

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**  
**MAY 21, 2013**

A Regular Meeting was held by the Board of Trustees on Tuesday, May 21, 2013 at 7:35 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Peter Swiderski, Trustee Bruce Jennings, Trustee Meg Walker, Village Manager Francis A. Frobel, Village Attorney Marianne Stecich, and Deputy Village Clerk Mary Ellen Ballantine.

**ABSENT:** Trustee Marjorie Apel, Trustee Nicola Armacost.

**CITIZENS:** Five (5)

**Mayor Swiderski:** Both Trustees Armacost and Apel are traveling on business.

**APPROVAL OF MINUTES**

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the Minutes of the Regular Meeting of May 7, 2013 were approved.

**APPROVAL OF WARRANTS**

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, the following Warrant was approved:

Multi-Fund No. 58-2012-13 \$177,410.70

**DISCUSSION** - Saturday Drop Off at Public Works Garage – Proposal to Change to Once Per Month

**Mayor Swiderski:** This is both Board discussion as seeking public input. We have gotten several e-mails on the topic from people, and a written letter as well, almost all against the idea, the three or four that we have gotten.

**Village Manager Frobel:** I have not received any e-mails, Mayor. Just the one handed to me this evening. We distributed a flier the last two Saturdays. I asked Mike Gunther any reaction to those in attendance who were accepted. He said no, he did not get any strong feedback from the men that were working as to the reaction of the citizens that used the facility. I do not have anything more to report. I thought we would have some folks here because we did try to publicize it.

**Mayor Swiderski:** And I did put it out in my message. Is there anyone who wants to speak to that topic?

**Tim Downey, 520 Farragut Parkway:** I would just like to reiterate the point I have made in the past. I would be completely in favor of it. Other villages around us do not have it. Other villages do have, in some cases, twice a week sanitation and garbage pickup, not construction stuff. My eyewitness account in the past is there has been an enormous abuse from people both outside of our community and even some contractors within our community subsidizing their businesses. The public at large is subsidizing both people within our community and people outside the community. It is easier just to cut it off and see if we cannot rein in the behavior that has run wild.

**Dave Skolnik, 47 Hillside Avenue:** Based on the responses I got the last couple of weeks from people I spoke with there, I did expect to see more people here. Unless I could hand you a stack of signed affidavits, to say anecdotally that a lot of people were disturbed about it, while I testify that that is the truth it does not hold the weight that people standing here would. I am, obviously, opposed to this. It is precipitous in that there are definitely issues that have been raised: the ones that Mr. Downey just raised, the environmental issues. I do not deny that there are concerns. But I feel as though the data that has been provided is sketchy. The idea that there would not be some other way of enforcing the guidelines without simply saying to stop it altogether I find troublesome. I know that you have got a response just from the brief period that you had an officer down there and the sign up.

If it were something that you were convinced a good portion of the people that use it cared about it, then I think you would be more inclined to look more carefully at how this functions, what purpose it serves, and what other ways you might have to go around it. If you are going to stop it you should not even bother with the one Saturday a month. The way the operation gets used, people are not going to store up stuff for a month to bring it down. It tends to be used by people that cannot get stuff out of their garage on the weekday that sanitation would be coming by to pick up. From what I understand, the bulk pickup would still be limited to 10 or 12 appointments along with the regular pickup. If there is more than that, and if you can get it together to plan that far ahead, you still might have to put it off for another week because their route is already full.

Again, I would respect the decision more if I felt as though there was a more conscientious reviewing of all the data, including the actual costs of the recycling. There has been some information, but it has been somewhat lacking.

**Trustee Walker:** I wonder if we should share the information that Susan gathered.

**Village Manager Frobel:** Yes, we did survey area communities and it was provided to Trustees in the packet this week. Fourteen communities were surveyed. One community has the same level of service that Hastings offers: that is one garbage pickup, and the garbage drop-off is allowed. We have got two, Croton and Pleasantville, have one pickup and no drop-off; and nine have two pickups with no drop-off. And then finally, two have two pickups and a drop-off, with the comment that the town of Mamaroneck supervisor indicated above that "residents like the ability to bring garbage and rubbish to our yard. It's become a social thing for some. Our sanitation brochure indicates that residents may be required to show ID. Every three or four weeks we conduct ID checks at the gate."

So there does seem to be a large number of communities that still have the twice a week pickup of household refuse. That is what Hastings had at one time and we went to the one trash and recycling on Saturday for the convenience of residents to bring household refuse.

**Trustee Jennings:** I assume that those communities that have two pickups also do recycling. Do you have a sense of that? Do they do three rounds per week, then?

**Village Manager Frobel:** I would have to check further. I assume they would have to.

**Village Attorney Stecich:** Greenburgh is not on here, but Greenburgh does two sanitation and one recycle, alternating paper and commingled.

**Village Manager Frobel:** So one week it is paper and one week it is commingled.

**Village Attorney Stecich:** Right. And holiday weeks they pick up once, and then do two-week cycles, because they have to pick up garbage in two parts of town. There is a sanitation pickup on the north part of town on Monday and south part of town on Tuesday. But on these others ones, I think it is generally two and one.

**Trustee Jennings:** When we are seeing number two here for these communities, it means that each resident gets their trash picked up twice per week.

**Village Attorney Stecich:** Right. And I know Ardsley because it is on my walking route, and that is two garbage and one recycle.

**Trustee Jennings:** Fran, could you refresh my memory? This may have been before your time, but what was the rationale that led us to decide to do one trash pickup rather than two? Was it at the time we instituted the recycling program?

**Village Manager Frobel:** That is my understanding.

**Trustee Jennings:** What led us to go for one and one rather than two and one? Manpower, cost, equipment?

**Village Manager Frobel:** That I could not answer. If you had all your trash in one bundle, including paper, commingled and rubbish, twice a week seemed to be what they needed. Once you pull that out, you would have, in theory, less trash to be picked up on your normal collection day, and you would have your paper and commingled on the other two days. The way they implement here makes perfect sense to me as to how it came about.

**Trustee Jennings:** That makes sense to me, too. Except for the fact that the other communities seems to have the need to pick up their trash twice.

**Village Manager Frobel:** And I cannot explain that. I know, in talking to both of the managers, their preference would be to eliminate that second day. Also, in both those communities their drivers are done when their work day is complete. As you know, we have the full work day Monday, Tuesday and Wednesday. They still have the release once their routes are finished. So some of those communities are still finishing up at 11 o'clock, 11:30 and going home for the day. Hastings has made that progress where we have changed those work rules to have a more productive workforce.

**Trustee Jennings:** I understand that process, but those changes were made after we had decided on the one and one rather than the two and one. So that is not really related to the decision about once a week rather than twice a week for garbage, right?

**Village Manager Frobel:** No. I am saying that on the daily run they have less to pick up per man per truck.

**Trustee Jennings:** If they do it twice.

**Village Manager Frobel:** Really, we have a three-day collection in my opinion. We have trash, paper and commingled.

**Trustee Jennings:** Yes. But most of the letters that I saw were only about garbage. Nobody is talking about recycling. Their claim is that they have too much garbage for a one time a week pickup, that this causes a hardship, and that therefore the outlet of a Saturday morning is the only way. The logic of what you are saying is that there should be less garbage because you are taking the recycling out of it. That makes sense to me. If we picked it up twice a week, the crew would probably be picking up the same amount with two pickups that they are now picking up with one. I cannot imagine it.

**Village Manager Frobel:** That is what I was trying to argue, that we are trying to increase our productivity. This would be going backwards if we were to consider two days a week for trash. I know we are not suggesting that. But our goal is to bring the nine men that every day pick up trash into the workforce to do other assignments at the completion of their routes. . But you are right, that is not germane to this conversation.

**Trustee Jennings:** Maybe a solution to the problem that our constituents are describing in their letters is as simple as the purchase of an additional garbage can.

**Village Manager Frobel:** Or to be more aggressive in your recycling efforts. Depending on the size of your family, it is hard to imagine that you would generate more than three bags at the curb of just regular trash.

**Trustee Jennings:** And once again, I think that is a separate issue. If people are putting recycle material in their trash they are violating the law so we need to get away from that. But even if it is just pure trash, if the volume is reasonable for one pickup a week, I am trying to find the easiest solution to a problem that has been called to our attention. I am not yet persuaded that the Saturday option is necessary.

**Village Manager Frobel:** I keep that chart by hand. Mary Ellen helps me keep it. We have plotted for the last 10 years trash, recycling, paper and commingled. We know for a fact that the amount of regular household trash in the community has gone down by several percentage points each year. So we are seeing a reduction in the amount of trash that the average family is putting to the curb. It should be easily accommodated with a one day a week pickup. I do not see why they would need the Saturday drop-off, except for, as I have advocated, that once a month the cleaning out of the garage bulky stuff that you just do not want to leave for Monday or Tuesday, and you would just as soon break it down on Saturday morning and then plan your day accordingly, knowing it is the first Saturday every month, if the Board was inclined to eliminate the Saturday session.

**Trustee Walker:** There are two issues. One is the bulk and accommodating people who are cleaning out garages and so on. The second is normal household trash. On the normal household trash side, there are communities around the country that are advocating zero waste. San Francisco has a program to reduce their waste to zero. So there would be no trash pickup. I do not know how they do that. Portland, Oregon and communities in Washington. They are pushing the sustainability effort to that degree, to reduce their trash to nothing, and to increase the composting. Of course, they probably have municipal composting.

**Village Attorney Stecich:** What do they do with dirty diapers?

**Trustee Walker:** I do not know. I am not saying we should do that. I am just saying that there are communities that are trying to go to zero. But they have municipal composting, which would be a significant amount of the trash probably. And then a high degree of recycling. I do not know what you would do with diapers and certain kinds of trash. What I am saying is that as part of our sustainability plan, if we want to increase recycling and decrease the amount of trash that we are throwing out, you have to squeeze a little bit. You have to make the rules a little tougher. I am a small family so I cannot look at myself as an example. But there are larger families that probably do produce more trash or have several infants in the house. The bulk pickup is a question, too. When I have used the Saturday drop off it is not for my normal household trash. It is for when I have cleaned out the garage and I have a big pile of stuff that I do not feel like putting on the sidewalk and I take it there.

We should try the once a month. That would at least accommodate some of the bulk. It would not accommodate normal household trash, but that is what we are trying to reduce. Unless we try it, we are not going to hear anything. When we institute this and people feel strongly about it and they come out and we hear that it is unpopular, we can change our minds. It is an experiment. There is nothing wrong with trying it.

**Mayor Swiderski:** The only pause I have when I consider this is the overwhelming argument from the people who say they just generate more than a day's worth of trash. While I wince at the point that this is easily solved by another trash day, there is some logic to that. I am just judging by my own gauge that I fill up a bin. But I have two, and if need be I can always go that second. So I buy that, but I understand this will be an issue for a subset of people. Whenever you pull back a service for whatever set of reasons there is going to be a certain degree of complaining. Nobody likes to lose a service they have come to depend upon. But it is not something that is offered in all the communities, and it is a cost savings and it is a truck not idling for the morning. And it is abused. Stationing a police officer, or expecting the person serving that truck to act as a screener or a cop, is asking a lot. So all in all, I add up to as an experiment it is worth trying. And there will be people, and I suspect it is not small and will bet it is probably maybe 50 to 100, who use that dump every week for regular garbage. I go there often, at least once a month.

**Trustee Walker:** With your normal household trash?

**Mayor Swiderski:** Never. Bulk. Always with the garage cleanout or the latest construction job like leftover paint cans or whatever. So I am there frequently, but I can also work around a monthly schedule.

