

**PLANNING BOARD  
OF HASTINGS-ON-HUDSON, NEW YORK  
REGULAR MEETING AND PUBLIC HEARING  
SEPTEMBER 15, 2011**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, September 15, 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 Bruce Dale, Boardmember Ed Dandridge, Boardmember Rebecca Strutton, Boardmember Kathleen Sullivan, Village Attorney Marianne Stecich, Building Inspector Deven Sharma, Deputy Building Inspector Charles Minozzi, Jr., and Deputy Village Clerk Mary Ellen Healy

**Chairperson Speranza:** OK, good evening everybody. It's Thursday, September 15. I hereby call the meeting of the Planning Board to order.

**I. ROLL CALL**

**II. APPROVAL OF MINUTES**

**Meeting of August 18, 2011**

**Chairperson Speranza:** First order of business is the approval of the minutes from our meeting in August. That's August 18.

I will start out. I did have one change to the minutes, on page 39. You know, sometimes when you make a remark off the cuff it comes out looking very odd in writing. Page 39, I'm mentioning ... or I'll just say I have a sentence here that says, "*Yes, sure. Well, we didn't say no, this is a horrible idea.*" And then I said that we really want it to stay the way that it is. Just strike ... because we didn't want it stay the way that it was. I was being sarcastic, and sarcastic doesn't come through with no tone of voice. So if you'd just take that part out.

Anyone have anything else?

**Boardmember Sullivan:** I have a couple things. Page 16, third paragraph down, please add ... I'll read it. "*It appears that the light fixtures that you're going to use in the two land sides,*" please add "are what?" Jim was referencing.

**Deputy Village Clerk Healy:** I'm sorry. I can't hear you.

**Boardmember Sullivan:** I'm sorry. Third paragraph, that first sentence, it should read: *"It appears that the light fixtures that you're using on the two land sides ..."* "are what Jim was referencing." And at the end of that same paragraph, *"After a huge expanse of light, and I don't understand ..."* add, please, "why there is the sense that you need to protect the part of this thing."

Next paragraph down: *"The cameras that you're using being infrared,"* please strike *"are in the ..."* And the next paragraph down: *"You can use thermal cameras, which need little or no light."*

And lastly, page 43, second paragraph, the first sentence: *"I have just seen people get hung up on it. It bothers me that this isn't being used as a tool."* Please add, "... as meant to be" *"... the short time I've been on this board."*

So that's it.

**Deputy Village Clerk Healy:** I'm sorry, Kathleen. One more time? I wasn't on the page.

**Boardmember Sullivan:** I'm sorry. Forty-three, second paragraph, first sentence. Please add ... I'll read it: *"I have just have seen people get hung up on it, and it bothers me that this isn't being used as a tool ..."* add "as meant to be" *"the short time I've been on the board."*

Thank you very much. I've learned to try to speak more clearly.

**Chairperson Speranza:** OK, that's it?

On MOTION of Boardmember Dale, SECONDED by Boardmember Strutton with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of August 18, 2011 were approved as amended.

### III. OLD BUSINESS

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

**Chairperson Speranza:** All right. We have old business. It's a steep slopes application for a property at 12 Prince Street. And this has been here – the applicant has been here – a

couple of times before. And I see we have our engineer, our consulting engineer, here as well.

This is a proposal to build a single-family home on a property which has fill on it, and it also has some steep slopes on it. Would you like to come up and review your proposal? I know we have new plans, and we have a new report from our engineer.

**Tom Abillama, architect – 12 Prince Street:** This application has been before this board a couple of times. Since the last time we were here, we received some comments from the engineering consulting firm. And we followed through with both of them. Then there were some additional items that were added to it as of this morning, or yesterday evening.

The concern of the Board, the number one item, is how to remove the fill. We address that by providing a sequence of work that details how the fill, especially along the end of the fill by the cliff, would be treated. At first, we're going to take off the 2-foot lift out of the existing fill. Once we reach the end, we'll take 2-foot lifts one at a time so we can minimize the slope of that last portion here, which is pretty steep. From a 1-to-3 slope, we'll end up with a 1-to-4 slope, and gradually end up with a 1-to-6 slope.

Every time we scoop up the fill it'll go into a truck. We're calculating that we're going to have four truckloads every day to haul away the fill. In a long period of probably seven to eight working days we'll be finished with that. We're proposing to have a silt fence along here. There's an existing retaining wall that borders the property which is about 18 inches in height. The silt fence behind it, it's a double protection in case there's slight erosion that might happen. But we're going to take the utmost precaution not to allow any erosion to happen.

The other things that are dealt with in here, I would like to have our engineer, Emilio Escaladas, to come in and explain the drainage calculations and other issues in that regard.

**Chairperson Speranza:** I just want to make sure we're looking at the same plan, only because yours is a different color. But let's make sure it's the same date – 8/11/11?

**Mr. Abillama:** There has been some variations to it since the last comments that were received from the engineer.

**Chairperson Speranza:** Supplement to the plans we have now?

**Mr. Abillama:** Yeah.

**Chairperson Speranza:** And we don't have them.

**Mr. Abillama:** Well, we're dealing with them as we have been dealing with them since yesterday, and together this morning.

**Chairperson Speranza:** No, we'll keep going.

**Emilio Escaladas, engineer – Escaladas Associates:** The last time I had one of these I was on a cruise ship. I promise you I won't do that. I'm an architect and engineer in Elmsford.

I have the same question: Is this the same drawing that I received when I first was informed? And in essence, it is. There is no movement, vertical movement, of the house. There's no sideways movement of the house. The elevations of the floors are the same. And the excavated volumes that are projected for the installation of the basement of this house is the same.

The reason why I'm saying it, and opening it that way, is because the amount of excavation is really the same. The issue that the Board, I think, was concerned with was the removal and other things; for example the material, the makeup of this fill. Because of that – and my connecting with the town engineer – we arranged for a site visit with a very big machine. And we excavated four holes: one in this deep corner; one in this other deep corner where the steepness is greatest, and two in the front.

And what we found ... we have submitted the reports to the engineer, I believe it was on Tuesday. So it was a very short time, but they had an inspector there, as well. What we found is that the material was primarily homogenous in nature. It was made up of soil and rock; 60 percent soil or 70 percent soil, and 30 or 40 percent rock, broken rock.

It was interesting. When we started to dig, what we did is we found a gentleman that had filled the lot because he's the builder of the house across the street. And he said, "Oh, hi," and he's very friendly. We found out: "Oh, yeah. No, I brought that fill from here to here." And he told me what it was. Sure, what it was is what we found. There was a mixture of soil and rock.

Also, we have to note that this excavation was done the third day after the storm. I expected to see a lot of puddles, a lot of water. It was nothing; it was bone dry – telling me that the soil was very permeable, very well-drained. At the bottom of the first hole, which was 16 feet deep from the surface – meaning that the amount of fill, the depth of fill, in that corner ... I'm sorry, this was 12, this was 16. The deepest part is here. This is 12, and this was maybe 4 feet and maybe 2 feet.

So we can see that ... and we were able to see the original grade because there's a black line, which is the putrefied grass from when it was filled. Anyway, at the bottom of that black grass we took it out, we did a hole for perc, and we found the soil to be extremely quick, extremely fast. Which was the proper thing to obtain because there was no water present. So apparently we have a very fast soil throughout the entire area.

Anyway, the reason why we did a perc test is because we have to design the drywells for the stormwater plan for this particular house; which has been done, has been submitted to the engineers. And, in fact, it has reduced the six drywells that were originally proposed to three, with more volume to spare.

That was the primary concern, I believe, of the Board and, I believe, of the engineers. We were happy to find that there was no organics, there was no smells. There wasn't anything that the Board would fear in taking out, in contamination. Frankly, I had the same fears because who knows who filled it. But it was perfectly clean and honest fill. In fact, it's a very good structural fill. It wouldn't be difficult at all to get rid of it because people love that type of mixture of soil and rock, from a structural point of view.

