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3 VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK

4 ZONING BOARD OF APPEALS

5

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7 Held September 6, 2007 at 8:00 p.m.,

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

9 York 10706-1497.

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11 P R E S E N T:

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Arthur Magun, Chairman

13 David Deitz, Board Member

Stanley Pycior, Board Member

14 Denise Wagner Furman, Board Member

Brian P. Murphy, Board Member

15 Sheldon A. Sorokoff, Alternate Member

16 Deven Sharma, Building Inspector

Marianne Stecich, Board Counsel

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Nina Purcell, RPR
Shorthand Reporter

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3 CHAIRMAN MAGUN: Good

4 evening. This is the zoning board of

5 appeals meeting of September 6, 2007.

6 Tonight we have four items on the agenda,

7 and we are going to follow the order as

8 printed on the agenda. Case 11-07 Burkat

9 asked for deferral to the next meeting, so

10 we are not going to do that case. And we

11 are adding a case of Agate which will

12 follow Holden and Teng. Is Deven here,

13 our building inspector? So we will get

14 started, and when he comes in we will

15 check on the mailing.

16 So the first case was adjourned

17 from the last meeting because we had an

18 inadequate quorum. I didn't have a

19 quorum. This is a case of Ling Ho,

20 request for two variances and view

21 preservation approval at 64 Pinecrest

22 Parkway, extension of an existing

23 nonconforming front yard existing and

24 proposed is 19.8 feet, and also extension

25 of existing nonconforming side yard

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2 existing and proposed is 7.92 on one side
3 and 16 on the other. Ms. Ho, I guess you
4 are here. Are you going to present the
5 case or is someone else for you?

6 MS. HO: This man.

7 CHAIRMAN MAGUN: One
8 second, sir. Hi, Deven. On Ling Ho, are
9 the mailings in order?

10 MR. SHARMA: Yes, sir, yes.
11 I've been told they are all in order.

12 CHAIRMAN MAGUN: Okay. Sir,
13 can you go to the microphone? There is
14 also a portable microphone if you want to
15 use the portable one. And tell us your
16 name and your address.

17 MR. HAN: Yes. Good
18 evening, honorable board members. My name
19 is J.J. Han. I'm a local architect. My
20 address is 11 Etna Place in New Rochelle.
21 And I'm representing my client, Ling Ho.
22 And we will now proceed to do an
23 introduction.

24 CHAIRMAN MAGUN: Tell us
25 what the proposal is and why you need a

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2 variance.

3 MR. HAN: Right. Ling Ho is
4 20 years or longer a resident of the
5 village. And she also has a business in
6 the village. And in the last five years
7 she has been talking about adding to her
8 house. And we have finally come up with
9 something today or earlier.

10 Her existing residence is a very
11 small one story like a cottage type of
12 house, just over 1,000 square feet. And
13 what we are proposing to do is adding a
14 second floor over the existing. We are
15 not changing very much of the existing
16 first floor. We just added a stairway so
17 we can go up to the second floor.

18 And on the second floor we will
19 provide a front porch which will provide a
20 view toward the river. And then we have a
21 little bit overhang in the back area,
22 again, about 1000 square feet of area.
23 The first floor will be mostly living
24 spaces, living rooms, dining rooms and
25 kitchen, library. And the second floor

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2 will consist of three bedrooms including a
3 master suite and two bathrooms. And in
4 doing so we are pretty much taking the
5 existing footprint. We are not increasing
6 more than existing, but we just are
7 extending the building up and the floor
8 up.

9 We also propose the roof shade to
10 be a head roof so we don't have a very
11 massive attic which will increase the bulk
12 of the two-story building. That is where
13 we are --

14 CHAIRMAN MAGUN: I'm sorry.
15 Could you just explain that again, about
16 the roof?

17 MR. HAN: On the roof, well,
18 this extended two-story building, we have
19 a head roof so that the massing of the
20 roof is a little less than a strict gable
21 roof. If we had a strict gable roof, this
22 would be a big attic and the building more
23 massive. So that's a way of preserving a
24 little bit of the vision from behind, even
25 though the lot is straddled between

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2 Pinecrest Parkway and Broadway. The lot
3 is all the way to the back. So there are
4 no houses behind us. And also there is no
5 view being blocked to any of the
6 neighboring houses.

7 We have talked to some of the
8 neighboring houses. This one is right to
9 the existing house and it is set back.
10 And we have a photograph taken right on
11 the edge of that house, and we can see
12 that the existing roof --

13 CHAIRMAN MAGUN: Can you
14 bring that up for us to see, please.

15 MR. HAN: (Witness complies.)

16 CHAIRMAN MAGUN: This is a
17 photograph from where now?

18 MR. HAN: From the
19 neighboring house which is this one
20 (indicating).

21 CHAIRMAN MAGUN: Right.

22 MR. HAN: That house is
23 receded from the front lot line, and this
24 shot is taken right on the corner of that
25 house looking at the existing house. And

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2 all we can see now is just a roof. And
3 here is a rendering showing we have under
4 the floor we have a roof over that second
5 floor. That view will not block.

6 CHAIRMAN MAGUN: So that
7 drawing is a view from the neighbor's side
8 yard.

9 MR. HAN: Right.

10 CHAIRMAN MAGUN: The
11 chimney is in the back of the house.

12 MR. HAN: Yes. It is just a
13 boiler room flue, a flue for the boiler.

14 CHAIRMAN MAGUN: And
15 existing condition is like this? That is
16 what it looks like?

17 MR. HAN: (Indicating).

18 MR. MURPHY: Is the rear of
19 the house there that faces Broadway?

20 MR. HAN: Yes.

21 MR. MURPHY: Slightly below
22 Broadway?

23 MR. HAN: A lot below. I
24 think one of the shots we have taken, you
25 really can't see the house at all from

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2 Broadway. But if we climb over that wall,
3 the stone wall, and we look down, that is
4 the view of the existing house. You just
5 see the roof.

6 MR. MURPHY: With the new
7 second story added, is that still going to
8 be below the grade of Broadway?

9 MR. HAN: Yes, it will be.
10 And then for today we are asking for a
11 yard variance, because the existing
12 footprint is short on the side yard, as
13 well as the front yard. We have a lot of
14 rear yard.

15 CHAIRMAN MAGUN: Try to
16 speak into the microphone.

17 MR. HAN: Yes. We will need
18 a variance for the front yard because the
19 existing house has 19 foot 8 inches and
20 the requirement is 30 feet. What we had
21 proposed on the second floor is a little
22 bit setback. It will be 25 feet 8 inches.
23 And the rear is not an issue. We have a
24 lot of room behind. And the side yard,
25 the requirement is 12 feet. The existing

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2 has only 7 feet, 11 and a half inches, and
3 we are not changing that when we add the
4 second floor.

5 And the combination of the two side
6 yards is 18 feet, and the existing is 8
7 feet. And we are also proposing 8 feet.
8 I'm sorry. That was the other side, not
9 combined. The combined is 30 feet. And
10 the existing is 15 feet 11 and a half
11 inches. And we are not changing that.

12 CHAIRMAN MAGUN: Before we
13 go on, I should add, Ms. Ho should be
14 aware of it. There are only four members
15 of the board here. The whole board is
16 actually here tonight. Two of the members
17 had to recuse themselves. One is your
18 neighbor and one has a business
19 relationship with you. So you will need
20 to -- this is the best you are going to
21 do, four, four voting members. And you
22 will need to have three people voting in
23 favor of the application. But we will
24 never have five at this point unless we
25 have a different board. So I assume you

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2 want to go ahead. I should have asked you
3 that. That's the best we can do is this
4 four.

5 MS. HO: Yes.

6 CHAIRMAN MAGUN: I have one
7 or two questions about the application.
8 The purpose of enlarging the house as you
9 alluded to in your letter is that more
10 people are going to be living in the
11 house, is that correct?

12 MS. HO: Yes.

13 CHAIRMAN MAGUN: Could you
14 talk to us a little bit about the parking
15 situation on the street? It is not a very
16 big front yard. Where are all the cars
17 going to park? Is there room on the
18 street?

19 MS. HO: I have a car. My
20 husband has a car. And then my
21 stepdaughters are only ten years old and
22 13 years old.

23 CHAIRMAN MAGUN: So the
24 kids are younger at this point.

25 MS. HO: Yes.

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2 CHAIRMAN MAGUN: That will
3 obviously change. But I just -- it
4 concerned me a little bit. We are going
5 to increase the size of the house on a
6 small piece of property. We think a
7 little bit about where cars are going to
8 park.

9 MS. HO: We are not adding
10 any cars.

11 MS. STECICH: But the letter
12 says it is going to be six to eight
13 people.

14 CHAIRMAN MAGUN: Living
15 together in the future in the house.
16 Right.

17 MS. STECICH: Yes. What she
18 has counted -- I'm pointing that out.

19 MS. HO: There are four.
20 Sometimes my son will come. He lives in
21 Miami, so he will have a place to stay.
22 But that's not long term at all.

23 CHAIRMAN MAGUN: Because
24 one of the issues -- I realize you are not
25 changing the footprint in your house. But

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2 one of the things that concerns me a
3 little bit is if we are going to enlarge
4 the house and many more people are living
5 there, the issue of where to park becomes
6 somewhat of a concern.

7 MS. HO: Across the street
8 from my house, there is about 200 feet.
9 There is never have any car parking there.
10 And the Pinecrest just had a party, and
11 nobody had a problem parking. There is
12 always parking available.

13 MR. SHARMA: May I say
14 something? This is a single family
15 dwelling. It will remain a single family
16 dwelling of whatever the definition is,
17 whether there are six members or 20. This
18 is a single family dwelling. The
19 requirement is two parking spaces.

20 CHAIRMAN MAGUN: I agree.
21 I understand that. Nonetheless, we are --
22 she is asking for a significant variance
23 in height. And in order to address the
24 impact of that variance, one of the
25 questions I had on the impact on the

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2 neighborhood was the increased number of
3 people living in the small piece -- in the
4 small house.

5 MR. SHARMA: And also eight,
6 six or eight people does fall into the
7 definition of a family or more than one
8 family.

9 CHAIRMAN MAGUN: I have no
10 issue. There are lots of families that
11 have eight people. That is not my
12 question. I'm just thinking about how
13 many cars are going to be there. You
14 know, if the lot was a lot bigger, I
15 wouldn't even raise that.

16 MS. HO: Just me, I have a
17 car, and my husband has a car. And that's
18 it. You know. If my son too --

19 MR. HAN: Let me talk. The
20 existing house has a one-car garage and it
21 has a driveway. And in the frontage if we
22 need to we can expand the driveway to
23 incorporate another car space in front of
24 the house.

25 CHAIRMAN MAGUN: Okay.

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2 So -- okay. I'm not pushing it. I'm just
3 questioning it, how many cars are going to
4 be there. I don't know the street that
5 well. I don't park there at night. So
6 one of the issues is, is there enough
7 parking. When someone is asking -- when
8 you are asking -- as Mr. Sharma points
9 out, from a zoning point of view, you have
10 enough parking spaces.

11 But once you are asking to enlarge
12 your house, it is fair for the board to
13 ask is there enough room in the
14 neighborhood for the impact of this
15 variance on the neighbors. That's kind of
16 what I'm asking.

17 MS. HO: I mean, two years
18 ago I myself have two cars and my husband
19 had one. There was three cars. I never
20 had a problem. One stayed in the garage,
21 and two were in the driveway. But now we
22 have one car. My husband has one car, and
23 those two, ten and 13, they are never
24 going to have a car. And I can't tell the
25 long term where I will stay, but, you

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2 know, across the street I know there is
3 more than 200 feet wide. And there is no
4 one ever parked there.

5 And we just had a party, and they
6 have a lot of cars. And there is no
7 problem of parking. Even though people
8 had the party, they parked in my driveway,
9 and I just parked across the street. When
10 they finished I moved my car back to my
11 driveway. Yeah. It is a very friendly
12 street. And everybody thinks of
13 everybody.

14 CHAIRMAN MAGUN: Okay.
15 Other questions from the board, concerns?

16 MR. DEITZ: As I understand
17 the present area of the house, inside the
18 house is 1,000 square feet.

19 MR. HAN: Yes.

20 MR. DEITZ: And with
21 proposed renovation, it would become 2,000
22 square feet?

23 MR. HAN: Yes.

24 MR. DEITZ: And my thought
25 is 2,000 square feet is like an average

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2 size house. 1,000 square feet is a small
3 house.