**Trustee Jennings:** There may be one last thing to take into consideration. I recall from our budget examination that we are talking about something that if we eliminate it entirely was \$8,000. So we are talking about, even if keeping one day a month, \$5,000 or \$6,000 in savings. If we have a relatively small number of people who utilize this, I am not sure the best way to pay for it is to have all the taxpayers subsidize it. We might consider a fee for use system instead of a general tax funding to pay for it. If there is a lot of concern about this when we try the experiment, and we roll the experiment back, we should seriously consider the pros and cons of different ways of paying the cost.

**Village Manager Frobel:** So just a fee for service if you used it on a Saturday.

**Mayor Swiderski:** It is an idea. The only problem is the collection of those sorts of monies becomes an issue.

**Village Manager Frobel:** We could pre-sell them at the Village Clerk's office.

**Trustee Jennings:** You can sell vouchers.

**Mayor Swiderski:** And you can verify on the spot whether the person is a resident or not.

**Trustee Jennings:** Edgartown, Massachusetts figured out how to collect the money on the spot when you took it to the dump. It was not that hard to do.

**Mayor Swiderski:** But drop-off places like that, though, typically are institutions with a cashier.

**Village Manager Frobel:** You like to reduce the handling of cash on the scene.

**Mayor Swiderski:** I like it.

**Trustee Jennings:** There was not a cashier. If we have somebody who is being paid to be there to look at the truck, they can also accept a check or take cash and give a receipt. This is not rocket science. It could be done very easily. Now, maybe there are accounting rules and we have to make sure somebody does not steal money. I understand that. But then sell vouchers here at Village hall ahead of time, and let people turn those in. There are ways to do this.

**Trustee Walker:** I agree. The voucher idea, or selling a special garbage bag that says Hastings. This is very common, where you pay for the extra service.

**Mr. Skolnik:** May I fill in the gap about Neil Hess and how this whole thing started? I spoke with Neil way back in the '90s when this one-pickup came about, in the office with the ashtray and the cigarette going and the cloud of smoke above our heads. He explained why he did it. It was a bold move on his part. He wanted, as Meg said earlier, to squeeze a little and see if we could not change behavior and find some savings. And it worked. The uproar at that time, going from two to one, made this look like a little ripple in a pond. It was incredible, but people adjusted. They adapted. And the same thing could happen here with an extra can, with a PAYGO. We have talked about this before. You want to use the model that Greenburgh has, perhaps. A car has one ticket voucher, a van or a pickup truck a two-ticket voucher. You want to have some scaling so there's some equity. When we go up to the Town of Greenburgh and dispose of things there are tickets you hand to the person. We purchase them in advance, we give the tickets, no money handled. You can identify people. Perhaps the Conservation Commission could be asked to help craft this. But you would be surprised. When people start having to pay for it because they are generating it, they will change their behavior real quick and things will wind up on the curb. Then we just have to see how it works with the sanitation men, if they do not feel like they are being overwhelmed or someone is gaming the system out by the curb. But the voucher would work. Change the behavior. It is minor compared to the '90s. I do not see a down side to it. It would work, and I think Neil set a good model in this case on that.

**Mr. Downey:** Some of these are interesting ideas. But of you think they are good ideas, why could you not work through them and have something in place to make the transition? It strikes me as a little tone deaf. It sounds like the people that come down and use this have too much garbage. They need to be punished, there is something they are doing wrong and you need to make a rule and squeeze them. I resent that approach to behavior modification on a community level. I have heard that idea used recently for some other things. I do not think it is appropriate. If you are not getting the behavioral change your want maybe it is because you are not communicating it effectively, short of using something as punitive as this. I would have liked to have heard from the workers. It is important to realize that is not so much household trash. There are some people that had that, and I have had it, too. But you are dealing, even with the legitimate stuff, a lot of bulk. That is not easily put out.

**Mayor Swiderski:** Why is it less easily put out than taking it to the dump?

**Mr. Downey:** It entails doing it early in the morning and making an appointment. And in many cases you would never want to see all that stuff out on the curb. The guys could not even probably pick up their maximum of 10. If you want to do it there is more homework and you could do a better job of tailoring it and presenting it so you would not get the kind of push-back that you would get.



**Mayor Swiderski:** We are going to get a push-back. You just have to accept it is going to happen and try it anyway. I am intrigued by the payment idea. With only three of us here, I do not necessarily want to resolve this issue tonight. I would like to wait for the other two to return and raise the idea of the payment idea. The only justifiable concern I have heard is the larger families that have a hard time getting rid of their trash once a week. Beyond that, there is a lot, both from cost-savings point of view and everything else, that it does not just involve persuading people to condense down to one can. But the savings to the Village are, to me, persuasive. Examining every cost we have, and trying to figure out what makes sense for us to provide, is something we need to do here. This is an example of that.

**Trustee Jennings:** During the budget discussion with Mr. Gunther, looking at this line item, we did not talk directly to the rank and file of the DPW but did ask Mr. Gunther this question. I wanted to make sure this was not phony savings, in the sense that if we did not pay the person who was down there on Saturday mornings we would have to pay because it would take them longer to collect the trash at people's homes. His answer was that he did not believe that having people let the DPW pick the stuff up at their home rather than bringing it down on Saturday morning would make any difference in the work schedule. It would not add on to the costs. So therefore, it was a true cost savings, not a phony one. That is important. It is not as if we have ignored that question. We investigated it.

**Mayor Swiderski:** I will be very intrigued after we are done, and moving forward, with seeing the tipping quantities six months out. How much of that typical two trucks' worth was domestic versus foreign? My instinct is it may have been as high as 30 or 40 percent more. That is a savings there, too, which we did not have in our model for how much we save here.

**Trustee Walker:** So the next step is to have it as a discussion item with the whole Board?

**Mayor Swiderski:** Yes, I want to have it again with the other two Trustees. One alternative raised tonight which I thought was an intriguing one was to address an issue which Trustee Jennings brings up, which is entirely legitimate as a way of thinking about it. This is an expense that benefits a subset of the Village. While it is available to all, the regular users are a much smaller percent. Perhaps one way to approach it is to think of a fee.

### **PUBLIC COMMENTS**

**John Gonder, 153 James Street:** In the April 2 meeting, I brought up to Trustee Jennings and Trustee Walker if they would go to the merchants and do away with plastic bags. I was hoping that you did something. Give them a year. And if not, they cannot do it in a year to get rid of plastic bags, then we pass an ordinance next April or May or June.

The Warburton Avenue bridge is a big concern to every resident in the Village. My biggest concern is, two years, that is unacceptable. I do not believe it. It is only 246 feet. They are going to build a bridge across the Tappan Zee in less than five years, and it is almost three miles. Something has to be done. I do not know if the Board or Mary Jane Shimsky can do something, but you have to do something. Work three shifts, watch the noise level from 10 o'clock until 6 in the morning. I know there are fire problems that you need access but maybe you can close the bridge, maybe it could be done in nine months.

**Village Manager Frobel:** It could be done in half the time if the bridge were allowed to be closed completely to all traffic. But because it is being phased in, it takes almost twice as long to accomplish the same amount of work.

**Mr. Gonder:** The main consideration was the hook and ladder. Is there any other alternatives that can be done that they would have to drive around to Washington, or down to Southside and up Washington, and make it one year? I think two years is ridiculous for the commercial district and all the residents. I agree with one of the Trustees about Olinda, on Broadway, when cars go up Washington. I almost got creamed Thursday. So that is going to be a very bad thing.

**Mr. Downey:** I noticed this past weekend, traveling down Washington, there is a large patch. Con Ed or somebody had been doing work down there. I am sure the chief, or the fire department, has thought about it. But I never heard it spoken of publicly. What if Washington gets a gas main-water main break? What if we get cut off on those alternates? Do we have a contingency to station the fire truck for the period of time while the road is temporarily out of service?

I like the idea of the PAYGO but when you are taking away some service, you need to demonstrate back to the community the savings in the budget. We saved seven grand, and better yet, you express how it has been applied: it paid for this park, the pool upgrade, something in Uniontown, something towards the reserve fund.

**Mr. Skolnik:** I raised a question last meeting to do with the interaction between the school district and the Village. The short answer was it is complicated. I did not mean to imply, as Trustee Armacost seemed to glean from my comments, that you are not already working hard at that. I understand the need for it, but I would like to understand what is involved, what the limitations might be, for stretching that relationship, if necessary. Admittedly we already do. There are services that are shared. The reason I am bringing this up is not so much the economy. It is the issue of the separation about rentals; the project that the school is looking at. I think there has been an expressed distancing on the part of the Board for the reason that there has always been a tremendous respect for this line between the two. But I

do not know if you have seen a document that goes back to 1947, the deed for the transfer of Reynolds Field from the Village to the school district. That basic document was in 1946. There was an addendum to that in 1947. Provision 10 said: It is the sense of this agreement that the terms hereof relate to a school and a community problem. And it is the desire of both contracting parties to carry out terms of the supplementary agreement in such a manner and spirit, and with such cooperation, that the children of the school and the people of the community as a whole shall be benefited. If, and when, problems shall arise in connection with the Reynolds Field project as a whole which are not clearly covered by said agreement that parties shall consult together and shall cooperate to the full extent.

I am not presenting to a council some smoking gun. But I would like a more thorough look at what the relationship is. I will assure you that there are ramifications for the Village depending on how this project goes forward and is framed.

**Mayor Swiderski:** There are at least two different questions there. One is specific to Reynolds Field. I cannot answer that because I am not familiar with the document you refer to, and I do not know if, or how, it pertains to the particular proposal for the school board. With maybe one or two exceptions in my experience in public service but also what I have heard, there is a sharp line between what the two boards do in terms of commenting on each other's business. It is summarized best in the words "we not." We just do not. It is a line of respect, and also different domains. I can only think of one event where a member from one board commented on another board's business in a public forum.

Legally, there are divisions. We cannot zone school property. They have quite a bit of freedom there. We cannot tax them. Where there are overlaps is trash retrieval. A couple of years ago we were charging, and the school bid it out and found a private contractor who did it for less. I would like to win back that business, to keep those monies within the tax base. But we have not yet determined internally whether we can provide trash removal for \$21,000 a year, which is what the school currently pays; whether the tipping fees alone would not be more. We have got to verify that. In terms of other areas of potential cooperation, over the last four years I have met with the school at least a dozen times looking for areas. Our worlds do not overlap in most places. About the only place we saw any meaningful overlap is the parks department. They do activity that could be construed as overlapping with our parks. We did not, in prior efforts, easily find a way to consolidate and share those services. We examined other possibilities anecdotally, bring it up and then realizing it was difficult, things like sharing a payroll clerk. It turned out to be not so easy to do. Very different systems and workloads. Looking at contracts that we could invite the school into sharing, for example, elevator maintenance, that the school could come aboard and enjoy the elevator maintenance discounts we get by joining with other villages to share that service. It turned out not to be a savings for the school. But at least annually, and more often, we return to see

if there are places we can cooperate above and beyond what we do, such as the sharing of facilities. The school has access to the pool, the camp has access to the pool, the school has access to, when needed, the Community Center. We use their facilities for camp activities. And on a case by case basis, if there is an expense incurred the institution incurring the expense pays it, so we reimburse the school for the custodians that have to be present when they open their gym facilities to the kids during the summer. I do not know if the school reimburses us for anything. I do not think they do now, right?

**Village Manager Frobel:** No, I do not believe so. We have a very active, cooperative relationship with the schools in terms of both public safety and in our Youth Advocate office. We have a genuine daily presence at all their facilities with our youth advocate, our youth employment office, and some real effort there with our police officers, as well. So there is a lot of cooperation on that side.

**Mayor Swiderski:** But it is not an expense saved. It is just a cooperation that results in them maximizing the benefit of that expense.