Anyway, so the issue of what is there was resolved. The issue of is it permeable, impermeable. It is clay, is it well-drained. That was resolved. The drainage calculations were done, and it was actually found that we could do the stormwater detention with three units rather than six.

There were issues that were raised in the latest letter that we received from Mr. Hahn this morning. I simply want to touch upon those subjects. The impact to the adjacent houses is ... I don't want to minimize it, but I would say it is diminutive in size. It's the impact of the construction noise, the annoyance of having to have the actual construction activities for six to eight months in the backyard, or in your side yard. That, I would say, is annoying and that definitely is part of this application. We can't erase that.

However, there is no possible impact of damage to any of the existing structures as it was alluded to by a question that I read in the minutes of the past meetings how it will affect the adjacent house. The adjacent house has a full basement, and the structure and the weight of that house goes strictly to the depth of the original soil, which is going to be lower than where the basement of our house is going to be. So that's not even in question, in my mind. As a structural engineer, I say that's not a problem at all.

The house to the rear is too far to be affected at all by the excavation, by the structure, by the weight of the structure upon the soil. And the house on the left is just too far. And, again,

the same reason: its footings are not anywhere near the level of the profile where we will be excavating.

In fact, the only concern that we have to have is, when we build the house, that the slab of the basement is properly supported on top of the fill that is there. And which it will be done through piers and great beams. We have discussed that, and that's a solution that will have to be accepted by the Building Department upon our acceptance by the Board. But that's the only concern, and we discovered that by looking at the nature of the fill. That fill is not consolidated at all so it has to be bypassed, it has to be breached.

Again, the drainage is not an issue from my opinion, my professional opinion. I am willing to stamp the drainage calculations, and I'm sure the town engineer will have comment, or agree with it. The downstream flow will not be increased because that's exactly what we're doing. We're maintaining the status quo of the existing stormwater flows.

And as I said, this particular storm that we had – which was a 100-year event – did not cause any ponding in the area. So apparently, the entire area is very well drained. So my addition of drywells, plus the history and the type of soil there, just points to no problem with drainage.

The erosion potential of the construction I think was addressed properly by the architect, saying that we will be taking these off in lifts. And as the lifts are excavated, they'll be placed on trucks and the fill removed. There's still an option ... and I don't know what you have decided, whether you allow the grade to descend as is shown here, or whether you exposed more of the basement, which would be another option which would force the excavation to remove more material if the Board wishes it to be.

In other words, we have the opportunity of excavating the rear so that the wall of the basement is exposed. It's not shown here, but you had a beautiful graph the other day that I saw. Look at all these beautiful drawings. These are beautiful drawings. And I'm an *architect*.

**Chairperson Speranza:** I wish we'd had them earlier.

**Mr. Escaladas:** I'm envious of his ability. I'm still on all fours; I like to do everything by pencil. But I do have a slave that does the computer work for me, but it never comes out this nice. Anyway, the back. And I'm only citing this in case ... there is quite a lot more done, see. The back can be brought down even more. More of the rear elevation can be exposed if desired, if the Board says, "Look, I want more of the fill to be removed." And I don't know if that's acceptable, but it certainly can be done.

I want to tell the Board that that possibility exists. And it's a question of where do we stop the excavation. We would put two cheap walls on either side of the wall. I could prefer that as a user because I can use the backyard from the basement, and I could walk from the basement out to the garden. So again, that's an architectural feature. But I'm mentioning it to the Board in case you would like to have that option.

The erosion control of the grading, the exposed grading, I think the best way, if I could control this, would be with ivy or any of the climbing vegetation that easily will grab on to this very rich soil. I don't know what landscaping is planned, but any exposed edge can be treated with proper vegetation to guarantee us that type.

I didn't see any other issues that the town engineer might have raised, but I believe I touched on all of them. There is ... they want a certain profile done a certain way. There's a few tidbits that, graphically, they want in the record. But I believe that site visit on that excavation put things at ease in their mind. I don't want to speak for them, but I believe that was their main concern.

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

**Mr. Escaladas:** By the way, we do have copies of the reports that I sent. They're here. If you would like I can give them to you just for the record.

**Village Attorney Stecich:** One for me, too.

**Mr. Escaladas:** I only have one copy.

**Village Attorney Stecich:** Then the chairperson should get it.

**Chairperson Speranza:** Thank you.

**Mr. Escaladas:** The engineer has received them, too.

**Chairperson Speranza:** Our engineer.

**Mr. Escaladas:** You're *their* engineer.

**Mr. Escaladas:** Yes.

**Mr. Abillama:** I would like to also mention to the Board that I met with the neighbor next door and she's willing to provide the two parking spaces that were needed and required by the subdivision. If you can see in the sketch here, we're proposing to have another driveway off Prince Street going down to a two-car garage in tandem. She would like also to do some porches and some other stuff beyond that. Next time they can be able to appear before this board.

So that might alleviate some of the concerns that the Boardmembers have because of the issue of the soil being protected on her side from the work that we're doing. So it might be worked out in such a coordinated manner that the retaining wall that we're proposing along here is probably not needed as much. So the contour lines that you see here can be flattened, and are naturally indicated and shown between the two properties.

**Boardmember Dale:** You're saying that the removal of the soil will happen on both sides of the property line?

**Mr. Abillama:** Obviously, in coordination with this support.

**Boardmember Dale:** So there won't be that issue of it migrating or collapsing either way.

**Mr. Abillama:** Yes. I mean, for now we're proposing this 2 foot high retaining wall just to stop the erosion from happening from one side to the other. But might as well, if we're going to do the two houses together we can take care of both needs.

**Chairperson Speranza:** And this might be an appropriate time, Deven, if you want to explain that you've gotten correspondence about the adjacent lot?

**Mr. Abillama:** The neighbor provided the letter to you.

**Building Inspector Sharma:** I've forwarded a letter from the neighbor that within 30 days' time she would move to get something started to have two off-street parking spaces. She has also paid the recreation fee that was one of the conditions.

**Mr. Abillama:** So Mr. Hahn, if you'd like to come up.

**Chairperson Speranza:** Yeah, come on up. I do want to say we're in the same position we were in the last time you were here, when you're speaking from a set of plans that we don't have. And that makes it very difficult for us.



I know there had been some discussion as to whether or not you would be back on the agenda tonight because we didn't have them. But I had thought we were going to be looking at the same plans that Deven already had, our Building Inspector already had. But now there's another set of plans.

**Mr. Abillama:** I apologize for that. But what I would like to say is that in essence nothing has changed as far as grading and treating the steep slope, which that's what we're here for. It's only additional items in regard to drainage, the results of which have lessened the requirement of the drywells that we're proposing here. We're proposing here six drywells. The new drainage calculations by the engineer has resulted in three drywells.

So we are over-designing. I understand your situation; that what you're looking at here is not what is in front of you. But in essence, really, there's not much difference if you want to take my word.

**Chairperson Speranza:** Well, it's got to do with our obligation as a board that we're making a decision based on the information that we're presented with. And the information that we're presented with shows one thing, and you're going to build something else. And that's kind of problematic with respect to us giving an approval.

**Mr. Abillama:** No, I understand. A conditional approval based on those items that Mr. Hahn is addressing ... because those items Mr. Hahn has addressed lately after we had the perc test done.

**Chairperson Speranza:** OK. You know what? Let's hear from him. Go ahead. So last time, you received the set of plans that we had, that we have before us now, and have taken another look. And, I understand, went out to the site and observed it.

**Doug Hahn, Hahn Engineering:** Yeah, we had a couple comments after the first set. So that's why it had changed; he had addressed some of the comments then. We did go out to the site and we inspected the deep tests, the depth of fill.

I think, based on the comments that we have, the engineer addressed the two important ones. Number one, the potential impacts, and number two the drainage.

**Chairperson Speranza:** So wait. Can you bring us back. We got this tonight in your report. So this is the report after you reviewed this set of plans from August 11.

