

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**PLANNING BOARD**  
**REGULAR MEETING AND PUBLIC HEARING**  
**NOVEMBER 15, 2012**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, November 15, 2012 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 William O'Reilly, Boardmember Rebecca Strutton, Boardmember Kathleen Sullivan, Village Attorney Marianne Stecich, Building Inspector Deven Sharma, and Deputy Village Clerk Mary Ellen Ballantine

**Chairperson Speranza:** Good evening, everyone. I'd like to call the meeting of the Planning Board to order. It's Thursday, November 15. Mary Ellen, would you call roll please?

**I. ROLL CALL**

**Chairperson Speranza:** Well, you might have noticed, as we were going through the roll, that we do have a new Planning Board member. Bill, welcome very much to the Board, and glad to have you here.

**Boardmember O'Reilly:** Thank you very much.

**Chairperson Speranza:** Would you like to just give people a sense of your time in the Village, and who you are and what you do? That would be great. Oh, one thing you will learn. We are on camera, so you'll have to speak into the mic.

**Boardmember O'Reilly:** Very good. Anyway, pleased to be here, delighted to have joined. This is my first incursion into activities in the Village of Hastings. I've been a volunteer elsewhere on many occasions, but volunteered for this having decided it was time to do something for the Village.

I've lived here since 1977 as a resident, raised our children here. And they attended Hastings High School, and all the schools. I spent most of my career in management and fund-raising with public charities. Retired from that, and for the last five years have been in real estate, residential and commercial; now, currently with William Raveis Legends Realty Group, which is in Irvington and covers the River Towns. It was formerly known as Hudson Shores, and now is no longer Hudson Shores.

**Chairperson Speranza:** OK. Well, welcome. We're glad to have you on board and joining us. We approve or disapprove applications and try to shape the future of the Village.

I'm told that at our meeting we can expect another new member. And I'm not going to divulge his name. He has not yet been sworn in, so when that happens we'll have him here at our December meeting.

**Boardmember Sullivan:** We'll have a full house. Great.

## II. APPROVAL OF MINUTES

**October 18, 2012**

**Chairperson Speranza:** Next on our agenda is the approval of the minutes from our meeting of October 18, one of our long meetings. But it was very productive.

I just wanted to point out one correction that I had, on page 10. We're talking about the application for 400 Warburton Avenue, and Christina Griffin is actually speaking. There's just a typo here. The sentence says, "*We can make use of the 'tall' below on this side.*" It should just be "...the wall below."

**Boardmember Sullivan:** I'm going to have to ask for another month to look at this. I apologize. I flagged a number of things I wanted to check, and didn't have the time to do so. But there were a number of things I'd like just to verify. So I apologize. I was unable to do that.

**Chairperson Speranza:** OK. Well, we can certainly ... if anybody else has any questions, or if you haven't had time to read them we'll go through it again for next month.

**Boardmember Strutton:** I haven't had a chance to review them.

**Boardmember Sullivan:** Whew, not the only one.

**Chairperson Speranza:** OK, then we will defer that.

**Boardmember Sullivan:** We're going to have to coordinate this. I'm sorry to interrupt.

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### III. PUBLIC HEARING

#### Site Plan Approval – Alexandra Chancy of Zanick Four LLC

**Site plan approval for change of use of a portion of the first floor of an existing mixed used building at 58 Main Street, from office use to a two bedroom residential unit. Said property is in MR-1.5 zoning district and is also known as Sheet 4.80-60-7 on the Village Tax Maps.**

**Chairperson Speranza:** OK, then we'll move on to the next item. It's a public hearing, site plan approval, for property located at 58 Main Street. It's an existing mixed-use building, and I'm glad to welcome back a former Planning Board member, Ed Weinstein, to talk about this application.

Marianne, I don't know if you want to introduce the concern that we have with this right now. Then we'll go through the presentation.

**Village Attorney Stecich:** Yes. Based on the notice, which was that this property's in the MR-1.5 district – a big if, which we'll get back to, this use isn't permitted. Mixed-use buildings aren't allowed in the MR-1.5 district. However, I brought copies for you ... sometimes it's easier – just in case it turns out ... there's enough for everybody.

OK, 295-57 is the section that is part of the whole article in the code on nonconforming uses. So 295-57 is the relevant one, which is change of a nonconforming use to a substantially more conforming use. It had to have been legal when it was established, which I assume it was or it wouldn't have gotten a certificate of occupancy. You can change a nonconforming use to a more conforming use, but you need to go to the Board of Appeals, the Zoning Board. There needs to be a hearing, a notice and a hearing

They can grant that permit if they found that *"the proposed new use is confined to the same structure, building and land,"* which this is; that *"the proposed new use will be substantially more in keeping with the zoning plan of land use and development, and the character of the neighborhood, than the former nonconforming use,"* which this would be. Because, actually, in the MR-1.5 district, multi-family buildings are allowed. And this brings it closer to a multi-family building, so I think it would satisfy that one. And that *"the use will tend to facilitate the later conversion of the structure to a more conforming use."*

So I think it would meet all of those. So that was what I was prepared to advise everybody tonight. But then Ed is confident that it's in the CC district, in which event it's no issue because it's a permitted use in the CC district. It's really hard to tell, even from the blown-up map. One way or another, they're going to have to figure it out. It may well be in the CC

district, in which event it's obviously not an issue. If it's in the MR-1.5 district, they will have to go to the Zoning Board. So I would say if the Planning Board gives them site plan approval tonight that it be conditional on their getting this permit under 295-57 if, indeed, it's in the MR-1.5 district.

**Chairperson Speranza:** OK. So there's no use variance requirement or anything.

**Village Attorney Stecich:** No, no, no.

**Chairperson Speranza:** Because it is already a nonconforming.

**Village Attorney Stecich:** Because it's in a nonconforming ... if it were changing to, let's say, he had more residential in here and he was changing it more offices, and it's in the MR-1.5 district, it'd be a little hard to argue.

**Edward Weinstein, Edward M. Weinstein Architecture & Planning, PC:** It would be less conforming.

**Chairperson Speranza:** Right, OK.

**Village Attorney Stecich:** So it's not like it's an automatic, but this is the perfect example of when that kind of permit would issue.

**Building Inspector Sharma:** I think in both cases you're not required to use a variance, whether it's an CC or MR-1.

**Village Attorney Stecich:** No.

**Chairperson Speranza:** Based on what was just said.

**Village Attorney Stecich:** No, just this permit.

**Chairperson Speranza:** OK, Mr. Weinstein?

**Mr. Weinstein:** OK. We had previously submitted the proof of mailing. I have here the returns. We got back all but four of the return receipts.

**Chairperson Speranza:** OK.

**Mr. Weinstein:** So my client has purchased this building. And in looking at the existing conditions, there are five apartments and three offices, compared with the only C of O we found on record, which dates from 1953, which had four apartments and four offices. The five apartments and three offices actually come out to have a lower parking requirement by one space. So we are not increasing the level of nonconformity in terms of parking. What they would like to do ... of course, the bank would like to have a valid C of O. We'd like to request that. We're not doing any work, but we'd like a C of O issued which reflects the actual use of the building.

**Chairperson Speranza:** You have no idea when this apartment was ... what the history of this is.

**Mr. Weinstein:** I do not.

**Chairperson Speranza:** This two-bedroom unit exists now.

**Mr. Weinstein:** It does exist, yes.

**Chairperson Speranza:** And there's no record of it having existed, or it's not on any ...

**Mr. Weinstein:** Not in the record. We searched the files and found no record of it. There's stores on the first floor, and those will have permits. And the building was in the same ownership from 1953. It was owned by, I guess, first Angelo Lopriore. And now his son, Dominick was the seller.

**Chairperson Speranza:** OK. This is a public hearing. Is there anyone here who wishes to speak on the application? OK.

Boardmembers, any questions or comments about this?

**Boardmember Cameron:** Are there tenants in all three of these offices that you have, A, B and C?

**Mr. Weinstein:** To the best of my knowledge they are occupied, yes.

**Boardmember Cameron:** I just noticed that office A has a door going into the apartment. And I was wondering whether it's actually being used currently as an office.

**Mr. Weinstein:** I believe the door is closed. The door exists, but it's not used for passage between the two spaces.

**Boardmember Cameron:** And it's rented to someone who's unrelated to the persons living in the apartment? I just want to make sure.

**Mr. Weinstein:** As far as I know there are three offices in there and five apartments. It's certainly the intent of the new owner to use it, to continue the use, as it's being used now with three offices and five apartments.

**Chairperson Speranza:** OK, anything else? It's got to be conditioned.

**Village Attorney Stecich:** No, do SEQRA because I'm not sure it fits into one of the type two. So just make it an unlisted action, just to be safe.

**Boardmember Cameron:** [off-mic].

**Village Attorney Stecich:** Right. You have to make the finding that because this is an additional residential unit it would generate additional demand on the park.

**Chairperson Speranza:** So the first item that we have is the action under SEQRA, whereby the Board will find that it's an unlisted action under SEQRA, and there's a motion there would be no negative ... we're not anticipating any negative environmental impacts from legalizing this two-bedroom apartment into the building. So I need a motion to issue the negative declaration under SEQRA.

