

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**PUBLIC HEARING #2**  
**JANUARY 11, 2005**

A Public Hearing was held by the Board of Trustees on Tuesday, January 11, 2005 at 8:20 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee Bruce Jennings, Trustee Peter Swiderski, Deputy Village Attorney Marianne Stecich, and Deputy Village Manager Susan Maggiotto.

**ABSENT:** Trustee Holdstein, Trustee Apel, Village Manager Hess.

**CITIZENS:** Nine (9).

Mayor Kinnally declared the Board in session for the purpose of conducting a Public Hearing in accordance with the legal notice that appeared in the December 31, 2005 issue of *The Rivertowns Enterprise* to consider the advisability of adopting Proposed Local Law No. 2 of 2005 amending the Zoning Law to require the posting of a sign on property for which a variance is sought as follows:

To consider the advisability of adopting Proposed Local Law No. 2 of 2005 amending the Zoning Law to require the posting of a sign on property for which a variance is sought as follows:

Section 1. Section 295-143.C (Notice of hearing) of the Local Zoning and Planning Law of the Village of Hastings-on-Hudson, New York is hereby amended by adding a new paragraph (4) to read as follows:

- (4) In addition to the notice required in paragraph (1), the applicant shall post a sign on the property that is the subject of the application at least 10 days prior to the public hearing and shall remove such sign within two days following the closing of the hearing. The sign shall be obtained from the Building Department and shall be placed in a location plainly visible from the most commonly traveled street upon which the property fronts but in no case more than 20 feet back from the front lot line. Such sign shall be not more than three feet above the ground and shall read as follows, in legible lettering at least two inches high: "A VARIANCE IS SOUGHT FOR THIS SITE AS FOLLOWS: (DESCRIBE VARIANCE APPLIED FOR). A PUBLIC HEARING

WILL BE HELD ON THIS VARIANCE AT VILLAGE HALL ON \_\_\_\_\_ AT 8:00 P.M.” Prior to the public hearing, the applicant shall provide an affidavit that such sign has been posted at least 10 days prior to the public hearing.

Section 2. Existing paragraph (4) of section 295-143.C is re-designated as paragraph (5).

Section 3. This local law shall take effect immediately

**Mayor Kinnally:** Anyone wishing to speak in favor of, or in opposition to, the Proposed Local Law please come forward and give your name and address for the record.

**Dr. Arthur Magun, 109 Lefurgy Avenue:** I have been on the Zoning Board for about seven years and I want to bring to the Trustees’ attention some of the concerns that the Board had. We hear about 40 cases a year so we are talking about some 250-odd cases; my guess is that we approve about 90% of the variances that come before us. Of that large number of variances that we approve, very few of them are contested or discussed in any meaningful way by the citizenry. Most of the people who attend the meetings are the proponents of the applications rather than concerned or otherwise uninvolved parties.

One of the issues that concerns me personally is that we need to do whatever we can to increase the visibility of applications that will impact on the community as a whole. That was one of the reasons that the first issue was brought up: how to make it easier to notify people. It is not just the people who live 300 feet around a property that should be notified, and a sign would be an easy way to do that. Obviously, publishing things in the newspaper, using e-mail, putting it on HoH are all other mechanisms. But if you are driving by a piece of property and you see a sign, it catches your eye, and it is a way of alerting the community that this person is planning to request a variance.

I think, as a Board member of the Zoning Board, we need more input from the community. I feel a little funny that we are making decisions without getting a lot of input from the community, and whatever we can do to increase that will benefit the Village in the long run. That was the reason that some of us felt that we should have a little sign placed in front of

houses. It is four or five properties out of perhaps 1,500 properties in Hastings, as a guess. So it is a tiny number of signs per month. We have 10 meetings a year. I view it as a minor increase in signage in the Village for a short period of time that would probably benefit all.

**Jim Metzger, 427 Warburton Avenue:** I would like to speak in favor of this application. Having come from the other side of the aisle, when zoning variances were being called for it became very difficult to notify people in our neighborhood over a case that had been going on for the last three years. Being actively involved, I would get questions virtually every day: Do you know when the next meeting is? What are they going to be discussing? Not everybody has access to e-mail. Not everybody reads the paper. Publicly posting a sign in the neighborhood where the variance, or whatever application is being sought, is an excellent way to get people informed and to get people more involved in the community.

**Jeff Bogart, 5 Jordan Road:** If there is a meeting but your case does not get heard, does the sign still stay up, or what happens? Is the Village going to provide the language of the sign so that the property owner does not have to supply it?

