

2006-04-27 hastings zba

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS

Held April 27, 2006 at 8:01 P.M.,
Seven Maple Avenue, Hastings-on-Hudson, New York
10706-1497.

P R E S E N T :

Arthur Magun, Chairman
David Deitz, Board Member
Stanley Pycior, Board Member
Denise Furman, Board Member
Brian Murphy, Board Member
Sheldon A. Sorokoff, Alternate Board Member

Deven Sharma, Building Inspector
Brian D. Murphy, Board Counsel

VERA MONACO, RPR
Court Reporter

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 CHAIRMAN MAGUN: Good evening,
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3 everyone. This is the Zoning Board of
4 Appeals, Thursday, April 27th. We have
5 before us tonight four cases. We are go
6 going to proceed in the order on the agenda
7 as it has been sent out to everyone in our
8 wonderful e-mail.

9 I should add, before I forget, that
10 all of the minutes of the Zoning Board are
11 now available on the website of the
12 village. It's really great. You can read
13 as much as you want to read. You can read
14 about zoning issues for -- how far back
15 does it go?

16 RAPHAEL: 1997.

17 CHAIRMAN MAGUN: 1997. So, if you
18 need to steep yourself in history of the
19 Zoning Board, feel free. And we'll try to
20 expand on that as time goes on. And I want
21 to thank our village IT person, Raphael,
22 for that.

23 Are the mailings in order on all
24 four cases?

25 MR. SHARMA: Yes, sir, all the

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 mailings are in order.

3 CHAIRMAN MAGUN: Denise Furman is
4 going to recuse herself on the first case,
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5 which is 3-06, and Sheldon Sorokoff, our
6 alternate, will be able to sit in on this
7 case. Why don't we do that.

8 So, this is case 3-06, Betty Ryberg
9 and Phil Grant, 11 Riverview Place. Now,
10 this case was adjourned really for two
11 months. First time it came before us the
12 case hadn't really been finally discussed
13 at the Planning Board, and that was in
14 February. And then in the March meeting,
15 the applicant chose not to proceed because
16 we did not have a full board. Tonight we
17 do have a full board. We have five voting
18 members. So we're going to go ahead with
19 the presentation of the application.

20 The application is before us with
21 regards to a couple of issues. The first
22 is view preservation.

23 Now, on the view preservation
24 issue, the Planning Board did not approve
25 the first floor request but did approve the

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 view preservation issues for bay windows
3 that are on the third story, or what may
4 turn out to be the third story of this
5 building.

6 And in addition to view
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7 preservation, the applicant is before us
8 for a variance. The variance regards
9 changing the number of stories that are
10 presently in the house.

11 The code allows the house to be
12 35 feet high with 2.5 stories. The house
13 is presently 40.5 feet. It's a
14 non-conforming house. That's been the
15 case. And the applicant is proposing to
16 change the number of stories from 2.5 to
17 three.

18 Just to explain a little bit, and
19 feel free to correct me, anyone, if I'm
20 making an error, the definition of a story
21 is -- it depends on the square footage of
22 the structure. In this case, let's call it
23 the third story. If the third story that
24 is being proposed is 50 percent, the
25 area -- it's 50 percent of the floor

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2 beneath it, 50 percent or greater, than
3 that is officially classified as a full
4 story.

5 If the area on that third floor is
6 less than 50 percent and not used as -- or
7 not used as inhabitable space, than it's
8 classified as a half story. Presently, the

9 house is classified as two-and-a-half
10 stories. The applicant is proposing to
11 make changes so that it will become three
12 stories.

13 So, that's the issue that's before
14 us. And as we go along, people have
15 questions about that. Was that a fair
16 summary of that issue?

17 MR. SHARMA: Yes.

18 CHAIRMAN MAGUN: It's a little bit
19 of an unusual one for us.

20 So, are you the applicant?

21 MR. GRANT: Yes. I am Phil Grant
22 from 11 Riverview Place, and my wife is
23 Betty Ryberg.

24 CHAIRMAN MAGUN: Good evening. Why
25 don't you tell us what you want to do. And

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2 you have someone with you?

3 MR. GRANT: Yes, we have
4 architects.

5 CHAIRMAN MAGUN: However you want
6 to present.

7 MR. GRANT: Sure. I wanted to lay
8 out at least, you know, the original, you
9 know, intent behind the project.

10 CHAIRMAN MAGUN: Sure.
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11 MR. GRANT: As you just mentioned,
12 you know, we're seeking a variance to
13 increase the number of stories from
14 two-and-a-half to three, and we're also
15 seeking the approval of this board's
16 approval for the Planning Board's decision
17 to allow the expansion of the bay windows
18 on the third floor.

19 We basically set out with three
20 goals of our project in the beginning. We
21 wanted to renovate the existing third floor
22 bedroom. There is an existing bedroom on
23 the third floor. But as you said, it
24 doesn't go passed that 50 percent amount.
25 And we wanted to renovate that bedroom and

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2 the adjacent attic into a master
3 third-floor bedroom suite.

4 We also wanted to preserve and
5 maintain the existing historic character of
6 the house, 1900's colonial revival that we
7 do live in. And we wanted to enhance the
8 property values, of course, of our house
9 and the property values of Riverview Place.

10 We conducted extensive historic
11 research. We went to the historic society
12 and they were able to -- this was about a
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13 year, year-and-a-half ago when they were
14 just starting to categorize and catalog all
15 of their photos, and we found some of the
16 historic photos of our house. One right
17 after it was built, one in 1907. And from
18 that we, you know, we decided to do some
19 additional work to try to bring it back to
20 kind of a baseline analysis.

21 We also did extensive walks around
22 the Hastings' neighborhoods and some of the
23 other historic neighborhoods to really kind
24 of get a flavor of trying to make sure our
25 house fits in.

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2 Basically, our plan is to restore,
3 as I said, the 1900 fabric of the house.
4 Elements around the porch down below have
5 been changed. We want to restore the
6 shingle in there. We wanted to rebuild a
7 smaller version of a side porch that had
8 been removed. Right now we have the door
9 to nowhere on the second floor, so we
10 wanted to add a porch there for esthetic
11 and safety reasons.

12 We wanted to renovate and expand
13 the third floor bedroom. We wanted to add
14 both a master bathroom and a nursery to

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15 that third floor. And we wanted to do that
16 to preserve the historic nature of the
17 second floor of the house. As I said, we
18 wanted to reshingle the entire house to
19 match the original shingle work.

20 I also wanted to pick up kind of
21 where we left off last time on the kitchen,
22 just to clarify, you know, as a matter of
23 record, that we're not going to be able to
24 talk about the kitchen expansion today
25 because the Zoning Board said that we need

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2 to file an Article 78 petition if we
3 disagreed with the Planning Board's
4 decision, so we wanted to confirm that.

5 We do disagree with the decision of
6 the board. We think that it goes against
7 the decision of what the view preservation
8 rule actually says. But tonight we aren't
9 talking about the kitchen because this
10 board can't discuss that. Is that right?

11 CHAIRMAN MAGUN: You are talking
12 about the Planning Board not giving view
13 preservation for the changes that were
14 proposed on the first floor?

15 MR. GRANT: Correct.

16 CHAIRMAN MAGUN: So our
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17 interpretation of the code, which we
18 discussed last month, was that if the
19 Planning Board doesn't give approval for
20 view preservation issue, it doesn't come
21 before the Zoning Board.

22 MR. GRANT: Okay.

23 CHAIRMAN MAGUN: We didn't tell you
24 that you should file an Article 78. I
25 mean, you can do whatever you want, but we

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2 can't listen to an application that hasn't
3 been approved by the Planning Board.

4 MR. GRANT: Okay, understood.

5 Then I'll turn it over to Dan, our
6 architect, just to kind of lay out the plan
7 as it's up there.

8 CHAIRMAN MAGUN: Okay.

9 MR. STOICA: Good evening, ladies
10 and gentlemen.

11 CHAIRMAN MAGUN: Tell us your name
12 and address.

13 MR. STOICA: My name is Dan Stoica,
14 S-T-O-I-C-A, 145 Palisades Street, Dobbs
15 Ferry, New York.

16 CHAIRMAN MAGUN: There's a portable
17 microphone, if you want to use that.

18 MR. STOICA: Okay. Well,
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19 Mr. Chairman, you made a wonderful
20 submission of what we're proposing to do.
21 I think it's important to note that we are
22 not proposing any -- as far as the
23 elevation of the house, the roof line, the
24 original roof line stands where they are,
25 and it is presently an attic. So, our

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2 proposal of the third floor is not to make
3 the building any taller than it was built
4 originally in 1907.

5 So, the only exterior changes,
6 apart from its improvement of the shingling
7 and such, are going to be the bay windows
8 on the third floor as you had mentioned
9 earlier in your summation of our intent
10 here.

11 And it's also important to mention
12 that New York State code does provide for a
13 third floor in residential buildings, so
14 long as they are adequately provided with
15 life-safety systems, sprinklers in this
16 case, and we propose that we will follow
17 those provisions of the New York State
18 Building Code to its full --

19 MR. SOROKOFF: I'm sorry, could you
20 speak into the microphone, please?

21 MR. STOICA: Sorry.
22 CHAIRMAN MAGUN: Okay.
23 MR. STOICA: And that is really it.
24 CHAIRMAN MAGUN: Can you go through
25 the plans for us?

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2 MR. STOICA: Well, I think really
3 what speaks best would be the elevation.
4 We see the photographs. This is the
5 existing house. These are at the front at
6 the south elevation of the street. So our
7 changes would be about these windows here
8 and here. The other photographs show the
9 side elevation of the house. They're not
10 really of concern.
11 So, please keep these in mind as I
12 turn the board around and point out the new
13 bay windows that we are proposing at the
14 front and rear of the house. So,
15 essentially, pre-existing windows will
16 become slightly bigger and project a little
17 bit forward from the plane of the facade at
18 the rear and at the front. This is the
19 south elevation and this is the front. You
20 can see the existing porch over where we're
21 proposing to reshingle as it was
22 historically. And that is the north

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23 elevation, which is very close to the south
24 one where we are proposing the addition of
25 the bay windows.

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2 The ridge line, as I mentioned
3 before, this stays. There are no changes
4 proposed.

5 CHAIRMAN MAGUN: How far do the bay
6 windows project out?

7 MR. STOICA: I will tell you.

8 MR. SHARMA: It will project about
9 3 feet.

10 CHAIRMAN MAGUN: Three?

11 MR. SHARMA: Yes. And, actually,
12 the floor itself projects out 3 feet on
13 both sides.

14 CHAIRMAN MAGUN: All right. Is
15 that exactly correct, 3 feet?

16 MR. STOICA: That is exactly
17 correct, yes.

18 CHAIRMAN MAGUN: Can you show us
19 some of the -- when we are talking about
20 view preservation, we are interested in
21 people's views being obstructed or
22 non-obstructed. Are you able to show us
23 some pictures relating to that?

24 MR. STOICA: Okay. This is, I

25 guess, a diagram of our house here. And

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2 the views that it would conceivably
3 obstruct would be of the properties
4 directly to the west of it. But as you can
5 see, hopefully, from this diagram, we are
6 really speaking of an insignificant
7 projection beyond what the house already
8 does obstruct by the sheer nature of it
9 being there.

10 So, in the side elevations, if I
11 may show them to you again, you will notice
12 that the roof also overhangs as it stands,
13 overhangs from the front facade.
14 Therefore, when these bay windows project,
15 they will not project -- that 3 feet that
16 we're speaking about, actually, a portion
17 of it will still be beneath the overhang of
18 the roof. So it will not come beyond this
19 plane as much.

20 I do not have a precise dimension
21 of what that will be, but it will not be
22 the full 3 feet.

23 MR. SHARMA: The window goes
24 18 inches or so beyond the existing roof
25 line.

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2 CHAIRMAN MAGUN: On the existing
3 roof?

4 MR. STOICA: Yes.

5 CHAIRMAN MAGUN: So, just to be
6 clear, on the elevation at the top right,
7 that's the --

8 MR. STOICA: This is the west
9 elevation.

10 CHAIRMAN MAGUN: Okay.

11 MR. STOICA: So, this is the street
12 side, this is the rear.

13 CHAIRMAN MAGUN: So, the roof
14 that's currently existing is as-is-pictured
15 there; is that correct?

16 MR. STOICA: It's as-is-pictured.

17 CHAIRMAN MAGUN: There's not going
18 to be any change in that roof at all?

19 MR. STOICA: Not at all.

20 CHAIRMAN MAGUN: Present then, if
21 we were to draw a picture of the house as
22 it looks now --

23 MR. STOICA: Here it is.

24 CHAIRMAN MAGUN: Okay.

25 MR. STOICA: We have drawn a

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2 picture.

3 CHAIRMAN MAGUN: So, the only
4 difference is you don't see the bay window
5 projecting on the roof line?

6 MR. STOICA: Yes.

7 CHAIRMAN MAGUN: That projects out
8 about 18 inches?

9 MR. SHARMA: Beyond the roof line,
10 about 3 feet beyond the wall that's --

11 CHAIRMAN MAGUN: So, that's the
12 sole change with regards to view
13 preservation --

14 MR. STOICA: Yes.

15 CHAIRMAN MAGUN: -- that we're
16 discussing tonight? And that's on the
17 front and the rear of the house?

18 MR. STOICA: Yes, north and south.

19 CHAIRMAN MAGUN: Correct.

20 Are there questions from the board?

21 MR. BRIAN P. MURPHY: Yes, the next
22 door neighbors on the proposed third-story
23 level where you are proposing the bay
24 windows, is there a neighbor next door who
25 has living space on that level?

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1 MR. GRANT: Yes, there is.

2 MR. BRIAN P. MURPHY: And would
3 their view be impacted at all by the
4 18-inch projection beyond the existing?
5

6 MR. GRANT: They are here. They
7 will probably talk more about that.

8 CHAIRMAN MAGUN: Sir, don't speak
9 from the audience. You can go to the
10 microphone.

11 MR. GRANT: They are here in the
12 audience. They are going to present like
13 they did during the Planning Board.

14 CHAIRMAN MAGUN: What are you going
15 to do on the third floor, can you explain
16 to us?

17 MR. STOICA: The third floor
18 currently has a bedroom in it, so it's very
19 habitable space, so to speak. We are
20 proposing to develop it fully. It's part
21 of use for storage and part of it has a
22 bedroom in it. And we propose to enlarge
23 that bedroom to a full master bedroom
24 suite. There will be a bathroom currently
25 not there, and a bedroom.

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2 CHAIRMAN MAGUN: Do you have the

3 floor plans for that?

4 MR. STOICA: I do. You gentlemen
5 have it.

6 CHAIRMAN MAGUN: What sheet number
7 is it?

8 MR. STOICA: It's 1.1.

9 CHAIRMAN MAGUN: One point what?

10 MR. STOICA: Drawing No. 2 on 1.1.

11 CHAIRMAN MAGUN: Okay. Proposed
12 third floor, okay. Can you just go through
13 that with us?

14 MR. STOICA: Certainly. This is an
15 existing staircase. It continues all the
16 way to the ground floor and into the
17 basement. There are no changes proposed to
18 it. You come to a landing on the third
19 floor. There is currently a door here
20 which we propose to -- well, obviously, we
21 will change the door itself, but it's
22 location will remain the same.

23 And then you will enter into the
24 master bedroom suite. There is proposed a
25 small sitting area. This is towards the

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2 south of the floor. The actual sleeping
3 area is towards the east; well, where the
4 bed will be located. And towards the north

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5 there shall be the master bathroom.

6 CHAIRMAN MAGUN: And currently, the
7 windows that are there are flush with the
8 side of the house. They don't project out?

9 MR. STOICA: Yes, currently the
10 windows are not --

11 CHAIRMAN MAGUN: Those are going to
12 be replaced by the bay windows?

13 MR. STOICA: Yes.

14 CHAIRMAN MAGUN: Can you just help
15 me? I understand what you're doing. I
16 understand the bay window issue. I think I
17 need a little more information on view
18 preservation. Can you just help me a
19 little bit with the people that will be
20 impacted by this or not impacted by this
21 very -- let's just use by the 3-foot
22 projection out? Can you give me any idea
23 that they will or they won't?

24 MR. GRANT: I will take that.

25 CHAIRMAN MAGUN: Okay, why don't

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2 you.

3 MR. GRANT: I walked around the
4 neighborhood, and, you know, same thing
5 with the kitchen law, you know. When we
6 looked at the kitchen, we thought that

7 there might be a little small area of the
8 view blocked, and that's what the Planning
9 Board did decide on.

10 On the third floor, when you look
11 at the kind of the vastness of the view
12 down the street, you get a very good river
13 and Palisades view. The most obstructed
14 view is right along the house lines, you
15 know. We're the third house in from the
16 river, and there's trees and foliage and
17 all of that. So, the best view is right
18 down the river. It does slice off in the
19 front of the house a small sliver of the
20 view, 18 inches of that.

21 CHAIRMAN MAGUN: Whose view? Is
22 there somebody that --

23 MR. GRANT: Of David Press's view.

24 CHAIRMAN MAGUN: The neighbor to
25 the?

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2 MR. GRANT: The neighbor to the
3 east.