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Board resolved, with respect to SEQRA, to issue a negative declaration for the proposed conversion of a portion of the first floor of an existing mixed-use building at 58 Main Street from office use to a two-bedroom residential unit.

**Chairperson Speranza:** What do we want to do about the recreation fee? This is something which potentially does fall under the classification of warranting is it \$10,000?

**Village Attorney Stecich:** No.

**Chairperson Speranza:** Ten-thousand dollars was for a house?

1. On MOTION of Boardmember Kathleen Sullivan, SECONDED by Boardmember Eva Alligood with a voice vote of all in favor, the Board resolved, with respect to SEQRA, to

issue a negative declaration for the proposed conversion of a portion of the first floor of an existing mixed use building at 58 Main Street from office use to a two-bedroom residential unit.

**Mr. Weinstein:** It's a one-bedroom apartment.

**Boardmember Cameron:** Two-bedroom apartment.

**Mr. Weinstein:** This is one is a two-? OK.

**Village Attorney Stecich:** Is the fee for that \$7,500 or \$10,000? I'm not sure.

**Mr. Weinstein:** As I read it, the finding actually ... the regulation requires the Planning Board to make a determination that this additional bedroom would require a park.

**Village Attorney Stecich:** Not require a park.

**Mr. Weinstein:** *"Where the Planning Board makes a finding that the proposed site plan presents a proper case for requiring a park, or parks ..."*

**Village Attorney Stecich:** *"... or other recreational purposes."*

**Mr. Weinstein:** Right. And then it says if you can't put a park on the site, then a sum of money can be extracted from the applicant. So I would suggest that this one apartment would not require a park. That even if there were a child living there, and I don't know that there is one, that one child would not sort of tip the balance and require an additional park in the Village when we're right next to the Community Center.

**Chairperson Speranza:** Right. And we've never interpreted that section or that requirement as requiring a park. But potentially, an occupant in a unit would require some sort of recreational services – be it park, or parkland, or a recreational program or a recreational ... you know, a ball field or a playground.

I will say, this apartment has been here. Is that correct?

**Mr. Weinstein:** Yes.

**Boardmember Cameron:** But we don't know how long.

**Village Attorney Stecich:** Yes, but you're legalizing something that should not have been there in the first place. The fact that it's there now, had they come at the time they were conferring it. Thanks the issue. You can't think about, well, now they're already there so it's not going to be any good. What we have to do is go back to the point at which it would have been ... pretend it's just being created now. Because that's essentially what the application ...

**Mr. Weinstein:** If the Planning Board should make the finding that a park is required, and since we can't find a park a fee in lieu of a park ...

**Boardmember Cameron:** No, that's not what the language says. It says "*or other recreational facility.*"

**Mr. Weinstein:** That's a park on the property.

**Village Attorney Stecich:** No.

**Boardmember Cameron:** No.

**Mr. Weinstein:** I think the intent was this was for subdivisions, for larger ...

[cross-talk]

**Boardmember Alligood:** This is not for that reason.

**Boardmember Cameron:** You're 10 times too late to make that argument. Others have made it, and we've never agreed with them. Neither has the Board of Trustees.

**Mr. Weinstein:** Well, given the facts in this situation I would just request that if you're going to impose a fee on the applicant ... I mean, the applicant ... this is an affordable building. I mean, basically, the rents in this building do create affordable housing in the Village. And I think it would be ... I would request that the Planning Board impose a fee that is less than the maximum permitted under the regulation.

**Boardmember Sullivan:** One thing I'd like to bring up – and I have on other applications that have been in the downtown, and this is working on the presumption that this is in the CC district, where mixed-use is permitted – that when we had another applicant come in front of us with the conversion of an office on the second floor into an apartment that I felt putting a rec fee on that action would potentially preclude people from modifying the uses based on

what they felt worked economically for them, as an owner of a building in that particular zone.

And so I see this as a similar ... again, my presumption is that it's a CC. Because I enlarged the PDF to just double-check with that. So I appreciate what Marianne's bringing up, is that may be in another district. But my feeling is that imposing the rec fee in an existing structure, where you're going back and forth between a residential use and a commercial, is maybe an impediment for someone creating residential downtown in a way that would be advantageous, perhaps, in a particular time.

This is not that request. It's trying to legalize something that's an existing. But it's still ... in my mind, kind of follows this. So I just wanted to share that in the discussion.

**Boardmember Cameron:** I think the one in which we didn't impose it was where the unit had been, not that many years ago, an apartment. A person had converted over to an office, and just not that many years later was converting it back. And we figured since it had already been an apartment, that was already paid for as part of having an apartment. And that was the one on Warburton which we looked at just recently. And those were the exact facts.

**Chairperson Speranza:** Well, this apartment exists also.

**Boardmember Cameron:** Well, not as an apartment.

**Boardmember Strutton:** Not legally.

**Boardmember Cameron:** Not as an apartment, not legally as an apartment.

**Chairperson Speranza:** Not legally as an apartment but, potentially, as nonconforming.

**Boardmember Cameron:** I have a problem with that because it just says that if someone does something that's illegal and tells you about it later, they don't have to pay. But if they tell you when they're doing it, they do have to pay. And I think it is what it is, and right now it is not an apartment legally. When we want someone to legal in apartment they should pay the rec fee.

**Boardmember Alligood:** The only unfortunate thing is that he's passed that cost onto the buyer, which is unfortunate. But that should have been addressed before he sold the building. The person who illegally converted is should not be economically rewarded, which is what happened.

**Boardmember Cameron:** Well, we didn't draft the sales contract.

**Chairperson Speranza:** Marianne, do you have the schedule of fees? I'm curious. I remember the single-family house was \$10,000.

**Village Attorney Stecich:** A single-family's \$10,000. And I'm sorry because I'm getting my villages mixed up. It's either \$7,500 or \$10,000.

**Boardmember Alligood:** Would it be in the book?

**Chairperson Speranza:** I don't think so.

**Village Attorney Stecich:** No, because the fees are done by resolution. I don't even think I'd be able to find it on the Village's Web site. Oh, gosh, Mary Ellen, do you have any idea where the fee schedule would be? Down in Susan's office?

**Building Inspector Sharma:** I have one fee schedule here, but I don't know if rec fees are included in it. Let me see if it's here.

**Deputy Village Clerk Ballantine :** I might have one in my office in there, too.

**Village Attorney Stecich:** I'm sorry.

**Mr. Weinstein:** And the property does have a nice big backyard. I'm sure the applicant would be happy to put in some play equipment in the backyard to satisfy any play needs of the residents. And as you can see, it's an L-shaped parcel with a substantial backyard behind it.

**Boardmember Alligood:** Well, I have to say I agree the Jamie's rationale. Because I'm very concerned about people basically improving the value of their property and then benefiting from having done something illegally when they sell. I just don't think it's fair to the people that we do ... you know, if we're going to have that requirement.

**Mr. Weinstein:** I'm not sure that having an apartment instead of an office space changes the value of the property at all.

**Boardmember Cameron:** Well, that's good news then.

**Mr. Weinstein:** Yeah, I just don't know. I think it's not an assumption that you could make.

**Boardmember Sullivan:** I have to agree with Mr. Weinstein on that point. I think it's being able to move between different uses [background noise – papers rustling].

**Village Attorney Stecich:** Yes. It's \$7,500 for a two-bedroom unit, or smaller. That's how it goes; it doesn't really go by house. It goes by number of bedrooms, and it's \$7,500. Thank you.

**Chairperson Speranza:** Let's do this in two phases, OK? The first being to approve the site plan for the conversion of the office space to the two-bedroom apartment at 58 Main Street. We'll deal with the recreational fee in the next action, OK? Do I have a motion to approve the conversion of the space from office to a two-bedroom apartment?

**Village Attorney Stecich:** Subject to its getting this permit if it's necessary.

**Chairperson Speranza:** Right. Let me do that again. So I need a motion for approval of the site plan for the conversion of the space on the first floor of 58 Main Street, conversion from office to legalize the existing two-bedroom apartment, providing that it is found ... or subject to going to the Zoning Board of Appeals, should it be determined that the property is, in fact, in the MR-1.5 zoning district.

On MOTION of Boardmember Sullivan, SECONDED by Boardmember Strutton with a voice vote of all in favor, the Board approved the site plan for the proposed conversion of a portion of the first floor of an existing mixed use building at 58 Main Street from office use to a two-bedroom residential unit. This approval is subject to the approval by the Zoning Board of Appeals if, in fact, the building is found to be in the MR-1.5 zoning district.

**Chairperson Speranza:** OK. Now recreation fee. First, we have to determine that we feel that there is a need, that this unit should be subject to the recreation fee, because there will be residents who live in this apartment that will, in fact, make use of park and recreation activities. Make that finding, and then the determination as to whether or not we wish to waive that fee in this instance.

**Boardmember Cameron:** I move that we make that finding because we don't know who's going to ... whoever is in the apartment now is not relevant. It's in the next 30 years – or 40 or 50 or 100 years – will there be people in there who need recreational facilities. And I think that's a given, as it's a two-bedroom apartment in downtown Hastings. I don't even think it's an issue. It can't be who's currently there.

