

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

Held December 14, 2006 at 8:03
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 Wagner Furman, Board Member
Brian P. Murphy, Board Member
Sheldon A. Sorokoff, Alternate Board Member

Deven Sharma, Building Inspector
Marianne Stecich, Board Counsel

VERA MONACO, RPR
Court Reporter

1 ZONING BOARD OF APPEALS - 12/14/2006

2 CHAIRMAN MAGUN: Good evening,
3 everyone. This is the Zoning Board of
4 Appeals, and this is our December 14th
5 meeting, last meeting of 2006.

6 There are a large number of items
7 on the agenda tonight, or so it seems, one
8 never knows how things go. I will announce
9 that we usually stop the meeting at 11 the
10 latest, usually a quarter to 11. So, if we
11 don't get to your application by that time,
12 you'll have to come back at the next
13 meeting. So, I just want to make that
14 announcement upfront.

15 Second issue with regards to the
16 mailings, Mr. Sharma, are the mailings for
17 all the applications in order?

18 MR. SHARMA: Yes, they are in
19 order, except for Case No. 29-06, Christine
20 Griffin and Peter Wolf. My office tells me
21 that five addresses, the mailings were
22 not -- we don't have regular mailings
23 having been done or have been received
24 either. So, it would seem to me the
25 mailings for that case are not in order.

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2 CHAIRMAN MAGUN: Yes, sir? State
3 your name. Are you Mr. Wolf?

4 MR. WOLF: I am.

5 CHAIRMAN MAGUN: Hi.

6 MR. WOLF: How are you?

7 CHAIRMAN MAGUN: Just state your
8 name and address.

9 MR. WOLF: Peter Wolf, W-O-L-F, One
10 Scenic Drive.

11 CHAIRMAN MAGUN: We just want to
12 discuss this issue because --

13 MR. WOLF: I understand that.

14 CHAIRMAN MAGUN: No, wait, excuse
15 me. Let me just explain to the public
16 because in case we decide not to go ahead,
17 I don't want Christina and Mr. Wolf to have
18 to sit -- Ms. Griffin and Mr. Wolf to have
19 to sit through the whole evening.

20 Are you aware of this issue?

21 MR. WOLF: We became aware of this
22 issue this afternoon. And of the five,
23 there are three neighbors and two are
24 corporations. We have contacted and spoken
25 to the three neighbors, two of which -- all

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2 three I think were aware of the meeting,
3 but two of which have been notified somehow
4 anyhow, and the third one didn't want to
5 come.

6 We've also Fed Ex'd all five
7 parties as of today because there's also
8 inherent notice of a Planning Board notice.
9 So, I think effective notice has been given
10 to all the neighbors and the participants,
11 and we would like to proceed, if at all
12 possible.

13 CHAIRMAN MAGUN: Okay. It's sort
14 of up to the board and how everyone feels
15 about that. Any responses or questions?

16 MR. MURPHY: The question for
17 Marianne is do we have the flexibility?

18 MS. STECICH: My concern is for the
19 people whose FedEx went out today, they're
20 not -- they won't get it until tomorrow.
21 So, those people actually weren't noticed.

22 In addition to which, just as a
23 practical matter, I don't know whether you
24 are aware, but the board has a rule that we
25 stop hearing at what time is it?

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2 CHAIRMAN MAGUN: I just said around
3 a quarter to 11.

4 MS. STECICH: And chances are that
5 we wouldn't get to it anyway. So that if
6 at 11 the board hasn't gotten to your
7 application, you may --

8 MR. WOLF: I just want to say
9 that's a separate issue.

10 MS. STECICH: No, the thing is in
11 addition to which you have -- it's going
12 to -- I don't think it's really going to
13 hold you up because you have to appear
14 before the Board of Trustees. I imagine
15 that's not just going to be one shot, and
16 before the Planning Board. That's this
17 coming Tuesday.

18 CHAIRMAN MAGUN: You haven't been
19 to the Planning Board yet, have you?

20 MR. WOLF: We had a preliminary
21 meeting with the Planning Board already.

22 CHAIRMAN MAGUN: Preliminary,
23 right, because we had a response, a letter
24 from Christine about that.

25 MR. WOLF: The point that I want to

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2 make was that the actual neighbors have
3 received either the proper notification by
4 mail and time or actual notice of the
5 meeting. The two that haven't were Conrail
6 in Philadelphia, and a company in
7 Tarrytown, who no one is able to identify.
8 And actually, that corporation isn't even
9 listed with the Department of State. So, I
10 don't know whether they are going to get
11 notice anyway.

12 CHAIRMAN MAGUN: Okay.

13 MR. WOLF: But Christine's office
14 spoke to all three of the individuals who
15 had not received the notice.

16 MS. STECICH: One other thing, how
17 is it that they didn't receive the notice?
18 I think that's relevant also.

19 CHAIRMAN MAGUN: Sorry to make a
20 big deal out of this, but it's an issue.

21 MR. WOLF: I understand.

22 CHAIRMAN MAGUN: It's a project of
23 some consequence.

24 MS. GRIFFIN: We don't know.

25 MR. WOLF: We don't know.

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2 MS. GRIFFIN: We have someone who
3 took care of it, and we don't have the
4 evidence.

5 MR. WOLF: We were really just
6 notified by Marie this afternoon that, you
7 know, out of that list that, apparently,
8 five parties had not received it.

9 CHAIRMAN MAGUN: That's what I was
10 going to ask. How long have we had the
11 proofs of mailing?

12 MR. SHARMA: Today I think Susan
13 dropped them off, and the only time we
14 could look through and check whether it's
15 in order or not, and that's the only time
16 Marie noticed that five of the addresses of
17 people who should have received are
18 missing, and we tried to contact
19 immediately.

20 MS. GRIFFIN: I don't understand.
21 I would like to propose that if there is
22 time --

23 CHAIRMAN MAGUN: Can you talk into
24 the microphone?

25 MS. GRIFFIN: -- if there is time,

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2 you know, obviously, I guess the public
3 hearing will have to be for the next
4 meeting, but if there is any time tonight,
5 we would like to just get feedback from the
6 board. There are quite a few --

7 CHAIRMAN MAGUN: Then why don't we
8 leave it like that. If you are willing to
9 sit through, we'll sit through and we'll
10 see where we stand.

11 MS. GRIFFIN: Thank you.

12 MR. DEITZ: I would be
13 uncomfortable taking any action if parties
14 weren't notified.

15 MS. GRIFFIN: I understand.

16 CHAIRMAN MAGUN: I would share
17 that.

18 MR. DEITZ: Anything that was
19 stated would have to be restated if any of
20 those parties shows up.

21 MR. PYCIOR: Would it have to be
22 restated, or could we say they would read
23 the minutes or view the tape?

24 MR. WOLF: I, obviously, have a
25 position in this. But my own

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2 interpretation is that actual notice is
3 probably even better than receiving a mail
4 notice.

5 CHAIRMAN MAGUN: Okay. Well, you
6 seem to be not unhappy sitting here. Why
7 don't we deal with it when we get to it.
8 Let's leave it like that for now.

9 Okay. So, I think we will proceed
10 then with the first application on the
11 agenda, which is case 24A-06, R. Kenyatta
12 and Lisa Punter, 4 Glenn Place. This is an
13 application for request for variances
14 requiring -- at least what looks like to be
15 three variances for construction of
16 multilevel decks and conversion of an
17 existing non-conforming screened porch into
18 a sunroom.

19 This application had initially been
20 on the agenda at the previous meeting, but
21 we felt that the notification was not quite
22 sufficient, so we asked that the
23 application be renoticed. We renoticed it.
24 The village renoticed it and the applicant,
25 I guess, is here tonight. So, could you

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2 state your name and your address?

3 MR. KURTH: My name is Peter Kurth.

4 I'm the architect for Mr. Punter, who is

5 here. My address is 45 Kensico Drive,

6 Mount Kisco, New York 10549.

7 CHAIRMAN MAGUN: So, could you tell

8 us what the project consists of and why

9 you're here tonight asking for a variance?

10 MR. KURTH: Yes, sir, sure. The

11 proposed expansion of the house involves

12 the -- primarily, there are several

13 renovations. But primarily, it involves

14 the rear of the property. Requested

15 variance No. 1 is two of the three

16 requested. It is the --

17 CHAIRMAN MAGUN: Sir, I'm sorry.

18 I'm just going to interrupt you for one

19 second.

20 MR. KURTH: Yes.

21 CHAIRMAN MAGUN: I'm sorry. There

22 is some question about interpretation of

23 the variances and how much footage is

24 actually being requested. So, what I'm

25 going to ask you to do is state your case,

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2 explain what you want to do, and then I'm
3 going to ask the building inspector to
4 explain his concerns about the
5 interpretation. The board will then
6 discuss it and then we will decide what
7 variance you really need.

8 MR. KURTH: I understand.

9 CHAIRMAN MAGUN: If you could
10 explain the whole issue.

11 MR. KURTH: The first variance is
12 we're trying to convert an existing screen
13 porch which is presently -- one corner of
14 the porch is 12.2 feet from the property
15 line, that's the rear property line, where
16 a 30-foot setback is required.

17 The existing screened porch is a
18 pre-existing condition. It's a
19 non-conforming, if you will. And it's our
20 purpose to convert this, what we feel is a
21 rather delapidated, rarely used screened
22 porch into a year-around sunroom, if you
23 will.

24 I brought some pictures, if I could
25 pass them around.

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2 CHAIRMAN MAGUN: Sure.

3 MR. KURTH: I don't know if the
4 board has seen it. We will pass this
5 around. Has the board been to the site?

6 CHAIRMAN MAGUN: Most of us
7 probably have.

8 MR. KURTH: This is the existing
9 screen porch now. And you could see
10 it's --

11 MR. DEITZ: I can't see it.

12 MR. KURTH: I'm sorry. It is up on
13 silts up in the air and rarely used. It is
14 our intent to create a proper foundation
15 around that room as a cross base. It
16 wouldn't be a basement space. To give it a
17 both functional and visual -- visually
18 better appearance so the cold air is not
19 blowing underneath the space when it
20 becomes a heated room. So we feel that it
21 would enhance the esthetics of the existing
22 condition as well as being a functional
23 improvement to the property.

24 I want to emphasize that we're
25 maintaining the exact same footprint. So,

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2 the non-conformity is not being aggravated.
3 It's merely identical. The interpretation
4 of the zoning code would be anything we did
5 to that building, whether it be -- if we
6 re-side it, we would have to come before
7 the board. That's the first requested
8 variance.

9 The second variance is for a lower
10 deck. And the Punters are requesting this
11 variance. They really want this deck
12 because it effectively gives them a usable
13 rear yard. If you've seen the property,
14 it's severely sloping. They have a young
15 infant. And they wanted to have a usable
16 flat area with a railing, in a sense an
17 enclosed fenced in backyard.

18 It should be noted that if there
19 were not a deck above this, which we'll
20 come to in a second, I am told that the
21 variance would not be needed because an
22 uncovered deck can go six feet to the
23 property line.

24 CHAIRMAN MAGUN: Well, it all
25 depends on how big the deck would be. But

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2 that's all right.

3 MR. KURTH: Okay. So, what we did
4 here, we backed off two feet from the
5 12-foot 4, and for this variance we're
6 requesting a 14-foot setback in the 30-foot
7 setback requirement.

8 The third variance is what I would
9 call the main house deck. You see that
10 here. I will pass these photos around.
11 Again, a rather small unusable deck which
12 you could barely fit a few chairs on. It
13 is the intent of the design to make this
14 deck larger and more usable in a sense to
15 be an extension of the house itself.

16 The other portion of the project is
17 a small bump out of the kitchen, which does
18 not require a variance.

19 So, to summarize, the first
20 variance is the conversion of the existing
21 footprint. The second, we feel it's a
22 hardship because of the condition of the
23 property. There's no usable rear yard, and
24 the conditions are really unsafe. And the
25 third is the cover, which is the main level

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2 deck is basically an expansion of the deck,
3 not as far out. We backed it out about
4 six feet in further from the lower deck to
5 allow more light into the lower deck.

6 CHAIRMAN MAGUN: Could you also,
7 before we discuss the issue as to what
8 actually is the required variance that the
9 building inspector needs to take us
10 through, could you give us a little bit of
11 a better description as to how the two
12 decks relate to each other? Your drawings
13 are extensive, but it is quite complex.
14 It's a multilevel deck.

15 MR. KURTH: Well, perhaps, if you
16 could see this drawing here, the upper
17 portion is the extension of the kitchen.
18 This upper deck has a solid railing,
19 projects about six feet in from the
20 proposed lower deck. So, the upper deck
21 and the lower deck, this is the side view,
22 and this would be the view from the rear of
23 the property. Upper deck with a stair
24 going down to the lower deck, all enclosed,
25 and a railing.

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2 CHAIRMAN MAGUN: Does the board
3 understand?

4 MR. PYCIOR: The other stairway
5 goes to the sunroom?

6 MR. KURTH: That's correct.

7 MR. SHARMA: That would be like
8 intermediate.

9 MR. KURTH: The sunroom is actually
10 a half level down.

11 CHAIRMAN MAGUN: I'm sorry, Deven,
12 I can't hear you. You're asking about?

13 MR. KURTH: See this deck here, so
14 the proposed two level of decks really
15 combine the proposed sunroom, which is a
16 half level down from the first floor.

17 CHAIRMAN MAGUN: Is the lower deck
18 and the sunroom on the same level?

19 MR. KURTH: No.

20 CHAIRMAN MAGUN: So, there are
21 three levels here. There's the lower deck,
22 the sunroom level and then the upper deck;
23 is that correct?

24 MR. KURTH: Correct, sir. The
25 upper deck is at the same elevation of the

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2 existing smaller deck.

3 CHAIRMAN MAGUN: Right, okay.

4 MR. KURTH: The sunroom, which is
5 now a screened porch, is a half level down.
6 And the proposed lower deck would be a half
7 level down again.

8 CHAIRMAN MAGUN: And the stairs
9 that are connecting the decks are --
10 project all the way out at the end of the
11 decks; right?

12 MR. KURTH: Can I just show you the
13 plan?

14 CHAIRMAN MAGUN: Show us the side
15 elevation.

16 MR. KURTH: This is the lower deck.

17 CHAIRMAN MAGUN: Right.

18 MR. KURTH: Okay. Again, we tried
19 to keep it as close to the existing grade
20 as possible. The upper deck --

21 CHAIRMAN MAGUN: Excuse me, when
22 you say this is the lower deck --

23 MR. KURTH: This is the lower deck.

24 CHAIRMAN MAGUN: Right. And that
25 includes all the way out to here?

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2 MR. KURTH: That's correct. I am
3 told that we're okay with our side-yard
4 variances.

5 CHAIRMAN MAGUN: Again, we're going
6 to have to discuss all of that.

7 MR. KURTH: Of course. And this
8 plan here you could see the guideline
9 represents the extent of the existing deck.
10 And this is the proposed deck, which we
11 have like new French doors coming out from
12 the dining room.

13 CHAIRMAN MAGUN: So, to get from
14 the lower deck to the upper deck, you'd go
15 up the stairs that are in the rear of the
16 deck?

17 MR. KURTH: That's correct, sir.

18 CHAIRMAN MAGUN: Does everyone
19 understand that? That's kind of a complex
20 diagram. So, these stairs take you from
21 the --

22 MR. KURTH: When we're at this
23 level, sir, we can either go down to the
24 level of the sun porch or down -- we have a
25 half level down platform, half level again

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2 down to the lower deck.

3 MR. PYCIOR: It is those stairs

4 that would be 14 feet from the rear

5 property line?

6 MR. KURTH: That's correct.

7 CHAIRMAN MAGUN: Okay. Thank you.

8 So, Deven, can we just discuss the issue

9 of -- before we launch into this, I just

10 want to get some sense of what variances

11 actually are required. I think the board

12 needs to weigh in on that a little.

13 MR. SHARMA: Right.

14 CHAIRMAN MAGUN: So, what was the

15 issue that you wanted to raise?

16 MR. SHARMA: It's in the code,

17 §295 --

18 CHAIRMAN MAGUN: Are the

19 microphones on? I don't hear anything in

20 the room. Can you hear in the back?

21 MR. SHARMA: I said in the code

22 §295-20B6 allows open canvasses or decks at

23 the level of main entrance level below to

24 encroach into the required yards up to

25 six feet, depending on other conditions.

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2 But in this particular case, since the deck
3 has a deck on top of it, whether it
4 qualifies as an open porch or uncovered
5 porch, a terrace. So, that's before the
6 board to interpret.

7 CHAIRMAN MAGUN: So, that was --
8 so, the question we should just talk about
9 as a board is do we want to view one of
10 these decks as being allowed to project
11 six feet into the rear-yard setback, or,
12 because they are two decks connected by
13 stairs, one of the deck covers the other
14 deck, do we want to interpret this as both
15 of them requiring a 30-foot setback?

16 MR. SHARMA: Actually, I believe
17 that it requires a variance in any event.
18 It's just the extent of the variance.

19 CHAIRMAN MAGUN: Oh, no question.
20 We understand that.

21 MR. SHARMA: Whether it be so much
22 of six feet or more.

23 CHAIRMAN MAGUN: Right. So, it
24 would either be a variance of 20 feet
25 instead of the 14. I'm sorry, either --

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2 right, they're proposing 14 feet, so it
3 would either be 14 verses 16.

4 MR. MURPHY: It would be 16 or 10.

5 MS. STECICH: Or 10, right.

6 CHAIRMAN MAGUN: Correct. Okay.

7 And I think we should just talk about that
8 for a minute, or at least bear that in mind
9 as we go through this discussion.

10 So, while the board members are
11 thinking about that, can you tell me how
12 many square feet the lower deck is and how
13 many square feet the upper deck is? It was
14 a little hard for me to tell that. I just
15 want to get those measurements clear.

16 MR. KURTH: I don't have the exact
17 figure. I believe the upper deck is about
18 280-square feet.

19 CHAIRMAN MAGUN: 208?

20 MR. KURTH: 280.

21 CHAIRMAN MAGUN: 280.

22 MR. KURTH: And the lower deck
23 would probably be 20 percent more, about
24 350.

25 CHAIRMAN MAGUN: Because these

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2 decks are really quite large. So, I just
3 want to get the dimensions clear because
4 they weren't -- actually, there isn't one
5 place where they are spelled out on the
6 diagram that I could see, without having to
7 do the arithmetic.

8 MR. KURTH: I apologize for that,
9 sir. We based it on as a function from the
10 existing screen porch wall. But as you can
11 see, we took that 14-foot line and went
12 exactly parallel to the property line.

13 CHAIRMAN MAGUN: But I want to give
14 us all a sense of how big the decks are.
15 So, we're talking about the deck. How long
16 is that deck, length and width?

17 MR. KURTH: Let's see, the upper
18 deck --

19 CHAIRMAN MAGUN: I guess I could
20 measure it.

21 MR. KURTH: Do you have a scale?

22 CHAIRMAN MAGUN: I'll try.

23 MR. KURTH: Do you have a scale?

24 CHAIRMAN MAGUN: I think so, if
25 this is right.

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2 MR. SHARMA: Here.

3 CHAIRMAN MAGUN: One inch is
4 supposed to be 20 feet; right?

5 MR. KURTH: Well, it's a quarter
6 scale.

7 CHAIRMAN MAGUN: Pardon me?

8 MR. KURTH: A quarter of an inch
9 equals one foot on the floor plan. So,
10 we're 24 feet wide, sir, on the upper deck.
11 That includes the section from the kitchen
12 over to the side property line.

13 CHAIRMAN MAGUN: So, 24 by --

14 MR. KURTH: I would say if you
15 average it, because it's a trapezoidal
16 shape, I would say the average would be
17 about 15 in depth.

18 CHAIRMAN MAGUN: 24 by 15 for the
19 upper.

20 MR. KURTH: That's correct.

21 CHAIRMAN MAGUN: And the lower
22 then?

23 MR. KURTH: Would be -- you would
24 just add --

25 MR. MURPHY: It's about 360.

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2 MR. KURTH: You would add four feet
3 to that, sir. So, the width is the same.
4 It would be like 19 feet. And part of
5 that --

6 CHAIRMAN MAGUN: Wait. The width
7 is the same? Isn't the upper deck smaller
8 in length and width?

9 MR. KURTH: Yes, it is. My
10 apologies. To the side line is 5-foot
11 6 inches past the building line on the
12 lower deck.

13 CHAIRMAN MAGUN: I am having
14 trouble. I mean, it's at least 30. So,
15 it --

16 MR. KURTH: So, if the upper deck
17 is --

18 CHAIRMAN MAGUN: You have 35 feet.

19 MR. KURTH: Let's say 24 by average
20 15. The lower would be approximately 29.
21 And the --

22 MS. STECICH: 29 by?

23 MR. KURTH: 29, again by the 15,
24 the difference of the four feet is really a
25 network of stairs. It's not that the lower

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2 deck is --

3 MS. STECICH: It's 435.

4 MR. KURTH: It's that much bigger.

5 The four feet that it extends is the stair

6 network.

7 CHAIRMAN MAGUN: You really can't

8 have any conversations. I'm sorry. You

9 can go outside if you need to talk.

10 Go ahead, Brian.

11 MR. MURPHY: I wanted to ask a

12 different question. I mean, the decks are

13 big. The incursion is significant. So,

14 for me the question is, you know, what's

15 the need and the hardship in the rear yard?