**Village Manager Frobel:** Right. But it is an expense they do not have to incur either because we are providing that service. So there is a genuine savings for all of us.

**Trustee Walker:** In response to Mr. Gonder's question about the plastic bags, I have talked to the Conservation Commission about that. That is on their agenda for this year, to look at ways to reduce the use. We delegated it to the body that should be looking at it.

**Trustee Jennings:** Zoning aside, do we have any regulatory role or approval role if the school board decides to move forward with changes to Reynolds Field: our Planning Board or environmental review, things having to do with light fixtures, impact on the surrounding communities?

**Mayor Swiderski:** My understanding is, there are elements to the proposal that will involve changes to how cars would park on the streets adjacent to Reynolds Field that would require our review and approval.

**Village Attorney Stecich:** The vehicle and traffic regulations would have to be modified. But there is no site plan approval. Not only is it not subject to zoning, it is not subject to requiring variances or site plan review or whatever. I am not familiar with the project, so I do not know whether it requires SEQRA review. I am sure their attorney looked into that. If it did require SEQRA review, then the Village would be an interested agency, not even an involved agency, because you have no decision to make. Maybe, possibly, the parking, you may be involved. But I do not know where they have come down on that

## **VILLAGE MANAGER'S REPORT**

**Village Manager Frobel:** The pool is ready. It will be open on Saturday, May 25 at 10 a.m. And that day is free to all Hastings residents.

**Mayor Swiderski:** How did we do on signup this year, memberships? Do you know?

**Village Manager Frobel:** I do not have those statistics yet.

**Mayor Swiderski:** My understanding is the number that we offer out of towners was sold out the first hour.

**Village Manager Frobel:** That I can tell you it was.

**Mayor Swiderski:** Right. There were people on line at 5 a.m. waiting for the doors to open.

## **BOARD DISCUSSION AND COMMENTS**

### **1. Donation of Strip of Land Adjacent to 400 Warburton Avenue**

**Village Manager Frobel:** In advance of the last meeting I had prepared a written report about this concept, where a portion of land adjacent to our Quarry Trail was under consideration for donation. We always found it desirable to link Warburton Avenue with the Quarry Trail, ultimately to the Hudson River, as we complete phase two of our trail development. The owner of the property was going to be present at that meeting, or he was in attendance but left before that topic came up, so we did not hold that conversation. Tonight his architect, Christina Griffin, is here to make the presentation on this concept.

**Christina Griffin, Architect, 400 Warburton:** Lou Zazzarino is in Florida. He asked me to just describe the stair to you. This is a plan that you should have received. The stair that we are showing, which is in pink, is going to have to straddle the property line. That is because there is just enough room, once you take this out, there is an extension to the main wall along the sidewalk, a little extension that was probably to close the gap between the Quarry Trail property and this property. We are planning to remove that, and then have a steel stair built so you have access going down to Quarry Trail. The stair has to be about a foot away from the wall that is on the ground floor, because down below, there is another foundation that projects out and we have to make sure that stair goes down and goes past that wall. You see the property line is almost in the middle of the stair. Lou would like to donate the land to Hastings, but would like to find out if there is a way to negotiate how that can be done. This is what he put in his e-mail to you.

**Mayor Swiderski:** But is the proposal before the Board just the donation of land in lieu of fee, or is it the construction of the ladder and the donation of land?

**Ms. Griffin:** I know he is open to some kind of agreement. I think his preference is just to donate the land and waive the fees. That is what he put in the e-mail. But another option would be to have the builder build the stair and then donate it. I think, ultimately, he would like to give it to Hastings because that way Hastings can own it and maintain it.

**Mayor Swiderski:** The stairs exit out on the street level where exactly?

**Ms. Griffin:** I can show you a site plan. This is the staircase here. We are planning to use the existing walls of the building. The building ends about three feet six inches from the end of this. It is an 18-inch thick stone wall. There is a little extension that is only an eight inch wall. It is an inferior wall. We can take that away and just about fit the stair against the building. I took some spot elevations and looked at it more carefully, and found out that we just have to move it over slightly. But it still seems like you can build a stair that is three feet six inches wide. At some point, we need to have a path and perhaps a few more steps going down so that it hooks up with the Quarry Trail. Probably the most economical way to do it is out of steel. Then we will have concrete footings down below.

**Mayor Swiderski:** Marianne, there is something very awkward about negotiations or discussions like this carried out in public. But in terms of the agency responsible for determining whether a swap like this for the recreational fee owed is appropriate, that is the Planning Board, right? Or is it us?

**Village Attorney Stecich:** No, it is you. The Planning Board makes the underlying determination that generates the rec fee, that is, that this project will generate a need for additional parkland. They make that finding, then the fee is assessed. There are some wrong numbers here, but it is \$30,000, is it not? There are four units, right?

**Ms. Griffin:** There are four: at \$10,000 per three-bedroom unit, there are 3 three-bedroom units, so \$30,000, plus \$7,500 for the two-bedroom unit. It is \$37,500.

**Village Attorney Stecich:** So in this situation, the Planning Board said there was not a need and therefore there was a rec fee of \$37,500. There were clearly going to be issues. I got the minutes from the meeting, and at the meeting it was presented to the Planning Board that the applicant would build the stair and the ramp. Because part of it was going to be on Village property, the Village had to agree to it. There are a bunch of issues here. I am a little confused because the e-mail we got after the meeting two weeks ago said all I am offering is

the land; I am not offering to build the stair. The minutes from the Planning Board meeting, at a couple of different points, said that the intention was to build the staircase. I guess it would be up to you. From the Planning Board's perspective, the applicant owes \$37,500. Now, you are the ones who control how the money is spent. So it would be up to you to decide whether building this stair and donating the land is worth \$37,500, and whether you want the staircase, because then it does become your responsibility for maintenance and liability. So there are two issues here for you. I do not know if there is any idea of the cost. It is not so much what your cost would be. It is what the cost to the Village would be to construct that stairway.

**Village Manager Frobel:** Right. And that is what I was supposed to try to gather from the owner, go come up with an estimate to test that number. We did not have enough detail to work off the design. We were trying to test to see whether the cost of the stair tower was, in fact, \$37,500 or something less or more. We do not have enough information to do it.

**Ms. Griffin:** We can do a construction drawing of this, since it is something that is going to happen. I am quite clear what we agreed on at the Planning Board meeting. I can do that so we can get some bids or have more accurate prices.

**Village Manager Frobel:** That would help. I was to work with our building office and have the gentleman talk to a couple of contractors, what do you fellows think? Is this a fair price, it is reasonable? Right now we just do not know.

**Trustee Walker:** About the ownership issue, when Ginsburg was building the Riverpointe project, the Planning Board asked for a public stair to be built at the end of David's Lane that would go down to the Aqueduct. It would be on private property but would remain public and would be maintained by the condo association. They agreed to that. So the Village did not take responsibility for that stair, even though we asked for it to be built, if I am remembering correctly.

**Village Attorney Stecich:** That is another way to do it.

**Trustee Jennings:** Until we can get a sense of whether \$37,000 is a good deal or a bad deal I do not have a question at this point.

**Mayor Swiderski:** The answer to the question are we interested, I can speak for myself, absolutely we want access from Warburton down to that trail. We always said it would be nice, but it did not look like there was a chance we would be able to realize that. We would be foolish not to take it, within the restrictions that we are not "being robbed" in the process, which I doubt we will be in the end, because anything is automatically going to be not cheap,

and I would like to make sure that it is carried out to a public load-bearing size, done to a solidness that would allow it to last for a while, not the chintziest possible thing thrown up. Once you do that, you will easily break that budget. But we will find out. The land is a donation by itself. Without a stair there, it is essentially worthless because it does not serve the purpose of the Village. It only becomes worthwhile when it is combined with the stair.

**Ms. Griffin:** I understand. That was my opinion to Lou that probably since the builder has the means to do it, this is an opportunity to get the stair, and probably would prefer to have the stair built, and then maybe you consider having it donated.

**Mayor Swiderski:** Right, to the four or five unit-holders it is not a small amenity to have easy access to the trail system. There is not going to be a problem here in providing the approval for the use of public land for construction of the staircase. We require more discussion to figure out the ownership structure at the end of that process and all that. But, I am happy to ask for a sense of the Board now on the provision of public land to finish that staircase, whether that in the end is a right of way agreement or whatever. I am going to glaze over on the mechanics. The extent of executing an arrangement like that I think we are happy to do and, in the end, we can come to an agreement that the staircase is sufficient payment in lieu of the \$37,000. So you feel comfortable with that?

**Trustee Jennings:** Yes.

**Trustee Walker:** Oh, yes. This is a terrific amenity. We have to look at details, of course. But this is a tremendous amenity for the neighborhood. In a way, it is more than just a rec payment to the Village. This is something that people can use right away, and provide access to the Aqueduct from all over Warburton Avenue. It will make it easier, perhaps, for us to find the money or find the grant money to complete Quarry Trail.

**Village Manager Frobel:** That was part of it. To build the stair tower as part of phase two.

**Trustee Walker:** Yes, because that could be part of the match.

**Mayor Swiderski:** Then it becomes something that provides yet another way for people to get to the train station and addresses all sorts of issues. So if you are looking for interest from the Board, it is here. If you are looking for support for the donation of public land to allow that to be built, it is here. It is premature to say that will suffice to fill the \$37,000 owed. As everybody knows, I am a betting man and I am willing to bet \$10 on the spot your final building cost will be in excess of that money.



**Ms. Griffin:** When we submit the construction drawing it should include lighting, landscaping, signage, because that is what you need to make sure it is complete.

**Village Attorney Stecich:** This is your client's position? Because that is not what he said in the e-mail after the last meeting.

**Ms. Griffin:** Yes, I know. But he is aware, and he asked me to respond for him.

**Village Attorney Stecich:** So he knows.

**Ms. Griffin:** He knows that he may not get what he asked for. And he knows my opinion. I am not surprised that you feel having the builder do the stair is what makes it of value to the Village. I think he is aware and prepared for that. He would prefer not to have an easement. To donate the land, only because it is complicated. The property line goes through the middle of it. He wants to keep the option open of maybe making these units into condos. And I do not know if you ever have one common building. It is not like a large development that can always be maintained.

**Trustee Walker:** Yes, that is true. It is different from Riverpointe in that respect.

**Ms. Griffin:** So if we submit this drawing to you, and we get some prices, then maybe we can talk again at another date.

**Mayor Swiderski:** We will put it right away on the agenda. It is a worthwhile amenity. It is an entirely valid way to offset a recreational expense because it is a recreational asset.

**Village Manager Frobel:** Christina, have you approached the county on accessing the Warburton bridge from that point? Are they aware that this is being considered? Because you are coming up right to the bridge abutment, right? You are going through the stone? Or how are you getting access: through their building, or is it going right to the street level?

**Ms. Griffin:** We are going to have an opening in the wall, and the stair is going to end right at the sidewalk.

**Village Manager Frobel:** And the county is aware that this is being considered? That is their bridge, right?

**Mayor Swiderski:** It is not going on to their bridge.

**Village Manager Frobel:** Oh, it is not going directly onto it?

**Trustee Walker:** Well, if it is disturbing the wall. But you said it was not.

**Ms. Griffin:** The property line ends right at the heavy wall that they own. So the little piece of wall we are taking away does not belong to them. It is not on their bridge.

**Village Manager Frobel:** I know is very close quarters there.

**Ms. Griffin:** But I do not know if we should make them aware of it in any case, just to make sure.

**Village Manager Frobel:** You may. Because when we submitted our grant we spoke with them and brought it to their attention as to whether or not they were inclined to support any kind of alteration or whatever to the bridge and cutting of the stone.

