the Building Inspector. Time marches on. So that's the only thing. You have to recognize that that change would put more discretion in the Building Department, to say, "Hey, would this affect the steep slope?"

Building Inspector Sharma: But, Marianne, that's why, since I'm not going to be here all the time, I'm talking about the creation of a panel of two or three people. It's not just one person, whether I'm here or not.

Village Attorney Stecich: Right. Oh, I'm not saying that's necessarily bad. I think that's fine. I mean, hopefully we would have a Building Inspector who was capable of making that determination. But I'm just pointing out that that's the ...

Boardmember Dale: And particularly if part of it is to reduce the number of applications that we have to review. And clearly, there's a decision.

Boardmember Sullivan: Well, I understand what you're saying. I think there's a clarity to outlining in defined terms what the actions are that would trigger this. I think "may affect or create," we could make that modification and just see if people get hung up on it.

I just have seen people get hung up on it, and it bothers me that this isn't being used as a tool the short time I've been on the Board. I've seen some cases where there's been a question. The purpose and intent of this talks a lot about environmental rationale, but we are looking at one applicant right now where we had some construction concerns. There were a variety of concerns since it was a manmade slope.

So I wonder if, under 249.5 where we have restrictions on steep slope disturbances, it becomes where you have developed, paved, or re-graded is if "developed" gets changed to "disturbed." And then that brings you back to looking at specific actions where you are actually creating potential for erosion or potential for collapse, or making a modification to the steep slope in a way that would be a concern.

Chairperson Speranza: So you're thinking that "developed" be changed to "disturbed."

Boardmember Sullivan: Right. Under A, and B perhaps.

Chairperson Speranza: And I think in that instance, then you might want to ... because disturb then could become more along the lines of ... potentially, you could have customary landscaping that's going to disturb the steep slope. And that's why ...

Village Attorney Stecich: Then you could leave the exception in.

Chairperson Speranza: Yeah, then you could leave the exception in.

Village Attorney Stecich: If you were going to change "developed" to "disturbed," which I don't think it's an issue, then you would leave the customary landscaping exception.

Chairperson Speranza: Right, as an exception.

Boardmember Strutton: Well, then I think we end up with more people coming. I think that makes it potentially more confusing.

Chairperson Speranza: If it's disturbed.

Boardmember Strutton: Like I wanted to put a geranium in, am I disturbing my ...

Chairperson Speranza: And that's why you make the exception to customary landscaping.

Boardmember Strutton: Right, right. I know.

Boardmember Sullivan: And you could catch retaining walls with a disturbance when anyone building a wall's going to be excavating and filling.

Boardmember Strutton: But that would be a re-grading, as well, for a retaining wall, right?

Boardmember Sullivan: Potentially, yes.

Chairperson Speranza: But I understand your point, Kathy, that somehow ... *"applications for building permits on lots that may affect"* ... *"application for building permits."* I was going to say it's actions.

Village Attorney Stecich: No, that "may affect" modifies building permits, not lots.

Chairperson Speranza: Yes. "Applications for building permits covering actions?"

Village Attorney Stecich: "For activities that may affect."

Chairperson Speranza: Right.

Village Attorney Stecich: "Applications for building permits for activities that may affect," or whatever.

Building Inspector Sharma: A building permit is only given for some kind of construction.

Chairperson Speranza: Right. But, for instance, they had to get a building permit when they came to review the façade of the house. And you also need a building permit to build the house. So I think we're trying to make sure that it's the activities on the lots that would affect it.

Building Inspector Sharma: On the Michael Lewis application I did ask him. He didn't even ask me about whether he needs the permit. He had the code and made the application from the code. I would have had an issue with it. Marianne would have yelled at me again: "Deven, I told you so many times that's what is written."

Chairperson Speranza: That's right. So is there any other discussion? Should we see a clean version of this for the next meeting just to write it up?

Boardmember Strutton: Just with the change to subsection 7.

Chairperson Speranza: Seven, and then B; having B changed to "disturbed," and including the customary landscaping as an exception.