16 I didn't get to see that. How steeply

17 sloped is the backyard?

18 MR. KURTH: Do you have the photos?

19 MR. MURPHY: And where is the

20 30-foot --

21 MR. KURTH: You have the board.

22 MR. MURPHY: Is it like 20 or 30

23 feet below where the house is?

24 MR. KURTH: This is the line of the

25 existing porch. So, the deck would be

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2 about two feet out. So, you could see it
3 slopes down to a stonewall and then falls
4 off very rapidly.

5 MR. MURPHY: So, is the intent to
6 capture as much the backyard area up to
7 that wall to make it flat and useful for a
8 play area, that kind of thing?

9 MR. KURTH: Well, we still have the
10 14-foot of natural land that would be from
11 the walls of the stair. We still have
12 that. But because of the irregular nature
13 of the site, and the fact that what do you
14 do for safety at the wall, would you build
15 a fence, per se? So, we felt that
16 architecturally and functionally, having
17 this lower deck, in effect, I think, the
18 Punters felt that this lower deck became,
19 in effect, their rear yard, kind of like a
20 safety enclosed play area with a fence.

21 MR. MURPHY: But when you get
22 beyond the deck going into the rear yard --

23 MR. KURTH: Well, that's when you
24 come right here.

25 MR. MURPHY: What's beyond where

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2 you are proposing to put the deck?

3 MR. KURTH: Just natural land.

4 There is a lawn that --

5 MR. PYCIOR: It just drops.

6 MR. KURTH: You actually call it a
7 lawn area to the wall and then it drops
8 off. That wall is not on the line. I
9 think the property goes further than that.
10 So, the wall is not the property boundary.
11 See, beyond that wall it really drops off
12 almost to a one-on-one grade, 45 degree
13 angle.

14 MR. MURPHY: I see. Now, what's
15 down at the bottom, just woods?

16 MR. KURTH: Woods, woods. There is
17 no stream or water.

18 MR. PYCIOR: I could understand the
19 need for the lower deck, given the steep
20 slope of the property, but what is the need
21 for the upper deck?

22 MR. KURTH: Well, again, this is
23 the existing. It's so small you can't
24 really put a few chairs there. The intent
25 was to just basically have a usable sort of

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2 a rear-yard terrace where you could have
3 perhaps a barbecue, maybe a table and
4 chairs and maybe some lounge chairs.

5 That's the only deck that would have sun
6 because the lower deck is covered.

7 MR. PYCIOR: Well, the lower deck
8 is covered due to the large upper deck.

9 MR. KURTH: That's correct, yes.
10 Well, this way we look at the upper deck as
11 an extension of the first floor kitchen
12 area, the dinette, etcetera. And the lower
13 deck, you really can't get to it unless you
14 have a stair from the upper deck or you
15 were to go outside the front door and come
16 around the bottom.

17 MR. PYCIOR: Mr. Kurth, you
18 mentioned putting in french doors, what
19 room?

20 MR. KURTH: Dining room, which is
21 adjoining this. So, again, we kind of felt
22 that the upper deck is the usable deck.
23 That's where your kitchen is. That's where
24 you will be barbecuing. That's the
25 functional need. The lower deck would be a

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2 rear-yard play area, a safe controlled
3 area.

4 CHAIRMAN MAGUN: The square footage
5 of the lower deck is about 800 square feet,
6 35 by 25, so it's big.

7 MR. KURTH: Are you including the
8 stairways?

9 CHAIRMAN MAGUN: Yes, yes. It's
10 the amount of footprint it takes up, and I
11 guess the upper deck is four feet less on
12 each side.

13 MR. KURTH: Plus five feet in from
14 the side line compared to the lower.

15 CHAIRMAN MAGUN: Right, okay. And
16 I won't quibble on the amount exactly. But
17 it's a very, very large structure when you
18 put both decks together. You know, it's a
19 really large structure.

20 And the reason we renoticed it was
21 because I think it was very important to
22 the neighbors -- for the neighbors to
23 understand that there were two decks being
24 built, one on top of the other that were
25 projecting, you know, a huge amount, more

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2 than 50 percent into the rear-yard setback,
3 and, essentially, you know, very close to
4 the side-yard setback.

5 I was, you know, quite concerned
6 about that. When I went to the site, what
7 struck me about the site was, as you
8 clearly point out, and I think correctly
9 so, there is a real drop off, and there
10 aren't any neighbors that would be affected
11 so much by the rear yard. But the side
12 projection of this deck is so close to the
13 side yard of the next door neighbor, I
14 think it's striking.

15 You have a second-story balcony
16 called a deck, or whatever you want to call
17 it, which is high up in the air going along
18 the side of the house. And, actually, I
19 think if we measure that, that might need a
20 side-yard variance. Just putting that
21 aside for a second --

22 MR. KURTH: I'm not sure about
23 that.

24 CHAIRMAN MAGUN: Well, 12 feet is
25 the side yard -- 12 feet from the property

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2 line would be the necessary setback. And I
3 don't know, you have six feet to the lower
4 deck. And looking at this diagram, I'm not
5 sure how many feet you have.

6 But be that as it may, to me it's
7 incredibly -- you have this big deck up in
8 the air that's overlooking the next door
9 neighbor. The next door neighbor has a
10 little deck in the back. I didn't measure
11 it. But this deck will be just basically
12 overlooking the next door neighbor's deck.
13 And that concerned me and made me kind of
14 wonder whether that was really a necessary
15 part of this.

16 MR. KURTH: Well, I just spoke to
17 Mr. Punter, if the board would prefer, we
18 could peel that lower deck back to the line
19 of the building so that it would line
20 equally top and bottom.

21 CHAIRMAN MAGUN: I don't know what
22 the board would prefer. I am just raising
23 this to the board. I'm just me. I'm just
24 raising this. I think that it's a very,
25 very big structure when you think of it as

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2 two decks connected to each other suspended
3 in the air going out. I mean, to see how
4 far this goes out, from the rear of the
5 house it goes out 30 feet; right?

6 MR. KURTH: At the furthest.

7 CHAIRMAN MAGUN: Right, 30 feet
8 projection from the house.

9 MR. MURPHY: Is that the lower
10 deck?

11 MR. KURTH: The lower deck, but
12 that includes the stairs.

13 CHAIRMAN MAGUN: Including the
14 stairs. And that 30-foot length is right
15 adjacent to the next door neighbor. So, if
16 I were the next door neighbor, and I don't
17 know if the next door neighbor is here or
18 not, I wouldn't be that happy about having
19 this huge structure six feet from my
20 property line.

21 MR. KURTH: Well, to my knowledge,
22 they didn't object either in writing or a
23 phone call or anything like that.

24 CHAIRMAN MAGUN: And if this were
25 only projecting into what is allowed to

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2 project into the rear-yard setback, that
3 would be a whole different issue. That
4 really concerns me. I just wanted to bring
5 it to the attention of the board.

6 The sunroom part, I think, is not a
7 concern to me, anyway, because there isn't
8 anybody behind there that's going to be
9 affected by this change, which will
10 certainly benefit the house.

11 But the size of this deck, this
12 deck is huge. I mean, when you think about
13 decks, it's very, very big.

14 MR. KURTH: Again, you're right,
15 sir, but --

16 CHAIRMAN MAGUN: And you're trying
17 to make it into a backyard.

18 MR. KURTH: We're saying to
19 consider the lower one almost not like a
20 structure but like a rear yard.

21 CHAIRMAN MAGUN: And I understood
22 that, and I think that's a reasonable, you
23 know, argument to make to the board because
24 I would totally agree, having been to that
25 site. I walked around. Mr. Punter was

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2 there. It's not a site for little kids to
3 play on. It's good for teenagers to roll
4 down that hill.

5 MR. KURTH: That's a very good
6 point, Mr. Chairman. But if you look at
7 the existing structure, they are smaller.
8 But in my opinion, as an architect, I think
9 they are like a hodgepodge of structures
10 and projections on silts. They look weak
11 esthetically functioning. And it's been
12 our objective, as part of the proposed
13 solution, to kind of clean this up, both
14 the circulation and to make it a more
15 uniformed flowing rear yard as part of the
16 extension of the house.

17 CHAIRMAN MAGUN: Again, if -- let
18 me look at this picture. So, you know,
19 when you look, this is the current deck.

20 MR. KURTH: That's correct, sir.

21 CHAIRMAN MAGUN: The deck you are
22 proposing is going to go all the way out.

23 MR. KURTH: To that line.

24 CHAIRMAN MAGUN: Here.

25 MR. KURTH: That's exactly right.

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2 CHAIRMAN MAGUN: And stick out,
3 actually, the current proposal is the --

4 MR. KURTH: The lower one comes --

5 CHAIRMAN MAGUN: -- comes out to
6 here. So, if you are the next door
7 neighbor living right here, you are going
8 to have this deck coming all the way out to
9 the side of the house, you know, and
10 projecting out some -- the upper deck
11 projects out not 30 feet but projects out
12 25'ish feet.

13 MR. KURTH: Right.

14 CHAIRMAN MAGUN: 25'ish feet at the
15 side of the house overlooking your whole
16 backyard. It's a very big structure, and I
17 have a lot of trouble with that. I
18 appreciate and I understand the design, and
19 it makes sense to me. But it's really --
20 if you didn't have a next door neighbor
21 there and you had another 30 feet of land
22 on the side, that would be great.

23 MR. KURTH: Well, in my opinion,
24 the other neighbor would have a better view
25 with the proposed than they do now. I

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2 mean, I don't know what the board's
3 preference is. Historically, if the
4 Punters were to propose some screening,
5 perhaps, would that address your concern?

6 CHAIRMAN MAGUN: We're only
7 talking -- they are only six feet from the
8 property line.

9 Also, you can see it if you stand
10 on the street. The other thing that I want
11 to point out when I was at the site, you
12 will be able to see this big deck from the
13 street. I don't know what it looks like in
14 the spring when the trees are there, but in
15 the winter you can see right into the
16 backyard.

17 MR. KURTH: I beg to disagree, with
18 the garage there.

19 CHAIRMAN MAGUN: No, no, from the
20 side. Not standing there but as you go
21 down the street you'll be able to see the
22 deck. It projects 30 feet into the
23 backyard, so you'll be able to see it.

24 So, it's just a very, very big
25 structure. And balconies that we approve

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2 that can't project at all into the
3 rear-yard setback are generally small,
4 six feet, 10 feet, so we're talking here
5 about a 25-foot -- you're calling it a
6 deck, one could call it a balcony.

7 MR. KURTH: True, true.

8 CHAIRMAN MAGUN: So, I just want to
9 try to raise that. I'm going to let the
10 other board members here ask whatever
11 questions they want to ask about the
12 project.

13 Any other concerns or questions?

14 MR. SOROKOFF: The concern is the
15 size of the deck.

16 CHAIRMAN MAGUN: Well, Brian?

17 MR. MURPHY: Yes, I just want to go
18 back to the lower deck. If you built a
19 smaller lower deck, is there any way to
20 access the house, access that deck from the
21 rear of the house? In other words, is it a
22 walk-out basement?

23 MR. KURTH: There is no basement.
24 There's no walk-out basement. So, one
25 would have to go out the front door around

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2 the property to it.

3 CHAIRMAN MAGUN: Could you go out
4 the sunroom?

5 MR. KURTH: That's correct. You go
6 out the sunroom, half level down. That's
7 correct. That's correct.

8 MR. MURPHY: Well, see, for me that
9 makes a difference because I think that I
10 share the chairman's concern. Gosh, if the
11 upper deck is going out 25 feet and it's
12 six feet away from the --

13 MR. KURTH: Well, it averages about
14 15. It's 30 at the furthest.

15 CHAIRMAN MAGUN: The upper deck
16 goes out about -- you know, well, whatever
17 measurement this says.

18 MR. KURTH: That was about 30.

19 CHAIRMAN MAGUN: The lack of the
20 measurements makes it, well, 20 to 30 feet.

21 MR. MURPHY: That's how far it
22 extends into the rear yard from the house?

23 CHAIRMAN MAGUN: Yes.

24 MR. MURPHY: That's proposed?

25 CHAIRMAN MAGUN: Yes.

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2 MR. MURPHY: I mean, that's huge,
3 and the lower deck is even bigger.

4 MR. KURTH: By four feet. But
5 again, on the trapezoid, that is the
6 severest point. When it goes back to the
7 house, it's further in, actually, than the
8 existing corner of the sunroom, the
9 proposed sunroom.

10 CHAIRMAN MAGUN: Is there anyone in
11 the audience who wishes to comment on this
12 application?

13 (No response.)

14 CHAIRMAN MAGUN: No?

15 MR. KURTH: Mr. Punter, do you have
16 anything to say?

17 CHAIRMAN MAGUN: Yes, sir. Why
18 don't you come up. Could you come to the
19 microphone?

20 MR. PERRY: I live at 19 Southgate
21 Avenue.

22 CHAIRMAN MAGUN: What's your name?

23 MR. PERRY: Joseph Perry. I live
24 right behind this proposed house, deck.

25 CHAIRMAN MAGUN: You're the rear

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2 of -- when you say you're at the south end?

3 MR. PERRY: I'm behind his house
4 looking right.

5 MR. KURTH: In other words, if you
6 went down the slope further, your house
7 would be the next house?

8 MR. PERRY: No, I'm on Southgate
9 Avenue coming up. I'm behind him. And
10 I've seen -- I know where the sundeck is
11 that's proposed to close that in. It seems
12 to me that it says here that it's an
13 existing non-conforming already.

14 CHAIRMAN MAGUN: Correct. That was
15 granted in 1990. We looked into that.

16 MR. PERRY: If they close that in,
17 I have no problem with that. But it's the
18 lower deck and how it's going towards my
19 property is my concern. And I think that's
20 why we're all here. I can't -- I didn't
21 see the picture. They are all showing them
22 to you, but I don't know what the layout
23 is.

24 CHAIRMAN MAGUN: Have you seen the
25 plans?

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2 MR. PERRY: No, I haven't seen
3 anything. I know the property right behind
4 me and how much room there is, and I know
5 some of this stuff that they're designing
6 here is over the zoning codes; correct?

7 CHAIRMAN MAGUN: Oh, yes, that's
8 why we're here.

9 MR. PERRY: And that's why we're
10 here. So, I just wanted to voice that. I
11 didn't see the pictures yet. I don't know
12 what exactly they're drawing here. I don't
13 have a problem if they want to enclose the
14 existing sun porch up there, fine. It's
15 already there. But I'm just concerned
16 about the -- whether they're going to do a
17 wall in the back, fill in the land.

18 This is a -- it's dry, but there is
19 a ravine that goes behind my house and his
20 house that is kind of a natural setting,
21 and I am just trying to find out exactly
22 what he plans on building there and walls
23 and etcetera. That's my concern.

24 CHAIRMAN MAGUN: Okay. You got
25 notification about this; right?

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2 MR. PERRY: Correct, yes.

3 CHAIRMAN MAGUN: So, you can
4 always -- you can always go to Village Hall
5 to look at the drawings.

6 MR. PERRY: And find out, okay.

7 CHAIRMAN MAGUN: But we're going to
8 decide on it tonight.

9 MR. PERRY: Yeah, I came last time
10 but it got postponed.

11 CHAIRMAN MAGUN: Okay. Thank you.

12 MR. KURTH: Could I respond?

13 MR. DEITZ: You have a problem with
14 the upper deck proposed?

15 MR. PERRY: No, if they want to
16 enclose the upper sunroom that's already
17 there, I have no problem. That's already
18 there. I am just concerned about what
19 they're doing with the wall in the back of
20 the, you know.

21 MR. DEITZ: They are proposing two
22 decks.

23 MR. PERRY: Yeah, if they want to
24 level out the property, if there is two
25 decks, how far they go, that's what I'm

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2 concerned about.

3 MR. DEITZ: You commented on the
4 lower deck, and I wanted to ask you if you
5 have a comment on the upper deck.

6 MR. PERRY: How many decks are
7 there?

8 CHAIRMAN MAGUN: Two decks.

9 MR. PERRY: Well, what about the
10 sunroom? So, there's two decks besides the
11 sunroom?

12 CHAIRMAN MAGUN: I think you need
13 to see the drawings.

14 MR. PERRY: Yeah, I got to see the
15 drawings.

16 MR. KURTH: Come here.

17 (Whereupon, there was a discussion
18 held off the record.)

19 CHAIRMAN MAGUN: Is there anyone
20 else here in the audience who wishes to
21 speak?

22 Yes, sir. State your name and
23 address.

24 MR. JACOBS: Good evening. William
25 Jacobs, 36 Fairmont Avenue.

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2 CHAIRMAN MAGUN: Where is Fairmont
3 in relation to this?

4 MR. JACOBS: Fairmont is on the
5 corner of Glenn. I think I'm the opposite
6 side house. I don't think the structure is
7 going to be on my side. I think I'm the
8 neighbor on the opposite side.

9 CHAIRMAN MAGUN: I don't know. If
10 you don't know, I don't know.

11 MR. JACOBS: I'm actually very
12 confused. I think that's why I'm standing
13 right here right now is that I'm confused
14 about what is being added on. I'm confused
15 about how far out the structure is going to
16 go from the existing screened-in porch.
17 So, my backyard, I guess I see the side
18 view of the screened-in porch. So, my
19 concern is that.

20 CHAIRMAN MAGUN: Well, if you can
21 come here for a minute, I would like to
22 figure out where you live. Here is Glenn
23 Place, here is the front of the house.

24 MR. JACOBS: I'm right here.

25 CHAIRMAN MAGUN: So, here is the

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2 screen -- here is the porch they want to
3 close in, and here is the deck they want to
4 build on the other side of the porch.

5 MR. JACOBS: So then I would be
6 extremely concerned about this, the
7 addition on the outside looking that way.

8 CHAIRMAN MAGUN: Why?

9 MR. JACOBS: I mean, it's --

10 CHAIRMAN MAGUN: Why don't you take
11 the microphone. Why would you be concerned
12 about that?

13 MR. JACOBS: I would be concerned
14 because it's our backyard. It's not our
15 backyard, excuse me, it's the view of our
16 backyard. And, so, right now we're looking
17 at their screened-in porch, and then now
18 we're going to look at a screened-in porch
19 with an additional 100 -- I'm sorry, 1,000,
20 800-square foot additional porch. I agree
21 with that. I think that's a huge -- that's
22 bigger than my house.

23 CHAIRMAN MAGUN: Just to be
24 accurate, most of it you wouldn't see
25 because you would be --

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2 MR. JACOBS: Well --

3 CHAIRMAN MAGUN: You would just
4 see --

5 MR. JACOBS: Well, I see a huge
6 corner.

7 CHAIRMAN MAGUN: Yes, you'll see a
8 corner.

9 MR. JACOBS: I see a huge corner.

10 And, actually, my view is not of the
11 screened-in porch. My view is of -- I
12 mean, it's not the side view, it's that
13 view.

14 CHAIRMAN MAGUN: Okay.

15 MR. JACOBS: So, I see a lot more
16 than the corner.

17 CHAIRMAN MAGUN: Okay. Thank you.

18 MR. KURTH: Can Mr. Punter have a
19 word?

20 CHAIRMAN MAGUN: Sure. Go ahead,
21 sir.

22 MR. PUNTER: Thank you very much.

23 First, I would like to address some
24 of Mr. Perry's concerns. The lower portion
25 of the deck that we're proposing is such

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2 that once it bumps up against that ravine,
3 and particularly during the summer months,
4 the brush and the trees serve as a natural
5 buffer, if you will, between that part of
6 our property line and Mr. Perry's property.

7 Once you pass that ravine, the
8 property line slopes down, like Mr. Kurth
9 said, on a 45-degree angle. And
10 Mr. Perry's house, or his backyard, rather,
11 extends some at least 80 to 100 feet before
12 his backyard, and his backyard comes after
13 that. So, it's, in my opinion, it's a
14 significant amount of distance between
15 where our new proposed lower deck is going
16 to end and his property line begins.

17 With respect to Mr. Jacobs, when
18 he's looking at our house, the first thing
19 he is going to see is our sundeck, or our
20 sunroom, rather. And there are times
21 during the summer months where I will go
22 outside in our backyard and there is a very
23 large rock that is adjacent to his
24 property, and I would just sit out there
25 with my daughter. And looking toward our

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2 house, you can't really see that well the
3 other side of the house where the deck is
4 that extends off the kitchen and extends
5 off the dining room.

6 I could sort of see his concern
7 more clearly if he lived on the other side
8 where our neighbors are. They certainly
9 haven't even voiced any concern or issues.
10 Actually, we're -- I don't want to say
11 we're friends with them, but we speak to
12 them on a regular basis.

13 CHAIRMAN MAGUN: The neighbors on
14 the other side?

15 MR. PUNTER: Yes.

16 CHAIRMAN MAGUN: It will finish six
17 feet from the property.

18 MR. PUNTER: That's correct. So, I
19 don't really understand or see where he
20 would really be hurt by it.

21 CHAIRMAN MAGUN: All right. Any
22 other comments from anyone in the audience
23 with regards to the application?

24 (No response.)

25 CHAIRMAN MAGUN: The board, anymore

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2 questions or concerns?

3 (No response.)

4 CHAIRMAN MAGUN: Let's just talk
5 about the interpretation of what amount of
6 setback is needed.

7 MR. MURPHY: I'm sorry. I just
8 wanted to finish the discussion about the
9 upper deck. David, do you have a concern
10 about the size of the upper deck that's
11 being proposed?

