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

Held July 24, 2008 at 8:00 p.m., Seven  
Maple Avenue, Hastings-on-Hudson, New York  
10706-1497.

P R E S E N T:

- Brian P. Murphy, Chairman
- Stanley Pycior, Board Member
- David Forbes-Watkins, Board Member
- Ray H. Dovell, Board Member
- Marc A. Leaf, Board Member
  
- Deven Sharma, Building Inspector
- Marianne Stecich, Board Counsel

Nina Purcell, RPR  
Shorthand Reporter

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3 CHAIRMAN MURPHY: Good

4 evening, everyone. We will call to order

5 our Thursday, July 24 meeting of the

6 Hastings Zoning Board of Appeals. We have

7 four cases on our agenda tonight, the

8 first Case No. 14-08, Ann Mackey and David

9 Makulec; second case 15-08, Judith McHale

10 and Michael O'Halloran; third case

11 No. 16-08, Peter and Andrea Rockland, and

12 our last case No. 17-08, the Newington-

13 Cropsy Foundation.

14 MR. SHARMA: We need to make

15 a change to the agenda. Case No. 1, we

16 discovered earlier today we made a mistake

17 in noticing it. They do need another

18 variance, front yard variance as well, in

19 addition to the rear yard variance. And

20 we are bringing in the applicant and the

21 architects, and we were mistaken. And we

22 are going to set it up and set up another

23 notice and forward it to you.

24 CHAIRMAN MURPHY: So we

25 will simply defer our first case then for

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2 in Dobbs Ferry. And I'm happy to be here

3 with the application of the McHale and

4 O'Hallorans, first of all, for an

5 interpretation of the accessory use that

6 we are proposing for the carriage house.

7 The building in question here is a

8 carriage house which is probably late

9 1900's, early 20th Century, a great

10 building which has been sitting basically

11 unused during the last couple of

12 occupancies, but the O'Hallorans would

13 like to rehabilitate it into a recreation

14 pavilion and possible future pool house.

15 It is -- the pool side is right next to

16 this building, but an outdoor venue, as it

17 were, in place of a finished basement for

18 kids, grandchildren, and so on to use as a

19 kind of garden house. It would have a

20 sink. It would have a shower and a

21 toilet. And it would have an under

22 counter fridge as a bar. It would have a

23 place for a billiard table or such uses

24 and support outdoor uses on a very large

25 lot. And we believe that that use is

3

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2 Ann Mackey and David Makulec, 60

3 Dorchester Avenue, until the next meeting,

4 to do a proper notice and add the required

5 variance for front yard setback.

6 Before we move to our next case,

7 did anyone come here tonight who wishes to

8 be heard on the first application for Ann

9 Mackey and David Makulec at 60 Dorchester?

10 If anyone came tonight, I'd be happy to

11 take your comments. Seeing none, we will

12 move on to our next case. Mr. Chairman,

13 are the other mailings in order for the

14 remainder of our cases?

15 MR. SHARMA: I didn't know I

16 was the chairman.

17 CHAIRMAN MURPHY: Sorry.

18 MR. SHARMA: Yes. All the

19 mailings are in order.

20 CHAIRMAN MURPHY: Okay. Our

21 next case then for Judith McHale and

22 Michael O'Halloran, 255 Broadway.

23 MR. TILLY: Good evening,

24 Chairman, members of the board. My name

25 is Steve Tilly, Stephen Tilly Architects

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2 consistent with the permitted accessory

3 uses which from the -- in the R-10

4 district, which is what would apply here,

5 which would be garden house, toolhouse,

6 playhouse, greenhouse or similar occupancy

7 use customarily incident to the permitted

8 principal uses of the premises and not

9 operated for profit.

10 Clearly this is not being operated

11 for profit. We believe the uses are

12 incidental to the permitted principal uses

13 and that they are of a similar occupancy

14 to the garden house, playhouse,

15 greenhouse, et cetera. So we feel that

16 the use that is intended and the use which

17 we are -- which they are proposing fits

18 that category. And so that's the first --

19 the threshold question about that use for

20 your consideration.