4 MR. STOICA: To the west.

5 MR. GRANT: No, east. To the east.

6 CHAIRMAN MAGUN: So, from their
7 house you think that if they were looking
8 towards the river that that 18-inch

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9 projection would eliminate some front --
10 MR. GRANT: A minor part of the
11 view, yes.
12 CHAIRMAN MAGUN: A minor part of
13 the view, okay.
14 MR. GRANT: And then in the back of
15 the house we felt that, from what we saw
16 with the existing trees and stuff, that
17 there was no blockage of that view.
18 MR. BRIAN P. MURPHY: How tall is
19 this bay window that projects out?
20 MR. STOICA: Seven feet.
21 Seven feet to where the roof begins and
22 then it projects -- it begins to slope back
23 and it terminates at the top of the roof,
24 therefore -- well, almost at the top of the
25 roof. So, it's full -- the 3-foot

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2 projection terminates at about 7 feet.
3 MR. SHARMA: You say the full
4 projection, by the way, from the floor --
5 MR. STOICA: Yes.
6 MR. SHARMA: -- up to the ceiling
7 is about 8 or 9 feet given the structure
8 below.
9 MR. STOICA: Yes.
10 MR. SHARMA: And with the roof on

11 top of the window is about 11 feet or so.

12 MR. STOICA: Yes.

13 MR. BRIAN P. MURPHY: It looks like
14 it's about 11 feet wide. So, you are
15 saying it's about 7 feet tall?

16 MR. SHARMA: Not width, I'm talking
17 about the height.

18 MR. STOICA: Height is 7 feet and
19 then the roof begins to slope backwards
20 towards the building. So, as it reaches
21 the building, it is taller than 7 feet.

22 MR. BRIAN P. MURPHY: I understand.
23 There's three dimensions of space. I just
24 want to make sure I understand what the
25 three dimensions are. There is one

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2 dimension, which is the height, and that's
3 7 feet. And it projects out 3 feet.

4 MR. STOICA: And is about 11 feet
5 wide.

6 MR. BRIAN P. MURPHY: And it's
7 about 11 feet wide.

8 MR. STOICA: Yes.

9 MR. BRIAN P. MURPHY: Okay.

10 CHAIRMAN MAGUN: I'm sorry, it's a
11 project. As I'm looking at the elevations
12 again, this is -- oh, this is existing.

13 It's all right.

14 What page are the proposed
15 elevations on?

16 MR. STOICA: A2.

17 CHAIRMAN MAGUN: Okay. One of the
18 questions that was raised in some of the
19 correspondence that we received was how
20 high is the bay window, actually, that's
21 being put in? Is it within the 35 feet or
22 is it above 35 feet? The roof is
23 40.5 feet; correct?

24 MR. STOICA: 40 and 6 inches.

25 CHAIRMAN MAGUN: Okay.

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2 MR. STOICA: Or something like
3 that.

4 CHAIRMAN MAGUN: So it's --

5 MR. STOICA: It's 40.

6 CHAIRMAN MAGUN: Yes, we were
7 wondering about this.

8 MR. SHARMA: The bottom of the
9 projection is at about 24 feet above the
10 grade level.

11 CHAIRMAN MAGUN: You mean the
12 bottom of the window?

13 MR. SHARMA: Not the bottom of the
14 window, the bottom of the projection. The

15 window projects out at the floor level
16 itself.
17 CHAIRMAN MAGUN: Ah, okay, I see.
18 MR. SHARMA: You know as you see
19 there --
20 CHAIRMAN MAGUN: Right here.
21 MR. SHARMA: -- the floor level
22 itself comes out about 3 feet, and the
23 projection is about 24 feet above the
24 grade. Then the top of the window, as it
25 was here, that's about 22 feet.

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2 CHAIRMAN MAGUN: Okay.
3 MR. SHARMA: Then the sloping roof,
4 the top of the roof ends up at about
5 36 feet.
6 CHAIRMAN MAGUN: Okay. One of the
7 issues was is this an extension of a
8 non-conformity?
9 MR. SHARMA: Right.
10 CHAIRMAN MAGUN: So, it seems like
11 it's essentially -- the bay window is
12 essentially within the 35 feet, except for
13 a little bit of the sloping roof.
14 MR. SHARMA: Right.
15 CHAIRMAN MAGUN: Does everyone
16 understand the proposal?

17 MR. PYCIOR: I have a question for
18 Mr. Grant. I notice in the plans there
19 were four bedrooms on the second floor.
20 Part of the granting of variances, or what
21 we must consider, is need. Why do you need
22 the master suite in the attic if you have
23 four bedrooms?

24 MR. GRANT: Well, the bedrooms
25 really don't have closets. People want an

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2 attached bathroom these days for resale
3 value. We want -- you know, we have a baby
4 on the way. We want a nursery right next
5 door, so that all went into where can we do
6 that?

7 As I said, we did pursue with two
8 different architects what we could do with
9 the second floor to kind of like do the
10 same thing into a master bedroom suite, and
11 we really didn't want to disturb the
12 historic nature of the second floor. It's
13 a very nice space and, you know, combine
14 two rooms into one or whatever else, we
15 wanted to keep that existing footprint.

16 So, we do plan a family. We do
17 want the space. And, you know, five
18 bedrooms I don't think is, you know, out of

19 the ordinary as a need.
20 MR. BRIAN P. MURPHY: If I could
21 ask a follow-up question on that. It seems
22 to me the issue or the disagreement here,
23 if there is one, is about the bay window.
24 So, why is there -- in other words, why do
25 you need a bay window? What does that do

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2 for your space? Is it purely for the view?

3 MR. GRANT: It is partly for the
4 view, but it is for the space also because
5 there are really gabled sloping ceilings.
6 It looks like there's a lot of space on the
7 third floor. But when you really get up
8 there -- we struggled a lot with the plans
9 on the third floor too on how to make
10 everything. You've got chimneys that are
11 coming up through there. You got other
12 piping, and you've got kind of like a weird
13 double gable on the side. And because of
14 all of that, you get a rather limited
15 amount of floor space really.

16 So, part of it was, you know, to
17 have the proper sized bathroom and the
18 sitting room in the front, sitting room
19 slash nursery, is to actually add a little
20 more space with the bay window.

21 MR. BRIAN P. MURPHY: But you
22 didn't have a bay window. You just had the
23 same size window but without the projection
24 out into the view that is considered. Is
25 it possible -- I think this is really what

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2 Stanley is asking, is there an alternative?
3 In other words, could you have the same
4 sized window but not a bay window?

5 MR. GRANT: As I said, we did look
6 at alternatives, but it really does
7 constrain the living space in those rooms.

8 CHAIRMAN MAGUN: I guess I want to
9 ask the building inspector a question.
10 What is the definition of a bay window
11 because I thought it was just a window,
12 not -- because if I'm not mistaken, what I
13 see in the plans here, this goes from the
14 floor to the ceiling, this projection
15 outward. It's not really a window. It's
16 a --

17 MR. SHARMA: It's an extension of
18 the floor.

19 CHAIRMAN MAGUN: It's an extension
20 of the house in the north and the south
21 directions. It's not just a window.

22 MR. SHARMA: No.

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23 CHAIRMAN MAGUN: So, what is a bay
24 window? I don't think we have -- I'm sorry
25 to be so esoteric here. But as I'm

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2 listening to the presentation, I realize
3 it's more of the window we are talking
4 about.

5 MR. SHARMA: I believe on both
6 sides we can project with bay windows up to
7 two-and-a-half feet into the required
8 yards.

9 CHAIRMAN MAGUN: But it doesn't say
10 what a bay window is.

11 MR. SHARMA: It doesn't quite say,
12 but it talks about another projection.
13 They have to be at least so much above the
14 grade. I think somebody actually can't
15 start from the ground up. You are allowed
16 to have some projection into the front
17 yards, but they must start at a certain
18 height. But these are not projecting into
19 any of the required yards.

20 CHAIRMAN MAGUN: Okay. So, this
21 projection is not an issue of projecting
22 into the required yards. So, even though
23 it goes from floor to ceiling, that's not
24 really an issue that we need to --

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MR. SHARMA: No.

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2 CHAIRMAN MAGUN: -- concern

3 ourselves with.

4 MR. SHARMA: No, it doesn't go into
5 the required yard.

6 CHAIRMAN MAGUN: It's a view
7 preservation issue.

8 MR. SHARMA: Yes.

9 CHAIRMAN MAGUN: Just to clarify
10 that. Everyone follow what we are talking
11 about? This is not just a bay window.
12 It's literally the plans show an extension
13 of the house in the north and south
14 directions with the windows in those walls,
15 and that's the view preservation issue.

16 The variance, zoning variance
17 issue, is changing the definition of the
18 two-and-a-half story to three story, which
19 would require a variance.

20 Any other questions from the board?

21 (No response.)

22 CHAIRMAN MAGUN: All right. Is
23 there anyone in the audience that wishes to
24 speak with regard to this application
25 either for or against? I guess this

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2 gentleman is coming up.

3 What are these pictures that you
4 left?

5 MR. STOICA: Mr. Grant had
6 mentioned historical research and the
7 photographs that he had found, which is if
8 you like to see them. As he was speaking
9 about them, I brought them up.

10 CHAIRMAN MAGUN: All right.

11 Sorry, sir. What's your name?

12 MR. PRESS: David Press, the
13 homeowner to the east. I am at 17
14 Riverview Place.

15 CHAIRMAN MAGUN: Same side of the
16 street?

17 MR. PRESS: Same side of the
18 street, the one house that's away from the
19 Hudson River from that house, which is the
20 east corner of Broadway and Riverview
21 Place, also known as Dr. Ming's house.

22 We have a two-family house with an
23 apartment, and our tenant is also affected,
24 and she's here tonight. I'm going to speak
25 about the effect of the views in our part

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 of the house, which I handed you a
3 printout, and I'll speak to it.

4 I've been on Riverview Place for
5 about 20 years, and about 10 years before
6 that on Jefferson Avenue.

7 It's not an easy task to get up and
8 talk and to thwart plans of a neighbor, but
9 what Mr. Grant said about wanting to
10 increase the values on Riverview Place, my
11 view is that the values on 17 Riverview
12 Place, if this plan goes through, would
13 certainly go in the opposite direction.

14 Let's start on Page 2, and let me
15 correct, we do not have space that is
16 usable. We have storage space on the third
17 floor. The impact on our --

18 CHAIRMAN MAGUN: I'm sorry, sir,
19 whose house are you talking about?

20 MR. PRESS: Our house. We do not
21 have any views. We have one little window
22 and a storage area on the third floor.
23 Riverview Place does slope downwards
24 towards the river. If you are ever there
25 in the heavy rain, you could ride a boat

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2 straight down the street. A couple of
3 people here have seen that.

4 So, our views that are affected by
5 the bay windows are from our second floor.
6 So, I'm going to walk you into our second
7 floor, if I can.

8 I did meet with Mr. Sharma. We
9 took a ruler out. We measured a -- I'm
10 going to talk about the one of most concern
11 to me, which is the bay window on the south
12 side. We measured that. The out cove is
13 three to three-and-a-half feet. I believe
14 I could be corrected on that. I believe
15 that we measured that the -- that the bump
16 out was approximately 2 feet, and I've done
17 my drawings based on that.

18 Page 2, you walk into our bedroom.
19 And I like that shot of the bed. I don't
20 know, it's there. The second picture just
21 is a shot across the bed. It's a little
22 dark, but it does show you the two windows
23 that we have in our bedroom that would be
24 on the west side of the building, which is
25 what is directly facing the river, okay?

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2 My wife pointed out -- I don't know
3 if this is a family secret or not, she

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4 sleeps on the side closest to the window.
5 And when she gets up in the morning, that's
6 the window that she looks out.

7 And if you look out on Page 6, this
8 is a picture from -- it's very recent.
9 That's the window right next to her side of
10 the bed. So, we are looking out the
11 second-story bedroom window where we sit
12 up, get up in the morning. But from her
13 side you can see that.

14 What you're looking at dead center
15 vertical is the south face of the third
16 floor of 11 Riverview. On Page 7, using
17 the best measurements I could, I didn't
18 realize it was quite as tall as it was, but
19 using the 2-foot measurement that I
20 measured with Mr. Sharma, that's the
21 approximate -- the red box is the
22 approximate placement of that bay window.
23 I didn't do the slope on it.

24 I did another picture of that in
25 February for the Planning Board where on

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2 Page 3 -- that's a pretty -- it's much more
3 open with the -- not as much green on the
4 trees, but looking down towards the river
5 on Page 3, zooming in on it.

6 On Page 4, I hope you can see the
7 river and the Palisades there. And that is
8 the view from the southern window in our
9 bedroom. So not the one right next to the
10 bed. It's the other one there.

11 And the proposed bay window -- now,
12 this is zoomed in, so it looks a bit more
13 imposing there, but it takes out a good
14 percentage of our view of the Palisades.
15 Do we have a view left of it? Yes, we do.

16 Now, I guess I'm not the expert on
17 what view preservation is, but our view is
18 seriously affected.

19 The Planning Board, when they
20 voted, the one person who came out, talked
21 to me and walked around the property is the
22 one person who voted against the bay
23 windows. And I think my property values go
24 down when this is built. I think the view
25 preservation laws, as I understand them,

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2 are being ignored if this is built.

3 And I guess I should make one
4 comment about the bay window to the south
5 versus the north. The one to the north
6 doesn't block any major views from my
7 house. There is a sliver of view from the

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8 apartment next door that does go through
9 the trees along the north side.

10 My understanding also, from what
11 you were talking about earlier about need,
12 is that the north side, which I would not
13 have a lot of problems with, I think if we
14 do a strict interpretation of view
15 preservation, the north window doesn't get
16 built, but I don't have a lot of trouble
17 with that one. That's also where their
18 need is, which is where they're building
19 their bathroom.

20 On the south side it's a sitting
21 area. I don't see much of a need in there.
22 It's not a -- I'm happy if Phil and Betty
23 have themselves a nice master bedroom suite
24 with a master bathroom on the north side
25 with that bump out, even if it takes a

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2 little sliver from me. But the bay window
3 facing Riverview Place on the south side
4 does take significant chunks out of my only
5 view from my master bedroom.

6 I would like to preserve the
7 historical nature of my second floor by
8 having the views that I have.

9 And I guess that's it. I will let

10 my tenant, my neighbor of many years, talk
11 about her views and how this building --
12 how this construction would affect her.

13 Thank you for your time. I appreciate it.

14 CHAIRMAN MAGUN: Let me ask you a
15 question, sir. Thank you.

16 MR. PRESS: Yes.

17 CHAIRMAN MAGUN: In your house,
18 where do you not live and where does the
19 tenant live?

20 MR. PRESS: Okay. We are an
21 L-shaped house. The part going down
22 Riverview Place is us. The part going
23 across Broadway is the tenant.

24 CHAIRMAN MAGUN: Okay.

25 MR. PRESS: So, it's the first

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2 floor and the second floor wing that's on
3 Broadway, that belongs to the tenant.

4 CHAIRMAN MAGUN: The other question
5 I have is in these pictures that you
6 constructed, the picture on Page 5 where
7 you have the proposed bay window, what is
8 the accuracy of that drawing?

9 MR. BRIAN P. MURPHY: Can I ask
10 Mr. Sharma? I had a question exactly about
11 that.

12 MR. PRESS: Should I tell you
13 what's going to be more accurate? It will
14 answer you on that one.

15 CHAIRMAN MAGUN: Okay.

16 MR. PRESS: When I met with
17 Mr. Sharma, we measured -- look at Page 7 a
18 minute, okay? On page --

19 CHAIRMAN MAGUN: This is what view
20 preservation is all about. It's sort of we
21 have to figure out how much view is
22 impacted.

23 MR. PRESS: You've got on Page 7,
24 you've got a vertical. It looks like a
25 white column, okay?

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2 CHAIRMAN MAGUN: Correct.

3 MR. PRESS: And then you've got a
4 bump out that's whatever, a tan roof. We
5 measured that and we measured that with a
6 ruler, and that bump out was approximately
7 2 feet. So, the bottom of the red, I tried
8 to -- I didn't measure it exactly. I tried
9 to make the bottom of the red measure the
10 same amount as that tan bump out over the
11 white. That's because we had measured that
12 as approximately 2 feet.

13 Now, to answer your question on
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14 Page 5 --

15 CHAIRMAN MAGUN: Before you do
16 that, is it 2 feet or 18 inches, that roof
17 projecting out? You think it's 18 inches?

18 MR. SHARMA: I believe it's about
19 18 inches.

20 CHAIRMAN MAGUN: So, it's going to
21 be 25 percent less than that.

22 MR. BRIAN P. MURPHY: So, it's
23 18 inches, 7 feet high from the roof line
24 edge that I'm looking at on Page No. 7.

25 MR. PRESS: I see the red there as

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2 a little bit less than that white one going
3 across, but I think that we're within, you
4 know.

5 CHAIRMAN MAGUN: I think it's going
6 to be hard to measure. Go ahead, what was
7 your second point that you wanted to make?