4 MR. HAN: Exactly, right.

5 MR. DEITZ: I don't think
6 2,000 square feet is an over large house
7 for Pinecrest parking. That's my comment,
8 because other board members have said the
9 house would be larger. I do have a
10 question here. You said there are four
11 people in the family and a family is a
12 family. But in your letter you say there
13 will be six to eight people living
14 together, so I'm just confused.

15 MS. HO: That is just --

16 MR. DEITZ: You told me
17 four. It's fine.

18 MS. HO: It is really
19 definitely four. My son lives in Miami so
20 he does come back sometimes and stay
21 there. And I have two sons, so sometimes
22 they have a girlfriend. They stay there.
23 But it is never long term. That's really
24 what my number is. But sure, there is
25 only the most is four. That's it. And my

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2 son is 28 and 25 in October. They will be
3 29 and 26. I don't think they want to
4 live with their mother. I have the
5 smallest house on the block, you know. It
6 is my dream to have a little bigger house,
7 at least have a master bath. So that's
8 really -- I wanted it for a long time, but
9 I'm always busy working, working, working
10 and I put it off for so many years.

11 CHAIRMAN MAGUN: Other
12 questions from the board? Comments?

13 MR. MURPHY: No. I tend to
14 agree with David. On the other hand, it
15 is a tight lot, and the setbacks are
16 pretty tight. So given the fact that the
17 applicant is not altering the setbacks, I
18 don't see a problem. Arthur, just to be
19 clear, I don't think there is a height
20 variance that is being requested. I think
21 you may have suggested that in your
22 comments.

23 CHAIRMAN MAGUN: I didn't
24 mean to do that.

25 MR. MURPHY: There is no

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2 height variance required. Since they are
3 keeping the current side yard and front
4 yard setbacks, I tend to agree with David.
5 I was more concerned with the view
6 preservation issue. But given that it's
7 well below Broadway and there is nothing
8 behind the house, I don't see that as an
9 issue at all.

10 CHAIRMAN MAGUN: I had a
11 question about view preservation, though.
12 That was my second comment. The house,
13 you alluded to the neighbor to the south
14 in the brown house that is set back.
15 There is no question that their view is
16 going to be impacted to some degree. At
17 least the way I'm looking at it, if they
18 are behind you and they are looking at the
19 river and you are raising the roof, they
20 are going to lose some view. So they
21 won't lose any view?

22 MS. HO: No.

23 CHAIRMAN MAGUN: Show me
24 that.

25 MS. HO: I'm a realtor. See

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2 this house here, above the living room,
3 you know, there is no second story.

4 CHAIRMAN MAGUN: That's
5 your neighbor's house?

6 MS. HO: Yes. So this is
7 the only neighbor that I will be
8 concerned. Where he is living, he is
9 nothing. It is all angle attic. And here
10 she -- over here is not bedrooms. It is a
11 little porch.

12 CHAIRMAN MAGUN: So you are
13 saying -- if they look -- but if they look
14 to the north and you have increased the
15 size of the house, they will have less of
16 a view.

17 MS. HO: You won't see it.
18 The way it lines up, it will be just
19 going -- I don't have a ruler.

20 CHAIRMAN MAGUN: That's
21 what your architect was trying to show us.

22 MS. HO: Yes. Right here.
23 Right there there is -- she has a huge
24 tree to block her own view. And it is
25 huge. It is right here. I even just two,

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2 three weeks ago the branch fell on my car.

3 CHAIRMAN MAGUN: Well, that
4 was my -- that was my only real concern
5 about the application, was that view, that
6 view from that neighbor.

7 MR. MURPHY: You are talking
8 about the northern, kind of due north
9 really, not toward -- not so much --

10 CHAIRMAN MAGUN: Northwest,
11 yes. It is certainly not at all in front
12 of the house.

13 MS. HO: On that side of
14 Pinecrest nobody really has a great view.

15 CHAIRMAN MAGUN: That
16 neighbor is obviously aware of your plans.

17 MS. HO: Yes, absolutely.

18 CHAIRMAN MAGUN: Have you
19 spoken -- they know what you are going to
20 do?

21 MS. HO: Yes.

22 CHAIRMAN MAGUN: I guess
23 they are not here, unless they are here.
24 And I --

25 MS. HO: And I showed them

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2 the plan and she is fine with it.

3 CHAIRMAN MAGUN: I didn't
4 think there was any other view
5 preservation issue that I could see. That
6 was the only one. I will say also that
7 there are a number of houses on that side
8 of the street on that block that have been
9 enlarged or are of the caliber of your
10 proposed house --

11 MS. HO: Well, the last
12 house put a huge addition, 18 Pinecrest
13 right on the corner.

14 CHAIRMAN MAGUN: So I think
15 there are a couple of small ones like
16 yours and there are a couple of big ones.
17 So I think it would not be out of context
18 with the rest of the neighborhood if you
19 were to go ahead with the proposal.

20 MS. HO: It would make
21 Pinecrest look prettier.

22 CHAIRMAN MAGUN: Maybe. I
23 hope so.

24 MS. HO: Definitely.

25 CHAIRMAN MAGUN: I think

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2 from that point of view, there are other
3 houses in the neighborhood. I think that
4 a small house, as David points out, it is
5 better to have bigger houses, I think, in
6 the village as long as we cannot detract
7 from them. I think it is better all
8 around for everyone. It is easier for
9 people to buy and sell the houses and to
10 keep them in good condition. Is there
11 anyone in the audience who has any
12 comments, questions, or concerns? No.
13 Okay. Any other thoughts or comments from
14 the board?

15 MR. SOROKOFF: My thought
16 was a conversion from a single-family
17 house to two-family house, but I think you
18 have eliminated that possibility.

19 MS. HO: Single to single.

20 CHAIRMAN MAGUN: Okay. So
21 we have three items to vote on. View
22 preservation approval, extension of the
23 nonconforming front yard, and extension of
24 the existing nonconforming side yard, both
25 of which are going up with no change in

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2 the footprint of the house. So we will --
3 I think we need three motions with regard
4 to this application. One second. Do you
5 have a question? Is anyone prepared to
6 make a motion with regard to the -- let's
7 do the variances first and then view
8 preservation last.

9 MR. MURPHY: All right.
10 Yes. I'll make a motion to approve the
11 applicant's request for a variance for the
12 front yard setback existing and proposed
13 19.8 feet required 30 feet.

14 CHAIRMAN MAGUN: Is there a
15 second?

16 MR. DEITZ: I'll second.

17 CHAIRMAN MAGUN: All in
18 favor?

19

20 MR. DEITZ: Aye.

21 MR. MURPHY: Aye.

22 MR. SOROKOFF: Aye.

23 CHAIRMAN MAGUN: It is four
24 zero. So that is passed.

25 MR. MURPHY: I'll also move

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2 to approve the applicant's request for a
3 variance to extend the existing
4 nonconforming side yard setback existing
5 and proposed 7.92 feet minimum on one
6 side, 16 feet total both sides, required
7 12 feet minimum one side, 30 feet total
8 both sides.

9 CHAIRMAN MAGUN: Is there a
10 second?

11 MR. SOROKOFF: I'll second.

12 CHAIRMAN MAGUN: All in
13 favor? Aye.

14 MR. DEITZ: Aye.

15 MR. MURPHY: Aye.

16 MR. SOROKOFF: Aye.

17 CHAIRMAN MAGUN: Again,
18 four zero. Finally, view preservation
19 approval.

20 MR. MURPHY: Yes. I'll move
21 to approve the applicant's request for
22 view preservation approval for the
23 addition to the house 62 Pinecrest
24 Parkway.

25 CHAIRMAN MAGUN: And second

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2 to the motion?

3 MR. SOROKOFF: Again I'll
4 second the motion.

5 CHAIRMAN MAGUN: In favor?

6 MR. DEITZ: Aye.

7 CHAIRMAN MAGUN: Aye.

8 MR. SOROKOFF: Aye.

9 MR. MURPHY: Aye.

10 CHAIRMAN MAGUN: Okay. All
11 variances were passed and view
12 preservation.

13 MS. HO: Thank you, sir.

14 CHAIRMAN MAGUN: So we are
15 going to go on to Case 13-07 which is
16 Susan Holden, 17 Pinecrest Drive. Stan
17 and Denise are going to come back up.

18 MS. STECICH: Mr. Chairman,
19 I didn't hear included -- I don't know if
20 the members got a memo I sent in August
21 saying that the planning board
22 recommended --

23 CHAIRMAN MAGUN: Yes.

24 MS. STECICH: Because it
25 wasn't in mine, so I didn't know if you

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2 got it.

3 CHAIRMAN MAGUN: It was a
4 secondary delivery. The planning board
5 had recommended view preservation.

6 MS. STECICH: On the next
7 two applications, yes.

8 CHAIRMAN MAGUN: Okay. So
9 this is Case 13-07, 17 Pinecrest Drive and
10 this application is before us for view
11 preservation approval for the construction
12 of an inground swimming pool and fence.
13 Just give me one second. Please tell us
14 your name, address, and take it from
15 there.

16 MS. HOLDEN: My name is
17 Susan Holden. I live at 17 Pinecrest.

18 CHAIRMAN MAGUN: You are the
19 applicant?

20 MS. HOLDEN: I am the
21 applicant. It doesn't seem to be very
22 complicated, because the view of the
23 property before the pool is what you see
24 up there. And I think you all have it in
25 your package which is you actually can't

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2 see it, because it is down the hill behind
3 the fence. And so I'm afraid this is the
4 before and the after view of it, because
5 it is a negative space. The fence may or
6 may not even be replaced because it is in
7 pretty good shape. I think the only
8 thing -- and so I don't know if you have
9 any questions about the view of the pool.

10 CHAIRMAN MAGUN: No. Just
11 tell us -- just give us a little
12 background. How long have you been in the
13 house? Why do you want to do this
14 project, just a little bit about it to put
15 it in some context.

16 MS. HOLDEN: Sure. I --
17 actually, I lived in the village for six
18 years and moved up to Croton because I
19 very much wanted to see the river and to
20 have a large piece of property. And I had
21 often admired this house when I lived in
22 the village. It was owned by Dr. Clark
23 for 60 years. And my very good friends
24 lived across the street on Pinecrest. And
25 after Dr. Clark passed away, he called me

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2 one day and said, "You're never going to
3 believe this. There is a house in
4 Hastings that has room for a pool." And
5 I said, "That's impossible." And he said,
6 "There is a house with a view of the river
7 in Hastings that has a pool." I said,
8 "That's impossible." I said, "Where is
9 it?" And he said, "It is Dr. Clark's
10 house."

11 So I went to look at it and it
12 does, in fact, because the house itself is
13 pretty -- the property itself is not very
14 large. It is half an acre. Because the
15 house is off to the corner, there is a
16 lovely side yard that I believe many, many
17 years ago was a third lot that was split
18 by the two existing houses. So we both
19 actually have very large side yards.

20 CHAIRMAN MAGUN: How long
21 have you lived there?

22 MS. HOLDEN: I have lived
23 there -- I've lived there a year and I've
24 owned it about a year and a half.

25 CHAIRMAN MAGUN: All right.

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2 I don't have any other questions about the
3 application itself for view preservation
4 because, as you point out, it is hard to
5 even find a way to see the pool if you
6 look really hard which I did today. And I
7 wanted to know if anybody on the board had
8 any questions about the view preservation
9 application.

10 MR. MURPHY: Ms. Holden, I
11 had one question. In your letter you
12 indicate there will be additional openings
13 or more openings possibly in the privacy
14 fence.

15 MS. HOLDEN: Yes. It is
16 going to be slightly different. This
17 doesn't necessarily show it here. Right
18 now the fence goes up to this corner and
19 goes straight across here. The intention
20 is to push the fence actually back and to
21 open up this corner so that I might be
22 able to put my cars which are currently
23 parked on public property down on the
24 aqueduct. The house is apparently
25 grandfathered in by the state which owns

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2 the aqueduct property to park there. And
3 so although I'm perfectly happy to park
4 there, I don't really care terribly one
5 way or the other. But I thought it would
6 be -- while I was doing this regrading by
7 the -- for the pool to put the places
8 there so the cars could park there. So I
9 pushed the fence back.