**Trustee Walker:** You have got to be careful.

**Ms. Griffin:** I think you will see this is tacked on. There must have been a gap. They built the wall up to the end of their property, and then somebody filled in the gap for safety reasons.

**Village Manager Frobel:** Right. You can see the distinction between the two types of stone.

## **2. Leaf Blower Law – Consideration of Modifications**

**Mayor Swiderski:** We have a request before us to allow for the use of handheld leaf blowers in the May 15 through October 15 period which, right now, prohibits use of any leaf blower. That would be written in a way to restrict either the number of people using them at one point, or to try to lower what inflicts the pain from these devices on neighborhoods. We had prior to this meeting a demonstration of the various types of leaf blowers, both the superpacks that cause the most distress as well as the handheld, both gas and electric. I also forwarded to the Board the announcement that Dobbs put out where they also go into a different period during the summer where are no gas-powered leaf blowers but they do allow electric during the period of the summer. I do not know what the other communities who have passed these laws permit or do not permit, but I think it is a hodge-podge of things.

Any comment? I should make Bruce answer this, since the original idea came out of the Conservation Commission. As a proxy for the Conservation Commission, you can speak up first.

**Trustee Jennings:** I am not sure I can answer for the Conservation Commission too often. That is a heavy burden. I do not have yet a substantive view on the merits of altering our law to permit quieter machinery to be used at certain times during the year which is what we are contemplating. I was not on the Board at the time, but I do remember the passion and the controversy that the original passage of this law involved. I am certainly willing to consider it, but I would like to gauge the community's reaction, especially among those who were most concerned about the noise level as being disruptive of their business or their personal enjoyment of their property. I think it was not environmental issues that were the mainstay of that original impetus to pass this law. It was more a quality of life argument.

**Mayor Swiderski:** That was the public reaction, the quality of life. The original committee justification included gas fumes thrown out by the blowers and dust pollution.

**Trustee Jennings:** I cannot speak for the current membership of the Conservation Commission in terms of how they view those issues. Clearly those issues are important. But they apply to so many things. They apply to vehicles, to lawnmowers, to the other equipment that we continue to allow people to use in the yard service. This may be a small mitigation, but it is not a very big piece of the steps we need to take for pollution and fumes and climate change. The sustainability problems of the Village are larger issues like we will soon be talking about with the building code. But this is going to raise quality of life questions again, and we will need to factor those into our decision.

**Mayor Swiderski:** Fair enough. Though this will, in the end, be a change to the law. And any change to the law would require a public comment period anyway. So what you are suggesting is soliciting comment first to drive whether we decide to move forward with a change to the law. Right?

**Trustee Jennings:** I am suggesting that before we go to a public hearing we should investigate further. The reasons for doing this have been well-articulated and they should be articulated again. We have heard the voices in favor of modifying the law. I have not heard voices that would raise concerns and argue that the law should be left alone.

**Trustee Walker:** I can describe what we encountered, thanks to Mr. Downey, outside. We had two of the big packs that you carry on your back that are gas-powered that really do roar. Those are very large. Then he demonstrated two smaller handhelds, one electric and one gas. and we listened to the weed whacker. There is a difference between the electric handheld and the gas handheld. The electric handheld had a much higher-pitched sound. The gas handheld was definitely quieter than those backpack leaf blowers.

If you are using the smaller ones you probably need more of them to add up to one big one. So if you are out there with smaller ones, will they make the same amount of noise because you have more of them? And the electrical ones have a high-pitched noise which is more like a hair dryer. It could be annoying if you had many of them all at once, annoying in a different way than that roaring sound.

Also, we talked about how some of the properties are difficult to clean. Some of them with longer driveways are difficult to clean with a broom. They are difficult, and there still are droppings throughout the summer. Especially this time of year, after May 15, there still are a lot of droppings from trees and so on that need to be cleaned up. It is the larger properties and the contractors who do the work who will be benefiting. The smaller properties, it is probably not going to make that much difference. It is easier if you are homeowner and you have to clean it up with a broom, and you have a small amount to clean up. I would like to hear from other people. Also, Mr. Downey is representing a lot of other contractors who did not show up tonight to speak on their own behalf. It would be interesting to hear from the other landscape contractors. And I would like to hear from the folks who might feel differently and who value the noise reduction and want to keep it.

I would also point out that the police department gave us a list of how they have enforced it since 2008. Initially, there were 50 calls, and last year it was 33. But at least half of those calls, every time, are either unfounded or, by the time the police get there, they have left. They have turned off the machine. But warnings and summonses have been issued so it is being enforced.

**Trustee Jennings:** One of the things that strikes me about these figures is that right after the law was passed there were some summonses issued, and warnings. Then it really dropped. But in 2012 it seems to jump back up again. In 2010 there was one summons issued, in 2012 there were 11. It sounds like the behavior is changing in 2012, and I do not understand why.

**Village Manager Frobel:** Maybe I could explain it. I have been involved in this from the beginning. Part of it is, if there is a new landscape service provider in the community and often times they appear to be, or maintain, they are unaware of our law. Most of these calls for service originate in my office because I am the one that will get the call saying they are working in my neighborhood, can you send someone out and look. And, of course, we immediately dispatch the police. But they will maintain ignorance of the law and say that they are new, and then once we advise them of the law usually they will discontinue and we will not have any recurring problems. I have to believe that most people who were very vocal about this law and who favor it are not here tonight because they are unaware that it is under consideration. As recently as last night, I received an e-mail from the chairwoman of the Conservation Commission reminding me to please send out another note to the

community that the law is in effect now and to discontinue the use of the leaf blowers. It is very well-received. The amount of complaints in my office have dropped off to almost nothing. And there were several a day when we first started to implement it, and prior to 2008.

**Trustee Walker:** So prior to 2008, you got complaints, even though there was no law in place, but there were lots of complaints about noise.

**Village Manager Frobel:** Noise. They would descend on a neighborhood and do three or four yards all at once. So for 15 minutes, 20 minutes or a half-hour it was loud, it was difficult. A number of people work at home during the week, and those were the ones that were particularly concerned about their quiet being disturbed.

**Mayor Swiderski:** I put both Bruce and Meg on the spot in answering what they thought about it, even though they punted it into the hands of the citizens to come up and complain. I am going to speak to those citizens, and say I am probably more skeptical on the change in general because of the additional education and issues it introduces into enforcement. A clean ban is easy to enforce. Beginning to explain that one device is handheld and another is not is more complicated. Then throw into that the constituencies benefited. Meg made a point that the smaller houses may not have the same issue, but it is the smaller houses that generate most of the complaints, because when your neighbor has three guys descend on his property, and you are living in a quarter or eighth of an acre it is awfully loud and it is blowing into your windows. Arguably, the majority of the Village lives on quarter and one-eighth acre zoning and would be most affected by the rescinding of this. So while I am interested in hearing what people say, I am willing to predict what they are going to say.

**Trustee Walker:** We are a pretty densely populated community. If we were Greenwich or North Salem it would not matter because people have such large properties and you have more to clean up, but your neighbors are not going to hear the leaf blowers to the degree that we do because we are close together in this town.

**Mayor Swiderski:** But I will put it out to the Village and let us gather comments and then put this in the next agenda.

**Mr. Downey:** As a matter of fact, Greenwich is considering a blower ban law. I am for absolute clarity and transparency in this. I was going to ask, since we were short two Trustees this evening, to not put forth any decision on this. I want this to be well thought through. I want public discussion. I would be happy to bring back the equipment next time. To your answer about the smaller homes, what often happens is there will be this quick sneak use and out before the complaint could be registered or the police officer could arrive.

The reason for 2012 I can help clarify. Village Manager Frobel is correct. That is one reason, that are some new contractors come into town. But is fairly widely known through the communities about the blower laws. What happened in 2012 was a big rain during the month of May, our heaviest growing season. It was very wet. People were complaining. I spoke the contractors. Homeowners were complaining stuff was being tracked in. Contractors took the risks that resulted in calls, police responded. It goes with the seasons, to some degree. Last year was very wet through the entire month of May, as you recall, particularly leading up to Memorial Day weekend, which is the big one for the landscape business. People want to have clean patios and decks. I know the police were racing around on Friday and Saturday before Memorial Day last year rounding up people.

We do have regular use of these machines being used by the school. I know we do not cross lines, but this is a law that applies within the borders, it does not matter who, what or where. We had an incident where the Village employees have had to use the machines to execute their work. A certain measure of people have hit a threshold where they say enough is enough, use the blower. There was a learning, an acceptance that we did not have to sanitize and sterilize properties. Leave stuff on the lawns but please clean the walkway and driveway so I am not tracking it into my house. It would not be out of the question to attempt this as a trial. I would be happy to help with the law. For example, you said three people would descend. We do not want that. One per truck, one per area. It would be specific in terms of what we are asking here.

### **3. Proposed Zoning Amendments Regarding Site Plan & View Preservation Approval**

**Mayor Swiderski:** This comes out of the last meeting, where we were trying to come up with a way to prevent applicants who have changes from having to go through an excessive review process if what they are requesting is not affecting views or exterior lot sizes and construction in a way that should not affect anyone around them. We asked Marianne draft potential changes to the two laws.

**Village Attorney Stecich:** I would suggest separating the two, because modifying site plan approval law is more difficult and involves more questions. We could talk about the view preservation amendment first. The change that I drafted is this new paragraph D that would say that view preservation approval would not be required where the Building Inspector determines that the erection or exterior alteration will have no effect on the view of the Hudson River and the Palisades for neighboring properties and adjacent public property and rights of way. That is what you would look at. Does it have any effect on the view of the Hudson River. It also only applies to exterior alterations or construction of something new.

So if the Building Inspector determines that it will have no effect on the view, and then that determination is confirmed by both the chairperson of the Planning Board or a designee of the chairperson, and the chairperson of the Zoning Board or a designee of the chairperson. The reason I have both of those boards on there is, the view preservation law now requires it to go to both boards, to the Planning Board for recommendation, and then to the Zoning Board for approval. But the truth is, they both have to approve it. Usually the view preservation approval sounds like it takes a long time because you have to go before two boards. But it goes one week after the other. The Planning Board meets the week before the Zoning Board. It is one notice for both meetings. Twice a year the Zoning Board does not meet on the fourth Thursday, it meets on another time. To try to reduce it so people do not have to come back too much, sometimes the Zoning Board will grant the view preservation approval subject to the Planning Board's granting it if the Zoning Board is meeting first that month. So usually it is resolved in a month. But this would say where there is no impact on the view and one person from each board approves, then they do not have to come in for approval.

I know the Building Inspector does not agree with that. He thinks it should not necessarily have to be reviewed. That did come up before both of the boards, not in a formal discussion. But I know both the Planning Board and the Zoning Board, maybe not the whole board but the members who spoke on it, felt strongly that there had to be a second and third set of eyes on it. This would only be in the situation where it would have no effect. A good example, the statues they were putting up at the church. They were next to some wall. It does happen sometimes. It is not a huge number, but it is not an insignificant number of applications that come before the Planning Board and Zoning Board that have no effect on the view. I think this is a reasonable change. Any change you make is going to have to go to the Planning Board for its comments and the Zoning Board for its comments, but you are the only one who can make the change.

**Mayor Swiderski:** They do not have a veto. We listen to their input.

**Village Attorney Stecich:** Yes. They could both say we hate that idea. You could say fine, but we like the idea, and pass it.

**Mayor Swiderski:** , I understand the Building Inspector's desire to simplify this as much as possible. But when we remanded this to you I was saying the Building Inspector plus the Village Manager, so as far as I am concerned you have t simplified this.

