

02-23-06

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

Held February 23, 2006 at
8:05 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
Sheldon A. Sorokoff, Alternate Board Member
Charles D. Wucherer, Deputy Building Inspector
Marianne Stecich, Board Counsel

A B S E N T :

Stanley Pycior, Board Member
Denise Furman, Board Member
Brian Murphy, Board Member

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2 CHAIRMAN MAGUN: Good evening,
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3 everyone. This is the Zoning Board of
4 Appeals, our February meeting.

5 Couple of items to address before
6 we start the actual hearing. First of all,
7 one of the cases tonight we're going to
8 defer, and that's the Ryberg/Grant case,
9 3-06. Is there anyone here tonight with
10 regards to that application?

11 MEMBER OF THE PUBLIC: Yes.

12 CHAIRMAN MAGUN: Okay. The
13 Planning Board did not come to a final
14 decision on the issue before them, which
15 was a view preservation issue. And,
16 accordingly, in general, we don't like to
17 proceed with the Zoning Board hearing of
18 the case if the Planning Board issues have
19 not been successfully resolved. So we've
20 decided to defer that case.

21 Is the proponent of Ryberg/Grant
22 here tonight?

23 MEMBER OF THE PUBLIC: Yes.

24 CHAIRMAN MAGUN: There were a
25 couple of issues that weren't clear to me

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2 when I looked at the application. I did
3 speak to the architect, and I just would
4 like maybe to, through the building
5 inspector, get some issues clarified as we

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6 go forward at the next meeting when the
7 item will be back on the agenda.

8 MEMBER OF THE PUBLIC: Sure.

9 CHAIRMAN MAGUN: All right. We
10 don't have to talk about that right now.

11 MEMBER OF THE PUBLIC: Are we going
12 to do that later or some time --

13 CHAIRMAN MAGUN: On the phone
14 tomorrow or something, okay, or on Monday.

15 MEMBER OF THE PUBLIC: Very good.

16 CHAIRMAN MAGUN: So, if anyone is
17 here for case 3-06 Ryberg/Grant, that case
18 will be deferred to the next meeting, which
19 will be in March. I'm sorry that we
20 were --

21 MS. STECI CH: Give the date.

22 CHAIRMAN MAGUN: And the exact date
23 is March 23rd, four weeks from now. I
24 know that when people come out for the
25 meeting it's hard, but it just wasn't

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2 clear. The Planning Board met last week.
3 And then in reviewing everything, we
4 realized we couldn't really go forward with
5 that application.

6 MS. STECI CH: And also one of the
7 things the Planning Board asked the
8 applicant to do was -- I don't know they're

9 going to -- but to adjust their plans to
10 deal with some of the residents'
11 oppositions. So, it may be that we get a
12 different plan. I don't know.

13 CHAIRMAN MAGUN: Now, second
14 important announcement, despite a large
15 effort, we only have three Board members
16 here tonight. That's an unusual situation.
17 Sheldon Sorokoff is our alternate. He is
18 going to be sitting for all the cases,
19 David and myself.

20 What that means is that all three
21 of us have to agree in order for the
22 application to pass. If one of us votes
23 no, or more than one of us votes no, the
24 application is denied.

25 If there were five Board members,

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2 you could have three to two; two Board
3 members could vote no and the application
4 would still pass.

5 So, I really want to ask each one
6 of you to consider whether you want to go
7 ahead tonight with your application or wait
8 for the full Board, which we should have in
9 March. It's an unusual situation, but it
10 was a holiday week and we couldn't
11 reschedule it, despite trying.

12 So, again, I want to emphasize, if
13 you go ahead tonight, all three of us have
14 to vote in favor of your application in
15 order for it to pass. If you wait for
16 another meeting, you have at least -- you
17 know, it has to pass by a three to two
18 vote, at the very least.

19 So, I'm going to give you all a few
20 minutes to think about that, and we will
21 then go according to the agenda. So, the
22 first case we would hear would be Susan
23 Holden, 1-06 followed by Faragallah and
24 Gifford, No. 2, etcetera.

25 So, why don't you take two or three

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2 minutes and think about that and I would be
3 happy to take any questions.

4 MR. KOCH: Could you clarify? Is
5 there an appeal process if the --

6 CHAIRMAN MAGUN: Why don't you come
7 up to the microphone and just introduce
8 yourself.

9 MR. KOCH: Hi, I'm Mitch Koch. Is
10 there an appeals process, for example, if
11 an application is denied?

12 MS. STECIH: You could bring an
13 Article 78 proceeding. You have to go to
14 court. There is no appeal within the

15 Village from this Board. You go to court
16 in an Article 78 proceeding to challenge a
17 decision of the Zoning Board. Whatever
18 vote they take today is just as binding as
19 if it's a 5-0 vote.

20 MR. KOCH: Okay.

21 MR. PLATT: Arthur Platt. And this
22 is in relation to the fourth item on the
23 agenda.

24 CHAIRMAN MAGUN: Sure.

25 MR. PLATT: We have not gone to

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2 Planning yet. It's another issue. And I
3 think that Deven Sharma, the inspector,
4 spoke with the town lawyer. And because he
5 was very late in responding to our
6 application, they permitted us to appear
7 today at the ZBA. And if we did receive a
8 favorable response from the ZBA, any
9 permit, further approval, would be
10 contingent, or even your approval would be
11 contingent on planning.

12 So you began the meeting by saying
13 you --

14 CHAIRMAN MAGUN: Why does this
15 application need to go to the Planning
16 Board?

17 MR. PLATT: Steep slopes, a very
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18 minimal --

19 MS. STECI CH: It's not a steep
20 slope. That has nothing to do with this
21 Board. Nothing that you do is contingent
22 on the steep slopes. It's not view
23 preservati on.

24 MR. PLATT: We're going for front
25 yard.

8

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2 MS. STECI CH: The steep slope stuff
3 is irrelevant to the Zoning Board.

4 MR. PLATT: So that could happen
5 after.

6 MS. STECI CH: Sure, the both boards
7 don't pass on that.

8 CHAIRMAN MAGUN: Again, I want to
9 emphasize the importance of deciding to
10 proceed tonight versus waiting for a full
11 Board. As much as I tried, this is the
12 best we could do. Sometimes we have only
13 four, but this is unusual to only have
14 three members.

15 We are ready to proceed. We
16 reviewed all the applications, but you do
17 have the right to defer the application to
18 the March meeting.

19 MEMBER OF THE PUBLIC: You can't
20 give us a hint how you're leaning?

21 CHAIRMAN MAGUN: No, actually, I
22 can't. In all fairness, I think it's to
23 your disadvantage to proceed tonight if
24 there are only three members because if one
25 of us votes no, that's it.

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2 So take a few minutes to think
3 about it and then we'll go ahead.

4 MR. KOCH: I would like to call my
5 client, if I may.

6 CHAIRMAN MAGUN: You may. Why
7 don't we take a five-minute break. I think
8 people need to think about it for a minute.

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

11 CHAIRMAN MAGUN: Is the first
12 applicant here, actually?

13 MR. KOCH: That's me.

14 CHAIRMAN MAGUN: Okay.

15 MR. EBERT: I have just one more
16 question.

17 CHAIRMAN MAGUN: Come to the
18 microphone and state your name, please.

19 MR. EBERT: David Ebert.

20 CHAIRMAN MAGUN: What's your
21 address?

22 MR. EBERT: 60 Hamilton Avenue.
23 You will tell us the decision tonight?

24 CHAIRMAN MAGUN: Oh, yes. We
25 discuss the case and vote on it.

10

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2 MR. EBERT: Tonight?

3 CHAIRMAN MAGUN: If you want to
4 proceed, sure.

5 MR. EBERT: Thank you.

6 (Whereupon, there was a brief
7 recess taken.)

8 CHAIRMAN MAGUN: State your name
9 and address, sir.

10 MR. ROTHSTEIN: Peter Rothstein, 19
11 Overlook. Given only three members here
12 and the fact that it then has to go -- if
13 someone wants to appeal that they have to
14 go to court, if, in fact, the vote comes
15 out two to one, can you folks decide that
16 you are going to hold off on the decision
17 tonight and postpone it until the March
18 meeting?