10 What I also intended just in terms
11 of like scenic improvement, although I
12 don't know if that's anything you are
13 interested in, is set into the fence will
14 be an antique iron gate that will allow a
15 view from the aqueduct down across the
16 pool. And there is a planned garden
17 below. I really bought the yard more for
18 the garden than the pool. The pool is
19 really the centerpiece around the garden.
20 And as people -- of course, that section
21 gets a lot of traffic. I think it will be
22 quite pretty. It is sort of off in that
23 area of the fence. I have pictures of it
24 if you would like to see it, but it is
25 really just decorative.

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2 CHAIRMAN MAGUN: You
3 brought up the parking, the car issue, and
4 I just wanted to discuss this with the
5 board briefly. I spoke to Deven today
6 about this. The question I had is if you
7 were to have your cars parked there as you
8 might -- is this for sure or you are not
9 sure you're going to do it?

10 MS. HOLDEN: I want to do
11 it. But I mean, I'm ambivalent because I
12 don't necessarily want to look at my cars.
13 But I feel a little guilty parking my cars
14 in a place people walk. I'd rather put
15 them there. So yes, it is my intention to
16 do that.

17 MR. SHARMA: It is part of
18 the current application.

19 CHAIRMAN MAGUN: Okay.

20 MR. SHARMA: It is in the
21 drawings.

22 CHAIRMAN MAGUN: So I asked
23 the village inspector Deven whether this
24 was parking in the restricted side yard
25 setback which you are not allowed to do,

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2 and I asked him why we weren't asking to
3 grant a variance for parking in the rear
4 yard setback. And that is what all of you
5 got a copy of the series of e-mails that I
6 hadn't seen until just now that I guess
7 this is Patty Speranza from the planning
8 board regarding this. I guess she raised
9 the same question.

10 So the question is, is it the
11 correct interpretation or do we agree that
12 this is actually a driveway and not
13 parking in the rear yard setback? And I
14 just wanted to bring it to the board's
15 attention.

16 MS. HOLDEN: What runs
17 behind the house here, this lane is the
18 only means of egress to my house and --

19 MR. DEITZ: One Pinecrest
20 Drive is this little lane that runs next
21 to the aqueduct. So I don't know if that
22 is what you are referring to in terms of
23 driveway.

24 CHAIRMAN MAGUN: You are
25 not allowed -- in the code of the village

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2 you are not allowed to have paved parking
3 spaces in certain parts of yards like
4 front yard or rear yard unless it is a
5 driveway. Driveways are allowed. Parking
6 is not.

7 So what defines, and correct me if
8 I'm wrong, so if a driveway is something
9 that leads your car from the street to a
10 parking area, so it gets a little fuzzy.
11 And I actually frankly from my personal
12 point of view, but I think I wanted the
13 board to think about this. I think it is
14 great to take two cars off the aqueduct
15 and put them in your yard. I think that
16 would be a very nice thing to do if you
17 have the space.

18 So I'm not fighting it in any way.
19 I just wanted to bring it to the board's
20 attention. Deven interpreted it as a
21 driveway, and I would be happy to leave it
22 like that. I don't have any quibble with
23 that really.

24 MS. HOLDEN: It is a very
25 short driveway.

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2 CHAIRMAN MAGUN: It is a
3 short driveway. But most people park
4 their cars in their driveway. That is a
5 fact of life. It is not like we all have
6 a hundred feet driveway.

7 MS. HOLDEN: In fact, it is
8 actually identical to the pull off that is
9 right here in my neighbor's yard.

10 CHAIRMAN MAGUN: So I just
11 wanted the board to know that this had
12 been discussed at the planning board and
13 that we brought it up tonight. And unless
14 anybody has some strong feelings about it,
15 I think I would be happy to go with
16 Mr. Sharma's interpretation that it is a
17 driveway. We don't have --

18 MR. SHARMA: We don't need
19 any elaboration on some of the things that
20 were said here.

21 CHAIRMAN MAGUN: I didn't
22 have a chance to read it all, but
23 according to the dictionary the legal
24 definition of a driveway --

25 MR. SHARMA: There is no

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2 rule we have to stick to a definition.
3 Maybe she should try some animal.

4 CHAIRMAN MAGUN: Say again?
5 Oh, I see, an animal. Okay. Brian, do
6 you want to say something?

7 MS. HOLDEN: I still have a
8 horse hitching post next to the house that
9 we have saved, so I have a feeling at one
10 point in order to get from the aqueduct
11 down to the house it was, in fact, a way
12 on which animals were driven.

13 CHAIRMAN MAGUN: But the
14 concept of parking your cars on your
15 property is one that I think I would also
16 ascribe to in reducing the number of cars
17 that are floating around the village.

18 MS. FURMAN: The only
19 question I have is does it now become a
20 requirement of this lot that those two
21 parking spots be maintained as parking or
22 is it possible that should the applicant
23 or some subsequent owner change their
24 mind, they can revert that land back to
25 the land, back to part of their lot and no

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2 longer have it designated as parking?

3 MR. SHARMA: See, currently
4 they are correcting a nonconforming
5 situation. They don't have a requirement.

6 MS. FURMAN: If they add
7 this, they will have the two required off
8 the street parking spaces. My question
9 is, are we going to make it a requirement
10 that they be maintained after setting them
11 up?

12 MS. STECICH: I don't think
13 you have to make it a requirement. It is
14 probably going to happen. My guess they
15 will lose their grandfathering. I
16 don't -- if it is a state grandfather,
17 I'm not sure what the state provision is,
18 but generally grandfather uses --

19 MS. FURMAN: If you stop
20 using them --

21 MS. STECICH: -- if they are
22 abandoned after six months or a year,
23 something like that, I don't know for
24 sure.

25 MS. HOLDEN: It is not

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2 really a written in grandfather. It is
3 sort of a custom and use. There are other
4 people in the neighborhood that park
5 there. There is room for six or seven
6 cars.

7 MS. FURMAN: It is possible
8 we are not going to be removing cars?

9 MS. HOLDEN: Yes. My two
10 cars are going to be moved. In fact, I
11 would say 75 percent of the time my two
12 cars are the only two cars there.

13 CHAIRMAN MAGUN: I would
14 also venture to say once Ms. Holden
15 constructs the space and essentially
16 brings that up to code to take those away,
17 the board would have to grant her a
18 variance to take that away. I think that
19 would be a reasonable interpretation.

20 MR. PYCIOR: It is required
21 spaces.

22 CHAIRMAN MAGUN: So we are
23 all happy about that. One other question,
24 there is a shed there right on the border.
25 Has that shed been there for a long time?

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2 Is that a new shed? Did you put that
3 there?

4 MS. HOLDEN: I put that shed
5 in, because there is no place to really
6 keep garbage cans or anything. There is
7 no garage on the property. So if I had
8 to -- it doesn't really lend itself so
9 much to a garage. If I had built a garage
10 in lieu of these parking spaces, then I'd
11 have really I think a scenic issue for
12 people who are walking by.

13 CHAIRMAN MAGUN: Right. I
14 think if you have a shed, you are going to
15 have to get a variance for that.

16 MS. HOLDEN: A variance for
17 my shed?

18 CHAIRMAN MAGUN: Yes.

19 MS. HOLDEN: Can I move my
20 shed?

21 CHAIRMAN MAGUN: Oh, yes.

22 MS. HOLDEN: Where does it
23 have to be?

24 CHAIRMAN MAGUN: Why don't
25 you talk to Deven about it? It is too

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2 close to the side yard, to your neighbor's
3 side yard. There are some rules about how
4 far an accessory structure can be.

5 MS. HOLDEN: We put it just
6 where the neighbor's similar structure is.
7 I don't know if they have a variance on
8 theirs. I was trying to not be different.

9 CHAIRMAN MAGUN: It is not
10 on the application, but it looked like a
11 new shed to me. I wanted to ask you about
12 it. You can discuss it with Deven. He
13 will discuss with you. You can choose to
14 try to get a variance for it.

15 MR. SHARMA: It is illegal
16 construction without getting a proper
17 permit for it. If you had a proper
18 permit, there is minimum 8 feet from the
19 property line.

20 MS. HOLDEN: Is that the
21 requirement, 8 feet?

22 MR. SHARMA: I think that is
23 what you may have to do for legal ease.

24 MS. HOLDEN: We will just
25 move it. I think it is pretty easily

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2 moved. I didn't know that that was a
3 problem.

4 CHAIRMAN MAGUN: A lot of
5 people do that. It's okay.

6 MR. DEITZ: Swimming pool
7 means a fence around. Are you saying that
8 existing fence is the only fence that you
9 need for the swimming pool?

10 MS. HOLDEN: The existing
11 fence is here. (Indicating) And the only
12 two fences that I'm adding are a fence
13 across the front of the house to the
14 house, which will be the 4 foot, then this
15 little one over here. These two are new.

16 MR. DEITZ: That is the
17 basis for the application for view
18 preservation?

19 MS. HOLDEN: I don't really
20 know. I think Deven said anything to do
21 at all with the view area you have to ask.

22 MS. STECICH: Anything you
23 need a building permit for.

24 MR. SHARMA: It is new
25 construction and a new fence.

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2 MS. HOLDEN: These are the
3 existing six foot fences, but these are
4 going to be just the minimum to satisfy
5 the pool safety requirement.

6 MR. DEITZ: They are going
7 to look like the existing fence.

8 MS. HOLDEN: Yes, they are
9 all the same kind.

10 CHAIRMAN MAGUN: I'm glad
11 you brought that up. It is not just the
12 pool; it is the fence also.

13 MR. DEITZ: It looks very
14 nice.

15 MS. HOLDEN: Thank you. I
16 hope it will be lovely when it is
17 finished.

18 CHAIRMAN MAGUN: Who put
19 the plaque in?

20 MS. HOLDEN: I did.

21 CHAIRMAN MAGUN: That's
22 very nice.

23 MS. HOLDEN: Thank you.
24 It's funny because in talking to the Clark
25 family since I bought the house, they have

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2 given me all this other information about
3 historic figures who have been to the
4 house that if I had known I would have put
5 them on the plaque, like Martin Luther
6 King and Jackie Robinson.

7 CHAIRMAN MAGUN: I don't
8 know if everybody knows, when you
9 walk into Mrs. Holden's -- front of Mrs.
10 Holden's house she has a plaque put into
11 the stonework saying this house belonged
12 to Dr. Clark and a little about the
13 history of the house.

14 MS. HOLDEN: And his
15 contributions to civil rights of the
16 United States. But the Clark family has
17 been lovely, and they were -- I offered as
18 a suggestion -- they were very nice --
19 that they still come to visit. They miss
20 Hastings. Milton Clark comes to eat at
21 the diner and checks on me quite
22 frequently.

23 CHAIRMAN MAGUN: Any other
24 questions, comments? So the application
25 is for view preservation for construction

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2 of a pool and a fence. I think we can do
3 those as one item. Is there a motion to
4 approve the view preservation approval?

5 MS. FURMAN: I make such a
6 motion.

7 MR. DEITZ: Is there -- did
8 you call for comment?

9 CHAIRMAN MAGUN: I'm sorry.
10 Is there anyone in the audience that
11 actually wishes to make a comment? I'm
12 sorry. No. Okay. Thank you. Denise, go
13 ahead.

14 MS. FURMAN: I make a motion
15 to grant the request for the view
16 preservation approval for the construction
17 of an inground swimming pool and a fence.

18 CHAIRMAN MAGUN: Second?

19 MR. MURPHY: I'll second.

20 CHAIRMAN MAGUN: In favor?
21 Aye.

22 MR. MURPHY: Aye.

23 MR. PYCIOR: Aye.

24 CHAIRMAN MAGUN: Aye.

25 MS. FURMAN: Aye.

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2 MR. DEITZ: Aye.

3 CHAIRMAN MAGUN: Good luck.

4 Next Case No. 15-07,
5 Chunyan Teng, 586 Warburton Avenue. Is
6 there anyone here for that application?
7 Okay. In that case we are going to go to
8 the next case. Then we will come back and
9 see if the applicant has come.

10 The next case is Mr. Agate's case,
11 10-07, Michael Agate, 495 Warburton
12 Avenue, view preservation and site plan
13 approval. We had discussed this case last
14 time, and you now have different members
15 of the board. So I would presume that you
16 should probably just start from the
17 beginning and explain why you are here so
18 everybody is on board.