**Chairperson Speranza:** OK, there is a disagreement on this board. Bill?

**Boardmember O'Reilly:** Could you clarify for me, what triggers the recreational fee in this case? What triggers it?

**Chairperson Speranza:** The fact that it's a residential unit which did not exist before. And that there is a need for the provision of park and parkland and recreational facilities in the Village.

**Boardmember O'Reilly:** And this is a fee that will be paid by the buyer, or the person who is selling?

**Chairperson Speranza:** The applicant.

**Boardmember O'Reilly:** The applicant.

**Chairperson Speranza:** Right. Which, in this case, is the owner.

**Boardmember O'Reilly:** OK.

**Chairperson Speranza:** There is a disagreement here on the Board.

**Boardmember Alligood:** Well, we could just vote on it.

**Chairperson Speranza:** I understand that. I wanted to give Bill an opportunity to weigh in on this. ?Because it's his first meeting, and he may not be familiar with it.

**Boardmember Cameron:** You should explain to Bill that the Board of Trustees decided that we don't really need to look around the neighborhood, but that they want the fee to be collected where we think it's appropriate.

**Village Attorney Stecich:** For new residential units. State law was amended a few years ago to permit municipalities to charge recreation fees when new residential units are created. But the local village or town has to decide that they're going to impose such a fee. They have to do a study to come up with an estimate of what each new residential unit costs, and the Village did do that study. We've got it. I think I made it available to the Board within the last year. There is a study.

**Boardmember O'Reilly:** And it's a fee that's determined at the time of application.

**Village Attorney Stecich:** And the finding was that the recreation cost for ... obviously, it was simplified – for any unit. They're assuming two-bedroom and under units are apartment buildings, and probably would have fewer people in them. And that the cost per apartment ... the cost for recreation service is \$7,500. And if it's a bigger unit it's \$10,000. So it's kind of a presumptive amount.

**Boardmember Cameron:** And the other thing I have a lot of trouble with is that we don't know when this apartment was created. And it's up to the applicant to come and tell us that. He tells us he doesn't know. I mean, it could have been done last year, for all I know.

**Chairperson Speranza:** It could have.

**Boardmember Cameron:** And I'm just not willing to ... I mean, I think, from a legal point of view, they want to change it from an office, which is what it is now. Whether or not they've decorated it out as an apartment, they want to change it from an office to an apartment. They're asking us for that, and there is a fee for adding another official thing in the town.

**Chairperson Speranza:** Should we determine that that is necessary.

**Mr. Weinstein:** I would like to, if I may, reiterate that the law – as I read it, and correct me if I'm wrong – doesn't say that there is a fee for converting an office to an apartment or creating a new apartment. It says that if the Planning Board makes a finding that there is a need for a park or other recreational facility on the property, and you can't do it on the property, then there shall be a fee. But as I read this ...

**Boardmember Cameron:** That's not what it says. We just imposed a fee on Washington Avenue.

**Mr. Weinstein:** I'm looking at this ...

[cross-talk]

**Village Attorney Stecich:** I know. Ed, read the recreation study. And the law's very clear on this. If you have a recreation study that shows that you don't need more parking lot – and this study showed there's plenty of parkland, we don't need more parkland – any new resident ... what they generate is a need for recreation space: for tennis courts, for the senior facilities.

**Mr. Weinstein:** No, I understand that. But ...

**Village Attorney Stecich:** And that's ...

**Mr. Weinstein:** ... in my sort of layperson's reading of this – as an architect, not an attorney – it tells me that a finding has to be made that there's a need for a park or other recreational facility.

**Village Attorney Stecich:** OK.

**Mr. Weinstein:** And as many times as I read that, I come to the same conclusion.

**Village Attorney Stecich:** Yes, but that's what they're voting on, Ed: does it generate a need for recreational facilities.

[cross-talk]

**Mr. Weinstein:** And that finding would be ...

**Village Attorney Stecich:** That was what the motion was, I think.

**Boardmember Cameron:** It does. And I will point out that we just did that on Washington Avenue on a new structure going up there, which is right next to Draper Park.

**Boardmember Sullivan:** Right. And I see that, Jamie, just for my thinking it was a new structure. So it was obviously a new residential unit.

My point is, I think in the CC district there is a value to the Village to allow the existing structures in the downtown to move between different mixed-uses that are permitted, without imposing a fee on a residential unit being created if the owner of that structure feels, economically, it makes his or her ownership of that building more viable. I think in the downtown ... I will only say for the CC district.

I just think it could become an obstacle for people to decide to make a building or make a space in their building that's an office building, an office space, a residential unit because there's an additional fee that's being added onto it. I think it's in the Village's best interest to allow that flexibility in the CC district. Not arguing on new homes.

**Boardmember Cameron:** I think a general policy decision like that – if that's what you think should be done – should be taken to the Board of Trustees and not to the Planning Board. It's not for us, I think ...

[cross-talk]

**Boardmember Sullivan:** I think it is.

**Chairperson Speranza:** Well, no. We have the ability to waive it, where we feel ...

**Boardmember Cameron:** I understand that, but we're waiving it, in principle, for the whole downtown forever, or for a long time.

**Village Attorney Stecich:** I don't think you can waive it, Patty. What you could do is not find that it generates a need.

**Boardmember Alligood:** I understand Kathy's logic. But then I think, as a policy matter, we should document that and say that that's the new policy. Because we can't go on finding that it's different. Just because your unit is in the downtown your rec needs are different. Then you're kind of saying there's a different population living there. I don't think the logic really works.

**Chairperson Speranza:** Well, it's something to encourage: living above the store, living in the downtown.

**Boardmember Alligood:** Right. But that I understand exactly. And I think that if we're going to ... and you make a good case for that. But then I think we need to approach it differently. I don't think we should find that each case that comes to us in the commercial district somehow doesn't generate recreational services, whereas other units in other zoned areas do. I don't think that's logical, and I think we should passionately make the case for what you're saying and kind of codify it in our regs, or bring it to the Trustees and get them to redo their findings.

**Boardmember Cameron:** In fact, there is a shortage of recreational space downtown compared to other parts of the Village. So we're going counter to that. I think you're encouraging a new policy, and if we want to do that I think it's the Board of Trustees and not us, quite frankly.

**Boardmember Alligood:** Well, we could make the recommendation.

**Boardmember Cameron:** We could recommend it.

**Boardmember Alligood:** But I think it should be something that's actually voted upon, and we should kind of discuss it.

**Boardmember Cameron:** Yes. Because it would say that recently ... a number of years ago, when the Village decided to add greater concentration downtown, they should have said, "And we will waive rec fees for those conversions downtown in terms of cause that to happen." But they didn't say that.

**Chairperson Speranza:** OK, so what do we want to do? There's a motion to be made.

[cross-talk]

**Boardmember Strutton:** When we permit an ancillary apartment, when a house has an accessory apartment.

**Boardmember Cameron:** Well, those have been approved. Those were approved.

**Boardmember Strutton:** When it went for the first time around to be approved.

**Chairperson Speranza:** Oh, the accessory apartment?

**Boardmember Strutton:** The accessory apartment in a house.

**Chairperson Speranza:** Omigosh, I don't think we have had a case for a new accessory apartment in five or six years.

**Boardmember Cameron:** Right.

**Boardmember Cameron:** I don't think we've had any more.

**Village Attorney Stecich:** No, but it's not a site plan.

**Boardmember Strutton:** OK, right, right.

**Village Attorney Stecich:** You can only, under state law ... let's say even the Village wanted to charge for affordable apartments. They can't because we don't require site plan review for affordable. I mean, accessory apartments. If the Board of Trustees decided to

require site plan approval for accessory apartments, then you could. But this kicks in ... our state law allows it to kick in only with subdivisions and site plan approvals.

**Boardmember Cameron:** So you probably have a two-family home, like the rest of us in our area.

**Boardmember Strutton:** That wasn't about myself. I was just trying to think of parallel situations.

**Chairperson Speranza:** OK, so we have to make a determination here. I'm hearing, from Boardmembers, that there would need to be a motion to find that the conversion of this unit, or this space, from an office to a two-bedroom would result in the occupancy by individuals who would take advantage of, and require, recreational facilities. And therefore, require the implementation of the recreation fee.

If there are Boardmembers who feel that way, someone should make the motion.

On MOTION of Boardmember Cameron, SECONDED by Boardmember Strutton with a voice vote of 4-to-2 in favor, the Board approved the imposition of a \$7,500 recreation fee for the proposed conversion of a portion of the first floor of an existing mixed use building at 58 Main Street from office use to a two-bedroom residential unit, as this new unit will generate the need for recreational facilities.

**Chairperson Speranza:** The motion carries 4-to-2.

**Boardmember Alligood:** Can we formally ...

**Chairperson Speranza:** Have the Board of Trustees? Absolutely.

**Boardmember Alligood:** Because I actually agree with that. I agree with the Village taking a look at potentially changing the policy on this.

**Chairperson Speranza:** For the downtown.

**Boardmember O'Reilly:** I was in the position there where it was basically a judgment call. But I couldn't find a reason not to vote in favor of it. Because, the argument was, it had been imposed on a unit previously, in a different area. And the argument can't be made that because this is potentially in a commercial district that it shouldn't be imposed. That's what

swayed me. I think you can't sort of do in one instance and not do it in another, unless you get into a sort of charge of being capricious. And I couldn't find a reason not to vote in favor of that.

