

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK

ZONING BOARD OF APPEALS

Held July 27, 2006 at 8:01 P.M.,

Seven Maple Avenue, Hastings-on-Hudson, New York

10706-1497.

P R E S E N T :

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

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

A B S E N T :

Stanley Pycior, Board Member

VERA MONACO, RPR  
Court Reporter

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2 CHAIRMAN MAGUN: Good evening.

3 This is the Zoning Board of Appeals, and  
4 this is our July 27th meeting. We have  
5 before us three items on the agenda. We  
6 have a full board tonight. Sheldon  
7 Sorokoff is sitting in for Stanley Pycior,  
8 the regular board member, and he has  
9 reviewed all the applications. And  
10 Mr. Murphy is here tonight in place of  
11 Marianne Stecich, who is on vacation.

12 The mailings, are they all in  
13 order, Mr. Sharma?

14 MR. SHARMA: All the mailings are  
15 in order.

16 CHAIRMAN MAGUN: Okay, Deven, thank  
17 you.

18 All right. So, the first item on  
19 the agenda is case 16-06, Adam  
20 Anuszkiewicz, 349 Warburton Avenue. And  
21 this is a request for view preservation  
22 approval for a rear porch facing the Hudson  
23 River that was constructed without the  
24 benefit of a building permit. This  
25 property is located at 349 Warburton in an

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2 R-75 zone.

3 Is there someone here with regards  
4 to the application?

5 MR. ANUSZKIEWICZ: I'm Adam.

6 CHAIRMAN MAGUN: Just state your  
7 full name and address for the record,  
8 please.

9 MR. ANUSZKIEWICZ: Sure. Adam  
10 Anuszkiewicz, 349 Warburton Avenue.

11 CHAIRMAN MAGUN: So you're here  
12 tonight for a view preservation approval?

13 MR. ANUSZKIEWICZ: Right.

14 CHAIRMAN MAGUN: For a porch that  
15 was already built?

16 MR. ANUSZKIEWICZ: Right.

17 CHAIRMAN MAGUN: Are you the owner  
18 or the architect?

19 MR. ANUSZKIEWICZ: I'm the owner  
20 and the architect.

21 CHAIRMAN MAGUN: I see. Go ahead.

22 MR. ANUSZKIEWICZ: There's a  
23 deck -- there are actually two decks on the  
24 back of our house. There was one existing  
25 when we bought the house about six years

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2 ago that is directly off of the first  
3 floor. And then there's a new one that we  
4 put on right off of the lower level because  
5 the land drops very dramatically away on  
6 our property.

7 When the house was originally  
8 constructed, we had an unfinished basement  
9 with windows and doors that opened up to  
10 the backyard that I guess the intension one  
11 day was to be a deck because, otherwise, it  
12 would have just fallen off and sloped. So  
13 we completed that.

14 Now, going through the permit  
15 process, we are asking for a view  
16 preservation approval. I have photos that  
17 I submitted which are on this board. You  
18 can see the deck that we built is mostly  
19 covered by the deck above. And you can  
20 also see from the street that it is  
21 impossible to see this deck. It's one  
22 floor below grade and it doesn't protrude  
23 on either side of the house.

24 It's identical to another deck  
25 actually built on an identical house that

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2 has already been approved for the same  
3 thing a number of years ago.

4 CHAIRMAN MAGUN: Just let me  
5 understand what happened here. Did you get  
6 a building permit for the deck?

7 MR. ANUSZKIEWICZ: I came in and I  
8 talked to Deven and to Charlie, and I had  
9 started the process but didn't complete the  
10 paperwork before contractors came in and  
11 did the work. So, technically, I dropped  
12 the ball.

13 CHAIRMAN MAGUN: Pardon me?

14 MR. ANUSZKIEWICZ: I dropped the  
15 ball. I didn't get the permit.

16 CHAIRMAN MAGUN: You didn't get a  
17 permit?

18 MR. ANUSZKIEWICZ: No.

19 CHAIRMAN MAGUN: And when was it  
20 constructed?

21 MR. ANUSZKIEWICZ: It was  
22 constructed in March, March of '06.

23 CHAIRMAN MAGUN: So, it's newly  
24 built.

25 MR. ANUSZKIEWICZ: Yeah, it's newly

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2 built.

3 CHAIRMAN MAGUN: Deven, were there  
4 any other issues in terms of the Building  
5 Department's concern about the deck?

6 MR. SHARMA: See, I was called to  
7 inspect the deck. It's very well within  
8 the parameters set by normal zoning codes.  
9 Setbacks are not covered.

10 CHAIRMAN MAGUN: And was this  
11 application -- did this application come  
12 before the Planning Board, does anyone  
13 know?

14 MR. ANUSZKIEWICZ: Yeah, I do  
15 because I presented it.

16 MR. SHARMA: Yes, it did and they  
17 did approve it.

18 CHAIRMAN MAGUN: They did approve  
19 it.

20 MR. SHARMA: Recommended approval.

21 CHAIRMAN MAGUN: Recommended  
22 approval, okay.

23 Questions from the board?

24 MR. BRIAN P. MURPHY: I just wanted  
25 to make sure that the structure complies

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2 with the zoning code and the building code  
3 and there are no issues there.

4 MR. SHARMA: The building code, it  
5 has to pass the view preservation okay.  
6 That's when I go out and check and see that  
7 it complies with other codes. Before that  
8 I can't issue a permit. So I guess after  
9 he gets an approval from you, that's when I  
10 go and make sure the drawing is okay.  
11 That's when I issue a permit.

12 CHAIRMAN MAGUN: I guess I am just  
13 surprised that you, as an architect, that  
14 the deck went up without a building permit.  
15 Could you just amplify what happened there?

16 MR. ANUSZKIEWICZ: I mean, I could  
17 explain to you the excuses for why I did  
18 it, but it's basically my fault.

19 I have my own practice in Hastings  
20 that I had for about two years, and I have  
21 a very small office. I had a lot of stuff  
22 going on. And I went down to the Building  
23 Department and talked to Charlie about the  
24 deck and also Deven a little bit about it.

25 CHAIRMAN MAGUN: So they

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2 clearly knew about it.

3 MR. ANUSZKIEWICZ: Yeah, I said,  
4 well, you know, this is what I want to do,  
5 are there any issues? So I had a verbal  
6 okay. And I also know what the setbacks  
7 are. Having done work in Hastings I knew  
8 that it was okay. I had all the paperwork  
9 and I just dropped the ball. I just didn't  
10 get it in.

11 MR. SHARMA: Actually, I didn't  
12 know.

13 CHAIRMAN MAGUN: Speak louder,  
14 Deven.

15 MR. SHARMA: I said I also did not  
16 know it was constructed recently. I  
17 thought it was done before my time here.  
18 That surprises me too that, yes, you are an  
19 architect and it was just a few months ago  
20 and you didn't come to the Building  
21 Department. It surprises me.

22 CHAIRMAN MAGUN: All right. Any  
23 other comments from the board?

24 MR. DEITZ: The only thing I would  
25 have to say is people have to wait for a



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2 contractor to arrive. I think that if this  
3 fella had a contractor arrive early, he is  
4 not going to turn down and come back. It  
5 would be risky.

6 CHAIRMAN MAGUN: Unless he is  
7 worried it would be pulled down. It  
8 doesn't seem to be an issue from the view  
9 preservation point of view. I am just  
10 trying to emphasize the point that, you  
11 know, it's important that the guidelines of  
12 the village be followed, especially if  
13 you're in the business.

14 MR. ANUSZKIEWICZ: Absolutely. I  
15 will not do it that way again, I can tell  
16 you that.

17 CHAIRMAN MAGUN: I didn't think  
18 there were any view preservation issues  
19 from my perspective. I don't know if  
20 anyone else did.

21 (No response.)

22 CHAIRMAN MAGUN: No comments, okay.

23 Anybody in the audience who has any  
24 comments with regard to this application?

25 (No response.)

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2 CHAIRMAN MAGUN: Okay. Is there a  
3 motion with regards to the view  
4 preservation approval request?

5 MS. FURMAN: I make the motion to  
6 approve the request for view preservation  
7 approval for a rear porch facing the Hudson  
8 River that was constructed without the  
9 benefit of a building permit.

10 MR. SOROKOFF: I second the motion.

11 CHAIRMAN MAGUN: Second. All in  
12 favor?

13 MR. BRIAN P. MURPHY: Aye.

14 MR. DEITZ: Aye.

15 MS. FURMAN: Aye.

16 MR. SOROKOFF: Aye.

17 CHAIRMAN MAGUN: Aye. So that  
18 passes unanimously.

19 MR. ANUSZKIEWICZ: Thank you very  
20 much.

21 CHAIRMAN MAGUN: Enjoy your day.

22 MR. ANUSZKIEWICZ: Thank you.

23 CHAIRMAN MAGUN: So, the next item  
24 on the agenda is case 17-06, John Chan and  
25 Fan Jiang of 35 Buena Vista Drive. And

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2 they are here to seek two variances for the  
3 partial enclosure of an existing  
4 non-conforming porch at 35 Buena Vista  
5 Drive in an R-10 zone.

6 The variances requested are front  
7 yard where the current existing and  
8 proposed is 24.7 feet, and the required is  
9 30. Lot coverage where existing and  
10 proposed is 28.16 while up to 25 percent is  
11 permitted.

12 Who is here to present the  
13 application?

14 MS. JIANG: I am.

15 CHAIRMAN MAGUN: State your name  
16 and address.

17 MS. JIANG: I'm Fan Jiang, 35 Buena  
18 Vista Drive. Hi.

19 CHAIRMAN MAGUN: You're the owner?

20 MS. JIANG: Yeah, my husband.

21 CHAIRMAN MAGUN: Speak louder.

22 MS. JIANG: My husband is very  
23 busy, so I come to present.

24 Two months ago we had been here  
25 once and didn't pass, so we get our

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2 architect to help us to improve according  
3 to last time suggestion according to your  
4 suggestions. We made some improvements on  
5 our plans, so we have to come to present  
6 again to hope this time to get approval.

7 CHAIRMAN MAGUN: Okay.

8 MS. JIANG: So our architect also  
9 wants to talk a little bit.

10 CHAIRMAN MAGUN: I gather.

11 MR. JIM WONG: I'm not sure I do.  
12 My name is Jim Wong. I live in Hastings on  
13 59 Burnside Drive.

14 CHAIRMAN MAGUN: So you were here  
15 two months ago?

16 MR. JIM WONG: Yes. I don't know  
17 if you folks remember us.

18 CHAIRMAN MAGUN: Oh, we do.

19 MR. JIM WONG: Familiar faces.  
20 Should I just refresh our memories?

21 CHAIRMAN MAGUN: I think you should  
22 view this application as a new application  
23 because it's a different design, and I  
24 would take it that way.

25 MR. JIM WONG: Well, what we had

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2 done very quickly after the last meeting  
3 was to take all the comments that we  
4 received and trying to work with it and  
5 come up with a new design. So, instead  
6 of coming -- existing porch by the way is  
7 8 feet by 12 feet. It's an open porch.  
8 The new application called for enclosing  
9 six-and-a-half feet of that existing porch  
10 and rebuilding the columns.

11 The present location will be  
12 replaced. They are basically not in very  
13 good condition. But in terms of the  
14 footprint, we are not asking for any  
15 increase of lot coverage, although we have  
16 approval last time of a minimum increase.

17 One of the comment was from one of  
18 the board member was to trying to see if we  
19 could minimize the need, the space that we  
20 require to create a workable vestibule for  
21 us.

22 My client, the owner, they really  
23 would like to have a closet space. When  
24 you walk into the building right now,  
25 there's really no space inside the house

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2 for a coat closet. You walk in into the  
3 door, you immediately find yourself in the  
4 living room with the stair going down into  
5 the basement, a door going down to the  
6 kitchen. So they have how many kids?

7 MS. JIANG: Two.

8 MR. WONG: Two kids. They have two  
9 kids. They are elementary school kids.  
10 They have a lot of stuff. It's just a  
11 hardship to come in the wintertime with wet  
12 boots. You know all of that.

13 So, instead of coming out  
14 one-and-a-half feet on the previous  
15 application, we actually went back a foot  
16 and a half. So, the variance we're asking  
17 for is really only for three-and-a-half  
18 feet, I believe, into that -- 3.3 feet into  
19 the 30 feet setback zone for the front  
20 yard. Assuming that the existing structure  
21 is non-conforming and is grandfathered into  
22 the existing condition, we could rebuild  
23 that without seeking a variance.

24 CHAIRMAN MAGUN: But let's not  
25 confuse the issue. You're not asking for a

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2 3-foot variance, you're asking for a  
3 5.3-foot variance.

4 MR. JIM WONG: No, no, that's not  
5 true. We are asking for a three-and-a-half  
6 feet variance.

7 CHAIRMAN MAGUN: Not according to  
8 the existing and proposed. You're asking  
9 for the front porch to project out  
10 5.3-feet.

11 MR. WONG: No, the front porch is  
12 existing right now.

13 CHAIRMAN MAGUN: I know, but you're  
14 still asking for that.

15 MR. WONG: Pardon?

16 CHAIRMAN MAGUN: It's part of your  
17 application. The fact that you're -- I'm  
18 sorry to interrupt you, but I don't want  
19 you to get the board hung up on 3 feet.  
20 The proposal is for a construction of a  
21 structure that is partially enclosed that  
22 sticks out five-and-a-half feet into the  
23 required front yard.

24 MR. JIM WONG: Okay. The  
25 definition is that if any of that structure

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2 is partly enclosed, the whole structure is  
3 considered a new structure. That's  
4 correct.

5 CHAIRMAN MAGUN: It's not new.

6 It's just that that's what you would need  
7 to get a variance for. I just don't want  
8 to get lost on that.

9 MR. JIM WONG: I don't know the  
10 technicalities, but it is what it is.

11 CHAIRMAN MAGUN: Go ahead.

12 MR. JIM WONG: Any questions so  
13 far?

14 MR. BRIAN P. MURPHY: Yes, I have a  
15 question. Just so I'm clear, you're  
16 proposing to use the existing porch space  
17 without increasing that setback? You're  
18 just going to use it, the square footage  
19 that exists, and you're going to enclose  
20 the porch?

21 MR. JIM WONG: No. The existing  
22 porch is 8 feet deep, 12 feet wide. Right  
23 now there are two columns on the corner and  
24 it is all open. What we're proposing to do  
25 is to rebuild this porch because the porch



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2 is original. It's maybe 90-years old at  
3 this point. It needs to be replaced.

4 What we're proposing in this  
5 application is to keep the overall porch  
6 8 feet deep, 12 feet wide. But instead of  
7 having all open, enclose six-and-a-half  
8 feet of that 12 feet wide.

9 MR. BRIAN P. MURPHY: So you're  
10 using the same dimensions?

11 MR. JIM WONG: Same footprint, yes.

12 MR. BRIAN P. MURPHY: Okay.

13 CHAIRMAN MAGUN: So to follow along  
14 on Brian's question, we thought a lot about  
15 this application the first time, and I have  
16 spent a lot of time thinking about this  
17 application. I guess you're proposing to  
18 build a vestibule, a place where you can  
19 have coats and a bench.

20 MR. JIM WONG: Right, maybe the  
21 owner could speak better to that, but  
22 that's what we want.

23 CHAIRMAN MAGUN: So, the way I  
24 approach this application is to say, well,  
25 if you had a house without a porch in front

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2 of it, how big of a structure would you  
3 need for a vestibule, assuming that that's  
4 an important need?

5 MR. WONG: Right.

6 CHAIRMAN MAGUN: And what would be  
7 the minimum size that would make sense?

8 MR. JIM WONG: Right.

9 CHAIRMAN MAGUN: And to me, a  
10 six-and-a-half by 12-foot structure seems  
11 awfully large for a place to hang your  
12 coats and sit on a bench.

13 MR. JIM WONG: Not when you have  
14 two closets and you have two doors and a  
15 bench. We already made the closet minimum  
16 depth. We're actually not doing a  
17 conventional closet where you have a 2-foot  
18 deep closet. We actually have hooks that  
19 come down the back so you could hang the  
20 coat in facing the door to minimize the  
21 space. So we are trying our best.

22 CHAIRMAN MAGUN: But if you did  
23 have 2-foot closets and you had a bench  
24 that was one-and-a-half feet or maybe even  
25 2 feet to sit on, which is sort of average

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2 sizes, then you have a width there of  
3 4 feet. And then let's say you have a  
4 passageway of 3 feet, then you only need  
5 7 feet, not 12 feet, which is what your  
6 proposal is.