12 MR. DEITZ: Well, the upper deck is
13 smaller than the lower deck. And also, the
14 upper deck, I can see why they would have
15 the upper deck because it's on the main
16 level of the house. So, in some ways I
17 have less of a concern about that because
18 of the size and because of the obvious
19 convenience of it, which is not to say the
20 lower deck doesn't make sense also because
21 it's very uneven ground and you can't just
22 enjoy the space unless it's leveled off.

23 MR. KURTH: Mr. Chairman, may I?

24 CHAIRMAN MAGUN: Yes.

25 MR. DEITZ: What you were asking,

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2 what were you getting at though?

3 CHAIRMAN MAGUN: Let Mr. Murphy
4 finish. Go ahead, Brian.

5 MR. MURPHY: The upper deck that's
6 proposed on the side, is it going to be on
7 the same line as the house?

8 MR. KURTH: Yes, exactly.

9 MR. MURPHY: And the lower deck is
10 going to be --

11 MR. KURTH: As it is now. It's
12 5-foot 6 out further, and we wanted that
13 deck to --

14 MR. MURPHY: 5-foot 6 out to the
15 side?

16 MR. KURTH: Yes, close to the
17 property line.

18 If I may just raise a point which I
19 think addresses all of your concerns.
20 Again, as I've described it, that lower
21 deck to the Punter's is like -- that's
22 their yard. That's their safety confined
23 property. I feel by having this delicate
24 deck -- and it's big, let's face it. But
25 it's a deck that just floats above the

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2 landscape with the minimal disturbance to
3 the topography, to the existing conditions.

4 If I'm not mistaken, the Punters
5 could build a huge retaining wall, fill it
6 with earth at great expense and great
7 disruption to the property and have a
8 terrace which would be a landscaped area.
9 I know that terraces are landscaping and
10 decks are structures.

11 I mean, am I correct in that
12 assumption? That if you looked at that
13 lower deck with retaining walls and fill it
14 as a level playing area, and they would
15 still require then a fence for safety, it
16 would be more disruptive, I think less
17 esthetic, a lot more costly, and I don't
18 think we would need a variance for that.

19 CHAIRMAN MAGUN: Okay. We could
20 always think of worse things to do, I'm
21 sure.

22 You know, again, I'm just going to
23 reiterate, my concern is not so much the
24 lower deck, though I think it's very close
25 to the neighbor's property line, and

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2 because it's so big, I think it deprives
3 that neighbor of privacy. But that upper
4 deck, which extends some 10 to 12 feet
5 passed the rear-yard setback is, to me, you
6 know, a real issue.

7 The design, David, what your point
8 is, it's a great design. I think it's a
9 beautiful design. And when I finally
10 understood it, the two decks, it flows
11 beautifully. It makes a lot of sense. The
12 problem I have is that it's right on top of
13 the next door neighbor. I'm less concerned
14 with the projection into the rear yard.
15 And if it were pushed in, if both decks
16 were pushed in five or 10 feet, to me, you
17 know, and maybe the upper deck was aligned
18 with the house and the lower deck was
19 aligned with the house --

20 MR. KURTH: I think that's
21 feasible.

22 CHAIRMAN MAGUN: And the upper deck
23 was pushed in --

24 MR. KURTH: Sir, if I may?

25 CHAIRMAN MAGUN: That might be --

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2 MR. KURTH: The upper deck really
3 couldn't be pushed in without having a good
4 access with the doors out.

5 CHAIRMAN MAGUN: Right, you would
6 have to think through the design. But
7 again, that's my concern. This upper deck
8 that is, essentially -- you're calling it a
9 deck, but to me it's a very large balcony.
10 It's a very large balcony that overlooks
11 the next door neighbor. And, you know, if
12 I were that next door neighbor, I would --
13 and whether or not they're here or not, I
14 wouldn't really be happy suddenly standing
15 in my backyard and seeing this big balcony
16 overlooking my whole yard. And I think
17 it's intrusive.

18 MR. MURPHY: I share those exact
19 concerns. I would be -- I would rather see
20 the lower deck brought back to the side of
21 the house, and I would rather see the upper
22 deck scaled back a little bit more because
23 that is a very large deck and a very big
24 incursion on what amounts to a second
25 level, you know, given the landscape.

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2 MR. PYCIOR: To add to what my
3 colleagues have said, I too object to
4 mostly the upper deck because it does
5 extend I believe you said 35 feet.

6 MR. KURTH: 30 at the point.

7 MR. PYCIOR: At the point.

8 MR. KURTH: Yes, it averages about
9 16.

10 MR. PYCIOR: But it extends as deep
11 as the house is deep. The house appears to
12 be 35 feet deep, so the deck would be an
13 additional 35 feet.

14 CHAIRMAN MAGUN: In terms of the
15 interpretation --

16 MR. PERRY: Can I interrupt for one
17 second?

18 CHAIRMAN MAGUN: Come to the
19 microphone, please. Go ahead. Sure.

20 MR. PERRY: So, the zoning code
21 around the property, how far can you go
22 with your buildings or decks or whatever
23 you want to call them to your property?

24 MR. KURTH: 30 feet.

25 MR. PERRY: 30 feet.

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2 CHAIRMAN MAGUN: No, no, you can go
3 as far as you want from your house, but
4 there has to be a distance of 30 feet from
5 the deck to the rear yard.

6 MR. PERRY: To the rear of the
7 property line?

8 CHAIRMAN MAGUN: Correct.

9 MS. STECICH: Only if it's covered.

10 CHAIRMAN MAGUN: Correct, if it's
11 covered. And you can project another
12 six feet into the rear yard.

13 MR. PERRY: Yes, it's the same
14 thing in the front of your house. That's
15 pretty much the way the zoning is.

16 CHAIRMAN MAGUN: No, it's
17 different. It's different.

18 MR. PERRY: Okay. But in the rear
19 of your house, 30 feet from the base of the
20 house to the property line?

21 CHAIRMAN MAGUN: It has to be at
22 least a 30-foot setback between the
23 property line in the back and any structure
24 in the rear yard that's enclosed or
25 covered. We do allow a six-foot projection

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2 of a deck into the rear-yard setback.

3 MR. PERRY: If it's not enclosed?

4 CHAIRMAN MAGUN: Correct. That's
5 getting to understand it.

6 So, just in terms of voting, I
7 don't know if we need to do this, but I
8 think we should interpret what setback is
9 really required, as the building inspector
10 had asked us to do that. I think we should
11 do that. So, let's just deal with that
12 issue now because I think we discussed this
13 enough in terms of understanding.

14 So, for the upper deck, the
15 building inspector thought that this
16 required 30 feet, and I don't think there's
17 any discussion about that. Is that --

18 MR. SHARMA: Requires at least
19 30 feet for the upper deck.

20 CHAIRMAN MAGUN: Right. And the
21 lower deck is where -- and the reason I
22 think Mr. Sharma wanted an interpretation
23 is because the code allows a deck that's at
24 the level of the main entrance projects
25 six feet into the rear-yard setback. And

1 ZONING BOARD OF APPEALS - 12/14/2006
2 so the question is do we think this lower
3 deck -- and this lower deck is not
4 exactly -- is it essentially --

5 MR. SHARMA: It's below the main
6 entrance level.

7 CHAIRMAN MAGUN: Oh, so, it's below
8 the main entrance.

9 MR. SHARMA: And the code says
10 anything no higher than the main entrance
11 level can extend --

12 CHAIRMAN MAGUN: But you thought it
13 required interpretation because it's
14 connected to the upper deck?

15 MS. STECICH: Because it's covered.

16 CHAIRMAN MAGUN: And covered.

17 MS. STECICH: It's covered.

18 MR. SHARMA: It has another deck
19 above it, and I didn't want to use the word
20 covered, but it has something over it.

21 CHAIRMAN MAGUN: Because it's
22 covered by the upper deck, okay. So, let's
23 just interpret that and then we can go
24 ahead with the vote. How do we want to
25 interpret that? Any comments?

1 ZONING BOARD OF APPEALS - 12/14/2006

2 MR. PYCIOR: Well, as currently
3 designed where the upper deck does extend
4 out within four feet of the lower deck and
5 then stairs are also covering it, I would
6 interpret it as covered.

7 CHAIRMAN MAGUN: So, you would then
8 think that it should -- that no rear -- it
9 shouldn't be allowed to project six feet
10 into the rear-yard setback?

11 MR. PYCIOR: Yes, I think the
12 requirement should be 30 feet.

13 CHAIRMAN MAGUN: Okay. What about
14 you, Brian?

15 MR. MURPHY: I would agree with
16 that because these are so big, partly. And
17 also because the upper deck covers the
18 large majority of the lower deck, I think
19 you have to consider it to be a covered
20 structure.

21 CHAIRMAN MAGUN: Okay. Sheldon?

22 MR. SOROKOFF: I agree.

23 MR. DEITZ: Yes, that makes sense.

24 CHAIRMAN MAGUN: And I would agree.
25 So, we would require then both decks need a

1 ZONING BOARD OF APPEALS - 12/14/2006
2 30-foot setback. So then the variance
3 should read -- the applicant's requiring
4 then for the lower deck, they require
5 30 feet and then, therefore, their proposal
6 is, what? Existing is -- there is no
7 existing lower deck, and they're proposing
8 then --

9 MR. SHARMA: 14 feet.

10 MS. STECICH: 14 feet required.

11 MR. SHARMA: The variance --

12 CHAIRMAN MAGUN: And required is
13 30, okay. And then for the upper deck,
14 proposed is 14 and required is 30.

15 Is that correct then?

16 MR. SHARMA: Yes.

17 CHAIRMAN MAGUN: So, we have three
18 motions, three variances that the applicant
19 is requesting: The sunroom enclosure,
20 pre-existing sunroom, no change in the
21 footprint, and the two decks.

22 Any other discussion?

23 (No response.)

24 CHAIRMAN MAGUN: Is there a motion
25 with regards to the rear-yard setback for

1 ZONING BOARD OF APPEALS - 12/14/2006

2 the sunroom?

3 MR. MURPHY: Yes, I'll move to
4 approve the request for a variance for the
5 rear-yard setback to enclose the sunroom,
6 existing non-conformity is 12.2 feet,
7 30 feet required.

8 CHAIRMAN MAGUN: Is there a second
9 to approving this variance, request for a
10 variance?

11 MR. PYCIOR: I will second.

12 CHAIRMAN MAGUN: All in favor?

13 MR. DEITZ: Aye.

14 MR. SOROKOFF: Aye.

15 MR. PYCIOR: Aye.

16 MR. MURPHY: Aye.

17 CHAIRMAN MAGUN: Aye. So that
18 passes. The request is granted.

19 The second variance request is for
20 the lower deck, proposed 14 feet from the
21 rear yard where 30 feet is required.

22 Is there a motion to approve this
23 variance?

24 (No response.)

25 CHAIRMAN MAGUN: Is there a motion

1 ZONING BOARD OF APPEALS - 12/14/2006

2 to deny the variance?

3 MR. MURPHY: Yes, I will move to
4 deny the variance for rear-yard setback for
5 the lower deck, 30 feet required, 14 feet
6 proposed.

7 CHAIRMAN MAGUN: Is there a second?

8 MR. SOROKOFF: I will second that.

9 CHAIRMAN MAGUN: So the motion is
10 to deny the request for variance for the
11 lower deck. All in favor?

12 MR. MURPHY: Aye.

13 MR. PYCIOR: Aye.

14 MR. SOROKOFF: Aye.

15 CHAIRMAN MAGUN: David, how are you
16 voting? Do you need more time?

17 MR. DEITZ: No, I will vote against
18 that.

19 CHAIRMAN MAGUN: So, you're voting
20 against the vote to deny?

21 MR. DEITZ: Yes.

22 CHAIRMAN MAGUN: Okay. So, the
23 variance is denied of a vote of four to
24 one.

25 Then for the upper deck setback

1 ZONING BOARD OF APPEALS - 12/14/2006

2 where required is 30 feet, proposed is
3 14 feet, is there a motion in favor of
4 granting the upper deck variance? Now,
5 this would be a little tricky since the
6 lower deck variance was not granted. But
7 I'm willing to do it this way.

8 (No response.)

9 CHAIRMAN MAGUN: Is there a motion
10 to deny the rear yard?

11 MR. DEITZ: Wait, I move to approve
12 the setback, proposed setback for the upper
13 deck.

14 CHAIRMAN MAGUN: Okay. So, the
15 motion is to approve the request for
16 variance where proposed is 14 feet and
17 required is 30 feet for the upper deck.
18 All in favor of that?

19 MR. DEITZ: Well, is there a
20 second?

21 CHAIRMAN MAGUN: I'm sorry. Is
22 there a second?

23 (No response.)

24 CHAIRMAN MAGUN: Thank you for
25 asking that. So, there is no second.

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2 So, then could I have a different
3 motion from one of the members of the
4 board?

5 MR. MURPHY: Yes. I'll move to
6 deny the request for a variance for the
7 rear-yard setback on the upper deck,
8 19 feet existing, 14 feet proposed, 30 feet
9 required.

10 CHAIRMAN MAGUN: Is there a second
11 to deny the variance?

12 MR. SOROKOFF: I will second that.

13 CHAIRMAN MAGUN: All in favor?

14 MR. MURPHY: Aye.

15 CHAIRMAN MAGUN: Aye.

16 MR. SOROKOFF: Aye.

17 MR. PYCIOR: Aye.

18 CHAIRMAN MAGUN: Against?

19 MR. DEITZ: Nay.

20 CHAIRMAN MAGUN: One. Also, the
21 variance is -- the proposal to deny the
22 variance passed four to one. So, you were
23 granted a variance for the sunroom but not
24 for either deck.

25 MR. KURTH: Could I just ask, would

1 ZONING BOARD OF APPEALS - 12/14/2006
2 the board entertain a scaled-back proposal?

3 CHAIRMAN MAGUN: I think we all
4 heard the discussion, and it would be my
5 take on the discussion that a scaled-back
6 proposal on the deck, you would have to
7 redesign it, renotice it --

8 MR. KURTH: Of course.

9 CHAIRMAN MAGUN: -- would probably
10 be -- I think people would view that and I
11 think there was some agreement that that
12 might be a reasonable way to go.

13 MR. SOROKOFF: It's a lovely plan,
14 but the terrain is against you to start
15 with.

16 CHAIRMAN MAGUN: Okay, thank you.

17 MR. KURTH: Thank you.

18 MR. PUNTER: Thank you.

19 CHAIRMAN MAGUN: The next
20 application is Christopher M. Thomas, case
21 26-06, 114 James Street.

22 MR. THOMAS: Good evening. How are
23 you? My name is Christopher Thomas. I am
24 here with my wife, Christine Thomas. We
25 live at 114 James Street, and we're here in

1 ZONING BOARD OF APPEALS - 12/14/2006
2 support of an application for a variance.

3 CHAIRMAN MAGUN: You're supporting
4 your application?

5 MR. THOMAS: Yes, surprisingly
6 enough.

7 CHAIRMAN MAGUN: Why don't you tell
8 us what you want to do and why you need a
9 variance to do it.

10 MR. THOMAS: We would like to put a
11 shed dormer on the back of our house. It's
12 a one-and-a-half story cape code. We need
13 a variance because the house, as currently
14 situated, is pre-existing non-conforming as
15 to the rear setback. The addition we're
16 proposing would not enlarge the footprint
17 at all and would not increase the amount of
18 non-conforming space in the rear. It would
19 also not raise the height of the structure.

20 CHAIRMAN MAGUN: Why do you need
21 this variance?

22 MR. THOMAS: Well, our family is
23 growing. We have a daughter, we're
24 expecting another child and we're running
25 out of room. So, we would like to add some

1 ZONING BOARD OF APPEALS - 12/14/2006

2 space upstairs for our family.

3 CHAIRMAN MAGUN: I think most of
4 those questions that I just asked were
5 stated clearly in your request. I just
6 wanted to have you vocalize them. So, I
7 appreciate the clear statement that you
8 made.

9 I just want to clarify, though,
10 when you filled out the application for a
11 variance, you kept making reference to 8.87
12 and 14.87 from the rear yard. But it's
13 really -- your house, currently, because
14 you have that enclosed porch, is eight --
15 that's 8.87 from the rear-yard setback?

16 MR. THOMAS: Yes, that's correct.

17 CHAIRMAN MAGUN: Okay. So, that's
18 what currently exists. None of that would
19 change?

20 MR. THOMAS: Right. And the
21 addition would not be above that, so it
22 would not increase the height in that area.

23 CHAIRMAN MAGUN: So, the addition
24 is above the portion of the house that's
25 14.87 feet?

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2 MR. THOMAS: That's correct.

3 CHAIRMAN MAGUN: But just to be
4 technical, the house is still 8.87 feet
5 from the rear-yard setback?

6 MR. THOMAS: Correct.

7 CHAIRMAN MAGUN: Okay. And the
8 side-yard setbacks in this case are?

9 MR. THOMAS: Adequate, within the
10 code.

11 CHAIRMAN MAGUN: Okay. And you
12 have a shed on your property which you have
13 a variance for, I believe?

14 MR. THOMAS: I guess so, yeah. The
15 previous owner did that but, yes.

16 CHAIRMAN MAGUN: Yes, you do. And
17 I would add -- and I didn't -- we checked
18 into that because on your survey you should
19 put that shed. You need to put that shed
20 on your survey.

21 MR. THOMAS: Oh, okay, all right,
22 even though it's not a permanent structure,
23 still?

24 CHAIRMAN MAGUN: You know, when
25 somebody like me comes to look at the

1 ZONING BOARD OF APPEALS - 12/14/2006
2 property, if I see a shed there that's not
3 on the survey, I ask the building inspector
4 whether you had gotten a variance for that.

5 MR. THOMAS: Oh, okay.

6 CHAIRMAN MAGUN: Not a big deal.

7 MR. THOMAS: Sorry, I wasn't aware
8 of that.

9 CHAIRMAN MAGUN: If you ever sell
10 the house, it should be on there.

11 All right. Any questions about
12 this application?

13 Can you show us -- do you have any
14 other pictures other than what you gave us?

15 MR. THOMAS: Yes, I do. Just a
16 couple of pictures of the house from the
17 front.

18 CHAIRMAN MAGUN: And do you have
19 any of the elevations?

20 MR. THOMAS: I have all.

21 CHAIRMAN MAGUN: What you submitted
22 to us, I just want to look at those for a
23 second. You can grab the microphone.

24 MR. THOMAS: Sure.

25 MR. MURPHY: Mr. Thomas, I have one

1 ZONING BOARD OF APPEALS - 12/14/2006
2 question for you. First, thanks for your
3 statement. It was very clear. It was very
4 helpful. And I know one of the things you
5 want to do is add a bathroom --

6 MR. THOMAS: Yes.

7 MR. MURPHY: -- with the new space.

8 MR. THOMAS: Yes.

9 MR. MURPHY: How many bathrooms do
10 you have?

11 MR. THOMAS: One.

12 MR. MURPHY: Just one?

13 MR. THOMAS: Yes.

14 MR. MURPHY: You are going to have
15 a second bath and you are going to have
16 four in the house; is that what you're
17 telling me?

18 MR. THOMAS: Yes.

19 MR. MURPHY: Just to comment,
20 Mr. Chairman?

21 CHAIRMAN MAGUN: Yes.

22 MR. MURPHY: I think the lot is not
23 a big lot, so I think it's a good
24 application because they're not expanding
25 the footprint for the lot area. They are

1 ZONING BOARD OF APPEALS - 12/14/2006
2 staying within the confines of the existing
3 lines, and they're not expanding the height
4 at all to add to the second story. So that
5 all makes sense to me given the need
6 expressed by the applicant.

7 CHAIRMAN MAGUN: Yes. And when I
8 looked at the house, I did try to go around
9 and look at -- you know, you are,
10 essentially, adding the dormers, so the
11 question is from the neighbors' points of
12 view, is this going to really change
13 anything about how they see your property?
14 And I don't think it's going to have any
15 impact in any negative way on any of the
16 neighbors, just a little less air space in
17 Hastings, but that's fine. I think it's a
18 very nice way of getting more space without
19 encroaching into the setbacks, as
20 Mr. Murphy said.

21 Any other comments? Is there
22 anyone in the audience that wishes to
23 comment on this application?

24 (No response.)

25 CHAIRMAN MAGUN: Any other

1 ZONING BOARD OF APPEALS - 12/14/2006

2 questions from the board?

3 (No response.)

4 CHAIRMAN MAGUN: Okay. So, hearing
5 none, let me just look one more time. So,
6 the applicant's requesting a variance to
7 build a dormer onto the house without
8 changing the current existing footprint,
9 which is non-conforming, and required is
10 25 feet, existing and proposed is -- let me
11 just ask the building inspector.

12 14.87 feet, now, that goes to the back of
13 the house, not to the rear -- to the
14 enclosed --

15 MR. SHARMA: That is true. You
16 see, the portion where the addition is
17 being made, Marianne can advise on it, that
18 is 14.87, and that's what you need.

19 CHAIRMAN MAGUN: Marianne, could
20 you just help us on that for a second? I
21 don't know if it makes a big difference.

22 MS. STECICH: No, it's not a big
23 difference. I mean, the truth is it is
24 what it --

25 CHAIRMAN MAGUN: So, we're talking

1 ZONING BOARD OF APPEALS - 12/14/2006
2 about should the variance be to the porch,
3 even though the structure is being built
4 onto the house, which is 14.87?