19 CHAIRMAN MAGUN: No, no, two to one
20 means it was denied.

21 MR. ROTHSTEIN: No, before you
22 announce your vote, you will know that it's
23 two to one. And you decide that rather
24 than voting --

25 CHAIRMAN MAGUN: No, no. In other

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2 words, if we decide to hear the
3 application, unless there is an issue that
4 we -- sometimes we defer applications
5 because we're trying to work something out,
6 but we wouldn't defer the application if we
7 think it was going to -- for the reason
8 that it would be a two to one vote.

9 MR. SOROKOFF: May I just add one
10 thing? This is not a secret ballot. You
11 will see us vote by hand and you will know
12 what the vote is immediately. We don't
13 withdraw the vote. We vote right here in
14 public.

15 CHAIRMAN MAGUN: Let me just get a
16 sense. The first application, Holden, do
17 you want to proceed?

18 MR. KOCH: I would like to proceed.

19 CHAIRMAN MAGUN: You are going to
20 proceed?

21 MR. KOCH: Yes.

22 CHAIRMAN MAGUN: And case No. 2,
23 Faragal I ah/Gi fford?

24 MEMBER OF THE PUBLIC: We're going
25 to proceed.

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2 CHAIRMAN MAGUN: Three we are
3 deferring. So case 4-06, Ebert and
4 Lieberman.

5 MR. EBERT: We are going to give it
6 a shot.

7 CHAIRMAN MAGUN: You are going to
8 proceed?

9 MR. EBERT: Yes.

10 CHAIRMAN MAGUN: And Susan Hudson,
11 5-06.

12 MEMBER OF THE PUBLIC: Proceed.

13 CHAIRMAN MAGUN: You are going to
14 proceed. Then we will hear case No. 1-06,
15 Susan Holden, 17 Pinecrest Drive. This is
16 a request for view preservation approval
17 for the enlargement of a dormer in the
18 attic. The house is located at 17
19 Pinecrest Drive.

20 MR. KOCH: Mitchell Koch.

21 MR. WUCHERER: All mailings are in
22 order.

23 CHAIRMAN MAGUN: Mr. Wucherer is
24 our deputy building inspector, and he will
25 be helping us tonight.

13

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2 MR. KOCH: Can everybody see that
3 besides me?

4 CHAIRMAN MAGUN: When we need to,
5 you will show it to us.

6 MR. KOCH: Good evening. My name
7 is Mitch Koch. I'm the architect for Susan
8 Holden, who can't be here tonight and was
9 unreachable by phone either, unfortunately.

10 I would like to pursue the
11 application because, in fact, what we are
12 trying to achieve is a small modification
13 to the roof line on the western side of the
14 property. And you can see outlined in red,
15 and I believe that you've got photos also,
16 we have a -- you know, it's visible from
17 the north on the aqueduct.

18 CHAIRMAN MAGUN: So you are
19 proposing to build a dormer?

20 MR. KOCH: A dormer, yes, an
21 enlarged dormer. You can see it here in
22 the plan. Here, this is the actual line of
23 the roof below over the second floor. So
24 this is the eve looking down. And the idea
25 is to bring out the dormer to here.

14

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2 Currently, the dormer actually
3 projects out as far as, but it's just not
4 quite as massive. So we're changing the
5 character of the roof line a little bit and
6 the shape of the -- you know, the shape of

7 the dormer. But it's not visible from the
8 neighbors who are above it who would be
9 most impacted by the obstruction of the
10 view, nor where it is visible from do you
11 obstruct the view. It's seen from below.
12 And it's a foreshortened view because
13 Pinecrest is extremely steep and you are
14 looking up 16 steps to the house before you
15 even get to the ground floor, and this is
16 on the third floor.

17 CHAIRMAN MAGUN: So, the issue here
18 is only one of view preservation. There is
19 no --

20 MR. KOCH: I think that's not
21 right, Arthur. I really think that there
22 is a zoning issue because it sits within
23 the front-yard setback.

24 MR. DEITZ: I wouldn't say that.

25 CHAIRMAN MAGUN: Go ahead. Why

15

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2 don't you expand on that.

3 MR. KOCH: Well, forgive me. I'm
4 wrong. It doesn't sit within the primary
5 setback, waive that, please.

6 The front porch is actually in the
7 front-yard setback. This is in the
8 as-of-right envelope. I retract that.
9 It's entirely view preservation.

10 MS. STECI CH: The Planning Board at
11 their meeting of February 16th
12 recommended view preservation on this
13 application.

14 CHAIRMAN MAGUN: And what's the
15 purpose of the new construction?

16 MR. KOCH: It's going to be a
17 master bedroom suite.

18 CHAIRMAN MAGUN: How many bedrooms
19 are in the house now?

20 MR. KOCH: There are currently four
21 bedrooms in the house. One bedroom will
22 become a laundry room.

23 CHAIRMAN MAGUN: When you had
24 submitted this application, there was some
25 question of another structure that was

16

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2 going to be built?

3 MR. KOCH: Yes.

4 CHAIRMAN MAGUN: Could you clarify
5 that?

6 MR. KOCH: Originally, our
7 intention had been to do a as-of-right
8 kitchen addition on the east side of the
9 house, but my client withdrew that.

10 CHAIRMAN MAGUN: That would have
11 potentially also been a view preservation.

12 MR. KOCH: View preservation.

13 CHAIRMAN MAGUN: All right. So,
14 the issue here is that the applicant wants
15 to add a dormer to the house. The dormer
16 is not within any of the required
17 set-backs. It's not a height issue, but
18 because the outside of the house is
19 changing, it's a view preservation issue.

20 MR. KOCH: Correct.

21 CHAIRMAN MAGUN: Any questions from
22 the Board with regard to this application?

23 MR. SOROKOFF: Yes, I notice that
24 it's called the Clarke house. Is that in
25 the Hastings' tradition that the previous

17

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2 owner always gets to name the house?

3 MR. KOCH: No, but it's important
4 to my client that he be remembered.

5 CHAIRMAN MAGUN: I was confused by
6 that myself. Thank you for bringing that
7 up.

8 Then another question, Mr. Koch, on
9 the zoning analysis that you had prepared,
10 I guess you had said you're enlarging the
11 footprint area, but that was --

12 MR. KOCH: That's moot at this
13 point. There is no enlargement of the
14 footprint.

15 CHAIRMAN MAGUN: Nothing would

16 change here.

17 MR. KOCH: Absolutely.

18 CHAIRMAN MAGUN: You are just
19 enlarging the dormer or adding the dormer.

20 MR. KOCH: Right.

21 CHAIRMAN MAGUN: So that's not
22 applicable here.

23 I did find these drawings really
24 easy to understand. I appreciate the
25 graphics. It helps us a lot for view

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2 preservati on.

3 Is there anyone in the audience
4 that has questions about this application?
5 If you want to come up and look at it, you
6 are welcomed to.

7 (No response.)

8 CHAIRMAN MAGUN: No, okay.

9 I don't have any other concerns.

10 David, anything to ask or raise?

11 MR. DEITZ: It's fair to say that
12 no existing house will have its view of the
13 river or the Palisades obstructed.

14 MR. KOCH: That's correct. I just
15 have to say that her view will be greatly
16 enhanced because it's magnificent.

17 CHAIRMAN MAGUN: I also didn't
18 think that anybody's view would be impacted

19 on. There is also a tree in the front of
20 the house.

21 MR. KOCH: Yes. Actually, there's
22 a tree on either side. There is a huge oak
23 in the back, big pine in the front.

24 CHAIRMAN MAGUN: Okay. Then any
25 other questions, gentlemen? David?

19

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2 MR. DEITZ: No.

3 CHAIRMAN MAGUN: Would someone like
4 to make a motion with regards to the
5 application for view preservation approval?

6 MR. DEITZ: I vote to approve the
7 application for view preservation.

8 MR. SOROKOFF: Second.

9 CHAIRMAN MAGUN: Second, okay.

10 All in favor?

11 MR. SOROKOFF: Aye.

12 CHAIRMAN MAGUN: Aye.

13 MR. DEITZ: Aye.

14 CHAIRMAN MAGUN: That passes 3-0.

15 Congratulations.

16 MR. KOCH: Thank you.

17 CHAIRMAN MAGUN: We're going to go
18 to the next application. I should add if
19 anyone gets cold feet, you can withdraw at
20 any time before we start.

21 Ramsey Faragallah and Raine

22 Gifford, case 2-06, 18 Overlook Road. This
23 is a request for variance for a two-story
24 addition where there is an existing
25 non-conformity. And the addition adds to

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2 the existing non-conformity. This is, as I
3 said, at 18 Overlook Road.