**Mr. Hahn:** Yes.

**Chairperson Speranza:** OK. So this is the report on these plans.

**Mr. Hahn:** Yes.

**Chairperson Speranza:** Your report on these plans.

**Mr. Hahn:** Yes.

**Chairperson Speranza:** So they're supplemental findings.

**Village Attorney Stecich:** And also on the perc test.

**Mr. Hahn:** Actually, I had initial comments on those plans. And since then, they've been revised again.

**Boardmember Sullivan:** Patty, if you look on his memo ... you note "Site Plan, Revised 9-8-11 – Details Revised."

**Mr. Hahn:** And those ones may be even revised since then.

**Chairperson Speranza:** Than what we had.

**Boardmember Sullivan:** I think so.

**Boardmember Sullivan:** Thank you.

**Chairperson Speranza:** So why don't you go through your report, and then let us know what has since been resolved.

**Mr. Hahn:** OK. The beginning of the memo goes over basically what the engineer was discussing: the depth of fill, the material from the fill. It's local material, so that's a good thing. It's homogeneous.

Now the issues, the concerns that we have are. The main concerns were the impacts of the steep slope and the drainage, one and two. Number three – and I'll come back to that just to go through it – three is the ... there's a retaining wall on the east side of the property. We were looking for the height of that wall. And then we're looking for sections through ... the additional information on the sections: the depth of fill, the foundation, and different things like that.

Number five is the slopes on the driveway. The parking spot on the side shows up to, it looks like, 25 percent. I looked at the recent plans now, and there's spot elevations so that you can see the actual slope on the driveway, catchbasin invert dimensions, and basically dimensions for the details that are provided.

Now, I wanted to go back to the impacts. The engineer did address the impacts of the fill, but he didn't specifically say ... when he was talking about removing 2 feet of fill, that removes, that eliminates, additional weight on the slope. And it also decreases the slope. So I think that's the main ... to address the steep slope, I mean it's basically ... it's more of a concern if you're increasing the steepness of a slope. But what they're doing is decreasing it, and I think that's what he was getting at. But I don't think he specifically said that. So we really don't have too much concern with the removal of the fill.

And then drainage calculations. They've been revised, and I did see them. I didn't get the chance to go through them yet, but at first glance they look ... they're according to the Westchester County practice. They seem to address most of the main concerns.

**Chairperson Speranza:** All right, thank you.

This is a public hearing. Is there anybody here from the public who wishes to talk about this proposal? Yes, sure. Come up and just state your name for the record.

**Lauren Altsher, 16 Prince Street:** I'm nervous. I live on the adjacent property. You know, it sounds like you're taking care of the steep slope issue. I don't know how that works.

But I am concerned about the space issue. It's a very small street and it's very tight to turn around. And also the parking issue. And I don't know if this is the place to address it, but it's of concern.

**Mr. Escaladas:** I will answer that in a second. Before I forget, the issue of steep slopes is an important one, particularly when it's a naturally existing condition. I just wanted to remind the Board that this is a manmade steep slope. And as the engineer thankfully agrees with me, this will be lessened and eliminated by the construction of the house.

And it is a tight grid, no question about it. You already went through the construction of one house, and it's bigger than our house. You could possibly then remember the negative aspects of that house. Whatever happened there would probably happen with us. So it's the same issue.

We probably ... at the beginning he moved the site. His excavation was moved on to this lot so you were spared the truck traffic when that house was built. In this particular case, as the architect explained, it will be five, six, seven days of trucking at the very beginning, which will be the most unpleasant part of it. After that, there'll be maybe three trucks of concrete for the foundation in one day – that gets one in one day. The footings first, then three days later or four days later there will be another two or three trucks in one day, pouring the walls. And that would be the extent of the heavy truck traffic.

The rest, you're right. The workers will come in with maybe two, three vans. But we're lucky that we have enough space in the front to take the cars and the vehicles off of the street and onto our site. Normally we have the plumber and the framer and the electrician together. I could see the most you could see is four vans, and they would all fit comfortably in the front of the house because we're far back from the edge.

That's the worst case scenario I'm not saying that it's a nice situation, but that's the worst thing that could happen, will happen. And the noise.

**Ms. Altsher:** [off-mic]

**Chairperson Speranza:** The parking, the on-street parking.

**Ms. Altsher:** [off-mic]

**Chairperson Speranza:** You got to come to the mic.

**Ms. Altsher:** I'm referring to the long-term situation. I think it's fine to build a house, but it's very tight in there. And right now, the house that you were discussing that's adjacent, the other adjacent house, they have ... their parking is on their front property. So they would lose that space to park, and then they would need to park in the street. And there is no parking on that end of the street on that side.

**Mr. Abillama:** Well, here's what's happening. In this house here, we're proposing to have a two-car garage and there's room on the driveway to park, an additional parking space in here.

**Ms. Altsher:** Wait, wait. An additional ...

**Mr. Abillama:** There's a K-turn that possibly, on a day when they have a lot of guests, they can park along this one here. So I don't think anybody's going to end up having the need to park along the street. The other ...

**Ms. Altsher:** What about the adjacent house? Where are they going to park?

**Mr. Abillama:** The adjacent house, what we're proposing in the future is to propose a two-car garage in tandem. So they'll end up having their cars in the garage, and there'll be a driveway also allowing to have some additional parking. Plus the topography of the street itself is not going to allow them to park on the street because that's the hill at this end.

So that's ... I think the parking requirements are alleviated by providing those parking garages and the driveway.

**Ms. Altsher:** Yeah, I don't know what the requirements are or how that works. I'm just thinking logistically. You know, it's also ... it's a tough ... I assume you've been by, but it's a tough area to turn around, period, the way it is now.

**Mr. Abillama:** That's why we provided for the turnaround solution inside within the property.

**Ms. Altsher:** OK. In both situations there would be turnarounds.

**Mr. Abillama:** It's called a "K-turn."

**Chairperson Speranza:** OK, anyone else wish to speak on the application?

Boardmembers, what do you think? Again, I find it difficult knowing that there's a new set of plans. If it were determined to proceed tonight, the one thing I would insist on is that we get a report from our engineer that shows that everything is addressed. But before we get to that point I do want to hear any comments or questions from the Boardmembers.

**Boardmember Strutton:** I have a question, actually, on the drawing. There's an area marked "stockpiling area" surrounded with silt fence. But that's in an area where the slope is not supposed to change. So what's being stockpiled, and then what's being removed from the stockpile?

**Mr. Abillama:** Well, in every project we need to address an area where we have to stockpile some soil. We don't anticipate stockpiling, but we're just indicating it because it has to be shown in case. There's no need for any backfill.

**Mr. Escaladas:** Yeah. In fact, that's a good question. Because in this particular project there will be no topsoil stockpiling. It'll be an export work ... we'll be excavating and taking

out. We may leave a small amount for final grading but, as you say, there's always a need for some amount for final grading. But 90 percent of the excavation will be taken out.

**Boardmember Strutton:** I heard you say that, but then when I saw this I thought perhaps there's some risk that that grade's going to change, that some will be stockpiled and not removed. And we'll end up with a greater grade than is anticipated on the plan.

**Mr. Escaladas:** I think when all is said and done, and the excavation is done, I think the back of that house is going to be nice and flat. Because that's the only place where they're going to have a real nice backyard garden. I believe that that's what's going to end up happening back there. Instead of having any kind of slope, it'll be just flat. If I get my way, that's the way I want to do it.

**Building Inspector Sharma:** No, you will be keeping some of the fill material to backfill.

**Village Attorney Stecich:** But doesn't that raise an issue?

**Chairperson Speranza:** Yes.

**Boardmember Alligood:** We can only approve what's on the plans.

**Mr. Escaladas:** I'm sorry, I didn't hear that.

**Village Attorney Stecich:** You're suggesting that the final plan may be different than even this.

**Mr. Escaladas:** I'm saying to the Board ... what I said to the Board was if they would prefer – because more of the material ... let's say the issue that the Board is thinking, it's an option for them. And I raised that not as my choice, but as the option for the Board. And I wanted them to know that it was OK, certainly with me, and I'm sure with the applicant. If they wanted to remove more of the existing material, that would work as well because it would create a flat yard from the basement to the property line.