5 MS. STECICH: Well, what I would do
6 is give only the variance proposed. So,
7 you wouldn't say you are giving a variance
8 for 14.87. You are giving the variance as
9 proposed at 14.87. If you give it to 8.87,
10 they could come out further.

11 CHAIRMAN MAGUN: Fine. So, we'll
12 do it as the way it's written. Very good.

13 Is there a motion in favor of
14 granting this variance?

15 MR. PYCIOR: I'll move to approve
16 the variance for the rear-yard requirement.
17 The requirement is 25 feet. The existing
18 and proposed is 14.87 feet.

19 MR. MURPHY: I'll second.

20 CHAIRMAN MAGUN: Second. All in
21 favor?

22 MR. DEITZ: Aye.

23 MR. SOROKOFF: Aye.

24 CHAIRMAN MAGUN: Aye.

25 MR. PYCIOR: Aye.

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2 MR. MURPHY: Aye.

3 CHAIRMAN MAGUN: Good lack. Passed
4 five to zero.

5 MR. THOMAS: Thank you.

6 CHAIRMAN MAGUN: Before we do the
7 next application, I just want to advise the
8 applicants, I'm going to recuse myself from
9 this application, and so you're only going
10 to have four board members. We're
11 expecting a fifth, who is late.

12 Let me explain to you what that
13 means. You still need to have three votes
14 in favor. So, instead of having five
15 members of the board on this application,
16 you're only going to have four members of
17 the board, which makes it a little harder
18 for you to have your case be passed if
19 there is any controversy about it.

20 If you want, you can choose to wait
21 for the fifth member of the board, and when
22 she appears, if she appears, we can hear
23 the case later tonight, if we have time.
24 You can also choose to adjourn the
25 application to January with the hope that

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2 you will have a full board then.

3 I'm happy to give you a couple of
4 minutes to think about that, if you would
5 like. We could take a five-minute break.
6 Do you understand? Because if I recuse
7 myself, there is only going to be four
8 voting members, and you need three no
9 matter what, whether there's five or four
10 people sitting up here.

11 Why don't you take a couple of
12 minutes to discuss that. We will take a
13 four-minute break and then we'll reconvene.

14 (Time noted 9:14 P.M.)

15 (Whereupon, there was a brief
16 recess taken.)

17 (Time noted 9:17 P.M.)

18 CHAIRMAN MAGUN: All right. We're
19 reconvening.

20 MR. MUELLER: We're going to go
21 forward.

22 CHAIRMAN MAGUN: You're going to go
23 forward. Mr. Pycior is going to chair this
24 portion of the meeting. I'm going to step
25 down.

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2 MR. PYCIOR: Sir, if you can
3 identify yourself for the board and the
4 public, and then tell us what you want to
5 do and why you want to do it.

6 MR. MUELLER: Good evening. My
7 name is Rene Robert Mueller. I'm the
8 architect. I'm at 5778 Moshoulu Avenue in
9 Riverdale, New York. I'm representing my
10 client, Ms. Kliot and Mr. Strauss in their
11 application of a variance. The nature of
12 the program is by extending a current use
13 in the family room making a large family
14 room.

15 The first variance is for the
16 family room, which is basically currently
17 used. You can see it on the current layout
18 right now. I indicated the front yard
19 which is required 30 feet. The current
20 residence goes up 18 feet. It has an
21 18-foot front yard.

22 To the right-hand side there is an
23 existing sunroom I will call it, or kind of
24 a family room. And the program is to
25 extend this on the right side, making it to

1 ZONING BOARD OF APPEALS - 12/14/2006
2 the right, staying in front line at the
3 18.3 feet. That's a variance we're asking,
4 No. 1.

5 The extent of the extension is not
6 just the family room, which is in the front
7 yard encroaching, it also is in the rear
8 which is in the building envelope, which is
9 a dining room and an extended deck. If I
10 may show this on the next.

11 MR. PYCIOR: Sir, could you please
12 take the handheld microphone?

13 MR. MUELLER: On this small scale
14 of the plan I showed the family room, which
15 is indicated as right here existing. The
16 new portion will be to the right-hand side,
17 and one sees in the 30-foot front yard,
18 that's the encroaching portion.

19 MR. PYCIOR: How deep will that be?
20 How far?

21 MR. MUELLER: This will be
22 four feet further out.

23 MR. PYCIOR: Four feet further out.

24 MR. MUELLER: Four feet. It
25 literally hits actually 13 feet to the side

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2 yard, 12 feet being required, okay. So,
3 that corner, which is the crucial building
4 envelope corner, is really encroaching in
5 the front yard. So, it is approximately
6 12 feet into the front yard and around.

7 MS. STECICH: You could come over
8 here, just don't tilt it that way.

9 MR. MUELLER: Okay. The rest of
10 the addition is in the rear side, which is
11 in the approved zoning areas.

12 The second variance is we have a
13 hard surface area planned for the deck,
14 wooden deck, and stone surface patio
15 stepping down along the grade on the lower
16 deck and embracing the pool or the jacuzzi
17 built in. So, the requirement in the
18 zoning is that hard surfaces can go up to
19 six feet, and we actually go up to one foot
20 to the property line.

21 MR. MURPHY: And that's all hard
22 scaped patio?

23 MR. MUELLER: It's partially. That
24 section on here, as the scale indicated,
25 and this upper portion, that's hard

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2 surface. The rest breaks the grade. It
3 comes out. That's a wood structure coming
4 out. The grade is very, very steep.

5 And I would like, actually, to show
6 you the book of pictures which shows you
7 from the street level to the main floor,
8 that's a drop of about 16 feet. There is
9 an existing retaining wall bracing actually
10 the grade, so the building really can be
11 walked around behind here which literally
12 buries this complete area here.

13 The overall total radical
14 difference from here on the front to the
15 back is around 40 feet. So, it's a level
16 change. And I would like to show you some
17 of these pictures, which is probably easier
18 to see.

19 In a bigger scale plan you can
20 actually then see, again, as I said, this
21 existing retaining wall where we bring this
22 family room further two more feet. We have
23 the hard surface and then the step down
24 onto the deck with the pool on the side,
25 which again, this is brought up to one

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2 foot. And the 12-foot side yard is
3 literally around here indicated in the
4 plans.

5 So, what we tried to do is really
6 to integrate as much as we can. And we
7 did, I think. The side yard into the
8 existing grading into both the neighbor's
9 side, so we're really not encroaching and
10 building up, you know, feet and feet. So
11 we're literally are in grade. We are on
12 grade to the neighbor with these
13 topographical areas of the stone patio, the
14 step down onto the deck.

15 Now, for your information, I have
16 pictures in there too. This is a current
17 lot which is around 80 feet wide. It's an
18 empty lot. And then the next door neighbor
19 is actually 80 feet plus on the other side.
20 Not to diminish it, but it's an
21 eight-and-a-half thousand square feet lot.

22 MR. PYCIOR: To whom does that
23 belong, do you know?

24 MR. STRAUSS: To the next door
25 neighbor.

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2 MR. MUELLER: To the next door
3 neighbor.

4 MR. MURPHY: I see. They own two
5 lots?

6 MR. MUELLER: It seems like, yes.
7 But meanwhile, not diminishing the area of
8 it, I'm just saying that we wanted to stay
9 along the grade on this side.

10 Now, what I want to show you, also,
11 in section again, these are the pictures.
12 Here it shows you --

13 MS. STECICH: Just on the list of
14 variances, I think there is one other one
15 that I don't think you mentioned, and
16 that's a variance from the requirement or
17 the ban on any paving or structures in a
18 required yard. It's on the notice here.

19 MR. MUELLER: Yes.

20 MS. STECICH: It's on the notice.
21 I don't know if you mentioned that. It's
22 on the notice. I'm just saying in the list
23 of variances it's, yet, a separate
24 variance.

25 MR. MUELLER: Yeah, two variances,

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2 one in the front and the side yard with
3 paving.

4 MS. STECICH: No, no, there's
5 three. There's the one -- the front-yard
6 variance.

7 MR. MUELLER: Yes.

8 MS. STECICH: Then the one on the
9 side yard because you're, you know, going
10 more than six feet. But then there's, yet,
11 another variance from the provision that
12 says you can't have any paving or
13 structures in the required yard. And in
14 the required yard you've got the jacuzzi
15 and the --

16 MR. PYCIOR: The deck and the --

17 MS. STECICH: Right. So, that's,
18 yet, another variance.

19 MR. MUELLER: If I could just
20 finish up my presentation on the plans.
21 You can see the side that cuts through the
22 side yard. Actually, where you see a road,
23 Overlook Road with the current retaining
24 wall embracing the house, you can see the
25 house actually by itself, and then you

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2 would have the main floor with the -- in
3 this one actually with the pool and then
4 the little deck surrounding it and then the
5 grade going further down.

6 MR. MURPHY: Which part is the
7 extension on the family room, please?

8 MR. MUELLER: That's the family
9 room here. And we stay on the same height.
10 I mean, we have actually differences that
11 (inaudible) the roof with (inaudible), but
12 basically, we stay at the same height where
13 the current one is. So, when you stand up
14 here, I mean, it still looks like you have
15 basically on the first picture.

16 MR. MURPHY: Thank you.

17 MR. PYCIOR: And you chose to
18 put -- or proposed the paving, the deck and
19 the spa on, I believe, it's the west. It
20 seems you have more space on the other side
21 of the house that would not involve
22 variances.

23 MR. MUELLER: Right, but the
24 function of the house itself leads to
25 the -- the house is oriented there with the

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2 kitchen, with dining and then the living
3 room, the former dining room and the family
4 room. Even though they have a deck out
5 here and the slope going down there, the
6 function really is where -- the current
7 function really is where this space could
8 embrace this deck outdoor space from the
9 family room, living room and the dining
10 room.

11 MS. KLIOT: Can I just say
12 something?

13 MR. MUELLER: Yes, please.

14 MR. PYCIOR: Could you please step
15 up to the microphone and identify yourself?

16 MS. KLIOT: I just wanted to say
17 the other reason for that -- my name is
18 Nancy Kliot -- was, one, to kind of retain
19 the integrity and the history of the house
20 and not to -- and to preserve kind of the
21 entryway and the original detail in the
22 house that was built in 1920. And the
23 second reason to go on that side of the
24 house is for the privacy and that it
25 doesn't really -- it's not visible from the

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2 street or really from anywhere except the
3 house that's beyond the lot, so that it
4 just seemed kind of tucked in there and
5 less disruptive.

6 MR. PYCIOR: Okay. Thank you.
7 Ms. Kliot, while you are here, part of a
8 variance is demonstrating the need. Would
9 you please address that? I understand the
10 need for an additional room and the family
11 room and the space behind it. What is the
12 need for the deck, the spa?

13 MS. KLIOT: On that side it is
14 really to access -- you know, we're sort of
15 built on a very steep hill, and our one
16 outside area that's usable is the deck on
17 one side. And in order to kind of access
18 the property on the other side of the
19 house, the deck was the first kind of
20 matter and then the hot tub was kind of --
21 also helped deal with the steepness of the
22 hill and for it not to be a huge drop.

23 You know, the need, I don't know
24 what you say about the absolute need of
25 that. But it was to integrate the whole

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2 plan and have it not -- have it to be
3 visually pleasing and in kind of a -- to
4 have a full picture of being not having a
5 huge drop.

6 And also the safety issue of kind
7 of getting around the house and not having
8 to do a huge structure of a deck all around
9 the house. But sort of keep it that
10 higher -- to level it out in a reasonable
11 way. It worked with the design of that.
12 And having -- we couldn't put a stone patio
13 or anything kind of further down because of
14 the grading and --

15 MR. MUELLER: Let me just add
16 something to what Mrs. Kliot said. The
17 rear side of the house is literally
18 45-degree sloping down. There is really
19 no, quote, rear yard. And it's kind of a
20 punishment, but yet, the silver lining is
21 you have a tremendous view.

22 And so, the idea was really in that
23 deck area out from the dining room and
24 living room, create an activity like a pool
25 with a small deck, and I say small. It is

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2 the deck around the pool is around six feet
3 in depth. So, they can really enjoy the
4 view at the same level, and again by not
5 having a gigantic rear yard. So, that's
6 why this was kind of tucked into the corner
7 in kind of a smaller version.

8 MR. PYCIOR: Do the members of the
9 board have questions for the applicant and
10 her representative?

11 MR. MURPHY: I have one question
12 about the -- can you give me an
13 approximation of the square footage of the
14 area of the proposed hard scaping, the
15 patio that leads down to the deck?

16 MR. MUELLER: Right. I mean, the
17 whole -- I have it in the variance
18 described. The whole area is around
19 770-square feet, which is the new area
20 established, okay, which is building from
21 the existing structure way, which is
22 liveable space, deck, hard deck and pool.
23 250-square feet is residential, new
24 structures. So, take this away, that gives
25 you around 500-square feet. For the rest

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2 of it is outdoor space.

3 MR. MURPHY: Just so I'm clear, so
4 on the house, the proposed dining room and
5 the extension of the family room is about
6 250-square feet?

7 MR. MUELLER: Yes.

8 MR. MURPHY: And the balance is
9 approximately 500?

10 MR. MUELLER: Yes, yes, that would
11 be all the outdoor, which is basically on
12 grade hard surface on wood structure with
13 crawl space, and then the pool itself. I
14 mean, the pool being the spa.

15 MR. MURPHY: And around the pool,
16 the decking area, is that going to be
17 fenced in or walled in, or is it already --

18 MR. MUELLER: No, these are
19 stonewalls basically bracing because we
20 have several levels in that -- let me show
21 you that section. We have basically a wall
22 towards the pool. The pool of the -- the
23 spa is down here with two feet below the
24 main floor. The deck around the pool is
25 another two feet down. So, it tiers down

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2 because we could not just build a deck
3 straight out and having it 20-foot high and
4 down. So, we really integrated in there
5 and integrated the pool in the stepping
6 fashion as well.

7 MR. PYCIOR: Thank you.

8 MS. KLIOT: The purpose really was
9 to make it more usable kind of a space.

10 MR. PYCIOR: Please identify
11 yourself.

12 MR. STRAUSS: Yes, hi. I'm Steve
13 Strauss. And you might already be aware of
14 it, but there is an existing stone patio in
15 the area that we're having a patio. So
16 it's crumbling. So, part of the need is
17 also simply to address that and improve it
18 at the same time.

19 MR. PYCIOR: Do other members of
20 the board have questions of the applicant?

21 MR. MURPHY: I have one other
22 question, maybe this is for counsel. On
23 the notice, at least what I have, it says
24 the side yard, it says six-and-a-half feet
25 required or 6/12.

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2 MS. STECICH: No, six --

3 MR. MURPHY: What is that? I mean,
4 I thought it was 12 feet.

5 MS. STECICH: It's 12 but it's six
6 if it's --

7 MR. MURPHY: Is that because of the
8 deck that's uncovered?

9 MS. STECICH: Right, an uncovered
10 deck can project six feet into the required
11 yard. But part of it needs to be 12 feet.
12 It isn't all deck.

13 MR. DEITZ: Also, the third
14 variance for paving, you said there was
15 existing paving already which is crumbling?

16 MR. STRAUSS: Yeah.

17 MR. DEITZ: Is that in the same
18 area that you're proposing to pave now?

19 MR. MUELLER: Right.

20 MR. DEITZ: So, there is something
21 that's existing?

22 MR. MUELLER: Yeah.

23 MR. MURPHY: Because our notice
24 says that there is nothing existing.

25 MR. MUELLER: Can I show you the

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2 photograph?

3 MS. STECICH: They are right here.

4 MR. MUELLER: Okay. It's actually
5 right here. That's really where the pool,
6 spa area would be. That goes right to the
7 drop is down. It's actually three feet
8 that I mentioned. This is three feet here.
9 You can see how the grade comes down here.

10 MR. DEITZ: I think it makes the
11 application easier for this third variance
12 if you say that there is some existing
13 paving already and tell us how much
14 additional paving you're planning to do,
15 that way we're not extending a brand new
16 variance. We're only, I don't know, maybe
17 giving you a variance to extend the paving
18 to a smaller extent.

19 MS. KLIOT: But I don't know if
20 it's extending. The existing paving does
21 go to the property line.

22 MR. MUELLER: Oh, yeah, up to
23 three feet.

24 MS. KLIOT: I don't even know if
25 it's even extending.

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2 MR. MUELLER: Is what?

3 MS. KLIOT: Extending. Is the
4 paving extending?

5 MR. MUELLER: No, no, the hard
6 surface goes up to three feet to the
7 property line.

8 MR. MURPHY: Do you have any idea
9 how much new square footage would be paved
10 in addition to what's already there?

11 MR. MUELLER: If you're talking
12 about the hard surface, you are just
13 talking about this area here right now.

14 MR. MURPHY: Yes.

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

17 MR. MUELLER: The existing area is
18 130-square feet. And the new one would be
19 around 210-square feet.

20 MR. DEITZ: 210 you are saying?

21 MR. MUELLER: Yeah. So, it is --

22 MR. DEITZ: So, it's another
23 80-square feet. And then in the second
24 variance, the side yard, it says existing
25 18.4.

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2 MR. MUELLER: That's (inaudible)

3 THE REPORTER: That's what?

4 MR. PYCIOR: Side yard.

5 MR. MURPHY: It says for the side
6 yard.

7 MR. MUELLER: Okay. 18.4 existing.

8 MR. DEITZ: Total, it says one
9 foot. Now, there is paving that you said
10 goes within three feet of the side
11 boundary, but that's not a structure.
12 That's just paving.

13 MR. MUELLER: That's paving, yes.

14 MR. DEITZ: And this is a
15 structure, but what is the structure? This
16 structure is the pool.

17 MR. MUELLER: The 18.4 you are
18 talking about?

19 MR. DEITZ: This is the patio, spa
20 and deck?

21 MR. MUELLER: Right.

22 MR. DEITZ: Side yard, it's
23 variance No. 2.

24 MR. MUELLER: The spa, the spa is
25 from the side yard is five feet.

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2 MR. DEITZ: From the property line?

3 MR. MUELLER: Yeah. I mean, if you
4 consider the spa edge or the wall which
5 encloses the spa, the spa would be seven
6 feet away. If you are talking about the
7 retaining wall, which you need for the spa,
8 then you are five feet away.

9 MR. DEITZ: What is it that comes
10 within one foot of the property line?

11 MR. MUELLER: That's the hard
12 surface.

13 MR. PYCIOR: The hard surface?

14 MR. MUELLER: Yes.

15 MR. PYCIOR: Because it appears
16 also that the decking around the spa --

17 MR. MUELLER: Here, hard surface
18 and then the deck which goes around.

19 MR. MURPHY: Our question is with
20 respect to the deck, it has a fence around
21 it.

22 MR. MUELLER: A railing.

23 MR. MURPHY: Does the railing
24 itself come to within one foot --

25 MR. MUELLER: Yes.

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2 MR. MURPHY: -- of the side yard?

3 MR. MUELLER: Yes. It would have
4 to be basically within the code. Yes, the
5 railing would be a horizontal wire railing.
6 It wouldn't be a picket railing.

7 MR. DEITZ: I see. So, it's not
8 just hard surface.

9 MR. MUELLER: Yeah.

10 MR. DEITZ: But on the other hand,
11 it's just a railing that's close and it's
12 required for safety reasons.

13 What I'm getting at is the
14 variances that you are seeking are, in some
15 ways, not really as severe as they're
16 painted by the black and white of what it
17 says. You are talking about a railing, but
18 it's really a hard surface, and the railing
19 is there for safety.

20 MR. PYCIOR: But it's a railing
21 with a deck that's aboveground.

22 MR. MUELLER: That's right.

23 MR. PYCIOR: To fit the slope. How
24 tall is the decking around the -- at its
25 tallest point, the decking around the pool

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2 from the ground?

3 MR. MUELLER: You have this area
4 right here is literally level with the
5 grade here. Then it's steps, then it
6 comes -- the grade continues down, okay.
7 So, this comes out one-and-a-half feet out,
8 then you are going to get the grade going
9 down the steps going down. Then here we
10 are three feet from this point to that, and
11 then they always -- the grade goes further
12 down, then we go further out. So, the
13 highest point is -- I would say it's
14 actually four feet from here to here.

15 MR. PYCIOR: In the back though at
16 the back of the deck would be --

17 MR. MUELLER: Here. It would be
18 six feet, six-and-a-half feet.

19 MR. PYCIOR: Okay.

20 MR. MURPHY: I have another
21 question. With regard to the existing
22 side-yard setback it says 18.4.

23 MR. MUELLER: Yeah.

24 MR. MURPHY: Is that to the side of
25 the house or something else?

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2 MR. MUELLER: No, that's the
3 existing side right now.

4 MR. MURPHY: It is, got you. Thank
5 you.

6 MR. PYCIOR: Any other questions
7 for the applicant?

8 (No response.)

9 MR. PYCIOR: Is there anyone in the
10 audience that wishes to be heard in support
11 of this application?

12 (No response.)

13 MR. PYCIOR: Is there anyone in the
14 audience who wishes to be heard in
15 opposition to the application?

16 (No response.)

17 MR. PYCIOR: Okay. Do the board
18 members have any more questions for the
19 applicant, or do we want to discuss things
20 among ourselves? Comments?