7 MR. JIM WONG: Well, we have to  
8 look at the building architecturally. I  
9 think one of the comments that was made by  
10 yourself is that you found architecturally  
11 the previous design didn't quite go with  
12 the building. And I think it's important  
13 for this particular house to have somewhat  
14 of a formal entrance. Symmetry is  
15 important to this house. That's why we  
16 have two closets and a door in the center  
17 of the facade. So we were mindful of that,  
18 that's why --

19 MS. JIANG: Can I say something  
20 here? Let me measure.

21 CHAIRMAN MAGUN: Use the  
22 microphone.

23 MS. JIANG: You know, the thing is  
24 we cannot make it smaller like 7 feet  
25 because the window is here, existing window

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2 here. That window is existing here. We  
3 cannot chop -- build something in the  
4 middle of the window. So, it doesn't --  
5 you know, we'd have to change the whole  
6 structure of the house. That's why we keep  
7 the structure like this, because the door  
8 and the window we don't want to change the  
9 original structure of the building, so  
10 that's why we cannot do anything like half  
11 the way. That's why we need that.

12 And also, the depth is like we have  
13 to open this door and open this door, so  
14 that's why we need some depth here. That's  
15 the reason we need that width. We don't  
16 want to change the --

17 CHAIRMAN MAGUN: But over the years  
18 on this board we've looked at lots of  
19 vestibules. Everybody wants to have a  
20 little entryway. It's a popular item to  
21 add to the house. We never seen one that's  
22 12 feet wide, in my recollection.

23 MR. BRIAN P. MURPHY: I would beg  
24 to differ. The difference is in this case  
25 this house is an old house, and the porch

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2 of this size has been there for however  
3 many years. And this board has, in the  
4 past, granted these types of variances to  
5 enclose a porch that was existing when it  
6 was an existing grandfather non-conforming.

7 CHAIRMAN MAGUN: Variations on  
8 that, yes.

9 MR. BRIAN P. MURPHY: And usually  
10 we try to minimize that. And my  
11 recollection, at least on my time on the  
12 board, is 3 or 4 feet is the kind of  
13 incursion we would accept for this type of  
14 use, which is clearly needed.

15 CHAIRMAN MAGUN: You are talking  
16 about into the front yard?

17 MR. BRIAN P. MURPHY: Into the  
18 front yard.

19 CHAIRMAN MAGUN: Right.

20 MR. BRIAN P. MURPHY: And so this  
21 one is just a little bit -- just a little  
22 bit more.

23 CHAIRMAN MAGUN: That wasn't so  
24 much my concern as much as it's 12 feet.  
25 Even though we talked about this last time,

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2 the proposal last time was bigger. It's  
3 still six-and-a-half by 12-foot room.  
4 That's a small bedroom size. It's a big  
5 room on this house.

6 I mean, a couple of other things  
7 about this house that concern me, the house  
8 is non-conforming on all sides, back and  
9 both sides.

10 MR. JIM WONG: Yes, almost every  
11 house on this street is that way.

12 CHAIRMAN MAGUN: So you have  
13 already pre-existing multiple  
14 non-conformities, and you are asking the  
15 board --

16 MR. JIM WONG: So is every house on  
17 this block.

18 CHAIRMAN MAGUN: So you are asking  
19 the board to, you know, allow an increase  
20 in the non-conformity here. And I guess  
21 what I'm wondering is could this be made  
22 smaller? Now, what you just told me is an  
23 important issue, the window is a problem  
24 for you. And I just wonder whether, from  
25 my perspective, it's a big room in front of

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2 the house.

3 But I'm raising my concerns, and  
4 I'm curious to see what other people feel.  
5 Clearly, you've made it smaller.

6 Let me ask you one other question:  
7 Did you consider eliminating the  
8 one-and-a-half feet of porch that's not  
9 enclosed? Why do you need that?

10 MR. JIM WONG: Well, I think --

11 MS. JIANG: About this space?

12 MR. JIM WONG: Yes.

13 MS. JIANG: Because last time  
14 someone suggested we have to open  
15 something, so that's why we --

16 MR. JIM WONG: Actually, that was a  
17 suggestion made by somebody on this board,  
18 that if we keep this post --

19 CHAIRMAN MAGUN: My only concern  
20 here is to minimize any possible incursion  
21 into the front-yard setback. So, what I'm  
22 asking you is if you have a room -- if you  
23 design a vestibule, what is the purpose of  
24 the next one-and-a-half feet pushing out?

25 MS. JIANG: The purpose is, like,

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2 you have to stand on something, you know.

3 Instead of standing on the steps to open  
4 the door, you have some platform to stand.

5 MR. JIM WONG: Well, it's also  
6 partly cover, you know, to give you some  
7 kind of rain protection.

8 MS. JIANG: For the doors.

9 MR. JIM WONG: And I think it's a  
10 nice design. It looks like -- it still  
11 looks like a porch instead of something  
12 added on to it. So, we are trying to keep  
13 at least the cavity of a porch on this  
14 enclosure.

15 MS. FURMAN: I just have a  
16 question. If you look at the design,  
17 you've got the walls positioned close to  
18 get as much use before you get to the  
19 window, basically, on either wall; right?

20 MS. JIANG: Here?

21 MS. FURMAN: Yes.

22 MS. JIANG: It's actually very,  
23 very small area. Less than a foot, less  
24 than a foot.

25 MS. FURMAN: Maybe if you come



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2 here, I can show you. If you just pull --  
3 you see how you have the wall?

4 MS. JIANG: You mean here?

5 MS. FURMAN: Pull the wall to here  
6 and pull this wall to here so you are  
7 catching the other side of the --

8 MR. JIM WONG: We are trying to.

9 MS. FURMAN: Does that do anything?  
10 Does that save you 2 feet, 3 feet?

11 MS. JIANG: No, no, because it's  
12 just this room. If you actually close the  
13 wall, it's very little space left.

14 MR. JIM WONG: In all due respect,  
15 we are trying to have some glass  
16 surrounding this enclosure. We don't want  
17 to just to do a --

18 MS. FURMAN: No, it's beautiful.  
19 You have a lot of glass. You have glass on  
20 both sides.

21 MR. JIM WONG: But you would lose  
22 the front glass facing the two sides of the  
23 door.

24 MS. FURMAN: No, no, no. You don't  
25 understand what I'm saying. Instead of

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2 this wall coming here, see, just pull it  
3 over here. And just pull the wall this way  
4 and then this wall --

5 MR. JIM WONG: Where are you going  
6 to put your closets then? The closet is  
7 going to be in front of this window.

8 MS. FURMAN: Oh, I see what you're  
9 saying. I see it.

10 MS. JIANG: And also here we have  
11 to --

12 MS. FURMAN: Right, I'm just trying  
13 to look at it and see if we can address the  
14 issue of it being larger.

15 CHAIRMAN MAGUN: Any other  
16 questions or comments?

17 MR. DEITZ: My comment is if the  
18 walls were pulled in at the side and making  
19 for a smaller enclosure than the porch is  
20 wide, I think it would be peculiar.

21 MR. SOROKOFF: Would look what?

22 MR. DEITZ: Would look peculiar if  
23 the walls were pulled in and enclosed. It  
24 would be less than the full porch in  
25 length. And I think, esthetically, it's

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2 preferrable this way.

3 CHAIRMAN MAGUN: You mean if there  
4 was still a porch there or if there were no  
5 porch?

6 MR. DEITZ: If there was still a  
7 porch there. But the porch is there and  
8 it's pretty much surrounded by shrubbery  
9 and trees, so the porch doesn't seem overly  
10 big to me.

11 CHAIRMAN MAGUN: My concern here is  
12 on that street there are about 15 houses  
13 going south from Buena Vista down to the  
14 end of Buena Vista. One of them has a  
15 vestibule that's enclosed. All the rest of  
16 them have open porches or no porch at all.  
17 We talked about this last time, to have a 6  
18 by 12-foot enclosure in front of the house  
19 is, to me, a big incursion into the front  
20 yard.

21 MR. JIM WONG: Some of those houses  
22 actually have less setback --

23 CHAIRMAN MAGUN: That may be very  
24 well true.

25 MR. JIM WONG: -- than the front of

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2 our porch, so their encroachment is a lot  
3 worse than this house. Because the way  
4 this -- on Buena Vista, actually, the  
5 street actually turns here. The houses  
6 south of this house actually have less lot  
7 than this house.

8 CHAIRMAN MAGUN: Right, I certainly  
9 didn't measure. I just looked at what  
10 houses had any enclosed vestibule. I  
11 didn't look at their length or incursion  
12 into the front-yard setback.

13 MS. JIANG: And also, this time we  
14 added more windows in the front, according  
15 to your suggestions. So we put more  
16 windows in front.

17 CHAIRMAN MAGUN: Your design has  
18 windows where? It wasn't crystal clear to  
19 me on the design how you had that. If you  
20 could just show me there.

21 MR. JIM WONG: Basically, this  
22 might be easier to look at. There's  
23 windows on all three sides. This window  
24 against the house.

25 The only place we don't have

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2 windows is where the closet is. And  
3 there's windows next to the door.

4 CHAIRMAN MAGUN: And do you have a  
5 drawing?

6 MR. JIM WONG: There is a sketch  
7 here. This is the height of the house.  
8 This is -- the porch is very minimum. This  
9 is what it looks like in the front.

10 CHAIRMAN MAGUN: All right.

11 MR. JIM WONG: See why this  
12 is -- the house itself has a symmetrical  
13 look to it. To set off the vestibule from  
14 one way to another, I don't think we change  
15 the way the house look.

16 CHAIRMAN MAGUN: Okay. Let me just  
17 ask you another question, the  
18 one-and-a-half feet, maybe you can bring  
19 your big drawing.

20 MR. JIM WONG: Sure.

21 CHAIRMAN MAGUN: You have  
22 one-and-a-half feet of porch going out  
23 here, then you have steps going down from  
24 there.

25 MR. JIM WONG: Right, the step

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2 itself is almost the same level as the  
3 porch floor itself.

4 CHAIRMAN MAGUN: But you could have  
5 the steps going right up to the front door  
6 and eliminate that one-and-a-half feet;  
7 right? Just pretend you didn't have a  
8 porch there.

9 MS. JIANG: Here, we don't have  
10 step here.

11 CHAIRMAN MAGUN: Yes.

12 MS. JIANG: But you know, you have  
13 to step on something in order to --

14 CHAIRMAN MAGUN: Yes, you have  
15 steps coming into the house.

16 MS. JIANG: But before you open the  
17 door.

18 CHAIRMAN MAGUN: Well, you have the  
19 roof overhang.

20 MS. JIANG: Yes, you have to have  
21 somewhere to stand.

22 CHAIRMAN MAGUN: But do you need  
23 that one-and-a-half foot incursion into the  
24 front yard?

25 MR. JIM WONG: No, that's really --

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2 CHAIRMAN MAGUN: The columns.

3 MR. JIM WONG: -- the columns that  
4 make it look like a porch again.

5 CHAIRMAN MAGUN: So, you want a  
6 porch and a room? That's what I'm asking  
7 you. Why do you need --

8 MR. JIM WONG: It's a porch room.

9 CHAIRMAN MAGUN: So, you're asking  
10 for a porch and an enclosed room. And I'm  
11 just raising the -- I'm trying to deal with  
12 the issue --

13 MR. JIM WONG: The porch is there.

14 CHAIRMAN MAGUN: I know the porch  
15 is there, and we're happy to let you keep  
16 your porch. That's not the problem. The  
17 problem is enclosing it. Why would I  
18 enclose it and keep the -- you want to  
19 enclose the porch and keep the same  
20 incursion into the front yard.

21 MR. WONG: That's right.

22 CHAIRMAN MAGUN: I'm raising the  
23 question to the board if, for symmetry  
24 reasons, you can't make this room smaller,  
25 maybe you can decrease the incursion into

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2 the front yard.

3 MR. BRIAN P. MURPHY: But if I  
4 understand correctly, they're enclosing  
5 only six-and-a-half feet of the 8-foot  
6 dimension into the front yard.

7 CHAIRMAN MAGUN: Right. So it's  
8 one-and-a-half foot more porch.

9 MR. BRIAN P. MURPHY: You're really  
10 talking about the enclosure is about 4 feet  
11 of the incursion into the front-yard  
12 setback.

13 MR. WONG: No, it's actually  
14 3.3 feet.

15 CHAIRMAN MAGUN: Some of the  
16 house is --

17 MR. BRIAN P. MURPHY: That's fine.  
18 My only point is that makes sense to me.  
19 That's consistent with what we have done  
20 before, at least in circumstances --

21 CHAIRMAN MAGUN: Right, that's at  
22 the enclosed part. But then there's  
23 another one-and-a-half foot of unclosed --

24 MR. DEITZ: That's where the  
25 columns are. To eliminate the columns, it



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2 would change the appearance.

3 MR. BRIAN P. MURPHY: Yes, the way  
4 they --

5 CHAIRMAN MAGUN: Yes.

6 MR. BRIAN P. MURPHY: -- designed  
7 it now, the symmetry looks quite good.

8 CHAIRMAN MAGUN: Let me read the  
9 letters that were received, then we will  
10 open it up. We've got a couple of letters  
11 here. One is from Richard Primison who  
12 lives at 40 Buena Vista Drive. That's near  
13 you; right?

14 MS. JIANG: Across the street.

15 CHAIRMAN MAGUN: Across the street.

16 "We have been neighbors of the Chan  
17 family for years living in the house  
18 directly across from theirs. Over the  
19 years the Chans have undertaken and  
20 improved the house and property. In each  
21 case the work has been high quality and  
22 good taste and keeping with the  
23 neighborhood esthetic. We support the  
24 plan." That's from them.

25 Then I think there's two other

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2 letters, another letter from Deal, Patricia  
3 and Joseph, they live at 31.

4 MS. JIANG: Next door.

5 CHAIRMAN MAGUN: They are your next  
6 door neighbors. They claim they're your  
7 only next door neighbors. So they write a  
8 nice letter in support of your application:

9 "The Chans, in a spirit of  
10 neighborliness and consideration of our  
11 esthetic views, have shared with us the  
12 plans. We are pleased with the scoping  
13 design of the project. Aside from our  
14 desire to see the Chans better able to  
15 enjoy their domicile, we feel that the  
16 project would be a direct benefit to us.  
17 It will enhance the Chan's property and  
18 contribute to the quality and feel of the  
19 neighborhood," and they urge that we  
20 approve the variances.

21 Any other comments? Is there  
22 anyone in the audience that wishes to make  
23 a comment with regard to the application?

24 Yes, sir.

25 MR. WONG: I --

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2 CHAIRMAN MAGUN: I'm sorry. Could  
3 you give us your name and address?

4 MR. HENRY WONG: Henry Wong, 2224  
5 Main Street, Hastings.

6 CHAIRMAN MAGUN: That's your  
7 residence?

8 MR. HENRY WONG: No, that's my  
9 business.

10 CHAIRMAN MAGUN: And where is your  
11 residence?

12 MR. HENRY WONG: 127 Brewster Road,  
13 Scarsdale. I'm also a fellow architect,  
14 and I am familiar with the design. I  
15 think, from an architectural point of view,  
16 he really had very little options on how he  
17 arrived at the design. So I don't know  
18 what we're hung up on, 12 feet by 6, when  
19 it was set by what's already there. He's  
20 dealing with an existing condition. So I  
21 think the discussion seems to be a little  
22 obscure, from my point of view.

23 CHAIRMAN MAGUN: Okay. Thank you.  
24 All right, any other comments from the  
25 board? Issues?

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2 MR. SOROKOFF: I think these folk  
3 appeared before the board two months ago,  
4 certain recommendations were made, and I  
5 believe they have tried to follow those  
6 recommendations and have done their best to  
7 do so.

8 CHAIRMAN MAGUN: Well, nobody  
9 recommended any sizes for --

10 MR. SOROKOFF: I think recommended  
11 making things smaller. And I understand  
12 because we are always concerned about  
13 setting precedents that would come back and  
14 haunt us later one. And generally, I think  
15 they did it in the spirit of good will.

16 CHAIRMAN MAGUN: Okay. Hearing no  
17 more comments, then we have before us a  
18 request for two variances. The first one  
19 is a request for a front-yard variance  
20 where the applicant proposes to build an  
21 enclosed porch with a 24.7-foot distance  
22 from the front-yard setback where 30 feet  
23 is required.

24 I think we should split these two.  
25 Is there a motion with regards to this

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2 variance?

3 MR. BRIAN P. MURPHY: Sure. I'll  
4 move to approve the request for a variance  
5 for the front-yard setback, 30 feet  
6 required, 24.7 feet existing and proposed.

7 CHAIRMAN MAGUN: Okay. Is there a  
8 second?

9 MR. SOROKOFF: I second.

10 CHAIRMAN MAGUN: All in favor?

11 MR. BRIAN P. MURPHY: Aye.

12 MR. DEITZ: Aye.

13 MS. FURMAN: Aye.

14 MR. SOROKOFF: Aye.

15 CHAIRMAN MAGUN: Against? Aye.  
16 One. So that's passed.

17 The second variance is for lot  
18 coverage, existing and proposed is 28.16  
19 and permitted is 25. Is there a motion  
20 with regard to this request?