Boardmember Strutton: OK. Then if we're going to do that, my thought on the customary landscaping definition is that that needs to clarify that it doesn't affect the slope of the lot. That's why I would add, at the end of that, "care of established lawn or garden, and the planting of decorative trees, shrubs, and plants that does not affect the slope of the lot."

You don't want to be creating a loophole, where you say, "Well, gee, am I changing the grade? The grade stays the same, but I'm putting in a series of terraces."

Chairperson Speranza: As customary landscaping.

Boardmember Strutton: As customary landscaping, yeah.

Building Inspector Sharma: That would be changing grades, putting in a retaining wall.

Boardmember Strutton: It would change the grade, but it wouldn't change the slope, right?

Village Attorney Stecich: But I can remember this discussion so clearly. There was a concern about saying you could come in and remove all this dead and diseased vegetation. But if it's stripping a whole slope, it's going to ...

Boardmember Strutton: You better replace it.

Chairperson Speranza: You got to come in.

Village Attorney Stecich: Yeah. Which is why they came up with this "*stripping vegetation without appropriate measures to prevent erosion.*" That's if you understand it as customary landscaping. But once you define customary landscaping as including the removal of dead and diseased vegetation, things like that, they would say, "Hey, no. If it's within that definition, it's customary landscaping."

Boardmember Strutton: Are we seeing a lot of people coming with customary landscaping issues? Or is it more the façade, people who are coming in with houses on steep slopes where they're changing things?

Building Inspector Sharma: Nobody comes to ask me about whether they need a permit to do any customary landscaping.

Boardmember Strutton: Right. Everyone's coming with a building that's on a steep slope, right? So then I think why bother changing "developed" at this point.

Boardmember Dale: As a homeowner, I would not even think to go to the Building Department if I was just doing gardening work that changed the slope.

Boardmember Strutton: But I have another ... if I can just bring up one other thought as I read this law. It's in 249.5. So the definition of "slope" and "steep slope," I just wonder if this ought to read: "For any lot that contains a ground area of at least 1,000 square feet, with the slope in excess of 15 percent."

Because taking the language out of the definition of steep slope. Because we're not looking at the lot, the slope of the whole lot, right? We're looking at the slope of the area.

Boardmember Cameron: Of the thicker piece.

Boardmember Strutton: The piece, right? Isn't that right? So is that clear enough? I just wasn't quite clear if we were looking at the slope of the lot, or the slope of a subsection of the lot.

Village Attorney Stecich: Look at a 1,000 square foot piece.

Boardmember Strutton: Because the definition of steep slope refers to the 1,000 square feet. So I think that if that's the intent, then it ought to read "for any lot that contains a ground area of at least 1,000 square feet, with a slope in excess of 15 percent," and the same in D.

Building Inspector Sharma: It's customary to have steep slopes on it, but if they're doing some construction and it's affecting that 1,000 square feet, then they will need to go through the process.

Boardmember Sullivan: If they have 1,000 square feet of slope on their land, but they're not disturbing it, they still need to come here.

Boardmember Cameron: Well, we don't want them to do that anymore.

Chairperson Speranza: Right. Then we don't want them.

Boardmember Cameron: "Don't touch my slope."

Building Inspector Sharma: That's why when it says it affects the steep slopes in any way, that's when they need to come to you. But if it's not affecting – for example, construction on the second floor.

Boardmember Cameron: But it should be "affect or create."

Building Inspector Sharma: For example, decks: when you build decks with a few holes that stick out on the steep slope side. If they want to do it, I would say no.

Chairperson Speranza: But we're going to be trusting judgment, though, that if there's any drainage work that's associated with any kind of ... it's kind of not just the slope either. Because you could be adding structure that's not on the slope, but changes the drainage.

Village Attorney Stecich: And they could affect the slope then, right?

Building Inspector Sharma: Again, realize the situation. [off-mic].

Chairperson Speranza: Well, it depends on where it is.

Village Attorney Stecich: Rebecca, I understand the point you're making. That there's a little imprecision in the definition. I think maybe it works – rather than inserting language there, which is a little hard to do – you change the definition of slope to "the ratio of vertical to horizontal distance, comma, measured in a minimum area of 1,000 square feet."