4 Good evening, Christina. Just
5 state your name and address into the mike.

6 MS. GRIFFIN: Good evening.
7 Christina Griffin. I'm the architect.

8 We're requesting a variance to the
9 12-foot side-yard setback in order to
10 construct a two-story addition. We're
11 planning to put the addition right in line
12 with the -- an existing stone platform, and
13 that platform is non-conforming. It has a
14 set-back of 11.25 feet. So we're asking
15 for a variance to allow an encroachment of
16 nine inches into the set-back.

17 The reason for this, for asking for
18 the variance, I will show you. This is a
19 small three-bedroom house. We're planning
20 to extend the kitchen 2 feet. It's like a
21 kitchen that is about 12-foot 9 by 11.9,
22 and there is a very tiny powder room in the
23 kitchen or off the kitchen. We would like
24 to move that powder room to this area which

25 is over the existing stone platform so that

21

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2 we can expand.

3 CHAIRMAN MAGUN: Stone platform
4 meaning?

5 MS. GRIFFIN: There's an existing
6 platform here, and I can show you a
7 photograph of that. It's an open porch.

8 What we would like to do, we just
9 don't know right now, we are going to
10 excavate. And if we can find out if there
11 is proper footing, we would like to rebuild
12 the wall. It has severe cracks in it.
13 It's a nice stone and it matches the stone
14 on the old house.

15 So we are planning to put a new
16 powder room on the first floor. And then
17 on the second floor, in line with the --
18 right in line with the footprint of the
19 first floor, we're planning to add another
20 bathroom. This is a master bath.

21 CHAIRMAN MAGUN: It's on the second
22 floor?

23 MS. GRIFFIN: On the second floor.
24 There is only a whole small bath right now.
25 This bathroom would just have a shower,

3 bedroom.

4 On the side of the house there
5 is --

6 CHAIRMAN MAGUN: So, that's not the
7 rear elevation; is it?

8 MS. GRIFFIN: No, this is the front
9 and this is the rear, and facing the
10 side which shows you the size of the
11 addition.

12 CHAIRMAN MAGUN: So that's the
13 south elevation what you're pointing to
14 now?

15 MS. GRIFFIN: This is the south
16 elevation, yes.

17 CHAIRMAN MAGUN: Okay.

18 MS. GRIFFIN: Currently there's a
19 dormer here. We would like to extend that
20 so that we can add the master bath and down
21 below the powder room. And this is the
22 existing stone platform. On the rear of
23 the house we're going to treat the addition
24 so it looks very similar to the old dormer
25 that was there and continue the roof line

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2 underneath. And, of course, all the siding
3 will match the siding that we use on the
4 house.

5 CHAIRMAN MAGUN: So the
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6 footprint -- I think I was told the answer,
7 but I want to make sure I understand. The
8 footprint of the new addition that you're
9 proposing, it corresponds to the current
10 footprint of the concrete platform?

11 MS. GRIFFIN: Yes, the stone
12 platform. We are planning to match it.

13 CHAIRMAN MAGUN: So, what are those
14 dimensions actually, what length?

15 MS. GRIFFIN: The platform?

16 CHAIRMAN MAGUN: Yes.

17 MS. GRIFFIN: Is 7 feet 5 by 9 feet
18 4. And the corner is 7 feet 4 and a
19 quarter, and it's about 70 square feet, the
20 footprint.

21 CHAIRMAN MAGUN: So you're going
22 towards the rear of the house, I'm sorry,
23 7 feet?

24 MS. GRIFFIN: If you look at the
25 first floor plan, it shows it will be

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2 7 feet 5.

3 CHAIRMAN MAGUN: Oh, yes, 7-5.

4 MS. GRIFFIN: And across 9 feet 4
5 and a quarter. If you want to know that
6 little corner that goes into the 12-foot
7 setback is 2.8 square feet.

8 CHAIRMAN MAGUN: So, the real
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9 difference then is that we're adding a
10 two-story addition on a site where
11 currently there is a stone and concrete
12 platform.

13 MS. GRIFFIN: Yes.

14 CHAIRMAN MAGUN: And the distance
15 from the side-yard setback is actually
16 almost exactly the same.

17 MS. GRIFFIN: It is. We're
18 matching, 11.25.

19 CHAIRMAN MAGUN: And on your
20 diagram here there is some more
21 construction in the back of the house. I
22 know that's not a part of this.

23 MS. GRIFFIN: Yes, it's not but we
24 are expanding the kitchen by 2 feet. And
25 the reason -- well, the kitchen is very

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2 small, so we're going to use the space
3 that's now the powder room for the kitchen.

4 The only way to expand the house is
5 to go this direction because there's a
6 large rock outcropping in the back. It's
7 really not possible to extend the house
8 much more than it is without major expense.

9 CHAIRMAN MAGUN: Okay. Sheldon or
10 David, any other questions or issues?

11 (No response.)

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12 CHAIRMAN MAGUN: So, the new
13 construction will add another bathroom on
14 the second floor and will add a mud room
15 and a powder room on the first floor.

16 MS. GRIFFIN: A powder room
17 replaces the powder room that we are
18 relocating to extend the kitchen.

19 CHAIRMAN MAGUN: And that will
20 extend the kitchen. I got it.

21 How many bedrooms will this house
22 end up having?

23 MS. GRIFFIN: Three bedrooms.

24 CHAIRMAN MAGUN: Three bedroom,
25 okay.

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2 Any questions from the Board? Is
3 there anyone in the audience that has any
4 questions or comments with regards to this
5 application?

6 (No response.)

7 CHAIRMAN MAGUN: I should note --

8 MR. DEITZ: There is a question.

9 CHAIRMAN MAGUN: Yes, please. I'm
10 sorry.

11 MS. WASHINGTON: My name is Kate
12 Washington. I live at 19 Overlook directly
13 across the street.

14 CHAIRMAN MAGUN: Across the street?
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15 MS. WASHINGTON: Across the street.
16 I would just like to say that we're
17 100 percent in support of this. We think
18 that we have great neighbors. This is
19 really going to make it easier for them to
20 continue to live across the street, and we
21 totally support it.

22 CHAIRMAN MAGUN: Thank you very
23 much. There's a letter here from someone
24 named Jean and Leonard Simchick (phonetic),
25 22 Overlook. Now, where is 22 Overlook

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2 with regard to this house?

3 MEMBER OF THE PUBLIC: It's north
4 of the property by two homes.

5 MS. WASHINGTON: Two houses.

6 CHAIRMAN MAGUN: It's not the
7 adjacent neighbor?

8 MS. GRIFFIN: On the other side.

9 CHAIRMAN MAGUN: Okay. Anybody
10 else in the audience have any comments,
11 questions?

12 (No response.)

13 MR. DEITZ: I have a question.

14 CHAIRMAN MAGUN: It's the first
15 page there. The letter just says that --
16 I'm sorry, that they have no objections.
17 That's essentially what the letter says.

18 MR. SOROKOFF: Exactly what it
19 says.

20 CHAIRMAN MAGUN: Exactly, okay.

21 Well, you know, I think that it's
22 sort of a very nice proposal. It gives the
23 house a lot more room, and it doesn't
24 really change the existing set-backs in any
25 significant way. The concept is already

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2 there. So, I think it's a reasonable
3 proposal, and I would probably be prepared
4 to vote in favor of it.

5 I don't have any other questions.
6 Sheldon? David?

7 MR. DEITZ: No.

8 MR. SOROKOFF: No.

9 CHAIRMAN MAGUN: I think that, you
10 know, it adds, as you noted in your letter,
11 it adds value to the house and is a
12 reasonable type of addition.

13 Do I hear a motion with regards to
14 this application? So I need a motion for a
15 side-yard variance where there's an
16 existing non-conformity and the proposal is
17 for a two-story addition which will be
18 non-conforming by .75 feet it looks like.
19 Someone has to make a motion.

20 MR. DEITZ: I move to approve the
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21 application and accept the non-conforming
22 side yard that's proposed to be 3 quarters
23 of a foot beyond what would otherwise be
24 allowed.

25 CHAIRMAN MAGUN: Okay. Is there a

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2 second?