8 MR. PRESS: Well, no, I was going
9 to say that if you wanted to try and
10 measure that on Page 5, I know it looks
11 bigger on Page 5 because of the -- because
12 I zoomed in.

13 CHAIRMAN MAGUN: Yes.

14 MR. PRESS: But I would say it's --
15 I didn't intentionally move that out any

16 more. But if you judge it from underneath
17 the snow there, that bump on the roof
18 there, I think it's -- even if it was at
19 the left-hand edge of the letter P on the
20 word proposed, I think it gives you a view
21 of what percentage, approximately, is
22 getting cut off.

23 I didn't measure that one exactly.
24 I did on Page 7 after we did a measurement,
25 and I thought we had come up with 2 feet

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2 there.

3 CHAIRMAN MAGUN: To me, using your
4 photographs, the one that would be
5 meaningful is the one on Page 3, because
6 that's the picture from your house; right?
7 The other pictures are blow-ups and, you
8 know, high mags.

9 MR. PRESS: Um-hum.

10 CHAIRMAN MAGUN: So, you --

11 MR. PRESS: Okay.

12 CHAIRMAN MAGUN: Do you think you
13 could make a stab at how far the house
14 would stick out on that picture? This is
15 the kind of picture we could have used from
16 the proponent.

17 MR. PRESS: Do you see the vertical
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18 coloration? It's the same color as the
19 siding of the house.

20 CHAIRMAN MAGUN: Yes.

21 MR. PRESS: Let's measure the width
22 on that and see if it's about equal to that
23 or a little bit less.

24 CHAIRMAN MAGUN: I don't know how
25 we can really measure that.

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2 MR. PRESS: We can measure it here
3 on these drawings, if you want.

4 CHAIRMAN MAGUN: We could.

5 MR. PRESS: I mean, I want to be
6 accurate. I don't want to overstate
7 anything.

8 CHAIRMAN MAGUN: I think I have to
9 let the applicant try to make that.

10 MR. PRESS: Okay. So, I mean, what
11 I think what you're talking about, if
12 you're looking at this here, that vertical
13 piece that appears on Page 3 as a tall and
14 thin tan rectangle, I believe that the
15 width of that is approximately -- I mean,
16 from what I can tell --

17 CHAIRMAN MAGUN: Does the architect
18 know the answer to that?

19 MR. STOICA: Is the width --
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20 MR. PRESS: Is approximately the
21 same width as the bump out for the window.
22 So, it takes out -- you know, what
23 percentage does it take out? We're looking
24 at on Page 3 of the winter view so that the
25 winter view is wider down. And we're also

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2 Looking at Page 3 of the view from the
3 southern window, not the northern.

4 I think, getting out of the bed in
5 the morning, we are looking at Page 6, if
6 you want to go there. And if you want to
7 look at Page 6, that white rectangle, that
8 then bump out, is about the same as the
9 bump out for the window.

10 CHAIRMAN MAGUN: I'm sorry, I
11 forgot your name, the architect.

12 MR. STOICA: Dan.

13 CHAIRMAN MAGUN: Can you take a
14 minute? The applicant is showing us this
15 Page 3, which is a good picture from his
16 bedroom, what he claims his view is going
17 to be impacted. Do you think that you
18 could figure out on this drawing -- can you
19 pencil in on one of those drawings where
20 the bay window is going to be, if you could
21 do that? Take your time.

22 MR. STOICA: Okay.

23 CHAIRMAN MAGUN: Because it's an
24 important question.

25 MR. PRESS: Sure.

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2 CHAIRMAN MAGUN: Thank you. Do you
3 have any other issues? We can get back to
4 you.

5 MR. PRESS: Okay. Thank you.

6 CHAIRMAN MAGUN: Is there anyone
7 else in the audience that wishes to speak?

8 MS. PECK: Hi, my name is Diane
9 Peck. I'm David's wife. So, that's my
10 bedroom for all of Hastings to see.

11 Anyway, I don't really have
12 anything substantive to add. I wish Betty
13 and Phil great good luck on their addition.

14 I just wanted to just put my voice
15 in too that I like the view, and
16 particularly on the south side. Their
17 esthetic extension of their house to give
18 them more room does have an impact on our
19 view. On the north side it is being used
20 actively in the proposal as a bathroom, so
21 I see more of a need there. But I just
22 wanted to echo that. Thank you.

23 CHAIRMAN MAGUN: Thank you, ma'am.
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24 Anyone else? Yes, ma'am.

25 MS. WOLF: My name is Elizabeth

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2 Wolf, and I live in the apartment in the
3 Peck residence. The apartment is more
4 affected in a way because I get river
5 sliver views, and I also get light. And
6 the bay window on the south side, if that
7 is built, it will completely block the
8 sunlight coming into my kitchen window.

9 There's a very narrow view
10 between -- I haven't drawn this accurately
11 at all because I just did a quick scan.

12 CHAIRMAN MAGUN: You are going to
13 need the microphone. Why don't you grab a
14 microphone?

15 MS. WOLF: This one?

16 CHAIRMAN MAGUN: Yes.

17 MS. WOLF: Okay. This is the
18 apartment facing on the north side. My
19 kitchen window looks through here. And
20 there's a very small area where the sun
21 comes through. And with this extension, I
22 will lose daylight in the kitchen.

23 CHAIRMAN MAGUN: Okay.

24 MS. WOLF: I actually lose. It's
25 not even a view of the river. I will lose

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2 sunlight coming in from there. And then
3 my --

4 CHAIRMAN MAGUN: This is a
5 one-story unit?

6 MS. WOLF: No, it's a two story,
7 kitchen, living on the ground floor, and
8 there are two bedrooms upstairs. My
9 bedroom has the view across here. I can
10 see the river and the Palisades, and that
11 will be significantly affected.

12 CHAIRMAN MAGUN: Okay.

13 MS. WOLF: It's a river view, and
14 so it's all the more precious in a way.
15 I'm going to lose it.

16 MR. DEITZ: Again, you are talking
17 about the south side window, not the north
18 side?

19 MS. WOLF: Yes, the south side
20 facing Riverview Place.

21 CHAIRMAN MAGUN: Okay. Thank you.

22 MS. WOLF: Oh, and there was
23 another point that I wanted to make. I
24 lived on Riverview Place for 20 years. I
25 have been in the apartment for two years

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2 now. And prior to that, for 18 years, I
3 lived at 633 Broadway, which we sold two
4 years ago. And we had angled views through
5 to the river there, which we absolutely
6 cherished. We didn't have a full river
7 view down Riverview Place, but we could see
8 across behind Phil and Betty's house to the
9 river.

10 When we put our house on the
11 market, that was one of the things that the
12 people most noticed. They would come in
13 and talk about and seek out these river
14 views. So, it very significantly depresses
15 the value of the house when you lose these
16 views, and it will do so for David and
17 Diana's house, and it will affect the
18 rental value of the apartment because right
19 now it is an apartment with river views.
20 So, it affects them doubly financially.

21 CHAIRMAN MAGUN: Okay. Did you
22 have a chance to do that?

23 MR. STOICA: I would like to point
24 out that it is very difficult to have
25 accurate measurements on a photograph;

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 however, to the best of one's ability, it
3 would be approximately like so.

4 CHAIRMAN MAGUN: Anyone else? Sir?

5 MR. MILTON: Tom Milton, I live at
6 16 Riverview Place across the street. I
7 would just like to reiterate issues raised
8 by our attorney, Jerry Reilly, who, in this
9 letter to the Zoning Board of Appeals dated
10 February 23, 2006, by point to -- I assume
11 you all read that letter. I think I want
12 to present those points here.

13 No. 1, allowing a third story in
14 this neighborhood of homes that are more
15 than 100-years old would produce an
16 undesirable change to the neighborhood.
17 The change will obstruct river views which
18 our village has legislature to preserve.

19 The change to three stories could
20 have an adverse precedential impact on the
21 neighborhood and the entire community,
22 since your board may be hard pressed to
23 deny subsequent applications for the same
24 relief.

25 Second point, the objective of the

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2 applicants is to create a large master
3 bedroom suite with additional views of the
4 river. The house is already large with
5 four existing bedrooms and two full baths
6 on the second floor. So, there are
7 feasible alternatives by which the
8 applicants can achieve their goals without
9 adversely impacting their neighbors and the
10 village at large.

11 Third point, the requested variance
12 is 20 percent, which has been held by the
13 courts of this state repeatedly to be
14 substantial within the meaning of village
15 law.

16 Fourth point, by blocking
17 neighboring views and increasing the size
18 of the residence in just about all
19 directions, a variance would have an
20 adverse impact on the physical conditions
21 of the neighborhood.

22 Fifth point, since the applicants
23 bought the house with its existing story
24 requirements, the difficulty is self
25 created. Therefore, the benefit to the

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2 applicants is clearly outweighed by the
3 detriment to the neighborhood and the

4 community. Thank you.

5 CHAIRMAN MAGUN: Okay. Thank you,
6 sir. Those points, as you mentioned,
7 were -- we did receive a letter from your
8 attorney in February with regards to that.

9 Okay, anyone else in the audience
10 that wishes to speak?

11 (No response.)

12 CHAIRMAN MAGUN: I'm wondering,
13 since this application centers so much
14 around the view preservation issue, I guess
15 I'm feeling a little frustrated. And I'm
16 wondering whether other members of the
17 board feel they have enough information in
18 terms of pictures and exactitudes and
19 measurements to make the judgment. If we
20 do, fine. But I'm sort of curious what
21 others feel.

22 I guess I'm not sure how -- whether
23 I have enough pictures, which is what
24 really we're -- we need to adjudicate this
25 matter as to the impact on view

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2 preservation. What do you think? Anybody
3 else?

4 MR. SOROKOFF: My question is did
5 the Planning Board already rule on this

6 particular -- on the view preservation
7 issue?

8 CHAIRMAN MAGUN: They did. So, the
9 Planning Board felt -- gave approval to
10 view preservation for the upper -- these
11 windows that we're speaking of.

12 MR. PYCIOR: I have a question for
13 Mr. Press.

14 MR. PRESS: Yes.

15 MR. PYCIOR: In your photograph,
16 Page 3, does your view extend further
17 south? You seem to cut the view off in mid
18 block. So, do you know how much of your
19 view you would lose? I would like to know
20 if the view extends further to the south.

21 MR. PRESS: It does not. And you
22 are talking about houses on that side of
23 the street.

24 MR. PYCIOR: And trees.

25 MR. PRESS: And trees, yes. And I

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2 point you to what I see as somewhat
3 irrelevant in the answer to that because if
4 you're sitting on Page 6 and looking out
5 that window, there's this wall in my
6 bedroom. I can't see further south there.
7 If I am here from places actually in the

8 house, if I strap myself to the second
9 story outside wall between those two
10 windows, I might have a wider view.
11 But I'm not trying to be stupid
12 about it, but I think we have to look at
13 what exists from Mrs. Wolf's views out her
14 kitchen window. If you need to see that,
15 you know, we can, you know, we can arrange
16 to look. If you're unhappy, if you're not
17 clear about it, we can arrange for you to
18 look out our windows and see what the light
19 is.
20 I tried to do the February pictures
21 and the April pictures to give you a view
22 of -- lots of us in the village have much
23 nicer views, much wider open views in
24 February than we have in April. And, in
25 fact, if I were to be taking these pictures

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2 a month from now, it would be -- you would
3 be closing it more. But does it affect --
4 you know, what percentage does it affect,
5 you know?
6 The Planning Board thought that the
7 bump out in the northeast corner would
8 affect 100 percent of the view from our
9 first floor, and voted six to nothing. But

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10 there is a percentage up above.

11 And I tried to give you as close as
12 I could to give you what that actually
13 looks like. Is it the whole view? No. Is
14 it a significant piece of it? In the
15 winter, not as much; in the spring, more;
16 in the summer, we would have to take some
17 pictures. I've tried to give you the best
18 picture I could.

19 I think those really are a -- I'm
20 very curious in what the architect drew on
21 there and how much he drew out there, but I
22 still think it's --

23 CHAIRMAN MAGUN: Where is that
24 drawing?

25 MR. PRESS: It should be

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2 approximately the same as the width.

3 CHAIRMAN MAGUN: How does the board
4 feel about the amount of information? Do
5 we have enough information to vote on this
6 tonight?

7 MR. PRESS: I would not be
8 significantly different from his rendering
9 of that. It's -- I think he is probably
10 certainly within 2 percent on that, yeah.

11 CHAIRMAN MAGUN: Two percent is

12 pretty close.

13 MR. PRESS: You know, two percent,
14 I'm a mathematician. It's within
15 2 percent, 5 percent. I think it's close.
16 It looks like a lower percentage in the
17 winter.

18 And I'm going to say it again,
19 Annette is the one person who came out and
20 looked at the -- from the Planning Board
21 who came out and looked off the property
22 and checked it out closely. She was the
23 one person who voted against the
24 upstairs windows, against the bay windows.

25 Talk with them, if you want, or

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2 whatever you want. It's yours.

3 MR. BRIAN P. MURPHY: Mr. Press, is
4 there any other home -- it's been a few
5 weeks since I was back down there. But is
6 there any other home on the block that has
7 a window like that on the second and third
8 floor that projects out?

9 MS. RYBERG: Three houses are
10 almost identical. I could speak to that.
11 The house that is most adjacent to the
12 river has a projecting window on the second
13 floor.

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14 MEMBER OF THE PUBLIC: It doesn't
15 face the river.
16 MS. RYBERG: It's on the south side
17 of the house.
18 MEMBER OF THE PUBLIC: It doesn't
19 face the river.
20 CHAIRMAN MAGUN: Ma'am, if you want
21 to talk, you are going to have to go to the
22 microphone.
23 MS. RYBERG: I am Betty Ryberg and
24 I live at 17 Riverview Place with my
25 husband.

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2 CHAIRMAN MAGUN: Thank you, ma'am.
3 MR. PRESS: Okay.
4 CHAIRMAN MAGUN: Thank you. David?
5 MR. DEITZ: You asked if we were
6 satisfied with the material we have been
7 given.
8 CHAIRMAN MAGUN: Right.
9 MR. DEITZ: I can see from the
10 material that we have been given that it's
11 a close call, especially for only on the
12 south side. Other applicants have given us
13 projections of what the view -- how the
14 view is affected from different angles, and
15 this applicant hasn't. And Mr. Press has

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16 tried, but it's not as exhausting as the
17 view analysis that we have been given in
18 other cases. So, you asked the question
19 and that's the answer.

20 CHAIRMAN MAGUN: I share that with
21 you. I mean, my view at this point would
22 be that I need more information with
23 regards to this issue in order to vote yea
24 or nay on the view preservation. I would
25 like to see a lot more pictures with

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2 regards to the proponent claiming it's
3 minimally impacting and the neighbor
4 claiming that it's significantly impacting.

5 MR. DEITZ: I would suggest though
6 that I would be prepared to vote on the
7 increase from two-and-a-half to three
8 stories and maybe even with respect to the
9 north side bay window.

10 CHAIRMAN MAGUN: All right. We
11 could see.

12 MR. GRANT: When we did the initial
13 river view analysis, of course, we couldn't
14 go into David's house.

15 CHAIRMAN MAGUN: You don't have to
16 do that.

17 MR. GRANT: So, to the best of our

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18 ability, using satellite photos, we showed
19 you one of those that we just felt that
20 definitely on the third floor that there
21 was minimal -- you know, there was no view
22 preservation.

23 CHAIRMAN MAGUN: But you can really
24 take a lot of pictures from different
25 angles because we have been on the board

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2 for a while and we have seen these where
3 you're able to actually put in an exact
4 picture of what the bay window will look
5 like, how it will project, exactly how it
6 would look if someone were standing in
7 Mr. Press's property, in the property
8 across the street, in the middle of the
9 street, to give us a real sense of that.
10 Because for any one of us it's very hard to
11 know, you know, without sort of guessing at
12 it. I don't know how you, Stan or Brian
13 feel about this.

14 MR. BRIAN P. MURPHY: Well, I look,
15 more information is always better, but, you
16 know, it's a process and we have a fair
17 amount of information in front of us. So,
18 I guess I'm not as troubled by the lack of
19 photos. But I do have a couple of

20 questions because this is a close call and
21 this is not easy.

22 But one of the things we have to
23 weigh is the need for what you're proposing
24 to do. What you're proposing to do is,
25 obviously, fabulous. That's not the issue.

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2 On the plans for the south side bay window,
3 that is the object of most of this
4 discussion, it lists a balcony. Is that
5 accurate?

6 MR. GRANT: The balcony is on the
7 second floor. It's actually --

8 MR. STOICA: It's right here.

9 MR. GRANT: The balcony is right
10 here.

11 MR. STOICA: It is not on the south
12 side. It would be on the east side. It
13 would be facing Mr. Press's front.

14 MR. GRANT: If you look at some of
15 the historic photos, there actually was a
16 balcony. There was a porch off the side
17 that was removed at some time. I'm not
18 sure when. Probably in the '70s. Right
19 now there is a door to nowhere that we just
20 keep locked. So, we are just proposing a
21 little, small balcony. You know, kind of a

22 standi ng balcony.