21 MR. BRIAN P. MURPHY: I will move  
22 to approve the request for a variance for  
23 lot coverage, 25 percent permitted,  
24 28.16 percent existing and proposed.

25 CHAIRMAN MAGUN: Is there a second?

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2 MR. SOROKOFF: I will second.

3 CHAIRMAN MAGUN: All in favor?

4 MR. DEITZ: Aye.

5 MS. FURMAN: Aye.

6 MR. SOROKOFF: Aye.

7 MR. BRIAN P. MURPHY: Aye.

8 CHAIRMAN MAGUN: And one opposed.

9 So it's passed. Congratulations.

10 MR. JIM WONG: Thank you.

11 MS. JIANG: Thank you.

12 CHAIRMAN MAGUN: Have a good night.

13 Okay. The third application on our  
14 agenda tonight is Christine Lehner, case  
15 18-06, 271 South Broadway for the  
16 construction of a barn, an accessory  
17 structure where the building inspector has  
18 noted that the proposal requires -- the  
19 proposal desires a 40-foot plus roof where  
20 15 feet is permitted.

21 Now, in this application, as  
22 everyone who is present I think knows,  
23 there was an issue raised about whether a  
24 use variance is requested. And I just want  
25 to lay out the agenda for the discussion

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2 tonight.

3 The board felt that since this  
4 issue was raised by counsel, and she  
5 brought it to my attention, and I greed  
6 that it should be discussed, Mr. Baldwin  
7 and I think Ms. Lehner -- that's you;  
8 right?

9 MS. LEHNER: That's me.

10 CHAIRMAN MAGUN: -- met with  
11 Mr. Sharma earlier this week, and the  
12 applicants did not feel that a use variance  
13 was required. So, in fairness, I thought  
14 it would be reasonable to listen to the  
15 arguments and discuss the case and have the  
16 board decide whether or not a use variance  
17 would be necessary or not.

18 If the board feels that a use  
19 variance is necessary, then we'll adjourn  
20 the application and give you a chance to  
21 prepare for that. If the board feels that  
22 a use variance is not necessary, then I  
23 think we're all prepared, if you are, to go  
24 ahead and discuss the request for a height  
25 variance.

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2 Does that seem reasonable?

3 MR. BALDWIN: It does.

4 CHAIRMAN MAGUN: Okay. So, why  
5 don't you tell us your name, address and go  
6 ahead.

7 MR. BALDWIN: My name is Ned  
8 Baldwin of Baldwin & Franklin Architects,  
9 73 Washington Avenue in Hastings, and I'm  
10 the architect. My client, Mrs. Lehner, is  
11 here as well.

12 On the use variance issue, I did  
13 prepare a statement which I distributed to  
14 the board which I would be happy to go  
15 through.

16 CHAIRMAN MAGUN: Could you?

17 MR. BALDWIN: Yes.

18 CHAIRMAN MAGUN: Because I think we  
19 haven't had time to digest any of this.

20 MR. BALDWIN: Mr. Sharma indicated  
21 that the room that we designated a writing  
22 room on the loft of the barn was the  
23 contentious use. I examined  
24 Article 295.67C(1), which is the paragraph  
25 in the village code which allows for an



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2 artist studio or artist, in this case  
3 writing room.

4 There is another article that --  
5 and Mrs. Lehner has in her house a writing  
6 room which complies, in every respect, with  
7 the requirements for an accessory use. She  
8 wishes to have another space to go to when  
9 she wants to with a view of the river in  
10 which to write. And so we incorporated  
11 that in the proposed barn, obviously not  
12 being aware that it would be contentious.  
13 In my experience, I've often seen accessory  
14 uses in accessory structures.

15 There is Article 295.67C(2)(a)  
16 which describes customary home occupation,  
17 and it describes accessory uses being  
18 permitted as customary home occupations  
19 incidental to the residential use if it is  
20 carried on in the main building of a  
21 resident therein. I assume that is the  
22 contentious point.

23 CHAIRMAN MAGUN: Well, let me  
24 actually interrupt you because maybe I  
25 should lay out -- since we raised the

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2 issue, maybe we should lay out the issues a  
3 little bit more clearly so that you can  
4 respond to them because you may be  
5 addressing things that we may not be too  
6 concerned about, in all fairness to you.

7 So, I guess my concern and  
8 counsel's concern was that the simple  
9 question was, is a barn, as you have  
10 described it, a permitted accessory use?  
11 And going through the permitted accessory  
12 uses, it didn't seem clear that that was  
13 the case.

14 And when I looked through the  
15 structure that you're proposing to build  
16 contains a whole host of different  
17 functions; a shop, sinks, toilets, heating,  
18 storage, garage, writing room, some kind of  
19 living space. Lots and lots of different  
20 functions. And you call this a barn?

21 MR. BALDWIN: It is a barn. It is  
22 a multiple-functioning barn.

23 CHAIRMAN MAGUN: I am just trying  
24 to outline the issue. So, when we looked  
25 at that, it didn't seem that, and accepted,

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2 that a structure like this with all of  
3 these different rooms fit any of the  
4 categories that are clearly outlined in the  
5 code for an accessory use, a structure that  
6 is an accessory structure.

7 MR. BALDWIN: I would suggest that  
8 all of those uses individually are  
9 permitted as incidental to residential use  
10 the way the code was written: Certainly  
11 storage is; certainly tool sheds are;  
12 garages obviously are; shops, as incidental  
13 to -- you know, is a thing that a lot of  
14 people have in their basements.

15 So, the only thing that -- I mean,  
16 I read -- well, in discussing with Deven  
17 your concerns, I just assumed that it was  
18 the writing room because it's the only  
19 thing that's specifically not covered in  
20 the bylaw.

21 CHAIRMAN MAGUN: Well, I think it's  
22 more than just that. I think the concern  
23 was the aggregate, not the individual items  
24 but the aggregate of the items and the  
25 intent of the code, which is that an

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2 accessory structure shouldn't be more than  
3 15 feet high. I mean, the only thing  
4 that's missing from this building is a  
5 kitchen, and then it's a house. It's a  
6 1,500-square foot structure that has  
7 everything you need to live in it except a  
8 kitchen, basically. I'm not trying to --

9 MR. BALDWIN: The only thing --

10 CHAIRMAN MAGUN: No one thinks  
11 you're going to live there, but --

12 MR. BALDWIN: There are only two  
13 rooms that have any heat in them. And  
14 basically, it's a heavy tempered structure.  
15 I would like to have Christine Lehner  
16 explain.

17 CHAIRMAN MAGUN: I just want to  
18 make sure that you understand at least --  
19 and our attorney who raised this with me is  
20 not here tonight, but I have her memo in  
21 front of me which I think you've seen;  
22 right?

23 MR. BALDWIN: No, I haven't.

24 MR. SHARMA: No.

25 CHAIRMAN MAGUN: Well, her concern,

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2 and I share this with her, and she just  
3 advises us, that it's hard to fit this  
4 structure with all of the different  
5 components to it into one of the categories  
6 that fall for an accessory use structure.

7 And you know, I think it's not the  
8 individual uses because you're right, there  
9 is a storage area and there's a tool house  
10 and there's all these little things one  
11 wouldn't quibble it. But when you put them  
12 all together and make a three-story  
13 structure that is a huge structure, I mean,  
14 it's bigger than a lot of houses in  
15 Hastings, that makes us think that -- well,  
16 at least makes me think that a use variance  
17 might be required.

18 So that was our issue, and I wanted  
19 to lay it out for you.

20 MR. BALDWIN: I understand. And  
21 aside from its size and the number of uses  
22 that are combined, none of them to me  
23 appear to be not allowed as incidental uses  
24 or accessory uses.

25 I think that if we could just pause

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2 for a few moments, I would like to have  
3 Christine explain why she needs a barn and  
4 why she thinks a barn is appropriate to her  
5 property.

6 MS. LEHNER: Christine Lehner, 271  
7 South Broadway, Hastings.

8 As I'm sure you all know, the house  
9 itself is a fairly historic house. It's  
10 the old --

11 CHAIRMAN MAGUN: I don't think we  
12 know much about it, so don't assume that.

13 MS. LEHNER: All right. It is the  
14 Draper homestead as in, you know, the  
15 Draper Park. It's right next to Draper  
16 Park and it is listed on the Westchester  
17 register of historic residences, one of  
18 those registers.

19 Anyway, it is an historic house.  
20 And since I've lived there -- I bought it  
21 in 1992 -- it's been my intention to  
22 preserve it and to restore it to whatever  
23 extent I can and to maintain the property,  
24 because it's really beautiful and it's  
25 historic.

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2 And with that intention, after  
3 awhile we realized it would be really  
4 incredibly helpful to have a barn. And you  
5 could call it a two-story garage. I like  
6 to call it a barn because I think it's  
7 nicer. And there used to be a barn on the  
8 property. I have old photographs of the  
9 barn that came from Mrs. Draper which I can  
10 show you.

11 And I think it's historically and  
12 architecturally appropriate to the  
13 property. Just having done this fair  
14 amount of research looking at houses and  
15 barns, the scale seems appropriate. And we  
16 think that architecturally it will only  
17 enhance the property and make it better  
18 possible for us to take care of this  
19 property and try to keep it in tact as this  
20 beautiful piece of property in Hastings.

21 CHAIRMAN MAGUN: That's really  
22 not --

23 MS. LEHNER: That's not what you're  
24 asking.

25 CHAIRMAN MAGUN: Right, that's not

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2 what we're asking. We're not making a  
3 value judgment as to whether or not the  
4 property should have a barn. The question  
5 is specifically -- you know, in Hastings  
6 the code is written in the village code  
7 that there are certain defined accessory  
8 uses that are allowed for accessory  
9 structures. So, if you wanted to build a  
10 shed that was 15 feet high and use it as a  
11 bedroom for one of your teenagers, not you  
12 but anyone, that's not allowed. That's not  
13 a permissible accessory use of the  
14 structure, at least the way I read the  
15 code.

16 So, what we're trying to do right  
17 now is not discuss the merits of whether  
18 your house should have another -- whether  
19 it requires a use variance. And that's --  
20 you know, and that's what I think. To me I  
21 think it does.

22 I am curious. I wanted to lay that  
23 out for you just because the way we read  
24 the code -- and that is really, depending  
25 on how the code is written, you could have



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2 had a code written -- you know, I'm sure  
3 that in rural neighborhoods, you know,  
4 maybe in other counties that they say you  
5 can build a barn. You can do whatever you  
6 want with the barn. We don't have a code  
7 that says that.

8 MR. BRIAN P. MURPHY: May I ask a  
9 question?

10 CHAIRMAN MAGUN: Sure.

11 MR. BRIAN P. MURPHY: I would like  
12 to focus only on the use first and totally  
13 separate ourselves from the size and the  
14 area variance.

15 CHAIRMAN MAGUN: Right, that's what  
16 we should do because we have to determine  
17 that first.

18 MR. BRIAN P. MURPHY: Right. So,  
19 in order to do that, we need to compare the  
20 uses that you're proposing for the  
21 structure against what is listed in the  
22 code.

23 MS. LEHNER: Okay.

24 MR. BRIAN P. MURPHY: So,  
25 Mr. Baldwin had submitted a letter us to.

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2 So, I just want to make sure that I  
3 understand your letter of what you would  
4 like to do with the structure, and then I  
5 think we can just go through the code and  
6 see if there is a problem.

7 Mr. Baldwin knows that there was no  
8 garage --

9 MS. LEHNER: Correct.

10 MR. BRIAN P. MURPHY: -- currently?

11 MS. LEHNER: Obviously a garage  
12 would be part of it.

13 MR. BRIAN P. MURPHY: At least the  
14 way I was reading the plans that you  
15 proposed for the new structure, there seems  
16 to be a garage space, or at least an  
17 outdoor vehicle storage space. Is that  
18 fair?

19 MR. BALDWIN: There's outdoor  
20 storage space at the lower level. And the  
21 main level of the garage will accommodate  
22 cars. It can accommodate three cars with  
23 no trouble.

24 MS. FURMAN: And is that what it's  
25 going to be used for is for three cars?

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2 MS. LEHNER: I don't have three  
3 cars.

4 MS. FURMAN: Well --

5 MS. LEHNER: Yes, cars.

6 MS. FURMAN: You said it can  
7 accommodate three cars. I was wondering  
8 what would it be used for? Is it being  
9 used for cars?

10 MS. LEHNER: There's no other plans  
11 for it other than cars and maybe garden  
12 tools for storage.

13 MR. BRIAN P. MURPHY: So a garage  
14 is one use proposed for the new structure.  
15 You talked about other types of vehicle  
16 storage.

17 MR. BALDWIN: There will be a  
18 tractor.

19 MR. BRIAN P. MURPHY: Tractor,  
20 lawnmowers, equipment for maintaining the  
21 property; right?

22 MR. BALDWIN: Yes.

23 MR. BRIAN P. MURPHY: I understand  
24 there is going to be a writing room.  
25 That's your --

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2 MS. LEHNER: That would be the  
3 intention. And that's not why we're  
4 building the barn. But since we wanted to  
5 build a barn, I thought it would be nice to  
6 have a place with no telephones up there.  
7 So, yes, that was my plan.

8 MR. BRIAN P. MURPHY: Okay. A wood  
9 shop down on the lowest level?

10 MS. LEHNER: Yes.

11 MR. BRIAN P. MURPHY: And I was  
12 just wondering if I missed anything.

13 MS. LEHNER: And storage.

14 MR. BRIAN P. MURPHY: Okay. I took  
15 some time to read the uses in the code.  
16 And at least it seems to me, based on the  
17 way that I understand the application, that  
18 it's a combination of permitted uses. The  
19 only one I had a question about, and I  
20 wouldn't mind counsel's advice, is the  
21 workshop. No. 1, it is an office or a  
22 studio. At least in my mind that  
23 encompasses possibly the right realm.  
24 No. 2, is the customary home occupation --

25 CHAIRMAN MAGUN: I am going to step

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2 back for a second. Under accessory uses  
3 one, that refers to office or studio that  
4 are in the main part of the house.

5 MR. BRIAN P. MURPHY: But see, I  
6 don't agree with that.

7 CHAIRMAN MAGUN: Okay.

8 MR. BRIAN P. MURPHY: I think  
9 that's wrong.

10 MS. FURMAN: You think that's an  
11 incorrect interpretation of the code?

12 MR. BRIAN P. MURPHY: I do, I do  
13 because No. 2 where it says customary home  
14 occupation, see 2A, this is 295-67C(2)(a),  
15 it says for a customary home occupation  
16 that's incidental to the residential use,  
17 that that must be, quote, carried on in the  
18 main building by a resident, close quote.  
19 And what the applicant is saying is she has  
20 her main writing studio in the house, in  
21 the main building, and that this is a  
22 supplemental writing studio. Is that  
23 correct?

24 MS. LEHNER: Right, exactly. The  
25 idea is to have no telephone, no internet.

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2 CHAIRMAN MAGUN: I am going to  
3 disagree with you.

4 MR. BRIAN P. MURPHY: Hang on. Let  
5 me finish.

6 CHAIRMAN MAGUN: Okay.

7 MR. BRIAN P. MURPHY: My point is,  
8 at least the way I read it, again, I'm also  
9 asking for counsel's advice. But the way I  
10 read it, it is for this listing of  
11 accessory uses, they're permitted to be in  
12 the accessory structure, unless the code  
13 says that they're carried on in the main  
14 building. And the only one that I see that  
15 requires that the use be carried on in the  
16 main building is C2, which is the customary  
17 home occupation use.

18 I think that's where we have a  
19 point of disagreement and need  
20 clarification. But that's how I was  
21 reading it because none of the other listed  
22 accessory uses says that they have to be  
23 carried on in the main building except that  
24 one.

25 CHAIRMAN MAGUN: Which one?

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2 MR. BRIAN P. MURPHY: Unless I'm  
3 misreading it.

4 CHAIRMAN MAGUN: No. 2? Well, if  
5 you look at C1B, the implication of that --  
6 and I think that the implication -- I read  
7 through it a couple of times -- is that  
8 we're talking about the main building.

9 I will read you the memo written by  
10 Marianne where she wrote that "It cannot be  
11 in §1, office or studio, because these must  
12 be in the main building."

13 MR. BRIAN P. MURPHY: Yes, I  
14 disagree with that.

15 CHAIRMAN MAGUN: Okay. I mean,  
16 that's --

17 MR. BRIAN P. MURPHY: And I think  
18 that's wrong because when you look at C1D,  
19 it says the building in which it is  
20 located. It does not specify.