**Chairperson Speranza:** OK. And I think we will work on that with the Board.

**Boardmember Cameron:** I'm not even sure. The Board's going to have to get legal counsel to tell them how they can do that. Because they're sort of making a decision that we don't need recreation downtown, or they have this bifurcated ...

**Boardmember Alligood:** Or they want to encourage ...

[cross-talk]

**Village Attorney Stecich:** Then it would have to be like a subsidy, or something like that. I mean, I don't think you can ...

[cross-talk]

**Chairperson Speranza:** It's an incentive.

**Boardmember Alligood:** That's what it is.

**Village Attorney Stecich:** Yes, so then they could give that subsidy or whatever. But Jamie makes a really good point. The thing isn't do you want to help people out, or not. But the question is, does it generate a need for recreation.

**Boardmember Cameron:** Right.

**Boardmember Alligood:** That's what it was for me.

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

**Mr. Weinstein:** Thank you.

**Building Inspector Sharma:** I just wanted to mention one thing, Ed. You will still need a permit to legalize the conversion from the Building Department. You still need that.

**Mr. Weinstein:** OK, understood.

#### IV. DISCUSSION ITEM

##### Application Checklists

**Chairperson Speranza:** Next on the agenda is our discussion – and we're going to get through these tonight – checklists.

**Boardmember Sullivan:** Unbelievable.

**Chairperson Speranza:** I know. It really is. We did green code, and we're going to get to checklists.

[cross-talk]

OK, so what we've been trying to do is develop checklists for a couple of reasons. In part, to make sure that applicants are aware of what's required to be submitted, and so that we the Planning Board don't lose track of anything as we're going through the applications and the reviews. Kathy had done the site plan checklist and steep slopes checklist, and I stole your format and was starting to develop a checklist for view preservation. We might as well have them all in the same format.

**Boardmember Sullivan:** Right. And I think the view preservation was going to be really helpful because there's a lack of clarity in the documents.

**Chairperson Speranza:** Yes.

**Boardmember Sullivan:** The other two – site plan and steep slopes – was really extracting from the code. Just putting in a list, and trying to see if there was a checklist of those items. But the view preservation, there's been kind of a change in documentation. That there were some things you may want to require of applicants because they have been helpful in the past.

**Chairperson Speranza:** Right. And some of that has simply fallen by the wayside with changes of staff. And the most recent application doesn't require, for instance ... it doesn't spell out the photographs. Having looked at the view preservation section of the code, it does a good job in putting forth what the goals are and what the role of the Planning Board is and the Zoning Board is, but it doesn't do anything in terms of the documentation that's required.

So for the site plan checklist and the steep slopes, should we go through each of these? Are people comfortable with that is required? For instance, the site plan data, the application has six copies.

**Village Attorney Stecich:** I don't know why it's six. It's got to be more than that.

**Chairperson Speranza:** Yes, we need more than that.

**Building Inspector Sharma:** Thirteen. The site plan, lately we've been asking for 13 of everything.

**Village Attorney Stecich:** Is that really necessary? Because you shouldn't make people cut down more trees than necessary. You need seven for the Planning Board members, one for me, one for you – that's nine. One for the files, 10. do you use more than one set?

**Building Inspector Sharma:** I am used to getting a copy.

**Village Attorney Stecich:** But see, wouldn't that be the file copy?

[cross-talk]

**Village Attorney Stecich:** If you wanted one extra, 11. I don't see why 13's needed.

**Building Inspector Sharma:** Yes, it can be cut down to 12, 11.

**Village Attorney Stecich:** Then everything'd be covered.

**Boardmember O'Reilly:** The same apply down the list, where it says "six," say 11?

**Village Attorney Stecich:** Yes, everything would be 11. I don't know, we don't get stormwater pollution prevention plans very often. But if you do, I don't think they need to provide that many copies. Because it's unlikely that the Board's going to ...

**Building Inspector Sharma:** I guess, in many cases ... for example, this was [off-mic]. But there will be a whole lot of things that will not applicable. And then I'll have to check that I agree with certain things being not applicable. Then the Board will also have to accept that yes, indeed, it is not applicable or I made a mistake.

**Chairperson Speranza:** Well, I think, Deven, that the idea is that the applicant goes through what's required. Then where it's checked by a reviewer, then that's the Building

Department, that's not us. So if you're going through this, when someone comes in and submits their application, then you might write in here, for instance, the titles of any development plan ... well, that's a bad one.

**Building Inspector Sharma:** Whether it needs a SWPPP. He says not applicable, and I say yes, I agree.

**Chairperson Speranza:** Right.

**Building Inspector Sharma:** And when I bring it here, Marianne or Kathy or someone would say, that's not true – as a matter of fact, we do need it in this particular case.

**Village Attorney Stecich:** There should be a column for that. Don't you think there should be a column "not applicable?"

**Chairperson Speranza:** Or it could just be put in the review column.

**Village Attorney Stecich:** The applicant checks not applicable, and then the reviewer just says whether they agree or don't agree. So if you had either "provided by the applicant" or "not applicable," and that would be their call.

**Boardmember Alligood:** I think that's clearer.

**Chairperson Speranza:** So divide it in half.

**Village Attorney Stecich:** Whether than "checked by applicant," I guess you want to say "provided, and not applicable."

**Boardmember Alligood:** You have two choices: either "provided" or "not applicable." Then there should be a column for Deven to say whether ...

**Village Attorney Stecich:** The "checked by reviewer."

**Boardmember Cameron:** You can make the first box shorter. It makes it longer, but you've got two pages and you're only using a page-and-a-half. So you can get yourself more space on the right, if you want, by shortening the sentences, making them into two lines sometimes? It's not the end of the world.

**Village Attorney Stecich:** Except that the boxes don't have to be very big. It's just a checkmark. It's just a check, Jamie.

**Chairperson Speranza:** I did change it to make it the portrait layout. That's just my preference.

**Boardmember Cameron:** I guess my question, actually, are you expecting to get these handwritten by the people? I mean, eventually we want to get them ... or maybe you'll scan them. Eventually you want to get them electronically.

**Chairperson Speranza:** The plans.

**Boardmember Cameron:** No, the checklist. Pull it our electronically.

**Building Inspector Sharma:** Eventually, the application form, the checklist, will be electronic.

**Boardmember Cameron:** Right.

**Building Inspector Sharma:** Eventually. I think it may be in the next few months.

**Boardmember Sullivan:** See, I think the usefulness of this – or at least the potential usefulness for this checklist – is to put in one place, where everyone's looking at the items that are required for documentation on the site plan. Like, for example, the site plan should show all existing municipal school districts, zoning districts, and special districts. You know, just some of that stuff we don't necessarily get. I think also it talks about the adjacent properties, as well.

It's interesting. Sometimes, when two zoning districts meet each other, there are special requirements for the boundary and yard requirements when it's a residential district that abuts it. So those are just ways to kind of capture that information so the Board has all the information that we need to make a decision.

**Village Attorney Stecich:** I actually had a bunch of comments, if I could. OK, first of all, under "application," that, to me, is really confusing. Really, the application is mainly the site plan. If you have an application form, that's fine. They can check the application form. But then to say "names of adjacent property owners," that's actually also under the site plan section. And just to say SEQRA is really, I think, confusing.

What you want to say, and I think it would be at the end of it, is the SEQRA environmental assessment form. But I think that would come at the end. I think probably the most important document that's submitted on the site plan approval is the site plan. So you might

want to move that up. And that's what's required on virtually all the applications. A bunch of the other stuff isn't required on a site plan approval. So I would like bump that stuff down, like the landscape plan. It's so rare that we see a site that also has a landscape plan. So just put those after the site plan.

And then those first three lines, I don't know what that means: "list of deviations from site plan requirements."

**Boardmember Sullivan:** I have to say, maybe I can take a look at your code book.

**Village Attorney Stecich:** No, it came straight from the code. That's how the code reads. But in terms of it being a useful list, it doesn't. If somebody gets this, what does that mean: "list of deviations from site plan regulations?" I don't know, what it might mean is like your zoning compliance: what are the requirements for the zoning district you're in – the setbacks and everything else – and do you meet it? Maybe that's what that means.

**Boardmember Sullivan:** I mean that seems to be what the code ...

[cross-talk]

**Village Attorney Stecich:** Kathy, I understand why you did it. You just took the language from the code, and that's helpful. I'm just suggesting ... and I think it could be made more user-friendly.

**Boardmember Sullivan:** Sure.

**Village Attorney Stecich:** That's why I was just helping to make some suggestions.

**Boardmember Sullivan:** No, that's helpful. It would be really helpful.

**Village Attorney Stecich:** And, actually, there's a lot of things that aren't on there that I think are really helpful to know. Number one is, what zoning district is the property in.

**Chairperson Speranza:** And we typically require it, or people put it on the plans. Like Ed did the analysis, the zoning analysis.