23 MR. BRIAN P. MURPHY: On the second
24 floor?

25 MR. GRANT: Second floor. It gives

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2 us another egress against a fire, and it
3 just makes it a little more setter than
4 having just that door stick out there. So,
5 that's the balcony.

6 MR. BRIAN P. MURPHY: Then on the
7 third floor you talk in terms of preserving
8 the historical elements of the home, at
9 least historically on the third floor.

10 MR. GRANT: Historically on that
11 house, on our house. But what we did was
12 research on other houses that were built
13 right at that same time, and you see a lot
14 of houses with a little bay window on the
15 third floor. We have pictures. We have
16 done that research.

17 MR. BRIAN P. MURPHY: Do we have
18 those?

19 MR. GRANT: I don't have them now.
20 I have them back home.

21 I think other pictures could be
22 taken. But one thing I want to say, and I
23 think that the -- on the third floor on the

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24 back, on the north side, that people -- it
25 seems that we're kind of hearing a

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2 consensus, and what we heard during the
3 Planning Board as well, is that the view is
4 really not affected.

5 But I do want to make one other
6 point, that the pictures that were taken
7 from the -- I don't have my sheet with me
8 anymore, but like the last three pages were
9 taken from a skylight. They weren't really
10 taken from an existing window. It was a
11 pop-out skylight along the roof line. So,
12 you know, I would kind of discount that as
13 a view.

14 And on the south side, I think it's
15 really the picture on Page 3, and, you
16 know, I haven't been up in David's room,
17 but I think there may be -- I think you
18 were mentioning that there is probably even
19 a little more view down the road, but
20 whatever. It is an extensive view of the
21 Palisades.

22 And what we're proposing is
23 18 inches of a bump out, which is a very
24 minor projection and a very minor cutoff of
25 the view. I don't have the mathematical

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2 calculation of what that percentage is, but
3 that's what we're asking you to approve
4 tonight, that small addition.

5 MR. BRIAN P. MURPHY: But why do
6 you need that space? I mean, the bottom
7 line is the test for the variance is the
8 board is required to grant the minimum
9 variance that's necessary. And so I go
10 back to, I think, Stanley's earlier
11 question. It's important for us to
12 understand because on the north side it's
13 pretty straightforward. That's where the
14 bathroom is, and you clearly need some
15 space there, and there really is no view
16 preservation dispute that I can see.

17 So, on the south it's clear there
18 is a view preservation dispute. You know,
19 it's your neighbor's view. And the
20 question is, are you proposing that bay
21 window to simply take a piece of that view,
22 or is there another need for the space on
23 that floor?

24 MR. GRANT: When we looked at the
25 plans, we just wanted a slightly bigger

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2 space there, and it works for a little
3 space for a sitting room. Sitting room
4 slash nursery.

5 I can't really say too much more
6 than that. We didn't propose a huge bump
7 out. This isn't a huge addition to a
8 house.

9 MR. STOICA: I would like to point
10 also, Mr. Sharma may be able to help with
11 this, but the New York State Building Code
12 requires certain percentages of ventilation
13 and light allowed in for habitable space.
14 The current third floor, as it is
15 configured, the windows are too small
16 per -- I'm sorry, because of our
17 development.

18 Therefore, we were challenged with
19 the idea of allowing more light and more
20 air into the space so we could make it
21 comply with the building code, and we came
22 up with the solution which afforded
23 Mr. Ryberg -- forgive me, Mr. Grant and
24 Ms. Ryberg a slightly bigger third floor,
25 and also allowed us to provide for adequate

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2 ventilation and light into the space, as
3 well as apertures that are big enough to
4 allow a person to come out the fire escape.
5 These are all requirements from the
6 New York State Building Code. We tried to
7 fulfill all of these requirements as such.

8 MR. DEITZ: I'm going to ask you,
9 would a flat window equally provide those
10 requirements?

11 MR. STOICA: A flat window could
12 also provide those requirements. This is
13 not necessarily a bay window that makes it
14 feasible; however, between their
15 requirements and between these
16 requirements, this is a solution that we
17 came up with.

18 CHAIRMAN MAGUN: I'm taken with
19 Brian's comment and what Stan was eluding
20 to. I think it's an important issue, and I
21 know this seems like a very long discussion
22 over a small area, but that's our job. So,
23 I'm sorry if it's a long meeting.

24 I think the point that is being
25 raised is what is the necessity or need for

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2 the -- this projection into the south side
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3 of the house? Is it an important part of
4 the plan? Is it critical? Because
5 clearly, no matter what the board thinks,
6 the neighbor thinks it impacts on his view,
7 and it does impact on his view. How much
8 it impacts on his view is a matter of
9 opinion. Nobody will dispute that it
10 impacts on his view. I don't know about
11 the tenant. I don't have any pictures to
12 justify that claim clearly.

13 So, I think, as I'm listening to
14 the discussion, I think that that issue is
15 an important one for the board to consider;
16 that is what is the real need for this bay
17 window in this plan? And I am beginning to
18 think that it is not necessary.

19 MS. RYBERG: Could I respond when
20 you --

21 CHAIRMAN MAGUN: Excuse me.

22 MR. GRANT: Can I ask a question?

23 CHAIRMAN MAGUN: One second. I
24 think it's an important issue that we need
25 to think about as it's being raised by the

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2 other board members. Yes?

3 MR. SOROKOFF: Am I right in saying
4 that the planning commission previously

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5 looked at the exact same information that
6 we're looking at now?

7 CHAIRMAN MAGUN: Yes.

8 MR. SOROKOFF: And it was their
9 decision that there was no problem from
10 this point from view preservation. And
11 then my question is --

12 CHAIRMAN MAGUN: No, I don't know
13 if there was a problem.

14 MR. SOROKOFF: -- why are we going
15 over this again if they've already decided
16 the bay window?

17 CHAIRMAN MAGUN: Because the way
18 the zoning code is written is that after
19 the Planning Board decides their feelings
20 regarding the view preservation issue, the
21 Zoning Board has to actually vote on it.
22 So, the Planning Board is the first hurdle,
23 the Zoning Board is the second hurdle for
24 view preservation.

25 MR. SOROKOFF: Can I ask the

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2 attorney is that fact the law?

3 MR. BRIAN D. MURPHY: Yes.

4 MR. SOROKOFF: I ask that --

5 MR. DEITZ: It's different factors.

6 MR. PYCIOR: The Planning Board
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7 makes a recommendation to us.

8 CHAIRMAN MAGUN: Ms. Ryberg, I'm
9 sorry, did you want to speak?

10 MS. RYBERG: I actually was curious
11 about the different factors that this board
12 would consider because we -- actually, my
13 head is swimming with what I'm hearing. I
14 hadn't realized -- I mean, we do think
15 there is a need for this, but I thought it
16 was a view preservation issue, and I didn't
17 understand that needs came into play when
18 we are talking about views. We certainly
19 have just as much as a need for a view as
20 our neighbors have a need for a view. And
21 I think the view preservation rule actually
22 is to protect all of us, including our
23 neighbors.

24 And we looked at the view
25 preservation rule and we spent a fortune,

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2 no offense, on architectural services, and
3 really haven't foreseen any of this. We
4 looked at what the village has done for
5 other people. There has never been an
6 issue that I could understand -- that we
7 could understand.

8 We had lots of people looking at
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9 proposed options that were much more
10 aggressive than this option. And, in fact,
11 I think in one of the earlier meetings that
12 we attended, the village attorney said that
13 bays do not come into play for zoning
14 variances. They're not an issue or
15 whatever. This one doesn't project into
16 some area where it is an issue.

17 So, I think need-wise, we would
18 have to look at that. We were not
19 prepared. We also didn't understand that
20 we would have to represent everything that
21 we already presented. And the other board
22 came out to David's house and had all sorts
23 of ex parte communications with David and
24 made the decisions that they made. So, we
25 thought we would come here and that, you

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2 know, there really wasn't much of an issue
3 with the windows.
4 Obviously, our neighbors don't want
5 it, but we do want it. And we put a lot of
6 investment in it. I think the real
7 question is why do we want to invest in
8 Hastings at this point? We made a plan.
9 We must like this plan in order to put the
10 money into the plan, okay? That, No. 1, we

11 wouldn't even bother to go through the
12 process.

13 We have gone through the process.

14 We've read the view preservation rule.

15 And, as far as we can understand the rule,
16 it says minimized impacts on the views with
17 the eye of promoting reasonable
18 development, and we thought this was
19 reasonable.

20 As my husband said, we looked at
21 other books on historic houses from the
22 same era, found a window like that. We
23 liked the window. We thought it would be
24 great to have on the third floor.
25 Actually, we didn't even think the front

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2 and back windows would really affect our
3 neighbors. We didn't think anybody would
4 be looking down the front of our house in
5 that respect. Plus, our neighbor's house
6 is so far away, we hadn't thought it would
7 affect their house.

8 After we heard about this problem,
9 we looked at the statute, the rule again,
10 it said minimized views. It said promote
11 reasonable development. That's the purpose
12 of the Planning Board. We thought this was

13 reasonable, so we came here in good faith
14 with making a significant investment in
15 this plan.

16 So, in terms of need, that I was
17 surprised about. I would really like to
18 think about that. If that really is a
19 requirement, I would like to understand
20 what the other requirements are for the bay
21 windows because we are --

22 MR. PYCIOR: Since I raised the
23 issue of need, need is not a consideration
24 in view preservation, but need is a
25 consideration in the other variance you are

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2 seeking, which is to convert the
3 two-and-a-half story home into a
4 three-story home.

5 MS. RYBERG: Okay. I thought the
6 question was what is the need for a bay as
7 opposed to what is the need for a master
8 bedroom on the third floor?

9 MR. PYCIOR: Where it does come in
10 though is the zoning code actually says
11 that what we must consider in granting view
12 preservation is that the siting, dimension
13 and configuration of the principal and
14 accessory structure so as to cause the

15 least possible obstruction of the view of
16 the Hudson River and the Palisades for
17 neighboring properties and adjacent public
18 properties.

19 MS. RYBERG: And there is another
20 part of the statute which we didn't bring
21 here because we didn't understand that we
22 were going to reassess this whole thing all
23 over again. But there is another part of
24 the statute that says the purpose of the
25 Planning Board -- I don't know if anybody

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2 has it. I guess we didn't bring it. The
3 purpose of the Planning Board was to
4 promote reasonable development. And the
5 question is how do you balance that?

6 In fact, the expressed terms of the
7 statute say minimize impact on views. It
8 doesn't say not impact views. It says --
9 yeah, we recognize that there very well
10 could be an impact on the views. All we
11 want to do is make sure it's responsible,
12 reasonable, promotes everybody's property
13 values. We think we are doing that, our
14 property value as well as everybody else's
15 property values.

16 CHAIRMAN MAGUN: Do you want
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17 another month to think about your
18 application; is that what you're saying?

19 MS. RYBERG: I want to know if you
20 really do need more information, what is
21 the information that you need because we
22 didn't understand from reading the rules
23 that need and all these other issues came
24 into play. We just would like to have a
25 better understanding of what that is. And

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2 if you think we don't have it, then I guess
3 we need to go do more work.

4 CHAIRMAN MAGUN: What I think is
5 that not everybody agrees on the board. I
6 think I wondered, and David wondered,
7 whether we have enough pictures and visual
8 aids to come to a reasonable conclusion as
9 to whether view preservation is impacted.
10 That's the only issue here. Has nothing to
11 do with development.

12 So, you're incorrect on that.
13 We're not going to discuss -- development
14 is not an issue here. It's a simple issue.
15 Does your building impact on the views of
16 your neighbor's building in a significant
17 or insignificant way that would cause us
18 not to grant you the right to build?

19 That's all. It's not more complicated than
20 that.

21 And if you think you could
22 strengthen your argument, I will at least
23 ask the board whether we want to wait
24 another month to get more pictures. If you
25 think you presented enough of an argument,

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2 or if the Board doesn't want to -- I think
3 I would have to ask the board because they
4 may not want to spend any more time on
5 this.

6 MR. PYCIOR: I am wondering if
7 something David recommended could not be
8 done. The northern bay window does seem to
9 present a problem.

10 CHAIRMAN MAGUN: To the neighbor.

11 MR. PYCIOR: To the neighbor. And
12 so do you want to move on with
13 construction, or a possibility that you
14 could come back and ask for the variance
15 for the view preservation approval for the
16 southern window next month?

17 MR. GRANT: Well, I guess if I
18 knew -- you said you need more pictures.
19 But I think David's comfortable with the
20 pictures that he took because he presented

21 them to you, and I'm comfortable with this
22 picture No. 3 as the pure view, you know,
23 the view that's impacted.

24 CHAIRMAN MAGUN: Okay, fine.

25 MR. GRANT: It is right up against

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2 the window. It's the best view he can get.

3 But, you know, so I'm comfortable with --

4 CHAIRMAN MAGUN: If you're

5 comfortable and your neighbor's

6 comfortable, then I think some of the board

7 is comfortable, I think we should just

8 finish it tonight.

9 Are there anymore comments from the
10 audience?

11 MR. PRESS: Can I just add one more
12 thing? I'm happy with Page 3 being a very
13 accurate picture, but I would like you to
14 look at it as a February picture. And if
15 you look at the whole left side of that
16 picture, you see the skeleton of the big
17 trees that during some seasons will give us
18 no view on that side.

19 So, if you can calculate from the
20 drawing from the architect what part of the
21 view is blocked, not of the whole width of
22 that picture but of up to the big trees,

23 again, for part of the season when those
24 trees are all big and green, then it's a
25 much larger percentage part of the year.

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2 And, you know, in that sense I
3 think Page 3 is accurate but it also --

4 CHAIRMAN MAGUN: It's a winter
5 view.

6 MR. PRESS: -- with that view.

7 CHAIRMAN MAGUN: Thank you.

8 MR. PRESS: Okay, thanks.

9 MR. SOROKOFF: With that situation,
10 the only way we can get more information is
11 to visit the site itself, and I think we
12 would have to visit it every month to see
13 how the changes in weather change the view.
14 I think it is, obviously, utterly
15 impracticable to do.

16 I think also that this is the
17 second or third month that this has been
18 before the board. I think everybody
19 deserves a ruling, one way or another. And
20 if the ruling is to postpone it another
21 month, I'm going to suggest very seriously
22 that we don't make it first on the list
23 because it's inconveniencing everybody else
24 who has business before this committee.

25 CHAIRMAN MAGUN: Well, I think that

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2 we heard enough. That idea doesn't seem
3 that popular.

4 I would like to suggest to the
5 board that we have three items to vote on.
6 One is the view preservation for the south
7 windows, and one is a view preservation for
8 the north windows, and break it up that
9 way, and then the request for a variance
10 for an existing non-conforming 2.5 --
11 40 feet high and 2.5 converted into three
12 stories. Does that look like a reasonable
13 way to go? Does anybody have any comments
14 on that?

15 That would allow us to adjudicate
16 all of the issues. If the applicant does
17 not get approval for view preservation for
18 one of the windows, then they would have to
19 present alternate plans since he is not
20 requesting a variance. It's just a view
21 preservation. If he chooses not to have
22 any change in the exterior of the house, he
23 doesn't have to come back either before the
24 Planning Board or the Zoning Board. How
25 does that sound?

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2 MR. BRIAN D. MURPHY: The board may
3 want to consider the approval of a variance
4 from 2.5 to three stories. If the Board
5 does not grant it, the other issues would
6 be academic.

7 CHAIRMAN MAGUN: That would be
8 correct. So, we do that first?

9 MR. BRIAN D. MURPHY: That's
10 correct.

11 CHAIRMAN MAGUN: Okay. Any other
12 comments from the board?

13 MR. PYCIOR: If we are going to
14 consider the approval of the variance to
15 make three stories, I think we should take
16 into consideration what one member of the
17 community said, and through the letter of
18 his attorney, that it might set a precedent
19 for the neighborhood.

20 I don't worry about that that much
21 in this case because they're not changing
22 the footprint of the house. They're not
23 changing -- other than these possible bay
24 windows, they're not expanding the third
25 floor. They are not putting in new

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2 dormers, new roofs.

3 The Zoning Board decides each case
4 separately. We could decide this case that
5 it's okay to have a third floor. If
6 someone comes back in the neighborhood and
7 wants to expand the third floor, we could
8 say no. So, I don't think this is
9 precedent setting.

10 CHAIRMAN MAGUN: I appreciate that.
11 I would add to that comment that if the
12 board -- in all the years that I have been
13 on the board, it's very rare for a height
14 variance to be granted above 35 feet. It's
15 almost unheard of. I think it happened
16 once in the last 10 years that I can
17 remember. So, I think I agree, it's not a
18 precedent-setting issue if we were to
19 convert this particular house from 2.5 to
20 three stories. I also agree with you.

21 MR. SHARMA: Remember, the height
22 is actually an existing height.

23 CHAIRMAN MAGUN: Correct. Any
24 other comments from the board?

25 (No response.)

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2 CHAIRMAN MAGUN: Well, I think
3 Mr. Murphy's point is a good one. I think
4 we should vote first, if we're going to
5 have a vote tonight, on the issue of the
6 zoning variance before doing the view
7 preservation, though we might have to -- we
8 could vote on all three anyway.