But it's certainly up to the Board's wishes. I'm not suggesting one thing or another. I was just simply saying to the Board, if they would like to take more material – that's what they're worried about – it certainly can be done.

**Village Attorney Stecich:** See, I think you're confusing, or you're misinterpreting, the level of concern we have. Our concern with the fill was, a) the fact that there's a slope here and it was filled was certainly a different kind of an application that we've seen before, and

something that concerned us with respect to the constructability and the stability of the soils. It does not minimize the concern that we have with this being a slope and what the impacts are on the downstream properties with respect to drainage and soil and erosion control.

If there were not a fill issue, we would want as much of the slope retained as possible, within reason, to create the safest situation for drainage and erosion control. So I don't know. And that's another reason why having the plans to which the house will be built is so important to us. So that's part of the determination.

Going in and saying that it will be flat if we want it to be flat so we're getting rid of more of the fill only addresses the fill issue.

**Mr. Escaladas:** Understood.

**Chairperson Speranza:** It does not address the fact that we don't want to lose so much of the slope.

**Mr. Escaladas:** Let me ask you this. Are there any issues that the Board has that I have not addressed in terms of ...

**Chairperson Speranza:** In my view – and I need Boardmembers to speak up – you have touched on them all, all what our concerns are. But they're not ... we just can't see, and visualize. You know, we read the plans.

**Boardmember Strutton:** The comment that you're going to dig down and put pillars into the original soil.

**Mr. Escaladas:** But with respect to the structure, if you're worried about it and you're concerned about the house, that is going to be addressed. Certainly, the footings of this structure will not be floating on this unconsolidated fill. It will be ... we will excavate to past virgin, and we will put the spread footings at that depth.

That depth is around 16 to 18 feet, and in spots it will be 10 and 12. So it will be a descending foundation and footing according to the original grade. But that's a structural issue, and that's certainly going to be done according to where the virgin and sound soil is.

What we found in the excavation was that the deepest fill was 16 feet. So the deepest wall, minus 2, is 14. So the wall would be, at its deepest point, 14 feet. But it will be on sound ground.

**Mr. Abillama:** If you want to visualize, this line, this dashed line, is what we suspect is the old natural soil.

**Mr. Escaladas:** And thus, we have to go down with the foundation below that line. We're anticipating to come down to this level in lieu of just going down 42 inches below grade, which is what's needed. Then as far as the slab goes, there are two ways of doing it. And those are ... these are structural items that I don't want to bore the Board with.

One of them would be to create a situation underneath the slab, and only a small portion of the basement. And the other one is to compact the existing soil with 6-inch lifts by 6-inch lifts, and thus we can be able to pour the slab on top of them. But those are construction options. They're within the house interior.

But I'd like to address also the issue of the fact that you're concerned that the drawings you have in front of you are not what we have here. As far as the excavation of the soil, as far as the location of the house, as far as ... everything hasn't changed. All the elevations are still the same. Your drawing is as much a complete drawing.

Now what happened is that in the past few days we went through comments from the engineering/consulting firm, and we addressed them on our drawing. We'll come up with similar drawings that you have. They're all comments that deal with spot elevations of the driveway; informative items to show a cross-section of the site that's more clearer than what they have seen before. Nothing has changed. Nothing at all has changed in the application.

And normally, I've been before boards and they put these conditions on the approval. And at least we added, we provided, some drawings that indicate that those issues are addressed.

**Boardmember Dandridge:** You know, I just have to take a little issue with this, particularly on this project. And I want to be supportive, but I've been playing catch-up on this from the very beginning. And every time you come before this body you say the same thing: you reference other boards giving conditional approvals. I'm sitting next to another member here. We're looking at totally different drawings. We don't have the same information.

I understand that you got the engineer's report just recently. I do think it's incumbent upon the applicant to present us with a comprehensive package with due notice so that we have an appropriate amount of time to review it. I'm just not prepared to take any action at all on this until we get it, once and for all, in one package where both the engineer's report and the drawings are in sequence with the application. I just am not in a position to vote. And if you force it, I will vote no.



**Chairperson Speranza:** How did you get the new plans?

**Boardmember Dandridge:** That's my point. I have something that someone else doesn't.

**Chairperson Speranza:** OK. Bruce, anything? Any comments?

**Boardmember Dale:** I agree with that. One-hundred year storms come a lot more often than every 100 years these days, as we witnessed. The last one was three years ago, and now we're having another one.

I was looking at your drainage system because my house had problems and I have to add extra drywells. I'm trying to figure out how this works. But I see six drywells. I don't know which three you're going to remove. I just feel that we do need to have a complete set of drawings. We're not here to take your word, we're here to evaluate your project.

**Boardmember Sullivan:** I want to thank you for being responsive to the comments that we've had. And I want to thank our town engineer also for assisting in the review. Because my concerns have been addressed in the borings that you've taken, the additional testing, the site visit that was made.

Mr. Escaladas, one of the changes that was made in the plans that we received was the addition of the retaining wall. That was something that came out of our last conversation. So just to clarify, Jamie Cameron was the Boardmember that brought this up of being concerned about not so much the structure of the house, but how the excavation would affect the other house. So the addition of the retaining wall was a very good measure and one that Deven Sharma recommended investigating. So I just wanted to clarify that.

So I think you've been very responsive, and I appreciate that very much. My comments mainly were to have the engineer review your new drawings, which now with the report we know that they are in the process of doing that. I have to concur, however, with my fellow Boardmembers that I would like to see a complete package. And not so much catching up, but just to understand where you're settling in answering some of the questions.

And I think I would like also to know that the engineer has reviewed those drawings and is comfortable with them. And I think that's just out of fairness to the process and fairness to what the Board's responsibilities are.

But I want to just reiterate. I want to thank you for being as responsive as you have been. I think you and the owner have done the measures that we were looking for, and I appreciate that very much.

**Boardmember Dale:** I agree with them. I think that is true.

**Chairperson Speranza:** Eva, or Rebecca? Anything?

**Boardmember Alligood:** I just don't feel comfortable approving information that's not before us. There's too much room for something to change in the process, unfortunately.

**Chairperson Speranza:** Agreed. So next month we hope ... and we really need to have a set of plans reviewed by the engineer, have the engineer's report. Make sure that we get everything, OK?, so that we can progress.

Thank you.

#### IV. NEW PUBLIC HEARINGS

**Accessory apartment permit renewal for Kunghee Raad – 770 Broadway – Sheet 15/Block 639/Lots 1, 1A & 3. Waivers required for square footage and parking.**

**Chairperson Speranza:** Our next order of business is a public hearing. An accessory apartment renewal, accessory apartment permit renewal, for 770 Broadway. Let me check first. Are all the mailings in order on this application for renewal? Yes? OK, terrific.

So who wants to ... is the applicant here? You're the applicant? You don't have to say anything if you don't want to. We have an application before us. Do you or Buddy want to walk us through what the renewal is?

**Deputy Building Inspector Minozzi:** We did a walk-through on 770, and there were a couple of discrepancies in the square footages. We corrected everything, and we came up with two variances that they would require. One would be for off-street parking, and one would be for an excess of the allowable square footage.

I don't have the numbers in my packet. I don't know if you have them there. Do you have them? As the Board knows, their normal percentage is 25 percent of the total house. This

apartment is 49 percent of the total house. Basically, it is just one floor, the basement floor, of the house. It's almost the exact same size as the home itself.

It's increased a little bit since the last application. There was a garage that has been converted to living space. So that's why the percentage has gone up since last year. That is reflected in my report. Those were the only two issues we have come across, Patricia.

**Chairperson Speranza:** And there have been no complaints since the last application?

**Deputy Building Inspector Minozzi:** No, we received no complaints on this address.

**Chairperson Speranza:** OK. This is a public hearing so I do want to just request if there's anybody in the audience who would like to speak for or against the application. I can say likely not, because there's no public here.

Do you want to say anything? The applicant? You have to come to the mic if you do.