**Village Attorney Stecich:** But I'm not sure that's in the list of things, the zoning. I'll tell you, actually I brought a sample from Irvington, the zoning compliance sheet, that's so helpful. And so when we get these applications, it's the first thing we look at. If you want to see it, I'll show you. The whole bottom is irrelevant. This whole bottom is FAR. So it's

going to scare you when you look at it. But this would not necessarily be on this thing. But you may want the applicants to put it on. [off-mic]. I made copies for everybody.

**Boardmember Cameron:** I think we're all set.

**Chairperson Speranza:** And just one page.

**Village Attorney Stecich:** It's just one page. No, this isn't the whole application. This is just the zoning compliance. If you have an architect submitting a site plan, they usually put it in because it's sort of in their routine. But sometimes you don't. Sometimes you have somebody, like an engineer, who doesn't do this stuff all the time, doesn't put in ... and I'm not saying that you have to put like the requirements in that. But that information you want to know: what's the required setback in this district, what's the height limit in this district. So that you can look at this, and look at the site plan, without having to get your code out to see.

But whether it incorporates something like that or not, at a minimum ... and what this doesn't ask for – and it's not a criticism, it's just not listed under site plan requirements – but what the district, what's the use of the property; describe what the application's for. I think you should have to indicate whether it's in the view preservation district, whether it has steep slopes. Because for quite a while, actually ... and I don't know what made me [inaudible] my response. But there are properties that we looked at that had steep slopes and that didn't jump out. So I think you have to ask does it have steep slopes. And I think that's on the check sheet.

Because there are properties – not now, anymore – but it used to be that it didn't come up with steep slopes review. So I just thought those might be some extra questions you'd want to ask. And then just move the other things, like the planting. Covenants or deed restrictions, it's not a bad idea.

**Chairperson Speranza:** We might not know. We might not know if there was a deed restriction on the property if it didn't in any way surface during a discussion, right?

**Village Attorney Stecich:** Yes, but on the other hand ...

**Building Inspector Sharma:** Then I have to check it, too.

**Village Attorney Stecich:** Yes, but then on the other hand is that your responsibility? Generally, deed restrictions are between neighboring property owners and that's for them to resolve. And usually you wouldn't get involved in that.

So you may want to leave it in there. I'll tell you how many site plan applications have we seen, even though it's in the code now, with somebody providing the covenants and deed restrictions?

**Chairperson Speranza:** Never. I don't remember ever ... although maybe something did on the waterfront, when they had the public right of way access. Remember? I think that was it.

**Village Attorney Stecich:** And I guess it could be relevant. Let's say the property doesn't have frontage, and you need to know ... and their access is over somebody else's property. Then you would need to know that. So you might even say ...

**Building Inspector Sharma:** But someone uninitiated looking at this checklist, and seeing that the person has not provided deed covenants or restrictions, we'll return the application. We'll forward the application to the Planning Board and mark it incomplete.

**Village Attorney Stecich:** Right.

**Building Inspector Sharma:** I've seen in many municipalities they return applications in a totally inhuman sort of way. Maybe they don't want to think what is applicable to that particular application unless all the t's are crossed and i's are dotted. The applications get returned.

**Village Attorney Stecich:** See, a lot of this stuff came ..

**Building Inspector Sharma:** ... from my office, if I can help it.

**Village Attorney Stecich:** A lot of this stuff came ... there were like a few codes out there. Because if you look at all the codes at the villages all over the country they're really very, very similar. There were a few models that things were based on. And my guess is, that's what happened with the site plan requirements, too. And I know that's commonly on many covenants or deed restrictions. I mean, I'd raise that question – not here because nobody ever submits them anyway – in Irvington. where the engineer reviews each applications and says what's missing. And he always says provide covenants and deed restrictions. So we go through that.

So you could say "where relevant." And who decides what's relevant? But if relevant, if relevant.

**Building Inspector Sharma:** Photographs for many view preservation situations.

**Chairperson Speranza:** That's going to be on the other list.

**Building Inspector Sharma:** I know. What I'm saying is for the purely clerical person, non-thinking person, all he does is yes, no, black and white. Not really going into whether it's really applicable to a certain situation, or not. For example, this particular situation. Ninety-percent would be not applicable, so site plan approval.

**Chairperson Speranza:** That's true.

**Building Inspector Sharma:** No site plan there, no landscaping there, no covenants there.

**Boardmember Sullivan:** But there's no problem in having that on a checklist.

**Village Attorney Stecich:** Yes, where applicable.

**Boardmember Sullivan:** I mean, this doesn't mean you have to provide everything. You are going to make an informed determination on each particular project.

**Building Inspector Sharma:** But I have believed the code, the way it is written for intelligent people, that is the checklist. Of course, this will make it easier. But each code section, I've used that for flood plain development. I listed each code section, and next to it provided a sheet number so-and-so, page number so-and-so, et cetera. And I've done the same thing for a steep slope. I had some people bring in that kind of checklist.

And I'm not opposed to it. I think it's fantastic, it's great. I think something needs to happen that we apply a little intelligence when we review the applications.

**Boardmember Alligood:** We're not changing that. That's what's happening now, and the checklist isn't going to change that.

**Building Inspector Sharma:** No, a checklist makes it kind of easier.

**Boardmember Sullivan:** Right.

**Village Attorney Stecich:** Right, for the review.

**Boardmember Sullivan:** It makes it easier for the applicant, and may make it easier for people that are reviewing it. And it will make it easier for the Board to receive a package

with this identified, where you can say this wasn't here because it was determined that it wasn't applicable, I understand that I don't need to worry about that. Or wait a second, I think we may need that kind of information, and have a conversation and a dialogue with you.

But I think some things have been left out of some applications, and it's important to have the requirements as Marianne's suggesting and as others can. That at least on one place, on one page that everyone starts from. And then the intelligence that you're talking about is applied to whether it's a required piece of information that needs to be submitted.

I'm going to say about the deeds and covenants – just for thinking back to the affordable housing on Washington Avenue – it was very interesting to know that there was an easement on an adjacent owner's property when we were talking about the parking access in the back. It was a very good piece of information to have. It was the first I've seen and heard.

**Village Attorney Stecich:** And also, I think on that application with Baldwin.

**Boardmember Cameron:** But just to go to the deed restrictions, part of the purpose of the checklist is to alert the applicant that they should check certain things before they make an application. And maybe their part of the checklist should have "check to make sure you have no deed restrictions on what you're doing." But the whole idea of somebody having to bring your deed in every time they do something, and go over it with Deven, is just silly. Because there's tons of things that don't happen.

So part of the reason for the checklist, in my view, is to help the applicant make their way through all the things they got to think about before they come ahead. We may say, well, they should know that – they should know how to do that. But I don't see Deven going through people's deeds. Maybe you do. And I think somehow the checklist with the two columns is a bit of a trap on that because then you're asking Deven to put his checkmark next to it.

**Building Inspector Sharma:** It truly is the code in a tabular form. For example, the codes, in the back of the book there is like a chart for the zoning code, et cetera. And a lot of times people don't even look at the code, they look at the chart.

Absolutely, it certainly will make things easier for the applicants and, as well, for me or my staff, my people. And I'm not opposed to it.

**Chairperson Speranza:** Well, that's good. Let's go back to this discussion of covenants and deed restrictions. What if, for instance, there's a ... I believe there are also easements on the

Broadway property. So as we're talking now, it is more and more. Have we ever asked to see what the actual language was? No. Suppose there is the transfer of a property which does have a deed restriction on it that says, well, you can't develop within 100 feet of this bank or 50 feet of the bank. Let's say there was something on 9-A that said you can't develop. That's important for us to know and for us to be able to verify that, in fact, that is in the case. Which then means that their development potential is going to be less.

**Village Attorney Stecich:** A couple of things on that. First is just to backtrack a little bit. I think if you said covenants are relevant. Usually when it comes up it's because the applicant needs to show you I don't have access, but I have access via this easement. Or I don't have this, but I have this.

Now, your example of the property next to the bank, and you can't develop within so many feet of a bank. Presumably that would have been in there at the bank's insistence for some reason, and it's there for the bank to enforce it. Then it's up to the bank to come and say, "Hey, listen. They've got a deed restriction, they can't do it." And if they disputed it, that's not for you to get in the middle. That's a dispute between property owners. The Village doesn't get into disputes like that.

But that's why you give noticing to neighboring property owners. So if put "if relevant, covenants and deed restrictions if relevant" would cut it. And then it's no issue for Deven, really, to determine. Because they'll say it was really not relevant. As I said, I would guess that 98 percent of the time, if not all of the time, that if it's going to be relevant it's because the applicant needs it. And so they're going to bring it to you to show they have permission.

**Chairperson Speranza:** Right. Or they need to show it because it makes part of their property not developable. The owner needs it for some reason.

**Village Attorney Stecich:** Yes. Well, they're probably not going to bring it in to show you that it can't be developed. And you know when else it could be relevant? We don't have this right now in the code. But let's say they enacted a wetlands law, and under the wetlands law there's certain parts of your property that can't be developed. You might want to know that. But I think maybe the more appropriate question is are there wetlands.

And then maybe a better question, which is not on here, is have there been any variances granted for this property? Is there already a site plan approval on this property? Are there any conditions to that site plan approval? Are there any conditions to the variance? Right now, we don't know that. Sometimes people remember, "Oh, yeah. I remember, 10 years ago, that they were in." So another good thing to add might be have any variances been granted for this property and are there any conditions.