So it's not redefining slope. Then I think that addresses your concern, doesn't it?

Boardmember Strutton: OK, yeah. I think you're right.

Village Attorney Stecich: So just add that language: "measured in a minimum area of 1,000 square feet." Because that minimum area is only in the steep slopes definition.

Boardmember Cameron: If we're going to end up with situations where there's a judgment call on whether it affects the steep slope or not I think we need to put in reference to the person who's going to decide whether it affects the steep slope or not.

So if it's the Building Inspector, that's fine. But just leaving the word "affect," it leaves permission for whoever is viewing it – the house owner or the Building Inspector – to decide whether it affects it or not.

Chairperson Speranza: But the Building Inspector has to review ... application for the building permit is made to the Building Inspector.

Boardmember Strutton: Right. But Jamie's point is, if you look at your lot and you say, "Well, clearly this doesn't affect it so I don't have to file a building permit," would ...

Chairperson Speranza: But you have to file a building permit for almost anything you do anyway.

Boardmember Cameron: I think we just think that through. Because otherwise, we do need to make sure that the person's who's exercising the judgment ... you brought up in your e-mail the word "materially," or whatever it was. At that point, if you get around to that, then you really have to make sure that you've got a person who's deciding, or one of two people who decides.

Village Attorney Stecich: But, Jamie, what if it just read then, "Applications for building permits that the Building Inspector determines may affect or create a steep slope."

Boardmember Cameron: You could certainly do that.

Village Attorney Stecich: I think that addresses that point.

Building Inspector Sharma: I think that kind of language is [off-mic] where the Building Inspector [off-mic].

Village Attorney Stecich: No, I think it's a good choice. I think it's a good change. Because otherwise, somebody could say, "Well, wait a minute. The Planning Board should have made that determination." So that makes it clearer.

I think it was what we intended, but I think that clarifies it.

Chairperson Speranza: And, of course, if the Building Inspector is ever unsure ...

Building Inspector Sharma: [off-mic].

Chairperson Speranza: Then you come to us, and say, "Hey, the process for that is, well, it comes to us."

Boardmember Cameron: Yes. As long as we make sure that it is. Because I was just thinking of this horrible instance. We have this in front of us, and we think it's perfectly foolish. But it says "Building Inspector," and Deven's not here. So we go, "Got to come back when he's around."

Village Attorney Stecich: It's not going to come to you. It only gets to you through the Building Inspector.

Boardmember Cameron: Remember, it's "Always expect the unexpected."

Chairperson Speranza: And we have no shortage of the unexpected here, that's for sure.

Building Inspector Sharma: And in my e-mail, I did try to [off-mic] from the view preservation, as well. We have some very, very clear instances that there are no view implications at all of the Palisades or whatever, and why subject that applicant through the mailings and drawings and photographs and stuff just to show there is no impact.

Chairperson Speranza: OK. That's our next item. Are we OK? Do you have a sense of what it is?

Village Attorney Stecich: I can make the changes, yeah.

Chairperson Speranza: And then circulate it, and then we'll take it up at our next ...

Village Attorney Stecich: I'm going to be gone for a couple of weeks, but you'll get it before the next meeting.

Chairperson Speranza: OK.

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

Chairperson Speranza: Let's talk about this idea of creating a panel. Let me ask you, Deven, because I was thinking about this earlier today. I thought, do you have the same

issues – thinking view preservation – when an application goes to the Zoning Board of Appeals?

Because for view preservation ... and I'm not ... first of all, we are a recommending ... we recommend approval or disapproval to the Zoning Board of Appeals. They are the ones that actually take the action. Now, is the thought ... and I'm not sure, Marianne. Would that ... all of this would likely need some change to the code that we started to talk about last week.

But could we, for instance ... and think about the application we heard tonight, where you have a panel of three and it's, say, the Building Inspector, somebody from the Planning Board, and somebody from the Zoning Board. Everybody looks at it, and everybody goes to the site and says there's no way that this is going to have any kind of an impact. That's before they ... well, they might have some plans done. They certainly wouldn't have to make application to the Planning Board and Zoning Board. Can that power be delegated?