19 MR. AGATE: Let me get to
20 the microphone and set this up. This is
21 for view preservation.

22 CHAIRMAN MAGUN: Name and
23 address.

24 MR. AGATE: Mike Agate,
25 applicant for 495 Warburton Avenue,

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2 address of the house 495 Warburton Avenue,
3 Hastings. My personal address, 13 Elmwood
4 Street in Stamford, Connecticut. We are
5 here for view preservation. We would like
6 to renovate the house that burnt down five
7 and a half years ago in its preexisting
8 condition. That's it, the view
9 preservation for the preexisting height.

10 CHAIRMAN MAGUN: So you are
11 proposing to rebuild the house to the
12 preexisting -- to the previous height that
13 it was?

14 MR. AGATE: Correct.

15 CHAIRMAN MAGUN: I guess we
16 had a discussion about that at the last
17 meeting. And is that height -- can you --
18 do you have drawings of that, of the
19 actual proposed?

20 MR. AGATE: My architect
21 supposedly brought the drawings in.
22 Whether you have them or not, I have --

23 MR. MURPHY: We don't.

24 MR. AGATE: Then you have a
25 preexisting drawing in the application

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2 that should be presented in front of you
3 on the last page.

4 MR. SHARMA: Maria sent them
5 to the --

6 CHAIRMAN MAGUN: You have a
7 copy with you?

8 MR. AGATE: I have the old
9 drawing itself. It should be in your
10 application. Correct. That's the old
11 drawing, the original drawing.

12 MR. MURPHY: The only
13 problem with the old drawing, Mr. Agate,
14 is there is no dimensions on it?

15 MR. AGATE: That is fine.
16 If you would like, there are photos of the
17 preexisting building.

18 MR. MURPHY: I think that
19 was the issue last time. The difficulty
20 is, if you recall when we had this
21 discussion last time, it was 36 feet, 40
22 feet, whatever it was. Counsel advised us
23 that we are not permitted to approve 40
24 foot height. That was, I believe --

25 MS. STECICH: No, no.

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2 MR. MURPHY: That's how I
3 was understanding it.

4 MS. STECICH: The issue was
5 that the planning board had approved view
6 preservation assuming that the height of
7 the building wouldn't be any higher than
8 it was prior to the fire.

9 MR. MURPHY: Right.

10 MS. FURMAN: Immediately
11 prior to the fire.

12 MS. STECICH: Right. We
13 didn't have any -- there were no drawings.
14 And the only drawings submitted at the
15 last meeting were drawings of the building
16 higher than that.

17 MR. MURPHY: Yes.

18 MS. STECICH: And the board
19 said we don't have any issue with you
20 coming -- you know, giving us plans or
21 approving a building no higher than it was
22 before the fire, but we need to see plans.
23 We need to see what it is going to look
24 like, and we need to know the number of
25 feet we are approving. That's where we

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2 were.

3 MR. MURPHY: Do we know the
4 number of feet? What I was looking for is
5 the height dimension on a drawing which
6 isn't there. That's the only real problem
7 I have with this. But I thought we
8 clarified that last time. We needed the
9 height.

10 MR. AGATE: Well, the
11 drawings were submitted. Why you don't
12 have them, I don't know.

13 MR. SHARMA: I will go and
14 see. I thought we forwarded it.

15 CHAIRMAN MAGUN: What was
16 forwarded to us was the August 28 letter;
17 is it Agate?

18 MR. AGATE: Agate.

19 CHAIRMAN MAGUN:
20 Mr. Agate's letter and some pictures. And
21 then Christina's drawing from before the
22 fire. It says pre fire.

23 MS. STECICH: This is new.
24 It just came in the package.

25 CHAIRMAN MAGUN: What does

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2 this represent?

3 MR. AGATE: That is the
4 preexisting facade before the house had
5 burned.

6 CHAIRMAN MAGUN: This is
7 not what you are going to be doing.

8 MR. AGATE: No. We had
9 updated the facade as per ARB approval
10 which is not fully approved as of yet, but
11 the changes that they have requested. We
12 still have to meet with the ARB board on
13 Monday.

14 MR. MURPHY: But we don't
15 have them. For whatever reason we don't
16 have them right now.

17 MS. FURMAN: You think you
18 submitted that to us?

19 MR. AGATE: It was submitted
20 to the building department. It wasn't
21 submitted to me.

22 CHAIRMAN MAGUN: Do you
23 want to take a look? Let us take a
24 two-minute break and let Mr. Sharma take a
25 look.

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2 CHAIRMAN MAGUN: Actually,
3 we don't have to take a break. Let me ask
4 you questions. Assuming we can find the
5 drawings, the proposal that you want to go
6 forward with is to recreate a building
7 that is exactly the same height as the
8 neighboring buildings.

9 MR. AGATE: No, as it was
10 pre-existing.

11 CHAIRMAN MAGUN: What is
12 that? Can you explain that to me?

13 MR. AGATE: It is 36 feet.

14 MS. FURMAN: What is 36
15 feet?

16 MR. AGATE: My building, 495
17 Warburton.

18 MS. FURMAN: The other
19 buildings on the block are?

20 MR. AGATE: Around 40 feet.

21 MS. FURMAN: You remember
22 you are proposing a building 2 feet
23 higher.

24 MR. AGATE: Correct.

25 CHAIRMAN MAGUN: Is that

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2 what the planning board passed?

3 MR. AGATE: Yes.

4 MR. MURPHY: They
5 conditionally approved it as no higher
6 than the preexisting height. The slang
7 they use was no higher than the
8 preexisting height.

9 MS. STECICH: The planning
10 board recommended approval on the
11 condition that the building be no higher
12 than it was before the fire and that the
13 roof line remain the same as before the
14 fire.

15 MR. AGATE: And the north
16 wall still exists.

17 CHAIRMAN MAGUN: Which wall
18 exists?

19 MR. AGATE: The north wall,
20 adjacent to my neighbor at 497.

21 CHAIRMAN MAGUN: Could you
22 explain this picture then? I guess I
23 didn't interpret this correctly. What is
24 this? What does this essentially show?

25 MR. AGATE: May I? Okay.

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2 What happens is this photo represents the
3 height of my neighbor's building at 497.
4 This shows that my wall exceeds this
5 height because it still exists. This wall
6 has never been removed. And I do have
7 better photos with close-ups just to show
8 the difference in height. But I thought
9 this would be enough.

10 MS. FURMAN: That reflects
11 your building at 36 feet.

12 MR. AGATE: Correct.

13 MS. FURMAN: Next to a 34
14 foot building?

15 MR. AGATE: Correct.

16 CHAIRMAN MAGUN: So you --
17 what you are proposing will be that if one
18 looks at the street from, let's say, the
19 other side your building will be higher
20 than the two adjacent buildings to the
21 north and to -- I mean, yes, to the north
22 and to the south --

23 MR. AGATE: Yes.

24 CHAIRMAN MAGUN: -- as it
25 was before.

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2 MR. AGATE: No. The
3 building to the south of me was the same
4 height as my building. That building was
5 lowered with the new construction.

6 CHAIRMAN MAGUN: Okay. It
7 is hard for us to know all this. I
8 appreciate you explaining that.

9 MS. FURMAN: Visually if I
10 look at the photo you have submitted which
11 appears to show about just by the change
12 in color one, two, three, four sections,
13 then your blue section, and then another
14 building section north of you, correct?

15 MR. AGATE: Correct.

16 MS. FURMAN: And everybody
17 else is in a line, and your blue building
18 would rise 2 feet above that.

19 MR. AGATE: My building,
20 yes, would be preexisting.

21 MS. FURMAN: It would rise 2
22 feet above --

23 MR. AGATE: Yes.

24 MS. FURMAN: -- all of the
25 others in that line?

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2 MR. AGATE: Right.

3 MS. FURMAN: I notice the
4 others have structures then on top of
5 their roofs that appear to be fencing of
6 some sort. Would you then -- do you know
7 what the fencing is?

8 MR. AGATE: I believe they
9 all have roof decks and roof access,
10 doorways for roof access. So I'm sure
11 they are built to 40 feet high, but I
12 don't have the actual measurements.

13 MS. FURMAN: It would
14 probably be nice to have roof access on
15 your new building.

16 MR. AGATE: I probably
17 wouldn't propose it.

18 MS. FURMAN: Right. Then
19 you would be two feet above everybody on
20 both sides looking down.

21 MR. AGATE: Yes.

22 MS. FURMAN: If possible.
23 Right. Okay. Thank you.

24 MR. AGATE: If you are on
25 the rooftop, yes, you would be 2 feet

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2 above.

3 MR. MURPHY: I think I had
4 the same question, David. I'm trying to
5 clarify from the photo. Mr. Agate, if you
6 know, it looks like there is HVAC
7 equipment on the roof. But is there also
8 a fenced-in area like a roof deck?

9 MR. AGATE: Yes. The
10 neighbors have roof decks.

11 CHAIRMAN MAGUN: Okay. In
12 a minute.

13 MS. LISTERMAN: We live in
14 the building in question. There is a deck
15 and a fence around it. Just an easy
16 answer.

17 MR. MURPHY: How high is the
18 fence, about? Is that five, 6 feet high
19 or so?

20 MS. LISTERMAN: Yes, it is
21 taller than I am, so it is probably 6 feet
22 or so, I would guess.

23 MR. MURPHY: Okay. Thank
24 you.

25 CHAIRMAN MAGUN: So I guess

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2 just to sort of bring up the elephant in
3 the room here, whatever that phrase is, I
4 guess what I'm trying to understand is, we
5 have all these houses that are in a
6 straight line and your house is going to
7 be bigger and that's because the house to
8 the south is lower. They used to be in a
9 straight line.

10 MR. AGATE: Right.

11 CHAIRMAN MAGUN: Why is it
12 necessary for your house to alter that?

13 MR. AGATE: We do have a
14 preexisting wall that still exists.
15 Obviously it is going to be a higher cost
16 to take the wall down, plus it also
17 disturbs my neighbor's property. It may
18 bring up issues between me and my neighbor
19 if I start cutting this wall down.

20 CHAIRMAN MAGUN: It is just
21 lower, a little bit taken off the top of
22 it, I guess. I mean, I'm not an
23 architect, obviously. But I guess from a
24 view, since we are really here to discuss
25 view preservation, by having a structure

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2 that goes up higher than all the other
3 structures around it, but from a view
4 preservation alone issue, I think that
5 brings up some concerns on my part. I
6 don't know about the other board members.

7 MR. AGATE: The code in the
8 neighborhood is 40 feet. If you look at
9 the buildings adjacent to me, they have
10 roof decks and roof access that is built
11 to 40 feet. If you look at some of the
12 photos, the view preservation is still
13 maintained, as I had taken photos from the
14 roof across the street at my neighbor's
15 house, and it shows that even if my house
16 was 40 feet high, the view would be no
17 more obstructed as my neighbors to the
18 south.

19 CHAIRMAN MAGUN: Can you
20 just run that by me visually?

21 MR. AGATE: This is the
22 house that is to the side of me.

23 MS. FURMAN: To the south.

24 MR. AGATE: Yes.

25 (Indicating). This is my structure as it

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2 exists, north, south, roof decks, roof
3 access, as it shows from across the
4 street, and panoramic shot.

5 CHAIRMAN MAGUN: This is
6 from the roof?

7 MS. FURMAN: The roof from
8 across the street.

9 MR. AGATE: The roof across
10 the street to show the view that is
11 preserved, even at a 40 foot height which
12 I'm not proposing. I'm proposing
13 preexisting.

14 MS. FURMAN: When you say 40
15 feet, you're talking about the 6 foot
16 fence on top of the 34 foot building. And
17 you are talking about if you were to put
18 the same fence up on yours, the same
19 thing, you would be still higher than --

20 MR. AGATE: But I don't want
21 roof decking. I'm not proposing roof
22 access. My building is going to be at a
23 36 foot height.

24 CHAIRMAN MAGUN: I
25 understand. So my question was not with

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2 regards to what it looks like from the
3 roof. It was more what the view is from
4 the street. So from the street one will
5 see -- you can't even see any of the
6 structures on the roof from the
7 neighboring building. What you would see,
8 though, would be your house would be
9 higher than the other ones.

10 MR. AGATE: That is the
11 preexisting conditions. See the house on
12 the north is lower. The houses started in
13 a line are all higher.