9 Does the board agree with breaking
10 the view preservation into the north and
11 south windows?

12 MR. PYCIOR: I think we can make a
13 motion.

14 CHAIRMAN MAGUN: Then I am going to
15 entertain a motion, if there is no more
16 discussion. I think there is no more
17 discussion from the public.

18 Is there anyone on the board that
19 wishes to make a motion?

20 MR. BRIAN P. MURPHY: Yes, I'll
21 start with the area variance. I'll move to
22 approve the requested area variance for
23 maximum height, number of stories existing
24 non-conforming, proposed height 40.5 feet,
25 existing number of stories two-and-a-half

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2 feet, proposed number of stories 3 feet.

3 Excuse me, three stories.

4 CHAIRMAN MAGUN: All right. Is
5 there a second to that motion?

6 MR. PYCIOR: I will second that.

7 CHAIRMAN MAGUN: Okay. All in
8 favor?

9 MR. BRIAN P. MURPHY: Aye.

10 MR. SOROKOFF: Aye.

11 MR. PYCIOR: Aye.

12 MR. DEITZ: Aye.

13 CHAIRMAN MAGUN: Aye.

14 So that's passed unanimously. So,
15 the request to convert the house from 2.5
16 to three stories is passed.

17 So now we have the view
18 preservation issues. Is there a motion
19 with regard to that?

20 MR. BRIAN P. MURPHY: Yes, I will
21 start. I will move to approve view
22 preservation for the bay window on the
23 north side of the home, third story.

24 CHAIRMAN MAGUN: Is there a second
25 to that motion?

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2 MR. PYCIOR: I will second.

3 CHAIRMAN MAGUN: Okay. So we are
4 voting on the motion to grant view

5 preservation for the bay window on the
6 north side which is now on the third story.
7 All in favor?

8 MR. BRIAN P. MURPHY: Aye.

9 MR. SOROKOFF: Aye.

10 MR. PYCIOR: Aye.

11 MR. DEITZ: Aye.

12 CHAIRMAN MAGUN: Aye. So that
13 passes unanimously.

14 That leaves the south bay window.

15 Is there a motion with regard to that?

16 (No response.)

17 MR. PYCIOR: At the risk --

18 CHAIRMAN MAGUN: The chair usually
19 doesn't make motions, but I will.

20 MR. PYCIOR: I will interpret the
21 code rather strictly in this case, which is
22 my motion. Since the code does say that
23 the siting dimensions and configuration
24 should cause the least possible
25 obstruction, I don't think the bay window

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 does cause the least possible. The bay
3 window on the south side does. So I move
4 not to approve the view preservation
5 approval for it.

6 CHAIRMAN MAGUN: Stan is making a

7 motion to deny the request for a view
8 preservation approval for the south side
9 bay window, to deny it.

10 MR. DEITZ: Is that a complete
11 statement for what the code requires,
12 Brian?

13 MR. BRIAN D. MURPHY: As to 285.92
14 is subdivision C2, the least possible
15 obstruction is the language.

16 CHAIRMAN MAGUN: Is there a second
17 to that motion?

18 MR. BRIAN P. MURPHY: I will
19 second.

20 CHAIRMAN MAGUN: Is there any
21 discussion on that that anybody wants to
22 throw in? David, are you uncomfortable
23 with that? Let's wait a second. Do you
24 have a specific question or issue?

25 MR. DEITZ: I just didn't recollect

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 whether there was a balance to that or not.
3 It's in the language of the code. I don't
4 see --

5 MR. PYCIOR: Well, there may be a
6 balance if you look at section A of 295.
7 The purpose of the view preservation
8 districts is to promote and preserve the

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9 character of the community.

10 CHAIRMAN MAGUN: Protect.

11 MR. PYCIOR: To protect. To
12 preserve and enhance property values and to
13 promote improved visual relationships
14 between the village and the Hudson River
15 and the Palisades. So, you can interpret
16 that we're approving the view of the
17 applicant. We're enhancing the property
18 value of the applicant and a possible
19 detriment to neighbors. So there is some
20 balance.

21 CHAIRMAN MAGUN: Yes. All right,
22 so we have a motion then before us with
23 regards to denying the view preservation
24 approval for the south bay window on the
25 third story. That was seconded. Are we

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2 prepared to vote? Are there any other
3 questions? So, all in favor of denying
4 view preservation?

5 MR. DEITZ: Do we have a second?

6 CHAIRMAN MAGUN: Yes, we had a
7 second.

8 All in favor of denying the view
9 preservation for the south side bay window?
10 Four.

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Against denyi ng? One.

12 MR. DEITZ: Yes.

13 CHAIRMAN MAGUN: So, the motion is
14 passed, which means that view preservation
15 approval is denied for the south window,
16 bay window, but you did get approval for
17 the north bay window and for conversion of
18 the structure to three stories.

19 So, if you were to proceed, you can
20 discuss it with the building inspector, if
21 you wanted to proceed, you have to change
22 the plans for the third floor. And the
23 first floor issues we didn't discuss.

24 Okay, let's move on to the next.

25 MS. RYBERG: What do you mean

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 change the plan? Like eliminate the bay on
3 the south side?

4 CHAIRMAN MAGUN: Right, you didn't
5 get approval to do that.

6 MS. RYBERG: Okay.

7 CHAIRMAN MAGUN: Okay, Shel don,
8 thank you for your service. Maybe we will
9 take a three-minute break.

10 (Whereupon, there was a brief
11 recess taken.)

12 CHAIRMAN MAGUN: We're back at the

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13 Zoning Board of Appeals. Case No. 8-06,
14 Laura and Douglas Hill. Denise, our
15 regular member, joins us for the remainder
16 of the cases.

17 This is Laura and Douglas Hill, 241
18 Farragut Avenue for construction of a
19 one-story addition where the side yard on
20 one side is, by code, 12 feet, and both
21 sides have to add up to 30 feet. The house
22 is currently existing and conforming. The
23 applicant proposes to construct a one-story
24 addition that will diminish the side yard
25 by 2.3 feet so that there will be a

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 9.7-foot side yard and a total of 24.7 feet
3 on both yards added together.

4 Is the applicant here or the
5 proponent?

6 MS. HILL: I'm Laura Hill and that
7 is my husband, and David Sanders is our
8 architect.

9 CHAIRMAN MAGUN: Whoever wants to
10 present it, just tell us your name and
11 address.

12 MS. HILL: He is the pro. We will
13 refer to him.

14 MR. SANDERS: David Sanders, 65

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15 Euclid Avenue, Hastings. I am the
16 architect of the project.
17 CHAIRMAN MAGUN: Okay.
18 MR. SANDERS: I will put these on
19 the easel.
20 CHAIRMAN MAGUN: Sure, please.
21 Thank you.
22 MR. SANDERS: This house at 241
23 Farragut Road is in a neighborhood of very
24 small houses that were built at World
25 War II, and they are of very, very minimum

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2 space. And many of the houses in the
3 neighborhood have done this type of
4 alteration, which I think has improved the
5 appearance of the houses and has decreased
6 the area of the kitchen.
7 And looking at the plot plan, you
8 can see that there already exists a deck
9 along the side which covers an existing
10 side door entry platform which is presently
11 covered. And this proposed addition will
12 basically enclose that portion of the
13 platform of actually what we felt was the
14 optimum minimum expansion in order not to
15 further encumber the side yard. However,
16 it adds a significant area to the kitchen.

17 And as I said, it's a very typical
18 type of renovation for this style of house.
19 I guess that's basically it. These
20 indicate the appearance. This is the
21 existing roof canopy and it's -- this is
22 the existing deck. And when it's
23 completed, it will just be enclosed on that
24 end.

25 And that completes the description

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 of the project.

3 CHAIRMAN MAGUN: So, the size of
4 the addition is extending 5 feet out from
5 the house?

6 MR. SANDERS: Out from the house
7 and covers the existing platform.

8 CHAIRMAN MAGUN: And so that's the
9 width. And the length is?

10 MR. SANDERS: Is the existing width
11 of the kitchen.

12 CHAIRMAN MAGUN: So what is that?

13 MR. BRIAN P. MURPHY: 11 feet.

14 CHAIRMAN MAGUN: 11 feet 2 inches.
15 And it's a one-story with this sloping roof
16 as depicted.

17 MR. SANDERS: Right.

18 CHAIRMAN MAGUN: And so the

19 incursion into the side yard is

20 two-point --

21 MR. SANDERS: It's basically

22 two-point some odd inches.

23 CHAIRMAN MAGUN: 2.3 feet you have

24 here.

25 MR. SANDERS: Yes.

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2 CHAIRMAN MAGUN: Okay. And

3 currently, the house is 15 feet from the

4 side yard.

5 MR. SANDERS: That's correct.

6 CHAIRMAN MAGUN: Okay. And the
7 purpose of this is to increase the kitchen?

8 MR. SANDERS: The purpose of this
9 is to provide some space in the kitchen for
10 eating and for additional storage cabinets.

11 Like I said, Laura and Doug can
12 talk to that point, if they care to.

13 MS. HILL: Hi, I'm Laura Hill. My
14 husband and I first moved into Hastings in
15 1996. We actually lived in Elizabeth
16 Wolf's home who just spoke recently in the
17 last case. I can tell you that we are not
18 obstructing any views, except possibly the
19 gas station.

20 CHAIRMAN MAGUN: That's not in the

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21 code, so you are okay.

22 MS. HILL: Good. My husband and I
23 purchased this house in July of 2000, and
24 we love the neighborhood. We just got a
25 dog about six months ago, and we met all

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 kinds of dog owner neighbors. And Doug and
3 I are also avid cooks. We really like to
4 cook. The apartment that we had prior to
5 purchasing our home had a very large
6 kitchen with a six-burner stove, and it was
7 really great and wonderful. And it's
8 always been a dream of ours to have a
9 bigger kitchen so that we can cook the way
10 we like to.

11 The current space is very, very
12 small. And currently, there's not even a
13 place to sit down. We literally have a
14 small stool that we fight over in the
15 morning to drink our coffee. It's very
16 small. And I got the inspiration for doing
17 this bump out just by walking through the
18 neighborhood because we are at 241
19 Farragut. At 245 Farragut that neighbor
20 has --

21 CHAIRMAN MAGUN: That's towards?

22 MS. HILL: Towards the parkway.

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23 MR. SANDERS: South.

24 MS. HILL: Correct. He's done the
25 same bump out. Doug has gone over and

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2 taken a look. There is another house on
3 Farragut Avenue, and I actually got David
4 Sanders' name and number because I walked
5 over to their house one day and I knocked
6 on the door and I said, I love the way you
7 have expanded your kitchen, can I take a
8 look and who is your architect? So we just
9 started taking it from there.

10 CHAIRMAN MAGUN: And the rest of
11 the house, if you could just run through
12 what is the size of the rest of the house,
13 how many bedrooms, bathrooms, etcetera.

14 MS. HILL: Sure, if I can indicate
15 on the board here. On the first floor
16 here, about a year-and-a-half ago we had a
17 wall taken down. And this was the original
18 master bedroom in the house when it was
19 built in 1951. And what we've done is it's
20 actually labeled dining room at the back
21 end of the house and living room at the
22 front end of the house. But what we've
23 done is we've put our dining room in this
24 front space because we have a large dining

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25 room table. Doug and I both come from very

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 large families. And so we have a very
3 large dining room table here, and then we
4 have our living room area in the back part
5 of the room.

6 Also, part of our application is to
7 put in a sliding glass door here so that we
8 have a nice view of our backyard from our
9 living room area.

10 We have a den on the first floor.
11 We use it as a TV room because we do not
12 have children, but we plan on leaving the
13 closet here so it is still legally a
14 bedroom. And then upstairs we have our
15 master bedroom and we have a guest bedroom
16 and a full bath up there as well.

17 CHAIRMAN MAGUN: You have two
18 bedrooms on the second floor and bathroom?

19 MS. HILL: Correct, two bedrooms
20 and a bathroom on the second floor, and one
21 bedroom and a bath on the first floor.

22 CHAIRMAN MAGUN: Okay. Any
23 questions from the board?

24 MR. PYCIOR: Yes, if you both love
25 to cook, why is there only a drawing of a

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2 woman in the kitchen?

3 MS. HILL: David would have to
4 address that.

5 CHAIRMAN MAGUN: The incursion into
6 the side yard is, by my calculation, about
7 19 percent, 2.3 divided by 12. The side
8 yard is, by code, about 12. So, it's
9 almost a 20 percent request for a variance.

10 I am just talking to the board
11 because we think about these things a
12 little bit. And the house next -- that
13 would be most impacted by this is that
14 neighbor. Have you spoken to that
15 neighbor?

16 MS. HILL: I have not spoken to the
17 neighbor. I know that she did a very large
18 renovation on her house about a year ago.

19 CHAIRMAN MAGUN: I think that house
20 came before us at some point. But their
21 property line -- once you get to their
22 property line there is a driveway there?

23 MS. HILL: That is correct.

24 CHAIRMAN MAGUN: So, there's a
25 driveway that separates their house from

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2 your house, their own driveway.

3 MS. HILL: That's correct.

4 CHAIRMAN MAGUN: Okay.

5 MS. HILL: And also, as David said,
6 we only decided to drop the width of the
7 existing deck. What it does is it really
8 optimizes the space because we currently
9 have a door that opens up onto this little
10 walkway that leads to the back of the deck.
11 The back part of the deck is bigger than
12 this little side walkway. And by turning
13 this door 90 degrees, it also makes it more
14 efficient. We actually use this door quite
15 a bit in the summertime because we cook.
16 And rather than traipse all the way through
17 the house and through the sliding glass
18 door, we shoot out this back door and
19 around.

20 CHAIRMAN MAGUN: You know, the
21 issue with this kind of a proposal is, from
22 my perspective is, is it necessary to
23 extend so far into the side yard? And I
24 think that's what the board -- we should
25 just toss that around a little bit.

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2 MS. HILL: May I address that?

3 CHAIRMAN MAGUN: One second. So
4 they want to expand their kitchen. Can
5 they expand their kitchen in another way?
6 Do they have to impact on the side-yard
7 setback? How big of an impact is it? I
8 guess these are questions that I'm sure the
9 board has thought about. I would be
10 curious to know what people thought. You
11 can respond to that, sure.

12 MS. HILL: Sure. Part of the
13 reason for going out by the distance that
14 we are is to accommodate that door.

15 CHAIRMAN MAGUN: To accommodate
16 what?

17 MS. HILL: This door that is
18 currently --

19 CHAIRMAN MAGUN: So, you need that
20 5 feet to build a door?

21 MR. SANDERS: It's actually 4-foot
22 6.

23 MS. HILL: Correct.

24 CHAIRMAN MAGUN: I see.

25 MR. BRIAN P. MURPHY: But that

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 5-foot addition does not go beyond the
3 existing deck; right?

4 MR. SANDERS: That's correct.

5 MS. HILL: That's correct.

6 MR. BRIAN P. MURPHY: And the
7 kitchen, as it exists now, do you have an
8 eat-in now?

9 MS. HILL: It's too small to eat-in
10 unless you stood.

11 MR. SHARMA: It seems to me the
12 addition is short of what the dimensions
13 are here.

14 MR. BRIAN P. MURPHY: It's less?

15 MR. SHARMA: Yes.

16 MR. BRIAN P. MURPHY: Than where
17 the deck is?

18 MR. SANDERS: Well, I measured.
19 The actual platform is 60 inches. We will
20 have to bear the sill on that. That's why
21 you have that dimension.

22 MR. SHARMA: I think consistencies
23 here --

24 CHAIRMAN MAGUN: Sorry, Deven,
25 what's the point you're making?

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2 MR. SHARMA: You say on this
3 drawing they show the existing house
4 15 feet, and this bump out is 5 feet.
5 Whereas, over here where the deck is, they

6 are showing less than 10 feet over here.
7 So, this bump out is less than the deck.

8 MR. SANDERS: It's not completely
9 square.

10 CHAIRMAN MAGUN: It's a little
11 less, okay. Did everyone on the board get
12 the corrected zoning analysis? So, the
13 addition to the lot -- percent of lot area
14 takes this from about 19 to 20 percent. So
15 it's not a huge increase.

16 MS. FURMAN: Deven, the history of
17 this house, the deck that is on the side
18 that we are talking about enclosing and
19 around the back, was that part of the
20 original house?

21 MR. SHARMA: The deck in the back.

22 MR. HILL: Excuse me, that deck was
23 an addition, I believe, in 1992 by the
24 people we bought the house from.

25 MS. FURMAN: The deck that goes on

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2 the side where you want to expand on the
3 back?

4 MR. HILL: The person we bought the
5 house from was in the building trades, and
6 he had built the deck and expanded it the
7 full length of the back of the house. But

8 the walkway deck that runs up to the side
9 so that you can access a front kitchen
10 door, everything had been inspected and
11 everything.

12 He had done some other work also in
13 the back, so it really had been passed
14 through occupancy codes and everything
15 else. So that should not be made an issue
16 of that.