21 CHAIRMAN MURPHY: Yes. Why

22 don't we take that issue first, because I

23 think that's the important one to try to

24 work around and basically get the feeling

25 of the board members. We actually for

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 2 some of the board members who may be  
 3 newer, we had an application not unlike  
 4 this several years ago for a similar  
 5 property. It is a very -- I note it is a  
 6 very large and unique property. It  
 7 probably has some historic significance in  
 8 terms of the building.

9 MR. TILLY: It's part of the  
 10 draper kind of enclave that heads down  
 11 Broadway.

12 CHAIRMAN MURPHY: It is  
 13 west of Broadway between Broadway and the  
 14 river, right?

15 MR. TILLY: Correct.

16 CHAIRMAN MURPHY: On the  
 17 application it notes the lot area where  
 18 10,000 square feet is permitted, this lot  
 19 is 94,000 square feet. And the current  
 20 existing structures take up less than 4  
 21 percent of the existing lot area when 25  
 22 percent is permitted. So that is just to  
 23 create some context for the type of lot  
 24 you are talking about.

25 The question of accessory use, we

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1 Zoning Board of Appeals - 7/24/2008  
 2 colleague, Stephanie Reinert, describe the  
 3 dimensions of the building. The -- if you  
 4 have been there -- well, you can -- why  
 5 don't you come to the microphone.

6 MS. REINERT: The building  
 7 is about 38 feet by 18 feet, one and a  
 8 half story wood frame. And between both  
 9 stories, one and a half, it's got 957  
 10 square feet. There is a little area up on  
 11 the second floor which has headroom, and I  
 12 would -- do you want to see the plans that  
 13 go with it?

14 CHAIRMAN MURPHY: Sure.  
 15 That is the existing square footage?

16 MS. REINERT: The existing,  
 17 yes, which this is actually a demo plan.  
 18 So the first floor is sort of there is a  
 19 long sliding door with open sort of garage  
 20 base. The back there had once been a  
 21 stall. It still looks like a stall, and  
 22 there's some shipladder stairs to the  
 23 second room which is really just an open  
 24 lot.

25 MR. TILLY: We are not

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 2 had a similar, as I say, application a few  
 3 years ago. We never actually resolved it  
 4 formally, I don't believe, because the --  
 5 Marianne, of course, was here then too.  
 6 We had the same question of what type of  
 7 use would be permitted under the accessory  
 8 use provision of the code.

9 MS. STECICH: The reason it  
 10 didn't get resolved is they also -- it was  
 11 really important to the application, this  
 12 height variance, because they were trying  
 13 to build a 41 foot building, and the board  
 14 didn't give them the height variance. So  
 15 then it never got to the other question.  
 16 They sort of did it in the reverse. He  
 17 dealt with the height before he dealt with  
 18 the use, so that was never resolved.

19 CHAIRMAN MURPHY:  
 20 Mr. Tilly, can you tell us a little bit  
 21 about the size of the proposed structure  
 22 as it exists now and as it is planned to  
 23 be renovated into the pool house/  
 24 recreation area?

25 MR. TILLY: I'll let my

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1 Zoning Board of Appeals - 7/24/2008  
 2 making the building larger in any way.  
 3 The footprint is the footprint.

4 CHAIRMAN MURPHY: Okay. And  
 5 how high would you like to go or is the  
 6 proposal?

7 MS. REINERT: Well, the  
 8 proposal, the existing height of the  
 9 building to the ridge of the roof, it  
 10 is -- it's a gable roof.

11 CHAIRMAN MURPHY: It is  
 12 listed at 21 feet 11 in our --

13 MS. REINERT: We'd like the  
 14 dormer on the west side to go up to about  
 15 19 foot 4. So it is not higher than the  
 16 ridge of the roof.

17 MR. TILLY: This is a dormer  
 18 which would face the river really not  
 19 visible from any other property and tucked  
 20 into the roof. So it is not increasing  
 21 the height of the building. It is simply  
 22 a little shed.