3 MR. SOROKOFF: I second.

4 CHAIRMAN MAGUN: In favor?

5 MR. SOROKOFF: Aye.

6 MR. DEITZ: Aye.

7 CHAIRMAN MAGUN: Aye. Passes.

8 MS. GRIFFIN: Thank you.

9 CHAIRMAN MAGUN: Okay. So we're
10 going to go now to case No. 4-06, David
11 Ebert and Amy Lieberman, 60 Hamilton
12 Avenue. This is for the addition of a
13 paved play area. Two variances are
14 required here. The first variance is --
15 and the proponent will have a chance to go
16 over this, but as written in the notice,
17 the first variance would require a
18 front-yard variance for erection of a
19 structure where the proposed play area is
20 10 feet from the front yard boundary. And
21 then also paving in the front yard where
22 none is permitted. There's none existing,
23 and the proposal is for construction of a

24 420-foot square foot play area slash
25 basketball court. Okay, sir.

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2 MR. PLATT: Hi, my name is Arthur
3 Platt. I'm an architect representing David
4 Ebert and his family. I'm going to just
5 walk up with the drawings. Is that okay?

6 CHAIRMAN MAGUN: It is. There's
7 not a lot of people here.

8 MR. PLATT: I just want to show you
9 initially some context. This is the
10 location where we're proposing the paving.
11 It's on the north side of this existing
12 structure at 60 Hamilton. The building
13 itself predates the zoning, and it already
14 encroaches in the front setback by about
15 15 feet.

16 This is an addition that we just
17 completed on the south side of the building
18 we passed and had a C of O for this
19 structure. The owner at this point would
20 like to receive a permit to construct the
21 420-square foot paved area at this
22 location. In order to do that, we would
23 need to build a slight retaining wall here
24 only 18 inches high.

25 Everything here is at grade level

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2 except for the retaining wall, and, of
3 course, the basketball goal, which is shown
4 here in elevation. So, it's a basketball
5 goal that you can operate and raise it to
6 different levels because he has a young
7 daughter.

8 In order to mask that activity from
9 the street, there are existing hedges -- or
10 mass the paving, I should say, from the
11 street, there are existing hedges. They're
12 a little bit denuded at this time of year
13 along the property line. We would continue
14 them in our proposal this way and also
15 build a 4-foot high cedar fence. And you
16 would have some screening here from the
17 street to this paved area.

18 In trying to address the concerns,
19 the five questions that are in the
20 application for zoning, we felt that this
21 proposal was a very safe antidote to other
22 basketball options that one finds around
23 the neighborhood that are a little bit
24 treacherous maybe in terms of -- this
25 survey is of some hoops that are attached

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2 to telephone poles which are right on the
3 street. There are other setups where there
4 are mobile -- semi-mobile basketball goals
5 that in order to get a little hardtop, you
6 encroach up toward the street to use that.

7 This one here is right next to the
8 owner's property. It's a very
9 basketball-friendly neighborhood, and I
10 think our application is helping to do one
11 small basketball play area that's safer for
12 the community and for the owners in
13 particular.

14 MR. SOROKOFF: You say there are
15 other basketball courts in the
16 neighborhood?

17 MR. PLATT: There are only these
18 ones on the streets. I didn't find any
19 pressing --

20 CHAIRMAN MAGUN: Using telephone
21 poles on the street?

22 MR. PLATT: Right. Literally in
23 the public realm.

24 MR. SOROKOFF: Right.

25 MR. PLATT: There are also some on

1 ZONING BOARD OF APPEALS - 02/23/2006
2 garages. Wherever there is paving there is
3 going to be a basketball court, I suppose,

4 or could be one.

5 There's not the option to put one
6 on this building. There are too many
7 overhead wires and it's asbestos clad, and
8 a bad shot could start bringing those down
9 pretty easily.

10 CHAIRMAN MAGUN: Any other comments
11 you want to make about the proposal?

12 MR. PLATT: I think in the notice
13 it said that there is no paving existing in
14 the front yard, but there is. There is an
15 existing driveway which is paved, and there
16 are existing retaining walls and walkways.

17 CHAIRMAN MAGUN: We don't usually
18 include the driveway as a paving in the
19 front yard.

20 MR. PLATT: Oh, okay. So, if
21 someone was to apply for another parking
22 space in a front yard, that wouldn't be
23 paving?

24 CHAIRMAN MAGUN: Well, it would
25 have -- it would have to -- and I shouldn't

35

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2 say for sure, but generally it would have
3 to be contiguous with the current driveway
4 so that if you would enlarge the driveway,
5 there are certain square footage issues.

6 MR. PLATT: I think there is 960

7 total for parking.

8 CHAIRMAN MAGUN: It would have to
9 be a good reason to do that.

10 MR. PLATT: Well, this isn't
11 parking. It's not proposed as parking.
12 It's not attached to any curb cut. All in
13 all though we are well below that 960 for
14 coverage.

15 CHAIRMAN MAGUN: So this is -- I
16 think you explained it well. I understand
17 it. Just to clarify, there are two -- this
18 was split into two variances because
19 there's going to be a structure erected,
20 which is the actual basketball hoop, plus
21 paving in the front yard.

22 I have one or two questions. The
23 walls, the retaining walls that you are
24 proposing to erect would be at maximum
25 complete 2 feet high you said?

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2 MR. PLATT: I reduced them to 18 in
3 this revision here. We're able to do that
4 and then not have to have any kind of
5 safety fence at the top height of it.

6 CHAIRMAN MAGUN: And you propose to
7 erect a fence in the front?

8 MR. PLATT: In the front here.
9 That's also to keep the ball from running

10 into the street.

11 CHAIRMAN MAGUN: Okay.

12 MR. PLATT: The way the basketball
13 net is affixed to its anchor is by bolts,
14 and so it could be removed if it was not
15 used after a certain point. Of course the
16 hardtop could be taken away, and I think
17 with a retaining wall there you would have
18 more of a garden setting if the use was not
19 strictly basketball.

20 We're also proposing plantings,
21 evergreens, erosion resistant planting on
22 the slope above the retaining wall to help
23 filter the runoff.

24 CHAIRMAN MAGUN: Okay.

25 MR. PLATT: That's it. I'm sorry,

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2 David received some letters of support from
3 neighbors, immediate neighbors. I didn't
4 submit them before, but we just got them.

5 Should I read them?

6 CHAIRMAN MAGUN: Why don't you let
7 me look at them and then we'll just pass
8 them out here.

9 So, this is the letter from someone
10 at 50 Hamilton Avenue that's on your
11 street; right?

12 MR. EBERT: Yes.

13 CHAIRMAN MAGUN: These are
14 preprinted letters that some people just
15 signed.

16 MR. EBERT: If I may?

17 CHAIRMAN MAGUN: Go to the
18 microphone.

19 MR. EBERT: David Ebert. I just
20 wrote those. I took them to three
21 neighbors. I asked them to sign it. I did
22 not have it signed by the immediate
23 neighbor as you're facing the house to the
24 left. We had an extensive conversation
25 with the wife, who is ill, and I didn't

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2 feel that I wanted to go to their house and
3 have them sign the letter. But I did
4 explain what we were doing. They were
5 fine. I emphasized that if at any point
6 they didn't want to hear the bouncing, they
7 would tell us. We have a great
8 relationship with them. I can stop -- I
9 can't prove I spoke to her, but I did speak
10 to her and I didn't get the letter.

11 CHAIRMAN MAGUN: So these are
12 letters from Eva Klein, Vohas Serra, 50
13 Hamilton.

14 MR. EBERT: Those are the immediate
15 neighbors to our right that just moved in

16 last week or so.

17 CHAIRMAN MAGUN: Another letter
18 from Ray Dorvel, 38 Hamilton, and Christine
19 Costin and Walter Stugis at 44 Hamilton.
20 Then there is another letter that we
21 received from DeCarlo, Joseph and Carol
22 DeCarlo, 47 Hamilton. This is opposing
23 this application. I will just read this:

24 "In regards to this case, the above
25 residence, we would be opposed to the

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2 relief from strict application of the
3 Zoning Law for the following reasons:

4 "One, to allow paving over sloped
5 area that would border the street for a
6 basketball court could pose serious safety
7 factors. Balls leaving this area come into
8 the street either causing cars to unsafely
9 stop or a child attempting to retrieve a
10 ball could be struck. Hamilton Avenue is a
11 very heavily traveled street, including
12 school buses.

13 "No. 2, aesthetically, it just
14 wouldn't conform to properties in this
15 area.

16 "And No. 3, water runoff and
17 drainage onto the street should also be
18 addressed."