17 CHAIRMAN MAGUN: What was your
18 concern?

19 MS. FURMAN: Well, my question
20 always is -- I mean, I went to the house
21 and I looked and I think it's a great idea
22 for a kitchen. I can see doing it. I
23 would love to see the floor plans. It will
24 be wonderful. My concern always with
25 houses in Hastings is that changes are made

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 incrementally on buildings, and we lose the
3 historical perspective of where it started
4 from, so that the rectangle that was your
5 house might have been the original house,
6 and then someone built this deck, and then
7 someone else maybe came and covered it, and
8 then somebody else comes and wants to make
9 it 12 months out of the year usable space,

10 and then someone else wants to come and
11 says, well, you know, now I need my front
12 step enlarged, the front stoop enlarged
13 because you can't get into the building.
14 And so we just go piece by piece making our
15 houses bigger.

16 There's nothing wrong with making
17 them bigger as we decide that's what we
18 want in homes, but what I always want to
19 make sure is when we're making a decision
20 about whether to grant a variance,
21 something that's not as-of-right, we see
22 how we got to this place that we're at.

23 And while maybe none of the
24 previous changes need a variance, because I
25 notice your application says that there

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 have been no other variances ever filed on
3 this house, although they didn't require a
4 variance, but what they did was they set
5 the stage for a continuing expansion and
6 incursion.

7 I'm not saying that I don't think
8 this incursion is great and necessary and
9 makes this a much more practical house for
10 the times that we live in, I'm just saying
11 when I make my decision, I want to know

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12 that I'm allowing an incursion based on a
13 change that was based on a change that was
14 based on a change.

15 CHAIRMAN MAGUN: What's the current
16 size of your kitchen?

17 MR. SHARMA: It's 10 feet by
18 10 feet.

19 CHAIRMAN MAGUN: 10 by 10.

20 MR. SHARMA: Approximately, that's
21 what I scale here.

22 MS. HILL: That's about right.

23 CHAIRMAN MAGUN: It will become 15
24 by 10.

25 MR. HILL: Currently, tonight I

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2 measured the usable space in our kitchen
3 just before we came down here. And the
4 usable space at this point in time is
5 6-foot by 7-foot. It is a tiny kitchen,
6 and we have very little in the way of
7 cabinet space. We keep half of our cooking
8 utensils and pots and pans in our basement
9 because we have no place to put them.

10 MS. HILL: That's true.

11 CHAIRMAN MAGUN: I think, clearly,
12 your kitchen is small. The issue for me is
13 always is the incursion into the side yard

14 enough of a trade off?

15 Any other questions from the board?

16 (No response.)

17 CHAIRMAN MAGUN: Anybody in the
18 audience who wishes to comment on this
19 application?

20 (No response.)

21 CHAIRMAN MAGUN: Okay. Give the
22 board a few more minutes just to think
23 about it and see if they have any other
24 concerns.

25 (Whereupon, there was a pause in

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2 the proceedings.)

3 CHAIRMAN MAGUN: I guess, you know,
4 I just hear my thought, kind of what I
5 would like to do. You may not want to hear
6 them. There are a bunch of these houses,
7 as the architect said, that all look the
8 same with minor alterations. There are
9 some that have this addition.

10 My first inclination was that it
11 seems a bit much. But my second visit to
12 the house, and I went back to it, seems to
13 me that because of this particular siting,
14 the driveway being on the other side of the
15 house, and the actual minimum is 2 feet

16 incursion into the 12-foot side yard, I
17 would probably be inclined to grant the
18 variance. Just giving you my feeling about
19 it.

20 As you know, I tend not to like to
21 do that, but I don't think it will change
22 the neighborhood in any adverse way.

23 MR. BRIAN P. MURPHY: No, no, this
24 is consistent with the neighborhood. It's
25 consistent with variances we've granted.

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2 The need is clear. I think it doesn't
3 alter I think one percent of the total lot
4 area covered, lot area. So, the only
5 concern you ever have is that these are
6 relatively small lot areas. We don't want
7 to expand too much, but I think this is
8 well within reason.

9 CHAIRMAN MAGUN: Any other
10 comments?

11 MS. FURMAN: No.

12 CHAIRMAN MAGUN: Okay. So, we have
13 before us then a motion -- excuse me, a
14 request for a side-yard setback variance
15 where currently existing is 15 feet with a
16 total of 30, and proposed is 9.7 feet,
17 which would mean a 2.3-foot variance for

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18 one side and then total, instead of being
19 30 as per code, would be 24.7 total. This
20 would be one variance.

21 So, is there a motion with regards
22 to this variance?

23 MS. FURMAN: I make a motion to
24 grant the request for a variance from the
25 side lot where there is an existing

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 conforming 15 feet and 30 feet proposed is
3 9.7 on one side and 24.7 feet in total.

4 CHAIRMAN MAGUN: Is there a second?

5 MR. BRIAN P. MURPHY: I'll second.

6 CHAIRMAN MAGUN: All in favor?

7 MR. BRIAN P. MURPHY: Aye.

8 MR. PYCIOR: Aye.

9 MR. DEITZ: Aye.

10 MS. FURMAN: Aye.

11 CHAIRMAN MAGUN: Aye. Good luck.

12 MS. HILL: Thank you. Thank you
13 very much for your time.

14 CHAIRMAN MAGUN: Okay. So that
15 passes unanimously.

16 The next application is case 9-06,
17 Deborah Gaynes, 65 Burnside Drive. This is
18 a request for an addition and a deck, and
19 two variances are required, a front-yard

20 variance where code requires 30 feet and
21 there currently is an existing
22 non-conforming of 9.78 feet, and the
23 applicant proposes 19.9 feet. And the
24 side-yard variance where the minimum on one
25 side is 12 feet and existing currently is

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2 8.08, and proposed is 8.04.

3 This is a house that's on a corner
4 lot, so the code requires that there,
5 essentially, be two front-yard setbacks,
6 which I am sure will be addressed by the
7 applicant.

8 So, is there someone here to
9 discuss this case?

10 MR. GARCIA: Renal do Garci a. I
11 work for the --

12 CHAIRMAN MAGUN: I'm sorry. A
13 little slower.

14 MR. GARCIA: My name is Renal do
15 Garcia. I work for the engineer, and I'll
16 be representing Ms. Gaynes.

17 CHAIRMAN MAGUN: What's your
18 address, Mr. Garci a, busi ness address?

19 MR. GARCIA: Yes, I'm at 92 Perks
20 Boul evard, Col d Spri ng, New York.

21 CHAIRMAN MAGUN: Hol d the
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22 microphone closer to you.

23 MR. GARCIA: I just want to
24 apologize about having these drawings on
25 this. I have been out on a construction

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2 site for two days and didn't get a chance
3 to --

4 CHAIRMAN MAGUN: Well, I think we
5 have them. Why don't you tell us what you
6 want to do.

7 MR. GARCIA: We're basically
8 looking to add a one-story addition on the
9 lower level of the house and a deck off of
10 the existing dining room on the left side
11 of the house. The addition on the right
12 side, which is a side but also is
13 considered a front yard because of the road
14 on the side --

15 CHAIRMAN MAGUN: Let's call that
16 the west. I think that's the west side.

17 MR. GARCIA: East side.

18 CHAIRMAN MAGUN: East side, east
19 side. That's the east side.

20 MR. GARCIA: Right, the east side
21 addition. We are not proposing to encroach
22 on the building setbacks any more than it
23 already is. We are basically looking to

24 extend the addition along the existing side
25 of the house. The size of the room is

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 approximately 20 by 30, 30-foot 3 inches.
3 Existing is a living room, a small kitchen
4 area and then an eating area. And like I
5 said, it's one-story.

6 CHAIRMAN MAGUN: I'm sorry, what's
7 the dimension along the street?

8 MR. GARCIA: Oh, no, I'm sorry.
9 This is the bar area there. I'm sorry.
10 It's 30 feet across, 30 feet across the
11 back.

12 CHAIRMAN MAGUN: So, the proposed
13 new construction is 30 feet --

14 MR. GARCIA: 30-foot 3 by 20.

15 CHAIRMAN MAGUN: 20 going from east
16 to west?

17 MR. GARCIA: Going from south to
18 north, front to back.

19 CHAIRMAN MAGUN: That would be
20 east?

21 MR. GARCIA: Right.

22 CHAIRMAN MAGUN: To west?

23 MR. GARCIA: Front to back is --

24 CHAIRMAN MAGUN: Well, the house --
25 there are two fronts. That's why I want to

1 ZONING BOARD OF APPEALS - 04/27/2006
2 try to make sure we get all of our
3 dimensions.

4 MS. E. GAYNES: It goes 20 feet to
5 the north.

6 CHAIRMAN MAGUN: Ma'am, we don't
7 know who you are. You can speak. We just
8 need to know who is talking. You have to
9 go to the microphone.

10 MR. GARCIA: Yes, it extends
11 20 feet to the north towards the back of
12 the house which is facing north.

13 CHAIRMAN MAGUN: And then the
14 dimension going from south to north is
15 what?

16 MR. GARCIA: From south to north is
17 20 feet. From east to west is 30 feet
18 3 inches.

19 CHAIRMAN MAGUN: Okay. Go ahead.

20 MR. GARCIA: Then the other portion
21 is just an open deck, which is 12 feet by
22 20 foot 2 inches, and that is off of an
23 existing family room on the upper level.
24 It's a split level house.

25 Again, on that side of the property

1 ZONING BOARD OF APPEALS - 04/27/2006
2 the deck maintains the existing line along
3 the left side of the house without
4 encroaching on the -- adding any more to
5 the existing setback.

6 CHAIRMAN MAGUN: Okay. And what's
7 the purpose of this addition?

8 MS. E. GAYNES: I would like to
9 explain that.

10 MR. GARCIA: I would like to have
11 Elizabeth explain it.

12 MS. E. GAYNES: My name is
13 Elizabeth Gaynes. I am --

14 CHAIRMAN MAGUN: Are you the owner
15 of the house?

16 MS. E. GAYNES: No, Deborah Gaynes
17 is the owner of the house. She's my
18 mother. This house was built by my parents
19 in 1954. She has lived in this house for
20 51 years. I know it's hard to believe, but
21 she's 84-years old.

22 MS. D. GAYNES: 84.

23 MS. E. GAYNES: And she is a
24 working artist, and her house is more
25 studio than bedroom. But in order so that

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 she can stay in her house, I am going to
3 sell my house in White Plains and move back
4 to the house where I grew up in Hastings.
5 So, we need additional space in order to do
6 that.

7 She's now able to use the whole
8 house, but we wanted to create additional
9 space on the ground floor so that there
10 will be enough living space that she will
11 not need stairs. So, there would sort of
12 be a studio area that she could have
13 adjoining what is now the playroom,
14 essentially. And when she needs to do
15 that, I will move upstairs.

16 Right now she is living upstairs
17 and I would move downstairs. So, it's
18 really more space so that the two of us can
19 live in the house.

20 MS. D. GAYNES: It's a split level
21 also.

22 MS. E. GAYNES: And in order to fit
23 that additional room, we would have to kill
24 the deck we have now because that's the
25 only place we can put it, and that's why we

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2 would eliminate one deck and then just
3 build another deck directly out.

4 When the house was built, Berkley
5 Place, which is the side yard, was not a
6 village road. I'm not really sure if it is
7 now, to tell you the truth. So there
8 wasn't a requirement of the 30-foot
9 setback. So, the house is where it is and
10 where it's always been.

11 And from the way we looked at it,
12 if we built an addition that we could do as
13 of right to sort of straight into the yard
14 not doing that, it would look ridiculous.
15 It would go right back sort of through the
16 center of the yard. Plus, our backyard
17 tends to flood, especially now that the
18 estate, the Burke Estate, has been whatever
19 they -- it is what they did. Now all of
20 the water comes and pools in my backyard.
21 So, I would be worried about building
22 straight back.

23 So, the best way to do it is to
24 just keep the basic dimensions of the
25 house. So, if you look at the house from

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 the front of the house, you will not see
3 anything with what we're doing.

4 CHAIRMAN MAGUN: You say the front
5 of the house, you mean?

6 MS. E. GAYNES: Burnside Drive.

7 CHAIRMAN MAGUN: That front?

8 MS. E. GAYNES: The real front of
9 the house where you walk in on the front
10 stoop and everything. That's on Burnside
11 Drive. And the width of the house will not
12 change with this, will just be going
13 straight back into the yard which faces
14 onto the Burke Estates. So, there is
15 nobody back there who will --

16 CHAIRMAN MAGUN: So, from your
17 perspective, you're enlarging the rear of
18 this house?

19 MS. E. GAYNES: Correct.

20 CHAIRMAN MAGUN: The way the house
21 is situated, the way you think about it,
22 even though, from our perspective, there
23 are two fronts, the one on Burnside and the
24 one on Berkley.

25 And again, the purpose is so that

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 you can have more living space so you can
3 live there comfortably in addition to your
4 mother. How many bedrooms are presently in
5 the house?

6 MS. E. GAYNES: Well, one, but
7 that's because --
8 CHAIRMAN MAGUN: One? There's only
9 one bedroom in the house?
10 MS. E. GAYNES: Well, there's rooms
11 that you might think are bedrooms, but my
12 mother thinks they are studios. So there's
13 one bedroom being used as a bedroom. She
14 has --
15 CHAIRMAN MAGUN: How many other
16 bedrooms are being used as a studio?
17 MS. E. GAYNES: Two. And she is
18 willing to give up one for me to be able to
19 come back and live there.
20 CHAIRMAN MAGUN: So, there are
21 currently three bedrooms in the house and a
22 living room. How many bathrooms?
23 MS. E. GAYNES: Three.
24 CHAIRMAN MAGUN: Are you adding any
25 bathrooms in this?

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 MS. E. GAYNES: No.
3 CHAIRMAN MAGUN: In the proposed
4 new structure, you may have said this, I'm
5 sorry, there's going to be what?
6 MS. E. GAYNES: One additional
7 room.

8 CHAIRMAN MAGUN: That 20 by 30-foot
9 space is going to be one room.

10 MS. E. GAYNES: Correct.

11 CHAIRMAN MAGUN: And that's going
12 to be used for what?

13 MS. E. GAYNES: Well, when my mom
14 has to live downstairs, it will be
15 everything except her bedroom. It's just
16 sort of for her -- the part of her studio
17 that she would have with her, and, you
18 know, to have a cup of coffee or whatever
19 just to have space. She has lived in a
20 pretty big house for a pretty long time,
21 and living on one floor in one room really
22 wouldn't be much.

23 CHAIRMAN MAGUN: What's the purpose
24 of the deck? You are asking for a --

25 MS. E. GAYNES: Well, we have a

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 deck now. We sit on it. We look into our
3 backyard. We have coffee. We have
4 parties. And so we're just -- we have to
5 give it up because of the way the split
6 level goes in order to build this addition.
7 So, we're just kind of -- we're going to
8 keep a little part of it but have it twist
9 back behind the dining room so that we have

10 a deck.

11 MS. FURMAN: I have a question on
12 Page 2 on picture -- on the picture on the
13 left.

14 MR. GARCIA: Page 2 or Page 1? The
15 elevations or the plans?

16 MS. FURMAN: Mine says sheet No. 2.

17 MR. GARCIA: Oh, okay.

18 MS. FURMAN: My question is, is
19 this showing me the ground floor?

20 MR. GARCIA: Yes.

21 MS. FURMAN: So, where you say
22 basement, can you show me where the garage
23 is on this picture?

24 MR. GARCIA: The garage is right
25 here.

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2 MS. FURMAN: The garage is?

3 MR. GARCIA: From this wall, that's
4 where the garage is.

5 MS. FURMAN: Now you really have me
6 confused.

7 MR. GARCIA: The garage is one
8 portion of the house.

9 MS. FURMAN: You're only showing a
10 portion?

11 MR. GARCIA: Yes.

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12 MS. FURMAN: On your drawings it
13 says basement and foundation plan. Is
14 Burnside to the left side of the page?

15 MR. GARCIA: No, front.

16 MS. FURMAN: This is Burnside?

17 MR. GARCIA: Yes.

18 MS. FURMAN: Then when I pulled
19 into the driveway when I went to look at
20 the house, where is the driveway?

21 MR. GARCIA: Right here.

22 MS. FURMAN: The driveway is here?

23 MR. GARCIA: Here.

24 MS. FURMAN: The driveway is here?

25 MR. GARCIA: Yes.

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2 MS. FURMAN: Where is there a
3 picture of the full layout of this floor?

4 MR. GARCIA: We didn't draw it
5 because we weren't doing any work on that
6 particular part.

7 MS. E. GAYNES: Which floor, the
8 floor that the driveway is on?

9 MR. GARCIA: Yes.

10 MS. E. GAYNES: That's the floor
11 we're building the addition on. You have
12 that.

13 MR. GARCIA: Well, we didn't draw

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14 the whole first floor of the house because
15 we weren't doing any work in those areas,
16 so we put a line across there because we're
17 not adding or changing anything in those
18 particular portions of the house.