23 MR. PYCIOR: Mr. Tilly or  
 24 Mr. Reinert, I notice on drawing A 191,  
 25 which is the previous one, that it

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 2 indicates that there will be a sink and I  
 3 see a countertop. Mr. Tilly mentioned a  
 4 refrigerator. Might there also be a  
 5 microwave or a cooktop? I'm just thinking  
 6 that people have snacks usually in  
 7 recreational areas.

8 MR. TILLY: No cooking  
 9 facilities. Right. Drinking, bags of  
 10 potato chips, things like that. I might  
 11 add, our experience in both interpreting  
 12 and drafting zoning codes with respect to  
 13 accessory buildings and in other  
 14 municipalities is that pool houses with  
 15 this kind of -- or accessory buildings are  
 16 considered an incidental use to a  
 17 residential -- primary residential use.

18 We have done a number of pool  
 19 houses in other municipalities, and the  
 20 language is very similar to the slang in  
 21 the sense of those -- those cookie cutter  
 22 1940s and 1950s codes that one finds.

23 MR. PYCIOR: Mr. Tilly,  
 24 there is no pool. We are asked to approve  
 25 a pool house before a pool?

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 2 running water, that kind of thing. I  
 3 mean, the way that our code is written, in  
 4 any event, it talks about garden houses,  
 5 toolhouses, playhouses, greenhouses or  
 6 "similar occupancy incidental to the  
 7 permitted uses." So then it raises the  
 8 question of what exactly is the use going  
 9 to be and why is there a need for bathroom  
 10 facilities, running water, et cetera, if  
 11 there is no pool.

12 MR. TILLY: Well, if you are  
 13 out and either gardening or playing out in  
 14 the yard, it is a big yard, and you want  
 15 to have a -- you know, or you are playing  
 16 billiards on the billiard table on the  
 17 ground floor, having a bathroom there and  
 18 building that in for future pool  
 19 construction, it just makes an awful lot  
 20 of sense. I mean, it's very -- garden  
 21 houses in my experience have been -- I  
 22 mean, there are showers and restrooms that  
 23 are used -- you want to use. If you are  
 24 out getting really dirty, you don't want  
 25 to run all the way into the house into the

11

1 Zoning Board of Appeals - 7/24/2008  
 2 MR. TILLY: No. I'm saying  
 3 this is -- this kind of accessory building  
 4 is -- if there were a pool, this is -- we  
 5 are designing it so if a pool is developed  
 6 in the future, this would be a supporting  
 7 facility. But there is a very large  
 8 garden. This is out in -- right in the  
 9 yard, as opposed to the house sits back  
 10 where the basement as of now is  
 11 unfinished. So this space is really a  
 12 garden/recreation space and would be  
 13 developed as a part -- as supportive use  
 14 to the pool house.

15 But that use regardless of whether  
 16 there is a pool or not is consistently  
 17 permitted and interpreted as a permitted  
 18 accessory use with the same slang in other  
 19 municipalities. I'm just offering that  
 20 up.

21 CHAIRMAN MURPHY: Well, I  
 22 think the issue for the board, and this is  
 23 the same issue we wrestled with a couple  
 24 years ago, is the question of the intended  
 25 use and the need for bathroom facilities,

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 2 basement or up into an upper floor. There  
 3 is no bathroom in the basement in this  
 4 house, so you have to run inside in a  
 5 nicely finished space. So having a  
 6 facility out there is really useful, and  
 7 so that's the intent.

8 CHAIRMAN MURPHY: No. I  
 9 think the quandary -- I have a question  
 10 for counsel. Let's take a hypothetical.  
 11 Let's say there was a pool, and there was  
 12 a need on the property that could  
 13 certainly accommodate a pool house with  
 14 running water and maybe even be used for  
 15 doubling as a guesthouse. What are the  
 16 options for an applicant under the code?  
 17 Is there any other option besides an  
 18 accessory use for that type of use?

19 MS. STECICH: I'm sorry,  
 20 Brian. I don't understand the question.

21 CHAIRMAN MURPHY: Other  
 22 than this provision, the accessory use  
 23 provision, is there any other provision  
 24 that an applicant can use for what they  
 25 are asking to do?