21 MR. MURPHY: No, I am prepared to
22 move on. It's the chairman's prerogative
23 to start, if you wish.

24 MR. PYCIOR: I must say, I'm not
25 bothered at all by the first variance. The

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2 addition to the house seems reasonable.
3 The patio, spa and deck taken as a whole
4 bothers me because it is so close to the
5 neighbor's property, albeit, nobody lives
6 there right now. It's a buildable lot
7 though.

8 MS. KLIOT: No, it's not a
9 buildable lot.

10 MR. PYCIOR: It's not?

11 MR. MUELLER: The lot itself is
12 below 10,000-square feet. Based on the
13 zoning, it has to be 10,000-square feet.
14 There is 8,500 apparently.

15 MR. PYCIOR: I stand corrected. It
16 still bothers me because there's a sizeable
17 deck on the other side of the house, and
18 now we would have two very large decks. I
19 could understand why someone would want a
20 spa and a patio, but I don't know
21 necessarily if the want is enough to
22 demonstrate need, especially a structure so
23 close to the property line. But that's my
24 opinion. I would like to hear from the
25 other board members.

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2 MR. MURPHY: Yes, I mean, the same
3 thing bothers me, Stanley. It's difficult
4 because it makes a difference to me with
5 respect to the lot next door. Why is that
6 not buildable?

7 MR. STRAUSS: With the lot I think
8 it is between 80 and 85 feet. Its depth is
9 100. So, it's probably under 8,500-square
10 feet in a zone that requires 10,000.

11 MR. MURPHY: Marianne, can you give
12 me some legal advice?

13 MS. STECICH: Not necessarily.

14 MR. MURPHY: Because it makes a
15 difference to me on this application.

16 MS. STECICH: I can't say for sure
17 because I don't know if the lot was a
18 buildable lot pre-zoning. It gets
19 grandfathered in, unless that lot at some
20 point was zoned by the person who owns it
21 next door in the same neighborhood. So,
22 that if Deven Sharma owned the house in
23 that lot, then it merged. It's considered
24 merged, even though it may be on the tax
25 roll as separate lots.

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2 If, however, one was owned by Deven
3 Sharma and the 8,500 foot was owned by Jane
4 Sharma, I don't know what your wife's name
5 is, and Jane Sharma owned -- and it was
6 never in common ownership, it's possible
7 that that lot could be built on. But,
8 obviously, it's not an easy inquiry.

9 MR. MURPHY: See, at least the
10 difficulty I have is when you balance the
11 need, it's not unlike the first application
12 we heard tonight. You have a steep slope,
13 people are trying to access the outside
14 area of the house. But it's a very
15 significant incursion into the side yard.
16 I mean, you are moving from an existing
17 18.4 feet, 12 is required minimum, go to
18 one foot, you know, that's significant.

19 MR. MUELLER: But that's a
20 building. You compare a building to
21 a pavement.

22 MR. MURPHY: Understood. It's a
23 much less area because it's the deck and
24 the railing, essentially. That's what's
25 aboveground, right, it's next to that lot?

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2 MR. MUELLER: Right.

3 MR. STRAUSS: Could I re-emphasis
4 that we have a patio there that comes
5 straight to the -- there is an existing
6 patio that comes straight to the property
7 line. I don't know if you want to pass out
8 photographs of that patio.

9 MR. MURPHY: No, no, we have seen
10 it. And that helps too because part of the
11 third variance, at least when I read it, I
12 didn't understand that there was anything
13 there because the notice says that there's
14 nothing there. And that makes a
15 difference, obviously, how we view the
16 application.

17 MR. SHARMA: May I clarify this?

18 MR. MURPHY: Hang on a second. I
19 want to make sure I understand. But what
20 is existing is about 130-square foot of
21 hard patio stone or what-have-you. And the
22 new proposal would push that out to about
23 250.

24 MS. STECICH: 210.

25 MR. MURPHY: 210, excuse me, okay.

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2 Well, in any event, I'm a little bit
3 concerned. It makes a difference to me if
4 nobody can build on that lot because if
5 nobody can build on that lot, then what's
6 the point? I mean, you know what I'm
7 saying, Deven? For me that makes a big
8 difference in this application because
9 there's no neighbor to worry about.

10 I mean, part of our job is to worry
11 about neighbors both now and in the future.
12 So, we're not trying to give you a hard
13 time. We're trying not to set a bad
14 precedent or be inconsistent with what we
15 have done before. This is a significant
16 incursion into the side yard. But if the
17 lot next door can't ever see a building
18 structure, then you've got lots of buffer
19 space which makes all the difference in the
20 world for us.

21 MR. STRAUSS: Can I address the
22 adjacent lot? The previous owner owned his
23 house and the adjacent lot. So, as far as
24 we know, he built the house. He was an
25 architect. He wanted to try to sell that

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2 lot as a separate buildable lot and didn't
3 succeed when he was looking to sell the
4 house.

5 MR. MURPHY: The previous owner of
6 your home?

7 MR. STRAUSS: The previous owner of
8 the adjacent house.

9 MS. KLIOT: Next door. He was the
10 only owner. He built the house on the
11 entire property. I don't know if it was --
12 as far as we know, it was all in his name
13 and he sold it to our neighbors who are the
14 second owners.

15 MS. STECICH: See, the only thing
16 is you don't know for sure. Because I have
17 seen it over the years, an awful lot of
18 people checker boarded their ownership if
19 they had multiple lots, and yet, the
20 husband owned one and the wife owned one so
21 that they wouldn't merge. So, we don't
22 know.

23 I'm not saying that's what happened
24 there, and you wouldn't know because it was
25 the same family that owned it. You don't

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2 know. We would have to look at the --

3 MS. KLIOT: We did investigate.

4 This is before any of this. And did, you
5 know, asked the Building Department. We
6 were told that it's definitely not a
7 buildable lot. That's by whoever was down
8 here. But I don't know, and our neighbors
9 are, you know, very well. They have seen
10 the plans.

11 MR. MUELLER: You didn't choose --
12 I mean, you know, in terms of side yard,
13 extending the side yard towards -- I mean,
14 it was contemplated on it, but seems there
15 was nothing happening there, no reason to
16 buy. But there was definitely a kind of
17 thinking process going on.

18 MR. MURPHY: No, see, David, I
19 would like to hear your thoughts because
20 for me, the third variance is much easier
21 now because there's a significant existing
22 patio in place.

23 MR. DEITZ: Exactly.

24 MR. MURPHY: And expanding it by
25 80-square feet, to my mind, is reasonable

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2 under the circumstances.

3 MR. DEITZ: Right, I agree with
4 that.

5 MR. MURPHY: The problem I am
6 having --

7 MR. DEITZ: My inquiry before, and
8 I extend that to the variance No. 2,
9 because it says existing 18.4, proposed one
10 foot. That looks like a large draconian
11 increase in the variance that's being
12 requested.

13 But the reason that it's one foot
14 is that, technically, you're required to
15 measure to the nearest structure. The
16 nearest structure is the safety railing.
17 And the nearest structure is a deck, which
18 is another hard surface. Now, I know it's
19 treated differently than just paving over,
20 but this is very difficult terrain to build
21 on or to improve. And so, I'm more
22 inclined to go along with it because
23 they're using the materials that they're
24 using for a good reason. And it's not
25 really going to be much more of an

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2 encroachment than it is now. Right now you
3 have three feet to the paving and now
4 you're going to have one foot to the
5 railing. But what you really have is a
6 hard surface.

7 MR. PYCIOR: Yes, I should remind
8 everyone that although the paving is only
9 going to be increased from 130 to 210, the
10 square footage of the spa, the deck, the
11 railings is 520-square feet. So, we're
12 actually increasing the whole thing by
13 390-square feet.

14 MR. MURPHY: Oh, I see.

15 MR. DEITZ: But this is not really
16 usable space the way it is in the natural
17 state. And instead of that, they're
18 turning it into something that's
19 attractive.

20 MR. MURPHY: But I think the issue
21 is you are increasing quite a bit of square
22 footage close to the property line.

23 MR. DEITZ: Right.

24 MR. MURPHY: Well, when you balance
25 that against the need, you know, it's hard

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2 for me --

3 MR. DEITZ: You know, I don't know
4 if need is the right -- is the useful
5 concept here because this is more like a
6 decorative type of luxury. That's not bad.
7 It improves the neighborhood.

8 MR. MURPHY: No question. There's
9 no question. But I don't know, at least in
10 my time on the board granting a variance to
11 that degree for that use is not something
12 we've -- that I've done.

13 MR. DEITZ: Even I was concerned
14 when I saw the one foot, but I'm somewhat
15 less concerned for the reasons I was trying
16 to explain.

17 MR. PYCIOR: I would just go along
18 with what Mr. Murphy said. I'm afraid of
19 the precedent too, that we're permitting a
20 sizable structure paving deck spa within
21 one foot of the property line.

22 MS. KLIOT: Can I add something?
23 The other issue about that deck kind of hot
24 tub level is that it's even lower and
25 really not hardly visible from the street.

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2 It's only visible from that other yard.

3 It's kind of really tucked in down there.

4 And the other issue, I don't know

5 how this comes into play, but landscaping

6 is definitely -- you know, we are very

7 aware of. And I hope the landscaping --

8 you would think that it would have some.

9 But I don't know. But, you know, clearly

10 we have that kind of respect for our

11 neighbors and propose landscaping too.

12 MR. MUELLER: I mean, if one stands

13 as the picture indicates, if you stand up

14 here, I mean, it's literally the house is

15 disappearing. The decks we are proposing

16 here, they are literally diminished. I'm

17 not saying they are not there, but there is

18 also tremendous tree growth along that line

19 there, which, obviously, one would

20 maintain, obviously.

21 So, it's not like there is a

22 structure or some height being encroached

23 into the neighbor. It is on grade as it

24 slopes down. The impact is minute to go

25 close as we want.

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2 MR. MURPHY: Well, it's minute,
3 except if somebody can build on that lot
4 next door if they were within 12 feet on
5 their side of the line. See, that's why it
6 makes a difference to me because I have to
7 take that possibility into account. And if
8 you could eliminate it, it makes this
9 application unique. And in my mind, that
10 makes the difference because then I don't
11 have to worry about any neighbor in the
12 future being there within 12 feet, and
13 that's what we worry about.

14 MS. KLIOT: Is this answerable?

15 MR. PYCIOR: That's what I was
16 going to ask.

17 MS. STECICH: Well, I said I can't
18 tell you right now. It's not an inquiry
19 that would be very difficult to do. I
20 would just have to check the books
21 downstairs. Maybe it could be resolved.

22 MR. MURPHY: Can we do that?

23 MS. STECICH: Not now. But chances
24 are like 90 percent that I could tell from
25 looking at the village clerk's records. It

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2 may be there, it may not.

3 MR. PYCIOR: It might ease my
4 concerns if I knew it could not be built.

5 MS. STECICH: So, I don't know
6 whether -- I mean, given the weather, it's
7 probably not likely that you were going to
8 start building soon, and maybe it's worth
9 adjourning it to just check that.

10 MR. PYCIOR: Could we not vote on
11 the first variance which only involves the
12 house?

13 MS. STECICH: You can vote on that
14 and put the other one off.

15 MR. PYCIOR: And then refer the
16 other pending or ascertaining --

17 MS. STECICH: And I will find out
18 right away so you know by the next meeting.

19 MR. MUELLER: Yes.

20 MR. PYCIOR: Is that okay?

21 MR. MUELLER: Yes, I think so.

22 MR. MURPHY: Yes, if that's
23 acceptable to the applicants, I would
24 certainly like to see that. I would like
25 to see us proceed in that way.

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2 MR. PYCIOR: I haven't heard
3 negative comments concerning the first
4 variance, which concerns enlarging the
5 house. Perhaps we can decide that tonight.
6 But I would like to see put over until the
7 next meeting so we can determine the
8 ownership of the lot and the status of the
9 lot. Is that acceptable to the applicant?

10 MS. KLIOT: Yes.

11 MR. PYCIOR: Is that acceptable to
12 the board?

13 MR. MURPHY: Yes.

14 MS. STECICH: Could I get the
15 address of that lot next door? Do you know
16 the address?

17 MS. KLIOT: 70 Overlook Road.

18 MS. STECICH: 70 Overlook?

19 MR. STRAUSS: Yeah, the lot in
20 between is 74. So, there's 70 and then 74.

21 MR. PYCIOR: Thank you, Marianne.
22 That will be so helpful.

23 Are there any other questions from
24 members of the board?

25 (No response.)

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2 MR. PYCIOR: As to the first
3 variance, which is the front-yard variance,
4 existing and proposed non-conforming
5 18.3 feet, required 30 feet, does any
6 member of the board wish to make a motion?

7 MR. MURPHY: Yes, I'll move to
8 approve the front-yard variance, existing
9 and proposed non-conforming 18.3 feet,
10 30 feet required.

11 MR. PYCIOR: Do I have a second?

12 MR. SOROKOFF: I'll second that.

13 MR. PYCIOR: All in favor?

14 MR. DEITZ: Aye.

15 MR. SOROKOFF: Aye.

16 MR. MURPHY: Aye.

17 MR. PYCIOR: Aye. You have been
18 granted that variance. We will put you on
19 the agenda of next month's meeting. We
20 won't have to rehear all the evidence or
21 testimony. We'll ask the board member who
22 is not here tonight, Ms. Furman, to review
23 the minutes and the tape, and that way you
24 can have the benefit of a full board, that
25 is you would only need three out of five

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2 votes rather than three out of four votes.
3 Thank you.

4 MR. MURPHY: Thank you.

5 CHAIRMAN MAGUN: If we could take a
6 one-minute break?

7 (Time noted 9:57 P.M.)

8 (Whereupon, there was a brief
9 recess taken.)

10 (Time noted 9:58 P.M.)

11 CHAIRMAN MAGUN: We're going to
12 continue with our meeting. We're now on
13 Case No. 28-06. Let me just announce to
14 some of the people who may have walked in
15 late, we're going to end the meeting at 11.
16 I see a lot of people in the audience. And
17 after this case, we're probably going to go
18 to the Tarricone case. And then after that
19 we'll go to the Griffin/Wolf case. I'm
20 just giving you some idea of the agenda.

21 So, this is case 28-06, Stuart and
22 Teresa Snider-Stein, 125 Overlook. And the
23 applicant is before us requesting two
24 variances, one for a front yard and one for
25 a building height.

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2 Are you here to discuss this, sir?

3 MR. HEITLER: Yes. Josh Heitler,
4 Lacina-Heitler Architects, Two Sunset
5 Street, Hastings-on-Hudson for Stuart and
6 Teresa Stein. And we actually have small
7 versions of everything we have on the
8 boards, so I wouldn't mind passing those
9 over. If I may, just by way of --

10 CHAIRMAN MAGUN: I think we got
11 this already.

12 MR. HEITLER: We modified it a
13 little bit. So, this is exactly what's
14 here so you don't have to squint and I
15 don't have to carry them up.

16 CHAIRMAN MAGUN: Thank you.

17 MR. HEITLER: Just by way of
18 introduction, the Steins have a fairly
19 large piece of property for this area of
20 Hastings. It's an R-10 zoning, so their
21 allowable lot coverage is 25 percent. They
22 currently use 9.2 percent of the lot. And
23 we're proposing only to go to 9.6 percent.
24 So, the overall impact on coverage to the
25 lot is small.

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2 Basically, two variances, as you
3 mentioned, one for height, which we'll talk
4 about later. The second is for front-yard
5 setback. And in essence, what we're doing
6 is we're adding on to an existing
7 undersized office on the ground floor which
8 basically squares off the existing
9 non-conforming front-yard setback.

10 And actually, just in terms of the
11 front and the foundation wall, the new
12 corner that we're making is actually
13 23 feet from the property line, a little
14 over 23 feet, which is greater than the
15 smallest point that we currently have of
16 20. So, in our squaring off, we're no
17 closer than we were to the existing
18 non-conforming condition.

19 We are, however, adding a porch
20 addition in front of that, which would take
21 us to 18 feet 3 inches at the smallest
22 point which replaces our (inaudible) back
23 to grade that we had initially. And then
24 our second floor additions are all above
25 existing one-story first floor areas. So,

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2 there is no projection beyond the existing
3 footprint on the second floor.

4 Just quickly, these are the
5 existing plans. And again, just as a way
6 of just, I guess, speaking to need as well,
7 the intention here is to extend a couple of
8 sort of substandard rooms as close to the
9 existing house as possible using as much
10 existing foundation as possible.

11 So, on the first floor we're adding
12 this area here to enlarge this sort of
13 oddly small office into a more usable
14 space. And again, as a result, we're
15 projecting the porch forward to replace
16 these stairs to get back to grade.

17 CHAIRMAN MAGUN: I'm sorry, on that
18 drawing, where is Overlook?

19 MR. HEITLER: This, just to key it
20 back in, is actually totally the other way.
21 So, Overlook is the front here, Dorchester
22 is here.

23 CHAIRMAN MAGUN: Okay.

24 MR. HEITLER: On the second floor,
25 they currently have an undersized second

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2 bedroom where the existing attic access is
3 through that bedroom. So, the intention on
4 the second floor is to make this a more
5 usable-sized bedroom, and also expand the
6 master suite and add a second bathroom.

7 So, in total on the ground floor
8 and second floor, they currently have three
9 bedrooms and one-and-a-half bathrooms.
10 They would like to have a master bathroom.
11 Collaterally, there will be a little more
12 crawl space on the basement, and we will
13 have to reframe the roof somewhat to
14 accommodate our second floor changes.

15 These are the proposed plans. And
16 what is shaded here is the existing
17 footprint below. So, again, you can see
18 we've made this into a more usable office.
19 We've expanded this into a full bath so
20 this could be a sometimes guest room.

21 But the only additional enclosed
22 square feet is this small corner, and I've
23 changed the porch to accommodate it.
24 Upstairs we now have a large bedroom here,
25 a master and a second bathroom. Again, the

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2 shaded area is the former footprint. All
3 of this addition is above existing roof
4 over existing first floor areas. Again,
5 the addition of a crawl space and the
6 larger attic area are as we reframe the
7 roofs over this addition.

8 MR. PYCIOR: Mr. Heitler, how deep
9 is the proposed new porch, front porch?

10 MR. HEITLER: The depth itself?

11 MR. PYCIOR: Yes.

12 MR. HEITLER: It's about, I
13 believe, six feet.

14 MR. PYCIOR: Thank you.

15 MR. HEITLER: Maybe just before I
16 speak to the height variance, just to
17 finish off on this. I mean, our general
18 thinking, back to the site plan, as we just
19 would like to note that because this is a
20 corner lot, the zoning treats it with two
21 front-yard setbacks. And the grade here, I
22 know you're probably familiar with, there's
23 a grade down Dorchester this way and then
24 further down Overlook that way.

25 And you know, this front yard, as

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2 we understand front yard in zoning, is a
3 sort of, you know, a gift to the public
4 realm, a setback sense of relief. No
5 matter what we do here, there is a
6 retaining wall that averages about 10 feet
7 that's right on the sidewalk because of the
8 way the grade goes. So, in essence, some
9 of what we're doing here, which I maintain
10 is fairly subtle, will not have any impact
11 on the sidewalk where you are standing next
12 to a 10-foot high stonewall, not an
13 uncommon condition for Hastings.

14 And then we would further add that,
15 you know, in terms of a front setback, they
16 have in excess of the 30 feet. It's
17 actually 40 feet across the much larger
18 dimension of the site which they are giving
19 back to the public realm. Again, they
20 have --

21 CHAIRMAN MAGUN: Excuse me, what do
22 you mean you're giving back to the public?

23 MR. HEITLER: Meaning that it's
24 available. It doesn't encroach on the
25 sidewalk. It's landscaped, just open. To

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2 me that's the intention of a front lot
3 setback.

4 CHAIRMAN MAGUN: Okay.

5 MR. HEITLER: That may be my
6 interpretation and incorrect.

7 So, in terms of where they've --
8 they're sort of penalized for being a
9 corner lot and having two front yards. I
10 guess the point is they fulfilled whatever
11 purpose the front yard has in space along
12 Dorchester and they have an Overlook
13 address, but they're access is from
14 Dorchester. In fact, to walk here, you
15 would have to park on Overlook, which is
16 virtually impossible given the width of the
17 street. So, those are sort of our
18 reasonings behind why we went this
19 direction in our appeal.

20 In terms of the height variance
21 issue, again, it's a difficult site. It
22 slopes in two directions. And so in
23 applying, what we understood the zoning,
24 which is basically to take the grade line,
25 extend it 35 feet. On two of our

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2 elevations, that doesn't actually impact
3 our building. On two it does.

4 We understand that if you could
5 actually model the complicated plane of a
6 landscape, move it up 35 feet, we would
7 definitely pierce that plane. But in sort
8 of a way it's, we would say, so complicated
9 to understand, I'm not sure how perceptible
10 it is. But in any case, we're asking for,
11 I believe, it is 39 feet, so four
12 additional feet, which we believe is the
13 worst case as much as we can understand it
14 from sort of --

15 CHAIRMAN MAGUN: Well, can you
16 explain it to us? Because if you can't
17 understand it, we're not going to be able
18 to understand it either.