21 MS. FURMAN: Did you say C1B or D?

22 MR. BRIAN D. MURPHY: C1B states  
23 the office or studio should not occupy more  
24 than 30 percent of the area of one floor of  
25 the main building.

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2 CHAIRMAN MAGUN: You are sort of  
3 talking about the main building.

4 MR. BRIAN D. MURPHY: C1B.

5 MR. BRIAN P. MURPHY: But I guess  
6 my understanding is they're saying that the  
7 applicant complies with that. To the  
8 extent you want to consider it an office or  
9 a studio, she is using the main building  
10 for permissible purposes.

11 MR. BRIAN D. MURPHY: What is  
12 the --

13 MR. BRIAN P. MURPHY: And then in  
14 the --

15 MR. BRIAN D. MURPHY: In the --

16 MR. BRIAN P. MURPHY: In the  
17 accessory structure it's -- well, it's a  
18 writing studio, I guess.

19 MR. BRIAN D. MURPHY: The studio,  
20 as the code seems to indicate, must be in  
21 the main building.

22 MR. BALDWIN: Which it is.

23 MR. BRIAN D. MURPHY: You extended  
24 it to the barn, but this is an  
25 interpretation within the power of the



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2 board to make.

3 CHAIRMAN MAGUN: We discussed the  
4 use variances a little bit in the last few  
5 years, and this particular issue generally  
6 doesn't refer to an accessory structure.  
7 It was written and is referring to an  
8 accessory use of the main structure.  
9 That's what the code was about.

10 In my mind I don't think that  
11 that's a key issue. I think my concern is  
12 that is a three-story 1,500-square foot  
13 footprint structure, whatever you want to  
14 call it, an allowable accessory structure  
15 that doesn't need a use variance? And I  
16 think the code would say that it is not,  
17 that it does require a use variance because  
18 I don't think it spells -- because of the  
19 aggregate of the composite of the  
20 structure. And that's what we have to  
21 decide. That's what we need to decide,  
22 that point.

23 MS. LEHNER: I think that is why I  
24 just want to describe the property. The  
25 whole property is over six acres. So I

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2 think in the scale of the property --

3 CHAIRMAN MAGUN: Is it six? I'm  
4 sorry, it says four-point --

5 MR. BALDWIN: It's 4.4.

6 MS. LEHNER: Oh, well, including  
7 another piece of property which I own.  
8 It's right adjacent to it. I pay taxes on  
9 six acres.

10 CHAIRMAN MAGUN: But they're two  
11 different pieces of property.

12 MR. BALDWIN: This particular  
13 parcel is actually 4.4.

14 MS. LEHNER: Right, exactly.  
15 Anyway, there's three different parcels. I  
16 don't know how much you need to know about  
17 that.

18 CHAIRMAN MAGUN: No, we just need  
19 to know about the one.

20 MS. LEHNER: And I think that's  
21 why, you know, right now there's a little  
22 prefab shed there. And frankly, it looks  
23 terrible because it's out of scale and it's  
24 not really architecturally appropriate.  
25 And that's what we're trying to accomplish

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2 here.

3 MR. BALDWIN: I'm curious where in  
4 the code you see any restriction on the  
5 size of an accessory building.

6 CHAIRMAN MAGUN: Well, accessory  
7 buildings are limited by height by 15 feet.

8 MR. BALDWIN: Well, yes, by height.

9 CHAIRMAN MAGUN: By a 15-foot  
10 height. That's it. You can build a big  
11 15-foot high building, as far as I can tell  
12 in the code. But I think the same issue to  
13 me, can a 100-foot long 15-foot high  
14 building -- let's say you wanted to build a  
15 building like that, if it's a big  
16 greenhouse, that's there. But if it's a  
17 composite of all these other uses, that's  
18 the issue I want to try to get past, then  
19 we can talk about -- once we get past that  
20 issue, then we can talk about their  
21 specific proposal vis-a-vis height  
22 variance.

23 MR. BRIAN P. MURPHY: But what's  
24 the -- I mean, the individual uses all seem  
25 to be good uses. It's the size that,

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2 frankly, bothers me.

3 CHAIRMAN MAGUN: Okay. If you took  
4 the individual uses and you put a sink,  
5 toilet and heat in the building, do you  
6 think that was the intent of the code, to  
7 allow an accessory structure to have -- to  
8 allow all of those uses? I don't think so.  
9 I don't think that's what the code is.

10 And the code is written in a way  
11 that says -- and I'm just trying to deal  
12 with this from a code point of view. It  
13 says, "All other uses that are not --" let  
14 me go back to the front of it. "The  
15 principal and accessory uses set forth in  
16 this article with respect to each district  
17 are the only uses permitted in that  
18 district. All other uses are prohibited."

19 So, I think we are trying to defer  
20 from that, that if you're allowed to build  
21 a 15-foot high accessory structure, that it  
22 has to be one of these. But if you take  
23 the aggregate, the multiple uses, is that  
24 permitted? And that's what we have to  
25 decide.

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2 MR. BRIAN P. MURPHY: See, for me,  
3 that's more of an issue of the area  
4 variance. I mean, the accessory uses,  
5 other than the wood shop, which I don't see  
6 listed in the permit accessory uses, the  
7 others --

8 CHAIRMAN MAGUN: Also, the writing  
9 room is -- I don't think that is listed  
10 anywhere here as a permitted accessory use.  
11 Again, you could --

12 MR. DEITZ: You mean you could  
13 permit painting but not writing?

14 CHAIRMAN MAGUN: Yes, you could  
15 easily stretch it. Well, I'm just reading  
16 what it says here, or similar occupancy  
17 use.

18 MR. BRIAN P. MURPHY: Right. I  
19 mean, No. 1 says, or similar profession.  
20 I'm still not convinced No. 1 -- I think  
21 there is an inconsistency in the drafting  
22 of this code because the second section  
23 specifically says it has to be carried on  
24 in the main building, and it doesn't say  
25 that in the first listing.

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2 CHAIRMAN MAGUN: Well, yes, I  
3 understand your concern. When I thought  
4 about it, it seemed to me that this section  
5 was written with the idea of what accessory  
6 uses would be allowed, not specifically  
7 what accessory uses would be allowed in an  
8 accessory structure.

9 MR. BRIAN P. MURPHY: Right.

10 CHAIRMAN MAGUN: They didn't  
11 specifically write the code that way.

12 MR. SOROKOFF: How do you suggest  
13 we deal with this problem that we have?

14 CHAIRMAN MAGUN: Well, I think that  
15 we're just going to have to decide whether  
16 or not we think that this proposal can go  
17 forward without a use variance. A use  
18 variance, just to remind everybody, is -- a  
19 use variance means that we would authorize  
20 the use of land for a purpose that is  
21 otherwise not allowed.

22 MR. BALDWIN: What would that be?

23 CHAIRMAN MAGUN: We would come to  
24 the conclusion that the building of a barn,  
25 building of this three-story structure,

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2 whatever you want to call it, you can call  
3 it whatever you want, building this  
4 three-story structure is not allowable by  
5 code. That's the question for us. If we  
6 think it is allowable, then we can go ahead  
7 with the issue that was initially raised as  
8 to the height. Did you get that?

9 MR. SOROKOFF: Must we accept the  
10 opinion of counsel on this matter?

11 CHAIRMAN MAGUN: No, no, counsel is  
12 just advising us. She advised me and I  
13 thought it should be decided by the board.  
14 So we have to decide. No, no, it's not  
15 counsel's decision. Is that correct?

16 MR. BRIAN D. MURPHY: Right, the  
17 board interprets the code.

18 CHAIRMAN MAGUN: We're going to  
19 decide.

20 MR. SOROKOFF: Okay.

21 CHAIRMAN MAGUN: I'm sorry.

22 MR. DEITZ: I think that we're  
23 losing sight of the fact that the only  
24 reason that this is before us is for a  
25 height variance, which I think is not the

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2 same matter.

3 MR. SOROKOFF: I think maybe they  
4 should have just gone ahead and built it.

5 MR. DEITZ: The property is big  
6 enough so that you could put in a sprawling  
7 kind of hut type, which would be really  
8 ugly and totally out of keeping with the  
9 character of the building, and we wouldn't  
10 be involved at all.

11 CHAIRMAN MAGUN: Well, I don't know  
12 if that's really true.

13 MR. DEITZ: Why wouldn't it be  
14 true? There's no setback. There's no -- I  
15 mean, there might be a problem with use.

16 CHAIRMAN MAGUN: The building  
17 inspector might decide, yes, the use is --

18 MR. DEITZ: That would come up at  
19 the time the thing was built.

20 CHAIRMAN MAGUN: Well, let's say  
21 they wanted to put chickens in there and  
22 make a chicken farm.

23 MR. DEITZ: Right, and you know  
24 people could put chickens in an existing  
25 structure on the ground floor, and it's the



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2 chickens that would be the problem, not the  
3 structure.

4 CHAIRMAN MAGUN: All right, the  
5 use, that's what we're talking about, the  
6 use.

7 MR. DEITZ: Yes.

8 CHAIRMAN MAGUN: That's what I'm  
9 saying, you could still have a use issue.

10 MR. BALDWIN: Well, if you were to  
11 decide that a use variance was needed, you  
12 would have to define what uses -- the  
13 variance we should be applying for. And I  
14 fail to see any.

15 CHAIRMAN MAGUN: Well, I think the  
16 board would have to say that the use -- a  
17 barn, we could say that in order for this  
18 structure to go ahead, you need to get a  
19 use variance to construct a barn.

20 MR. BALDWIN: There is no place in  
21 the code that prohibits barns.

22 CHAIRMAN MAGUN: Well, there's no  
23 place in the code that allows barns. The  
24 code is written that only allowable uses  
25 can be, and it clearly states that.

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2 MR. BALDWIN: Yes, but there --

3 MR. DEITZ: A barn is not a use, a  
4 barn is a structure.

5 CHAIRMAN MAGUN: Well, okay.  
6 That's what we're doing. We're discussing  
7 it.

8 MR. SOROKOFF: It's a barn.

9 CHAIRMAN MAGUN: So, does anybody  
10 want to make any other points about this?

11 Let me read -- I just want to read  
12 counsel's memo, since she's not here and  
13 she did raise it. And this is just advice  
14 only. "Even if the proposed building is  
15 characterized --" let me start from the  
16 beginning.

17 "In reviewing the application, I  
18 noticed an issue. The question is, is  
19 there a real issue as to whether a barn is  
20 a permitted accessory use? The  
21 determination of whether something is a  
22 permitted accessory use is not made by  
23 looking at the abstract question. Is it an  
24 accessory to the new principal building?  
25 The zone code lists the permitted accessory

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2 uses, and a barn is not one of them.

3 "Even if the proposed building is  
4 characterized as a different use than a  
5 barn-like structure, the different use must  
6 be in the list. And I don't believe it  
7 fits any of the uses on the list."

8 I am going to read this because I  
9 don't think you have it: "It cannot be an  
10 office or a studio or customary home  
11 occupation." This is referring to  
12 Sections 1 and 2 in the code. "Because  
13 these must be in the main building." And  
14 Brian didn't agree with that. "It does not  
15 fit storage and parking of trailers, boats  
16 or snowmobiles or swimming pool or signs."

17 Now, she writes here, "is not being  
18 used as a garage," which I think is  
19 incorrect because it is going to be used as  
20 a garage. So, it does fit that part of the  
21 code.

22 And the only arguable category that  
23 fits is a garden house, toolhouse,  
24 playhouse, greenhouse or similar occupancy  
25 use customarily incident to the permitted

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2 principal uses of the premises. And that's  
3 why I'm raising it.

4 My opinion of that, having heard  
5 the argument, is that the building's uses  
6 and the applicant proposes are not of the  
7 same nature as a garden house, toolhouse,  
8 etcetera.

9 And then she says, "It is much  
10 larger and includes uses such as the  
11 writing room that would not be a garden  
12 house or a toolhouse." So I thought we  
13 should -- that was the memo. I thought  
14 about that. And I think we're discussing  
15 it, and I think we can come to some  
16 decision about that.

17 Having heard that, I think there  
18 was nothing hidden here. I just wanted to  
19 spell out the initial concerns.

20 MR. BALDWIN: No, I wish I would  
21 have been able to respond to that earlier.  
22 But, you know, the barn -- a barn by itself  
23 in not a use. I would disagree with her on  
24 that point. And I certainly disagree that  
25 there are any uses being proposed here

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2 which are not on the list so-called. I  
3 think they are all on the list, if you take  
4 a somewhat literal interpretation of the  
5 writing room as being --

6 CHAIRMAN MAGUN: What about --

7 MR. BRIAN P. MURPHY: Go ahead.

8 CHAIRMAN MAGUN: -- the storage  
9 area that you have outlined there? You  
10 know, when you look at this and it's  
11 heated, is this going to be used for  
12 living? I mean, can someone live there?

13 MR. BALDWIN: No, no, absolutely  
14 not. We're only talking about intermittent  
15 heat. You know, it's not heated all the  
16 time. It's seasonal heating. The room  
17 that is shown as heated storage was simply  
18 space left over that we thought it would be  
19 useful to keep in the heated area, just for  
20 some things that must be stored and not  
21 allowed to freeze. So, that was the only  
22 reason we called that heated storage.  
23 Everything else, the loft is unheated open  
24 storage.

25 CHAIRMAN MAGUN: Okay.

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2 MR. BALDWIN: And I explained in my  
3 initial memorandum that the house, the main  
4 house, has very little, if any, storage.  
5 It has a fully finished basement. There is  
6 absolutely no place to put anything. They  
7 have a small prefabbed building which we  
8 want to replace and make with the barn.

9 CHAIRMAN MAGUN: Okay. Did you  
10 want to say something?

11 MR. BRIAN P. MURPHY: Yes, I mean,  
12 I am just trying to break this down and  
13 compare it to the code. I mean, the garage  
14 is covered under No. 6. The tractor  
15 storage is covered under No. 4. You can  
16 debate whether a writing room is covered  
17 under No. 1, but I think it is.

18 The one that I don't see anywhere  
19 that fits is the wood shop.

20 MR. BALDWIN: Well, that's just  
21 like ordinary basement space in a house  
22 where somebody has a table saw or a --

23 MR. BRIAN P. MURPHY: No, but it's  
24 not because it's an accessory use. And  
25 you're talking about putting in an

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2 accessory structure. And a wood shop, I'm  
3 trying to fit it in in a definition, and  
4 it's not listed.

5 MR. BALDWIN: Many people have  
6 woodworking shops as part of -- in their  
7 house or in their garage or somewhere  
8 associated with their living. This is no  
9 different.

10 MR. SOROKOFF: To clarify that,  
11 this would not be a professional wood  
12 shop --

13 MR. BALDWIN: No, it's for --

14 MR. SOROKOFF: -- where things are  
15 made for sale or profit?

16 MR. BALDWIN: No, no.

17 MR. SOROKOFF: It is strictly for  
18 hobby interest?

19 MS. LEHNER: And also this is a  
20 very old house and there's a lot of  
21 maintenance involved.

22 MR. SOROKOFF: So it's --

23 MS. LEHNER: Yeah, so we can take  
24 care of the house.

25 MR. BALDWIN: There's also a lot of

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2 storage going in that area, storage of  
3 windows, old screens, storm windows, that  
4 type of thing. There's a ton of things to  
5 store that will be down in that basement.

6 MR. BRIAN P. MURPHY: Could that  
7 fit under definition No. 4? It says,  
8 customarily incident to the permitted  
9 principal use of the premises and not  
10 operated for profit. Is that --

11 CHAIRMAN MAGUN: It's up to  
12 interpretation.

13 You know, I think Mr. Baldwin's  
14 contention is that most of the uses of the  
15 structure are permissible in the code. I  
16 don't disagree with that. I think my  
17 concern was the aggregate of the uses in a  
18 three-story building. Again, I'm not  
19 talking about the merits of whether the  
20 barn should be built, I'm talking about  
21 whether the code allows this type of  
22 structure use, whether this falls into an  
23 acceptable or a defined accessory use.

24 MR. BRIAN P. MURPHY: See, but my  
25 view is that if the board interprets the



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2 uses in the code to permit each of the  
3 proposed uses, it's permissible whether  
4 it's one, two, four.

5 CHAIRMAN MAGUN: I think that that  
6 could certainly be one way of interpreting.

7 MR. BRIAN P. MURPHY: And then the  
8 issue becomes, I think, more the size than  
9 the area variances, if any are needed for  
10 the special combined use.

11 MS. FURMAN: I have one more  
12 question for counsel, if you go to C2K.

13 MR. SOROKOFF: Sorry, what's the  
14 page number?

15 MR. BRIAN D. MURPHY: The proposal.

16 MS. FURMAN: So the proposed use  
17 here involves structural authorizations or  
18 the addition of an entire building; right?  
19 It can't be any lesser standard than an  
20 addition. It's more of a construction  
21 project.