**Village Attorney Stecich:** Originally I did have the Village Manager. But we need the Zoning Board chairperson, too, so I think that would be enough. It would not involve having to have a meeting. They can each look at it independently so as not to hold things up. The

other thing is, you have a meeting. You say it is the three, then is it voted two out of three. Any one of them has veto power, essentially. I think that is right because this is a waiver from the law. If somebody thinks it could impact the view, then it should be view preservation approval. So I think this is a reasonable change. I do not see any harm of the view would come of it. It would make things easier. There are a certain percentage of cases where it clearly does not have any effect on the view, and this would eliminate those.

**Trustee Walker:** I think this is great. And I am glad you did not add the Zoning Board to the Planning Board and the Village Manager. So you simplified it. I am definitely in favor of this change.

**Trustee Jennings:** I am too. My only thought is that is to see how this works. If we still have a residual number of cases that seem to be de minimis but are not being approved for the waiver, then we may revisit this, because the whole point of granting a waiver is so there can be some waivers. And if we set up a procedure for granting a waiver that virtually guarantees no waiver is ever granted, what is the point of that? So I am in favor of it. I will see how it works, and if it works fine and everybody is happy with it that is great. I am not sure this entirely solves the problem we worried about in the first place.

**Building Inspector Sharma:** Earlier yesterday, Marianne asked for Buddy's and my thoughts on it. I responded and sent copies to everyone. On the view preservation, I do not see any reason, any mandate outside of the local mandate, why it has to be reviewed by two boards. I would suggest that it should only be reviewed by one board, not two. If it was a project that had both site plan approval and view preservation, let the Planning Board do both and let this applicant not go to the Zoning Board in addition to the Planning Board. If an application requires zoning variance and view preservation, let only the Zoning Board do both.

**Mayor Swiderski:** You are offering something beyond simply this waiver process. You are talking about the approval process overall.

**Building Inspector Sharma:** Yes. And instead of calling it a waiver, I want to create exceptions. It is not a waiver. We create exceptions: any construction, modification, exterior work in a view preservation district would require to be approved either by the Planning Board and Zoning Boards, except such work which either the Building Inspector, in consultation with the Village Manager, believes is not necessary, not required. So there is the difference between a waiver and an exception.

**Mayor Swiderski:** I do not understand the distinction between an exception and a waiver. Why do you see the difference in that terminology worth making?



**Building Inspector Sharma:** In my mind I see this difference. A waiver is something you have to do, but you are being given a concession. You are being forgiven for something. Exception is where there is a legitimate exception. There are some things that do not merit, and the Building Inspector with consultation of his supervisor determines it. If my boss and I do not come to an agreement, then we reach out to the representatives of the Planning and Zoning Boards, in other words, making it two stages, in which case, the three or four of us might say yes, it definitely needs to go to the Planning or Zoning Board.

Here are several examples. On Maple Avenue people said we need to install a generator in a vault outside. Those people cussed us out when we told them it needed to go for view preservation, and gave up the idea. They figured they would try to do it another way. So there are some cases which are so obvious.

**Village Attorney Stecich:** This would deal with it.

**Mayor Swiderski:** Yes, this would give them a way out.

**Building Inspector Sharma:** No, I understand.

**Village Manager Frobel:** He is saying it would not even apply. In that case, it is not even applicable.

**Village Attorney Stecich:** Somebody has got to decide. It was clearly the consensus of both the Planning Board and the Zoning Board that they did not want one person deciding it.

**Mayor Swiderski:** Now on a view preservation issue, does it go before both boards?

**Village Attorney Stecich:** Yes. That is the way it is written in the code. It has been that way ever since I have worked for the Village. I guess it is because it is considered a sensitive district; maybe they wanted more sets of eyes.

**Trustee Walker:** It is an issue we could revisit separately.

**Village Attorney Stecich:** Yes, that is a separate issue. I have to say I have never, ever seen an application where one board approved it and the other did not.

**Trustee Walker:** It is a separate issue and we could talk about it another time, but it is a problem.

**Village Attorney Stecich:** And then you have to decide which board.

**Trustee Walker:** I know. They can duke it out.

**Village Manager Frobel:** That is why your suggestion is wise, because both boards are represented. If it fits in their decisions they will support them. You will find out soon if they felt, no, we should have heard that, we disagree with your opinion.

**Village Attorney Stecich:** It is not unusual. I think waiver is the right way to do it. I have seen places where site plan approval is waived and you do not have to go through it.

**Trustee Jennings:** What I am hearing Mr. Sharma say is partly about the terminology. But it is also about another idea, which is interesting. I think what he might have in mind is that rather than doing this on a case-by-case ad hoc basis, there should be categorical exceptions developed. To say if what is proposed fits such-and-such a description, then it is not covered by the rest of the view preservation requirement. I understand that distinction. I think that, at least at first, we ought to start with an ad hoc, case-by-case basis approach, because only in that way can we get the learning curve that might enable us at some point to define the categories properly. But I do not think right now we are in such a good position. There are only a couple of examples I have heard about.

**Mayor Swiderski:** But I do not think that is what he was proposing.

**Trustee Jennings:** If he was not proposing it, I am. But I do not think the categorical approach now would be wise. The question is, who should be involved in making judgments about each case. This is a case-by-case thing. It might eventually emerge that we could have a rule, an exception, a category that says if you are building a deck exactly the way the preexisting deck was we will handle it differently. But we are not there yet, so let us just take one step at a time.

**Mayor Swiderski:** Anyone else to comment on this?

**Mitch Koch, 20 Marble Terrace:** I want to commend everybody for doing this. This is great. I can think of one example of an alteration to the exterior of the building in the view preservation district which categorically could be described as having no effect: we removed part of the exterior to create a doorway at 2 Main Street. So perhaps the language could be shaped that says without increasing the obstruction to the view instead of just alteration to the exterior. That is very broad. Do you know what I am saying?

**Mayor Swiderski:** No effect versus no deleterious effect.

**Mr. Koch:** No, it is not good or bad. I do not want to value judge. I just want to say whether we increase the obstruction.

**Village Attorney Stecich:** The language, the erection or exterior, comes from previous language. Two, every application to permit the erection of exterior alteration of a building or structure shall be referred to the Building Inspector. It is important when you are drafting something to keep the language.

**Mr. Koch:** Could you add, at that point, in section three, for example, for the erection or exterior alteration of the building that increases the obstruction to the view?

**Village Attorney Stecich:** No.

**Mr. Koch:** Why, respectfully?

**Trustee Walker:** Somebody has to determine whether it is obstructing the view. That is a determination in and of itself.

**Mr. Koch:** But if it expands the envelope. It is very cut and dried.

**Village Attorney Stecich:** But in the example you had, you are saying that would have no effect on the view.

**Mayor Swiderski:** It increases the view so, technically, it has an effect. That is his point. His point is that if you tore down a building that opened up the view.

**Village Attorney Stecich:** It could say no negative effect on the view.

**Mayor Swiderski:** I think that word makes a difference.

**Village Attorney Stecich:** No, I do not think there is a problem putting that in there: will have no negative effect.

**Mayor Swiderski:** Even though we only have three members here I do not think the two other members would object to seeing this move forward to the public.

**Trustee Walker:** We all agreed at the last meeting that we wanted to move this quickly.

**Mayor Swiderski:** Right. And the language here noncontroversial. I would like to move it forward as written, with the one addition of the word "negative" to public comment to the next meeting.

**Village Attorney Stecich:** Do you want to call for a public hearing on it?

**Mayor Swiderski:** Yes. The Board calls for a public hearing for the modification of View Preservation District, Section 295-82, as written, with the addition of the word "negative" before "effect."

**Village Attorney Stecich:** I will draft it.

**Building Inspector Sharma:** A question about the process again, whether it will be just me with my supervisor.

**Mayor Swiderski:** You and Jamie Cameron and the zoning chair?

**Village Attorney Stecich:** The chair remains to be decided. They have not met since there has been no chairperson.

**Mayor Swiderski:** OK, and whoever it is for zoning. You do not all have to meet together to go to the site. But one member from the Planning Board and one from the Zoning Board would weigh in. If any one of the three of you felt there was going to be a negative effect on sight lines, off to the boards it would go.

**Trustee Walker:** So this means that when somebody is applying for a building permit they do the typical drawings that we require for the building permit. They do not have to do the extra drawings that are required for view preservation unless you determine that it is necessary. And if you think it is not necessary, based on the drawings submitted for the building permit, you still have to ask the other two to weigh in.

**Mayor Swiderski:** Right.

**Trustee Walker:** So at least it prevents them from having to do that extra work right out of the gate.

**Mayor Swiderski:** Right. And if you immediately determine that there is a change to the view you do not need your second and third opinion at that point. You have already kicked it into their laps.

**Building Inspector Sharma:** People call and ask what kind of approvals we would need. So a lot of times we have them describe, and if need be have them come in, do a sketch, and we advise them. When Mitch called us, he wants to apply going into the site plan approval issue also, a demolition permit on the second floor of the same. Reading the code, the word demolition triggers site plan approval. We want to be able to tell, when people call, that you do not need that.

**Mayor Swiderski:** Let us stick to view preservation when you have gotten the site plan.

**Building Inspector Sharma:** It is the same thing with view preservation. For example, someone wants to put a wood-burning stove with a flue sticking out, and he tells me exactly where it is, and it will have no implications of view at all, I think it will make sense, it will serve the public, if I can tell them all you need is a building permit. I should not have to defer it, let me consult with other people, and then let me get back to you. Some cases may be so obvious that they do not need this referral and consultation.

**Mayor Swiderski:** I understand, but I am going to be very blunt. This is maybe the most classic place where you need a second pair of eyes. And it is not that you need the second pair of eyes, but from an audit and control perspective this is the sort of decision you do not ever want to have hung on you alone. I am being very frank with you that in many communities in many countries the Building Inspector is the richest man in town. We would never want somebody to say he allowed that stuff to go in there and it is blocking my view. So you want that several view.

**Building Inspector Sharma:** Thanks a lot for being protective of me.

**Trustee Walker:** And it does not require any more work on the part of the applicant. You do not have to ask for extra drawings or anything. You just ask for what you would normally need for a building permit.

**Mayor Swiderski:** The question you are asking is, can you go at that point to the Planning Board or Zoning Board guys and say they have not submitted anything but all they are proposing is an interior demolition permit. Can we move ahead and just have them submit a building permit request? I would probably handle it like that. If there is even the slightest question that there is going to be an alteration, the pipe sticking out for the wood-burning stove, then tell the person to submit the documents first and pass it on. It will be clear which examples you will ask them to take the next step, and which to just call Jamie and the unknown zoning guy and tell them. That is discretion, but I think it is clear. Six months from now we would love to hear how it's working.

**Building Inspector Sharma:** We talked about only one or two issues having come to your attention. That is not the true representation of what happens. Only now that we started to think about it, and already three situations, four. And there are many, many, I think the majority of these, that do not merit this kind of scrutiny. It is wasteful of the time and energy and resources, although it may be satisfying certain protocols.

**Mayor Swiderski:** We agree, but that is why we are moving so quickly on this. On to site plan. You are making a distinction that this is more difficult.

**Village Attorney Stecich:** Yes, it is. Let me go through what the issues are. One thing you have got to understand. People keep coming up, with all these examples: this poor guy. But here is no site plan approval for one-family houses. There is supposed to be for two-family houses, but I understand that has not been done. There is an exception for one-family houses.