**Village Attorney Stecich:** Patty, could I ask a question?

**Chairperson Speranza:** Sure.

**Village Attorney Stecich:** I'm assuming they didn't need the parking waiver before.

**Chairperson Speranza:** I think they did.

**Village Attorney Stecich:** Because there was a garage. Is that what happened?

**Chairperson Speranza:** No, I think they always needed a parking waiver on this property.

**Deputy Building Inspector Minozzi:** No, Marianne. They needed the parking waiver last time, as well.

**Chairperson Speranza:** They did, yeah.

**Village Attorney Stecich:** OK. Now, when was the garage converted to living space?

**Deputy Building Inspector Minozzi:** It was legalized just a couple of months ago.

**Village Attorney Stecich:** And I'm assuming that the conversion of the garage eliminated parking spaces.

**Deputy Building Inspector Minozzi:** It still has the two parking spaces that were originally in the driveway for the original house.

**Village Attorney Stecich:** Yeah, because if it eliminated parking spaces then it was just two months ago.

**Chairperson Speranza:** Then it made the house nonconforming.

**Village Attorney Stecich:** Yeah. Also there could be parking issues that you wouldn't know about. But if it's the same number of parking spaces, OK.

**Chairperson Speranza:** OK, then I'll close the public hearing on this and ask if there's any discussion or comments or questions from the Boardmembers. No?

Then can I have a motion for approval for the accessory apartment renewal application for 770 Broadway, noting that a waiver would be required for square footage and a waiver would be required for off-street parking.

On MOTION of Boardmember Dale, SECONDED by Boardmember Dandridge with a voice vote of all in favor, the Board resolved to approve the accessory apartment renewal application for 770 Broadway, noting that a waiver would be required for square footage and a waiver would be required for off-street parking.

**Chairperson Speranza:** OK, you're good. Thanks.

**Village Attorney Stecich:** Do you want the survey? You might need it next time.

**Chairperson Speranza:** Deven, just a question about the notice. I noticed also that in the legal notice there was another ... there was to be another accessory apartment. She just decided that she wasn't going to be here tonight, or ... this is for Villard, Ms. Osborne.

**Deputy Village Clerk Healy:** She didn't do her mailings.

**Deputy Building Inspector Minozzi:** Oh, OK. Because I don't know the answer to that question.

**Boardmember Sullivan:** Thank you. I just didn't know if you were missing something.

**Deputy Village Clerk Mary Ellen Healy:** She called.

**Boardmember Sullivan:** I was worried some poor person thought this was happening, and it didn't.

## V. ANNOUNCEMENTS

**Chairperson Speranza:** OK. Couple announcements that I want to make. We received in our Planning Board packets a notice of a workshop that's being held on stabilizing stream banks. It's a program that's being held November 2 at the Westchester County Center.

It's a day-long program, and seems to have some interesting things, given all the items we've had to deal with respect to how we deal with water throughout the county. So that's November 2, Westchester County Center, and it's actually being held by the Westchester County Department of Planning. If you go to their Web site, I'm sure that they've got the registration form.

Also, I received a communication from Susan Maggiotto that there's going to be a roundtable discussion on affordable housing. And that's going to be Wednesday, October 6 at 7 o'clock at the Community Center. I'll just read this:

"Attendees will include Tiffany Zezula and John Nolan from the Pace Land Use Law Center, and Rose Noonan from the Housing Action Council. Ms. Zezula has compared our" (the Village of Hastings) "affordable housing law with the county's model ordinance, and will discuss where we're at and where we need to go."

**Village Attorney Stecich:** Patty, you said October 6. It's October 5 – Wednesday, the 5th.

**Chairperson Speranza:** Oh, I'm sorry. October 5. Wednesday, the 5th at 7 o'clock.

**Boardmember Sullivan:** At the Community Center?

**Chairperson Speranza:** At the Community Center, right. Susan has asked if whoever's planning to attend just let her know. OK?

## **VI. NEW BUSINESS**

None

## **VII. DISCUSSION ITEMS**

**Chairperson Speranza:** We had leftover discussion items from our last meeting, one of which pertained to steep slopes.

### **1. Review of amendments to Steep Slope Laws of the Village**

**Chairperson Speranza:** I guess there was some confusion at the end of that meeting how we left the ... what we were going to be looking at in terms of revisions to the steep slopes ordinance. So we have a draft version, which combines – and I hope you all got it –the recommendations that Marianne recorded from the meeting that night, as well as ... and I'm not even sure, Kathy, if it's all of them that are in here.

**Boardmember Sullivan:** Yes, they all are. They just were marked differently.

**Chairperson Speranza:** OK. And some that Kathleen Sullivan had asked that we have further discussion about. So the one that I believe that we all agree should be in here, at least that even, pertained to Section 249.7. And I would say on the second page, but I'm not sure if that's on everybody's second page: Building Permit Application Requirements.

The change was to have the steep slopes ordinance now read "*Applications for building permits for activities that the Building Inspector determines may affect or create a steep slope shall include the following information.*" That was the one, I believe, that we all agreed on.

And then there were ... we had discussion ...

**Village Attorney Stecich:** No. And Patty, the addition to slope; the addition to the definition of slope.

**Boardmember Sullivan:** That one I'd like to discuss.

**Chairperson Speranza:** The definition of a slope?

**Boardmember Sullivan:** Just after reading it in relationship to the other ... I'd like to review that in relationship to what Rebecca was mentioning her concerns were when you look at where it references later in the law.

**Chairperson Speranza:** One of the other items was to change the definition of "slope" to "the ratio of vertical to horizontal distance, measured in a minimum area of 1,000 square feet."

And then Kathy had requested that we make sure that we also include, in "definitions," a definition for "disturbance, excavation, or fill, or any combination thereof. And it shall include the conditions resulting from any excavation or fill." And then a definition for "excavation": "any act by which earth, sand, gravel, rock or other similar material is cut into, dug, quarried, uncovered, removed, displaced or spread."

And then a definition for "fill": "any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, dumped, transported or moved by a person or persons to a new location."

**Boardmember Sullivan:** Then under 249.4, "removing any lot that contains a steep slope and substituting any disturbance of a steep slope as defined by this section." So that would be it. And we did discuss changing, under 249.5, "developed" to "disturbed" under the two section, A and B.

**Chairperson Speranza:** All right. So I had thought we were OK with the slope, the definition of "slope," and giving what's going to be the Building Inspector determination for an activity that may affect or create a steep slope. And let's start with that piece. Is everyone still OK with that change?

And again, it's 249.7 that would read "Applications for building permits for activities that the Building Inspector determines may affect or create a steep slope shall include the following information." It's requiring, then, that there be a whole packet of information prepared.

**Building Inspector Sharma:** That's the most important change, in my opinion.

**Chairperson Speranza:** Now, Kathy, you said you're concerned about the way that "slope" is now proposed to be defined?

**Boardmember Sullivan:** If you wouldn't mind, Patty, since I've sort of instigated the review of this I just wanted to thank everyone for coming back and looking at this – since I

seem to be the only one that missed the boat last time – that certain things were being decided on not to being added.

The real rationale – my rationale – on even spending time on this was, just having seen in my short time on the Board that this law potentially needed some clarity brought to it so it was very clear what the activities were that we were looking to review if someone was going to be making a steep slope or working on a steep slope.

So with that said, the original changes were the additions of three definitions and one phrase that was changed to "refer to disturbance." If people feel that adding definitions lacks clarity, minimizes it, is not affected, then that's where I ... having them show up in a review on a draft and having them be admitted, I was confused by that.

Because my main point was, does the Board feel that these kinds of changes would be useful for an applicant. And I think we all refer – and I refer in my mind – to the architect who was very experienced who came in here having noticed all the people he needed to notice for adding on to a garage. So in a way, that didn't even touch the ground. So that, to me, there seems to be something that we can look at doing to make it very clear to people.