22 So, when it involves the requiring  
23 of a building permit, which this does, "the  
24 use shall be permitted only if the  
25 structure in which it is to be located is

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2 deemed by the building inspector to be  
3 adaptable to the proposed use from the  
4 point of view of public health and safety,  
5 and the other requirements of this chapter,  
6 and shall conform to all height and yard  
7 requirements of this chapter."

8 So, doesn't that kind of take both  
9 of questions in this and say if you want to  
10 fit under this use variance, the only way  
11 you can do it is if you conform to the  
12 height and yard requirements?

13 MR. BRIAN P. MURPHY: But I thought  
14 that was only for No. 2. That was  
15 customarily for home occupation, or is that  
16 not correct?

17 MR. BRIAN D. MURPHY: Special  
18 needs. Customary home occupations.

19 MS. FURMAN: It's for customary  
20 home occupation, and it's the only thing  
21 that we're not doing in this barn is a  
22 customary home occupation.

23 MR. BRIAN P. MURPHY: Apparently.

24 MS. FURMAN: Don't tell us you're a  
25 writer. Are you a writer?

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2 MS. LEHNER: Yes.

3 MR. BALDWIN: A published writer.

4 MS. FURMAN: You're a published

5 writer. Is this a customary home

6 occupation?

7 MR. DEITZ: For some people.

8 Certainly a lot of writers live in

9 Hastings.

10 MR. BRIAN P. MURPHY: I think it

11 is.

12 MS. FURMAN: Well, if it's a

13 customary home occupation, then doesn't it

14 just say in order to come under this use --

15 MR. BRIAN P. MURPHY: Oh, no, I

16 agree with that.

17 MS. FURMAN: -- variances uses

18 mean --

19 MR. BRIAN P. MURPHY: Oh, I agree.

20 What I was saying was whether -- my point

21 was I think, in my view, it falls under

22 No. 1 as a similar --

23 CHAIRMAN MAGUN: When you say "it,"

24 what do you mean by that?

25 MR. BRIAN P. MURPHY: The writing

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2 room. We are discussing the use of this  
3 space as a writing room. And the question  
4 then becomes is that also impart to be  
5 carried out in the main building?

6 MS. FURMAN: Well, let's ask this,  
7 if it was a lawyer having a home office, a  
8 customary home occupation, could the lawyer  
9 build a building like this and practice law  
10 in this accessory structure?

11 MR. BRIAN D. MURPHY: That's a good  
12 analogy.

13 MS. FURMAN: That's a good analogy,  
14 yes.

15 MR. BRIAN D. MURPHY: It does focus  
16 the issue as to whether or not -- because  
17 if you find that a writer can, then you are  
18 probably going to be bound by the  
19 consideration if an attorney or some other  
20 home occupation makes a similar request.

21 MS. LEHNER: How about --

22 MR. BRIAN D. MURPHY: Whatever the  
23 interpretation is, it doesn't limit itself  
24 to this particular application. It will be  
25 something that will be binding on you for

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2 all future applications. And that's part  
3 of the thing you must consider is how will  
4 this affect --

5 CHAIRMAN MAGUN: Wait, let me go  
6 back to this particular issue. This  
7 particular Section 2 though I think only  
8 refers to the main residence. This section  
9 is only for the main residence. It's not  
10 for an accessory residence.

11 MR. BRIAN P. MURPHY: No, the  
12 issue is -- the point is the same. What  
13 Denise is saying is if No. 1 is not limited  
14 to being carried out in the main building  
15 just like No. 2, then you're opening up a  
16 larger accessory structure for any type of  
17 home office professional use. And the  
18 question is, is that what is intended in  
19 the code?

20 My problem with the code is the way  
21 it's written because if that's what was  
22 intended, I think Subdivision C1 should  
23 also have said that is to be carried on in  
24 the main building.

25 CHAIRMAN MAGUN: Well, that was the

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2 interpretation.

3 MR. BRIAN P. MURPHY: Which it  
4 implies.

5 MS. FURMAN: We think that's  
6 implied under C1B.

7 CHAIRMAN MAGUN: Yes, we do. I do.  
8 I think it's implied under C1B. I agree.

9 MR. BRIAN P. MURPHY: I have one  
10 other point.

11 MR. DEITZ: I don't agree.

12 CHAIRMAN MAGUN: You don't agree?

13 MR. DEITZ: No.

14 MR. BRIAN P. MURPHY: Because C1D  
15 refers to the use outside of the building  
16 in which it is located which also threw me.  
17 So, I'm just struggling with trying to  
18 rationalize the --

19 MS. LEHNER: Can I just say  
20 something? And I don't know if this is  
21 pertinent to what you are discussing in  
22 particular, but I have my computer and my  
23 telephone and fax machine in the house in  
24 my home office. None of that's going to be  
25 in the barn. The whole idea was just to

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2 have like a little room there. It was away  
3 from everything. I don't know if that  
4 helps.

5 CHAIRMAN MAGUN: One of the things  
6 that we always have to think about is you  
7 may sell the house next year and somebody  
8 else moves in and there's a big room with a  
9 beautiful view, it's heated, and they  
10 decide, you know, we are going to live in  
11 this house. We don't like that other one.  
12 We're going to rent that out to somebody  
13 else, whatever. So we have to think about,  
14 you know. Not just particularly to you but  
15 the possible use of the space and what  
16 might fit into that space. That's one of  
17 the things that we have to think about.

18 MS. FURMAN: And I think also, as  
19 counsel points out, what we're also  
20 concerned about is how this decision then  
21 gets replicated because we need -- we have  
22 to have consistency in the application.  
23 So, whereas, one can look at your property  
24 and look at the old pictures with the barn  
25 and listen to what you have to say, yes,

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2 this is gorgeous. I mean, I drove up to  
3 the property with my two dogs and it's  
4 incredible. And I could see how this would  
5 be beautiful up the Hudson a little further  
6 maybe. Because in Hastings the question is  
7 if we apply -- if we interpret the code to  
8 allow this, possibly where else are we  
9 going to have to do it?

10 So I think that's also why it's  
11 taking a lot of time to try to parse  
12 through this to see is there a specific  
13 exception almost? Is this so different?  
14 Are these uses allowed or not allowed?

15 We need to make a decision  
16 carefully because it's going to be around  
17 for longer than any of us will be, and  
18 perhaps, you know, for maybe not as long as  
19 the barn or longer than the barn. And it's  
20 the history of the town, the village. It's  
21 not just what was but it's what's going to  
22 be.

23 So I think that's why we're being  
24 so careful. To have you be able to write  
25 in this room is beautiful, and you have



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2 gorgeous views. It's great. But it's  
3 going to happen to the rest of the village  
4 if our opinions allow a lot more  
5 development in things like this.

6 MR. SOROKOFF: It probably might  
7 attract many more writers to the town.

8 MR. BALDWIN: I think in  
9 structure --

10 MS. FURMAN: In 40-foot high  
11 structures --

12 MR. BALDWIN: I think this  
13 structure is a commitment to not developing  
14 a very large piece of land. It's showing a  
15 commitment to the future to keep it as an  
16 open space and keep it as it originally  
17 was. I mean, there is nothing that  
18 prevents one from heating an accessory  
19 building and making it comfortable. Any  
20 accessory building can be lived in.

21 MR. BRIAN D. MURPHY: Not legally.

22 CHAIRMAN MAGUN: No, not legally.

23 MR. BRIAN D. MURPHY: That's a  
24 distinction.

25 MR. BALDWIN: Physically in the

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2 code.

3 MS. FURMAN: But it's an illegal  
4 use.

5 MR. DEITZ: Would it be acceptable  
6 to the applicant to make other board  
7 members more comfortable if there's a  
8 motion to approve this that it be  
9 conditioned on the property not being  
10 subdivided beyond the --

11 MR. BRIAN D. MURPHY: I think you  
12 will have problems with that because that's  
13 an addition that has nothing to do with the  
14 variance being sought.

15 CHAIRMAN MAGUN: But what would  
16 that have to do with it, I'm not sure, the  
17 subdivision?

18 MR. DEITZ: Well, if you're  
19 concerned about other people in the village  
20 wishing to build barns or 40-foot tall  
21 structures on -- I mean, as Denise was  
22 saying, it looks appropriate on a lot of  
23 this size, and we could be concerned that  
24 it would not be appropriate as a -- as a  
25 design for a single-family residence on a

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2 relatively smaller lot.

3 MR. BRIAN D. MURPHY: Assuming the  
4 board found in favor of this application  
5 and granted it as before the board, perhaps  
6 the question should be if somebody tomorrow  
7 comes in and says I would like to build a  
8 toolshed 20 by 30 and 40 feet high and I  
9 have all the setbacks necessary, what is  
10 the board -- if the board grants this  
11 variance as requested, and in considering  
12 all that's been discussed, what happens if  
13 you're presented with a scenario similar to  
14 that?

15 MS. FURMAN: But wait, then we  
16 don't have the use variance question. We  
17 have the height variance question.

18 MR. BRIAN D. MURPHY: But more to  
19 the point, I stand corrected. It's a  
20 toolshed. I'd just like to have a weight  
21 room.

22 MS. FURMAN: That's where I think  
23 the difference comes in. I think that's  
24 what Arthur is pointing out that when you  
25 have a variety of uses in one building --

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2 MR. BRIAN D. MURPHY: Then I think  
3 it's part of what Marianne is saying.

4 CHAIRMAN MAGUN: Yes, I'm just  
5 trying to listen to everyone. I mean,  
6 that's really my concern that we have --  
7 you know, if the proposal is for a 40-foot  
8 high barn that when you walked in you  
9 looked up at the ceiling and you saw  
10 nothing, it was just you're stacking hay  
11 there, then we know what we're dealing  
12 with. Here we have a multiplicity of rooms  
13 that can be used for a multiplicity of  
14 purposes.

15 MR. BRIAN P. MURPHY: But see, I  
16 don't agree with that. I think the  
17 question is is the use permitted? I'm  
18 struggling with whether the use has a wood  
19 shop and/or a writing studio.

20 CHAIRMAN MAGUN: You're struggling  
21 with that particular question, not with the  
22 aggregate of the uses?

23 MR. BRIAN P. MURPHY: Yes, but as  
24 to my mind, if you want to aggregate  
25 permitted uses, I don't see why you

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2 shouldn't be able to try that. Then the  
3 question becomes one of an area variance.  
4 Can you aggregate those uses and still  
5 comply with design code on the setback  
6 requirements, and in this case the height  
7 requirement?

8 MR. SOROKOFF: I doubt that we can  
9 resolve this situation tonight, and I'd  
10 like to suggest that the correct forum for  
11 resolving it would be in a more informal  
12 meeting in which Mr. Baldwin would be  
13 present and see if we can work it out at  
14 that time.

15 CHAIRMAN MAGUN: I don't think so.

16 MR. BRIAN D. MURPHY: You cannot  
17 hold anything.

18 CHAIRMAN MAGUN: We really have  
19 to --

20 MR. SOROKOFF: Okay. Tell me why  
21 we can't do it?

22 MR. BRIAN D. MURPHY: Because it  
23 violates the open meetings law. If you  
24 meet in more than a quorum, it must be on  
25 notice and in an open meeting.

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2 MR. SOROKOFF: Okay. We can't just  
3 sit down and have a cup of coffee.

4 MR. BRIAN D. MURPHY: Less than a  
5 quorum you may be able to, but if there are  
6 sufficient members present to conduct  
7 business, it has to be at a given place on  
8 notice pursuant to the state's open  
9 meetings law.

10 MR. BALDWIN: I would point out too  
11 that the two abutting owners are the only  
12 ones that will be aware of this structure  
13 are both in support of the application.

14 CHAIRMAN MAGUN: But that's not  
15 germane to what we're discussing here.

16 MR. BALDWIN: I know, but I just  
17 wanted to --

18 CHAIRMAN MAGUN: Okay. Thank you.

19 I think we probably have discussed  
20 this enough, I mean, whether or not a use  
21 variance is required. I mean, we've heard  
22 what the applicant wants to use the  
23 property for. We see what the building  
24 looks like, and we can imagine what uses  
25 might be, you know, undertaken on this

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2 property. And I guess, you know, I think  
3 that we probably can decide whether or not  
4 a use variance is required, but I don't  
5 want to force that if people want to  
6 discuss it a little more.

7 MS. FURMAN: Can we get any opinion  
8 of counsel given the discussions that have  
9 gone on tonight?

10 MR. BRIAN D. MURPHY: If you wish  
11 to meet with counsel for advice of counsel,  
12 yes, we can do that separately.

13 CHAIRMAN MAGUN: You mean,  
14 executive session?

15 MR. BRIAN D. MURPHY: Well, it's  
16 not executive session. The board is always  
17 entitled to ask advice of counsel, and that  
18 is not a public session. You are entitled  
19 to do that.

20 CHAIRMAN MAGUN: Would you like to  
21 do that?

22 MS. FURMAN: I would like to do  
23 that.

24 CHAIRMAN MAGUN: Okay. So we'll do  
25 that. We will take about a five or

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2 10-minute break. Thank you.

3 (Time noted 9:27 P.M.)

4 (Whereupon, there was a brief  
5 recess taken.)

6 (Time noted 9:51 P.M.)

7 CHAIRMAN MAGUN: We had a chance to  
8 meet with counsel and get some advice as to  
9 the issues surrounding this question.

10 Brian, do you want to kind of  
11 summarize what we were saying and what we  
12 are prepared to vote on?

13 MR. BRIAN P. MURPHY: Yes, I will  
14 try. I think for the applicant's benefit,  
15 we requested advice of counsel, and the  
16 principal question is under 295-67C(1)  
17 where it defines an accessory use for an  
18 office or studio, whether that use is  
19 required to be carried out in the main or  
20 principal building, or whether it's  
21 permitted in the accessory structure.

22 Based on the discussion we had, the  
23 public discussion before we took advice of  
24 counsel, I think the board feels, and this  
25 includes the advice of counsel, that that



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2 section should be interpreted to be  
3 restricted to uses in the main or principal  
4 building.

5 So, if the application for an  
6 accessory use includes a writing studio,  
7 which is in this particular case, that will  
8 have to be restricted to the main building,  
9 not the proposed accessory structure. And  
10 that was the discussion we're having.

11 My own personal view is that  
12 Section C1 could have been written more  
13 clearly, but that's the way it is written  
14 when you compare it to the other sections  
15 of this 295-67. It appears to be pretty  
16 clear that that is the intent of those  
17 first two sections, 295-67C(1) and C(2).

18 CHAIRMAN MAGUN: I think we should  
19 probably vote on that interpretation.

20 MR. BRIAN P. MURPHY: We should.  
21 But before we do that, I wanted to make  
22 sure, because it's for the applicant's  
23 benefit, I think they need to understand  
24 the interpretation and why we have that  
25 interpretation.

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2 MS. LEHNER: Are you saying we will  
3 have to get a use variance?

4 CHAIRMAN MAGUN: No. Well, this is  
5 what we're saying, let me give it a shot.  
6 If you want to have a writing studio in  
7 this structure, we interpret that to fall  
8 under an office or studio type of  
9 professional activity. And according to  
10 our interpretation of accessory uses, that  
11 activity can only occur in the main  
12 building.

13 So, if you wanted to have that  
14 activity in an accessory structure, you  
15 would have to get a use variance to have  
16 that activity in an accessory structure.  
17 Or you could remove that room from the  
18 building and there were no particular -- I  
19 mean, we can discuss it. I don't think  
20 there were any other particular issues with  
21 regards to use.

22 MS. LEHNER: So we can just call it  
23 a room or a thinking room or just --

24 CHAIRMAN MAGUN: Well, we felt -- I  
25 think the board felt that you would have to

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2 submit new plans clearly outlining what  
3 that room is and make sure that it falls  
4 within the allowable accessory uses, which  
5 would not include any room that revolves  
6 around occupations of an architect, artist,  
7 etcetera. You can read through the code.  
8 I don't have the code in front of me. I  
9 don't expect you to know it. It's hard for  
10 us to understand it.

11 So, if the proposal were submitted  
12 without a writing room, the storage space  
13 concept, everything else as you have argued  
14 seems to fall into allowable uses, and we  
15 could vote on this. But I don't think the  
16 board had trouble with the aggregation of  
17 the allowable uses. But we can discuss  
18 that.

19 Am I making myself clear? I'm  
20 sorry. I know it's difficult.

21 MR. BALDWIN: I think I understand.  
22 The fact that the writing studio is in the  
23 principal house, and this is ancillary  
24 extra space, you're saying that that --  
25 your interpretation is that even that

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2 ancillary function --

3 CHAIRMAN MAGUN: Right, that the  
4 use of an accessory structure for the  
5 writing studio is not allowed by code.  
6 That was our interpretation, that you can't  
7 have an occupation in the accessory  
8 structure.