**Chairperson Speranza:** Right. There was that property on 9-A, remember? The state actually took part of the front yard, which is what made it nonconforming. Because they took it to widen the road. Now, that was something which we found we were going to find against the applicant I that situation because they were made nonconforming by a taking of the state.

**Boardmember Cameron:** No, Marianne, maybe there's a standard thing for this. But I would think that we'd want to have something at the bottom of the checklist that basically says this checklist is prepared to assist the applicant; it's not intended to be exclusive; there can be other things in the code that apply.

**Chairperson Speranza:** We wouldn't have anybody who comes in that says, "Well, you didn't ask for it."

**Boardmember Cameron:** They will. They'll stand right in front of you and say that, I promise.

**Village Attorney Stecich:** It's a good point. "I gave you everything."

**Boardmember Cameron:** Yes. "I gave you everything you asked for. How can you possibly put me off?"

**Boardmember Alligood:** But I want to just echo, awhile back, Kathy, when you were talking about the need for it. I think, in my experience, we sometimes get something that doesn't have information. We get to the meeting and it's missing something that we really feel is important to the deliberation. And it's always awkward because the applicant is now going to have to come back, and we really feel like we can't act on something if we don't have the information. That's happened a number of times. I want to express that.

I really see the need for this because I think it's fairer to the applicant and to us. It just makes it more clear and consistent.

**Boardmember Sullivan:** The main goal is that.

**Boardmember Cameron:** That's another sentence in the little warning: the board which you may go before may request additional materials in addition to what's on this checklist. Or whatever.

**Boardmember Alligood:** I think the checklist covers most of the things we've ever asked for. It's just that somebody comes to us without something ...

[cross-talk]

**Building Inspector Sharma:** Do it, but not be limited to the following.

**Village Attorney Stecich:** Well, it does.

**Boardmember Sullivan:** I think we're forgetting a very important clarification: text large enough to be read.

[laughter]

**Boardmember Sullivan:** Electronic is wonderful.

[cross-talk]

But some things are a little tough. My eyes are getting old.

**Village Attorney Stecich:** The other thing to back up which Eva and Kathy are saying, in Irvington where there a lot more applications they do have a checklist. They have a long checklist. And I got to tall you, most of the applications come in complete.

**Boardmember Cameron:** Yes.

**Boardmember Alligood:** And then you can review them ...

[cross-talk]

**Village Attorney Stecich:** ... from the zoning compliance. And they have a packet about that thick, but they almost always come in complete.

**Boardmember Alligood:** And it's not to say that people can't make a strong case for things that are not relevant.

**Village Attorney Stecich:** Yeah.

**Boardmember Alligood:** We want to leave that option. I want to be clear, but just make sure ... there are certain things that we really do want to look at.

**Boardmember Cameron:** I guess in Irvington you can't build a house bigger than 10,000 square feet on a 2-acre lot. Look at the FAR.

**Village Attorney Stecich:** Yes, they enacted that to get around giant houses.

**Chairperson Speranza:** The McMansions.

**Village Attorney Stecich:** Yes, that's total floor area.

**Boardmember Cameron:** Right. No, I meant total.

**Village Attorney Stecich:** Some of the ones here would be ... at least one of the people would be out of luck, right?

**Boardmember Cameron:** Yes, absolutely.

**Chairperson Speranza:** So how do you want to do this? Should we look at all these things? I have the code. Bill has a copy of the code, also. Rebecca, you have one also. So if we're looking at the site plan, names ... and it's part of the problem of trying to reduce the volume of words from our code into a checklist.

**Boardmember Sullivan:** Make some choices.

**Chairperson Speranza:** Now I'm sure, name and address of the records of adjacent properties may have to do with being able to give notice to adjacent property owners.

**Village Attorney Stecich:** Yes. Well, that's OK, but all I'm saying is why ... there's something odd about the way it's set up. It says "application." Now is there a site plan application form?

**Building Inspector Sharma:** Yes. I've been meaning to revise it.

**Village Attorney Stecich:** OK, but there is an application form. So then what it should say is "application form." These things aren't subdivisions, subparts of the application form. For instance, SEQRA isn't. Like on the site plan, all of those things are things that have to be on the site plan. But if you look on application, those aren't all things that are on there. Maybe they are, maybe they're not.

**Chairperson Speranza:** Well, it says that they are required to be on the application. That it's to be included.

**Village Attorney Stecich:** Well, then they should be on the application form.

**Chairperson Speranza:** Right. *"The application for site plan approval shall be on official Village forms, signed by the fee owner of the property; which application shall include the names of all record owners of adjacent properties and the sheet, block and section number of those properties and the property to be developed; a list of any deviations from the requirements of this chapter, and a completed New York State Quality Review Act assessment form."*

**Village Attorney Stecich:** OK. I guess I'm not making myself clear.

**Boardmember Sullivan:** I think we need to make sure the application form includes these items.

**Village Attorney Stecich:** But SEQRA is not going to be on the application. It's separate. Just cross it out, and put what do you submit. You have to submit an Environmental Assessment Form.

**Boardmember Sullivan:** No, that's understood. That makes a lot of sense.

**Village Attorney Stecich:** So the list of deviations from the site plan requirement. I think what number one should be is the application in whatever form it is now and, hopefully, it will be improved – whatever the application is. And then, I don't think you have to worry about the names of owners of adjacent properties. If it's not on that application form, you've got down that it has to be on the site plan. Applicant's property, adjacent property. Generally, it has the adjacent properties. It has the name on a list.

**Boardmember Cameron:** Yes, we want to eliminate duplication. We don't want to be like you're going into a hospital, and you fill out three forms of all the same information.

**Chairperson Speranza:** Right, exactly.

**Building Inspector Sharma:** Let me ask you, why do need them under the adjoining property owner? We send mailings to all the property owners within 300 feet.

**Boardmember Strutton:** And you give them the list.

**Building Inspector Sharma:** Yes.

**Village Attorney Stecich:** So I don't think it even needs to be there.

**Chairperson Speranza:** Do you have to do an application for this one?

**Village Attorney Stecich:** I don't think you do. That's my point. I don't think, just because the thing is in the code now that it's necessarily gathered on the application form. Deven's exactly right.

**Chairperson Speranza:** I was just looking for ...

**Boardmember Alligood:** Well, it says application form.

**Chairperson Speranza:** Right. If there is an application form ... for the one we had tonight, site plan approval.

**Building Inspector Sharma:** We did not have a form. It was halfway between the paper thing.

**Chairperson Speranza:** His transmittal letter says *"transmitted herewith are 13 copies of the following: the application form, the Short Form EAF."*

**Village Attorney Stecich:** The application form he put in was for the Zoning Board. He put in the ZBA one.

**Boardmember Alligood:** Which he didn't think was relevant, right?

**Chairperson Speranza:** And this is Ed, our former Planning Board member.

**Village Attorney Stecich:** But there's an application form. *"The names and owners of the adjacent properties are relevant for notice."* And the Building Department gives them the notice list. And then it also may be relevant on the site plan, but that's already under the second item, under "site plan." Applicant's property, adjacent properties – it also might be relevant fro that.

So all I'm saying is that I think at the top all you need is "application form, 11 copies."

**Chairperson Speranza:** Deven, can you send us a copy of the site plan application form?

**Building Inspector Sharma:** Yes.

**Chairperson Speranza:** OK, great.

**Building Inspector Sharma:** It's very bad.

**Chairperson Speranza:** Just so that as we're going through this we'll know it's already being requested on the application.

**Village Attorney Stecich:** So what do you need? You need the application, you need the site plan – and this lists all the things for the site plan – you need the Environmental Assessment Form, you need a planting plan. Now, is that not on ...

**Chairperson Speranza:** Oh, that is a part of the site plan requirement.

**Village Attorney Stecich:** Wait. Is it in the list, though? That long list that's right under site plan right now?

**Chairperson Speranza:** Yes, it's in here somewhere. I did see ... it doesn't say a landscaping plan. Here we go: *"The location, size and type of all landscaping, screening and buffer areas."*

**Boardmember Sullivan:** So different than a planting plan.

**Chairperson Speranza:** Right, it's not a planting plan. But it's the landscaping plan. *"The location, size and type of all landscaping ..."*

**Village Attorney Stecich:** I mean, Patty, where is it? On the first or the second page?

**Boardmember Sullivan:** First page.

**Chairperson Speranza:** Oh, that's steep slopes.

**Village Attorney Stecich:** One, two, three, four, five.

**Boardmember Sullivan:** But see, the planting plan is called out as separate.

**Village Attorney Stecich:** Oh, here. *"The location, size and type of all landscaping, screening and buffer areas."*

**Boardmember Sullivan:** A separate item there.

**Chairperson Speranza:** Oh, OK. I see. You're right.

**Village Attorney Stecich:** But I don't think you're going to get further along if just because it's in the code ...

**Boardmember Sullivan:** Yes, but that's the issue. It's in the code, and if it shouldn't be requested then it shouldn't be in the code. It's like one of these things that's a requirement that we don't see. And I think it's a judgment call on the smaller property whether you need to go through a planting plan. That kind of thing makes sense. But it's in the code as something that can be considered in site plan review.