And I know, Marianne, in my e-mails back and forth about this I just need to know what would be the downside of adding definitions. Because adding definitions is very common in all of these sorts of laws just to clarify for people. And I may not have chosen the right ones to clarify, but I guess that's my question. If others on the Board feel that these make it muddy or wouldn't meet that goal, then that's a conversation I'd love to have. And I'm happy to have chosen a route that makes this less useful as a tool for people.

So that's why I just wanted to ... without talking about the slope definition, I just wanted to get back to why this even came in front of people. And I'm asking folks to spend their time looking at it.

**Boardmember Strutton:** If in can respond a little bit, I think that the language we proposed in 249.7(a) – giving the Building Inspector the right to determine whether an activity is going to affect a slope, and then having that impact whether somebody actually has put together an application for a building permit – should address the person who is modifying their kitchen in a house that has a steep slope.

And so I think that if that's the concern ... and I realize this is maybe, what, my fourth meeting so I haven't witnessed these people coming and making requests that are totally outside of the scope of this law. But as a lawyer, and as reading this and hearing that



complaint, I think this fix just does it. And my gut just typically, when drafting things, is to say the less changes you need to make to fix something the better.

And the minute ... just from my own practice, the minute you start trying to make changes that don't really ... you don't have a real driving force behind for the change, other than, you know, well, I've seen this in other places and I think it's clarifying, well, I think you start to raise risks that you're going to change something that you either – you know, that either is in the history of the law, without going back to really investigate why it was done the way it was ... you're going to change something that's going to have an impact.

So I think it's just a good ... personally, I think it's a good, conservative approach to just sort of fix the problem that you see, and not start making additional changes that might create problems down the road. And so that's why I think the proposal we have addresses our concerns. And I would be really hesitant without spending a lot of time, personally, to really read the entire section and track every definition – and think about every place where we might be making an impact where we wouldn't necessarily be expecting to do that – before I would feel comfortable adding additional definitions.

That's a really long way of saying that. I apologize.

**Chairperson Speranza:** And that's kind of where I thought we were. That this one sentence, and allowing the Building Inspector to have the discretion as to say, "No, you who are doing a change to your garage do not have to worry about filling all this stuff out, filling out the complete application and appearing before the Planning Board," that this resolved the issue as far as what are the activities that can and can't be done.

**Boardmember Strutton:** I mean, if you want me to explain the change to slope, I think it arose out of when you read 249.5(a): *"for any lot that contains a slope in excess of 15 percent"* and in (b) *"for any lot that contains a slope in excess of 25"* – well, the slope is just a ratio, the old definition of ratio vertical to horizontal. So you might have ... any lot may have a slope like that, but you want to measure it ... when you look at the definition of "steep slope" they're measuring it over 1,000 square feet. But then they're defining with a slope of 15 percent or more. So you can't use the term "steep slope" there, otherwise it becomes sort of circular.

So that was just ... I mean, I think it's just an inaccuracy.

**Boardmember Sullivan:** Just jump back. The applicant, again, that it referred to wasn't able to read this on his own and understand that he didn't need to ... he wasn't able to speak with Deven. Deven was on vacation in this particular instance, so he wasn't able to come in

and talk to the Building Inspector to determine what activities were going to trigger the need for review under Steep Slope.

And that's the last thing I just want to share. And I accept that folks feel that the smaller change was appropriate because I can support that. But I just wanted to mention that it seems problematic to me that someone can't read this and understand the activities that would create issues for steep slopes, since they really do come down to disturbance.

**Chairperson Speranza:** Although I do have to say, in that situation – based on the way that this had previously been written, where it said "*applications for building permits that 'contain,' or 'applications for building permits on lots that contain, or are proposed to contain, a steep slope* – that architect made the right decision. He was required to come to us under the previous definition. He was.

**Village Attorney Stecich:** See, I have to say, having lived with this law for probably as long – from the beginning – the only issue that's ever come up has been ... there's never been any un-clarity about it. The issue has been people have come up, had to make steep slope applications, on projects that was just silly. It was silly from the Board's perspective, from the applicant's, and whatever.

**Chairperson Speranza:** It was a waste of money, it was a waste of time. Yeah.

**Village Attorney Stecich:** And over the years, we kept saying, "You know what? Maybe we ought to fix this so it doesn't ... so that applications like this don't have to come in." And that's what the change is in 249.7. I don't think there's ever been a ... I'm not sure, but I don't ever remember the issue coming up of somebody not being able to understand it.

**Building Inspector Sharma:** In the six, seven years I've been here that should have never come up where there was confusion of what's the slope or what's the steep slope. That should have never come up.

**Village Attorney Stecich:** And what activities. And it's not that "disturbance" isn't defined. Rather than defining disturbance, they listed the activities that you can't do without coming in for a permit: you can't pave, you can't strip of vegetation, you can't whatever.

**Building Inspector Sharma:** No, but the disturbance – currently on a single-family dwelling – just regrading there's no building permit required for it, it may affect the steep slopes. But there's no mechanism for me to monitor it.

**Village Attorney Stecich:** That's that excavation and stuff, and that's another issue.

**Chairperson Speranza:** And I'm glad you raised that. Because when I went back through the minutes and was thinking about this whole excavation and fill, I thought to myself – based on the application we heard tonight – we got to go back to that. There should be no reason why people should be able to go and just dump soil somewhere and create the kind of situation that we have now.

**Village Attorney Stecich:** But Patty, that was the exact application that prompted Deven and me to make the change.

**Chairperson Speranza:** Because they were doing that one.

**Village Attorney Stecich:** We saw it, and we said why should they be able to do it. So we drafted that law, and the Board just didn't want to adopt it. And they said if it's not a problem, why fix it. And both Deven and I did describe the situation.

**Chairperson Speranza:** Well, maybe it's time to revisit that.

**Boardmember Dale:** When that woman brought her property for the subdivision, and we all knew that something had happened to the land, we had no basis to reject that subdivision by saying you have to remove the fill.

**Chairperson Speranza:** No.

**Village Attorney Stecich:** There was no regulation of excavation and fill. And I think that might have been the situation that prompted us to change it, or create a steep slope. Because it didn't used to be that. It used to be just if anything where there is a steep slope, and we added the language of creating a steep slope.

But see, they wouldn't have had to come in about the fill because you don't need a building permit to put the fill. So there was nothing to trigger it.

**Chairperson Speranza:** But if it's prohibited, if it's just prohibited.

**Boardmember Dale:** Well, you don't want to just prohibit. There may be occasions you would approve it.

**Village Attorney Stecich:** No, that's why we have the law. We drafted a pretty good law on excavation and fill.

**Chairperson Speranza:** Yeah. We'll have to pull that out.

**Village Attorney Stecich:** I'm not bringing it this time.

**Building Inspector Sharma:** It's 249.7(a). If we take on the building permit – that's any activity that in the opinion of the Building Inspector affects or creates steep slopes should follow this procedure – I think that would cover it. Not take a building permit, but any activity. If we can do that, that would trigger it. If I see, anywhere, somebody dumping.

**Village Attorney Stecich:** Oh, that's a good idea. There's more than one way to skin a cat.

**Boardmember Strutton:** Sorry, could you just repeat that?

**Village Attorney Stecich:** It's a good idea.

**Boardmember Alligood:** It doesn't quite cover everything, Deven, unfortunately. Because I can imagine a flat piece of property where somebody was just filling it up several feet. And you're not creating a steep slope, you're just filling it. We could still potentially have problems with that.

**Building Inspector Sharma:** It's my opinion, and if I say it is affecting, they can come and challenge me. But I can always stop and monitor it, and make sure it gets done the right way.

**Village Attorney Stecich:** That's a good point, Eva. But usually – every time I've seen this happen – it's been to flatten a yard.

**Chairperson Speranza:** Right.

**Boardmember Alligood:** But I can imagine, let's say, you have property that's very low and your neighbor's happens to slope up, and you just wanted to bring the grade up. You could fill it up and you wouldn't necessarily be ... I mean, would you consider that affecting a steep slope?