19 MS. FURMAN: So then --

20 CHAIRMAN MAGUN: I'm confused.

21 MS. FURMAN: Right.

22 MS. E. GAYNES: Okay.

23 MS. FURMAN: Now you lost us all.

24 MS. E. GAYNES: I will show you
25 something that's really simple. Here is

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 the current house. This is space on
3 Burnside Drive. The driveway is on this
4 side here. The garage is right there.
5 There's another room right here next to the
6 garage, which would be the bedroom, and the
7 addition goes directly behind it.

8 MS. FURMAN: All right. Now, based
9 on your little sketch in front of us now,
10 can you show me where the new room is on
11 this sketch that you submitted?

12 MR. GARCIA: This is the --

13 MS. FURMAN: This space that is
14 called living room cathedral ceiling is the
15 new construction?

16 MR. GARCIA: Right.
17 MS. FURMAN: Then this room called
18 basement office is in the current house
19 behind --
20 MR. GARCIA: That's correct.
21 MS. FURMAN: -- behind the --
22 MS. E. GAYNES: It's right here.
23 MS. FURMAN: Yes.
24 MS. E. GAYNES: And this here is
25 the -- the garage is right here.

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2 MS. FURMAN: This here?
3 MS. E. GAYNES: Yes.
4 MS. FURMAN: Okay.
5 CHAIRMAN MAGUN: You mean there is
6 more house here?
7 MS. FURMAN: Yes, there is.
8 MR. GARCIA: I didn't show the
9 whole floor because we weren't doing work
10 there.
11 MS. E. GAYNES: That's why my
12 drawing is better.
13 MR. GARCIA: Well, that's how the
14 site plan shows the same as your drawing.
15 CHAIRMAN MAGUN: Go ahead.
16 MS. FURMAN: So then, given your
17 new explanation, on the second floor of

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18 this house are the three bedrooms and --
19 MS. E. GAYNES: No, it's a split
20 level, right. So, the bottom level is
21 where we're adding and the garage. Seven
22 steps up is the living room, the kitchen
23 and the dining room. Seven steps up is two
24 more bedrooms. And seven steps up is a
25 studio. It's actually not a bedroom

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 because it doesn't have a closet. It's
3 never been used. It was sort of an
4 expansion attic. And then seven steps more
5 is actually an attic.
6 MS. FURMAN: So you have four
7 levels of living in this house?
8 MS. E. GAYNES: Right, which is why
9 I don't think she is going to be able to
10 live on four levels.
11 MS. FURMAN: And where are the
12 bathrooms then? Are there any bathrooms on
13 this level that you're talking about adding
14 a new room?
15 MS. E. GAYNES: There is one full
16 bath there.
17 MS. FURMAN: All right. Now that
18 doesn't show up anywhere on the plans you
19 submitted.

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MR. GARCIA: Again, we didn't --
21 MS. FURMAN: I understand.
22 MR. GARCIA: It's right here.
23 CHAIRMAN MAGUN: We don't have a
24 floor plan.
25 MS. FURMAN: So, there is a full

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1 ZONING BOARD OF APPEALS - 04/27/2006
2 bathroom on this level, yet, you're
3 proposing adding a bedroom, and the office
4 exists.
5 MS. E. GAYNES: This is now what we
6 always called growing up the playroom.
7 CHAIRMAN MAGUN: Can you use the
8 microphone?
9 MS. E. GAYNES: Yes. What it now
10 says is bedroom and office are our
11 playroom. The garage is next to it and the
12 bathroom is here. And so the new room
13 would just come off there.
14 MS. FURMAN: Then it's also then
15 something additional after the bathroom
16 that would run to the -- what street --
17 this is not a street. This over here on my
18 left is your neighbor's property; is that
19 right?
20 MR. GARCIA: No.
21 MS. FURMAN: This is Burnside

22 you're telling me?

23 MR. GARCIA: Yes.

24 MS. FURMAN: This is Burnside, this
25 is the little street that wasn't a street

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2 but now is a street, and so your left is
3 the next door neighbor?

4 MS. E. GAYNES: Yes.

5 MS. FURMAN: Over here then, if I
6 go like this, you've got a bathroom. You
7 have -- what was this again?

8 MR. GARCIA: It's a garage.

9 MS. FURMAN: Garage. And over here
10 you have what?

11 MS. E. GAYNES: Nothing. It's a
12 split level and this is where it splits.

13 MS. FURMAN: Okay. Thank you very
14 much.

15 CHAIRMAN MAGUN: It's actually
16 fairly confusing to me also. You know, let
17 me ask another question because at least --
18 unfortunately, these drawings don't give us
19 enough information to understand the inside
20 of the house.

21 If you walk in the front door of
22 your house, which is on Burnside, to get to
23 the proposed deck that you're proposing to

24 build --

25 MS. E. GAYNES: The deck is on that

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2 floor that you walk into. You would walk
3 into the living room, continue and you
4 would -- the kitchen would be on your left.
5 The dining room would be in the back of
6 that floor, and this would be right behind
7 there. So, the deck is on the same floor
8 as the living room and the kitchen and the
9 dining room. It actually would be right
10 off the dining room, which is where it is
11 now.

12 We wouldn't even have to change the
13 double doors that go to it. It's just that
14 because the addition would, essentially,
15 wipe it out, we would just have to kind of
16 go around the back and put it straight
17 back.

18 CHAIRMAN MAGUN: So, even though
19 when you look at the house from the -- what
20 you call the rear of the house where the
21 new deck is going to be, you walk up all
22 those stairs to get to the deck in the
23 back?

24 MS. E. GAYNES: You would walk
25 upstairs if you were coming from the

1 ZONING BOARD OF APPEALS - 04/27/2006
2 backyard.

3 CHAIRMAN MAGUN: Right. But once
4 you're on that deck, if you wanted to get
5 to the front of the house, the main
6 entrance to the house, you don't go up or
7 down stairs?

8 MR. GARCIA: No.

9 MS. E. GAYNES: Yes, to go to the
10 front of the house, to get off the deck,
11 you would either have to come -- you just
12 take the door.

13 CHAIRMAN MAGUN: You can go into
14 the house?

15 MS. E. GAYNES: You could go back
16 into the house.

17 CHAIRMAN MAGUN: But once you're in
18 the house from the deck, to get to the
19 front door, do you have to go up or down?

20 MS. E. GAYNES: No.

21 CHAIRMAN MAGUN: It's on the same
22 level?

23 MS. E. GAYNES: It's on the same
24 level as the main living area with the
25 living room, dining room, kitchen.

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2 MR. GARCIA: On the right side
3 where it says first floor plan, right
4 here --

5 CHAIRMAN MAGUN: Yes.

6 MR. GARCIA: -- this is the living
7 room, but the front door is right here.

8 CHAIRMAN MAGUN: But you had cut
9 off --

10 MR. GARCIA: Right. It's right
11 there, and you come into the living room,
12 and the kitchen is right there.

13 CHAIRMAN MAGUN: There is actually
14 a door there?

15 MS. FURMAN: No, there is not.

16 MR. GARCIA: That's a hallway going
17 down.

18 CHAIRMAN MAGUN: There is a kitchen
19 there.

20 MS. FURMAN: So maybe their door is
21 here.

22 MR. GARCIA: That's correct.

23 CHAIRMAN MAGUN: But it's straight,
24 no stairs.

25 MR. GARCIA: No stairs.

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2 CHAIRMAN MAGUN: So the reason --

3 MR. GARCIA: The house is split

4 like that.

5 CHAIRMAN MAGUN: The reason I'm

6 asking that is the deck is then on the main

7 floor of the house; is that correct?

8 MR. GARCIA: Yes.

9 CHAIRMAN MAGUN: It's the same -- I

10 just want to make sure that's totally

11 correct.

12 MR. GARCIA: That's correct.

13 MS. E. GAYNES: Yes.

14 CHAIRMAN MAGUN: So, I want to ask

15 the building inspector something then.

16 With regards to the deck --

17 MR. SHARMA: Yes.

18 CHAIRMAN MAGUN: -- decks are

19 allowed to project into the side yard

20 some -- let me just --

21 MR. SHARMA: Up to 6 feet.

22 CHAIRMAN MAGUN: Up to 6 feet.

23 MR. SHARMA: But no further than.

24 CHAIRMAN MAGUN: If they're on the

25 main floor of the house?

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2 MR. SHARMA: Entry level.

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3 CHAIRMAN MAGUN: So, we have
4 determined that this deck is on the main
5 entry level of the house.

6 MR. GARCIA: It is.

7 CHAIRMAN MAGUN: Correct?

8 MS. E. GAYNES: It is.

9 CHAIRMAN MAGUN: Just so I
10 understand it then, the deck --

11 MR. BRIAN P. MURPHY: It's not
12 projecting into the setback.

13 CHAIRMAN MAGUN: It's projecting
14 into -- well, the deck is projecting into
15 the side-yard setback; right?

16 MS. E. GAYNES: No, just into the
17 backyard.

18 MR. GARCIA: No, it's projecting
19 because it's 12 feet required and we're
20 like eight-point something feet. He is
21 correct. We are not adding anything to it.

22 CHAIRMAN MAGUN: The side-yard
23 setback should be 12 feet, and the deck
24 that's being proposed here projects 4 feet
25 into the side-yard setback; correct?

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2 MR. GARCIA: Yes.

3 MS. E. GAYNES: As the house does.

4 MR. SHARMA: As the house does.
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5 CHAIRMAN MAGUN: Correct. So, I
6 just want to clarify then, according to
7 code, it may project into a required yard
8 not more than 6 feet, or to a point not
9 closer than 6 feet to any property line, or
10 to a point one half of the minimum required
11 setback. You are about 6 feet. So, it
12 could project 6 feet as required.

13 MR. SHARMA: Yes.

14 CHAIRMAN MAGUN: But it's
15 projecting -- isn't it projecting only
16 4 feet into the side-yard setback?

17 MR. SHARMA: Correct, yes.

18 MR. BRIAN P. MURPHY: Yes.

19 CHAIRMAN MAGUN: So, it doesn't
20 really need a variance, the deck?

21 MR. SHARMA: No, it does not. The
22 deck doesn't need a variance.

23 CHAIRMAN MAGUN: That's what?

24 MR. GARCIA: Yes, that's the
25 interpretation when we went in.

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2 CHAIRMAN MAGUN: Is that correct?

3 I just want to make sure that I'm
4 interpreting that correctly because when I
5 originally saw this -- this house is so
6 confusing. I thought that the deck -- when

7 I say confusing, your drawings don't --

8 MS. E. GAYNES: It is. I

9 understand. Split levels are hard to --

10 CHAIRMAN MAGUN: The split level

11 and the nature of it, I thought that the

12 deck was not on the main floor of the

13 house. So, if it is on the main floor,

14 then I think that -- if I'm reading the

15 code correctly, it could project into the

16 side-yard setbacks up to 6 feet.

17 MR. SHARMA: Yes, it can.

18 MR. GARCIA: We are only 4 feet.

19 CHAIRMAN MAGUN: Is everybody on

20 board with that? Let me just read that

21 again. I think that's right. So, we

22 probably don't need to vote on the deck

23 variance. That was a concern of mine. I

24 thought that this was pretty close to the

25 neighbor's yard, this large deck. It's a

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2 large deck. How long is the deck?

3 MR. GARCIA: It's 12 by 20-foot 7.

4 CHAIRMAN MAGUN: 12 goes along the

5 side of the house, 12 feet?

6 MS. E. GAYNES: Backwards.

7 CHAIRMAN MAGUN: Backwards, yes.

8 So that's another 12 feet of deck that the

9 neighbor -- but it looks like the deck can
10 project into the side yard in this case.
11 Is that right? Is everybody comfortable
12 with that interpretation? Give us a minute
13 because this is a little technical.

14 (Whereupon, there was a pause in
15 the proceedings.)

16 CHAIRMAN MAGUN: The main entry,
17 they have to go up in the back. But once
18 they go up, it's a straight shot to the
19 front door. So, it's on the same level as
20 the --

21 MR. SHARMA: I would think the main
22 entry level would be where the main living
23 room is and the dining room is. And it
24 isn't level. Below that it says, no higher
25 than entry level. If that is the case and

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2 if it's open and not covered, then again,
3 go up to 6 feet, you know, no closer than
4 6 feet to the boundary line, no more than
5 half of the required setback. It would
6 seem to me that this deck might cross that
7 criteria. And when Charlie looked at it,
8 he probably --

9 CHAIRMAN MAGUN: Okay. I mean,
10 it's in the applicant's favor, and I think
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11 it's only an issue if there is a strong
12 objection from a neighbor. I think it's
13 really on the main living floor of the
14 house. This is where the kitchen is too,
15 this floor?

16 MR. GARCIA: Yes.

17 MS. E. GAYNES: Yes.

18 CHAIRMAN MAGUN: All right. Well,
19 I think the board agrees with that.

20 MR. MURPHY: Yes, I agree with
21 that.

22 CHAIRMAN MAGUN: Any other
23 questions then from the board or issues
24 with regard to this application?

25 (No response.)

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2 CHAIRMAN MAGUN: Well, my comment
3 about the structure of the building itself
4 that's being proposed is that there isn't
5 any strongly affected neighbor across the
6 street. And when you go to visit the site
7 plan -- I mean the houses there, there are
8 neighbors on the other side of the street,
9 but they really are not impacted by this,
10 in my opinion, by this building, unless the
11 neighbors are here and they feel that they
12 are, which would certainly be an important

13 issue.

14 I am going to ask, is there anyone
15 in the audience who wishes to speak with
16 regards to this application? Sir?

17 MR. MOHANEY: I am John Mohaney. I
18 live at 69 Burnside on the east side of
19 Mrs. Gaynes' property. And I am just here
20 to voice support for --

21 CHAIRMAN MAGUN: The east side?
22 Just tell us --

23 MR. MOHANEY: The east side. It's
24 on the -- there's the front of the house
25 and we're on the east parallel to Farragut

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2 Parkway right off of Berkeley Place.
3 So, I am just here to simply voice
4 my support for her application. I don't
5 think her plans are going to change the
6 character of the neighborhood in any way.
7 And plus, there is also the fact that she
8 has lived in this home for 50 years, and I
9 think what she is trying to do is find a
10 way to stay here for as many years as
11 possible. And I think the plans that she
12 has for her and her daughter are perfectly
13 reasonable. They've always been fantastic
14 neighbors, and I am sure they will be so in

15 the future.

16 CHAIRMAN MAGUN: Who is the
17 neighbor who lives immediately to the west
18 of your house?

19 MR. WONG: I am.

20 CHAIRMAN MAGUN: Oh, you are here.
21 Would you like to say anything?

22 MR. WONG: No, I'm just here to
23 learn --

24 CHAIRMAN MAGUN: Why don't you go
25 to the microphone. You don't have to say

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2 anything, but if you're going to say
3 something, you have to go to the
4 microphone.

5 MR. WONG: Hi, my name is Jim Wong.
6 I live directly west of Mrs. Gaynes' house.

7 CHAIRMAN MAGUN: Hi, Mr. Wong.

8 MR. WONG: I say we have been good
9 neighbors, especially recently. I just
10 came to the meeting to find out the facts.
11 I didn't know much about it, and I did get
12 the letter.

13 CHAIRMAN MAGUN: So, you have that
14 large backyard that separates your house
15 from the Gaynes' house?

16 MR. WONG: Right.

17 CHAIRMAN MAGUN: And right now all
18 you see is the side of their house?

19 MR. WONG: Right.

20 CHAIRMAN MAGUN: So, you realize
21 that there is going to be a deck there now?

22 MR. WONG: It would be impacted.
23 But the history of Mrs. Gaynes' property is
24 that her land once belonged to our
25 property, I believe. Isn't it?

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2 MS. D. GAYNES: I don't believe so.

3 MR. WONG: It was. It was. It has
4 no bearing on it.

5 MS. D. GAYNES: Two women owned the
6 property when we bought it, when we bought
7 it.

8 MS. E. GAYNES: But we don't know
9 that at some point before that.

10 MS. D. GAYNES: I know that. We
11 don't know where.

12 MS. E. GAYNES: We don't know the
13 full history.

14 MR. WONG: It's just a little
15 history. There is no bearing. Yes, I do
16 know that the deck would be visible from my
17 property quite a bit, but I think it's
18 okay. I mean, I really think it's a great

19 idea to have mother and daughter living
20 together and trying to stay as long as
21 possible in Hastings, especially with the
22 high taxes and so forth.

23 CHAIRMAN MAGUN: Well, I'm glad you
24 said that because --

25 MS. E. GAYNES: Which, presumably,

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2 I will be paying.

3 CHAIRMAN MAGUN: -- the deck
4 really, technically, is not subject to a
5 variance at this point, if I am
6 interpreting the code correctly.

7 MR. WONG: So, it's my opinion it
8 doesn't matter.

9 MS. E. GAYNES: Well, it matters to
10 us, actually.

11 MS. D. GAYNES: Yeah, thank you.

12 MS. E. GAYNES: I want you to know
13 that except for every 10 years when the
14 class of '64 has its reunion at my mother's
15 house because it's the only house that
16 everybody can remember to find, and we just
17 had our 40th, except for that, we are
18 pretty kind of quiet on our deck.