Village Attorney Stecich: Well, I think there's a real problem. First of all, as to the variances, no way. A variance ... when you need a variance, it's determined by state law and you can't decide ... you can't go around state law. It's also true that site plan approval can only be given by a planning board or a board of trustees, depending on how the village did it.

But it is a little different from a variance because not everything needs site plan approval. The village code can define what needs site plan approval. So in Irvington, you need site plan approval; for anything that requires a building permit you need site plan approval.

Chairperson Speranza: Even single-family homes wouldn't be exempt?

Village Attorney Stecich: Decks on single-family homes, steps on single-family homes.

Chairperson Speranza: Really?

Village Attorney Stecich: You think our Planning Board meetings ... there are 35 applications on every meeting.

Chairperson Speranza: Wow.

Village Attorney Stecich: I mean, not now because nothing's happening. But two years ago.

Building Inspector Sharma: Is that good or bad?

Village Attorney Stecich: Is it good or bad? It's mixed.

Building Inspector Sharma: It's bad.

Village Attorney Stecich: No, not necessarily. And that's irrelevant. I'm not suggesting you go there. Believe me, I'm not suggesting we go there. But the point is, it's up to a village to define what requires site plan approval. So to the extent you can decide that, I think you would be able to delegate things if you wanted to say somebody can decide whether this requires site plan approval.

You can't do that for variances, though.

Building Inspector Sharma: Not for the variance.

Village Attorney Stecich: It's really not so much saying that another board can give this site plan approval, but you would be modifying what requires site plan approval.

Chairperson Speranza: So, for instance, like we've had an application where if someone in one of the buildings in the downtown wants to reconfigure some wall, change some walls – not necessarily creating another bedroom or another unit, but just making modifications within it – technically, the way our code reads now, it would have to be site plan. They'd have to come for site plan approval.

Village Attorney Stecich: Yeah, but I would think that the better way to get around that is redefine what requires site plan approval.

Chairperson Speranza: That's what I'm saying.

Village Attorney Stecich: I would see a real issue with creating a different kind of board. Just legally I would be really uncomfortable.

Boardmember Cameron: And it would have the same complications we do.

Village Attorney Stecich: I do think, though, that you define what needs actions just like we did with the steep slopes; which things actually have to come in for steep slopes review. You guys can decide what actually has to come in for view preservation approval, and then there could be a determination with the Building Inspector.

But I would have a pretty ... I would be concerned about creating a new board.

Boardmember Cameron: Well, let me ask you a different question.

Boardmember Dale: Isn't the law clear enough? The view preservation law, isn't it clear enough what has to be reviewed and what doesn't, and when?

Village Attorney Stecich: No. It's anything in the view preservation ... any work in the view preservation, any construction.

Boardmember Cameron: And why does it need to go to both boards?

Boardmember Dale: That may be ...

Chairperson Speranza: I don't know.

Boardmember Cameron: Patty, one idea is just maybe we don't do view preservation anymore and just the other board.

Chairperson Speranza: That's possible.

Boardmember Cameron: Or they have a procedure that they take it just to the other board. I think the most valuable thing in view preservation is the fact that notice goes out to the neighbors. Because they always come up with something.

The pain in the rear end, quite frankly, in those instances – and I had one for my house, which was just silly, and the house next door – is all these bloody pictures you've taken. So maybe we should change our procedure where it really doesn't matter – because nobody can see anything – that we get rid of the pictures.

But if we decide after the person comes they're absolutely wrong, that you really need the pictures, they're going to have to come back the next time. They're taking a risk, if they think it's too much of an expense to do the pictures, to come here.

Building Inspector Sharma: [off-mic].

Chairperson Speranza: I think the pictures are helpful because they are often able to get to different locations on their ... in the area ...

Boardmember Cameron: And it costs absolutely nothing to take a picture now.

Boardmember Alligood: I think that's not the burden. The burden is when people have to make a whole application; when it clearly is something that just won't affect the view and we all know that.