**Chairperson Speranza:** Yeah.

**Boardmember Dale:** Not if there wasn't a steep slope.

**Chairperson Speranza:** But it's affecting a steep slope.

**Village Attorney Stecich:** Yeah. It doesn't say a steep slope on your property.

**Chairperson Speranza:** And it would address ... I mean, and what's the major concern there? That you raised the level of your property, and then changed the entire drainage pattern.

**Boardmember Alligood:** Yeah, that's our concern.

**Chairperson Speranza:** Right. That's very good.

**Boardmember Alligood:** It also affects what you can build. Because when you change the land that drastically you actually give yourself something you didn't have when you bought the property, which is one of my major concerns. I mean, that's what this person did. She made her land more valuable by doing what she did.

**Building Inspector Sharma:** As a matter of fact, any activity that would change the water flow, adversely affecting the neighboring properties, would definitely be reviewed.

**Village Attorney Stecich:** But that's different than steep slopes, right?

**Building Inspector Sharma:** True, yes.

**Village Attorney Stecich:** I mean, then you're going in a different ... I mean, that really can't easily fit under the chapter of steep slopes.

**Boardmember Alligood:** That's what I was saying. It gets complicated.

**Village Attorney Stecich:** But it does pick up. Deven's suggestion does pick up quite a few of the situations. So if you changed it, I'd have to go through and fix the thing up to take out all the references to "building permit." Because you just could say "any activity that the Building Inspector" – no, "any activity," not that the Building Inspector – "any activity that may affect or create a steep slope shall require." You know, then it's "shall require approval by the Planning Board under this chapter.

**Chairperson Speranza:** But we're empowering Deven to make that determination.

**Building Inspector Sharma:** It doesn't directly.

**Village Attorney Stecich:** No, you don't have to say that. But he's the one who's in charge of enforcing this law. So he goes out and he sees it, and he says, "Hey, listen. You're doing something that's affecting a steep slope. You need a steep slope permit."

**Building Inspector Sharma:** Like on 12 Prince Street, when I got calls that they're dumping truckloads of dirt I did go there and found some reason, or excuse, to stop. But there wasn't anything in the code saying you can't do it. But if we have something like this – where it says the Building Inspector can do it or not, when the code says you can't – I'm the code enforcement person.

**Boardmember Sullivan:** Deven and Marianne, why can't we re-look at the law that you folks have written? The proposed law that you wrote.

**Village Attorney Stecich:** We submitted. It was submitted to the Board of Trustees, and they rejected it. And that's the same board. Not the same, but a lot of the Board is the same. There was like no interest in it. Were you at the meeting?

**Chairperson Speranza:** No, I wasn't there.

**Village Attorney Stecich:** But you saw it.

**Chairperson Speranza:** Because I thought it was going to fly through. So I didn't even bother coming down here.

**Village Attorney Stecich:** But not only was there no interest ...

**Chairperson Speranza:** We didn't have enough to do.

**Boardmember Dale:** There were objections to it. I think Niki objected to it because of something on her own property. And I forget – somebody objected to it.

**Village Attorney Stecich:** Well, yeah, I think Jerry may have.

**Boardmember Dale:** It's in the minutes of the Board.

**Boardmember Sullivan:** I'd like to maybe thank everyone for letting me bring this up again, and tolerate me in my lack of clarity last time. And maybe, to use Rebecca's words, let's maybe think about taking out the building permit application requirement and not necessarily do that. Because my sense is that that needs to be looked at, and making sure you would trigger this when you want to come in for a building permit.

**Chairperson Speranza:** Wait. Are you thinking that we shouldn't take out "building permit"?

**Boardmember Sullivan:** I think it's a suggestion. I think we should look at what that does, and if we get to this law from putting in a building permit. And let's just make sure that that's not ... I don't know.

**Chairperson Speranza:** Right. You mean taking out the "building permit" language.

**Boardmember Sullivan:** Taking out the "building permit" language if you're going to do something ... you know, if that's going to have a ramification – a little bit of what Rebecca was saying – you know, have an unintended effect on how this law should be applied.

I think if folks here are comfortable with Marianne's recommendation in 249.7, and that addresses what situation you've seen, that's the tweak I was looking for. And I can happily accept that adding my definitions isn't applicable.

I think you're bringing up another issue, which is excavation and issues about being able to regulate that. And that's not necessarily in the spirit of the steep slopes at this point.

**Boardmember Strutton:** I would think that maybe the thing to do – and, you know, tell me what you think – is to make this one change that we've proposed. And then have Marianne mark it up to take out "building permits," and pass it around and let us all look at it and read it and think about it some more. But at least get this done.

**Village Attorney Stecich:** Well, could I suggest that it shouldn't go to the Board in bits and pieces? You should decide on the law. Because it's the Board of Trustees that's going to have to adopt the changes.

**Boardmember Strutton:** OK.

**Village Attorney Stecich:** So we should probably settle on the changes, then bring them. But see, Kathy, Deven was addressing a different point. And then we went a little bit further on the excavation and fill. Eva brought it even further.

But the point is that there are situations – for instance, the next door neighbor, or the 12 Prince situation – where they're creating a steep slope or, conceivably, eliminating a steep slope that doesn't require a building permit. And the Steep Slopes Law really should address

that. Right now, it wouldn't address it because those people didn't have to come in for a building permit when they were creating the slope.

So if you didn't have the building permit trigger, but the trigger be any activity that creates or eliminates or affects a steep slope has to get steep slope approval by the Planning Board – so you don't have that building permit trigger – I don't think that's a difficult change to make. I really think it would work.

**Boardmember Alligood:** I think that's important, based on what we've just looked at.

**Village Attorney Stecich:** It doesn't pick up everything. It doesn't pick up every excavation and fill issue. But it actually picks up the one that's most troublesome.

**Building Inspector Sharma:** It's more inclusive. We had to do a similar thing for view preservation. For example, painting or changing siding doesn't require a building permit, but it requires ARB review. So I think really we had any application for a building permit that changes the façade would be referred to the ARB, but then they took it out. So that any time you change the façade, whether it needs a permit or not.

**Village Attorney Stecich:** Yeah, that was related to the stuff ...

**Building Inspector Sharma:** View preservation.

**Village Attorney Stecich:** No, not view preservation. To the design guidelines. I think it was to the ARB design guidelines.

**Building Inspector Sharma:** I think we need to do a similar thing.

**Boardmember Dale:** I think the boards would object. And I think when you say "any activity that the Building Inspector determines," it's very broad.

**Village Attorney Stecich:** No, you're not saying that the Building Inspector determines.

**Boardmember Dale:** That if I'm doing work in my garden ...

**Village Attorney Stecich:** No, we're taking out the Building Inspector.

**Boardmember Dale:** So how will it read?



**Village Attorney Stecich:** Oh, I see. OK, yeah. If you're saying "any activity that may affect or create a steep slope," you still do want it to be limited to that "developed, paved, re-graded, stripped of vegetation." But you're still talking about those activities.

**Boardmember Dale:** It's so broad that I can see why they rejected the fill. Because it was too broad, even though I could see why we would want it.

**Village Attorney Stecich:** No, it had nothing to do with broadness. It had to do with they didn't think it was an issue. And there's something to be said for that. You just don't go passing laws if it's not a problem, and they just hadn't seen it as a problem.

You know what? I see exactly what Bruce is saying. Remember, you have to come in for a steep slope permit if you're going to develop, pave, re-grade, or strip of vegetation. So that 249.7 has to ...

**Boardmember Dale:** It follows the earlier activity.

**Village Attorney Stecich:** Yeah, like any activity under 249.5, whatever. But that's kind of an awkward way to do it. But I know what you're getting at, and I could probably fool around with it to address that. Not right now, but I understand.

**Chairperson Speranza:** Yeah, because you still want to be ...

**Village Attorney Stecich:** You don't really mean "any activity."

**Chairperson Speranza:** And by taking out that the Building Inspector determines "may affect or create a steep slope," we're still back in that situation where any activity ... if it says "any activity that may affect or create a steep slope," that architect would still have to come back.