14

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2 MS. STECICH: No. I mean,  
3 really not. That's why, I mean, when  
4 Deven, I guess, posed the question to me  
5 about a month or two ago about how to deal  
6 with this, and I think the board has the  
7 same concerns that they had the last go  
8 around. It doesn't fit into any of our  
9 categories. I know what you mean, Steve,  
10 because a lot of codes have or any use,  
11 you know, incidental to the main use. Our  
12 code does not have that. It enumerates  
13 which things you can have.  
14 MR. TILLY: It says similar  
15 occupancy as customarily incidental to the  
16 permitted principal use.  
17 MS. STECICH: Right.  
18 Similar. Right. That is the thing. So  
19 the only one of these things the board  
20 might be able to fit it under would be  
21 garden house, toolhouse, playhouse,  
22 greenhouse or similar. Is this similar?  
23 The only other option would be to  
24 request a use variance, you know, because  
25 this thing already exists, which is why I

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2 with some way of distinguishing the  
3 situation. Let's say this were say, yes,  
4 this is a permitted use. Somebody coming  
5 in with a garage, you know, they don't  
6 need any kind of variance. They come in  
7 with a garage. They want to put a second  
8 floor on it and, you know, use it as  
9 recreation space. In fact, we did get an  
10 application like that. And we said no,  
11 that it doesn't fit.  
12 The reason this case is a little  
13 more difficult, as was the case -- I guess  
14 it was about two years ago -- was that you  
15 were dealing with -- well, that wasn't an  
16 existing building but this is an existing  
17 building on a big piece of property. And  
18 it is a historic property, I assume. So  
19 it is a different situation.  
20 But then how do you distinguish it  
21 from the person who just wants to use a  
22 garage essentially for living space.  
23 That's what we have to be careful of. And  
24 it is not -- and I mentioned that those  
25 questions have come in, so you don't think

15

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2 suggested that the application be framed  
3 in the alternative, either an  
4 interpretation, that this fits one of your  
5 accessory uses or, if not, allow a use  
6 variance, you know, for something like  
7 this. So those are really the only two  
8 options, Brian.  
9 CHAIRMAN MURPHY: Right.  
10 That's good for the board to know. At  
11 least the concern I have is creating a  
12 precedent, an unwanted precedent, for a  
13 "permitted accessory use" but it might be  
14 a case where the applicant can simply  
15 state the requirements for an appropriate  
16 use variance and that we make a proper  
17 record, given particularly, I think,  
18 unique size, location, historic features  
19 of this property and the existing  
20 structure. At least in my mind that's  
21 probably a more sensible way to go.  
22 MS. STECICH: Yes, because  
23 I'll tell you what the concern is and  
24 we've had inquiries. And maybe -- I don't  
25 know -- maybe the applicant can come up

17

1 Zoning Board of Appeals - 7/24/2008  
2 this is just remote hypotheticals. It is  
3 not. It's been -- it's an issue.  
4 MR. LEAF: Is there any way  
5 in which granting a use variance would be  
6 disadvantageous to the applicant? In  
7 other words, is there any reason why the  
8 applicant might say, No, we really prefer  
9 to have this resolved as an interpretation  
10 or --  
11 MS. STECICH: You can ask  
12 the applicant.  
13 MR. TILLY: I think the  
14 applicant, Jim, is interested in the  
15 present purposes which is to use it for  
16 the purposes I have described. So I don't  
17 think it is -- it makes any difference at  
18 all to the applicant. We just -- we were  
19 noticed for first an interpretation and  
20 then for a use variance depending on your  
21 interpretation of the code. And I was  
22 simply raising questions based on my  
23 reading of the language. So the  
24 applicant, I'm sure, would be happy either  
25 way.