9 MR. BALDWIN: And if we were to  
10 redesignate that room as storage, you could  
11 not --

12 CHAIRMAN MAGUN: Storage is an  
13 allowable accessory use. And I think we  
14 felt that -- we did specifically feel that  
15 we should probably see new plans so that  
16 the plans would clearly outline that, if  
17 you were to choose to do that. Your other  
18 choice would be to leave it as a writing  
19 room and ask for a use variance.

20 MR. BALDWIN: I always have a  
21 problem with use variances.

22 CHAIRMAN MAGUN: Well, they are  
23 more difficult, as you know, but you don't  
24 have to decide that right now.

25 MR. BALDWIN: But this is July. We

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2 lose the opportunity to build this barn if  
3 we don't start at least in this current  
4 year. So I was hoping that there was some  
5 way that --

6 CHAIRMAN MAGUN: I understand.

7 Everybody says that to us. We understand  
8 and I understand that, but this is a big  
9 structure. It's an important issue. And  
10 the issue of the use variance concept is an  
11 important one, as you know, in how a  
12 property is used.

13 MR. BALDWIN: And there's no way  
14 that you could vote on the height issue?

15 CHAIRMAN MAGUN: I think we have  
16 to -- I really think that we have to see a  
17 new set of plans with a clear outline of  
18 what the plans are before proceeding with  
19 the area variance.

20 MS. FURMAN: Is your question is  
21 the use variance a threshold before we get  
22 to the height variance?

23 MR. BALDWIN: Yes. I mean, I was  
24 hoping that you could at least vote on the  
25 height variance because, obviously, it's

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2 very simple to redesignate the space.

3 MS. FURMAN: Well, it needs to not  
4 only be redesignated, it has to actually  
5 function as that other use.

6 MR. BALDWIN: Christine has a  
7 studio in the house, and she'll just have  
8 to keep using it.

9 MS. FURMAN: So, is the use  
10 variance a threshold --

11 MR. BALDWIN: That's what you're  
12 saying, she cannot write in this building.  
13 That's what you're saying.

14 CHAIRMAN MAGUN: We're saying that  
15 you can't have a writing studio in this  
16 building. That would not be allowed as an  
17 accessory use.

18 MS. FURMAN: But also it's not that  
19 she would be allowed to have a living room  
20 in there and could sit in the living room,  
21 but just would have to tie her hands  
22 together so she didn't write. A living  
23 room is also not a use that's permitted in  
24 this. So, I want to make sure we're clear  
25 on --

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2 MR. BALDWIN: No, we have to  
3 redesignate the room with a permitted use.

4 CHAIRMAN MAGUN: Correct, correct.

5 MR. BRIAN D. MURPHY: The question  
6 may be do you want to continue the hearing  
7 so that the applicant could submit plans  
8 for a consideration at the next board  
9 meeting, or keep this as an open -- it  
10 would obviously have to be -- well, adjourn  
11 this for if the board has to --

12 CHAIRMAN MAGUN: Well, don't --

13 MR. BRIAN D. MURPHY: -- on the  
14 agenda for the next meeting for submission  
15 of plans appropriate --

16 MR. BRIAN P. MURPHY: Don't we owe  
17 it to the applicant to at least discuss the  
18 area variance?

19 MS. FURMAN: The height variance?

20 You mean the height variance?

21 MR. BRIAN P. MURPHY: The request  
22 for a height variance.

23 MR. BRIAN D. MURPHY: That's  
24 certainly within your -- because that's  
25 what's before the board.

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2 MR. BRIAN P. MURPHY: Because what  
3 Mr. Baldwin is saying is if we have a  
4 problem with the height too and he has to  
5 redo the plans, then they need to know that  
6 now.

7 MR. BALDWIN: We only applied for  
8 the height.

9 CHAIRMAN MAGUN: I don't have a  
10 problem with that. Let's finish, okay.  
11 Well, let's first finish up the issue of  
12 our interpretation of the accessory uses.  
13 This is not specific to your property,  
14 however, we just want to take this  
15 opportunity to deal with this.

16 Is that reasonable, counsel?

17 MR. BRIAN D. MURPHY: Sure, you're  
18 rendering opinions.

19 MR. BRIAN P. MURPHY: I'll take a  
20 shot.

21 CHAIRMAN MAGUN: Okay. Why don't  
22 you.

23 MR. BRIAN P. MURPHY: See if people  
24 like this. Based on the foregoing  
25 discussion, I would like to move that the



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2 board formally interpret the definition of  
3 the accessory use of an office or studio as  
4 defined in §295-67C(1) as a use that is  
5 required to be conducted in the main  
6 building or principal structure and not in  
7 an accessory structure.

8 CHAIRMAN MAGUN: I think that's  
9 reasonable. Is there a second to that  
10 motion?

11 MS. FURMAN: I second that motion.

12 CHAIRMAN MAGUN: Is there any more  
13 discussion on that issue? Again, this is  
14 not with regards to your property  
15 specifically. No discussion.

16 Okay. All in favor?

17 MR. DEITZ: Aye.

18 MS. FURMAN: Aye.

19 MR. SOROKOFF: Aye.

20 MR. BRIAN P. MURPHY: Aye.

21 CHAIRMAN MAGUN: Aye.

22 All against? Did you vote in  
23 favor, David?

24 MR. DEITZ: Yes, I did.

25 CHAIRMAN MAGUN: Okay. I'm sorry.

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2 So five in favor. So the interpretation  
3 then of accessory use in C1 is that it  
4 applies to the main house.

5 I don't think there was anything  
6 else then that we needed to vote on with  
7 regards to interpretation.

8 Let me then just collect our -- my  
9 and everyone else's thoughts. The  
10 applicant then has a proposal before us for  
11 a structure that includes a room that is  
12 not allowed. So they would have to either  
13 present new drawings and come up with a  
14 different use for this structure, or apply  
15 for a use variance.

16 Does that preclude us from  
17 discussing the area variance request?  
18 Anybody have any thoughts about that?

19 MR. SOROKOFF: I don't think it  
20 precludes us, and I think the applicant  
21 wants that.

22 MR. BRIAN P. MURPHY: Yes, I think  
23 we need to discuss it.

24 CHAIRMAN MAGUN: Okay. Any other  
25 comments, Denise? David?

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2 MR. DEITZ: I'm willing to discuss  
3 the height.

4 CHAIRMAN MAGUN: Okay. So, if we  
5 were to approve the variance for the height  
6 then tonight, I just want to kind of think  
7 this through out loud, then you would still  
8 have to decide if you wanted to keep the  
9 use -- if you wanted to keep the writing  
10 room, but you would have to apply for a use  
11 variance, or you could -- I'm just  
12 wondering how we're going to deal with it  
13 formally as a board.

14 MR. BRIAN D. MURPHY: Mr. Chairman?

15 CHAIRMAN MAGUN: Yes.

16 MR. BRIAN D. MURPHY: You may just  
17 wish to discuss the matter and get a sense  
18 of the board so that the applicant can  
19 gauge their options. In other words, if  
20 the board is in agreement that the height  
21 is not an issue for them, it's unlikely  
22 that --

23 CHAIRMAN MAGUN: That's a good  
24 point.

25 MR. BRIAN D. MURPHY: -- when you

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2 come back next month, that will be --

3 CHAIRMAN MAGUN: That's a good  
4 suggestion. So counsel is suggesting that  
5 we discuss the issue, and if the applicant  
6 realizes that the board feels strongly one  
7 way or the other, then it might help make  
8 some decisions about how to proceed with  
9 the other issue.

10 I'm sorry to make this more  
11 difficult.

12 MR. BALDWIN: I think the last  
13 thing in the world we're going to ask for  
14 is a use variance.

15 CHAIRMAN MAGUN: I understand that  
16 that is not an exciting proposition. So  
17 you want us to go ahead and discuss the  
18 height variance? I think we won't vote on  
19 it though until we see new plans.

20 MR. BALDWIN: The plans will not  
21 change --

22 CHAIRMAN MAGUN: The interior  
23 plans. I think we would be uncomfortable  
24 voting on the plans as they are now, but we  
25 are willing to discuss it and give you a

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2 reasonably clear sense of it, I think. We  
3 may not have a reasonably clear sense.

4 MR. BALDWIN: Would it be  
5 possible --

6 CHAIRMAN MAGUN: I don't think we  
7 are prepared to pass -- because if we vote  
8 on the height variance tonight, we really  
9 have -- you came before us. You're saying  
10 you're not going to apply for a use  
11 variance. You might say, well, we got our  
12 height variance and that's it, we're done.  
13 And from our perspective, we need to see  
14 new plans.

15 MR. BALDWIN: No, you can attach  
16 that rider on the approval of a height.  
17 And certainly, the new plans have to be  
18 submitted by showing permitted use.

19 CHAIRMAN MAGUN: Okay.

20 MR. BALDWIN: We would very much  
21 appreciate acceptance of the structure that  
22 we're proposing.

23 CHAIRMAN MAGUN: How does the board  
24 feel about that?

25 MR. SOROKOFF: Yes.

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2 MR. DEITZ: That seems to make  
3 sense, if counsel would with agree that.

4 MR. BRIAN D. MURPHY: It's within  
5 your power to make a conditional approval.  
6 The condition being that the new plans must  
7 be submitted, must be approved by the  
8 building inspector and no permit will be  
9 issued until those are approved. That is  
10 within your power to do a conditional  
11 approval.

12 MR. DEITZ: And the plans we're  
13 talking about are the interior plans. The  
14 exterior plans are the ones that are before  
15 us.

16 MR. BRIAN D. MURPHY: Right. It  
17 would be subject to the condition of  
18 re-submission of plans to exclude the  
19 writing room.

20 CHAIRMAN MAGUN: We could also be  
21 more specific about what uses would be  
22 allowed.

23 MR. BRIAN D. MURPHY: In the  
24 alternative you could say subject to  
25 submission of plans, the following are

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2 acceptable uses.

3 CHAIRMAN MAGUN: Accessory uses,  
4 okay. Should we go ahead and discuss it?

5 MR. BRIAN P. MURPHY: Yes.

6 CHAIRMAN MAGUN: Okay. So let's  
7 discuss the reason you came here tonight  
8 initially, which was request for a height  
9 variance. Would you like to present the  
10 argument for that?

11 MR. BALDWIN: Well, the argument  
12 for the height is a product of where we  
13 would like to locate the barn where it's  
14 two stories on one side, three stories on  
15 the river side. And it is a structure that  
16 is 32 by 46 feet. And we put the pitch of  
17 the roof as low as we -- first of all,  
18 we've established an eve as low as we can  
19 and still get useful lofts for storage.  
20 They have only a 5-foot knee wall on the  
21 loft as it is.

22 And then we've established a roof  
23 pitch which is as close to a traditional  
24 roof pitch as we can go, as flat as it can  
25 go. It's five and 12. Many barns are made

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2 with steeper roofs, but we kept the roof as  
3 low of a pitch as possible to keep the bulk  
4 of the building down. I think we've gone  
5 as far as we can to reduce the bulk of the  
6 building considering the floor plate that  
7 we need.

8 CHAIRMAN MAGUN: What does that  
9 mean, the floor plate?

10 MR. BALDWIN: The floor plate is a  
11 32 by 46-foot structure that allows a  
12 12-foot center, a driving bay and lofts  
13 that are 10 feet deep on each side.

14 MS. FURMAN: And what's the height  
15 of a typical garage compared to that?

16 MR. BALDWIN: Typical garage?

17 MS. FURMAN: You're talking about  
18 the height for that to bring it -- why are  
19 you saying that you need that height? I'm  
20 sorry. I thought this was where you were  
21 bringing in the farm equipment.

22 MR. BALDWIN: Well, yes. The door  
23 is a 12-foot door. The lofts -- in order  
24 to have a loft, you need a -- there's a  
25 knee wall above the loft. And to make it a



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2 useful storage space, that has to be 4 to  
3 5 feet minimum, and that's what we have.  
4 Our eaves are 12 feet off the ground, which  
5 is as low as you can conceivably do that.  
6 Then there is -- in fact, in the village  
7 code, a 12-foot eve is permitted. So, that  
8 part is fine.

9 And then the sloping roof we've  
10 kept as what we consider a minimal pitch.  
11 The cupula adds approximately 4 or 5 feet  
12 to the height. And that is, we think, an  
13 important architectural embellishment, and  
14 it brings daylight into the barn, so much  
15 more attractive structure. So that's how  
16 we get to the height that we have.

17 CHAIRMAN MAGUN: It's a very big  
18 structure. It's a very tall structure.  
19 Our job is to try to understand why people  
20 need a variance of X proportions. So I  
21 guess I'm not -- it's not clear to me to  
22 accomplish some of the goals that you've  
23 outlined why you need such a tall  
24 structure. I mean, what is the purpose of  
25 having the third floor? Why do you need it

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2 to be 40 feet high? Why can't it be  
3 20 feet high?

4 MR. BALDWIN: First of all, a  
5 storage building -- this is a modest sized  
6 barn by traditional barn size. Many barns  
7 are much bigger than this and have much  
8 higher roofs. So, I would suggest that the  
9 barn, as a barn, is a pretty modest sized  
10 barn. And its height, I've minimized the  
11 height in every way we can by keeping the  
12 eaves low, by keeping the roof pitch as low  
13 as we can and still have a traditional  
14 appearance. And that's the reason it's got  
15 this height.

16 MS. LEHNER: If I could just say  
17 something also, it doesn't actually -- I  
18 mean, you could argue, and very accurately,  
19 that it doesn't need to be that big. I  
20 mean, part of the reason it's the size it  
21 is is because we think it looks good and  
22 that it looks -- I mean, as I mentioned  
23 before, I think it looks appropriate to the  
24 property.

25 In a lot of houses the barn is

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2 often the taller structure. That's just  
3 the way it's been traditionally. This  
4 is -- as I said, this is a very old house.  
5 So you could certainly park a couple of  
6 cars and have storage and, you know, a tool  
7 shop or whatever in a smaller space, but it  
8 would not have the kind of architectural  
9 beauty this building has, I think.

10 MR. BRIAN P. MURPHY: What concerns  
11 me about the height though is that in this  
12 R-20 -- R-20 is the biggest district, but  
13 even in that district --

14 MR. BALDWIN: This is R-10.

15 CHAIRMAN MAGUN: Right.

16 MR. BRIAN P. MURPHY: No, it's an  
17 R-20.

18 MR. BALDWIN: No, it's an R-10.

19 CHAIRMAN MAGUN: No, it's an R-20.

20 MR. BRIAN P. MURPHY: I guess the  
21 point is the maximum height for principal  
22 structure in R-10 is 35 feet.

23 CHAIRMAN MAGUN: Correct.

24 MR. BRIAN P. MURPHY: So the  
25 problem I have is that you're proposing a

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2 height variance for an accessory building  
3 that's actually higher than the limit for a  
4 principal structure.

5 MR. BALDWIN: Yes, but as Christine  
6 said, often barns are higher than the  
7 houses that they are next to in the  
8 traditional sense. In fact, this barn,  
9 even to the top of the cupula, is only  
10 32 feet measured from the grade which you  
11 see it and perceive it. Only somebody  
12 looking across from the Palisades would  
13 ever see the other side of the barn.

14 MR. BRIAN P. MURPHY: From the east  
15 direction you're saying it's 32 feet?

16 MR. BALDWIN: That's right. And we  
17 feel it's, you know, it's certainly in  
18 scale.

19 MR. SHARMA: Can I just say  
20 something?

21 MR. BRIAN P. MURPHY: Because we  
22 have to discuss this because this is --  
23 under the factors for granting an area  
24 variance, one is is it a substantial  
25 variance? This is a very, very substantial

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2 variance from the code, so we kind of start  
3 there. The board, therefore, has to  
4 justify the request for a variance that's  
5 essentially more than 100 percent in  
6 addition to what's permitted.

7 MR. BALDWIN: We are very well  
8 aware that we're asking for a very large  
9 variance. But we're also building a very  
10 large accessory building which is clearly  
11 not something which you normally would find  
12 in an R-10 zone.

13 MR. BRIAN P. MURPHY: It seems to  
14 me the reason for -- the reason to even  
15 consider this is because it's a very large  
16 property. I mean, I think it's 4.4 acres  
17 total approximately.

18 MR. BALDWIN: That's correct.

19 MR. BRIAN P. MURPHY: And the  
20 property next door -- because the main  
21 factor, at least in my view when we rule on  
22 these kinds of applications, is the  
23 possible detriment to the nearby  
24 properties, and that has nothing really to  
25 do with what your current neighbors think,

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2 even if they think it's a great idea.