14 CHAIRMAN MAGUN: Just go
15 through it carefully. In picture No. 1?

16 MR. AGATE: Right. That is
17 the house before it burnt.

18 CHAIRMAN MAGUN: Which is
19 your house?

20 MR. AGATE: After renovated,
21 the one without the tarp.

22 CHAIRMAN MAGUN: One in the
23 middle?

24 MR. AGATE: Yes, that is
25 before the fire.

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2 CHAIRMAN MAGUN: One.

3 MR. AGATE: Yes, sir.

4 Notice that the roof lines are the same on
5 the south, because it was one building.
6 It was one structure. The north line was
7 two foot lower. And then further south
8 they are lower again, because this was one
9 structure at one time, because three
10 multi-family dwellings. This is the back
11 of the house.

12 CHAIRMAN MAGUN: So you
13 want to redo your building to the height
14 that it was previously?

15 MR. AGATE: Yes.

16 CHAIRMAN MAGUN: You don't
17 want to be penalized in some way because
18 your neighbor to the south of you made his
19 building smaller?

20 MR. AGATE: Exactly.

21 CHAIRMAN MAGUN: Is that --

22 MR. AGATE: That shouldn't
23 be, you know, actually my problem. If he
24 decided to lower those houses, that is his
25 prerogative. And I never came to his

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2 zoning board or planning board meeting to
3 oppose it, because I was happy that he
4 rebuilt. But it shouldn't affect me.

5 MR. SHARMA: The
6 architectural review board looked at the
7 buildings in the context of what is
8 around, you know. Even though the
9 planning board approved no higher than
10 what the existing height was, but that
11 doesn't mean it can't be lower or the
12 architectural review board may recommend
13 one.

14 CHAIRMAN MAGUN: But if the
15 architectural review board recommends it
16 be lower, is that what happens then?

17 MR. SHARMA: I believe it
18 is -- if he goes to the architectural
19 review board first, the previous 40 feet
20 height, that was contingent upon other
21 approvals. And if approved 36, it would
22 be contingent on architectural review
23 board acceptance and approval. So as long
24 as 36 feet, no higher than 36 feet, so
25 he'll have to come back to the

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2 architectural review board with a proposal
3 which is no higher than 36 feet. And they
4 may say looking at the buildings around,
5 maybe they would like it to be 35 feet or
6 34 feet or the same height as the other
7 buildings. And that is what he may have
8 to do.

9 MR. AGATE: I would like to
10 point out --

11 MR. SHARMA: Unless the
12 planning board or zoning board overrides
13 the architectural review board
14 recommendation, because then it would be
15 an advisory capacity.

16 CHAIRMAN MAGUN: So,
17 Marianne --

18 MS. STECICH: No. I'm just
19 checking on the height on this. Everybody
20 is saying that the height of those
21 buildings is whatever, 34 feet. But you
22 would approve the fences and the decks,
23 and the height are actually taller than
24 that. I don't believe those are an
25 exclusion from height.

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2 MR. MURPHY: Mr. Agate,
3 we've been given a copy of the new
4 drawing, the vertical dimension at 36 feet
5 to the edge of the top of the cornice of
6 the building. Did your architect measure
7 that or did you measure that?

8 MR. AGATE: I believe he
9 went off of the old drawings of the
10 original blueprints.

11 MR. MURPHY: That's what
12 Marianne is saying. If --

13 MS. STECICH: Yes.

14 MR. MURPHY: If Mr. Agate is
15 building to the edge of the cornice is 36
16 feet and the building next-door which
17 clearly clearing clearly the fencing is
18 above that.

19 MS. STECICH: They are
20 higher.

21 MR. MURPHY: They are higher
22 than this by several feet.

23 MS. STECICH: The facade of
24 the building, the height of the building,
25 measured to the highest point of the

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2 building, not to the front, not to the
3 front of the facade. So those are --
4 those buildings are actually taller than
5 34 feet.

6 MS. FURMAN: Are you saying
7 that those fences are up there in
8 violation?

9 MS. STECICH: No, they are
10 not in violation because the height limit
11 is 40 foot. And I presume -- I don't
12 remember -- it is on the site approval.
13 But the board would have had to -- in
14 getting approval the planning board had to
15 look at the structure on the roof. It
16 specifically says that.

17 But nonetheless, the only things
18 that are exempted from the height
19 limitation are like church spires and
20 stuff like that, chimneys. But these
21 structures up there, now these kind of --
22 I guess you could call them fences or deck
23 fronts.

24 MR. MURPHY: I guess the
25 point is Mr. Agate's building is 36 feet

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2 to the cornice, and he wanted to put a
3 roof deck on, it still can't be more than
4 40 feet total, period.

5 MS. STECICH: Correct.

6 MR. MURPHY: Okay.

7 MR. AGATE: I agree.

8 MR. MURPHY: Do you

9 understand?

10 MR. AGATE: I agree. I

11 don't want a roof deck.

12 MS. STECICH: You can't put

13 anything on the roof without planning

14 board approval.

15 CHAIRMAN MAGUN: What were

16 you going to show us?

17 MR. SHARMA: The drawings

18 that were pulled out at the architectural

19 review board, they show the existing

20 buildings on the two sides of what he is

21 proposing.

22 CHAIRMAN MAGUN: Those are

23 the old buildings?

24 MR. MURPHY: No.

25 CHAIRMAN MAGUN: This is

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2 the new construction. Okay. So I guess
3 my concern is, it is more of a -- to give
4 view preservation approval for a building
5 that sticks up higher than the other
6 buildings. I have trouble with that. I'm
7 trying to understand why we should push --
8 I'm asking the board.

9 MR. PYCIOR: I must admit I
10 don't like the asymmetry, if you will, but
11 I don't think it obstructs the view of the
12 people --

13 CHAIRMAN MAGUN: There is a
14 park across the street that I was looking
15 at that issue, where people have windows
16 and, you know --

17 MR. AGATE: The photo is
18 unobstructed. The neighbors are higher.

19 CHAIRMAN MAGUN: That is
20 from the roof.

21 MR. AGATE: This is the
22 rooftop of the building on the corner,
23 panoramic.

24 CHAIRMAN MAGUN: If you are
25 living in that building on the second

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2 floor --

3 MR. AGATE: Right.

4 CHAIRMAN MAGUN: -- you
5 would have some of your view obstructed by
6 your building.

7 MR. AGATE: I would agree
8 with that, but then it would be obstructed
9 even further from the south.

10 CHAIRMAN MAGUN: By those,
11 I agree.

12 MS. FURMAN: Deven, do we
13 know that the decks on top of those other
14 buildings had the required building
15 permits?

16 MR. SHARMA: The new
17 buildings to the south of these buildings?

18 MS. FURMAN: Yes.

19 MR. SHARMA: Yes. I went
20 through the site plan review process.

21 MS. FURMAN: With the decks
22 and the fencing?

23 MR. SHARMA: Yes. And the
24 building permits were granted before my
25 time of course, but yes. They have a

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2 building permit on the whole, including
3 what other structures happen to be on the
4 roof.

5 MR. PYCIOR: I remember I
6 served on the board, and I remember the
7 stairways going up to the roof were an
8 issue. But they did meet the height
9 requirement, and the stairways going up to
10 the roof are even higher than the fence,
11 because the facade appears to be a foot or
12 two above the foot -- above the roof. So
13 if the facade is 34 feet, the roof is 32
14 feet. And the fence is -- and the
15 stairways sit on the roof.

16 MS. FURMAN: If there was
17 view preservation issues, that was --
18 those fences were considered when any view
19 preservation approval was --

20 MR. PYCIOR: I can't
21 specifically remember the fences, but I
22 can remember the stairways.

23 CHAIRMAN MAGUN: We can
24 look that up. It's easy to check. Why
25 don't we ask while we are pondering over

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2 this, listen to some of the people in the
3 audience if they have any comments or
4 questions. Is there anyone who has any
5 issues? Please come up to the microphone.
6 Give us your name and address.

7 MS. FRANK: My name is Mayu
8 Frank, M A Y U. And I live at 493
9 Warburton.

10 CHAIRMAN MAGUN: You are a
11 neighbor to the south.

12 MS. FRANK: Neighbor to the
13 south. There are four units, and one of
14 the four units -- and I live in one of
15 those four units. You know, I think our
16 building was lowered primarily to match
17 the buildings that were still there south
18 of where we are. So that's, I think --

19 CHAIRMAN MAGUN: South of
20 where you are?

21 MS. FRANK: The four units
22 we live in were lowered to match the
23 buildings that are directly south of that,
24 which is the last chunk of buildings
25 before you hit Washington Street. And so

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2 now that's how -- I think that was the
3 architect's intent to try to even that
4 out, because then on the other side of his
5 property is another unit that is the same
6 as ours.

7 But you know, the 2 feet, I don't
8 know what -- I don't know -- it would
9 be -- I think it would be nice if it was
10 the same, but that's not -- for me, for
11 me, I was wondering -- we were here last
12 time -- the pictures that he had up here
13 showed sort of like four rows of windows
14 and that would seem for me to be really
15 different looking from all the other ones.
16 The other ones from the front look like
17 they are three-story buildings. Even
18 though there are more roof structures on
19 top of the roof, you can't see that from
20 the street. And from the street it looks
21 like there are basically three-story
22 looking houses all on that block. And in
23 the proposal last time was that there were
24 four-story looking things in the front.
25 And that was my question.

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2 CHAIRMAN MAGUN: Well, on
3 the drawings that we have here tonight
4 shows essentially three.

5 MS. FRANK: Three stories.

6 MS. STECICH: He had a
7 different plan before the planning board.
8 This is not the four story.

9 MS. FRANK: It is appearing
10 three stories. Yes.

11 MS. STECICH: Here is a
12 picture.

13 MS. FRANK: Okay. All
14 right. Thank you. That was dramatically
15 different from the previous drawings.
16 Thanks.

17 CHAIRMAN MAGUN: Any other
18 comments? Yes, sir.

19 MR. NOVAK: Question.

20 CHAIRMAN MAGUN: Your name
21 and address.

22 MR. NOVAK: Andrew Novak,
23 493-A Warburton. So the unit immediately
24 adjacent to the address at issue, I guess
25 the question -- I know that we had

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2 understood when we attended the last
3 planning board, I believe it was, meeting
4 a couple weeks back that there was a
5 chairman or chairperson representing the
6 architectural review board who was present
7 to give some insight. And I understood
8 that the architectural review board had
9 rejected the applicant's application at
10 that point to go up 36 feet, and I think
11 there are various reasons given for that.

12 I guess my question was, I'm a
13 little confused as to what happens based
14 on your decision here. In other words,
15 you get to override the architectural
16 review board's decision or if you approve,
17 for example, the 36 feet, does the
18 applicant go back to the architectural
19 review board or what happens?

20 CHAIRMAN MAGUN: I'm going
21 to defer that to counsel and the building
22 inspector because I don't know the answer.

23 MR. SHARMA: The
24 architectural review board looks at the
25 architect's design of the building and how

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2 well it fits in with the context of the
3 other buildings around it. And in their
4 opinion the building might fit better if
5 it were taller than what the zoning board
6 approved or shorter than the zoning --
7 planning board approved. And normally
8 that's what they advise to the planning
9 and zoning board. And the planning and
10 zoning board can take their advice and say
11 we agree with it.

12 So the building can be taller than
13 whatever the architectural review board
14 says or they may override it. For
15 example, if the planning board said they
16 approved the building no higher than 36
17 feet, they didn't say 36 feet but no
18 higher, without putting what the height
19 was, the architectural review board
20 approves a building which is less than
21 that height, then it means the planning
22 board has to hear it. And it could be a
23 similar situation to the zoning board.
24 You could approve possibly that no higher
25 than this height subjective to what the

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2 architectural review board is going to
3 review.

4 CHAIRMAN MAGUN: Does the
5 architectural review board have a
6 legislative or board advisory?

7 MR. SHARMA: Advisory.

8 CHAIRMAN MAGUN: Only
9 advisory. If they want the buildings to
10 be in the straight line because that's
11 what they feel is necessary, that has no
12 bearing on what actually happens. It is
13 up to -- unless the zoning board decides
14 not to grant view preservation approval.

15 MR. SHARMA: Unless the
16 zoning or planning board overrides it, I
17 guess, overrides it. Marianne, would it
18 be --

19 MS. STECICH: You know
20 what, we don't have any report from the
21 architectural review board. I think if
22 the architectural review board recommended
23 to the planning board, We don't think it
24 should be higher than 34 feet or whatever,
25 yes, 34 feet, then I think the planning

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2 board would take that into consideration.
3 This board may well take it into
4 consideration if you got a report from the
5 ARB. But unless -- I didn't see
6 anything -- you may know, Deven.