19 MR. HEITLER: Well, basically, what
20 the zoning code --

21 CHAIRMAN MAGUN: No, I know what
22 the zoning code is. Can you show us
23 where --

24 MR. HEITLER: Well, here the 35
25 foot goes over the top. Here it goes over

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2 here. In this instance it's here, and in
3 this instance it's here. And that's just
4 by projecting up the existing grade
5 adjacent to the house. But it's kind of an
6 abstraction because you can take it 20 feet
7 from the house, five feet from the house.
8 It graphically shows in the code as what
9 would be in that elevational section.

10 CHAIRMAN MAGUN: Mr. Sharma, can
11 you help him with that? I don't think it's
12 that --

13 MR. HEITLER: Yeah, we spoke.

14 CHAIRMAN MAGUN: It shouldn't be
15 that obtuse. It should be a little
16 clearer.

17 MR. SHARMA: The idea -- again, the
18 concept, if you take from the code book the
19 way it's drawn, if you take the grade the
20 way it exists now and you create a
21 hypothetical grade 35 feet above parallel
22 to it, the building should stay within that
23 plane you see.

24 And the only way to see it the way
25 he is trying to do it is to see it from the

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2 front angle, then one would go this way.

3 And he is drawing a line parallel to the
4 grade 35 feet and above. And over in one
5 scenario it does seem to penetrate that
6 plane and goes beyond.

7 MR. HEITLER: But just to be clear,
8 we're not denying that we're above 35 feet.

9 CHAIRMAN MAGUN: Can you explain to
10 us what portion of the house is above
11 35 feet?

12 MR. HEITLER: Can I just step back
13 for one second?

14 CHAIRMAN MAGUN: Yes.

15 MR. HEITLER: We're not denying
16 that it's above 35 feet. The reason why I
17 said it's tough to answer that question is
18 that any elevation is an abstraction of the
19 grade, which is, in fact, a complicated
20 three-dimensional thing.

21 So, if you were to look at this
22 elevation, none of it is above 35 feet. If
23 we take the grade that's drawn at the rear
24 elevation, none of it pierces it. If we
25 take the grade as it's drawn in this

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2 elevation, there is probably like an inch
3 over there.

4 But on these two cases, we are as
5 much as three or four feet below. Here,
6 this is probably the best and the most
7 instructive one. As our worst case
8 scenario, we're three feet above where --

9 CHAIRMAN MAGUN: Three or four feet
10 below or three or four feet above?

11 MR. HEITLER: Above. I'm sorry.
12 The line is three or four feet below where
13 our --

14 CHAIRMAN MAGUN: Is it three or
15 four?

16 MR. HEITLER: Three. We've asked
17 for --

18 MS. STECICH: It's here.

19 CHAIRMAN MAGUN: No, I've seen the
20 drawings. You know, when you're presenting
21 to us in some amorphous kind of vague way,
22 it's hard to understand. We can't vote on
23 that.

24 MR. DEITZ: The grade on the side
25 of the house is different.

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2 CHAIRMAN MAGUN: I understand. I'm
3 just asking him to tell me where it is
4 different. I mean, where it is exactly.
5 We have been through this many years.

6 MR. HEITLER: I apologize.

7 CHAIRMAN MAGUN: It shouldn't be
8 that vague.

9 MR. HEITLER: Okay. Let me make
10 it -- in our worst case scenario, we are
11 three-foot four-and-a-half inches above,
12 above the projective 35 foot grade line.
13 And we're asking for --

14 CHAIRMAN MAGUN: And what elevation
15 is that? That's the?

16 MR. HEITLER: East.

17 CHAIRMAN MAGUN: The east
18 elevation, okay.

19 MR. MURPHY: That's facing the
20 front of the house from Overlook; right?

21 MR. HEITLER: Correct.

22 MR. PYCIOR: And from the lowest
23 point of the property, which is to the left
24 of the house?

25 MR. HEITLER: Correct. Well, the

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2 whole line goes with -- so, here is the
3 grade line, and then 35 feet in the air is
4 a parallel projection to that. And the
5 distance from that projected 35-foot line,
6 which is what we understood from Deven, who
7 knows how to do it, is a difference of
8 three foot four. Because we think it's
9 complicated, we asked for four feet, just
10 to make sure we weren't --

11 CHAIRMAN MAGUN: And just to make
12 it a little simpler then, how many feet --
13 can you tell us how many feet higher is
14 your plan as opposed to what's currently
15 there?

16 MR. HEITLER: I think it's
17 approximately two feet, two to three feet.

18 MR. HOUSTOUN: I can answer that
19 more definitively.

20 CHAIRMAN MAGUN: I'm sorry. You're
21 going to have to go to the microphone and
22 give us your name and address.

23 MR. HOUSTOUN: Doug Hustoun,
24 Lacina-Heitler Architects.

25 CHAIRMAN MAGUN: You're an

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2 architect with the same firm?

3 MR. HOUSTOUN: Yes, sir.

4 CHAIRMAN MAGUN: Okay.

5 MR. HOUSTOUN: The existing house,
6 it comes up exactly a few inches below
7 35 feet.

8 CHAIRMAN MAGUN: Right.

9 MR. HOUSTOUN: And in our proposed
10 house, a correction should be made that in
11 the worst case scenario on the lower
12 right-hand side elevation is actually
13 3-foot 10 inches above the line, which is
14 why we're asking for four feet with
15 construction --

16 CHAIRMAN MAGUN: And that refers to
17 that roof line?

18 MR. HEITLER: This corner here.

19 MR. HOUSTOUN: Yes, sir.

20 CHAIRMAN MAGUN: That corner. What
21 about the rest? So, that whole roof --

22 MR. HEITLER: Well, the ground is
23 sloping away. So, at the worst case it's
24 3-foot 10.

25 CHAIRMAN MAGUN: And the -- okay,

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2 okay. Fair enough.

3 MR. MURPHY: Tell me why you need
4 to raise the roof line?

5 MR. HEITLER: Well, I think we
6 wanted -- part of this is there's an
7 esthetic component to this which is that
8 the house now is a bit of a hodgepodge of
9 different additions. The owners very much
10 want an arts and crafts house, which is
11 what we're trying to get for them. And so
12 we have gone through slightly taller roof
13 pitches, also for reasons of maintenance
14 and waterproofing. There are about six
15 different roof pitches on the existing
16 house that we are trying to correct back to
17 a minimum of sort of consistent roof
18 pitches, more on the style of what they
19 want.

20 MR. MURPHY: But is it primarily
21 then, the design consideration?

22 MR. HEITLER: Design and esthetic.

23 CHAIRMAN MAGUN: So, is there
24 anything else you want to tell us?

25 MR. HEITLER: No, we have one last

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2 board which just shows that some images
3 around here and then with sort of a
4 rendered view of what the house would look
5 like. And then we shot a bunch of sort of
6 neighborhood photos that shows similar
7 conditions in the areas immediately
8 adjacent.

9 CHAIRMAN MAGUN: Those were great
10 pictures, and I really appreciated that. I
11 have a couple of very basic questions.
12 This is a very big lot, 27,000 square feet;
13 right?

14 MR. HEITLER: Correct.

15 CHAIRMAN MAGUN: And it strikes me
16 as a little troublesome that you have such
17 a big lot that you need to ask for a
18 variance in order to achieve your needs.

19 Let me just talk about the needs
20 question for a minute. The building -- and
21 I'm using your numbers. The existing
22 building area minus the basement, if we
23 don't include the basement, is about
24 3,000 square feet, the house, not including
25 the basement. Not a small house. With the

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2 basement it's 4,800 square feet. And
3 you're proposing to enlarge the house to
4 5,400 square feet.

5 MR. HEITLER: Correct.

6 CHAIRMAN MAGUN: Fine. Big house
7 by any standards in Hastings, certainly.
8 You have a huge amount of property. You
9 know, on a very basic philosophical level,
10 I have a lot of trouble encroaching five
11 more feet into one of the front-yard
12 setbacks.

13 I just -- you know, I understand.
14 I've read all of your arguments. I see
15 your drawings. But I don't understand why
16 we can't have a design -- and this is the
17 need here. I don't know what the need is
18 to why the owners need to have an even
19 bigger house than they have, and it's big.
20 But given that they may need that, and we
21 can talk about sizes of rooms, if they need
22 it, it strikes me as a little bit, you
23 know, almost presumptuous with such a huge
24 piece of property to want to encroach even
25 further more into the non -- from the

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2 non-conforming front-yard setback.

3 I wouldn't minimize it because if
4 you stand up at the corner of Dorchester
5 and Overlook and you look down, anybody who
6 lives up there, and there are about 10
7 houses up there, they're all going to have
8 their view cut back by five feet where you
9 are encroaching into the front yard from 20
10 feet to 15 feet. That troubles me.

11 The height issue I also don't
12 understand. Why do you have to design a
13 house that's higher than you need? You
14 have so much room to build. Why do you
15 have to go higher than the code?

16 MR. HEITLER: Well, just a few
17 things.

18 CHAIRMAN MAGUN: Yes.

19 MR. HEITLER: One thing I would say
20 just at the outset is I think it's a very
21 minimal encroachment. I think what we're
22 doing is continuing and squaring off an
23 existing non-conforming condition. And the
24 five feet you're referring to is simply a
25 one-story extension of the front entrance.

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2 The other choice -- the other thing
3 I would say is that, you know, for their
4 own cost, we tried to make the
5 renovation -- utilize as much of the
6 existing foundation as possible. And it
7 happens that the many needs that they
8 articulated to us, making this a usable
9 space and making this a usable size
10 bedroom, happened to be in the corner that,
11 you know, continues the existing
12 non-conforming condition.

13 So, you know, in a way, I would
14 also argue that this squares out the house
15 esthetically. There's a wing here, a
16 central porch in what was an uneven wing.
17 To us there was a lot of architectural
18 logic to expand it here both for the
19 overall masking of the house and because it
20 corrected conditions that were already
21 existing.

22 So, instead of having to build new
23 foundation somewhere else or extend the lot
24 coverage, we were able to reuse a portion
25 of the existing house that was

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2 underutilized by simply adding adjacent to
3 it. And, unfortunately, that was in the
4 area where we were already existing
5 non-conforming.

6 All of the second floor area is
7 above the existing one-story building. So,
8 it's not -- and we purposely set it back
9 from all of those edges. So, we didn't
10 create a two-story street wall even when we
11 were already existing non-conforming. We
12 stepped back additionally there both to the
13 neighbor going down Overlook and to
14 Overlook itself.

15 So, I do feel that it's sort of a
16 relatively light touch relative to what
17 we -- what they wanted to do and relative
18 to --

19 CHAIRMAN MAGUN: Well, what they
20 wanted to do is, you know, interesting.
21 But, I mean, what we're dealing with here
22 is a -- the board and the code really
23 always want us to minimize any
24 encroachments into side-yard setbacks and
25 minimize any requests for variances. So, I

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2 mean, if the owners want to enlarge their
3 house, which -- and the need here, you
4 know, can we just talk about that. What is
5 the need?

6 MR. HEITLER: Sure. Again, I'm --
7 the basement is a legal accessory
8 apartment. So, they have the legal right
9 to have that, in my opinion, not to be
10 counted against their square footage.

11 CHAIRMAN MAGUN: I didn't even know
12 that.

13 MR. HEITLER: But I am --

14 CHAIRMAN MAGUN: Okay.

15 MR. HEITLER: So, what they have is
16 they have two children who were small
17 children and are now bigger children. And
18 the little girl who lives in this room has
19 a very small room. I mean, this is a -- I
20 think even by code standard size it's a
21 room under 100-square feet. And they would
22 like to address it.

23 I also think, without presuming
24 mine or anyone else's notion of what a
25 good-sized house is for this much property,

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2 the fact that they all share one bathroom,
3 I think, in this day and age is a
4 reasonable expansion and desire for a
5 homeowner, not that, you know, anybody's
6 opinion is there.

7 So, essentially, all they've done
8 is they haven't changed the number of
9 bedrooms. They've simply made one that was
10 very small larger, and they've added a
11 second bathroom for a family of four. None
12 of that seems particularly unreasonable to
13 me.

14 CHAIRMAN MAGUN: Okay. So, my
15 concern then, I would just reiterate and
16 then let other people ask you any questions
17 is given the large amount of area that's
18 available to be built on, and the large
19 amount of square footage that this house
20 has already, it's really hard for me to
21 consider, you know, a five-foot incursion
22 into the front of this house.

23 I mean, the house has two fronts.
24 The owners bought the house with two
25 fronts. And that's not a question of

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2 penalizing them or not, that's the beauty
3 of the house that's on a corner, and a lot
4 of people like corner houses. But to
5 encroach into the front yard -- can you
6 just show everybody where that new porch is
7 going to be? I mean, all of that is a
8 five-foot odd encroachment. And I don't
9 know, what's the length of the porch?

10 MR. HEITLER: 35 by --

11 MR. HOUSTOUN: 22 feet.

12 CHAIRMAN MAGUN: I just don't think
13 it's necessary. And I think it subtracts
14 from the neighborhood and it really takes
15 away from everyone else's enjoyment on the
16 block.

17 The height issue, I just think
18 that's a design issue. And I don't think
19 you should design a house unless you
20 absolutely have to be above code.

21 MR. HEITLER: Well, one thing I
22 would say is that because we're extending
23 forward from at least this part and the
24 grade falls that way, even if we were to
25 keep the same ridge height, our net height

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2 would go up. So, again, just to keep -- by
3 the way, they have -- you know, they have a
4 real stair to their attic. They have a
5 finished attic. They use it. It's all
6 under 7-foot 9 and all that stuff. So, you
7 know, you talked whether it was a half
8 story, not a half story. But in any case,
9 it's part of their usable space.

10 To keep the height we have, we
11 would actually have to lower it by the
12 nature of moving against the grade. So,
13 again, there was no effort there to
14 increase heights sort of capriciously. We
15 just wanted to have a rational design.

16 I think a lot of that -- we didn't
17 bring all the existing elevations here, but
18 I think what we were trying to accomplish
19 here is what they don't have now, vis-a-via
20 the neighborhood, is a sort of a balanced
21 facade with two wings and a central
22 entryway, you know, that I would say, in my
23 opinion, is a boon to the neighborhood as
24 opposed to this sort of organically
25 addition house that's there now.

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2 CHAIRMAN MAGUN: Your argument, and
3 you put this in writing, and this will be
4 my last comment. Your argument that you're
5 creating a nicer esthetic experience for
6 everyone is a good one. But I would say
7 it's at the expense of incursion into, you
8 know, significant incursion into what
9 already is an incursion.

10 This house is an old house. I
11 don't know when it was built. But I would
12 even guess that this was added onto the
13 house. That the house is sort of maybe a
14 little bit of hodgepodge, I'm not sure
15 about that. But I think that the argument
16 that the house looks nicer and that,
17 therefore, you should get the variances is
18 not one that I'm going to accept in this
19 instance.

20 MR. HEITLER: Well, I don't know.
21 The other thing I would just ask again for
22 the board to consider is that, you know,
23 we're talking about an incursion that, you
24 know, presumably affects, you know, the
25 experience for the neighbors here.

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2 CHAIRMAN MAGUN: No, all the
3 neighbors to the north, they are all
4 looking down the street. All of them are
5 going to have their view cut back by
6 five feet. It's a lot. A lot of people.
7 There's a lot of houses up there.

8 MR. PYCIOR: It's not simply by
9 five feet. Currently there's only an
10 unclosed porch, which is one level.

11 CHAIRMAN MAGUN: That's right.

12 MR. PYCIOR: The proposal is to
13 build two levels above that porch and along
14 the complete front of the house. So,
15 whatever depth that is, which appears to be
16 more like eight feet, suddenly becomes
17 solid mass two stories tall.

18 MR. HEITLER: Actually, that's not
19 true. This is a one-story structure here,
20 and we're only adding one-story in that
21 corner.

22 MR. PYCIOR: But you have --

23 CHAIRMAN MAGUN: On top of the
24 porch.

25 MR. HEITLER: The two story runs in

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2 line with what is already two stories,
3 which is a little further south.

4 MR. PYCIOR: But over the existing
5 porch it will be two stories, or am I
6 wrong?

7 MR. HEITLER: It will be two
8 stories stepped back.

9 CHAIRMAN MAGUN: Any other
10 questions from the board or comments?

11 MR. HEITLER: I think the view
12 you're most talking about is this here,
13 this is the existing and this is what it
14 will be from a perceptual point of view.

15 CHAIRMAN MAGUN: Well, sir, it's a
16 25-percent incursion into the front current
17 existing front-yard setback from 20 to
18 15 feet; right?

19 MR. HEITLER: From 20 to 16 -- 15,
20 no, you're correct.

21 CHAIRMAN MAGUN: And that already
22 represents a non-conforming. Again, you
23 know, this is a house that has a huge
24 amount of square footage and lot area
25 where, you know, if there's a great need

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2 for space, there is space that it can be
3 built on.

4 Is there anyone in the audience
5 with regards to this application that
6 wishes to make any comments?

7 (No response.)

8 MR. HOUSTOUN: Can I ask a
9 question?

10 CHAIRMAN MAGUN: Go ahead. Yes,
11 sure.

12 MR. HOUSTOUN: You asked the
13 question about the need, the client's need.
14 And the Steins here -- I think we tried to
15 make it clear that their need is to expand
16 existing spaces, especially the small
17 bedroom in front. Which the width of the
18 bedroom measures 8-foot 6. It's hardly
19 enough room to really maneuver a bed.

20 And so, what we're trying to do
21 here is solve that need, that problem, by
22 expanding to the east of that. If we were
23 to build on any other part of the site, we
24 wouldn't be solving the problem. We
25 wouldn't be addressing the need. Instead,

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2 they would be left with a -- still an
3 unusable room in this house. So, that's
4 the reason why we have to go in that
5 direction.

6 MR. MURPHY: Can I ask a question?

7 MR. HEITLER: Sure.

8 MR. MURPHY: Can you build a
9 one-story addition to expand that bedroom
10 and still keep the existing front porch for
11 access to the house?

12 MR. HEITLER: You can't because
13 what happens is the access is currently
14 where that addition goes. The steps go
15 down to grade. So, all we're doing,
16 essentially, is extending this down so we
17 can get the steps back to grade. And it's
18 too steep to have steps going this way.
19 So, all we're doing is just slipping passed
20 there to get back down.

21 MR. MURPHY: But what you're also
22 enclosing is the current porch space, and
23 then you're building a new porch in front
24 of that so you can get steps down.

25 MR. HEITLER: Correct.

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2 MR. MURPHY: So, it's not just
3 steps, it's enclosing the old porch, adding
4 a new open porch.

5 MR. HEITLER: Correct.

6 MR. MURPHY: So, what I'm asking is
7 can you do it a different way?

8 MR. HEITLER: I think what we could
9 do is we could have, you know, either just
10 steps here, you know, a very minimal
11 landing and steps that could be uncovered.
12 Which would then, as we've heard in the
13 last few ones, put them in a different
14 realm. But the esthetic driver there is to
15 create a proper front.

16 Just one more point back to the
17 notion that we could have expanded
18 anywhere. I guess I would say if you look
19 at this first floor plan as it exists, as
20 an architect, putting the fact that this
21 was a need area aside, this is the corner
22 that completes that plan. It balances it.
23 It makes it straight.

24 If you look around anywhere here, I
25 mean, this was a prior addition that is

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2 totally resolved. This is an existing
3 glass window to the dining room they love.
4 This is already on our side-yard setback.
5 Despite the fact that this site is large,
6 there aren't that many opportunities. I
7 would argue that this is the most
8 reasonable and sensible place to expand the
9 first floor plan.

10 CHAIRMAN MAGUN: Let me, in
11 addressing that. So, how does this house
12 work as it currently exists? The owners
13 park in the back of the house; right?

14 MR. HEITLER: Correct.

15 CHAIRMAN MAGUN: And they walk into
16 the house where? Where do they currently
17 park their car?

18 MR. HEITLER: They have a garage
19 here. They park their car either on the
20 driveway or in the garage.

21 CHAIRMAN MAGUN: Right.

22 MR. HEITLER: They walk into the
23 kitchen.

24 CHAIRMAN MAGUN: Why do you need
25 any entrance? Why do you need anything

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2 there? I mean, you don't have to have an
3 entrance --

4 MR. HEITLER: No, I mean, it's a --

5 CHAIRMAN MAGUN: -- up front then.

6 MR. HEITLER: Correct. Like a lot
7 of houses, it has a ceremonial,
8 infrequently used --

9 CHAIRMAN MAGUN: So, it's a
10 ceremonial infrequently used front porch
11 that hardly anybody is ever going to use
12 that requires the variance because you
13 could build the bedroom without that.

14 MR. HEITLER: Correct. And this
15 could become an inaccessible porch. A
16 Juliet balcony. Whatever you want to call
17 it.

18 CHAIRMAN MAGUN: Yes, you could --

19 MR. HEITLER: Absolutely.

20 MR. HOUSTOUN: Can I get back to
21 Mr. Murphy here? Could you just clarify
22 what enclosing the porch is? The current
23 porch has a roof, has a roof on it. It's
24 surrounded on two sides by building and a
25 three-foot railing wall on the outside with

1 ZONING BOARD OF APPEALS - 12/14/2006
2 the steps off of the foreside. By building
3 a second story above the porch, we're not
4 really enclosing it anymore than it
5 currently is enclosed.

6 MR. HEITLER: This is the existing
7 condition.

8 MR. MURPHY: I understand, but it's
9 going to be heated space; right?

10 MR. HEITLER: No, no, it's
11 exterior. All of this stuff that if we go
12 to the existing plan, we're not enclosing
13 it at all. The existing porch remains
14 outdoors, and the extension is outdoors and
15 the steps are outdoors. All of this is
16 outdoors.