"A site plan, approved by the Planning Board is required for construction, reconstruction, alteration, renovation, demolition or enlargement, moving or removing of any building or structure, or any land use not involving a building or structure." That is how the law reads now. One suggestion I have is to add, on the first one about construction, reconstruction and all of that, "except for interior work that does not change the exterior of the building or structure." I was crossing words out, and then I thought if you cross that out you are going to miss things. So I talked to Jamie Cameron, the chairman of the Planning Board. I think this "except for interior work that doesn't change the interior of the building structure" is language that was in our design guidelines or in the architectural review. Remember, we changed the ARB regulations to decide which changes had to come before the ARB under the design guidelines. That was a language we used, and I think it works here. That is why that change was put in there. I am going to get back to one other issue that it does not cover but I think the Board should weigh in on it.

Secondly, "it would be required for the alteration of a building in such a way as to create an additional dwelling unit." The reason I have got that in there is, the rec fees can only be assessed in connection with either subdivision approval or site plan approval. You cannot just impose rec fees. Under state law, you only have the authority to impose the rec fees if there is site plan approval or subdivision approval. Subdivision approval is not relevant, but somebody could have an office building in the downtown and has three levels of office and they decide to change the two upper. They are not able to get tenants for the office space so they are changing the upstairs into residential, three or four residential units, assuming it is permitted by the zoning. But if you are creating residential units you are creating a need for more parkland. So unless you can call them in for site plan approval, you would not be able to assess the rec fee. That is why that was put in there.

I also added "the construction or alteration of a driveway or parking space." Remember, again, this is not in connection with single-family houses. The only other language change was in the exception: that you do not have to come in for site plan approval for a driveway in a single-family house. Now, what this does not pick up. It does really eliminates a number of issues. There have not been a lot of situations of people coming before the Planning Board for interior changes until just recently. I think it is because people are reading the code more closely now, and they see they are altering, they have to come in.

So this eliminates it. If it is just something inside, if you have a restaurant and you are changing it into offices, you are going to have to make changes inside. And if it is not going to affect the parking, then you would not have to come in. You know what else should be there? "Except for interior work that doesn't change the exterior of the building or structure, or create a need for more parking spaces." I am going to have to make sure that that is in there someplace. But what it does not pick up, let me explain one other thing about the alteration. An issue came to you about somebody just fixing up the inside. That is not an alteration. Alteration is defined in our code, it is a defined code in the zoning code. And the term is, let me read it because it is important for your consideration here. It is not any time you are making a change in a building. The term is "alter," which is defined as "to change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts, the interior plan or layout, the exterior architectural features or the exit facilities of a building or structure." It clearly focuses on structural. You would not have had to come in any way for just some internal changes. But even if you are changing the walls inside you still have to come for a building permit, but why should you have to come for site plan approval, because it is not doing anything to the outside of the building. The code is always read that way, and I think it does not make a lot of sense. The thing it does not pick up is that reconstruction. Somebody has a building and part of it was destroyed, and they are just reconstructing exactly as it was before. Should they have to come in for site plan approval again? Well, no, you should not. But laws have changed.

**Trustee Walker:** Materials have changed.

**Village Attorney Stecich:** And you may want to look at it. But I can think of situations where you would not need to look at it, because it is so incidental.

**Village Manager Frobel:** But you cite examples like what if it is Army Corps or the DEC or some other agency that should have an opportunity to comment on that.

**Village Attorney Stecich:** I think they should have to anyway. The Building Department should pick up on that and know that they need Army Corps approval and they are not going

to say you do not need that approval. A good example is the tennis club. I am not sure there ever was site plan approval of that, and that is a situation where things have changed and you may want the Board looking at it again. But, say, you are replacing a deck. That is what is a little problematic.

**Village Manager Frobel:** Or a floodplain map has changed during the interim. At least the site plan would give you an opportunity to focus on that.

**Village Attorney Stecich:** Yes. This does eliminate site plan review in a big category of cases. As I said, they have not been coming before the Planning Board until fairly recently. But it eliminates that.

I thought about the waiver issue. Was there some way to do waiver the same way? I did some legal research to see if I could find any examples where site plan approval was just waived by less than the Planning Board. I did not find any, but that is not to say it is not out there. There is certainly no case law. But site plan approval is different than view preservation approval. Site plan approval, you give it to the Planning Board. There is a state law provision for site plan approval. It says the Board of Trustees may give the authority of site plan approval to the planning board, which this village did. That is to contrast from view preservation approval, which is not a function of state law. That is a function of Hastings law. You came up with it yourself, so you can come up what rules you want, assuming they are not arbitrary. State law does allow the Board of Trustees to allow the Planning Board to waive certain site plan requirements. Our law does not do that. For whatever reason, way back, Hastings chose not to give that waiver authority to the Planning Board. Under subdivision review it did give them the waiver authority. But the law is not written to give the Planning Board any waiver authority. You could change that to say you are waiving site plan approval but you still have to come before the Planning Board. In Irvington, there is a provision for waiver of site plan approval, but they have to put in all the same stuff they do if you are coming for site plan approval anyway.

**Mayor Swiderski:** To summarize, with the exception of how to properly handle building damage and the addition of language around parking, you are fine with this.

**Village Attorney Stecich:** I do not think this is going to pose any problems. I do not think it is as far as probably some people want to go.

**Deputy Building Inspector Minozzi:** Though I agree with almost everything that Marianne has said, what I think is imperative that we add to this is, because we do not only walk the line of the Village code, we walk the line of the state code, and it is distinctly separated in the state code, that we follow very closely every day, two-family homes have to be brought into



a category. In the state code they are brought into the category of single family homes. It is one or two family homes, and it is everything else. It is three or more family homes are called multiple dwellings. It is imperative that in subsection C we change the language to say single family and two family dwellings to go parallel to the state code.

**Village Attorney Stecich:** I do not see a problem if the Board is OK with it. I think, as a matter of fact, it is not going to make any difference.

**Deputy Building Inspector Minozzi:** The way it has been followed anyway.

**Village Attorney Stecich:** Yes, that they have not been bringing two-families. I always wondered why we never saw any two-families in the Planning Board. Now I understand. I think is a good suggestion.

**Trustee Walker:** Marianne, at what point does the park and rec fee kick in? Is it something more than a two-family dwelling? If you are altering a building and putting in an additional unit in your house.

**Village Attorney Stecich:** Unless the two-family creates a new dwelling unit, yes. It would not happen in the single family because with do not charge rec fees for the apartments.

**Trustee Walker:** But as soon as it goes to two family, you would?

**Village Attorney Stecich:** If you had a one-family and you went to a two-family, you would have to pay a rec fee.

**Mayor Swiderski:** But that is not part of this.

**Village Attorney Stecich:** But it would be if you said that if it is two-family you do not have to come in for site plan approval.

**Trustee Walker:** But if they are not enforcing it anyway it is not a huge loss.

**Mayor Swiderski:** But that is not true. Up here in number, which you wrote.

**Village Attorney Stecich:** No, "except as provided in subsection C." And subsection C is this giant exception for one-family.

**Trustee Walker:** I agree that we should add two-family, but I want to make sure that we are not causing a problem elsewhere in the code.

**Building Inspector Sharma:** The difference is, if you wanted to add a shed as an accessory structure for a single-family you would not have to come for site plan approval the way the code is written. If that happens to be a two-family property and you are building a shed, you would need to come before the Planning Board.

**Trustee Walker:** And yet it could be in the same neighborhood as all those other single-family houses and, in fact, even look like a single-family house.

**Building Inspector Sharma:** Exactly.

**Village Attorney Stecich:** I can fool around with this so we could pick up the rec fee if you went from a one-family to a two-family.

**Trustee Walker:** Do we need to pick up that rec fee in a two-family house? I understand it in a multi-family dwelling.

**Village Attorney Stecich:** But it is happening, Meg, where people are changing an office to a residence downtown. They have been charging rec fees.

**Trustee Walker:** In that case I can understand. You mean even when just a single office becomes a residence they are charged.

**Village Attorney Stecich:** I do not know, it is up to you whether you care.

**Trustee Walker:** If it is a single additional residence.

**Village Attorney Stecich:** Let us see. It would probably be pretty hard to go from a one-family to a two-family.

**Trustee Walker:** What about accessory apartments? Are those considered two-families? That is always considered one-family in the code.

**Village Attorney Stecich:** There have never been rec fees charged for them.

**Building Inspector Sharma:** In our 2-R districts, where two families are permitted, if there is still any open lot and somebody wants to build a two-family home there I would assume they would need to come for site plan approval without even a rec fee, because the lot already exists. It is only part of the subdivision; it is already a building lot in a 2-R district.

**Village Attorney Stecich:** Go back to what you just said. If you were building a two-family house you do not have to come in for site plan approval?

**Building Inspector Sharma:** On a vacant building lot in a two-family zone they would need to come, the way the code stands, before the Planning Board to get the site plan review.

**Village Attorney Stecich:** But they would not.

**Building Inspector Sharma:** I am just wondering, say, the lot already exists. Would they need to come with a recreation fee, as well?

**Mayor Swiderski:** Yes.

**Building Inspector Sharma:** Because the lot already exists.

**Village Attorney Stecich:** It requires site plan review, right. Yes.

**Mayor Swiderski:** And it would require a site plan if we made the change that Charlie just proposed to this law.

**Trustee Walker:** And then the fee would not kick in because you would not catch it, it would not be required.

**Village Attorney Stecich:** That is right. I am thinking of a conversion. But if you were building a new two-family house you would not need site plan approval, which means you could not collect rec fees. You do not collect rec fees on any single-family houses because they do not have site plan approval.

**Mayor Swiderski:** Right. Do you want to think about this?

**Village Attorney Stecich:** No, it is your call. What happens if you add two-family to this, you could end up losing it, because you are saying it does not need site plan approval. If it does not need site plan approval, then you cannot have the rec fee. That, by the way, is not why only single-family houses were excluded from site plan approval. That exception existed way before the rec fees were allowed. Rec fees are fairly recent.

**Building Inspector Sharma:** So somebody building a single-family residence on a single-family lot, new, they would not require a rec fee. Somebody building a single-family on a two-family lot, they would not. Only if they make two dwelling units.

**Village Attorney Stecich:** No, there are no two-family lots. It is a single-family house.

**Building Inspector Sharma:** No, I am saying there is a zoning district where you can legally build two-family, 2-R districts. If somebody wants to build only one family unit.

**Village Attorney Stecich:** No site plan approval, no rec fee.

**Mayor Swiderski:** If we make the change that Charlie has suggested, then no rec fee would be collected on two-family, or site plan would be required on two-family.

**Building Inspector Sharma:** That is what I understand now, yes.

**Trustee Walker:** Going back to what Charlie said about the point in doing this is that it then aligns better with the state building code, there are two separate realms, two completely different types of codes, right? How do you think that would be beneficial?

**Deputy Building Inspector Minozzi:** If the concern is the erection of a new two-family dwelling, where all this concern seems to be, could we simply put new construction of a two-family home is an exception to this rule?

**Trustee Walker:** In other words, you can make alterations on one without site plan approval.

**Deputy Building Inspector Minozzi:** To the two-family home without site plan approval. But the erection of a new two-family home would have to come for site plan approval. It would be as simple as just an exception.

**Mayor Swiderski:** I am comfortable with that. In the current scenario, no rec fee. Charlie is proposing rewriting this so that single-family and two-family dwellings you would be allowed to do reconstruction, alteration, renovation, demolition or enlargement, but when it comes to new construction it still requires site plan for a two-family house.