**Village Attorney Stecich:** But how is that different from the landscaping plan? *"The location, size and type of all landscaping ..."*

**Boardmember Sullivan:** Looking at the code and how it's structured hierarchically, the planning plan is equal in the outline form as a site plan. It's a separate requirement. For whatever reason it doesn't have its list of items.

**Village Attorney Stecich:** Understand. But I thought we were trying to simplify it.

**Boardmember Sullivan:** I think we're trying to identify the items that are required.

**Village Attorney Stecich:** OK.

**Boardmember Sullivan:** And then the simplification can occur.

**Village Attorney Stecich:** And all I'm saying is, how is it different than the landscaping plan.

**Chairperson Speranza:** Although, you know, the planting plan is required to be prepared by the architect or a landscape architect. "Certified by the state of New York": I mean, that gives it a tremendous amount of weight.

**Village Attorney Stecich:** So it's got to be on the site plan, too. That's part of the site plan, and the site plan also gets to be signed.

**Chairperson Speranza:** By an architect or a landscape architect?

**Building Inspector Sharma:** The site plan?

**Village Attorney Stecich:** Yes.

**Building Inspector Sharma:** Architects sign it. A landscape architect can sign it, as well, or a civil engineer.

**Chairperson Speranza:** Or an engineer.

**Village Attorney Stecich:** Yes.

**Building Inspector Sharma:** But I get site plans and I sign it just as I sign any other plan.

**Boardmember Sullivan:** The planting plan is a more detailed understanding of what the buffer areas and the landscaping areas can be. And I think that could be as required, or an if relevant kind of a situation. Someone's doing the site plan on a single-family home, you're not going to necessarily require them to do a planting plan. But in the case of Uniontown, an old store was going to be converted into a dentist's office. There was a very good planting plan that was submitted with that application, and that was useful [off-mic] the types of plants they were using to do screening of that parking area. So that was, I think, a very appropriate addition to that application.

**Building Inspector Sharma:** The flood plain application, we don't have one. So I did a similar checklist where, actually, one column stated the code section, the next the code provision, and the third and fourth column how it is included or provided to the applicant. We could do it without justifying or defining anything. Against each code subsection, let's put a column next to it and say whether it's applicable. It's very simple.

**Boardmember Sullivan:** No, it's arguing that judgment shouldn't be applied. It's really understanding guidance.

**Building Inspector Sharma:** No, I understand. What I'm saying is a checklist, per se, we could actually take that exactly wording.

**Village Attorney Stecich:** That's what she's done. That's what this is.

**Boardmember Cameron:** But a different thing to do is actually put the code section right next to the description, and refer the person over there so we wouldn't have to put such a long description in.

**Boardmember Sullivan:** Whatever format makes sense for the applicant's use.

**Boardmember Cameron:** I mean, maybe you have it, and then right next to it you just put the code section in brackets.

**Chairperson Speranza:** I'm looking at the application form, the application for site plan approval. And it does mention in here a checklist of items to submit. The site plan approval application form, which this is, the filing fee should be first. The SEQRA, detailed site plan, and a reference to the zoning code, the vicinity map.

**Building Inspector Sharma:** It's a location map.

**Chairperson Speranza:** Yes, all the same. And the planting plan. And those are the major items that are included in this section.

**Boardmember Strutton:** What section is that?

**Chairperson Speranza:** If you look at the bottom, 295-144. And then the SWPPP, as necessary. Any other information required by us.

**Boardmember O'Reilly:** Looking at what's in the code, I see what you did taking the various aspects of it. The first four relate to the application in general, and then the next lot apply to what should be a detailed site plan. So the question follows about the detailed site plan, which is purely a checklist of the things that are required there, which that covers. Now, you simplify it, but then you can check them off. But the application is one item, obviously.

**Boardmember Cameron:** Well, they do have a code section in this. And the Zoning Board of Appeals is one of the code sections referred to in there.

**Chairperson Speranza:** So maybe one of the ways to do this is to take ... OK, so we have the application form, the fee, and that's already noted. The deeds and restrictions, a planting plan, a vicinity plan; OK, those things are all right now called out in the application form. There is no reason why, though, we couldn't rather than just referencing the zoning code include these items. You know, attach the checklist to the application form that includes all of these other items.

**Boardmember Sullivan:** So basically strip out application and vicinity plan, and then just make this be more a detail of what you expect to see.

**Chairperson Speranza:** As part of this, right.

**Boardmember Sullivan:** Sounds great. That would be great.

**Boardmember O'Reilly:** And then refer them to page 295-144.

**Chairperson Speranza:** Right.

**Boardmember Sullivan:** As long as the application and this checklist work together that would be wonderful.

**Boardmember Sullivan:** Not giving the application to look at it was hard. I don't think that's available anyway.

**Chairperson Speranza:** Yes, Deven just brought this up.

**Boardmember O'Reilly:** So the portion about other things may be required, covered by all other pertinent information which is the last item. All other pertinent information, that's pretty vague. He said nothing in this shall be taken to be – whatever, notwithstanding.

**Chairperson Speranza:** The only thing that we will be asking for.

**Building Inspector Sharma:** This is for the subdivision.

**Boardmember Sullivan:** Yes. The site plan approval form is used, plus a checklist of detailed things for the site plan.

**Village Attorney Stecich:** It's already in there?

**Chairperson Speranza:** And then when we get it, we can also take a look and make sure that everything is there that we want to see there.

**Village Attorney Stecich:** It doesn't ask for the tax section?

**Chairperson Speranza:** See, it does say, Jamie, in this section *"any other information or documents required by the Planning Board for a review of the site plan."*

**Boardmember Cameron:** Right.

**Chairperson Speranza:** So it's already got a disclaimer that we're going to ask them for more information if we need it. But I think one thing which would be good to include is this whole idea of a zoning analysis. As you pointed out, Marianne, I find it to be helpful.

**Village Attorney Stecich:** This one's very busy, but it could be ...

**Chairperson Speranza:** Right, it could be what had been submitted.

**Boardmember Cameron:** Can we use the Zoning Board of Appeals?

**Building Inspector Sharma:** You do an application for the ZBA, which is much, much cleaner, much, much nicer.

**Boardmember Cameron:** The ZBA one then.

**Village Attorney Stecich:** Patty, it's attached to Ed's application.

**Building Inspector Sharma:** Maybe that's not complete.

**Village Attorney Stecich:** It's not complete. You don't have the whole in there.

**Building Inspector Sharma:** I've been meaning to do a similar site plan application for site plan, as well, but I haven't gotten down to doing it. I was going to include some of those things.

**Chairperson Speranza:** OK, so that's something else that we add onto it.

**Village Attorney Stecich:** See, a lot of these things are on the subdivision.

**Chairperson Speranza:** And then you're right. Reservation of parkland, that's something that ...

**Village Attorney Stecich:** And it's important to say "if applicable." Same thing with the affordable housing set-aside, if applicable. Because none of that stuff is applicable to ... or most of the stuff you have site plan on. Most of your site plan approval is commercial. Or you might say reservation of parkland, residential use only; affordable housing set-aside, residential only.

And the other thing I would make clear on the stormwater pollution prevention plan, if one acre or greater. Because somebody coming who doesn't usually practice here could be kind

of thrown by it. Let's say he comes from Mount Kisco, and they require stormwater pollution prevention plans for everything. They've got to provide it, but it's not required for almost anything here.

**Chairperson Speranza:** Well, we can reference the chapter.

**Village Attorney Stecich:** Yes, but what you're trying to do is make it easier to somebody. You say required for properties 1-A, or whatever; 10,000 square feet, I forget what we've had. I think it's 10,000 required for lots.

**Building Inspector Sharma:** It would be easy for one acre.

**Boardmember Cameron:** Do we have anything on tree cutting? Because if it's more than an acre you have to have a tree cutting permit?

**Building Inspector Sharma:** For tree removal ...

**Village Attorney Stecich:** Only one acre.

**Building Inspector Sharma:** ... applies to one acre or more. And that would change with the 12 inches or more in diameter.

**Chairperson Speranza:** It does mention it on the form.

**Boardmember Cameron:** It does, the tree cutting?

**Chairperson Speranza:** Right. *"If the property is one acre or more, will the proposed work affect, injure or remove any existing trees 1 foot or more in diameter."*

**Village Attorney Stecich:** Oh, you're reading the application?

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

**Boardmember Sullivan:** We should start using the application without modifying it. That'd be wonderful, Deven.

**Village Attorney Stecich:** Did we get that far?

**Boardmember Alligood:** No, we haven't.

**Chairperson Speranza:** I haven't, no.

So I think there can be a hybrid. And there was something else.

**Boardmember Cameron:** Yes. At some point, when we put these all together, I think it'd be very useful to get a loose leaf notebook with those forms in it, one for each of us.

**Chairperson Speranza:** Yes.

**Boardmember Cameron:** It could make us a lot smarter.

**Chairperson Speranza:** View preservation? That would be referenced what the zoning district is.

**Village Attorney Stecich:** Not necessarily. You put down the zoning district, I'm in R-20. But you should be in a specific if it's a view preservation district.