7 CHAIRMAN MAGUN: Do you
8 know when the ARB meeting is? Did you say
9 it was next week?

10 MR. AGATE: Monday.

11 CHAIRMAN MAGUN: I think I
12 would like to suggest to the board that we
13 defer this application until we hear from
14 the ARB, because to me that's a critical
15 issue, because the height of the building
16 and whether they are in a straight line is
17 an important issue. And I think it
18 impacts on the concepts of view
19 preservation.

20 MR. SHARMA: The view
21 preservation whatever height we say lower
22 than that, no more than that, it would
23 support the view preservation
24 consideration that you may have taken into
25 account for granted, so 36 feet or less.

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2 So that does not contradict, you know,

3 the --

4 CHAIRMAN MAGUN: The
5 architectural review board says if we say
6 36 feet or less and the ARB says we like
7 34, the applicant can still do 36. It is
8 only advisory.

9 MR. SHARMA: That's why,
10 Marianne, you may have to explain again to
11 the applicant.

12 MS. STECICH: This is not
13 the forum.

14 CHAIRMAN MAGUN: Okay. Did
15 you want to say something?

16 MR. AGATE: Yes, I did want
17 to point out that time is an issue. I
18 would like to get a roof on this building.
19 And at the same time we still don't have a
20 plan to move forward, because it is going
21 from one approval to the next to the next
22 to the next. And how long is it going to
23 be? But also let me point out you see a
24 photo here south side.

25 MS. FURMAN: We can't see

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2 that.

3 MR. AGATE: And I have more
4 of Warburton Avenue. There is nothing,
5 nothing on Warburton Avenue that is
6 uniform. And you will find that in the
7 majority of Hastings, including the new
8 structures that are being built, so why
9 are we starting now?

10 CHAIRMAN MAGUN: It is just
11 a nice straight line.

12 MR. AGATE: But there are no
13 straight lines. That is a chunk of
14 Hastings. There is no straight line.
15 There are different structures with
16 squares and triangles and so on and so
17 forth.

18 MR. SHARMA: They're
19 advisory to the board, not advisory to the
20 applicant, so the architectural review
21 board is an advisory to the board.

22 CHAIRMAN MAGUN: To which
23 board?

24 MR. SHARMA: Both the
25 planning and zoning board.

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2 CHAIRMAN MAGUN: In my
3 tenure here we almost have never gotten
4 any opinion from the architectural review
5 board about anything.

6 MR. MURPHY: I don't
7 remember ever receiving one. I guess I do
8 disagree with you on this one, Arthur. I
9 think, one, this building has been
10 essentially rotting for five years. And
11 the applicant is now trying to get
12 something done.

13 CHAIRMAN MAGUN: Not due to
14 the zoning board.

15 MR. MURPHY: No, not to
16 arguing. But that is neither here nor
17 there. I view this as a fairly narrow
18 jurisdictional decision on view
19 preservation. I agree with the planning
20 board. If the building was 36 feet before
21 it burned down through no fault of the
22 applicant's and the building that was
23 newly built next-door goes up to the 40
24 foot height in large measure because of
25 roof decks, I just don't see -- I don't

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2 see the problem. There is virtually
3 nothing directly across the street from
4 this building.

5 MS. FURMAN: But if I might,
6 you don't see a difference between a
7 building at 36 feet versus a building at
8 34 feet that has setback from it a fence?
9 The fence that hits the 40 foot is not at
10 the edge of the building, am I correct?
11 They are set back quite a ways from what
12 the photo looks like.

13 MR. MURPHY: I don't think
14 that impacts the view from across the
15 street.

16 MR. SHARMA: Right now is
17 any fence being reported at all? This is
18 all hypothetical or what?

19 MS. FURMAN: They are
20 talking about the fencing on the other
21 buildings and equating fence with building
22 height. And I don't know if you are
23 looking at a request for a -- from a view
24 preservation issue, whether looking at the
25 bulk of the building is the same as

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2 looking at the bulk of a setback fence.

3 MR. MURPHY: You just don't
4 see the difference if you are building
5 into what was there before? I think the
6 issue here is -- the issue is, as I see
7 it, is an architectural issue which
8 everybody seems to be debating. They
9 would like it to be the same lining. The
10 applicant for whatever reason doesn't seem
11 to want to do that. In my view that is an
12 architectural problem. It is not a view
13 preservation at all. I don't see any
14 impact on the view compared to what was
15 there before, and I don't see any impact
16 given that he is up to 36 feet which is 4
17 feet below what is permitted. And he is
18 not asking for roof decks. And if he
19 does, he is going to have to get approval
20 for that.

21 MS. FURMAN: So then do you
22 grant the request, but is there even
23 authority to grant the request for view
24 preservation and condition it upon no
25 decking going up, no fencing going up?

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2 MR. MURPHY: Sure.

3 MS. FURMAN: No staircase
4 leading up there?

5 MR. MURPHY: I think -- yes,
6 I agree with you. I think we should
7 condition it that it is maximum up to 36
8 feet, period.

9 MS. FURMAN: Or not nothing.
10 No AC units?

11 MR. MURPHY: You can add
12 whatever you like. I totally agree with
13 that. And if the applicant needs the
14 extra height for whatever reason, he is
15 going to have to come back. Just so you
16 understand, Mr. Agate, you are going to
17 have to come back to either the planning
18 board or the zoning board and get
19 permission for that.

20 MR. AGATE: Give me an AC.
21 I'll take the 36 feet but --

22 CHAIRMAN MAGUN: You are
23 saying that we should stay out of the
24 business of architectural review and stick
25 to the view preservation issue.

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2 MR. MURPHY: Yes, very much
3 so. I don't think it's our business, and
4 I completely agree with where Denise is
5 going. We want to give 36 feet. I have
6 no problem with that. That is the
7 condition, period.

8 MS. FURMAN: 36 feet?

9 CHAIRMAN MAGUN: Why don't
10 you have a problem with that? It is
11 higher than the other buildings.

12 MR. MURPHY: Because that
13 was the building that existed there until
14 it was burned to the ground, which is not
15 the fault or through any consequence that
16 we know of of the applicant.

17 CHAIRMAN MAGUN: Is that
18 right?

19 MS. FURMAN: But if it was
20 in violation, if hypothetically it was in
21 violation of existing code, it was
22 grandfathered in, does that mean that you
23 would allow someone to rebuild?

24 MR. MURPHY: But it wasn't.
25 I mean, why does that apply?

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2 MR. AGATE: That is not the
3 case here.

4 MR. SHARMA: Any non-
5 conformity that was damaged or destroyed
6 because of fire, they can rebuild them
7 within six months' time and that statute
8 has gone for a long time. So it is not
9 nonconforming height. I think the
10 planning board's view was the same height
11 as the building that existed before is not
12 adversely affecting anybody's view, and
13 that's probably what they were looking at.
14 You know, so it could be that height or
15 less but no higher.

16 CHAIRMAN MAGUN: These
17 buildings that are across the street from
18 the building -- this is one of his
19 pictures -- if you were a neighbor, if you
20 were across the street in this apartment
21 or in this apartment, your view would be
22 impacted by those 2 feet.

23 MR. SHARMA: Of the sky.

24 CHAIRMAN MAGUN: The sky or
25 the Palisades.

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2 MR. SHARMA: Of course.

3 CHAIRMAN MAGUN: I don't
4 know the exact angle.

5 MR. MURPHY: That is true,
6 but my only point is -- this is our
7 debate, not your debate. My point is that
8 the neighbors in those buildings --

9 CHAIRMAN MAGUN: Who live
10 across the street?

11 MR. MURPHY: That is the
12 view we are talking about. It is on an
13 angle, because they are somewhat to the
14 south. But be that as it may, whatever
15 view they would have to the mountains and
16 possibly the river, but I think it is
17 really the mountains and the Palisades, it
18 would have been the same impact before the
19 fire.

20 CHAIRMAN MAGUN: Right.
21 That, I agree with.

22 MR. MURPHY: There is no
23 alteration of the view that existed before
24 the fire if we give conditional approval
25 no higher than 36 feet, as the planning

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2 board recommends.

3 CHAIRMAN MAGUN: So just to
4 carry the logic here, you feel the
5 preexistence of the 36 foot building, if
6 that were not the case, and he came before
7 us and said I want to build a new building
8 in the vacant lot, I want to build it
9 above the other buildings, how would you
10 view that?

11 MR. MURPHY: Yes. No, I do
12 believe that would be different. I
13 believe because it was through no fault of
14 the applicant's that the building got
15 destroyed --

16 CHAIRMAN MAGUN: He is
17 entitled to have what he had before?

18 MR. MURPHY: -- he is
19 entitled to have up to what he had before
20 on a view preservation basis.

21 MR. SHARMA: Subject to
22 architectural review board.

23 CHAIRMAN MAGUN: It is not
24 subject to architectural review board,
25 because they only have an advisory

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2 capacity.

3 MR. SHARMA: I thought the
4 problem was the architectural review board
5 has to look at the architectural matter
6 that is being proposed.

7 CHAIRMAN MAGUN: That's why
8 I was saying maybe we should wait to hear
9 what their advice is. In other words, I
10 know this building has been a problem for
11 many years for whatever reason. If you
12 want, would you like to have --

13 MS. FURMAN: Yes, I would
14 request that we seek advice of counsel
15 regarding the architectural review board
16 issue.

17 CHAIRMAN MAGUN: We will
18 take a two minute or three minute break.
19 I'm sorry.

20 (Recess taken.)

21 CHAIRMAN MAGUN: We are
22 going to resume our meeting after having a
23 discussion with counsel. So we were just
24 reviewing some of the administrative and
25 code issues with regard to granting a view

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2 preservation approval or not granting it.
3 Marianne, did you want to read the
4 actual --

5 MS. STECICH: Yes, what the
6 standard is.

7 CHAIRMAN MAGUN: -- standard
8 for view preservation.

9 MS. STECICH: The standard
10 for view preservation approval is the
11 board is to look at the best siting,
12 dimensions and configuration of principal
13 and accessory structures so as to cause
14 the least possible obstruction of the view
15 of the Hudson River and the Palisades for
16 neighboring properties and adjacent public
17 property and rights-of-way.

18 CHAIRMAN MAGUN: So having
19 heard that, I think the board wanted to
20 discuss this a little bit more. First of
21 all, is there anyone in the audience that
22 wishes to add any other information with
23 regard to the request for view
24 preservation or any other issues that we
25 haven't discussed tonight yet? You can

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2 listen as we talk.

3 MR. MURPHY: Marianne, what
4 section was that?

5 MS. STECICH: 295-82,
6 Paragraph C-2.

7 MR. MURPHY: Thank you.

8 MR. NOVAK: Can we reserve
9 that until we hear what you have to say?

10 CHAIRMAN MAGUN: Yes. In
11 discussing that, the issue of what would
12 be the best siting, what would have the
13 least impact on view preservation, I think
14 it seems to me that keeping the building
15 in line with the adjacent buildings makes
16 the most sense. I don't know how the
17 other board members feel about that.

18 MS. FURMAN: I think that
19 the -- actually, the discussion becomes
20 clarified when you go specifically to what
21 the standards set, which is the least
22 possible obstruction of the view of the
23 Hudson River and the Palisades.

24 I think it is important also to
25 note that it is the neighboring properties

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2 and adjacent public property and
3 rights-of-way, so the view has to be with
4 the most minimal of obstruction not just
5 from the building across the street but as
6 one is driving down the public roads of
7 Hastings or standing at a corner of
8 Washington or any of the other public
9 roads or being in an apartment, that we
10 are not looking at right now in many of
11 these photos that would have a view that
12 would go down to the Hudson. I think
13 that --

14 MR. AGATE: That is
15 Washington Avenue.

16 MS. FURMAN: -- we need to
17 talk about the least possible obstruction
18 to keep it in line with the other
19 buildings.

20 MR. MURPHY: I don't have a
21 problem with that. It is just that the
22 only reservation I have is what bothers me
23 is that the building burned down, and that
24 has nothing to do with what the applicant
25 did or didn't do. And that's difficult.

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2 So I can go either way, but I do
3 think the clarification in the standard I
4 think is important in the sense that it is
5 not just apartments across the street but
6 it is public rights-of-way and view from
7 various points along the public areas of
8 the village. You know. So having said
9 that, I think I have made my comments and
10 said my piece.