19 So, that's another letter.

20 MR. EBERT: Sorry, that was from
21 47?

22 CHAIRMAN MAGUN: 47 Hamilton
23 Avenue, Joseph and Carol DeCarlo. You are
24 at 60, so I guess it's one of the houses in
25 the area.

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2 MR. EBERT: It's across the street.

3 CHAIRMAN MAGUN: Any questions,
4 comments from the Board?

5 MR. EBERT: Shall we address those
6 concerns?

7 CHAIRMAN MAGUN: You will get a
8 minute. I want to first ask the Board if
9 they have any questions or comments on the
10 application.

11 MR. SOROKOFF: I don't have any
12 questions. I have a comment. In walking
13 through the neighborhood, I'm not sure that
14 the front basketball court really is in
15 keeping with the neighborhood, the block,
16 as I see it.

17 CHAIRMAN MAGUN: Yes, I would echo
18 that. To put a basketball court in the
19 front of the house is not something that --
20 it is specifically one of the reasons that
21 the zoning code is written in the way that

22 it's written. You don't put paving in the
23 front of your house. It's a little hard
24 for me to understand why this application
25 should be passed.

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2 I also agree it doesn't fit with
3 the neighborhood where there isn't actually
4 on that street one single house that has
5 any paving on the front -- in the front
6 except for their driveways.

7 David?

8 MR. DEITZ: Is there something
9 specific in the code about not having
10 paving except for driveways?

11 CHAIRMAN MAGUN: Yes, it
12 specifically says there can't be any paving
13 in the front yard, period.

14 MS. STECIH: That's why they are
15 seeking the variance.

16 MR. SOROKOFF: Well, that's reason
17 enough to.

18 CHAIRMAN MAGUN: Comments from the
19 audience? You are welcomed to comment on
20 those issues.

21 MR. EBERT: The point of this is to
22 create a play area that does not do what
23 most other people do, which is to place a
24 hoop in front of the house so the kids are

25 playing on the street.

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2 We have invested a good deal of
3 money and effort to create an area that is
4 shielded as much as it can be so that
5 nobody will see the paving unless you walk
6 up to our house and look at the paving.
7 And that we will have people playing -- or
8 my child playing in an area that is
9 protected and that you don't have the
10 situation which, to me, is the problem of
11 having basketball hoops on the front of
12 your house that people play on the street,
13 and they usually are not maintained
14 properly and they usually create a danger.

15 I mean, to me, what we've tried to
16 do is create what we could do in a less
17 responsible way in a far less responsible
18 way and do it in a responsible way.

19 In terms of the aesthetic of the
20 neighborhood, again, you know, if you walk
21 through and you see the hoops that are on
22 the telephone poles that are on the street,
23 I'm not sure why that would be desirable.

24 What we are talking about is
25 putting up a hoop with a clear backboard

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2 which is oriented in the one way that makes
3 it least visible to people walking along
4 the street on a part of a house that is,
5 otherwise, useless. It is dark. There's
6 no sun. It's not exposed. We are trying
7 to make use of this area for my daughter
8 who will have a place to play.

9 I mean, the fact that it's paved,
10 to me, you will not see the paving, again,
11 unless you walk up to the area and look to
12 see the paving.

13 I have three neighbors, one
14 immediately to me and two others who say
15 it's a great idea. Two of the three have
16 kids and would like to have their kids play
17 here. But the neighbor across the block, I
18 mean, the things that she is articulating,
19 we have dealt with the drainage. We are
20 putting in a drainage system so that it's
21 not a problem that the drainage is going to
22 come on to the street. We are putting up a
23 hedge and a fence so that you don't have a
24 ball careening into the street.

25 And again, I mean, to me, everybody

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2 else is starting where you are already

3 playing in the street. And all we're
4 trying to do here is create a little space
5 in an area that's not otherwise usable.

6 I would urge you to reconsider
7 where this seems to be going to give us an
8 opportunity to put this area in a house
9 that other people on the block could use
10 and that I don't think is going to create
11 an eyesore. I don't think it's going to be
12 visible of anything other than a pole and a
13 clear backboard on a surface.

14 And I urge you, this is of
15 importance to me. This is important to my
16 daughter, and it's important, I think, to
17 people on the block. And I would ask that
18 you reconsider it in that context.

19 We're trying to do something
20 responsible here. I mean, I don't mean to
21 be flip about it, but if I were to just go
22 out to Home Depot and throw a basket up in
23 the front of my house, is that preferable?
24 I mean, it sounds like I could do that. I
25 don't want to do that. But is that

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2 preferable because that just doesn't make
3 sense to me. I mean, it just doesn't make
4 sense to me. So I am urging you to think
5 of it in those terms.

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6 MR. DEITZ: There is no lot
7 coverage issue; is there?

8 CHAIRMAN MAGUN: No, no.

9 No, I understand and I appreciate
10 your response. My real concern is that,
11 you know, paving in the front of a front
12 yard is just one of these sort of
13 sacrosanct issues in the Village that is
14 trying to preserve a certain aesthetic.
15 And, you know, the code is written that way
16 for a reason so that people can't just park
17 10 cars in front of their house.

18 I understand you're not using it
19 for a parking lot, but it's an area that is
20 paved, and paving and having a basketball
21 court in the front of your house is one of
22 the clear issues that the zoning code is
23 trying to prevent.

24 We would be very happy if you built
25 it on the side or the back of your house.

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2 I understand you can't. I have been there.
3 I drive by it all the time, so I
4 understand. I know what the street is like
5 and I know how steep the slope is there in
6 the back.

7 And certainly it's aesthetic, the
8 concept of having a place for the kids to

9 play, but it's really hard for me to accept
10 the concept of, you know, paving the front
11 yard. And that is a major -- you know, the
12 house already stands 15 feet into the
13 30-foot setback. So, I mean, if you are
14 talking about one or two feet, but it
15 sticks out in front of the house and the
16 house already sticks 15 feet into the
17 front-yard setback.

18 Anyway, that's kind of my feeling
19 about it. Other comments from the Board or
20 any other questions?

21 MR. DEITZ: Would you have the same
22 issue with any other type of surface other
23 than asphalt?

24 CHAIRMAN MAGUN: Well, I didn't
25 pave -- are you asking me?

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2 MR. DEITZ: Let's see. I don't
3 know who I am asking. How about Marianne.
4 As far as the prohibition on paving, that
5 would apply to asphalt and concrete. Would
6 it apply to Astroturf or some such
7 artificial material that might be hard or
8 might not be?

9 MS. STECICH: I don't know how the
10 Building Department has interpreted that.
11 I don't want to say anything.

12 MR. WUCHERER: That's been a touchy
13 subject. What is pavement?

14 CHAIRMAN MAGUN: We discussed that
15 before.

16 MS. STECI CH: I don't think the
17 issues come up that what is a grass
18 creator, stuff like that.

19 CHAIRMAN MAGUN: Any impervious
20 surface that -- I mean, it's up to us to
21 interpret it. If you don't think it's
22 paving, than you can --

23 MS. STECI CH: That's not the
24 question. I mean, that's not the question
25 before the Board.

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2 MR. DEITZ: The drainage is
3 provided for.

4 MS. STECI CH: Right.

5 MR. DEITZ: I understand the idea
6 of the aesthetics of paving. If everybody
7 paves their front lawn, the place would
8 look a lot different, and that's why it's
9 there.

10 Let's ask the applicant. Is there
11 any other type of surface that would be
12 acceptable that you could give the building
13 inspector --

14 MR. PLATT: Well, there are --

15 MR. DEITZ: -- a period to
16 determine whether it's paving or not?

17 MR. PLATT: In order to provide a
18 level sub-straight to apply another surface
19 on to, you would have to practically go
20 through the same process of laying hardtop
21 to go with the crushed gravel, then you
22 could put this kind of interlocking mat
23 system together. But that's going to have
24 the same drainage issues. They are
25 perforated mats, but they are usually

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2 pretty bright colors because they are
3 really meant for basements indoors. That
4 would be ugly.

5 I think that over time in this --
6 we couldn't go really farther back up the
7 hill because it was a steep slopes issue.
8 So we're saying, okay, this is within the
9 front yard as zoning has set up this front
10 yard to be in a pre-zoning structure on a
11 block where I would say the predominance of
12 the buildings are also encroaching in the
13 front yard.

14 So, I think we have to find that
15 middle ground along this -- in this
16 neighborhood and along this street to say
17 that most of these houses predate zoning.