Chairperson Speranza: Right.

Boardmember Alligood: So I like Marianne's idea of just closely looking at what we ... being more specific about what we want to see under view preservation, and just exempting certain types of applications.

Village Attorney Stecich: Well, Jamie also makes a good point. In response to your question why does it have to go to both boards, the law, I think, was written shortly before I came on board. It's really old. Because I've been doing this for more than 25 years.

But they were very sensitive. It was a really, really sensitive issue. I remember Neil – actually, it was Neil. I don't remember whether he came up with the draft, or Neil and maybe whatever attorney was working at the time. And it was really very sensitive, and he was really always kind of nervous about it, about whether it would stand up in court or whatever.

You know, it has. But other river towns have adopted it. Irvington has the same thing, but they only go before one board. You only have to go before one board there. That's the one thing that does seem to me kind of duplicative, and could, I mean would, ease things or relieve the burden for the applicants if they had to go to ...

Boardmember Cameron: Maybe we only see multi-family dwellings for site preservation. I don't know. I'm just trying to ...

Village Attorney Stecich: No, I was just saying one board.

Chairperson Speranza: View preservation in conjunction with another action.

Boardmember Cameron: No, on 10 West Main I think both of us should see it.

Village Attorney Stecich: Oh, I see what you mean.

Boardmember Cameron: But if it's just a simple house, then ...

Chairperson Speranza: For instance, if you've got a larger ...

Building Inspector Sharma: In my opinion, there are some issues that don't need to go before any board, not just one or two. So clearly, what if this multi-family rebuilt the fire escapes on the back of the building on the east side. There's clearly no view preservation implication at all. Whether one view or 20, it doesn't make any sense.

Village Attorney Stecich: But let me tell you the problem with that because we just had this issue in Irvington. Somebody had pictures – came in and said this is not going to affect the view – and if that be the case, then you don't put it on the agenda. And those pictures, in fact, showed that it did affect the view and it didn't look like it did. But then at the public hearing, somebody who was two streets up came in and said, "Yes it does affect my view."

So I think it's hard to say. There's some things that are just, I guess, so obvious. But other things that could have seemed obvious, if they had come in to the Building Inspector and said, "I took pictures from here, here, here, here. Lookit, it doesn't affect the view."

Building Inspector Sharma: No, the Building Inspector can go. [off-mic].

Village Attorney Stecich: No, but you want to know where this view was from? It was the second floor of somebody's house.

Boardmember Cameron: It's not an issue.

Building Inspector Sharma: [off-mic]

Boardmember Cameron: I'm just asking you questions about it. I wasn't actually thinking of doing it.

Chairperson Speranza: Your pagoda?

Boardmember Cameron: I wasn't actually going to do that. I just wanted to satisfy my wife's curiosity.

Building Inspector Sharma: [off-mic], but according to the current thing it'll have to go to two boards, right? If you want to build a pagoda there?

Boardmember Cameron: But I only have to take one picture of the pagoda.

Building Inspector Sharma: We're missing the point, I think.

Boardmember Sullivan: I think the contentiousness of views from my property make a lot of ... make it worthwhile to have even things that maybe seem so obvious go in front of perhaps one board. A projection from my perspective is someone else's view that goes on forever.

But if they kind of have their day in conversation with people talking about it, then both parties can walk away feeling like their story's been heard and they've had a chance to present their argument instead of feeling angry about it forever and ever.

But if it's some practice to only go in front of one board, that surely would be less of a burden. I'm not saying coming in front of two boards is an onerous burden. But maybe in these circumstances it makes sense to change it, though I am kind of happy we're talking about view preservation and site plan.

Chairperson Speranza: And I think that may be one way to handle it. If it's a straight view preservation and there's nothing else, then maybe that's just Zoning Board. Maybe we make a recommendation on view preservation in conjunction with another action, such as a site plan approval or whatever else.

Village Attorney Stecich: So that's going to pick up everything except one-family, right?

Boardmember Cameron: Right.