**Village Manager Frobel:** And, consequently, the fees.

**Village Attorney Stecich:** How do you deal with this one: a one-family you are converting to a two-family?

**Deputy Building Inspector Minozzi:** That is like new construction.

**Village Attorney Stecich:** No, it is not new construction.

**Deputy Building Inspector Minozzi:** You are creating a new two-family dwelling.

**Village Attorney Stecich:** Not new construction.

**Trustee Jennings:** Dividing it in half.

**Deputy Building Inspector Minozzi:** I would look at that as creating a new two-family dwelling.

**Village Manager Frobel:** Yes, I would too.

**Building Inspector Sharma:** Or creating an additional dwelling.

**Mayor Swiderski:** Then you do not need A-2 here. A-2 becomes impossible to ever trigger off.

**Village Attorney Stecich:** Sure, you need A-2. We use A-2, and we have picked up several rec fees under A-2.

**Trustee Walker:** In an office building.

**Trustee Jennings:** Yes, but A-2 sounds like it describes exactly this: dividing the house in half.

**Village Attorney Stecich:** I see what you mean, because it would require site plan approval. Let me fool around with that because that may cover it. You are right.

**Mayor Swiderski:** You have just hit the point where there is enough fooling around that I would rather see it before we put it up for the public.

**Village Attorney Stecich:** I do not think this one is ready. Plus, Deven has a bunch of other issues, too.

**Deputy Building Inspector Minozzi:** When you say, on A-1 "except for the interior work that does not change the exterior of the building or structure." This happens a lot. A multi-family dwelling wants to put replacement windows in. Replacement windows does require a building permit. Under the new energy efficiency code, windows have to meet the energy efficiency ratings. And according to this, they would need to go to site plan approval to put replacement windows in, because it is not interior work.

**Village Attorney Stecich:** I do not think it is an alteration. I do not think it fits in that.

**Deputy Building Inspector Minozzi:** No, you are not taking anything down. You simply would be taking the window out and putting a replacement unit in.

**Village Attorney Stecich:** It depends on how you guys read it. Replacing a window, clearly it is not an alteration by looking at the definition of alteration. I would not say that is a renovation of a building or structure. It is your call. If I were the Building Inspector I think there is a way to read it that changing the windows is not the renovation of a building. Windows require a building permit. You probably also, if you are in the CC district, have to go before the ARB for guidelines. But I do not think that would fall under here.

**Trustee Walker:** Although it can make a big a difference on the exterior of a building as replacing trim, in a non-CC district issue.

**Village Attorney Stecich:** That is another issue. whether you wanted those design guidelines to apply beyond the CC district. But that is a different issue.

**Trustee Walker:** No. We are saying that if you make a change to the exterior of the building it requires site plan approval. So you could be changing the trim on the outside of your building and it requires site plan approval.

**Building Inspector Sharma:** Or you are making a bay window here instead of a basement window.

**Village Attorney Stecich:** And changing the trim would require site plan approval?

**Deputy Building Inspector Minozzi:** Not in a single-family.

**Trustee Walker:** No, we are not talking about single-family. But it could be outside of the downtown. Downtown already triggers design guidelines. Let us say it is a commercial building on Warburton Avenue or someplace else. So you are just making some simple changes to the exterior, maybe it is trim, maybe you are putting in something else. Trim is something of the same degree of change as a window.

**Village Attorney Stecich:** Just do not look at the exception. You have to look at the basic things, too. I do not think trim is construction, reconstruction, alteration, renovation. I guess you could say it is renovation.

**Mayor Swiderski:** I would say it is renovation.

**Building Inspector Sharma:** Reading the language, that has been an issue for us. Construction, reconstruction, renovation, a lot of things fall in those categories. For example, this building only has a ship's ladder to go up to the roof. If we were to make a regular stair with a bulkhead on the roof, theoretically that would require a site plan approval.

**Village Attorney Stecich:** Sure, that makes sense.

**Building Inspector Sharma:** Why?

**Trustee Walker:** But you are not actually renovating the building.

**Building Inspector Sharma:** I am suggesting there is certain work. For example, one that we just dealt with, putting statues outside the church. A small generator at Cropsey Museum hidden from everywhere. So there are, in my opinion, interior things. For example, converting this building to a movie theater, not doing anything to the outside, would require, in my opinion, a site plan review. At the same time, there is some exterior work that should not require it, just like the example I gave. No view preservation implication, just putting a stair here with a bulkhead on the roof, or bumping out a window to a bay window. This kind of exterior modification, according to the code, should require site plan review, whereas from my point of view, it should not.

**Village Attorney Stecich:** Generators probably should require site plan review; where it is placed, they make noise. Generators can be really loud. And in the downtown, where the lots are close, I do not think that is a good example.

**Mayor Swiderski:** I agree with you.

**Building Inspector Sharma:** How about statues?

**Village Attorney Stecich:** I will admit the statues at St. Matthew were sweet statues. It was a shame they had to come for site plan approval.

**Mayor Swiderski:** I am surprised under separation of church and state they have to at all.

**Village Attorney Stecich:** Churches have always been subject to zoning. I am not sure how you would get around that one. Maybe you could say statues shouldn't get site plan approval. But then you think about statues where you might want that.

**Trustee Walker:** I am going to point out that we do not say that if somebody were to create a new patio in front of their building that that requires site plan approval. Anything that alters the public space in front of a building, whether it is putting in a statue or repaving, putting in new brick paving, let us say, that is going to affect things, from my point of view it does not matter if it is in the back. But if it on the street, for example.

**Village Attorney Stecich:** That would be covered by this. It is construction of a structure.

**Trustee Walker:** But is brick paving considered a structure?

**Village Attorney Stecich:** Yes. Under the definition of structure, that would require site plan approval.

**Trustee Walker:** Or if you are ripping up brick paving and putting down lawn, for example, would that be considered?

**Building Inspector Sharma:** The reason why that case triggered site plan review was because he was looking for a demolition permit. The code says construction, reconstruction, demolition.

**Trustee Walker:** Yes, but that makes sense.

**Building Inspector Sharma:** So those words. Give us some way to say definitely, without any ambiguity, yes, this is not a candidate for site plan approval.

**Village Attorney Stecich:** But that is the point. If it is demolition inside, except for interior work that does not change the exterior of the building. I was going to give one other example of the bay window. I could see situations where you might want a bay window looked at if it is a bay window that is coming out over a street. I have seen huge bay windows that people are using to expand the space. You may want that. You can think of bay windows that should not have to be reviewed, but I can think of them that should.

**Building Inspector Sharma:** But there are codes with regards to lot coverage, there are codes with regards to the setback, projections into the required yards. There are all those kinds of codes. If there is a bay window, and we conform to all the bulk regulations in the zoning code: setbacks, lot coverage, height, canopies or awnings, for example. Do they all need to go for site plan approval? Chase Bank is going to apply for an awning on top of their teller machine outside, ATM machine. Theoretically they would need to come for not only ARB review but for site plan approval, as well.



There are many situations for view preservation that would clearly, more than one percent can look at it and come to the same conclusion, that they do not require that kind of scrutiny. If you subject it to that kind of scrutiny it is draconian and serves no purpose. It is extortion. They do it because they have no choice. There are things I am hoping to address and find some way to not subject certain clearly kind of operations to that kind of scrutiny.

**Mayor Swiderski:** You are certain, and your clearly, unfortunately, is not so clear or certain. That is the problem. The examples you are throwing out unfortunately differ from the perspective of the person looking at it and where you are in a spectrum. Your example of the Chase Bank. It depends upon the size of that canopy and what they are seeking to do. It may require site plan, or it may not. I can see how somebody on that block might object to something that was too big. It is not as black and white as I wish it were, otherwise I would be agreeing with you eagerly.

**Building Inspector Sharma:** So we are saying we cannot conceive of any exterior work.

**Mayor Swiderski:** Not on the examples you threw out. That is the problem.

**Building Inspector Sharma:** OK.

**Mayor Swiderski:** I am speaking alone here, but I am trying to find a principal I could apply.

**Trustee Walker:** It is hard to craft the language that would capture what you are saying.

**Building Inspector Sharma:** There are situations which we have seen and I can bring examples of, where an acupuncture purchased the property behind what was a porch that they were enclosing. That was four or five years ago. That is when I started to think about it. He had the stop order, they cannot do it, they need to get a building permit. Came back. Realized not only building permit, they needed a site plan approval. They also need view preservation. In my mind, honest to goodness and not trying to be a wise guy here, that did not merit that kind of scrutiny.

There could be many such examples. What we did with the façade on 1 Main Street. Did that require site plan approval, site plan review? Can there not be many more such situations? The bay window that I mentioned. Assuming I conform to all the zoning requirements, a bay window, putting up a bulkhead, for example, which conforms to height regulations, all the zoning regulations. What will the site plan review do to it if it is allowed to be built without it?

**Mayor Swiderski:** I hear you. I just do not know how to operationalize that for language. Do you have a sense of it?

**Village Attorney Stecich:** No. If you came up with some language. I think what Deven is saying is he wants to be able to decide some things do not require site plan approval. I do not think that can be done. I do not think you can do it.

**Trustee Walker:** Or have the same kind of committee of three look at it. But this is not clear-cut.

**Village Attorney Stecich:** What you need are rules for site plan approval. And maybe you can tweak the rules more than I have tweaked them here.

**Trustee Walker:** Does it not come back to what the point of site plan approval is? You would have to look at the state law, as well. Is it to protect common good, is it something that is visible to all? If it were something that were visible, like view preservation, it is clear-cut about the river and the Palisades. If it is going to affect the neighbor or the visual environment around the building, and affect people who are going to use the street, then it is definitely having this broader impact, and you could say that it has to go. If we say site plan approval should not apply to things that will not have an effect on any other properties or any views, there are a lot of conditions here. But that is the way I picture it.

**Village Attorney Stecich:** Yes, but the problem by doing it that way is in the good example of the generator. Deven happens to feel a generator is not going to have any impacts so he would not require site plan approval. I do not know anything about that generator, but I can see situations where generators make a difference. And there have been big disputes over generators, not in Hastings.

**Trustee Jennings:** We are wrestling with the problem of a screening. How do we keep things out of site plan approval that should not be subject to it? That is proving very difficult to do. Another approach to solving our problem might be not so much screening, but the nature of the approval process. What is wrong with the approval process right now? It costs people too much money, it takes too much time, and we are trying to keep certain projects or activities out of the approval process to save people time and money. If we cannot effectively decide who to screen out, is there some way we can alter the mechanism of the process so that people who should not have to pay those extra transaction costs are spared them. That is a different approach than the screening approach. I am not sure how it would work, but it would be something along the lines of for particular activities some kind of expedited review; less requirements up front in terms of judging an awning than judging a

balcony. Our problem is we are asking people to pay a great deal of money for a trivial result as far as the community is concerned. That seems out of joint.

**Trustee Walker:** And they are required to produce a number of sets of drawings, they have to have architects.

**Trustee Jennings:** Yes, precisely. So rather than say church statues do not have to go through the process, is there some way we could make the process more appropriate to things like little statues. They had to do a lot of transaction costs in order to get through the process. Can we keep that from happening in the future? Not by screening them out beforehand, but by altering the requirements.

**Mayor Swiderski:** An expedited version for simpler things?

**Mr. Koch:** That is right, and I commend you again for all this work. A big-number item is the certified mailings for the public hearing. That costs 300 bucks: 200 for the mailings, at least 100 bucks for somebody to manage all of it. As soon as you hit the threshold of the public hearing, then it triggers a whole series of requirements. A smaller group that could screen it, like you were saying, would be a good idea. But it would have to be less than a public hearing. Perhaps their result could become part of the public record. There might be a review or redress process available if people protest.

**Building Inspector Sharma:** Also about two months for waiting.

**Mr. Koch:** Yes. In exclusion C, in addition to renovation, demolition, or enlargement of single-family dwelling, it has missed accessory buildings. If I build a garage I am going to have to come for site plan approval, if I am not misconstruing this.