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

13 MR. DEITZ: I agree with
14 what Brian said about the issue of the
15 place burned down and that was beyond the
16 applicant's control.

17 CHAIRMAN MAGUN: Stan?

18 MR. PYCIOR: I think it is
19 the language of the code itself concerning
20 the best siting, dimensions and
21 configuration. And the two foot
22 additional height is one of -- is an issue
23 of dimensions and configuration. And what
24 it was supposed to guaranty is that it
25 produces -- is the least possible

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2 obstruction. Allowing a greater height
3 produces more possible obstruction or
4 produces greater obstruction.

5 MR. MURPHY: Let me suggest
6 this also. If the board is inclined to
7 grant a conditional approval no higher
8 than 34 feet which would keep it in line
9 with the buildings next-door, I think it
10 also needs to be made clear that the
11 applicant has the ability to put the
12 necessary mechanicals on the roof like the
13 buildings next door, because I don't think
14 he should be penalized for that,
15 given that it is a necessity for cooling
16 and heating the building and you have to
17 have it somewhere. And, of course, there
18 is always a reminder to our first
19 worthwhile building inspector that there
20 is compliance to those requirements of the
21 code.

22 CHAIRMAN MAGUN: So if the
23 applicant wanted to add an air conditioner
24 or something to the roof, he'd have to get
25 approval from the building inspector.

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2 MR. SHARMA: No.

3 MS. STECICH: Planning

4 board. It needs planning board approval

5 under the code. Yes.

6 CHAIRMAN MAGUN: That's

7 what I wanted to clarify.

8 MR. MURPHY: All I'm saying,

9 I don't want this board to put additional

10 conditions on whatever is already required

11 by the code.

12 CHAIRMAN MAGUN: I think --

13 what I'm hearing from the board members is

14 that the number 34 is what we think the

15 adjacent buildings are, but we don't know

16 that for sure really.

17 MS. FURMAN: No. Perhaps

18 what we were saying, the suggestion of

19 Deven is that the requirement be that it

20 be in line. How would one define in a

21 horizontal line?

22 MR. MURPHY: No higher than

23 the roof line of the adjacent buildings

24 north and south.

25 MS. STECICH: That's so

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2 hard to define.

3 MR. DEITZ: No higher than?

4 MS. STECICH: Yes.

5 CHAIRMAN MAGUN: So that is
6 not what you are proposing tonight. And
7 so that what we are talking about here is
8 if we vote on that would be to vote on
9 view preservation approval for a building
10 smaller than your proposal. Any other
11 comments? Questions?

12 MR. AGATE: I have a
13 question.

14 CHAIRMAN MAGUN: Yes.

15 MR. AGATE: If you are
16 proposing a 35 foot height or equal to the
17 buildings north and south, what does that
18 do to my roof line at a later date, the
19 roof deck, air conditioning, bump outs,
20 mezzanine? 40 foot is code. So does that
21 mean I am locked in at 40 feet if
22 everybody else to the south of me has
23 structures on their roof? Does that mean
24 I'm not allowed to put any structures on
25 mine?

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2 MR. MURPHY: No, no. What
3 it means is the code, that this is the
4 point I was just making, Mr. Agate, which
5 is our condition is 34 feet. If you wish
6 to put HVAC units, whatever else on the
7 roof above that, you have to make an
8 application through the building
9 inspector's department, and the code
10 requires that you get planning board
11 approval.

12 MR. SHARMA: Again, planning
13 board and zoning board approval.

14 MR. MURPHY: I don't know
15 about zoning board.

16 MS. STECICH: No. I don't
17 think it needs zoning board approval,
18 unless it is going over 40 feet, presuming
19 it is under the 40 feet. We would need --
20 oh, yes, you would need view preservation.

21 MR. SHARMA: Anything higher
22 than is permitted you would.

23 MS. STECICH: Yes, you
24 would, because you need new view
25 preservation approval.

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2 MR. MURPHY: Basically it
3 depends on what you propose to put on top.

4 CHAIRMAN MAGUN: I would
5 say there is no particular reason to think
6 that what your neighbors have wouldn't be
7 granted to you. I don't see any reason
8 why that would be an issue.

9 MR. AGATE: My only concern
10 is the wall that is existing, I don't want
11 to raise any issues with my neighbor that
12 it turns into a lawsuit; I'm breaking into
13 his building.

14 CHAIRMAN MAGUN: Right.
15 Well, I think -- I can't answer that. If
16 that became --

17 MR. SHARMA: May I? You say
18 your application in some ways is
19 incomplete. It doesn't really present a
20 total picture of what might happen. I
21 don't know I can as a building inspector,
22 if you can approve the permit with that
23 kind of -- complete information would be
24 needed for the permit. I don't think it
25 would be fair for the zoning, planning

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2 board to answer the hypothetical, what if
3 I wanted to do X, Y, Z thing there.

4 When you do -- when you have the
5 application and you actually have -- you
6 already know you are going to do something
7 with the footprint of the building. And
8 when you are ready to do that, you have to
9 come back to the planning board and that
10 you are adding to the height. You have to
11 come back to the planning board and zoning
12 board anyway. Currently you are showing a
13 drawing 36 feet height, the facade. And
14 the zoning board is saying whatever they
15 are saying and the planning board said
16 whatever they are saying.

17 CHAIRMAN MAGUN: So I think
18 what we are prepared to vote on would be
19 to give view preservation approval for a
20 building that would be in line with and no
21 higher no lower probably than the adjacent
22 buildings north and south of it. That's
23 what I'm hearing the members talking
24 about. That is not what you are
25 proposing. But I think we are

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2 comfortable. I don't think we need to see
3 another drawing unless somebody feels
4 strongly about that.

5 MR. MURPHY: No, we don't
6 need to see another drawing.

7 CHAIRMAN MAGUN: Okay. Is
8 there any other questions or comments?
9 You understand what we are proposing?

10 MR. AGATE: That means I
11 need another planning board approval for
12 and ARB --

13 CHAIRMAN MAGUN: You
14 definitely have to go to the ARB because
15 you have to hear what their opinion is.
16 And whether you have to go to the planning
17 board again, no, the planning board agreed
18 to any building 36 feet or less.

19 MR. AGATE: I thought it was
20 preexisting. I thought they specified
21 preexisting.

22 CHAIRMAN MAGUN: Marianne?

23 MS. STECICH: No higher than
24 preexisting, so 36 or lower.

25 CHAIRMAN MAGUN: You have

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2 to go before the ARB.

3 MS. STECICH: The only
4 thing you have to go back to the planning
5 board if you need to put stuff on the
6 roof, and that is irrespective. You have
7 to do that in any event.

8 CHAIRMAN MAGUN: Is someone
9 prepared to make a motion with regards to
10 view preservation approval?

11 MS. FURMAN: I'll make a
12 motion. I make a motion to grant view
13 preservation on the condition that the
14 height of the building be in line with the
15 properties adjoining it north and south as
16 defined by the structure of the building
17 and not by any additions on the roof. Is
18 that clear?

19 CHAIRMAN MAGUN: Not
20 totally.

21 MR. MURPHY: You want it in
22 line with the roof lines of the buildings
23 immediately north and south of the
24 proposed reconstruction.

25 MS. FURMAN: Yes.

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2 MR. DEITZ: That is without
3 prejudice to future applications to
4 install other structures on the roof.

5 MS. STECICH: Do you mean
6 the roof line? I'm not sure you mean the
7 roof line. Are those roofs lower
8 actually? Don't they have a parapet?

9 CHAIRMAN MAGUN: You mean
10 the facade?

11 MS. STECICH: Facade of the
12 building.

13 CHAIRMAN MAGUN: The front
14 facade of the building should be in line
15 with the front facade of the north and
16 south, is that fair?

17 MR. MURPHY: Yes.

18 MS. FURMAN: Wait. Now I
19 need a clarification. So I revoke my
20 motion for a moment. If the parapet of
21 the building is above the roof of the
22 buildings north and south, are you saying
23 that he should be allowed to build his
24 building to the height of the parapet,
25 even though in the adjoining buildings

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2 there is no building between the height of
3 the parapet and the height of the roof?

4 CHAIRMAN MAGUN: That would
5 be okay with me.

6 MR. MURPHY: Yes.

7 MR. SHARMA: No part of the
8 building should be higher than the --

9 MS. FURMAN: Than the
10 adjoining building. So the parapet would
11 be the height of the adjoining parapets,
12 and the roof would be the height of the
13 adjoining roofs.

14 MS. STECICH: No, that is
15 very different from what I think the other
16 members are saying.

17 MR. MURPHY: That's not what
18 I intend anyway.

19 MS. FURMAN: You intended
20 that the parapet which is merely a facade
21 is a foot higher than the roof, that he be
22 allowed to build a roof that is as high as
23 his neighbor's parapet and therefore is
24 one foot higher than his neighbor's roof?

25 MR. MURPHY: Yes.

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2 CHAIRMAN MAGUN: That won't
3 impact on view preservation unless you are
4 on a roof across the street. It won't
5 impact on view preservation.

6 MS. FURMAN: Say you are in
7 an apartment building a few blocks away
8 and you are looking towards the river from
9 an angle, I think it will impact.

10 MR. MURPHY: It won't. It
11 won't. It won't, because the buildings
12 next-door go up to a certain height from
13 outside the building. Unless you are on
14 the roof, it doesn't impact the view. You
15 can only see the height.

16 MS. FURMAN: I'm saying if
17 this is everybody's roof and everybody has
18 a parapet like this (indicating), here is
19 the Hudson River. Here is the roof. Here
20 is the parapet. You are saying his
21 building can come up to here, and then
22 this building is going to be down here.
23 So it will be like this. He has which is
24 this amount of parapet, or can he have his
25 parapet on top? Now it is --

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2 MR. MURPHY: He can have
3 nothing on top.

4 MS. FURMAN: So he can now
5 have bulk that would reach to the top of
6 the parapet whereas all of the other
7 buildings have no bulk. It has a roof and
8 then a parapet.

9 MR. MURPHY: Yes, yes.

10 MR. PYCIOR: But they do
11 have walls going to the facade. So they
12 give that same appearance from a distance.
13 They are separate.

14 MS. FURMAN: That's the
15 parapet.

16 MR. PYCIOR: Parapet. And
17 it has what appears to be a two foot wall.

18 MS. FURMAN: You are talking
19 about the shared wall.

20 MR. PYCIOR: That would also
21 obstruct the view no more than his roof
22 would. Also, the applicant would be
23 foolish to do that. If he intended to
24 build anything on the roof in the future,
25 he'd be losing 2 feet of the maximum 40

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2 feet. So it would limit what he can
3 potentially do with the roof.

4 MS. FURMAN: However, if he
5 can get another foot or two in the height
6 of his ceiling on his top floor --

7 MR. MURPHY: It doesn't
8 impact view preservation.

9 MS. FURMAN: I think it
10 does. If you are coming here on
11 Washington, and your question -- you are
12 coming in an angle, you are seeing back
13 like this. You are seeing to the river,
14 whereas when there is bulk, you are not
15 seeing it.

16 MR. MURPHY: I completely
17 disagree.

18 MS. FURMAN: Fine. We can
19 agree to disagree.

20 CHAIRMAN MAGUN: One
21 second. What did you want to show?

22 MR. SHARMA: I guess if what
23 the board wants to do is maintain the
24 continuity of height here --

25 MS. FURMAN: The parapet,

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2 the continuity of the height of the
3 parapet.

4 MR. SHARMA: At that level
5 of the roof or parapet, whatever it is,
6 everything has to be in line with there.
7 If you want to build without a parapet, so
8 be it.

9 MR. MURPHY: That's what I
10 thought, yes.

11 MR. SHARMA: The parapet --

12 CHAIRMAN MAGUN: I think
13 that is what we are all saying.

14 MS. FURMAN: That's not what
15 I'm saying.

16 CHAIRMAN MAGUN: I think I
17 wanted to say that.

18 MS. FURMAN: But I won't --

19 CHAIRMAN MAGUN: I
20 understand what you are saying. You think
21 if the bulk of the roof is higher than the
22 bulk of the roofs. I don't really agree
23 with that. But we can talk about that
24 some more.

25 MR. SHARMA: That's the

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2 reason why I said the view portion of the
3 roof or parapet or anything else wouldn't
4 be higher than whatever the line is.