17 MR. MURPHY: And so that's only to
18 get access?

19 MR. HEITLER: It's only to get
20 access. All this porch was doing prior was
21 getting access. And what we've done is
22 we've taken a little area away from it here
23 and added some more here. It's still just
24 getting access. It's still open to the
25 elements. It's still exterior porch.

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2 MR. MURPHY: Okay.

3 MR. PYCIOR: It's a new exterior
4 porch.

5 MR. HEITLER: It's an extension of
6 the existing exterior porch so we can get
7 access.

8 MR. PYCIOR: And the existing
9 exterior porch would be enclosed. You know
10 how a second-story --

11 MR. HEITLER: Not enclosed.

12 CHAIRMAN MAGUN: That's what I
13 thought.

14 MR. HEITLER: No, it's not enclosed
15 currently. Well, it depends.

16 CHAIRMAN MAGUN: So, you're just
17 enlarging the current --

18 MR. HEITLER: Correct, correct.
19 This is the existing condition right here.
20 It has a roof. It's covered. Maybe we're
21 using enclosed differently.

22 MR. MURPHY: No, no, I understand
23 you now. I thought you were totally
24 enclosing that old space and making it new
25 living space that was heated and all that

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2 stuff, and you're not doing that.

3 MR. HEITLER: No.

4 CHAIRMAN MAGUN: What's going under
5 that?

6 MR. HEITLER: There's nothing under
7 it. It's actually going to float in the
8 air, that extra porch, because the access
9 to the basement is below it. So, this
10 encroaching structure, if you will, is a
11 very light structure. The stairs that come
12 through the retaining wall on Overlook will
13 still come up under that porch and go into
14 the basement door.

15 CHAIRMAN MAGUN: So, when I'm
16 looking at this diagram, that's why I think
17 we're having a bit of difficulty in trying
18 to understand that. I'm glad you brought
19 that point up. Show me where the new --
20 the five-foot extension is so we can all be
21 clear.

22 MR. HEITLER: This is it right
23 here. This is the limit of the -- the
24 shaded area is the limit of the old house.
25 And this white area over here is the new

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2 enclosed indoor heated feet we've added.

3 CHAIRMAN MAGUN: Indoor heated
4 what?

5 MR. HEITLER: Square feet.

6 CHAIRMAN MAGUN: Okay. And that's
7 going to be what?

8 MR. HEITLER: That's going to be an
9 office, guest room, whatever, but an
10 extension of a formerly small office is
11 here. So, this is the only square feet
12 we're adding. It's 150-square feet is the
13 total addition.

14 CHAIRMAN MAGUN: So, if you didn't
15 have that porch there, you just dropped it
16 in the stairs, you wouldn't be changing
17 the --

18 MR. HEITLER: We would have just
19 squared off what was there. We wouldn't
20 have just --

21 CHAIRMAN MAGUN: Which is what you
22 want to do, you want to square it off and
23 make it pretty.

24 MR. HEITLER: Correct.

25 CHAIRMAN MAGUN: And then you would

1 ZONING BOARD OF APPEALS - 12/14/2006
2 be able to access the house from the back.

3 MR. HEITLER: Correct. And as I
4 pointed out before, squaring that off,
5 we're actually further from the property
6 line than this corner.

7 CHAIRMAN MAGUN: So, it sounds like
8 maybe you should do that.

9 MR. HEITLER: Well, you know, the
10 homeowner's aren't here tonight. And I
11 don't know that -- I don't know if it's
12 fair to take away a second entrance into a
13 home.

14 CHAIRMAN MAGUN: I know. I'm just
15 giving you -- we're just trying to think
16 out loud and understand what the need here
17 is and what you're gaining by getting a
18 variance. And I think you're asking the
19 neighborhood, this neighborhood, to give up
20 a lot of space for this porch and some
21 stairs.

22 MR. HEITLER: Again, and maybe
23 that's the way we end up, and if that's
24 your recommendation, but again, the
25 foundation wall, everything is here. This

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2 is, essentially, just a projected extension
3 of the porch. It has columns and a railing
4 and a roof. It's not -- it's not heavily
5 massive.

6 MR. PYCIOR: The roof has a
7 railing. Are those French doors on the
8 second floor leading out to the roof of the
9 porch?

10 MR. HEITLER: Yes, those are from
11 the master bedroom.

12 MR. PYCIOR: So, on the roof of
13 that porch is being created a --

14 MR. HEITLER: Yes. And again, we
15 were trying very hard not to create what
16 would appear as almost a three-story street
17 wall by stepping each element back. Again,
18 cognizant of the fact that the grade on
19 Overlook amplifies this effect.

20 CHAIRMAN MAGUN: Okay. Any other
21 questions, Sheldon? David?

22 (No response.)

23 MR. SOROKOFF: I think I am
24 persuaded that -- by the architect's
25 argument that the needs of the family are

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2 there and they balance out any future needs
3 of another family that might move in there.

4 CHAIRMAN MAGUN: Okay.

5 MR. MURPHY: I have a question with
6 respect to the front porch because I don't
7 see the justification for the height
8 variance at all. So, I agree with the
9 chairman on that. If you don't get the
10 height variance, can you still have the --
11 can you still do the front porch the way
12 you want to do it?

13 MR. HEITLER: Yes.

14 MR. MURPHY: See, the front porch
15 doesn't bother me that much, Arthur?

16 CHAIRMAN MAGUN: Why not?

17 MR. MURPHY: I misunderstood. I
18 thought it was all being enclosed, the old
19 porch was being enclosed and adding even
20 more into your living space. And I think
21 what I'm hearing is he is trying to
22 minimize the needed incursion to gain
23 access to the front of the house. And I
24 don't think you can deny that. Whether you
25 use it often or not, you need to get into

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2 the front of the house. So, what it boils
3 down to is the reason they need to do that
4 is because they want to expand the office.

5 CHAIRMAN MAGUN: But just so we all
6 understand, I mean, if you look at this
7 picture, all this is new, the new columns,
8 the big columns, the railings and the
9 balcony. You have a little balcony on top
10 of the porch; right?

11 MR. MURPHY: Yes.

12 MR. HEITLER: But here is the same
13 elements in elevation, and obviously --

14 CHAIRMAN MAGUN: Well, all that's
15 new.

16 MR. HEITLER: But I think to our
17 credit, we face the issue by showing it to
18 you up on Overlook. And I think, you know,
19 part of it is just the angle that you're
20 presented with. And I guess the purpose of
21 the photographs, you know, was to say that
22 because Hastings is Hastings, that happens
23 a lot.

24 CHAIRMAN MAGUN: Let me just
25 suggest another idea to address Brian's

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2 concern about getting into the house. You
3 don't need to have a cover on that. You
4 can just have stairs going up and have an
5 unenclosed set of stairs going up. And
6 then part of that is already covered;
7 right? There's a porch that's already
8 there that has a roof on it; right?

9 MR. HEITLER: Correct. This
10 could -- all of this could be open air and
11 you don't step into -- you don't go under
12 an enclosure until you step back.

13 CHAIRMAN MAGUN: Right. So, you
14 still have part of the porch would be
15 enclosed.

16 MR. HEITLER: Right.

17 CHAIRMAN MAGUN: And part of it
18 would be open?

19 MR. HEITLER: Yeah.

20 CHAIRMAN MAGUN: Which, to me,
21 might -- so, in other words, if you didn't
22 have that roof on that top -- on that --
23 could you point to the top left? No, the
24 other one. No, no. Yes, that. If you
25 take that off, right, you --

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2 MR. HEITLER: Sure.

3 CHAIRMAN MAGUN: -- would have
4 steps. You would have egress and an
5 entranceway into the house. You would have
6 a partially opened porch and then you would
7 have a partially enclosed porch. That, to
8 me, would significantly diminish the effect
9 and incursion into the front-yard setback.
10 I'm not asking you to redesign it. I'm
11 just talking to my colleagues on the board
12 here.

13 MR. HOUSTOUN: If you were to
14 remove that porch, what you would be left
15 with then is a two-story wall. The roof
16 there kind of serves to break up the mass
17 of the house. And, I think, esthetically,
18 in the end, if that's what you're talking
19 about, look at the way the house is, look
20 at their roof there, the roof is actually
21 benefitting the street view.

22 CHAIRMAN MAGUN: Okay.

23 MR. HEITLER: And further to that
24 we got specific instructions from our
25 client to not have it have two stories have

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2 two faces. They use a term mic-mansion.

3 They really feel that the period details

4 that include set elements that break the

5 scale of the building down by floor.

6 CHAIRMAN MAGUN: I'm just going

7 to -- I don't want to -- I just think that

8 there's a principle here. And the

9 principle is, to me, is incursion into

10 front-yard setbacks. We should have a good

11 reason to do that. And I don't think the

12 esthetic issues here are enough of a

13 reason. I don't think the need is enough

14 of a reason. And I think it sets a really

15 bad precedent.

16 The owners want a bigger house.

17 They want it to look different, and so they

18 just take another 25 percent of the

19 front-yard setback. I think all the board

20 members should think about that.

21 And the height issue is totally, to

22 me, I could never approve that unless there

23 was a reason for that. And the reason that

24 you gave so that the rain doesn't get into

25 the house, which is what you wrote, this --

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2 MR. HEITLER: True.

3 CHAIRMAN MAGUN: I think you can
4 come up with a different design.

5 MR. HEITLER: Well, I would say
6 that if we were to -- two things on that.
7 One thing I would point out relative to
8 this, I just think that you're casting our
9 clients as -- one thing I --

10 CHAIRMAN MAGUN: I'm not casting
11 your clients as anything. I'm talking to
12 you. You're the architect.

13 MR. HEITLER: I would like to point
14 out that they're adding .4 to their lot
15 coverage. To me, that's --

16 CHAIRMAN MAGUN: Oh, the lot
17 coverage is not an issue. It's a huge lot.
18 They could add another 10 percent to the
19 lot, and I don't think anybody would say
20 boo, as long as it didn't require a
21 variance.

22 MR. HEITLER: I just think that it
23 speaks to the scale of what they are trying
24 to do. I don't think that they feel like
25 this is adding 150-square feet to the

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2 ground floor. I don't think that they
3 would say that that's a huge extension.

4 CHAIRMAN MAGUN: Okay. Any other
5 comments?

6 (No response.)

7 CHAIRMAN MAGUN: So, we have before
8 us then two requests for variances. Two
9 variances, one for front-yard variance and
10 one for the building height.

11 MR. HEITLER: I'm sorry, could I
12 just say one thing on the building height?

13 CHAIRMAN MAGUN: Sure.

14 MR. HEITLER: The one thing about
15 building height, again, it's not in our
16 note, is that they do have an existing
17 usable attic with stairs to it. It's
18 furnished. It's finished. If we were
19 required to stay within the height
20 requirements, the quality of their attic
21 would be diminished from what they
22 currently have.

23 CHAIRMAN MAGUN: And you could
24 build another story and they would have an
25 even bigger -- I mean, that argument is, I

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2 mean, you could always increase. If we
3 could build four stories, everybody would
4 have more space in their attic and more
5 room.

6 MR. HEITLER: I guess the argument
7 I was making was that under one coherent
8 roof, they're only asking for what they
9 previously had.

10 MR. PYCIOR: What is the space in
11 the attic currently used for? You said
12 it's liveable.

13 MR. HEITLER: They use it -- I
14 wouldn't say it's liveable. It's finished
15 by nature of being grandfathered in. They
16 use it as a playroom. Kids have their toys
17 up there. It has carpet, few dormers.

18 CHAIRMAN MAGUN: I'm going to make
19 one other point because you brought this
20 up. These people have -- your clients have
21 an accessory apartment. If they needed
22 more space, they could take that accessory
23 apartment and use it for their own space.

24 MR. HEITLER: Again, they could.
25 Despite the fact that they have an

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2 accessory apartment, it's more than
3 50 percent below grade. It's not high
4 quality space.

5 CHAIRMAN MAGUN: So, you're --

6 MR. HEITLER: It is what it is.

7 CHAIRMAN MAGUN: I guess we're
8 having -- and I'm taking a lot of time on
9 this because I think it's really an
10 important point. The philosophical point
11 here is that the needs of the applicant
12 outweigh the needs of the neighborhood and
13 the village. And, you know, I can't accept
14 that. That's why I'm going to vote against
15 both of the requests for variances, and I'm
16 going to ask my fellow board members to do
17 the same. But I don't know how they feel.

18 There is so much room in this
19 house, there is so much space that it's
20 hard to accept this argument.

21 MR. HOUSTOUN: Mr. Magun, you talk
22 about how big the house is. Undeniably,
23 it's a large house; however, the second
24 floor of this house, in proportion to the
25 size of this house, is considerably

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2 undersized. And that's the specific area
3 where they're seeking to expand.

4 And I think you can see the size of
5 the rooms you have here on these plans. I
6 mean, what they're trying to do is not make
7 it a mic-mansion. They are presented with
8 an undersized second story. They are just
9 trying to --

10 CHAIRMAN MAGUN: Okay. Fair
11 enough.

12 MR. HEITLER: Again, I don't see
13 where, even though the site is big, there's
14 only so many ways to add on without moving
15 hallways, moving bathrooms, moving
16 staircases. You know, there's -- if you
17 actually look, there's a figure here that
18 defines all the setbacks. It's shaped like
19 this.

20 You know, I don't know where else
21 you can build that's adjacent and makes
22 sense and has that sort of a programmatic
23 adjacency. So, I think, you know, none of
24 this site is in the buildable area.

25 CHAIRMAN MAGUN: Okay. So, is

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2 there a motion with regards to the first
3 variance, if there is no other discussion?
4 First variance would be for the front-yard
5 setback where non-conforming existing is
6 20 feet where the applicant is proposing a
7 15.25 setback where 30 feet is required?

8 MR. DEITZ: I move to approve the
9 variance for the request for the front yard
10 existing non-conforming 20, proposed 15.25,
11 required 30.

12 CHAIRMAN MAGUN: Okay. Is there a
13 second?

14 MR. SOROKOFF: I will second.

15 CHAIRMAN MAGUN: All in favor?

16 MR. MURPHY: Aye.

17 MR. SOROKOFF: Aye.

18 MR. DEITZ: Aye.

19 CHAIRMAN MAGUN: Three. Opposed?

20 MR. PYCIOR: Nay.

21 CHAIRMAN MAGUN: Nay. The variance
22 passes.

23 Building height variance where the
24 applicant is requesting 39 feet,
25 two-and-a-half stories where 35 feet

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2 two-and-a-half stories is allowed. Is
3 there a motion to approve the request for
4 the building height variance?

5 MR. SOROKOFF: I will move to
6 approve the request for the building height
7 variance.

8 CHAIRMAN MAGUN: Is there a second?

9 MR. DEITZ: I will second it.

10 CHAIRMAN MAGUN: All in favor?

11 MR. DEITZ: Aye.

12 MR. SOROKOFF: Aye.

13 CHAIRMAN MAGUN: Opposed?

14 MR. PYCIOR: Nay.

15 MR. MURPHY: Nay.

16 CHAIRMAN MAGUN: Nay. So, the
17 building height is not approved.

18 So, if you're going to do this
19 construction, you're going to have to
20 change the design of the house, and the
21 building inspector will have to review the
22 design of the house and see whether or not
23 any other variances need to be ascertained
24 or obtained.

25 MR. HEITLER: Thank you.

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2 CHAIRMAN MAGUN: You're welcome.

3 Denise is here. I think we're
4 going to go to the Tarricone item on the
5 agenda because of the dates that they were
6 submitted. They were really next in line.
7 And Ms. Furman is here and she's going to
8 assume her place on the board. I would
9 like to ask counsel, before we hear from
10 the proponent, just to give us some
11 explanation of what it is we're supposed to
12 be doing tonight.

13 MS. STECICH: Mr. Tarricone and
14 other property owners in the direct area
15 have made an application to the Board of
16 Trustees to rezone their property, and they
17 will explain. That application came to the
18 Board of Trustees, which doesn't really
19 have any discretion. The petition is
20 signed by everybody who wants to be
21 rezoned. So, they have to pass it on to
22 the Planning Board or the Zoning Board of
23 Appeals for a report and recommendation on
24 the zoning amendment, and that's why it's
25 before you.

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2 CHAIRMAN MAGUN: Our role here is
3 just to advise.

4 MS. STECICH: Yes, just make a
5 recommendation, if you choose, on the
6 proposed zoning amendment.

7 CHAIRMAN MAGUN: Now, the problem
8 we have is that it's a quarter to 11. I'm
9 sorry that everyone has been sitting here
10 for a long time. But, you know, it was a
11 very long agenda. There was nothing much
12 we could do about it. So, we will go as
13 far as we can until about 11, and then if
14 we don't finish -- let me just ask a
15 question about that. Is the Board of
16 Trustees planning to act on this if we
17 don't finish?

18 MS. STECICH: The Board of
19 Trustees' public hearing is on, I think
20 it's January 19th. Is that the day,
21 Anthony?

22 MR. TARRICONE: Ninth.

23 MS. STECICH: They are holding the
24 public hearing on the ninth.

25 CHAIRMAN MAGUN: So, they won't --

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2 MS. STECICH: They won't act on the
3 ninth.

4 CHAIRMAN MAGUN: So, if we don't
5 discuss this until our next meeting, or
6 finish this discussion until our next
7 meeting.

8 MS. STECICH: Ideally, the report
9 should be presented at the public hearing,
10 but if there's not, there's not. Then it's
11 up to the Board of Trustees whether -- they
12 may want to keep the public hearing open
13 until they get this done.

14 CHAIRMAN MAGUN: All right. So,
15 our role here tonight is an advisory one.
16 Why don't you tell us who you are and tell
17 us about what the project that is being
18 proposed to the village is and we will take
19 it from there.

20 MR. TARRICONE: I'm Anthony
21 Tarricone. I actually have copies of what
22 I'm about to say.

23 CHAIRMAN MAGUN: Can you use the
24 microphone? This is at the bottom of the
25 agenda. There is no case number. It just

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2 says Holly Place, Saw Mill River Road. Do
3 you see that? Go ahead.

4 MR. TARRICONE: Good evening.
5 Thank you for taking the time to review our
6 proposal. I'm Anthony Tarricone. I've
7 been asked by several of the applicants
8 to --

9 CHAIRMAN MAGUN: You need to use
10 the microphone.

11 MR. TARRICONE: I have been asked
12 by several of the applicants to apologize
13 for not attending tonight's meeting. Their
14 signed petitions are here in support;
15 however, do to some health challenges and
16 scheduling conflicts, several of the
17 petitioners in support of this application
18 could not attend tonight's meeting.

19 Before answering any questions, I
20 would like to give the board an overview of
21 the project.

22 What is the request? The request
23 is to rezone a very small area, 1.6 acres
24 along Saw Mill River Road, Route 9A, from
25 2R, which is two-family residential to MRC,

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2 multifamily resident/commercial, with a
3 text amendment to add to permitted uses
4 sub-storage facilities subject to the
5 requirements in the addendum.

6 Why? A zone change will more
7 accurately represent the actual conditions
8 in the area. The homeowners that
9 petitioned for this change already have the
10 effects of Saw Mill River Road on their
11 property values. This change will enhance
12 our property values without substantially
13 changing the neighborhood itself. For the
14 village and the residents of the village,
15 it's a huge windfall in tax base, which
16 could conceivably reduce the overall
17 village tax by three percent.

18 This is a zoning map of the Village
19 of Hastings. The Hudson River is over
20 here. The downtown area, Main Street and
21 Warburton area, is here. The only other
22 MRC zone is located here. The high school
23 is here. Saw Mill River Parkway is located
24 here. Ravensdale, which runs right up to
25 Stew Leonard's is here. And the subject

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2 area is right here, which is the most
3 southern portion and easterly portion of
4 Hastings where it meets the Town
5 of Greenburgh to the east and Yonkers to
6 the south.

7 This board shows what Saw Mill
8 River Road looks like in the area in
9 question. These pictures can be found in
10 Section 2 of the books that I submitted to
11 you earlier. The top half of the board
12 represents Hastings zone 2R; two-family
13 residential 10,000-square foot lots. You
14 have to have a 10,000-square foot lot for
15 two family and a 7,500-square foot lot for
16 single-family homes. You can find the
17 existing zone, as well as the proposed
18 zone, also in section three of the book I
19 submitted to you.

20 The bottom half of the board, which
21 is located directly across the street,
22 these pictures are -- this is the house
23 that's across the street. This is in --
24 this is what's across the street. This
25 zone is in Greenburgh and it's zoned light

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2 industrial.

3 Light industrial zones in
4 Greenburgh allow such uses as light
5 manufacturing, lumber and building
6 equipment sales, motor vehicle sales and
7 repair, warehousing and storage, electrical
8 substations, gasoline stations, funeral
9 homes, and with a special permit, adult
10 entertainment. That's directly across the
11 street. The complete list can be found in
12 section 7 of the book submitted to you
13 earlier.

14 This board shows the southern
15 border of Hastings where it abuts Yonkers
16 right here. This is Hastings, this is
17 Yonkers. The red line running down the
18 middle of the board represents the border
19 of Yonkers and Hastings.