Village Attorney Stecich: I keep forgetting whether you need site plan approval for two-family. Well, whatever.

Building Inspector Sharma: For one-family we don't.

Village Attorney Stecich: One-family, OK. So everything else is going to be before you.

Chairperson Speranza: Right. And we're so much more involved in the development of a property that needs site plan approval that we are also going to be looking at view preservation as we make recommendation or make changes.

Boardmember Cameron: The only other way I think of dealing with it, again, on single-family and not even going to one board, would be to require notice even if it's not going to affect anybody in your view but the person comes in to see you. In other words, all the neighbors get noticed, and they come and see the Building Inspector if they have a problem.

I think notice, to me, is the number one thing that actually brings forward people who you never would have thought of.

Boardmember Dale: Marianne's point about somebody two stories up, two flights up.

Boardmember Cameron: Or that angle over there, they're looking over there.

Boardmember Dale: I think the notification is important.

Boardmember Sullivan: But getting a board to make the resolution between two neighbors that have a disagreement rather than one individual I think is fairest, rather than having it just be a single person.

Boardmember Alligood: I was going to say that when we invite the public to comment on an application issue it should be in a public forum. It should not be just one-on-one. That would put you in a really awkward position. And I think it should be publicly aired.

Village Attorney Stecich: And generally when there's notice, it's notice of a public meeting. I have to say I've never seen just notice, notice in a vacuum: "notice, come to the Building Inspector."

Boardmember Sullivan: His door's open.

Boardmember Cameron: Yet again.

Boardmember Dale: We get notices when the people are spraying their trees.

Chairperson Speranza: That's right.

OK, so why don't we look at ... for the next meeting, why don't we take a look at what we require site plan approval for, and again look at our view preservation. And then maybe we'll be in a position to really make some recommended modifications.

As we were talking about this, I was also going through the zoning code and looking at what we require for site plan approval. That, in effect, can move us right into our checklist, which we can think about as well since we're taking in our site plan approval.

Boardmember Cameron: Summer's almost over.

Chairperson Speranza: Recognizing site plan approval.

Building Inspector Sharma: Buddy and I were talking about it. It looks like Buddy and me may have made a mistake. There are two apartments being renovated in a building exactly the same [off-mic]. No change in views, no more bedrooms or anything.

Theoretically, we should have referred it to the Planning Board, which we did not do. Not that we didn't mean to, but we didn't. It passed. There could be issues like that. From this point on, Buddy and I [off-mic] anything for a single-family, any construction anywhere we'll be referring to the Planning Board for site plan approval.

Chairperson Speranza: But we don't require site plan approval.

Building Inspector Sharma: No, the code does require it.

Chairperson Speranza: No, not for a single-family house.

Building Inspector Sharma: Except for the single-family.

Chairperson Speranza: And that's what we're going to be looking at. And you should also look at the things that are coming across your desk that require site plan approval that don't seem like it should be an application to us for site plan approval.

Building Inspector Sharma: That's the case I'm trying to make. If somebody [off-mic] bathroom in a multi-family, theoretically that needs to come before you. But I'm saying there should be some mechanism.

Chairperson Speranza: And that's what we're going to be working on for the next meeting.

Boardmember Cameron: And I think one solution to your problem is for you guys to have internal checklists. If someone's coming for a change to an apartment, here's all the issues. And one of them is maybe it has to go to the Planning Board. Maybe it shouldn't go to the Planning Board, but that's what people use checklists for.

Village Attorney Stecich: You know what? I'll send you ... while Irvington does require site plan approval, it doesn't require it for any internal stuff. So let me take a look. I'll send that provision over to you. And I'm not sure whether it's the language or the way it's interpreted. I think it is.

But I'll send that language to you.

3. Miscellaneous

Chairperson Speranza: Just one other thing because ... it's funny that I don't wear a watch anymore and don't know what time is it.

Boardmember Dale: It's 10:30.

Chairperson Speranza: OK, thank you. Just real quick. Because I caught part of the Board of Trustees meeting the other night when they were talking about the cluster. It seemed as though they started out talking about protecting the gateways to the Village and ended up with a discussion on cluster and how to implement cluster ... when cluster of subdivision should be mandated or controlled by the Board of Trustees, or they delegate to us the power to mandate.