5 CHAIRMAN MAGUN: That's a
6 good way to phrase it. Would you accept
7 that?

8 MS. FURMAN: I'll accept it,
9 because that's what is going to get
10 passed. However, my concern is when the
11 applicant comes back for a variance again
12 to put something up on top, he is now
13 going to be that much higher than the
14 other roofs, that he is either putting an
15 air conditioner on that or he is going to
16 put a fence on or he is going to have a
17 stair railing on, so I think that we are
18 just denying --

19 CHAIRMAN MAGUN: They would
20 be able to take that into consideration at
21 that point.

22 MS. FURMAN: I understand.
23 But a couple years, a year will pass. He
24 will come in to do it. The institutional
25 memory is not always that good. And he

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2 will say, Well, but I have to have a six
3 foot fence. They all have six foot
4 fences. So I am not happy in allowing the
5 bulk of the roof to be higher than any
6 other roof. I would suggest a motion
7 where the parapet will be in line and the
8 roofs would be in line.

9 CHAIRMAN MAGUN: Let me --
10 I'm going to argue with you on this,
11 because I think that's tying the
12 applicant's hands too much. I think in
13 terms of view preservation, we are looking
14 at the front of the building. You are
15 looking at the depth of the building. I'm
16 suggesting maybe we should look at the
17 front of the building and not worry about
18 other parts of the building for view
19 preservation. It is a little too
20 restrictive.

21 MS. FURMAN: I think view
22 preservation is a very important function
23 of our board, and that's why we are called
24 the riverfront town.

25 CHAIRMAN MAGUN: So you

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2 would mandate that his roof be exactly the
3 same height as the neighbor's roof, and
4 that the parapet --

5 MS. FURMAN: It could be the
6 same height as the other parapet. You
7 already have that obstruction.

8 CHAIRMAN MAGUN: We don't
9 know that the building to the north and
10 the building to the south have the same
11 size roofs. We only know they have the --

12 MS. FURMAN: Same height.

13 CHAIRMAN MAGUN: -- same
14 height parapet to the south.

15 MR. AGATE: The north side
16 doesn't have a parapet. It is original
17 construction flat roof.

18 CHAIRMAN MAGUN: The north
19 side building doesn't have that. The
20 roof -- so the roof is higher than the
21 buildings south. So that is an issue
22 already.

23 MS. FURMAN: All right. If
24 you are telling me the roof to the north
25 is higher than the roof to the south?

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2 CHAIRMAN MAGUN: Yes.

3 Well, it is hard to see. This roof is
4 higher than this roof.

5 MS. FURMAN: I would not
6 penalize him to a roof lower than the
7 other roof is. But I certainly would not
8 want to allow a roof higher than the other
9 roofs. I also would want to make sure
10 when we are talking about the roof height,
11 we are not talking about -- I know it is
12 hard to draw that line across.

13 MS. STECICH: That's as
14 high as the buildings are.

15 MR. DEITZ: There is no
16 parapet there.

17 MS. STECICH: Yes.

18 CHAIRMAN MAGUN: Did you
19 want to make a clarification or not?

20 MR. NOVAK: We are trying to
21 help with our discussion. But we are
22 satisfied.

23 CHAIRMAN MAGUN: I agree.
24 So who wants to make a motion since you
25 withdrew yours?

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2 MR. AGATE: Could I ask one
3 question first?

4 CHAIRMAN MAGUN: Sure.

5 MR. AGATE: Are you guys
6 suggesting that the roof line remain the
7 same in case I propose something in the
8 future, so that it no longer obstructs
9 anything, any view preservation? Because
10 we still have a 40 foot height to the
11 houses to the south of me. And if I don't
12 go over 40 feet, if I do propose something
13 in the future and I don't go over 40 feet,
14 would that still be within view
15 preservation?

16 CHAIRMAN MAGUN: Anything
17 you would propose would have to come
18 before the planning board and zoning
19 board.

20 MR. AGATE: I don't
21 understand why the bulk of the roof is so
22 important at this point.

23 MS. FURMAN: First of all,
24 we can't really discuss a hypothetical too
25 completely. But my concern is that when

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2 you come and throw yourself on the mercy
3 of the zoning board and the planning board
4 and we are going to vote in like ten
5 seconds on this, that we are going to
6 say -- you are going to say, Listen, I'm
7 already up here. There is no way I can
8 get an air conditioning unit in here that
9 is less than X feet. They just don't make
10 them. Then they are going to be put in a
11 position to approve something that is a
12 height higher than. I think we could
13 avoid if we don't allow you to go up there
14 with the roof.

15 However, I am willing to concede
16 now that you can have a roof as high as
17 either of your neighbors, as your neighbor
18 to the north, in the spirit of compromise.

19 MR. SHARMA: And the front
20 no higher.

21 MS. FURMAN: And the front
22 parapet no higher than your neighbor to
23 the south or north.

24 MR. AGATE: Now I'm
25 confused. The roof itself, the bulk of

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2 the roof could be as high as my neighbor
3 to the north but the parapet could be 2
4 feet per south. That brings me up to 36
5 feet again.

6 MS. STECICH: May I suggest
7 you leave the parapet off in resolution?
8 The parapet is included in height. In
9 some it is not included. In ours, just
10 make the height limit.

11 MR. MURPHY: No higher than
12 the buildings to the north and south.
13 That's what I would do.

14 MS. FURMAN: Fine. We are
15 ready?

16 CHAIRMAN MAGUN: So could
17 we clarify the motion then?

18 MS. FURMAN: I'd like to
19 make a motion to grant the request for a
20 view preservation contingent on a height
21 of this building as being the same as the
22 height of the adjacent buildings or lower.

23 CHAIRMAN MAGUN: Or lower.

24 MR. MURPHY: I'll second.

25 CHAIRMAN MAGUN: Just as a

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2 clarification --

3 MS. STECICH: It's not
4 going to work, because the height of the
5 adjacent buildings is really probably
6 close to 40 feet --

7 MR. SHARMA: No, it isn't.

8 MS. STECICH: -- with the
9 structures on it. So we have to go back
10 to where we were in the first place, that
11 the building be no higher -- the facade of
12 the building and the rest of the roof line
13 be no higher than the facades of the two
14 adjoining buildings.

15 CHAIRMAN MAGUN: You have
16 to use the word "facade."

17 MS. FURMAN: So moved.

18 CHAIRMAN MAGUN: All right.
19 I think we understand the intent. Let's
20 make sure the language really matches.
21 Can we frame it up?

22 MS. STECICH: I would
23 propose -- I'm not making the motion, but
24 I propose that the view preservation
25 approval be granted on the condition that

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2 the building be no higher than the facades
3 of the two adjoining buildings, than the
4 height of the facades of the two adjoining
5 buildings.

6 MR. MURPHY: The front
7 facades.

8 MS. STECICH: I think
9 facade just means front.

10 MR. MURPHY: I'll second.

11 CHAIRMAN MAGUN: Okay. I
12 think we all understand the intent. Okay.
13 Is there a second? Did you make that
14 motion, Denise, or are you making --

15 MR. MURPHY: I jumped the
16 gun. I think Denise needs to say so
17 moved.

18 MS. FURMAN: So moved.

19 MR. MURPHY: I'll second.

20 CHAIRMAN MAGUN: Any
21 discussion? All in favor?

22 MR. DEITZ: Aye.

23 MS. FURMAN: Aye.

24 CHAIRMAN MAGUN: Aye.

25 MR. PYCIOR: Aye.

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2 MR. MURPHY: Aye.

3 CHAIRMAN MAGUN: Okay. It
4 is passed. Good luck. You have to go
5 before the ARB, and hopefully things will
6 work out well. Thank you for your
7 patience.

8 MR. AGATE: Hopefully.
9 Thank you much.

10 CHAIRMAN MAGUN: And thank
11 you for coming to the meeting.

12 MR. AGATE: Thank you.

13 CHAIRMAN MAGUN: Can we
14 vote on the minutes?

15 MS. STECICH: What are you
16 going to do with the application that
17 didn't show?

18 CHAIRMAN MAGUN: Table it.
19 I think by definition, since they are not
20 here we will have to table that
21 application. Thank you for reminding me.
22 And maybe, Mr. Sharma, you can check with
23 the applicant as to what happened, why he
24 didn't come, Mr. Teng.

25 MR. MURPHY: Do we need to

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2 make a motion to table that?

3 MR. DEITZ: I don't think
4 so.

5 MS. STECICH: I would say
6 just adjourn. You don't need a motion.

7 CHAIRMAN MAGUN: There is
8 nobody here to present that. The minutes
9 from last time I was here stand with
10 Brian. Is there a motion to approve the
11 minutes?

12 MR. MURPHY: I will move to
13 approve the minutes of the TBA meeting on
14 July 26, 2007.

15 MR. PYCIOR: I'll second.

16 CHAIRMAN MAGUN: In favor?

17 Aye.

18 MR. PYCIOR: Aye.

19 MR. MURPHY: Aye.

20 MS. FURMAN: Aye.

21 MR. DEITZ: Aye.

22 CHAIRMAN MAGUN: They are
23 approved. I don't think we approved the
24 May or June.

25 MR. PYCIOR: May 24 meeting,

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2 because there were only two of us present.

3 CHAIRMAN MAGUN: No, there
4 wasn't a June meeting. We didn't have a
5 June meeting. That's right. So Stan is
6 correct. We need to approve the May 24
7 minutes also, because we couldn't approve
8 them last time.

9 MR. MURPHY: Was anyone
10 absent on the May 24 meeting?

11 CHAIRMAN MAGUN: Brian was
12 absent.

13 MR. MURPHY: I think I was.

14 CHAIRMAN MAGUN: So we need
15 to approve these also. Okay. Do you want
16 to make a motion to that effect?

17 MR. PYCIOR: I'd like to
18 move to approve the minutes of the May 24,
19 2007 meeting.

20 CHAIRMAN MAGUN: Second?
21 Would anybody else -- who else was there?
22 Denise, you were there.

23 MS. FURMAN: I'll second.

24 CHAIRMAN MAGUN: In favor?

25 MS. FURMAN: Aye.

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2 CHAIRMAN MAGUN: Aye.

3 MR. PYCIOR: Aye.

4 CHAIRMAN MAGUN: They are
5 approved. And finally our next meeting is
6 October 25, I believe. Is that the fourth
7 Thursday in October?

8 MR. MURPHY: I can't do
9 that. That is the worst weekend of the
10 year. I will be out of town.

11 CHAIRMAN MAGUN: Okay.

12 MS. STECICH: I think it
13 has already been scheduled for it.

14 CHAIRMAN MAGUN: It is far
15 off. I'm not sure -- let me -- you are
16 definitely not going to be here?

17 MR. MURPHY: I will
18 definitely not be here.

19 MR. PYCIOR: I'm here.

20 CHAIRMAN MAGUN: So let me
21 talk to you and we will see and Deven will
22 see what is going on.

23 MR. SHARMA: Table it
24 tentatively.

25 CHAIRMAN MAGUN: Is that

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2 the fourth Thursday?

3 MS. STECICH: Yes. Marie
4 told me about something.

5 CHAIRMAN MAGUN: We are
6 going to adjourn the Burkat application.
7 Okay. Motion to adjourn?

8 MS. FURMAN: I make a motion
9 to adjourn.

10 CHAIRMAN MAGUN: Second?

11 MR. MURPHY: I'll second.

12 CHAIRMAN MAGUN: All in
13 favor of adjourning?

14 MS. FURMAN: Aye.

15 CHAIRMAN MAGUN: Aye.

16 MR. PYCIOR: Aye.

17 MR. MURPHY: Aye.

18 MR. DEITZ: Aye.

19 CHAIRMAN MAGUN: Thank you.

20 Good night.

21 (Hearing adjourned at 10:15 p.m.)

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2 STATE OF NEW YORK)

3) ss

4 COUNTY OF WESTCHESTER)

5

6

7 I, Nina Purcell, Notary Public within and
8 for the State of New York, do hereby certify:

9

10 That I reported the proceedings in the
11 within entitled matter, and that the within
12 transcript is a true record of said
13 proceedings.

14

15 I further certify that I am not
16 related to any of the parties to the action by
17 blood or marriage, and that I am in no way
18 interested in the outcome of this matter.

19

20 IN WITNESS WHEREOF, I have hereunto
21 set my hand this 17th day of September, 2007.

22

23 NINA PURCELL,
24 NOTARY PUBLIC

24

25