19 CHAIRMAN MAGUN: Obviously, you
20 realize we are thinking about the future.

21 We have to assume these houses are going to
22 be around for a long time. So, what we
23 realize on the board is what we decide will
24 last another 50 years. So, we have to kind
25 of think about those things.

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2 Okay. Any other comments from the
3 board or from the audience with regards to
4 this application?

5 (No response.)

6 CHAIRMAN MAGUN: So, I think we're
7 only going to consider a variance for the
8 front yard. Mr. Murphy, are you
9 comfortable with that because we think that
10 it didn't need to be --

11 MR. BRIAN D. MURPHY: The only
12 issue on the deck is that it's the primary.

13 CHAIRMAN MAGUN: So, once it's on
14 that level -- okay, I'm comfortable.
15 Brian, Stan?

16 MR. BRIAN P. MURPHY: Yes.

17 MR. PYCIOR: Yes.

18 CHAIRMAN MAGUN: David?

19 MR. DEITZ: Fine.

20 CHAIRMAN MAGUN: So the applicant
21 is requesting a front-yard variance on this
22 corner property where 30 feet is required

23 and the proposal is for 19.9 feet for
24 construction of the addition, one-story
25 addition.

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2 MR. GARCIA: Yes.

3 CHAIRMAN MAGUN: Is there a motion
4 with regards to this request?

5 MS. FURMAN: I would like to make a
6 motion to grant the request for a variance
7 regarding the front yard where the required
8 is 30 feet and proposed is 19.9 feet.

9 CHAIRMAN MAGUN: Is there a second?

10 MR. DEITZ: I will second.

11 CHAIRMAN MAGUN: All in favor?

12 MR. PYCIOR: Aye.

13 MR. BRIAN P. MURPHY: Aye.

14 MR. DEITZ: Aye.

15 MS. FURMAN: Aye.

16 CHAIRMAN MAGUN: Aye.

17 Passed. And we decided you don't
18 need a variance for your deck. You can
19 proceed.

20 MR. GARCIA: Thank you.

21 MS. E. GAYNES: Thank you.

22 MS. D. GAYNES: Thanks.

23 CHAIRMAN MAGUN: Okay. We are
24 going to do the last application. This is

25 Case No. 10-06, Sophie Hayden and David

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2 Rosen, 55 Rosedale Avenue, for construction
3 of a covered porch and step.

4 The variance required is regard to
5 front-yard setback where 30 feet is
6 required, currently existing and
7 non-conforming is 28.8, and the applicant
8 is proposing 21.8.

9 Now, this application -- this house
10 has been before us four times already in
11 the last couple of years.

12 Are you the proponent presenting
13 this?

14 MS. HAYDEN: I'm Sophie Hayden.

15 CHAIRMAN MAGUN: Okay, Ms. Hayden,
16 why don't you tell us what you want to do.
17 Since you raised your eyebrows, before you
18 bought the house, the previous owner came
19 before us twice to get a variance on your
20 house; once for a shed that was not
21 granted, which you don't have any longer on
22 the property.

23 MS. HAYDEN: Right.

24 CHAIRMAN MAGUN: And the second
25 variance was for the --

1 ZONING BOARD OF APPEALS - 04/27/2006

2 MS. HAYDEN: A sun porch.

3 CHAIRMAN MAGUN: A sun porch, which
4 is that porch in the back there.

5 MS. HAYDEN: Right.

6 CHAIRMAN MAGUN: Which was granted,
7 even though it was built without
8 permission, and the house couldn't be sold
9 until it received a C of O, and the board
10 decided to grant that variance which
11 allowed you to buy the house.

12 MS. HAYDEN: Right.

13 CHAIRMAN MAGUN: Then you came
14 before us requesting in October of '04 a
15 variance for a porch.

16 MS. HAYDEN: Right.

17 CHAIRMAN MAGUN: Tell us why you
18 are here tonight.

19 MS. HAYDEN: I'm here because my
20 husband and I misunderstood the rules. We
21 were not aware that we had only a year to
22 obtain a work permit. And so I went to
23 Deven and Marie in February saying I would
24 like to get our work permit right now, and
25 they informed me that we were overdue on

1 ZONING BOARD OF APPEALS - 04/27/2006
2 the variance and that I had to apply again.

3 So, now we are ready to build the
4 porch. There are no changes whatsoever to
5 the initial plans that Ed Weinstein had
6 done. And we're just asking for an
7 extension on the variance so that we could
8 honestly start work in May.

9 CHAIRMAN MAGUN: When you say
10 extension of a --

11 MS. HAYDEN: I mean a new variance
12 granted.

13 CHAIRMAN MAGUN: Do you have the
14 plans?

15 MS. HAYDEN: No.

16 CHAIRMAN MAGUN: I know we have
17 them. Did you want to walk us through them
18 a little bit? Are you prepared to do that?

19 MS. HAYDEN: No, I wasn't.

20 CHAIRMAN MAGUN: Because we don't
21 remember the details from two years ago.

22 MS. HAYDEN: Okay. If you're
23 looking at the house standing on Rosedale
24 looking at the house -- if you are standing
25 on Rosedale looking at the house, there

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1 is -- the porch will be from brick to
2 brick. Three quarters of it will be
3 covered. And this we wanted to be not
4 covered, just to be a deck because we just
5 like to see the sky.

7 CHAIRMAN MAGUN: Okay. And that's
8 going to project out how much?

9 MS. HAYDEN: 7 feet.

10 CHAIRMAN MAGUN: 7 feet.

11 MS. HAYDEN: Right.

12 CHAIRMAN MAGUN: So it projects out
13 7 feet, and the length of the porch is how
14 long? 28.3 feet; is that correct?

15 MS. HAYDEN: Yes, right.

16 CHAIRMAN MAGUN: And a portion of
17 it is covered and a portion of it is
18 uncovered?

19 MS. HAYDEN: I don't know how to do
20 this. Is that 10-foot 4 inches?

21 MR. BRIAN P. MURPHY: It's partly
22 covered, partly uncovered.

23 CHAIRMAN MAGUN: 10, 10 and 20.

24 MR. BRIAN P. MURPHY: So, this is a
25 28 feet plus width by 7 feet incursion into

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2 the front yard.

3 CHAIRMAN MAGUN: Correct, correct.
4 So, this was -- just to refresh the board's
5 memory, this was discussed -- so this is
6 the exact proposal you presented in October
7 of '04?

8 MS. HAYDEN: Yes, it was just a
9 mistake, like I said.

10 CHAIRMAN MAGUN: No, I understand
11 that, and that's fine. But we have to
12 reconsider it, unless the board doesn't
13 want to reconsider it.

14 MS. HAYDEN: Nothing has changed.

15 CHAIRMAN MAGUN: So it's exactly
16 the same proposal. So, at the time, what I
17 was going to say was we discussed this
18 proposal, it was passed.

19 MR. SHARMA: Yes.

20 CHAIRMAN MAGUN: The applicant was
21 given -- it wasn't a unanimous vote, but it
22 was passed. And now they are before us
23 again with the same exact code.

24 MR. BRIAN P. MURPHY: I have a
25 question for counsel. What is the impact

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2 of the previous decision of the then board
3 because I am not even sure I was even on
4 the board or present for that meeting.

5 MR. BRIAN D. MURPHY: Well, the
6 circumstances are identical. Obviously,
7 each member can vote to renew, but you are
8 faced with the circumstances of the
9 previous board's decision.

10 CHAIRMAN MAGUN: That clears it up.

11 MR. BRIAN D. MURPHY: There is sort
12 of the -- with running into an interesting
13 issue as to why your difference.

14 CHAIRMAN MAGUN: Well, we had
15 different members of the board.

16 MR. BRIAN D. MURPHY: If that's the
17 case, then I think the board, if they are
18 inclined not to grant the approval, should
19 distinguish and make the record at this
20 point as to why very carefully.

21 CHAIRMAN MAGUN: I understand.

22 MR. DEITZ: Let me ask you, once we
23 understand what the proposal is, would it
24 be reasonable to say this is the same
25 proposal as before? Since we approved it

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2 before, we have to approve it again?

3 MR. BRIAN D. MURPHY: Well, this
4 doesn't change your obligation to review
5 the report or to analyze it with regard to
6 your current concerns. It's not a rubber

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7 stamp. It has been previously found as --
8 again, if the board is inclined to differ
9 on the issue, they should make a clear
10 record as to why.

11 CHAIRMAN MAGUN: I think that's
12 clear. So, the people have to -- if you've
13 changed your mind --

14 MR. BRIAN D. MURPHY: It's a new
15 variance, request, and the board has the
16 right to examine it fully.

17 CHAIRMAN MAGUN: Right. But if you
18 voted for the proposal and it's the exact
19 same proposal, if you're changing your
20 mind, you should explain why you are
21 changing your mind. I guess that would
22 be --

23 MR. BRIAN D. MURPHY: That would be
24 advisable.

25 MS. FURMAN: There are some of us

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2 on the board, two of us here today, who did
3 not vote on this.

4 CHAIRMAN MAGUN: So, you are going
5 to really have to -- you know, we have two
6 new board members who never heard this
7 application.

8 MS. HAYDEN: Right, okay. Now, Ed

9 Weinstein was here to do this for me the
10 last time. I have a neighbor. You don't
11 want to hear from my neighbors yet?

12 CHAIRMAN MAGUN: I am happy to, but
13 I might suggest to you that it would -- I
14 don't know how the rest of the board feels,
15 but it's nice to have, in order to get
16 favorable votes, the presentation makes a
17 big difference, if some of the board
18 members haven't seen the application
19 before.

20 MS. HAYDEN: You want me to talk
21 about the porch?

22 CHAIRMAN MAGUN: What I was going
23 to say, if you want to have your architect
24 come back in a month and present the case
25 in a form -- present your application in a

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2 formal way, you might have a stronger case.
3 I will remind you that the vote was not
4 totally in favor of your application last
5 time.

6 MS. HAYDEN: Yeah, I don't remember
7 that.

8 CHAIRMAN MAGUN: Well, I abstained.

9 MS. FURMAN: There was three in
10 support and one abstention.

11 MR. PYCIOR: I remember it being a
12 close vote and much debate hinged on why
13 the one-third uncovered was needed. The
14 board seemed to remember that -- or I seem
15 to remember the board thought the covered
16 part had advantages. If you walk into the
17 house when it's raining, you are protected.
18 But because it's 20 feet long --

19 CHAIRMAN MAGUN: 28 feet.

20 MR. PYCIOR: -- 28 feet wide, there
21 was concern about the width.

22 CHAIRMAN MAGUN: I am going to
23 suggest to you, if you want, you could have
24 your architect present this in a more
25 formal way in a month because, again, you

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2 have two new board members here. Or you
3 can proceed tonight.

4 MS. HAYDEN: Or I can do it myself.
5 I don't know what to do, gosh.

6 MR. BRIAN P. MURPHY: I think in
7 fairness I should make a comment which is
8 my view of this, I didn't appreciate that
9 the proposal extended to what's called the
10 uncovered portion, which is, I guess,
11 10 feet 4. This is a very significant
12 incursion into the front-yard setback.

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13 My judgment and my view would be
14 that it needs to be the minimum variance
15 that's necessary, for example, to protect
16 you going into the front of the house,
17 which is the covered part.

18 MS. HAYDEN: I mean, in order to
19 get the porch, we will cover the whole
20 thing. I mean, that's fine. We don't --
21 it was just an idea on our part to like --

22 CHAIRMAN MAGUN: Let me make a
23 suggestion to you. I think that you -- I
24 think we should adjourn this and you should
25 have your architect present it next month.

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2 I think you'll do better and have a
3 stronger chance of getting this approved,
4 if that's, which is obviously, I think,
5 your goal.

6 MS. HAYDEN: Yeah.

7 CHAIRMAN MAGUN: Because there is
8 going to be some reservations about this
9 application. And if you feel you can
10 present it in the best possible way --

11 MS. HAYDEN: No, I was not.

12 CHAIRMAN MAGUN: You weren't
13 prepared to do that.

14 MS. HAYDEN: No, I really wasn't.

15 CHAIRMAN MAGUN: I think it's
16 better to be prepared. That's okay. Is
17 that all right?

18 MS. HAYDEN: Yeah, it has to be.

19 CHAIRMAN MAGUN: Is the board
20 comfortable with that?

21 MR. BRIAN P. MURPHY: Sure.

22 MR. DEITZ: Sure.

23 MR. BRIAN D. MURPHY: I assume the
24 applicant is requesting the matter be
25 adjourned?

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2 CHAIRMAN MAGUN: So you have to
3 formally request us to adjourn the
4 application.

5 MS. HAYDEN: I see what you're
6 saying. I do have one question, can you
7 let me know now if -- I mean, if we need to
8 do drawings to cover the whole of it, if
9 that's the issue, we can change it.

10 CHAIRMAN MAGUN: No, no, I don't
11 think you understood what Mr. Murphy was
12 saying. We're not suggesting that you
13 cover the whole porch at all. In fact, I
14 think some people didn't want that to be
15 the case. I think you should decide what
16 you want to do and just present it to us as

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17 to why you want to do it that way.
18 MS. HAYDEN: All right.
19 MR. PYCIOR: So perhaps even review
20 the minutes from the last time, which are
21 available online now.
22 CHAIRMAN MAGUN: Yes. That's an
23 excellent suggestion. If you read the
24 minutes, you will pick up on the
25 reservations that people had.

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2 MS. HAYDEN: Got it. All right.
3 CHAIRMAN MAGUN: And they're
4 available, October 2004. It's on the web.
5 If you don't have access to the web,
6 Mr. Sharma can --
7 MS. HAYDEN: So I can be on next
8 month's agenda?
9 CHAIRMAN MAGUN: If you ask us to
10 adjourn it.
11 MR. BRIAN D. MURPHY: If you ask
12 for an adjournment.
13 MS. HAYDEN: Yes, can we please
14 adjourn this meeting?
15 CHAIRMAN MAGUN: Your application.
16 MS. HAYDEN: My what?
17 CHAIRMAN MAGUN: Your application
18 for a variance.

19 MS. HAYDEN: All right.
20 CHAIRMAN MAGUN: Before we do that,
21 I would like to ask if there is somebody
22 here to speak about it, if you would like
23 to speak now or you can wait until next
24 month because we're really not going to
25 consider the application now.

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2 MEMBER OF THE PUBLIC: Then I will
3 wait.
4 CHAIRMAN MAGUN: Fine.
5 MR. PYCIOR: And you'll be first
6 next month.
7 CHAIRMAN MAGUN: Correct. We
8 didn't adjourn any other applications, so
9 you would like to formally request that
10 we --
11 MS. HAYDEN: I formally request
12 that we adjourn my application.
13 CHAIRMAN MAGUN: I don't think we
14 have to vote on it. So we will accept that
15 request and we will hear your application
16 in a month from now.
17 MS. HAYDEN: All right, thank you.
18 CHAIRMAN MAGUN: And you'll notify
19 your architect?
20 MS. HAYDEN: Yes.

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21 CHAIRMAN MAGUN: Okay. Great.
22 The minutes from the last meeting,
23 can I have a motion to accept the minutes?
24 MS. FURMAN: I would like to make a
25 motion to accept the minutes from the last

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2 meeting.
3 CHAIRMAN MAGUN: Any corrections or
4 changes need to be made?
5 MR. DEITZ: I wasn't here.
6 MS. HAYDEN: Wait a second, I don't
7 need to send out letters again or anything?
8 CHAIRMAN MAGUN: No, ma'am.
9 MS. HAYDEN: Just get out of here.
10 CHAIRMAN MAGUN: No, ma'am.
11 Actually, could you wait one second before
12 you go?
13 So to approve the minutes, do we
14 need a second?
15 MR. BRIAN P. MURPHY: Yes, I will
16 second the motion.
17 CHAIRMAN MAGUN: All in favor?
18 MR. PYCIOR: Aye.
19 MR. BRIAN P. MURPHY: Aye.
20 MR. DEITZ: Aye.
21 MS. FURMAN: Aye.
22 CHAIRMAN MAGUN: Aye.

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23 The next date of the next meeting,
24 just so you know, is May 24th, I am
25 99 percent sure. Let me double check that.

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2 It's right before Memorial Day. May 25th,
3 I'm sorry. Thursday, May 25th.
4 MS. HAYDEN: Thank you.
5 CHAIRMAN MAGUN: You're welcome.
6 Is there any other business? I don't think
7 so. Motion to adjourn?
8 MS. FURMAN: I make a motion to
9 adjourn.
10 CHAIRMAN MAGUN: All in favor?
11 MR. BRIAN P. MURPHY: Aye.
12 MS. FURMAN: Aye.
13 MR. PYCIOR: Aye.
14 MR. DEITZ: Aye.
15 CHAIRMAN MAGUN: We are adjourned.
16 Thank you.
17 (Time noted 10:39 PM)
18
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20
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22
23
24

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C E R T I F I C A T E

I, Vera Monaco, Court Reporter, do hereby certify that the foregoing transcript is a true and accurate transcript taken by me on this 27th day of April, 2006.

Vera Monaco
Court Reporter

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