3 MS. LEHNER: Actually, the current  
4 neighbors don't actually live there. They  
5 live in -- I don't know if you know, they  
6 bought the house next door, but they  
7 haven't ever lived there. But he seen it  
8 and he seen the plans, and he actually left  
9 a message on my machine today saying it's  
10 fine, go out and get the permit. I don't  
11 have problems with that. I don't know if  
12 that makes a difference.

13 MR. BRIAN P. MURPHY: Well, it  
14 doesn't though because what we're concerned  
15 about is what might happen in the future.  
16 So, one of the things I'm trying to get a  
17 feel for is what might the detriment be?  
18 So, the other thing that concerns me is  
19 it's 16 feet from the property line. I  
20 guess it's the north side of the property.

21 MR. BALDWIN: The abutting owner  
22 has a shed that's approximately 20 by 30  
23 feet, two stories high, which is only about  
24 6 feet from the property line.

25 MS. FURMAN: But that was a

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2 pre-existing shed. That shed has been  
3 there a while and that owner hasn't owned  
4 the property for more than five, six, seven  
5 years.

6 MS. LEHNER: Right, that's been  
7 there longer than --

8 MS. FURMAN: Right, that's a  
9 pre-existing issue, that would not be  
10 allowed to be built perhaps now.

11 Can I ask a question because I  
12 understand what you're saying that often  
13 times the barns historically are bigger  
14 than the houses. And if you look around,  
15 these barns are massive. In fact, you gave  
16 us -- somebody gave us a picture of a barn.  
17 I guess it must have been on the property.  
18 There's cows. Are you having large cows?

19 MS. LEHNER: No. That picture  
20 is -- it's a Xerox of a picture that --  
21 actually, the Historical Society owns the  
22 original, but they come from the Draper  
23 family. I have no intention of having  
24 cows.

25 MS. FURMAN: Storing hay?

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2 MS. LEHNER: No.

3 MS. FURMAN: The reason I'm asking  
4 these things is because the size of the  
5 barns historically were because they were  
6 performing certain functions, perhaps  
7 storing hay, storing cows in it, and so  
8 they needed that bulk. I don't know that  
9 the need is here for that bulk to store,  
10 you know, the lawnmower and the tools that  
11 you need understandably, or that the staff  
12 that is needed to maintain the acreage.

13 So, when we're looking at the  
14 request for a variance, you know, one might  
15 look at the use or the need for the space.  
16 And I don't see that you're bringing in  
17 huge cows and a lot of hay. So that would  
18 be a use that, in fact, was in line with  
19 the reason why these structures were so  
20 large.

21 CHAIRMAN MAGUN: Just to add to  
22 that question. I share Brian's concern  
23 about the height relative to the proximity  
24 to the property line. I mean, if I were  
25 living in a house next to your property and



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2 I knew there was a large 4-acre property  
3 there, I would be kind of dismayed that a  
4 40-foot structure was being built 16 feet  
5 away from my property line.

6 You know, it would seem to me,  
7 specifically, when I knew that the code  
8 said accessory structures can only be  
9 15 feet high from where the principal  
10 building was, that would concern me  
11 greatly. And I think it would detract from  
12 the value of my property by having a huge  
13 structure -- accessory structure built  
14 proximal to the property line.

15 MR. BALDWIN: Even a principal  
16 structure could be built in this same  
17 location in this same zone.

18 CHAIRMAN MAGUN: It could be,  
19 right. But here the principal structure,  
20 the principal building, is already there.  
21 If I buy the property next to you and  
22 suddenly the Zoning Board approves a  
23 40-foot structure 16 feet from my property  
24 and I'm saying how could that happen?

25 MS. LEHNER: Well, as I said, he

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2 doesn't object. And I guess I'm having  
3 trouble understanding it because, in fact,  
4 I could put five or six houses there.

5 CHAIRMAN MAGUN: That were 15 feet  
6 high.

7 MS. LEHNER: No, I could --

8 CHAIRMAN MAGUN: No, you couldn't.  
9 You would have to subdivide your property.

10 MS. LEHNER: Sure.

11 CHAIRMAN MAGUN: Oh, that's  
12 different.

13 MS. LEHNER: Exactly. I mean,  
14 that's not what I would like to do,  
15 obviously.

16 CHAIRMAN MAGUN: That's a  
17 subdivision.

18 MS. LEHNER: But, unfortunately, or  
19 whatever, the nature of it is that --

20 CHAIRMAN MAGUN: But couldn't you  
21 put the big structure somewhere else so  
22 that it's not so close to the neighbor?  
23 Why does it have to be situated where it  
24 is?

25 MR. BALDWIN: I think it's

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2 important to note that the neighbor also  
3 has a very large property. And in fact,  
4 the shed which is quite a large building  
5 which is much closer to the property line  
6 than what we're proposing could be built as  
7 a legal accessory building today. You  
8 know, it's --

9 CHAIRMAN MAGUN: Not that height.

10 MR. BALDWIN: True. We would have  
11 the same height problem.

12 MS. FURMAN: But height is the  
13 issue.

14 MR. BALDWIN: But the fact is it's  
15 also a very large property next door, lot  
16 of space.

17 MS. FURMAN: And it used to be  
18 larger. In fact, that property was  
19 recently subdivided and a second house was  
20 built.

21 MR. BALDWIN: Right. But the point  
22 is that it would have to be totally  
23 subdivided and built with smaller houses  
24 before anybody would end up living with a  
25 40-foot high accessory building in their

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2 backyard. And I will also point out that  
3 it isn't 40 feet from their backyard, it's  
4 only 32 feet.

5 CHAIRMAN MAGUN: Correct. You  
6 know, that's a --

7 MR. BRIAN P. MURPHY: Well, no, no.

8 CHAIRMAN MAGUN: No, the --

9 MR. BRIAN P. MURPHY: That's not  
10 halfway.

11 CHAIRMAN MAGUN: Yes, they could --

12 MR. BRIAN P. MURPHY: It's on the  
13 slope, but it doesn't matter. I guess the  
14 real question is in the code it says is  
15 there any way of minimizing the adverse  
16 impact on the adjoining property? That's  
17 one of the tests. So, I think the question  
18 simply is if you really insist on having  
19 something that high, having thought about  
20 it, or is there a reasonable --

21 MS. LEHNER: We spent a lot of time  
22 looking at where to put it. And this I  
23 think is the best place in terms of the lay  
24 of the land, in terms of I think just will  
25 look correct.

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2 MR. BALDWIN: It will look like it  
3 was always there.

4 MS. LEHNER: It will look like it  
5 was always there. It will look  
6 architecturally appropriate. And anything  
7 else I think would look like it was plonked  
8 down or out of scale. That was our  
9 feeling.

10 CHAIRMAN MAGUN: When I look at  
11 this survey that you showed us, here is the  
12 neighbor's house. Here is the Hudson over  
13 here. This is not a view preservation  
14 area.

15 MR. BALDWIN: No.

16 CHAIRMAN MAGUN: This is the house.  
17 This is their shed, or whatever you want to  
18 call that. This is where --

19 MR. BALDWIN: I walked around the  
20 site.

21 CHAIRMAN MAGUN: So, I mean, you  
22 know, you're building this big structure  
23 right in the view that they have.

24 MS. LEHNER: There are trees all  
25 there. That is not his view. His view is

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2 directly west.

3 CHAIRMAN MAGUN: I mean, that's  
4 just what I'm seeing here looking at this.  
5 If I were living here, I wouldn't be  
6 excited about a big structure being built  
7 up. I mean, I would be saying to you, why  
8 don't you move that over here away from my  
9 house? I mean, that would be my reaction  
10 to that if you stuck to that height.

11 Yes, Deven.

12 MR. SHARMA: I have just one point  
13 that just occurred to me. For accessory  
14 building it never speaks in terms of  
15 stories. In other words, if a building is  
16 15 feet high, we assume it to be a single  
17 story. Whereas, for a main structure is  
18 normal height and part of storage put in.  
19 And here I am just beginning to think that  
20 you are not only asking for a height  
21 variance, but you are asking for a variance  
22 for a number of stories that you're putting  
23 in. It just occurred to me.

24 CHAIRMAN MAGUN: Oh, you mean  
25 that the -- I don't know.

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2 MR. SHARMA: It didn't occur to me  
3 when I was reviewing the application.

4 MR. BALDWIN: But there is no  
5 prohibition anywhere in the code about  
6 having multiple stories.

7 MR. SHARMA: But say the height is  
8 15 feet, one assumes --

9 CHAIRMAN MAGUN: I think what  
10 Mr. Baldwin said is correct. I don't  
11 recall. I would have to look through the  
12 code. Maybe you could look in the code.  
13 Is there a specific prohibition on stories?

14 MR. SHARMA: No, when we talk about  
15 the height implication for the main  
16 building on two-family houses, 35 feet and  
17 two-and-a-half stories; not just the height  
18 but how many stories you can build. And  
19 the same thing for an accessory structure,  
20 it talks about the height and it doesn't  
21 talk about storage because with 15 feet  
22 high, you can't --

23 CHAIRMAN MAGUN: Right.

24 MR. BRIAN P. MURPHY: I think what  
25 Deven is saying is that in our attachments

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2 to the zoning code, this is R-10 and this  
3 is R-20, it's the same thing. So, for  
4 principal structures, 35 feet high,  
5 two-and-a-half stories, that's the limit  
6 without a variance.

7 CHAIRMAN MAGUN: Correct.

8 MR. BRIAN P. MURPHY: And for an  
9 accessory structure it simply says 15 feet  
10 high. There is no number for the number of  
11 stories. And I think what Deven is saying  
12 is it doesn't -- you don't normally  
13 contemplate --

14 CHAIRMAN MAGUN: But I want to hear  
15 what the point is. You're saying that  
16 another variance would need to be --

17 MR. BRIAN P. MURPHY: No, no, I  
18 think it's all encompassed in the height,  
19 request for a height variance.

20 CHAIRMAN MAGUN: Is that what you  
21 were saying? You thought it would be  
22 raised in the question of whether another  
23 variance was --

24 MR. SHARMA: I think that might be  
25 another issue of limitation because once



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2 you do the height, the number of stories

3 you --

4 MR. BRIAN P. MURPHY: I don't think

5 it needs another variance. It's just a

6 factor to consider is what it boils down

7 to.

8 CHAIRMAN MAGUN: Denise's point is

9 an interesting one, and I have thought

10 about it. I think she is asking you a

11 really good question. Sure, traditional

12 barns were built for traditional reasons.

13 What we're dealing with here is a suburban

14 community called Hastings-on-Hudson where

15 we have this specific zoning code, and

16 we're trying to deal with a very large piece

17 of property in an accessory structure.

18 I think that we're all sympathetic

19 to the fact that you have four acres, and

20 we understand that that's a huge piece of

21 property. But we have to still justify why

22 a building should be more than 100 percent

23 taller than it ought to be by code. And if

24 it were to be that tall, why does it have

25 to be so close to the property line when

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2 you have 4 acres from where you put the  
3 building? Those are some of the questions.

4 MR. DEITZ: Well, it seems to me  
5 that in a property of this size and layout,  
6 a very small accessory structure would be  
7 out of place. And from an esthetic point  
8 of view, this makes more sense.

9 CHAIRMAN MAGUN: The size or the  
10 location, the location of the building?

11 MR. DEITZ: I was talking about the  
12 size.

13 MR. SOROKOFF: I would suggest also  
14 that when this code was written, people who  
15 wrote it were not focused on 4, 5, 6,  
16 7-acre plots but rather the kind of plot  
17 that we have in most of Hastings.

18 CHAIRMAN MAGUN: For sure. I think  
19 that's probably right.

20 MR. BRIAN P. MURPHY: Is this  
21 property deed restricted? Does it prevent  
22 subdivision?

23 MS. LEHNER: No.

24 MR. BALDWIN: Also, the principal  
25 house is an historic house. You know, it's

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2 the kind of house that would have had quite  
3 a significant accessory building. I can't  
4 imagine building a conventional garage or  
5 smaller carriage house. I mean, it just  
6 wouldn't be appropriate.

7 MR. SOROKOFF: I agree with you  
8 100 percent.

9 CHAIRMAN MAGUN: What about the  
10 location of the structure? What's your  
11 feeling on that? Are you comfortable  
12 putting it right next to -- 16 feet away  
13 from the property line?

14 MR. SOROKOFF: If the neighbor on  
15 the other side is comfortable with it, I'm  
16 comfortable with it.

17 MS. FURMAN: The neighbor on the  
18 other side though who purchased the  
19 property has never been in the residence.  
20 The property has been vacant.

21 MS. LEHNER: He actually walked  
22 through it just three or four days ago.

23 MR. DEITZ: Do you have a setback  
24 problem?

25 CHAIRMAN MAGUN: No, no, it's

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2 8-foot minimum setback.

3 MR. BALDWIN: That's right, we have  
4 twice the minimum.

5 MS. FURMAN: Right.

6 MR. BALDWIN: And I did personally  
7 take him and show him exactly where the  
8 barn was going to go on Monday, and he was  
9 very supportive.

10 CHAIRMAN MAGUN: My problem with  
11 that is that --

12 MR. SOROKOFF: Why doesn't he want  
13 to live in Hastings?

14 MS. LEHNER: I think he wants to  
15 come --

16 MS. FURMAN: It's no business of  
17 the board.

18 MR. BRIAN P. MURPHY: Is there a  
19 lot of screening in between the site of the  
20 proposed barn and your nearest neighbor on  
21 that side?

22 MS. LEHNER: There is.

23 MR. BALDWIN: It's extremely dense  
24 planting, evergreens and very large trees.

25 MR. BRIAN P. MURPHY: Would they

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2 fully obscure the structure that's 32 to --

3 MS. LEHNER: Not fully, not in the  
4 wintertime.

5 MR. BALDWIN: In the winter you  
6 would still be able to see. I took him to  
7 his house and showed him exactly where the  
8 roof line would be and everything.

9 CHAIRMAN MAGUN: The mailings,  
10 Denise is asking, are the mailings in order  
11 on this application, Deven?

12 MR. SHARMA: Yes.

13 CHAIRMAN MAGUN: Sorry.

14 MS. FURMAN: Thank you.

15 CHAIRMAN MAGUN: Explain to me  
16 again why you can't make this structure two  
17 stories. Why does it have to be three  
18 stories?

19 MR. BALDWIN: It is two stories  
20 from the side that it's perceived from.

21 CHAIRMAN MAGUN: No, please, it's  
22 three stories. There's a basement, a first  
23 floor and a second floor. There are three  
24 stories.

25 MR. BALDWIN: The basement is --

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2 MS. LEHNER: The basement is only  
3 approached from the back.

4 CHAIRMAN MAGUN: Right, but clearly  
5 it occupies -- I mean, it looks like it  
6 occupies almost the whole footprint of the  
7 house. Is that incorrect?

8 MR. BALDWIN: The basement does,  
9 but it's only exposed above grade on one  
10 side.

11 CHAIRMAN MAGUN: No, I understand.  
12 I understand on one side. But on the other  
13 side it's 40 feet high. Why do you need  
14 the third story? What is the reason?

15 MR. BALDWIN: Well, we haven't made  
16 a third story. We've made two stories and  
17 we have a full basement.

18 CHAIRMAN MAGUN: Let's call it the  
19 loft level. What is the purpose of the  
20 loft level?

21 MS. LEHNER: Storage.

22 MR. BALDWIN: Storage.

23 CHAIRMAN MAGUN: Storage.

24 MS. LEHNER: I have a basement full  
25 of furniture and --

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2 CHAIRMAN MAGUN: But you have a lot  
3 of room where you could build something. I  
4 mean, you have four acres.

5 MS. LEHNER: The house -- I'm not  
6 going to destroy the integrity of the house  
7 by doing anything else to it. I think to  
8 add onto the house right now would be a  
9 mistake.

10 CHAIRMAN MAGUN: How big is your  
11 house? Do you know the square footage of  
12 the house?

13 MR. BALDWIN: It's approximately  
14 5,500.

15 MS. LEHNER: Are you joking?

16 CHAIRMAN MAGUN: Say it again.

17 MS. LEHNER: No, it's not. It's  
18 smaller than that.

19 MR. BALDWIN: I stand corrected. I  
20 guessed that.

21 MS. LEHNER: It's probably like  
22 4,500 square feet. It's actually not that  
23 big because it has a very small second  
24 floor because the second floor is really a  
25 very early -- late 18th early 19th Century

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2 floor with small rooms with slanted roofs  
3 and encasement windows. So, it's actually  
4 not -- I mean, it's a great house but it's  
5 not gigantic.

6 MR. BRIAN P. MURPHY: I have a  
7 question for you in terms of the main  
8 house. On this survey plan which you  
9 submitted, it does indicate that there's a  
10 garage with -- I think it says concrete  
11 garage with porch on the roof. What is  
12 that?