18 So this is largely on the side of the
19 house. Literally, it's on the side of the
20 house. It is in the front yard though,
21 according to zoning.

22 We dragged it to the location where
23 we have it now because aberration and
24 getting daylight would be the best context
25 for drainage at that position.

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2 So, given the location, we're
3 hoping it can be considered something of a
4 side yard. And it's a precedent for you
5 guys to pass. It would be seen in that
6 light that it's similar to other buildings
7 who are largely encroaching in their front
8 yards.

9 It's very low scale. The stonewall
10 is very contextual with other stonewalls
11 that are existing on the property. I think
12 we are really focusing on the hardtop,
13 which, you know.

14 CHAIRMAN MAGUN: Okay. Any other
15 questions or comments?

16 MR. DEITZ: Would the issue be
17 different if it was a deck? Then you
18 wouldn't have a paving issue. I am just
19 trying to get around what --

20 CHAIRMAN MAGUN: It's not a deck.
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21 MR. DEITZ: -- the objections are.
22 I know it's not.

23 CHAIRMAN MAGUN: You can't build a
24 deck in the front yard. You can project.
25 You can project 6 feet from the house, but

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2 it's already a non-conforming. So that
3 wouldn't apply here.

4 MR. DEITZ: It doesn't really help.

5 CHAIRMAN MAGUN: No.

6 MR. EBERT: May I ask if it's a
7 different surface, is that not a zoning
8 issue?

9 CHAIRMAN MAGUN: No, no, it's going
10 to be the same issue.

11 MR. EBERT: So, if I said that I
12 wanted to have a basketball court with just
13 grass, that would still be a zoning issue?

14 CHAIRMAN MAGUN: If you erect a
15 structure in your front yard, you are
16 having a building structure in the front
17 yard.

18 MR. EBERT: But it's a basketball
19 hoop.

20 MS. STECIH: But it's not the same
21 issues as paving in your front yard.

22 CHAIRMAN MAGUN: It's not paving.
23 It's grass.

24 MR. EBERT: So, if I put down
25 Astroturf, if I put down --

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2 CHAIRMAN MAGUN: It would have to
3 be something that the building inspector
4 would have to adjudicate and decide whether
5 he thinks it is or is not a violation of
6 the zoning code. We can't decide that.

7 MR. EBERT: And if I put just a
8 hoop in front of my house and played in the
9 street, that's not a zoning issue?

10 CHAIRMAN MAGUN: Correct.

11 MR. DEITZ: Or if you put the hoop
12 where you propose to put it anyway.

13 CHAIRMAN MAGUN: No, no, wait. If
14 you build a basketball hoop on your front
15 yard, that is a structure that requires a
16 variance.

17 MR. PLATT: It's an accessory
18 structure.

19 CHAIRMAN MAGUN: You can't build a
20 structure in the required front yard.

21 MR. DEITZ: But as I understand,
22 the two variances are paving --

23 CHAIRMAN MAGUN: And a structure.

24 MR. DEITZ: -- and a structure
25 which has to do with the walls; right?

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2 CHAIRMAN MAGUN: No, with the hoop.

3 MR. DEITZ: Really?

4 CHAIRMAN MAGUN: Yes.

5 MR. EBERT: But you can put a hoop
6 in the front of your house.

7 CHAIRMAN MAGUN: In the front of
8 your house on the street has nothing to do
9 with the zoning code. That's up to the
10 Village and the police. It's not a
11 zoning --

12 MR. EBERT: So it would seem to
13 permit that.

14 CHAIRMAN MAGUN: I can't comment on
15 that. That's not our purview.

16 MR. EBERT: I mean, do you
17 understand the frustration? I feel like
18 I'm fighting to do something responsible as
19 opposed to something that's dangerous, more
20 of an eyesore and less responsible. That's
21 my frustration.

22 CHAIRMAN MAGUN: But you have to
23 also understand that hearing you we think
24 about a whole village. And the concept is
25 building paved surfaces in front yards is a

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2 difficult one for me to accept no matter
3 what the individual situation is.

4 MR. EBERT: If I put up a 10-foot
5 fence that nobody could see --

6 CHAIRMAN MAGUN: We are not going
7 to argue.

8 MR. EBERT: I mean, I'm just trying
9 to appeal to you to say I understand. You
10 don't want to make a -- you don't want to
11 make a decision and then the next day
12 everybody goes out and paves all the grass
13 in Hastings. But I just don't see that as
14 a danger. I see our properties as being
15 very unique because there is no back and
16 all you have is a side to work with.

17 CHAIRMAN MAGUN: How long have you
18 lived there?

19 MR. EBERT: Since '97.

20 CHAIRMAN MAGUN: Well, in the last
21 20 years there's been a tremendous square
22 footage addition to the total square
23 footage area of buildings in Hastings. I
24 have been on the Board for almost 10 years,
25 and, you know, each night we pass five or

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2 six new structures that slowly encroach
3 upon the green space.

4 MR. EBERT: I am increasing the
5 green space. I'm making useful the green
6 space.

7 CHAIRMAN MAGUN: I don't think we
8 need to -- we understand your concerns.

9 Any other comments from the Board?

10 MR. SOROKOFF: I think I should say
11 there is a reason for the zoning code, and
12 the zoning code protects your house as it
13 protects the house and the homes of most
14 people in the vicinity. And one of our
15 jobs is to defend the zoning code, making,
16 of course, exceptions where exceptions seem
17 warranted. In this case I'm afraid I don't
18 see that the exception seems warranted.

19 MR. EBERT: That's very
20 disappointing, obviously.

21 CHAIRMAN MAGUN: Okay. Is there a
22 motion with regards to this application?
23 There are two requests here, one for front
24 yard where required is 30 feet, existing is
25 15.4 and proposed is 10. And the second is

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2 for paving in the front yard. Is there a
3 motion in favor of the first request for --

4 MR. DEITZ: Now, the front yard is
5 the distance from the street to?

6 CHAIRMAN MAGUN: To the beginning

7 of the play area where the hoop would be.

8 MR. DEITZ: Is that where a wall is
9 or where the hole is for the hoop?

10 CHAIRMAN MAGUN: I think the
11 10 feet, according to the diagram, refers
12 to the --

13 MR. PLATT: Refers to the edge of
14 the paving.

15 CHAIRMAN MAGUN: Edge of the
16 paving.

17 MR. PLATT: This 10 feet
18 encroachment -- well, set back from the
19 property line. The property line is not
20 the curb. So from the experience of the
21 public, we really have another 10 feet
22 visually to play with, which would make
23 this -- if you wanted to work that
24 interpretation more like a -- much more
25 compliant visually, you really could

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2 reinforce this interpretation that this is
3 quite situated in the side of the building.

4 Along Hamilton, that is the
5 flattest spot on Hamilton. It seems like
6 when the glacier receded it hung out a
7 little bit there and said I want to put a
8 basketball -- you know, some day there
9 shall be a basketball anchored here.

10 CHAIRMAN MAGUN: You are creative.

11 MR. DEITZ: But is the variance
12 here for the wall, the 18-inch wall that
13 you're proposing to build, or is that what
14 runs to the structure?

15 MR. PLATT: Paving is a structure.
16 A basketball court is a structure.

17 MS. STECI CH: He meant the paved
18 area.

19 CHAIRMAN MAGUN: Yes.

20 MS. STECI CH: But it doesn't
21 matter. It's really essentially one.

22 CHAIRMAN MAGUN: I think Marianne
23 is correct. It's really essentially one
24 issue, and that is paving in the front yard
25 with the basketball hoop structure there.

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2 MR. DEITZ: But is it fair to say
3 then that if it was just an 18-inch wall to
4 keep the ball from rolling and the pole,
5 without paving, I don't know if it would
6 even be here. And if it was here --

7 CHAIRMAN MAGUN: No, David. David,
8 I'm going to ask you to stop saying that.
9 It's a structure being erected in the front
10 yard. If you erect a basketball hoop in
11 the front yard, you need a variance for it.
12 If you put it on a tree, you probably don't

13 because you didn't erect that. But if you
14 build it, you do.

15 MR. PLATT: I just have to ask,
16 let's say if a more gentele sport was
17 proposed for this, such as badminton that
18 had two permanent posts as well?