20 As previously mentioned, Hastings
21 is zoned 2R with minimum lot sizes of
22 10,000-square foot for two-family homes and
23 7,500-square foot for single family homes.
24 There are only three properties that comply
25 with the existing zone, and they're shaded

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2 in yellow, of which I happen to own one of
3 them. All the other applicants that are on
4 there also are owners of the others.

5 The Yonkers zone in blue located
6 200 feet down Saw Mill River Road is zoned
7 CM. It's right across the street.

8 Like Greenburgh's zone, Yonkers'
9 zone has an intensive use including
10 industrial parks, check cashing stores,
11 automotive stores and repairs, pawn shops,
12 warehousing and storage, and with a special
13 use permit, sexually orientated businesses.
14 Within the neighborhood located less than
15 200 feet down Edison Avenue the zone is T,
16 two family, 5,000-square foot lots. That's
17 this.

18 And the last zone outlined in red
19 is S50, which is a single-family home on a
20 50-foot lot. So, they are very small lots,
21 all of these.

22 The last board we want to share
23 with you is a blowup of the Hastings tax
24 map in the area in question. The area
25 shaded in yellow represents all the

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2 neighbors that have signed the petition in
3 favor of the zone change.

4 In terms of the land mass, this
5 represents approximately 50 percent of the
6 area. Currently, all but three of the
7 existing properties in the area are legal
8 non-conforming. As a result, property
9 owners would need a variance to make any
10 improvements that include any expansion of
11 any kind, such as the things you have just
12 been going through today. With the change,
13 they would all be conforming. And this
14 makes the process of investing in their own
15 property risky and costly.

16 The point is, along Saw Mill River
17 Road the surrounding communities, Yonkers
18 and Greenburgh, which we have no control
19 over, allow industrial and/or commercial
20 uses and receive tax benefits as a result.

21 Furthermore, in Yonkers, the
22 residential portion of the surrounding
23 area, which is right here, allows greater
24 density. And as we know, Yonkers' taxes
25 are substantially lower. Hastings, on the

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2 other hand, actually has the same density
3 as evidenced by the fact that only three
4 properties are conforming; yet, the zone
5 does not reflect the actual conditions. In
6 other words, we have the effect of the uses
7 on our property and none of the benefits.

8 Economically, this would be a
9 windfall for the village. We are fortunate
10 enough to have an existing facility, and,
11 therefore, a real-life experience as to
12 what would happen if the proposal was
13 approved.

14 Hastings Substorage was built in
15 2000 on a similar sized piece of property.
16 The tax base went from, approximately,
17 \$20,000 a year to \$150,000 a year in taxes.
18 After review of the Hastings' budget, every
19 \$50,000 of tax revenue reduces the overall
20 tax budget by one percent. The proposed
21 substorage could conceivably reduce the
22 overall tax by three percent in the
23 village. Last year alone the village tax
24 increased by six percent.

25 Typically, to gain this type of tax

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2 revenue, a municipality would have to make
3 concessions, or at a minimum, provide
4 additional services such as schools, water,
5 sewer or police. This facility would
6 actually use less services while generating
7 greater tax revenue for the village.

8 In conclusion, the proposed MRC
9 zone is not an intense commercial zone like
10 Greenburgh or Yonkers. In fact, it's
11 primarily residential having a multifamily
12 component under certain conditions. There
13 is a very limited commercial component to
14 this zone which includes professional
15 offices, and even more restricted retail
16 component that allows for the sale of
17 specialty items such as art or antiques.
18 The neighborhood and board would maintain
19 control over future uses because any new
20 use would still come before the Zoning
21 Board and Planning Board for their
22 approval.

23 This proposal would allow a mixed
24 use or transition zone along 9A, Saw Mill
25 River Road, while keeping the 2R district

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2 or residential district in tact behind it.
3 This is a typical solution to neighborhoods
4 adjacent to commercial thoroughfares.

5 We believe the zone request is in
6 keeping with the surrounding area. The
7 zone change would not change the nature of
8 the area, but, in fact, simply be a
9 recognition of the reality of the
10 pre-existing conditions. Providing an
11 enhancement to both the village as well as
12 the property owners.

13 Upon the zone change approval, all
14 of the existing homes that petitioned for
15 the zone change would be in conformity. We
16 have demonstrated substantial neighborhood
17 and community support. Economically, who
18 could question the wisdom of gaining
19 additional tax revenue with no impact on
20 services, traffic or infrastructure?

21 And lastly, the people that are
22 most likely to be affected by this change
23 are also the same people who signed the
24 petition.

25 Thank you for considering this

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2 application. Do you have any questions?

3 CHAIRMAN MAGUN: Thanks. What I'm
4 going to do is, since the hour is late,
5 with the board's permission, I'd like to
6 let the -- instead of the board asking
7 questions, I would like to let the audience
8 who come and presumably have some comments
9 to make, make them. And then because, you
10 know, this is the first time we're hearing
11 about this, everybody else who is involved
12 here has been thinking about this for a
13 while. I think it will help us at the next
14 meeting if we hear what some of the people
15 who are in the room have to say, and then
16 we'll be able to ask you some questions
17 with regard to that.

18 Is that okay with the board?

19 MR. MURPHY: Yes.

20 CHAIRMAN MAGUN: Is there anyone in
21 the audience who wishes to comment on this
22 and discuss this application either in
23 favor or against?

24 State your name, please, and
25 address.

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2 MR. MERCHANT: My name is Marty
3 Merchant. I live at 35 Marion Avenue. I
4 have been a resident of Hastings for 30
5 years. I have been living in that house on
6 Marion Avenue for 25 years. I raised three
7 children there.

8 Now, in the 25 years I have been
9 living in that area, in that neighborhood,
10 I have seen properties enhanced and
11 improved, rebuilt dramatically. There are
12 several homes that have undergone complete
13 renovations. Just over the border into
14 Yonkers there was a lot that was renovated
15 and a new two-family house built there,
16 brand new.

17 The Tarricones own, actually,
18 ironically, one of the largest and best
19 maintained residences in our area. We're
20 talking really about 18 residences. As
21 near as I could figure, I could be wrong on
22 some of the particulars, there are 18
23 residences. Four of those residences are
24 purely tenants. The remaining residences,
25 14 homeowners, live there. They may have

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2 tenants too. But it's primarily the
3 majority of the people are homeowner people
4 who -- homeowners who live there. There is
5 six here in the audience tonight, at least,
6 who are opposed to this zoning change.

7 The Tarricones have the most well
8 maintained and one of the largest
9 properties in the area, one of the largest
10 residences in the area. And, in fact, what
11 they want to do is move out, tear the house
12 down and extend their storage facility into
13 the residential area.

14 Now, if you have been in the
15 neighborhood in 2000 when the storage
16 facility was built, you've got a block long
17 three-story industrial building towering
18 over the backyards of all the houses that
19 are on the north side of Holly, extends
20 about 300 feet, 400 feet from the Saw Mill
21 River Road 9A to the west.

22 So, you've got a huge visual impact
23 on this residential area already. It's
24 this huge massive building. Any increase
25 in that, or any incursion of that into the

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2 residential area, which would happen if you
3 tore down a house, the large lot that the
4 Tarricones plan to tear down, that would be
5 a significant intrusion into the
6 residential character of the neighborhood.

7 Our houses are, in fact, to the
8 east bordered by some industry. But our
9 pocket of Hastings is still residential.
10 We have children playing ball in the
11 streets, riding their bikes. Not only
12 would you have the visual impact of this
13 industrial or this commercial property
14 coming in, but you would also have the
15 intended traffic and other things that
16 would follow along with commercial
17 property.

18 My feeling, as a homeowner, I have
19 been impressed tonight. This is the first
20 zoning meeting I have come to. I have been
21 impressed with the process. I think, I
22 believe, that the Tarricone's intentions
23 are to present the zoning changes as
24 beneficial to the area. There are some
25 details, 50 percent of us, a small portion,

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2 1.6 acres, are really talking about a major
3 effect to our small residential
4 neighborhood.

5 I'm not quite sure, none of us have
6 really ever been sure of how many of us
7 actually are, in fact, interested in
8 changing the zoning of our neighborhood to
9 open it up to even further
10 commercialization.

11 So, I look to the board. If I need
12 to make a change to my house, I'm impressed
13 with our ability to come before a board
14 with reason and negotiate a change, if we
15 need to make an alteration in the zoning to
16 our own particular home because we want to
17 build a deck or we want to expand. I would
18 trust that process. And I would be very
19 hesitant speaking for the merchants, very
20 hesitant to want to change the overall
21 zoning to a larger portion of the
22 neighborhood being worried about how that
23 would affect the quality of life in our
24 area and my property values.

25 So, I thank you for allowing me to

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2 speak to you.

3 CHAIRMAN MAGUN: Thank you, sir.

4 Anyone else who wishes to speak

5 with regards to this proposal?

6 MS. CARUSO: Good evening. I'm

7 Carolyn Caruso, and I reside at 45 Marion

8 Avenue. My husband and I are both second

9 and third generation residents of this

10 town. I'm in agreement with everything

11 Mr. Merchant and my other neighbors have

12 said. You know, we are a small pocket of

13 Hastings that I feel has been overlooked by

14 the village in a lot of ways. And I live

15 directly adjacent to the junkyard that if

16 you've ever been in our neighborhood, you

17 will see.

18 You know, right now our view is of

19 a beautiful home with a large, you know,

20 yard. And this is what our proposed view

21 will look like. I wasn't afforded the

22 luxury of inheriting a family home. This

23 is a home that we worked hard for.

24 And I also would like to know who

25 exactly are the people that signed this

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2 petition because a lot of these properties
3 are owned by Mr. Tarricone. And I really
4 think that there's only two or three people
5 in addition to his property. And if I'm
6 not mistaken, and I'm not sure it applies
7 here, but I believe there's a village law
8 that has something to do with when you're
9 making a change before a Board of Trustees
10 rather than going before the Zoning Board,
11 which I've had the opportunity to appear
12 before you for a pool in my neighborhood,
13 in my yard. So, I know what this process
14 is like. But I think that there's
15 something with a percentage when you're
16 going for that type of a change in the
17 neighborhood, and maybe you could speak on
18 this, that you need a 2/3 percentage or a
19 2/3 of people within either 100 or
20 200-foot --

21 CHAIRMAN MAGUN: Well, you know,
22 the technical parts of that, our role here,
23 we're not the Trustees and we're not going
24 to change the law.

25 MS. CARUSO: I know, but you're

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2 going to make a recommendation.

3 CHAIRMAN MAGUN: We're going to
4 make a recommendation. So, I think what we
5 need to hear is what your feelings are
6 about this zoning change, not what the
7 technical issues are. And also, because
8 the hour is late, I don't want to get hung
9 up on that.

10 MS. CARUSO: Okay. Well, again, I
11 would like to state, this is a residential
12 area. Saw Mill River Road is light
13 commercial, but we are buffered from that,
14 and I don't want to bring it into my
15 neighborhood. I don't want to open the
16 door for other types of commercial
17 permitted uses in my neighborhood.

18 You know, this is a neighborhood
19 that has changed hands. We're all young
20 families that have come in that have
21 children. Four of us have just bought in
22 the last three years. In this neighborhood
23 the houses are being redone, and there are
24 a lot of kids in this neighborhood that,
25 you know, I would like to see it stay

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2 residential and not become commercial. And
3 I would strongly urge you to oppose this
4 opposition, or this application, I'm sorry.

5 CHAIRMAN MAGUN: Okay, that's okay.

6 Anyone else? I'm just going to ask
7 the board, it's five after 11, can we stay
8 a few more minutes?

9 MR. PYCIOR: Okay.

10 CHAIRMAN MAGUN: We'll try. I'm
11 sorry that the hour is so late.

12 MS. RAY: I'm Linda Ray. I live at
13 37 Edison Avenue. I came before the board
14 two years ago when I redid the family house
15 that I was born and raised in.

16 CHAIRMAN MAGUN: I'm sorry, this is
17 the street that --

18 MS. RAY: 37 Edison. My street
19 goes straight into the Tarricone property.

20 CHAIRMAN MAGUN: Okay.

21 MS. RAY: When my house was redone,
22 we had a meeting because my porch was in
23 need of a variance. And the talk that
24 night was about how it would look, what it
25 would see. And when I walk out my front

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2 door and he does what he wants to do and I
3 have to look at that building, tell me how
4 all of that money and all of that time that
5 you guys been through to make my porch
6 right so my neighborhood looks beautiful
7 fits?

8 CHAIRMAN MAGUN: Okay. Thank you.

9 MR. AGULARA: My name is a Antonio
10 Agulara, and I moved to Hastings two years
11 ago. And we found this little place quite
12 nice for our kids. I got three kids. I
13 got two nephews. Summertime they all come
14 out and play, you know, with they friends.
15 So, I think this is going to affect all of
16 us. So, I wish, you know, this place could
17 be the way it is. Thank you.

18 CHAIRMAN MAGUN: Thank you.

19 MR. STYLIANOU: Hello, my name is
20 Ioannis Stylianou.

21 CHAIRMAN MAGUN: Where do you live?

22 MR. STYLIANOU: 48 Marion Avenue.
23 I go through there everyday. I moved in
24 the neighborhood about nine years ago. And
25 my opinion is that this zoning change and

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2 the proposed warehouse which, by my
3 estimate, will be about four times the size
4 of this building, will definitely bring the
5 value of our homes down.

6 And as far as the argument about
7 the tax benefits, based on my calculations,
8 again, it will take probably 100 years to
9 make up from the loss of the value of my
10 home and the savings on the taxes. Thank
11 you.

12 CHAIRMAN MAGUN: Okay. I
13 appreciate everyone being succinct.

14 Yes, sir.

15 MR. BORRELLI: My name is Al
16 Borrelli. I live on 29 Saw Mill River
17 Road, which is north of the self storage.

18 CHAIRMAN MAGUN: And what is that,
19 is it a commercial property or a house?

20 MR. BORRELLI: No, it's a
21 two-family zone. It's a two-family house.
22 That area in there needs to be considered
23 some type of commercial. If you look
24 across the street, there's all type of
25 industrial properties there.

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2 So, I don't find it that that
3 particular corner lot would cause any loss
4 of property value or anything in that area,
5 especially would buffer the area. And they
6 did a really good job when they did the
7 self storage there. It's clean and it
8 makes a good neighbor because they close at
9 7:00. There is never anybody there.

10 So, I don't really see the property
11 values dropping at that point right there.
12 It's actually going to hide that
13 neighborhood in the back over there. So, I
14 wanted to say that.

15 CHAIRMAN MAGUN: Thank you.

16 MR. MERCHANT: I'm sorry. I didn't
17 hear your address.

18 MR. BORRELLI: 29 Saw Mill River
19 Road.

20 MR. MERCHANT: That's where you
21 live?

22 MR. BORRELLI: No, I own it.

23 MR. MERCHANT: Yeah, but that's not
24 where you live.

25 CHAIRMAN MAGUN: Okay, okay, let's

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2 not -- anyone else?

3 MR. BORRELLI: Do you have a
4 problem with that?

5 CHAIRMAN MAGUN: No, that's okay.

6 MR. MERCHANT: I want to make sure
7 because that's not where you live.

8 CHAIRMAN MAGUN: Is there anyone
9 who wishes to speak in the audience?

10 MR. TARRICONE: I want to add one
11 thing.

12 CHAIRMAN MAGUN: You know what,
13 Mr. Tarricone, can I make a suggestion?
14 We're going to continue this at the next
15 meeting. And it's really late. I just
16 wanted to give the people who came out a
17 chance to speak. And I would like -- and I
18 think that you'll be first on the next
19 agenda and you will be able to discuss all
20 of this, and I would invite everyone else
21 back.

22 MS. RAY: And when will that be?

23 CHAIRMAN MAGUN: And I will,
24 actually, ask the Trustees, tell them that
25 we did not, because of the late hour, have

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2 a chance to finish the discussion, so at
3 least tell them that I think we need to
4 discuss this a little more before we can
5 make a recommendation.

6 Is there anyone else who wishes to
7 speak with regards to this project that's
8 being proposed?

9 (No response.)

10 CHAIRMAN MAGUN: No, okay.

11 As regards to the other
12 application, Mr. Wolf, we'll move you to
13 the next meeting. I had a feeling that's
14 what was going to happen. I'm sorry. And
15 we'll get the mailing issues straightened
16 out.

17 The only other item is the approval
18 of the minutes.

19 MS. RAY: Excuse me, when will be
20 your next meeting?

21 CHAIRMAN MAGUN: Yes, I'm sorry.
22 I'm glad you asked me that. The next
23 meeting is January -- the fourth Thursday
24 in January, which is the 25th. And in
25 case there's any changes, I want to add

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2 that the meeting after that is not in
3 February, it's March 1st because we
4 changed it. So, the next meeting is
5 January 25th, six weeks from now. And
6 then the meeting after that will be in
7 March. There will be two meetings in March
8 because of the February vacation holiday.
9 So, do you have that?

10 MS. RAY: Yes.

11 CHAIRMAN MAGUN: And you can always
12 find that out from the website or just call
13 the Building Department.

14 MS. RAY: Did this meeting change?

15 CHAIRMAN MAGUN: No.

16 MS. RAY: Because the website had
17 it as -- or when I called Mrs. Maggiotto
18 had said it was the 28th.

19 CHAIRMAN MAGUN: What? Of this
20 month? No, we never meet then. She must
21 have been mistaken.

22 MS. RAY: Because I know the
23 Planning Board is the 21th and then I
24 thought this was --

25 CHAIRMAN MAGUN: No, in December we

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2 never meet after Christmas. We always meet
3 in the second week, second Thursday.

4 Now, the minutes. We didn't
5 approve the minutes last time because we
6 only had three members here and we couldn't
7 really vote on the minutes because one of
8 the members wasn't present at that meeting.
9 So, we need to approve two minutes, the
10 minutes from October and the minutes from
11 September.

12 Can I have a motion with regard to
13 the minutes? I think everybody was at the
14 September meeting.

15 MR. MURPHY: I was here at the
16 September meeting, not at the October.

17 MS. FURMAN: I make a motion to
18 accept the minutes.

19 CHAIRMAN MAGUN: September meeting?

20 MS. FURMAN: Of the September
21 meeting.

22 MR. MURPHY: I'll second that.

23 CHAIRMAN MAGUN: And the October
24 meeting, only Stan, myself and Sheldon were
25 here, and he just left.

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2 MR. MURPHY: Arthur, I think we --
3 those were present in September need to
4 vote aye.

5 CHAIRMAN MAGUN: Yes, I'm sorry.
6 It's late. So, approving the minutes from
7 September.

8 MS. FURMAN: I made a motion.

9 CHAIRMAN MAGUN: All in favor?

10 MR. DEITZ: Aye.

11 MS. FURMAN: Aye.

12 MR. PYCIOR: Aye.

13 MR. MURPHY: Aye.

14 CHAIRMAN MAGUN: Aye. Against?
15 None, okay.

16 And the October minutes, we really
17 need to have Sheldon here because we only
18 have two people. We'll wait on that.

19 Any other issues, Marianne?

20 MS. STECICH: Yes, I just want to
21 talk to the board. You might want to stay,
22 Mr. Wolf, for three minutes on an issue to
23 think about on the Griffin application.

24 CHAIRMAN MAGUN: I'm glad you
25 brought that up.

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2 MS. STECICH: The issues for the
3 variances were, you know, briefed by
4 Christine in the material she submitted.
5 But in addition to the variance, there is
6 an interpretation, and there's nothing
7 written in your package about what the
8 interpretation is about. And I'll just
9 tell you what the issue is.

10 If you look at the survey that they
11 have, and that property runs through from
12 Warburton to Rich. And on Warburton Avenue
13 they show, both on the survey and on the
14 plans, something called a parking area on
15 Warburton for two cars and on Rich Street
16 for two cars. Now, under our code, you
17 can't have any parking on a required yard
18 unless it's in a driveway.

19 Now, Deven and I agreed on this.
20 Deven thought -- well, we weren't certain.
21 We're not certain. And we thought it
22 should come before the Zoning Board to
23 decide is that a driveway or is it a
24 parking area?

25 CHAIRMAN MAGUN: So, everybody

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2 could think about that.

3 MS. STECICH: Yes, I say we
4 disagreed. We disagreed in our own heads
5 too. You'll see it. So, anyway, that's
6 the question that you've got to --

7 CHAIRMAN MAGUN: Yes, we will
8 interpret that.

9 MR. PYCIOR: Everyone should save
10 the paper in case it's --

11 CHAIRMAN MAGUN: Yes, thank you.
12 Stan points out, and please don't throw
13 away any paperwork because we're going to
14 need them for the Klot case, the Tarricone
15 case, the Wolf/Griffin case, etcetera.

16 Is there a motion to adjourn?

17 MS. FURMAN: I'll make a motion to
18 adjourn the meeting.

19 MR. MURPHY: I'll second.

20 CHAIRMAN MAGUN: All in favor?

21 MR. DEITZ: Aye.

22 MS. FURMAN: Aye.

23 MR. MURPHY: Aye.

24 MR. PYCIOR: Aye.

25 CHAIRMAN MAGUN: Aye. Meeting

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2 adjourned. Thank you.

3 (Time noted 11:14 P.M.)

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C E R T I F I C A T E

I, Vera Monaco, a Registered Professional Reporter, do hereby certify that the foregoing transcript is a true and accurate transcript taken by me on this 14th day of December, 2006.

VERA MONACO, RPR
Court Reporter