13 MS. LEHNER: That doesn't exist  
14 anymore. That was demolished in the early  
15 '90s. It had been added on by Mr. and  
16 Mrs. Draper in the '50s, I think. And it  
17 was really an unfortunate architectural  
18 mess, let me put it like that. And so  
19 we -- it was torn down.

20 MR. BRIAN P. MURPHY: My point is  
21 was that a garage?

22 MS. LEHNER: That was a garage.

23 MR. BRIAN P. MURPHY: And then it  
24 says there is a stone storage shed next to  
25 that, does that still exist?



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2 MS. LEHNER: Yes.

3 MR. BRIAN P. MURPHY: And what is  
4 that?

5 MS. LEHNER: It's a pie shed.

6 MR. BALDWIN: It's a root cellar.

7 MS. LEHNER: It's a root cellar.  
8 It has a dirt floor.

9 MR. BRIAN P. MURPHY: No, it  
10 says -- one thing is the stone, root cellar  
11 up the driveway, but next to the house  
12 where this old --

13 MS. LEHNER: There is some  
14 discussion about what is a root cellar and  
15 what is not.

16 MR. BALDWIN: Dirt floors.

17 MR. BRIAN P. MURPHY: My point is  
18 there are two storage structures.

19 MS. LEHNER: You couldn't store  
20 anything other than a clay pot in there.  
21 They're completely damp.

22 MR. BALDWIN: And one is exactly  
23 where the new barn will go. One we would  
24 remove for the new barn.

25 MS. FURMAN: Can we just go back to

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2 the concrete garage with porch on roof?

3 That's what it's called on the survey. So,

4 in that space when that was demolished, is

5 that now green space?

6 MS. LEHNER: No, that's where my  
7 kitchen is.

8 CHAIRMAN MAGUN: Oh, so something  
9 new was built in that space?

10 MS. LEHNER: Yes, that was done in  
11 '92.

12 MS. FURMAN: Oh, so we don't have  
13 the updated structure of the house. That's  
14 what I didn't understand when I went to  
15 look. So now there is -- what is there?

16 MS. LEHNER: It's the kitchen.

17 MS. FURMAN: So is it a basement  
18 level?

19 MS. LEHNER: There's a guest room  
20 on the ground floor basement level and then  
21 the kitchen.

22 MS. FURMAN: So where there had  
23 been a garage door, that's now the basement  
24 level which is a guest room, and up above  
25 is the kitchen. So about how many square

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2 feet is that?

3 MS. LEHNER: I am --

4 MS. FURMAN: I know it's hard.

5 MS. LEHNER: I am really bad at

6 stuff like that.

7 MR. BALDWIN: I would have thought

8 it was probably about 500 feet on each

9 floor.

10 MS. FURMAN: So about 1,000 feet.

11 I have a concern that we don't have the

12 up-to-date document.

13 CHAIRMAN MAGUN: The survey is

14 supposed to be as the house currently

15 exists. That does throw Denise a little

16 bit. I also, when I looked at this, I

17 thought that was a garage area with a porch

18 on the roof. So, that's not the case.

19 It's a kitchen.

20 MR. DEITZ: I don't see how that

21 would change our decision though when we

22 are talking about a height variance for a

23 barn that sits some distance from the

24 house.

25 CHAIRMAN MAGUN: Well, I think it

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2 does, David. I think that the concern that  
3 I'm hearing from some of the board members  
4 is that what is the need for such a large  
5 structure? And if there's a need, that's  
6 one of the reasons we give variances. If  
7 there isn't a need, we try to limit the  
8 size of the variance as much as we possibly  
9 can.

10 MS. FURMAN: And just going back to  
11 an earlier question, somebody asked the  
12 applicant about perhaps building some  
13 structure for storage in the house. And  
14 the response was she didn't want to ruin  
15 the integrity of the house. But you did  
16 make an addition in the '90s to the house.

17 MS. LEHNER: Oh, yes, absolutely.

18 MS. FURMAN: Right, so there were  
19 changes that were made to the house that  
20 were in the integrity of the house.

21 MS. LEHNER: Yes.

22 MS. FURMAN: So you can make  
23 additions to the house and keep it within  
24 the integrity of the structure.

25 MS. LEHNER: But my feeling is that

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2 to add on to the house any more would be a  
3 mistake.

4 MS. FURMAN: Would push it, okay, I  
5 hear you.

6 MS. LEHNER: I mean, that's just my  
7 feeling.

8 CHAIRMAN MAGUN: But if you needed  
9 more storage space -- let me ask you  
10 another question. We were concerned about  
11 the height of this building. If you took  
12 off the second level which is all storage  
13 space, presumably, if you don't use it as a  
14 writing room, you could put another  
15 structure behind the house somewhere for  
16 storage. You could find --

17 MR. BALDWIN: We certainly can  
18 build three 15-foot high buildings with no  
19 problem.

20 CHAIRMAN MAGUN: Okay. So there  
21 would be room to do that. That might  
22 mitigate the effect on the neighbor.

23 MS. LEHNER: But we don't want to  
24 build other structures. The idea is to  
25 have one architecturally lovely structure,

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2 not a bunch of storage.

3 MR. BALDWIN: The neighbor wants us  
4 to do that too.

5 MR. BRIAN P. MURPHY: And you're  
6 saying that if the new barn is approved and  
7 you're allowed to build it, that you would  
8 remove the stone root cellar that is  
9 currently there?

10 MR. BALDWIN: That's right. That  
11 would be removed. That falls within the  
12 basement space.

13 MR. BRIAN P. MURPHY: How big is  
14 that?

15 MR. BALDWIN: It's approximately 9  
16 by 20.

17 MR. BRIAN P. MURPHY: And is there  
18 anything in it now?

19 MR. BALDWIN: I don't think so. I  
20 have never been inside.

21 MS. LEHNER: Basically, it's a rock  
22 wall. I mean, you know how if you go in  
23 caves?

24 MR. BALDWIN: It's underground.

25 MS. LEHNER: It's like a cave.

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2 There are some old radiators down there.

3 CHAIRMAN MAGUN: I guess what I'm  
4 really struggling with here is the size of  
5 this structure and its proximity to the  
6 neighbor. It's a 1,500 square foot  
7 footprint. It's got three levels, so it's  
8 4,500 or less, maybe 4,000 square feet of  
9 space needed, working space. It's much  
10 bigger than most people's houses. Fine,  
11 you have a lot of property; you could put a  
12 lot of houses there. But why does it have  
13 to be 16 feet from the property line? I  
14 mean, why can't it be much closer to your  
15 house?

16 MR. BALDWIN: That wouldn't be --  
17 architecturally, it would not be  
18 appropriate. It's 80 feet from the house.  
19 That's not that much. There are also very  
20 large mature trees between it and the house  
21 which we want to preserve. And the spacing  
22 is exactly what you would expect for an old  
23 farm.

24 CHAIRMAN MAGUN: Right, but an old  
25 farm wouldn't have a neighbor right next

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2 door. You would have 60 acres plus you  
3 have a barn. You know, farms are 60 acres.

4 MR. BALDWIN: But the neighbor also  
5 has a very large acreage and he's got  
6 accessory buildings even closer than this.  
7 You know, it's two-story accessory  
8 buildings which are much closer. 16 feet  
9 is double what we're required to have.

10 MS. LEHNER: In terms of the  
11 landscape, the way the land slopes down,  
12 that's a big part of why we sited it there.  
13 It just -- I really think that's the best  
14 place for it.

15 MR. BALDWIN: Our objective is to  
16 make it look as if it had always been  
17 there.

18 MR. BRIAN P. MURPHY: But that's  
19 not the issue.

20 CHAIRMAN MAGUN: That's not the  
21 issue.

22 MR. BRIAN P. MURPHY: We think it  
23 is going to look fabulous. I mean, it's  
24 awesome. The difficulty is is this is such  
25 a very, very large variance from anything



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2 that we are really accustomed to granting  
3 that we have to justify it. And I guess I  
4 share the chairman's concern. The real  
5 concern I have is given the third story and  
6 the proximity to the property line, that's  
7 a very high intentionally imposing  
8 structure. And we're also concerned about  
9 the future because, you know, lots being  
10 subdivided and what-have-you.

11 MR. BALDWIN: In that case, you  
12 would have principal buildings perhaps  
13 built at the same distance from the  
14 property line, which would be equally high.

15 MR. BRIAN P. MURPHY: But this is  
16 an accessory use, that's the point. This  
17 is limited. The code says 15 feet. So we  
18 need some real good reasons to make it  
19 41 feet. I mean, even though it's on the  
20 slope, the technical variance request is  
21 for 41 feet of height in a 15-foot  
22 accessory zone. That is a -- that's almost  
23 triple what is permitted.

24 MR. BALDWIN: We recognize that.

25 MR. BRIAN P. MURPHY: We take into

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2 account the uniqueness of the property,  
3 which is clearly unique to Hastings. It's  
4 much, much larger and can support it.

5 Clearly, I agree with David, it  
6 clearly can support a large structure. We  
7 agree with you. I don't think you're  
8 hearing a problem with the concept. It's  
9 the combination of being relatively very  
10 close to that neighbor's property line and  
11 having the extra storage balanced against  
12 the code which requires us to try to  
13 minimize -- the code requires us to try to  
14 minimize the need for the variance. So  
15 that's why we keep asking. We're trying to  
16 understand as much as we can about your  
17 living space and the need for the accessory  
18 space on the property so that we can try  
19 and balance it.

20 MR. BALDWIN: We understand and,  
21 you know, we appreciate that it's a very  
22 large variance. But please believe me that  
23 we tried alternative locations. We tried  
24 everything to try to minimize it. This  
25 position is perfect on the site. It will

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2 look as it had always been there. It's  
3 just a natural because of the way the  
4 ground works.

5 CHAIRMAN MAGUN: Why can't you put  
6 it on the other side of the house on the  
7 front part of the house between the house  
8 and Broadway?

9 MR. BALDWIN: We tried.

10 CHAIRMAN MAGUN: Garages are closer  
11 to the street.

12 MR. BALDWIN: We tried. We did a  
13 scheme with the barn in the woods. It  
14 just -- it had --

15 MS. LEHNER: It would involve more  
16 pavement. It just looked -- it didn't look  
17 very good.

18 MR. BALDWIN: It didn't relate to  
19 the house as well as this does.

20 CHAIRMAN MAGUN: Clearly, your  
21 interest, and it should be, is how your  
22 property looks. Ours are a little broader.  
23 We have to think about the community and  
24 the neighbor. And I think that's what -- I  
25 would not have a problem with the height of

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2 this structure if it were standing  
3 somewhere in the middle of your property  
4 and not adjacent to the neighbor.

5 The neighbor's structure is -- you  
6 know, there are going to be two structures.  
7 With all this open land we have two  
8 structures sort of standing right next to  
9 each other.

10 MS. LEHNER: Which actually works  
11 better.

12 CHAIRMAN MAGUN: You would argue it  
13 works better.

14 MS. LEHNER: You are not impeding  
15 the open land. And I would argue that it's  
16 not just this property, that it's, you  
17 know, in the interest of keeping, you know,  
18 that whole area somewhat preserved. I  
19 think it's the right design.

20 CHAIRMAN MAGUN: Are there any more  
21 points that anyone wants to make because  
22 it's a quarter to 11. We usually adjourn  
23 around this time. We could vote on the  
24 proposal, we could decide to continue this  
25 discussion at the next meeting and see new

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2 drawings, which we need to see anyway.

3 I think we may have finished the  
4 discussion. Are there any other points  
5 that need to be raised?

6 MS. FURMAN: I have a question.  
7 The purpose would be of not voting on the  
8 height variance is if we --

9 CHAIRMAN MAGUN: Only if people  
10 think that there are more issues that need  
11 to be discussed because it's late. People  
12 are getting tired. I don't think I hear  
13 any, and there is no one else in the  
14 audience.

15 MR. SOROKOFF: Do you want an  
16 opinion as to whether we should vote on it?

17 CHAIRMAN MAGUN: I am just asking  
18 the board whether we think we discussed  
19 this enough and are proposed to vote.

20 MR. SOROKOFF: Speaking for  
21 myself --

22 CHAIRMAN MAGUN: You're prepared to  
23 vote?

24 MR. SOROKOFF: Yes.

25 CHAIRMAN MAGUN: Fine. I don't

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2 hear anyone objecting to that.

3 Let me just look over everything  
4 one more time.

5 (Whereupon, there was a pause in  
6 the proceedings.)

7 MR. BRIAN P. MURPHY: Mr. Baldwin,  
8 I have a question for you. Which building  
9 is that here?

10 MR. BALDWIN: That's the neighbor.

11 CHAIRMAN MAGUN: That's the  
12 neighbor's shed; right?

13 MR. BALDWIN: And this is the shed  
14 we removed underneath the --

15 MS. FURMAN: So is your overlay to  
16 scale?

17 MR. BALDWIN: I hope so.

18 MS. FURMAN: So put the overlay  
19 down.

20 MR. BALDWIN: The little --

21 MS. FURMAN: It touches the other  
22 building.

23 MR. BALDWIN: The little shed is  
24 9 feet high, and that's how I scaled it.

25 MS. FURMAN: That's what I was

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2 looking at.

3 CHAIRMAN MAGUN: What?

4 MS. FURMAN: If it's to scale, it  
5 must be a perspective issue because it  
6 looks like it's on top of the neighbor's  
7 shed, and we know it's not. We know there  
8 is 16 feet and then another -- so it's to  
9 scale but the scale is off when you look at  
10 it to anything.

11 CHAIRMAN MAGUN: Can I ask one more  
12 question? What is the height of your  
13 residence, your principal structure on your  
14 property?

15 MS. LEHNER: I don't know.

16 CHAIRMAN MAGUN: You don't know.

17 MR. BALDWIN: I think it's  
18 compliant. I think it's certainly under  
19 35 feet because when the addition was  
20 built they --

21 MS. FURMAN: How tall is the cupula  
22 on the kitchen addition?

23 MR. BALDWIN: The cupula on the  
24 kitchen addition is below the height of the  
25 top of the chimney on the original

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2 structure.

3 MS. FURMAN: And you didn't need a  
4 variance for building the height of the  
5 cupula?

6 MR. BALDWIN: No.

7 MS. LEHNER: No.

8 MS. FURMAN: So then does that mean  
9 it's under 35 feet?

10 MR. BRIAN P. MURPHY: It must be.

11 CHAIRMAN MAGUN: Well, okay.

12 Again, my problem with this application for  
13 the height is its proximity to the  
14 neighbor.

15 All right. So the applicant is  
16 requesting a variance for height of  
17 accessory structure where 15 feet is  
18 permitted and proposed is 40 feet.

19 Is there a motion in favor of  
20 approving the request for a variance?

21 MR. SOROKOFF: Yes, I move we  
22 approve the request for the variance with  
23 the accessory structure, proposed 40 feet,  
24 permitted 15 feet.

25 CHAIRMAN MAGUN: Okay. Is there a



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2 second?

3 MR. DEITZ: I will second it.

4 CHAIRMAN MAGUN: All in favor?

5 MR. DEITZ: Aye.

6 MR. SOROKOFF: Aye.

7 CHAIRMAN MAGUN: Two. Opposed?

8 MS. FURMAN: Nay.

9 MR. BRIAN P. MURPHY: Nay.

10 CHAIRMAN MAGUN: Nay.

11 Three. So not approved. So that  
12 would actually -- so you don't have to come  
13 back with other drawings then. I think you  
14 heard some of the concerns, so that would  
15 give you something to chew on.

16 Approval of the minutes of the last  
17 meeting?

18 MS. FURMAN: I make a motion to  
19 accept the minutes from the meeting of  
20 June 29, 2006.

21 CHAIRMAN MAGUN: Second?

22 MR. BRIAN P. MURPHY: I will  
23 second.

24 CHAIRMAN MAGUN: In favor?

25 MR. DEITZ: Aye.

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2 MS. FURMAN: Aye.

3 CHAIRMAN MAGUN: Aye.

4 MR. SOROKOFF: Aye.

5 MR. BRIAN P. MURPHY: Aye.

6 CHAIRMAN MAGUN: The next meeting  
7 is not in August, just to remind everyone.  
8 It's September 14th; correct?

9 MR. SHARMA: Yes.

10 CHAIRMAN MAGUN: So that's  
11 September 14th. It's the second Thursday  
12 in September. Have a good summer,  
13 everyone, and thank you.

14 Do I have a motion to adjourn?

15 MS. FURMAN: I make a motion to  
16 adjourn.

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

19 CHAIRMAN MAGUN: All in favor?

20 MR. DEITZ: Aye.

21 MS. FURMAN: Aye.

22 CHAIRMAN MAGUN: Aye.

23 MR. SOROKOFF: Aye.

24 MR. BRIAN P. MURPHY: Aye.

25 (Time noted 10:47 P.M. )

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 27th  
day of July, 2006.

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VERA MONACO, RPR  
Court Reporter