**Boardmember Dale:** With the garages.

**Chairperson Speranza:** Yeah, because it's "any activity."

**Boardmember Dale:** That doesn't affect the steep slope.

**Chairperson Speranza:** Right. Now who's judgment is that?

**Boardmember Dale:** But see, that's the problem.

**Chairperson Speranza:** Because he says, "Well, it's not going to affect the steep slope."

**Building Inspector Sharma:** It has to be in the opinion of someone. That's why I said three people, not just me.

**Village Attorney Stecich:** Somebody wants to disagree with what you said, they go to the Zoning Board of Appeals. That procedure. I see what you're getting at. You know what? Let me fool around with it. I know exactly what you're getting at.

**Chairperson Speranza:** OK. And you know what? I'll see if I can find that excavation and fill law.

**Village Attorney Stecich:** Oh, I've got it.

**Chairperson Speranza:** You have that? Maybe you could send that, too.

**Building Inspector Sharma:** We have copies of it.

**Village Attorney Stecich:** No. We drafted one.

**Chairperson Speranza:** We'll go back to that.

**Village Attorney Stecich:** I'll have it in my files. I'll forward it.

**Chairperson Speranza:** Some topics just never go away.

**Boardmember Dale:** Steep slopes don't.

**Chairperson Speranza:** There's a whole host of steep slopes history.

**Building Inspector Sharma:** Patty, remember we talked about retaining walls?

**Chairperson Speranza:** Oh, yeah. Remember the retaining wall that was collapsing? That might not have been you.

**Building Inspector Sharma:** We never did anything about that either.

## 2. Miscellaneous

**Chairperson Speranza:** There were a couple of other things that we don't want to get to tonight, which is fine. Let's make sure that we do so for the next meeting. Definition of site plan; what requires site plan review. Marianne provided us with the information and how the Village of Irvington defines site plan, or those actions that require site plan review.

It is not nearly as cumbersome, shall I say, as what we in our code require site plan review for. Most particularly ... and, Marianne, you've got to help me with this because I read this site plan approval, the necessity of site plan approval. And Boardmembers, that for the next meeting we have "site plan review shall be required for the construction, reconstruction, alteration, renovation, demolition, enlargement, moving or removing of any building or structure."

OK. That's one of our definitions. And that's why we get these applications for units, apartments where they're doing interior modifications and there's really no site impacts, although there may be impacts related to things like off-street parking and recreation.

But there's also something in our code that says "Any land use not involving a building or structure." And all I could think was, farming? I mean, I don't know what would be a land use not involving a building or structure that would require site plan.

**Boardmember Sullivan:** Creating parking?

**Village Attorney Stecich:** Wanting to use ...

**Chairperson Speranza:** Parking.

**Village Attorney Stecich:** Yeah, it came up a couple of times with the Ginsburg site on 9-A, where they said can we just do it. And it was helpful to say you would have to come in before the Board. I guess that's what it's getting at.

**Chairperson Speranza:** What use would it be without a building or structure? Parking would be one, and then I thought well, maybe if somebody's doing a farm.

**Boardmember Dale:** Maya Lin's artwork, the waves.

**Chairperson Speranza:** But it's a structure.

**Village Attorney Stecich:** Obviously, the Irvington ones ... I mean, you wouldn't want to have something like that.

**Chairperson Speranza:** It's much cleaner.

**Village Attorney Stecich:** But it also covers a lot more. You would still have to accept, take out of it, one- and two-family houses or whatever we don't require it for. I think it's one- and two-family houses.

**Chairperson Speranza:** And subdivision.

**Village Attorney Stecich:** Just one-family houses; except for one-family house.

**Building Inspector Sharma:** Chase Bank asked us what they would need to do. They want to put a canopy over the ATM machine. We did tell them they needed to come to the Planning Board.

**Chairperson Speranza:** And they were thrilled, weren't they?

**Building Inspector Sharma:** Thrilled or not ...

**Chairperson Speranza:** We're going to look at their lighting, too, while they're here.

**Village Attorney Stecich:** Because that's an alteration?

**Chairperson Speranza:** It's an alteration and it's a façade, right?

**Building Inspector Sharma:** Addition, alteration, renovation.

**Chairperson Speranza:** And isn't it a change to the façade also, so they have to go to the ARB?

**Building Inspector Sharma:** The ARB most certainly. That's the easy part. The difficult part ...

**Chairperson Speranza:** We're difficult?

**Building Inspector Sharma:** They have to come for a site plan review.

**Boardmember Sullivan:** Any other homework?

**Chairperson Speranza:** And one more thing. Look at site plan, please – the site plan section – and see if there are things, particularly with respect to changes, modifications; is it really important that we see every single alteration to a building in the Village.

And then view preservation. View preservation was the other thing where we were looking at whether or not there would be instances ... I mean, should we recommend changes where we, the Planning Board, don't necessarily need to see every single view preservation application. But maybe in conjunction with another action.

For instance, if it's site plan approval – or if it's, well, site plan approval, essentially, or special permit – that maybe then we look at, we also recommend to the Zoning Board for, view preservation. If we think it's the Zoning Board. I don't know why Zoning Board ... the only thing I could think of is, Zoning Board is involved if there's a variance that's required. So I'm not certain, but that's why we need to ...

**Village Attorney Stecich:** Yeah. But Patty, that's not going to work if you just limit it to situations where you need site plan approval. Because there's a lot of things. You could build a giant gazebo on a single-family house. And that doesn't require site plan approval, but it really could affect the view.

**Chairperson Speranza:** Right. But something like that doesn't necessarily need to come to the Planning Board.

**Village Attorney Stecich:** And it wouldn't go the Zoning Board either.

**Chairperson Speranza:** Because there wouldn't be a variance. But that's what I'm saying. Maybe in this situation we make a decision, we make a determination, that in a situation like that – somebody wants to build a gazebo – maybe it just needs to go to the Zoning Board of Appeals.

**Village Attorney Stecich:** OK, so you're saying view preservation should just be by one board.

**Chairperson Speranza:** Or maybe it just needs to come to the Planning Board. One board.

**Village Attorney Stecich:** Yeah, I don't understand why the two boards ... why it was set up that way.

**Chairperson Speranza:** So that's something else to think about for next time. We'll try to cover those topics.

**Village Attorney Stecich:** The truth is, I have to say – because I obviously sit on both boards – I don't know that I've ever ... there's ever been a situation where the Planning Board's recommended view preservation approval and the Zoning Board has said no. There's almost always concurrence. And it doesn't even ever play out like a checks and balances kind of a situation. It just doesn't. It may just be awkward. I'm not sure why it was set up. That was even before my time.

**Building Inspector Sharma:** And they ended up giving us 23 sets of drawings.

**Village Attorney Stecich:** This would simplify it a little bit anyway, you know.

**Chairperson Speranza:** Deven, do we have any idea what might be up for October?

**Building Inspector Sharma:** There's 12 Prince Street, and that's it. Accessory apartment.

**Village Attorney Stecich:** What about AT&T.

**Building Inspector Sharma:** Actually MetroPCS.

**Village Attorney Stecich:** Well, wait. AT&T has been writing too, remember? They wanted the Village to fill out the form.

**Building Inspector Sharma:** Maybe that. I haven't gotten the application.

**Village Attorney Stecich:** Yeah, they were going to file it today I think. Remember, they wanted you to go out?

**Chairperson Speranza:** Did we hear anything else about the lighting from ARCO? Their proposal for ARCO?

**Building Inspector Sharma:** No.

**Chairperson Speranza:** No, nothing?

**Building Inspector Sharma:** They just wanted to bring power to one corner, and after discussing it with Marianne we decided they want to put just two poles and overhead wires to bring power to the northwest corner to run some equipment. We decided that needs to go through the same process.

**Village Attorney Stecich:** It needs site plan approval. Because they were putting up poles I thought they had to come.

**Building Inspector Sharma:** View preservation, too.

**Chairperson Speranza:** OK, so we could have a very interesting meeting in October.

## **VII. ADJOURNMENT**

On MOTION of Boardmember Dale, SECONDED by Boardmember Sullivan with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 9:55 p.m.