**Trustee Walker:** Not if you are single-family housing.

**Village Attorney Stecich:** The Board has already interpreted it. You have never had to come in for anything like that.

**Mr. Koch:** Understood. It is just the letter. Fine-tuning the text here, the exception that you put on A-1, you say except for interior work that does not change the exterior of the building or structure. Structure is a loaded word because with are always messing with the structure on the inside. Everybody wants to open up. You might want to choose a different word than "structure." I understand it refers back to moving or removing of any building or structure, presumably a pylon or something. I am not quite sure what the structure might be. Or a wall. But maybe if you made it "structures" instead of "structure" it would never be

misconstrued to refer to the structure of the building. That is not what you are trying to address here. You are trying to refer to other structures like walls.

**Trustee Walker:** Or patios.

**Mr. Koch:** Or patios, or whatever. But the importance is, if I am doing interior work and I am removing a bearing wall.

**Village Attorney Stecich:** It might just say it does not change the exterior of the building. You are right, I just took the language from the one. I think if you took "or structure " out it would eliminate that. It does not change the exterior of the building, I cannot think of any other structure that would not be exterior otherwise, like patio or whatever. So if you just ended it "building" I think it would eliminate that problem. I see what you are saying about the accessory building. It has never been interpreted that way, but as long as we are clarifying it you could say accessory structure, yes.

**Deputy Building Inspector Minozzi:** I want to refer back to two things we spoke about before. That would be rebuilding something that has been taken down. It could be a problem if we have a deck that is existing nonconforming that has been there for 40 years. The deck is rotten, the deck has got to be replaced. It could be the fight of that homeowner or building owner that now it has to go the Board because it is nonconforming, it was taken down, and it needs to have Board approval. It is feasible the Board could turn him down. Now this homeowner or building owner can legitimately say how could you possibly turn me down for something that has been on my building for 40 years? Someone said before that maybe was allowed in a different time, in a different set of codes. True, but it has been on that person's house for 40 years or 30 years or 20 years. And now they are not allowed to have it anymore?

**Village Attorney Stecich:** Give an example, and get off the houses.

**Deputy Building Inspector Minozzi:** A perfect example of what we are dealing with right now is the Hall's building on the corner of Spring Street and Warburton Avenue. We thought until just two days ago the deck that they took down was approved on a previously approved site plan, which, at this point in time right now, it is not. But that deck has been on that building since 1985, and it has been taken down. They could legitimately be denied at Planning Board for putting it back up on what is a sidewalk area but is their property. Those are the kinds of things we need to be careful of.

**Village Attorney Stecich:** But if they built something not in conformance with an approved site plan, I am not saying that is what happened here, but why should it be perpetuated?

**Trustee Walker:** There are a lot of examples, even in single-family homes, where people have to come back for a new C of O because somebody, maybe it was not even them, added something without a building permit.

**Deputy Building Inspector Minozzi:** I was not trying to infer that they built it without permission. What I am trying to say is we do not have documentation of it right now, and we are trying to look for it. I am using it as an example just because it is not on the original site plan that we have at this moment, and maybe it will come up, maybe it will not.

**Trustee Walker:** It might have been approved at a different time.

**Village Attorney Stecich:** The problem is it may not have been. It is not infrequent that somebody will come in to get something legitimized because they are selling the house and the bank is requiring it. They did it, and they never got approval in the first place.

**Deputy Building Inspector Minozzi:** I was not referring to things that were illegal.

**Village Attorney Stecich:** I know, and I do not think that is the situation here. So somebody has something that was never approved, never legitimized in the first place. It comes down, and they say I always had it, it should be there. The other thing we have to recognize is the code is a little different. But the code has specific rules for nonconforming - not undocumented, but nonconforming - buildings that are destroyed. There are different rules for single-family, one- and two-families lumped together, and other uses. There are certain percentages. If it is destroyed beyond 50 percent you lose your nonconformity. So it is not like the code has not thought about these things. It is not saying that everything can be rebuilt. The code, the way it is written now, does not allow everything to be rebuilt the way it is now.

**Building Inspector Sharma:** So the deck at the back of the tennis club, which was destroyed because of Sandy, code section 295-60 does say anything destroyed because of that, as long as they come back to get a permit to rebuild it within six months, they should be permitted to build. The last time we went over it, you were saying they need to go back to the Planning Board and view preservation and all that kind of thing. From my perspective, I do not think that should got either.

**Village Attorney Stecich:** I think of all of the issues the hardest one is this reconstruction. And if anybody can come up with any way to parse it.

**Trustee Jennings:** I am very sympathetic with the situation of people who have lost an amenity through no fault of their own not being able to restore that amenity. But I would like to try to achieve that result without freezing it in time with the notion of we are going to build it just like it was before because I suspect there are many codes that would prevent you from doing that, not site plan approval, but safety codes, and decks have the different railing that they used to have so the kids cannot fall through it, all that kind of thing. There are plenty of reasons why you cannot build it just the way it was before. Surely the function of site plan approval is not to deter improvements to our built environment and our community. We do not want to encourage people to allow things to deteriorate because that is the only way they can avoid tremendous expense. To have a negative disincentive to improve your property is not what we want. We have to be careful of these pitfalls.

**Village Attorney Stecich:** I can revise this to put in the couple of changes that we all agreed on and send it to the Planning Board not as a local law, but to get their input. They deal with this all the time. Ask the Planning Board to think about some of these issues. What would be nice would be to get in the words that except for interior work that does not change anything. That is the downside. It will slow any changes down. But you have got a strong Planning Board with good minds on it, and it might be helpful to run it past them.

**Mayor Swiderski:** Sometimes I am eager to punt.

**Village Attorney Stecich:** This is not punting.

**Mayor Swiderski:** But the line about "does not change the exterior of the building or structure," that line alone saves a great deal of grief and, on its own, merits passing. We are having trouble here coming up with language. As strong as they are, I suspect they will, too, and it could be a four-month process. That could be a half dozen interior renovations we spare people grief by simply passing this one sentence modification.

**Trustee Walker:** Another set of questions about other things like parking issue, the two-family dwelling issue that we just leave out for now?

**Village Attorney Stecich:** I think everybody was agreed on those issues.

**Mayor Swiderski:** Right. Bring those back, and then let us see where it stands. There is a bigger piece here and this piece that we all agree on that could pass in very close to its current form. The bigger piece which we all agree has merit is a bigger piece.

**Village Attorney Stecich:** I am telling you, it is tough. I am pretty good at drafting, but I cannot think of a way to capture it.

**Mayor Swiderski:** And neither can I. We are identifying the parameters we have to address in answering it, but I am not any closer to an understanding.

**Trustee Walker:** I agree that we should move ahead with the things we all agree on. The things that are still fuzzy are the issues that Deven and Charlie brought up that would, in fact, change it to a much greater degree. Perhaps screen it, perhaps expedite it, but also reduce the time load and the money load on a number of people. But we cannot do that yet.

**Mayor Swiderski:** And this step will help plenty.

**Trustee Walker:** Yes, this will help. So we are approaching it, but we see there is maybe another step to take that could take longer. That is the part we will throw to the Planning Board, and we will clearly identify why.

**Mayor Swiderski:** That is right. Do not let the best be the enemy of the good. We have changes which will address a significant number of potential complaints, and I would rather move on those than spend more time on the tougher stuff.

**Village Attorney Stecich:** So are you calling for a public hearing on this?

**Mayor Swiderski:** No. There was enough that we do want to see a second draft, but I think enough that we agree on that the second draft should not be a surprise.

#### **4. Update on Deer**

**Mayor Swiderski:** We have had more than 40 people volunteer for various elements of the data collection and implementation. We will be reaching out to those people as this progresses. We have a date two Mondays from now where we will be sitting down with the DEC, Fish & Wildlife Service, Kevin Clark and the other people there, as well as the professor out of Cornell who has been doing similar but not identical work which involved the combination of sterilization and culling. We will be pushing forward for the license.

**Mr. Gonder:** At that meeting, no one specified the time when we are supposed to fill out those forms if we agreed.

**Mayor Swiderski:** We did not specify the time because we need to know we are going to get that license before we key everybody up. If the rug gets yanked out from underneath us I do not want to yank it out from underneath you.

## 5. Update on the Downtown

**Trustee Walker:** We are having another meeting of our Hastings Downtown Collaborative tomorrow. We welcome anybody who would like to come. We are going to discuss our Discover the Rivertowns Weekend, the June 7, 8 and 9 weekend. We are promoting this weekend to the New York metropolitan region through WFUV and through the New York-New Jersey Trail Conference Web site and their e-mails, and we also promoting it locally. We want to get a good turnout in the downtown on that weekend.

There will be a Friday Night Live on June 7, which is Spring Thing. There is a group of high school students who are excited about getting involved and doing something having to do with lights and creative ideas for blackboards on the stairs going down from West Main to the station and make that kind of an interesting environment for the day, for the evening before the next day, for people to draw on blackboards. I guess they are going to have to get Village approval to do that because it is public property. I will talk to Fran about it so he is up on what is going on. They were asking for a couple of hundred bucks. I thought maybe we can pull from our Friday Night Live fund for that, but I will look into that.

This group took a little tour of the downtown and the thing they noticed that needed the most help, aesthetically and structurally, was those steps. They also looked at the Steinschneider parking lot and thought that could use some help, too. So they are brainstorming ideas, and this is something short term to draw attention to it. But they would love to get involved in longer-term suggestions, as well. So the high school students are now represented at the committee meetings, which is terrific. We also have an intern from the high school who is working with the committee for the next six weeks.

**Mayor Swiderski:** Back on the deer, the licensing documents are posted up on the Web site as of four minutes ago.

## 6. Update on the Waterfront

**Mayor Swiderski:** Very briefly, we have had a survey sent out to the community to all 1,800 addresses we have. We have had 350 responses as of today which, at nearly 20 percent, is exceptional. At this rate, with the follow-up teaser, we are hoping to get as many as 500, which is off the charts apparently for what their experience has been. With the results of that survey, as well as other input, we are hoping it will factor in to the placement of some of these larger amenities.

We are still trying to determine the regulatory impact that the historical designation for Building 52 might have, and it is still not clear. That is still being sorted out.



**Village Manager Frobel:** At the Uhlich Color-Chevron site, I, along with other staff members, met with the company engineering firm last week. They are finalizing their plans to bring on the 30,000 cubic yards of fill to begin that process. They have submitted their plans to the DEC. They expect to hear back from the state very shortly. The goal is to start this in late summer and have it completed before the onset of the cold weather. The groundwater treatment system continues to work without any problems. They are pleased with their results. At the Exxon Mobil site, they did their hydroseeding late winter. They are trying to freshen that up and get some better germination. They also expect to be doing planting of some shrubs over the next several weeks.

## **7. Miscellaneous**

**Trustee Jennings:** Concerning the green amendments to the building code, Marianne has done a tremendous amount of work formatting and altering the draft that we saw previously so it will fit properly into the building code for the Village. There are still substantive issues to be discussed, but it is ready for the Board to take another look at it. Do we have a timetable for our consideration of those amendments?

**Mayor Swiderski:** No, but we are happy to make one. It is probably a work session, right? Do we already have a work session scheduled?

**Village Manager Frobel:** That was scheduled on May 30 on the comprehensive plan.

**Mayor Swiderski:** I do not think trying to fit it in there makes sense. Without Niki and Marge here, I hesitate to do serious scheduling. We will solicit to find a good day for all of us. We will do that as soon as it is practical.

## **ADJOURNMENT**

On MOTION of Trustee Walker, SECONDED by Trustee Jennings with a voice vote of all in favor, Mayor Swiderski adjourned the Regular Meeting at 10:30 p.m.