**Mayor Kinnally:** It says the sign shall be obtained from the Building Department, so it will be provided by the Village. The law reads that it has to be posted at least 10 days prior to the public hearing and shall be removed within two days following the closing of the hearing. It would appear to me that it has to be posted until such time as the resolution of the application is effected.

**Mr. Bogart:** So it might stay up for a month or a couple of months, in fact, if your meeting is recessed or adjourned, because the ZBA meets monthly.

**Deputy Village Attorney Stecich:** It is a good point. If you were adjourning the public hearing you may want to require them to take the sign down and put it up 10 days ahead of time so it is not sitting there all the time. Not many cases are adjourned. Would you not say, Arthur, that 95% of the cases, or maybe even 98%, are decided in the same meeting that they are on for the first time? I do not think it has to be written in the law, but it certainly could be, that the Zoning Board chairperson would advise the applicant when the matter is adjourned to take down his sign, and put it up 10 days before the next public hearing so it is

not sitting there all the time. But then on the other hand, people do know that they can come to that next meeting. Arthur, does that make sense to you?

**Mr. Bogart:** The provision with a date on the sign is going to have to be changed anyway.

**Mayor Kinnally:** It would have to be changed, obviously.

**Trustee Jennings:** As I read the last sentence of the amendment, prior to the public hearing the applicant shall provide an affidavit that such sign has been posted at least 10 days prior to the public hearing. What we mean to say is that such a sign has been posted continuously for at least 10 days prior. The way this reads, you could put it up 10 days ahead of time and take it down the next day, and then it would not be up for eight days and you would fulfill this requirement.

**Mayor Kinnally:** It also says “and shall remove such sign within two days following the closing.” Maybe it can be tightened up, but the sense is that it be there continuously.

**Trustee Jennings:** Having clarified that, I have a second question about enforcement. This is like one of these hypothetical, worst case scenario things that is not likely to happen, but sometimes neighbors feud with one another. During the last political campaign, some people who had political signs in their front yards found that the signs were stolen. What is the recourse for someone who is applying for a variance, who puts a sign up in good faith, and before 10 days can go by it gets taken down by somebody? It takes a few days to get back to the Building Department to get another sign. You cannot really say that it has been up there for the 10 days straight, because it has not. I am concerned that we are asking people to be responsible for doing something, there are consequences if they do not comply, and yet it is quite easy for a third party to sabotage it if the third party is so motivated.

**Deputy Village Attorney Stecich:** That is a good point. The Zoning Board often has to make a determination because the notice requirements are not exactly complied with for one reason or the other. It does not happen much, but when it does the Zoning Board decides whether there has been substantial compliance.

**Trustee Jennings:** Or a good faith effort to comply?

**Deputy Village Attorney Stecich:** Right. And this does not replace the other notice. Everybody is going to get all the notice they got before. This is something extra. It is an unlikely event, and I could not make the decision for the Zoning Board, but if they asked my advice, it might be that the people tried and that is as much as they could do.

**Dr. Magun:** Most of our cases do not involve situations where people are that contentious about taking signs down. I would guess that if an applicant told us that they put a sign up and somebody took it, we would believe that they put the sign up and that would probably be sufficient for the Board.

**Trustee Jennings:** That reassures me. I just wanted to put this on the record. Then if we have problems with it down the line we can always rethink this.

**Mr. Metzger:** One other issue is the situation where someone is requesting a variance for a piece of property that they do not yet own. I am talking specifically about 422 Warburton, where the applicant came before you for several years before the property was actually turned over to them. Are there any issues involved with placing signs on property that you are intending to acquire?

**Mayor Kinnally:** I would think that would be a situation between the owner and the person who has the contract to purchase the property. I cannot imagine why the owner of the property would not cooperate with the person buying the property.

**Deputy Village Attorney Stecich:** The owner has to put in an affidavit they agree with the application. So if they agree with the application, then they have to agree to put the sign up.

**Trustee Swiderski:** At the last meeting, when the proposal was first floated, Mike reacted to it with a worry about the visual blight. I thought about that and I want to respond. In a given month there are five or six applications. Given that a sign is up for 10 days, we are talking about two signs, on average, up at any point in time in the Village out of a couple of thousand dwellings. It seems a reasonable visual blight to incur, given the sense of public involvement in the review process. Overall the visual blight is secondary to the public good addressed, and it is worth considering seriously. I also liken it to the requirement for the signs for rat poison. When there is a local interest in an event happening on a piece of property, I do not

think there is any problem in publicly advertising that. So I agree with the assessments put forth and think it is a good idea.

Hearing no further comments, Mayor Kinnally asked for a motion to close the Public Hearing.

**CLOSE OF PUBLIC HEARING**

On MOTION of Trustee Jennings, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally closed the Public Hearing at 8:35 p.m.