19 CHAIRMAN MAGUN: Same thing. I
20 don't think there's a difference. In a
21 front yard there is a required -- you know,
22 just reading the code --

23 MR. DEITZ: But that would be a
24 grass court. I think that would be a
25 different application.

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2 CHAIRMAN MAGUN: We are going to
3 go --

4 MR. DEITZ: That would be a
5 different application.

6 CHAIRMAN MAGUN: Is there a motion
7 to approve this application as it reads
8 now, request for variance for front-yard
9 setback?

10 MS. STECI CH: And for paving of the
11 front yard.

12 CHAIRMAN MAGUN: You want to put
13 them together?

14 MS. STECI CH: Yes.

15 CHAIRMAN MAGUN: We will do it as

16 one.

17 MR. EBERT: May I ask that they be
18 done separately?

19 CHAIRMAN MAGUN: Pardon me?

20 MR. EBERT: May I ask that they be
21 done separately?

22 CHAIRMAN MAGUN: Okay. You can ask
23 that they be done separately. They were
24 written separately.

25 MR. FENARO: Can I actually say

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2 something as a resident of Hastings on
3 camera?

4 CHAIRMAN MAGUN: I guess you can.
5 You can state your name and address.

6 MR. FENARO: All right, Michael
7 Fenaro, 25 Chestnut. There is a product on
8 the market which is made by UniLog, and
9 actually there is some polyethylene models
10 made by some other manufacturers, which is
11 that in a given square, some of them are
12 precast mortar or concrete, some of them
13 are polyethylene, as I said. Really only
14 out of 25 percent of the surface area is
15 occupied by the structure of this material.
16 And when viewed from any angle, it will
17 appear to be grass. But it has the same
18 compressive strength, basically, as a

19 brick-type pavement. It would appear to be
20 grass when viewed from any angle and would
21 function as a pavement would with a
22 basketball. And I would ask if this would
23 make any difference?

24 MR. EBERT: Thank you.

25 CHAIRMAN MAGUN: Maybe.

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2 MS. STECI CH: It's not the
3 application. You really cannot deal with
4 hypotheticals.

5 CHAIRMAN MAGUN: Right, but we
6 appreciate the effort. Thank you.

7 MR. EBERT: Thank you.

8 MR. DEITZ: I would say that would
9 be a different application.

10 CHAIRMAN MAGUN: So, is there a
11 motion in favor?

12 (No response.)

13 CHAIRMAN MAGUN: I didn't hear one.
14 So hearing none, is there a motion to deny
15 the request for a variance? The applicant
16 has asked that we do them separately.

17 MR. SOROKOFF: I move that we do
18 not grant the variance on the front yard.
19 The requirement of 30 feet, the existing
20 non-conformity to be .4 feet and the
21 proposed play area 10 feet.

22 CHAIRMAN MAGUN: This is a motion
23 to deny the first request for a variance.
24 Is there a second?
25 MR. DEITZ: Well, it's not --

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2 CHAIRMAN MAGUN: I will second it.
3 MR. DEITZ: All right. Why don't
4 you second it.
5 CHAIRMAN MAGUN: I will second it.
6 MR. DEITZ: Let me just have some
7 discussion.
8 CHAIRMAN MAGUN: Sure.
9 MR. DEITZ: I understand what
10 Marianne says. The structure is the whole
11 thing. But it seems to me that if there
12 was another application later using
13 different material such as that fellow
14 suggested, that that -- consideration of
15 that proposal would not be precluded by our
16 denial of this one. Normally, if you deny
17 an application, they can't come back for a
18 number of years with the same application.
19 CHAIRMAN MAGUN: It could come
20 back --
21 MR. DEITZ: It seems to me --
22 CHAIRMAN MAGUN: How long is it to
23 come in?
24 MS. STECIH: If it's a different

25 application, they can come back next month.

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2 CHAIRMAN MAGUN: If you change it
3 by half a foot, it's a different
4 application.

5 MS. STECICH: As long as
6 it's significant. It can't be a little
7 change. As long as it's a significant
8 change, significant enough to make it a new
9 application.

10 CHAIRMAN MAGUN: All in favor then
11 of denying the motion as made which was to
12 deny the request for a variance?

13 MR. SOROKOFF: Aye.

14 MR. DEITZ: I vote that way. But
15 in doing so, I would say that I would
16 consider such a thing a separate
17 application.

18 CHAIRMAN MAGUN: Aye.

19 MR. SOROKOFF: Nobody likes to vote
20 against.

21 CHAIRMAN MAGUN: So the motion is
22 passed, which was to deny the variance for
23 the front-yard structure variance.

24 The second request is for paving in
25 the front yard where the proposed is

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2 420 square feet and none is permitted by
3 code. Is there a motion in favor of paving
4 the -- to allow the paving in the front
5 yard?

6 MR. DEITZ: I move to deny the
7 paving in the front yard.

8 CHAIRMAN MAGUN: Is there a second?

9 MR. SOROKOFF: I second.

10 CHAIRMAN MAGUN: In favor of
11 denial?

12 MR. DEITZ: Aye.

13 CHAIRMAN MAGUN: Aye.

14 MR. SOROKOFF: Aye.

15 CHAIRMAN MAGUN: So both variances
16 were denied 3-0.

17 Final application is Susan Q.
18 Hudson, 45 Hudson Street. I wasn't sure
19 whether this was correct, but it is
20 correct, right, Hudson and Hudson Street?

21 MR. LOCASCIO: Yes, that's it.
22 Joseph LoCasio. I am an attorney, 560
23 Warburton Avenue, Hastings.

24 CHAIRMAN MAGUN: Okay,
25 Mr. LoCasio. Just give us one second.

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2 You are representing the applicant?

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3 MR. LOCASCIO: Yes, sir.

4 CHAIRMAN MAGUN: Why don't you go
5 ahead.

6 MR. LOCASCIO: On behalf of Susan
7 Hudson, we are asking for an area variance
8 tonight to construct a vestibule. I have
9 here a drawing of the existing house.
10 There's an open front porch. The front
11 door of the house opens directly into the
12 living room and they have an open floor
13 plan. The living room opens right into the
14 kitchen.

15 Basically, what they're looking to
16 do is enclose this front porch, make it a
17 little bit larger. It's going to be
18 80 square feet.

19 CHAIRMAN MAGUN: How much?

20 MR. LOCASCIO: 80 square feet is
21 the dimensions of the vestibule. What
22 they're proposing to do is encroach -- the
23 house is currently set back 30.14 feet.
24 Zoning code requires 30 feet. They're
25 proposing to bring the structure out 2 feet

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2 into the setback, and the roof overhang
3 would protrude an additional one-and-a-half
4 feet.

5 As you can see by this drawing, you
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6 have three roofs converging into one spot.
7 It causes a problem with regard to ice
8 damning and leaks. To enable them to build
9 a vestibule, we would create a vapor lock
10 so the air would not get directly into the
11 living room. They use that as the main
12 entrance of the house. They have four
13 children, two newborns. Every time the
14 kids open the door, the cold air goes right
15 into the living room.

16 This addition, as I said, would
17 alleviate this problem with the roof. If
18 you see by this proposal here, there will
19 be two roof lines here. They will pick up
20 the stone, bring it around the front. This
21 entrance will come out about 2 feet. It
22 will add some architectural interest to
23 this house.

24 That's basically how this plan
25 started. He is trying to rehabilitate a

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2 house that is a hodge podge of additions
3 and trying to get a cohesive look to this
4 house. The facade will be blended in with
5 the grade granite stone that is currently
6 on the premises.

7 This is a minimal variance. It
8 will have very little impact on the

9 neighbors; to wit, I'm the immediate
10 neighbor on the left. I have no problem
11 with it. I don't know if that's fair.

12 CHAIRMAN MAGUN: We will strike
13 that from the record. You're not a
14 disinterested party, I would presume. No,
15 I'm teasing you. Go ahead.

16 MR. LOCASCIO: And that's basically
17 our proposal. Do you have any questions?

18 CHAIRMAN MAGUN: Yes, I had trouble
19 sort of understanding some of the -- the
20 elevation that was presented to us was just
21 a front view. Are there any drawings from
22 the side?

23 MR. LOCASCIO: No, there was none
24 created. There is from on the first page
25 looking down, a bird's eye view of the --

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2 CHAIRMAN MAGUN: The site plan?