So that's certainly something that I was really glad to see. They're already started in terms of finding ways to begin the implementation of the concepts in the Comprehensive Plan, which is great. So we're going to be hearing more from them about this. That was the sense that I got. That they're going to be asking for our input, or certainly before they make any kind of change to the code.

So that's something else to think about. I mean, we don't get that many. And I can see, particularly for the large tracts, it certainly would become an issue whether or not we mandate development as a cluster. But I think it's going to be property by property.

Village Attorney Stecich: Well, see, what it is now is that you don't get many because cluster zoning isn't ... it's only allowed in Hastings on lots that have already been identified as you can have a cluster on this lot and you can have a cluster on this lot, determined by the Board of Trustees.

Chairperson Speranza: Right. There's no zone.

Village Attorney Stecich: There are these two. There are two projects that already exist, and that was what I had indicated to the Board of Trustees. You can just create more cluster districts, or you can give the authority to the Planning Board to consider clusters, or to require clusters.

Chairperson Speranza: Right. Have you ever seen, Marianne, like what do you get if you ... you wouldn't do an overlay now.

Village Attorney Stecich: For what?

Chairperson Speranza: I was going to say, for cluster, you just have the power to require that a certain ... like, for instance, I don't know, the Burke Estate, when Burke Estate was a real hot issue. The Board of Trustees could require ... I wonder how it works.

Village Attorney Stecich: What they would do, there's a code section called "conservation of cluster districts." And there's two of them – a CCH-1 and a CCH-2 – and they were created for The Landing and Riverpointe.

Chairperson Speranza: Riverpointe, right. I remember that one.

Village Attorney Stecich: And that's another thing people seem confused by is clusters don't necessarily mean townhouses, connected houses. It can just be single-family houses on separate lots. People didn't seem to understand.

For instance, I don't know if anybody ever saw the way the Hartz property up in Irvington was developed into these kind of McMansions. But that's a cluster because they're on smaller lots than would otherwise have been allowed under the conventional zoning.

But other codes, for instance Irvington's, the board of trustees has nothing to do with clustering other than originally adopting the law. And what they call it is an average density law that says an applicant can come in right now.

You couldn't just come in with an application for a cluster to the Planning Board if you were doing a subdivision. Because you would have to go to the Board of Trustees – or the Board of Trustees to allow the cluster – and then they would come to you.

But in Irvington, an applicant for a subdivision can come in to the planning board with a cluster proposal. Or somebody can come in with a conventional subdivision and the planning board can mandate a cluster. It's for certain purposes, like you want to preserve open space or important vistas or historical buildings or something like that.

And that was what I told the Board, kind of the two models for doing that.

Chairperson Speranza: Right. So that'll be something.

Boardmember Cameron: We have a waterfront cluster. No, I'm just kidding.

Boardmember Strutton: Of lights.

Boardmember Dale: A cluster of lights.

Boardmember Cameron: It's going to become Stonehenge-on-the-Hudson.

VI. ANNOUNCEMENTS

Next Meeting Date – September 15, 2011

Chairperson Speranza: OK, so we're set for September. Jamie's not going to be here. Anybody else know already? It's September 15, the next meeting.

Boardmember Dale: I'm not getting any e-mails. I did not get the minutes, and I didn't get the steep slope stuff.

Chairperson Speranza: Really?

Deputy Village Clerk Healy: I'll double-check.

Boardmember Dale: Please.

Deputy Village Clerk Healy: What's your e-mail address?

Boardmember Dale: Brucesdale@aol.

Deputy Village Clerk Healy: OK.

Boardmember Dale: I used to get some, but I haven't got the last two months'.

Boardmember Cameron: Actually, I have a couple of e-mail addresses and one's an AOL address. I've had terrific back-ups on my AOL. They come in a huge lump.

VII. ADJOURNMENT

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Alligood with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 10:35 p.m.

PLANNING BOARD
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