**Chairperson Speranza:** And that's actually here.

**Boardmember Sullivan:** The view preservation overlay.

**Chairperson Speranza:** *"Does the property contain a slope of 15 percent or greater? Open area of at least 1,000 square feet?"*

**Village Attorney Stecich:** So, yes, a lot of that stuff I said is ... does this print it on every other page?

**Building Inspector Sharma:** This is it.

**Village Attorney Stecich:** Oh, OK. It's an awful lot of the stuff that I have. It's described in there.

**Chairperson Speranza:** I'm holding on to this application to your blank form, OK?

**Village Attorney Stecich:** This actually works pretty well.

**Chairperson Speranza:** What is that you found, Marianne?

**Village Attorney Stecich:** I think it works pretty well, this form. And then it's got the EAF attached to it.

**Boardmember Sullivan:** And we attach a detailed list of items for the site plan.

**Chairperson Speranza:** Right.

**Boardmember Sullivan:** Maybe modify the front, where it lists some of the things like ...

**Village Attorney Stecich:** This is wrong, though. It says Long Form EAF, and what's attached is a Short Form.

**Boardmember Sullivan:** This becomes kind of where you mentioned the rec fee.

**Chairperson Speranza:** Right, that's a good idea.

**Village Attorney Stecich:** And you could add this stuff about submit your rec fee when you apply.

**Building Inspector Sharma:** You see a checklist attached to that application?

**Village Attorney Stecich:** I guess it doesn't ask the question about are there any easements or deed restrictions that could ... it just could be a question: are there any easements or covenant restrictions that could affect this application, or affect this property, or something. That could be added to the list of questions.

**Chairperson Speranza:** Right. Even under identification of the property.

**Village Attorney Stecich:** And does it say is the property greater than 10,000 square feet? So there's really only a couple of things that would have to be added to that. And then if you wanted to have the checklist of the items on the site plan approval, that could be attached. Because that does include most everything.

**Building Inspector Sharma:** If we tabulate the whole code, and attach to the checklist or the application.

**Chairperson Speranza:** No, because the checklist is supposed to make it easier for everybody. And so that it's there, it's part of the package that we get, as well, to say OK, everything was looked at. And we can then say, OK, well, wait a minute. They said they don't have a planting plan; this site really could use some replacement planting, or it should have a planting plan.

**Village Attorney Stecich:** Deven, is this used? I don't remember see this.

**Building Inspector Sharma:** We used it up until a couple of months ago, yes.

**Village Attorney Stecich:** And then why don't we use it?

**Building Inspector Sharma:** We're going online, and there's a little bit of confusion. Online is not in the form that you fill out. You answer certain questions and it makes this whole form. So we are still working with it. It's going to be doing the same thing.

**Chairperson Speranza:** You're doing things online?

**Building Inspector Sharma:** Yes.

**Chairperson Speranza:** People are preparing their applications online, and this form isn't there?

**Building Inspector Sharma:** What's online is not the actual form that you fill out. It asks certain questions, and then the information gets tabulated in some kind of form which will be different. So we haven't worked out that form yet. The question and answer, we're not currently asking all the right questions yet. It's not down. And since we're going online everything will be computerized. Hopefully, when the previous variance is granted the application should show up quickly as we look at the application. Otherwise, we had to depend on what the applicant says, yes or not. We had to go back and look at it. Open up the file and see if they had previous variances.

But once we get nicely online in another three or four months I think a lot of things will get easier.

**Boardmember Sullivan:** Are the Zoning Board's applications online?

**Building Inspector Sharma:** The same process.

**Boardmember Sullivan:** No, this is specific. Right now, can someone go to our Web site, the Village Web site, and pull down the Zoning Board's application forms?

**Building Inspector Sharma:** It might still be online, but they're not supposed to fill that out. They're supposed to go to another site where they start on what kind of application you want to make – you want to make a zoning application or a planning application or a

building permit application – depending on what you check. It takes you to the next screen and next screen, and so on and so forth.

**Boardmember Sullivan:** This is on the Village's Web site?

**Building Inspector Sharma:** Yes, it is.

**Boardmember Sullivan:** So we're using that, but the right questions are not being asked.

**Building Inspector Sharma:** Correct. We're still working on it.

**Boardmember Sullivan:** It seems like that's a problem, in my opinion. If you are making a transfer electronically to a different way of getting an applicant to make an application, and you don't have the proper application questions there, it seems like a problem. It bothers me. Because I have to say, I've never seen the site plan approval form.

**Building Inspector Sharma:** Why don't I pull it out and e-mail it.

**Boardmember Sullivan:** To be really honest, I think it should be up on the Web site tomorrow. This is full of information, and it could have stopped a lot of confusion.

**Village Attorney Stecich:** Do you have the first page, too?

**Boardmember Sullivan:** I saw it.

**Village Attorney Stecich:** On the view preservation, it says about putting the ... do you have this?

[cross-talk]

**Village Attorney Stecich:** ... view preservation about submitting the photos and everything?

**Boardmember Sullivan:** This is so useful for so many reasons that it should be just available as soon as possible, I feel, for the Village and people to use.

**Chairperson Speranza:** If it's there, we should have it.

**Boardmember Sullivan:** PDF it, stick it up.

**Chairperson Speranza:** And this is where, also, we make the modification about the photos and the maps, and the photos must reflect existing, with an outline of what the proposed changes are.

**Village Attorney Stecich:** What about if people took this? Because I think everybody feels sort of better about this. There are few changes that should be made, a few things maybe that should be added to it. But not a lot. And it says procedure for site plan and subdivision, but what's all described is just site plan. So you might want to take that out. There were a couple things. You might want to add something about a stormwater pollution prevention plan if it's greater than 10,000 square feet.

And then at the next meeting go over it. And then it might be ready to go up. Because this strikes me as, actually, a really good form. Deven just said that Angie had worked on this. I don't remember it.

**Chairperson Speranza:** She might have been so far along, and then ...

**Village Attorney Stecich:** It's like she never gave it to the Planning Board to look at, but it's actually quite good.

**Building Inspector Sharma:** Up until two or three months ago I've been using that form. It's not a bad idea if the Board wanted to work on the application for itself – what questions you really want to ask – and then I'll give it to our computer guys to incorporate that in the program.

**Boardmember Sullivan:** But, Deven, I want to go back to my point. In the program's a good thing, but it should be available as soon as we can get it out for people to use in the interim, as well.

**Building Inspector Sharma:** I don't understand. The program should be available?

**Boardmember Sullivan:** No. I said it's great the program is being worked on, but I think the form should be made available as soon as it can be.

**Building Inspector Sharma:** Which form should be available?

**Chairperson Speranza:** This site plan application form. Because these aren't on the Web, right?

**Building Inspector Sharma:** What I'm saying is, the way the program works it asks you certain questions. Then the information gets formatted in this form, but not necessarily this way. That's what I've been asking. Why don't you give us a form that we fill out by hand. We asking them not to do it that way because we want to keep a record of every application electronically. So it has to be done ... I mean, we can take the questions from this form and put them in the program, but not this form itself.

**Boardmember Sullivan:** No, I understand. The information in your new program makes a lot of sense. I'm just saying until that program is ready and it's complete we should be using some other documentation.

**Chairperson Speranza:** So people could even just download this because the program's not ready, and print it out and fill it out.

**Building Inspector Sharma:** I know the zoning was available online, and this may be available online as well. I'll have to check. I'm not sure. We've been steering people away from using these forms.

**Chairperson Speranza:** Right, from using paper. I can understand that.

**Building Inspector Sharma:** But although we've steered them away from using papers, they still have to print that form out and bring to us 13 copies of it.

**Village Attorney Stecich:** It's so that they'll have it stored electronically.

**Chairperson Speranza:** So we need to get the Boardmembers copies of the applications?  
OK.

**Building Inspector Sharma:** OK. Why don't I forward it. I'll scan it, and forward it to you first thing in the morning. I'll do both the site plan and the subdivision.

**Chairperson Speranza:** OK. And I will work on the view preservation district stuff. Because clearly, now, we don't need to do it in this format. But I will add to this.

OK, and then steep slopes. Steep slopes, though, we might want to have the checklist – the meat of the checklist – what's to be included in the application part of the attachment of the form.

**Boardmember Sullivan:** I think so. We had issues with steep slopes.

**Chairperson Speranza:** Great.

**Boardmember Sullivan:** But I think this one was updated based on the revised steep slopes law that we did.

**Boardmember Cameron:** With the multiple checklist, though, I think we need to be careful we're not asking someone to give us the same thing two or three times.

**Chairperson Speranza:** Oh, agreed. The instructions have to be clear.

**Boardmember Sullivan:** And I think using this application [background noise] just providing a structure, more detail, in the checklist as needed is wonderful.

**Boardmember Cameron:** That's one of the most irritating things.

**Chairperson Speranza:** Right. You're right, it's akin to when you go to the hospital or go into a medical facility.

## V. ANNOUNCEMENTS

**Next Meeting Date – December 20, 2012**

**Chairperson Speranza:** Is this date good for everyone? Good to know.

## VI. ADJOURNMENT

**Chairperson Speranza:** Then I guess we're good? Motion to adjourn? And none are opposed, right? And Happy Thanksgiving, everybody.