3 MR. LOCASCIO: Right.

4 MR. WUCHERER: I created those.

5 CHAIRMAN MAGUN: Right, those are
6 pictures.

7 MR. WUCHERER: Bruce was out of
8 town. I did elevation drawings.

9 CHAIRMAN MAGUN: What I didn't
10 understand about the proposal is why do you
11 actually have to change and encroach into

12 the front yard? Why can't you use that
13 little area that's already there --

14 MR. LOCASCIO: It's a pretty --

15 CHAIRMAN MAGUN: -- and make it
16 into the enclosed vestibule?

17 MR. LOCASCIO: It would be a very
18 small vestibule. Again, they have four
19 children. They have twin newborns. To be
20 able to go in and close the exterior door
21 and then open the living room door, it
22 would be too small.

23 It would also add some
24 architectural interest as you're going up
25 the street. It would tie this in. If you

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2 see by these photos, it looks like three
3 separate structures there. Effectively, he
4 is trying to tie them together.

5 CHAIRMAN MAGUN: That's because
6 there were variances on his house in the
7 past in the 70s, and there were additions
8 to the house, apparently.

9 MR. LOCASCIO: I believe the
10 variance was from out the back, the
11 kitchen.

12 CHAIRMAN MAGUN: Yes. The other
13 comment I want to make is that when I went
14 to this street, and there's a whole big

15 construction project across the street, but
16 on this side of the street, all those
17 houses are exactly in a straight line on
18 that street. They are all 30 feet from the
19 front of the street on that side. And I
20 guess I was a little concerned about the
21 proposal to start encroaching into the
22 front-yard setback.

23 Now, having said that, you realize
24 the encroachment here is not huge. But
25 just help me a little bit because there are

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2 stairs here. I guess I'm trying to
3 understand where -- the drawing doesn't
4 convey enough of --

5 MR. LOCASCIO: The way Mr. Levy
6 drew the stairs, it's off to the side now.

7 CHAIRMAN MAGUN: So, in front of
8 the new construction there's going to be
9 stairs projecting into the required front
10 yard; is that --

11 MR. LOCASCIO: I believe the stairs
12 are going to go off to the side.

13 CHAIRMAN MAGUN: No, it goes -- if
14 I'm reading this correctly, is this the
15 front door?

16 MR. LOCASCIO: Yes.

17 CHAIRMAN MAGUN: That's going to be
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18 the front door, right. So you're going to
19 walk out the front door onto a little deck.

20 MR. LOCASCIO: It's going into this
21 direction.

22 CHAIRMAN MAGUN: Right, going down.
23 So it goes up this way and then there -- I
24 guess if you look at the first floor plan,
25 this area, it really projects out about

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2 6 feet.

3 Charlie, can you help me with this?

4 MR. WUCHERER: I believe I have --

5 CHAIRMAN MAGUN: See, the drawings
6 really are not -- you guys see what I'm
7 talking about?

8 MR. DEITZ: Yes, stoop.

9 CHAIRMAN MAGUN: The request is for
10 a 3.6 -- they are projecting 3.6, 2 feet of
11 enclosed and 1.6 of the roof line.

12 MR. LOCASCIO: Well, the roof is
13 allowed to project. So really, that's an
14 additional variance of only 2 feet.

15 CHAIRMAN MAGUN: Then there is
16 another 3 feet of stairs in front in order
17 to get into the 2 feet that projects into
18 the required front yard. You're allowed to
19 have stairs projecting.

20 MR. WUCHERER: Right.

21 CHAIRMAN MAGUN: I just think it's
22 important to understand that. And what we
23 have now is a house that's -- the entryway
24 is 30 feet to the front yard. And what we
25 are going to end up with is a house where

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2 the stairs are going to be about 24 feet
3 from the front property line.

4 See what I am saying?

5 MR. SOROKOFF: Yes.

6 MR. DEITZ: Yes.

7 MR. LOCASCIO: That vestibule is
8 only about 8-foot wide. It's not the
9 entire front of the house.

10 MR. DEITZ: Right.

11 CHAIRMAN MAGUN: Right.

12 MR. DEITZ: Is there a reason that
13 the proposed variance didn't take into
14 account the width occupied by the stairs?
15 I think the architect sensed the issue
16 because he has the stairs going down along
17 the wall of the house rather than farther
18 out into the street. Surely, you can have
19 the porch or stoop that does stick out
20 farther.

21 CHAIRMAN MAGUN: Right. We
22 discussed stairs before. If you call this
23 an uncovered porch, which is kind of what

24 it is, you're allowed to project 6 feet
25 into the front yard. And this structure

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2 kind of does that, as best I can tell.
3 Although, again, the drawings are not that
4 clear.

5 You know, I kind of would like to
6 see better elevations and more clear
7 drawings. I don't know if anyone else has
8 a feeling about that because all we have is
9 the front. You're not the architect;
10 correct?

11 MR. LOCASCIO: Correct.

12 CHAIRMAN MAGUN: We only have the
13 front elevation. We don't have the side
14 elevations and the issue of the stairs and
15 how that all is going to look. I would
16 kind of like to ask that we get some better
17 drawings and discuss it at the next
18 meeting. I don't know how anyone else
19 feels about that.

20 MR. DEITZ: Is there any urgency
21 with this?

22 MR. LOCASCIO: Just that it's a
23 project, you know. He has the place pretty
24 much torn up at this point, as you have
25 seen when you have gone by. And he would

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2 I like to get it done as quickly as possible,
3 especially with the cold weather.

4 CHAIRMAN MAGUN: I'm concerned also
5 about the projection into the front yard.
6 And I say that not because it's a big
7 projection, it's about 10 percent plus
8 another 10 percent if you include the
9 stairs. But none of the other houses on
10 that block, not one single one, projects
11 into the front yard, if I'm not mistaken.

12 MR. DEITZ: Well, aesthetically,
13 that might be more pleasing to have a
14 little bit of variation.

15 CHAIRMAN MAGUN: I don't disagree,
16 but I would like to see some better
17 drawings. And I guess the -- neither the
18 applicant nor the architect is here.

19 MR. LOCASCIO: That's correct.

20 CHAIRMAN MAGUN: How do you feel
21 about it, Sheldon?

22 MR. SOROKOFF: I would like to go
23 along with it, yes.

24 CHAIRMAN MAGUN: Go along with
25 what?

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2 MR. SOROKOFF: Getting additional
3 drawings.

4 CHAIRMAN MAGUN: Getting additional
5 drawings?

6 MR. SOROKOFF: Yes.

7 CHAIRMAN MAGUN: So why don't we do
8 that. Why don't we just adjourn the
9 application and ask the architect to
10 present more clear elevations from all
11 sides since this is -- it's not just a
12 porch, you're building an actual structure.
13 I think that will make it a little clearer
14 for us to understand.

15 Also, the exact dimensions because
16 there's a lot of scribbling on the site
17 plan changing the numbers, just so we can
18 get an exact idea how far it is from the
19 front yard.

20 MR. LOZITO: Thank you.

21 CHAIRMAN MAGUN: We will adjourn
22 that application to the next meeting, which
23 is March 23rd.

24 MR. LOCASCIO: Thank you.

25 CHAIRMAN MAGUN: Okay. I do

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2 believe that covers all of our
3 applications; is that correct?

4 MR. DEITZ: Yes.
5 CHAIRMAN MAGUN: The minutes, and
6 we're heading towards a website.
7 MS. STECI CH: You don't have enough
8 people to do the minutes.
9 CHAIRMAN MAGUN: Oh, we don't?
10 MR. DEITZ: I wasn't here last
11 time.
12 MR. SOROKOFF: Me neither.
13 CHAIRMAN MAGUN: Okay, then we will
14 defer approving the minutes to the next
15 meeting. Our next meeting is March 23rd.
16 Hopefully we will have a more complete
17 Board.
18 I want to thank everyone for
19 working hard in this depth of the winter in
20 coming out tonight, including our
21 transcriber. Thank you very much.
22 Is there a motion to adjourn?
23 MR. SOROKOFF: I move we adjourn.
24 CHAIRMAN MAGUN: In favor?
25 MR. DEITZ: Aye.

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2 CHAIRMAN MAGUN: Aye.
3 MR. SOROKOFF: Aye.
4 CHAIRMAN MAGUN: Meeting is
5 adjourned. Thank you.
6 (Time noted 9:20 PM)

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C E R T I F I C A T E

I, Vera Monaco, Court Reporter, do hereby certify that the foregoing transcript is a true and accurate transcript taken by me on this 23rd day of February, 2006.

02-23-06

Vera Monaco
Court Reporter