18

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2 MR. LEAF: Is this currently  
3 being used as a full-time residence?  
4 MR. TILLY: It is under --  
5 we are renovating the main house, and they  
6 are -- so they are living elsewhere and  
7 intending to move in once we finish the  
8 renovation.  
9 MR. LEAF: Thank you.  
10 MR. SHARMA: Can I ask you a  
11 question? You know, if it were truly a  
12 pool house, if there were a pool and this  
13 were a pool house, then all the uses that  
14 are being proposed within this building  
15 would then be permitted, right? A shower?  
16 MS. STECICH: Yes. But like  
17 Steve says, there is one big thing  
18 missing. I mean. And why wouldn't -- the  
19 same thing, how would someone else -- they  
20 have a pretty small piece of property with  
21 a house and a garage. And they say -- and  
22 they put in a shower and they put in, you  
23 know --  
24 MR. LEAF: Shower, bathroom  
25 and cooking and a sink, refrigerator.

20

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2 question, when you say similar, say what  
3 is the criteria, how do you interpret  
4 what is similar and not similar?  
5 MS. STECICH: Yes,  
6 absolutely. And the board could decide  
7 that this is similar to a garden house,  
8 toolhouse, which is why they are here for  
9 the interpretation.  
10 MR. LEAF: But if we were to  
11 grant the use variance, we would never get  
12 to the question of the interpretation.  
13 Therefore we wouldn't have to make that  
14 decision, if we didn't -- the question is  
15 which one do we look at first.  
16 MS. STECICH: Exactly.  
17 Exactly.  
18 CHAIRMAN MURPHY: Well, and  
19 I'm happy to take up the interpretation  
20 question only because I think we need to  
21 grapple with it.  
22 MS. STECICH: We've been  
23 putting it off. Let's ask part 2 first.  
24 CHAIRMAN MURPHY: David, I  
25 don't know if you have any questions or

19

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2 MS. STECICH: Refrigerator  
3 for drinks. It makes a pretty nice little  
4 space. And say just like a pool house.  
5 MR. SHARMA: Nothing is  
6 wrong with being a pretty nice space. The  
7 thing is whether the use is accessory to  
8 the living.  
9 MS. STECICH: No, it isn't  
10 only that. No. That's the point. Our  
11 code is different from a lot of the codes  
12 where it is any use accessory to the  
13 principal building is allowed. Our code  
14 doesn't do that. Our code lists which  
15 accessory are permitted. And to be sure,  
16 I mean, and the odd problems that I've  
17 seen over the 20 some years have always  
18 been carriage houses because they are  
19 different. They are a different breed.  
20 It's a different breed of building which  
21 is why maybe if the board felt that that  
22 met the standards use variance isn't a bad  
23 avenue to go, because it is unique in that  
24 anyway.  
25 MR. SHARMA: One last

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1 Zoning Board of Appeals - 7/24/2008  
2 comments.  
3 MR. FORBES-WATKINS: The  
4 only question I have which in some ways  
5 gets to this is if we granted this use or  
6 variance, however you looked at it, for a  
7 pool house without an application for a  
8 pool, would this be an assurance of any  
9 approvals that might be necessary from the  
10 zoning board for a pool? It's an  
11 interesting problem.  
12 MR. TILLY: There is no  
13 variance would be required for a pool,  
14 because there is plenty of property.  
15 MR. FORBES-WATKINS: Unless  
16 you were impinging on lot lines and  
17 setbacks.  
18 MR. TILLY: I mean, I was  
19 presenting that as a potential. We really  
20 are calling it a recreation pavilion/  
21 garden house. And so the pool house use  
22 is a potential future use, because there  
23 is a huge space and the likely place for a  
24 pool which would be conforming happens to  
25 be right behind this building. And so

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 2 that's why it made an awful lot of sense  
 3 to us to outfit it so that that could  
 4 happen.  
 5 CHAIRMAN MURPHY: Well, the  
 6 problem I see anyway is that our -- the  
 7 way our code is written, it is narrower  
 8 than that. And the next element after the  
 9 section with the garden house, toolhouse  
 10 is for a swimming pool, but there is no  
 11 language for a pool house in the code.  
 12 And at least I think it has always been my  
 13 view that it shouldn't be an accessory  
 14 use. That is a bad precedent to set at  
 15 least for this code.  
 16 But I certainly would be amenable  
 17 to hearing a little bit more to see if we  
 18 can make it fit under a use variance to  
 19 get this applicant what they want, because  
 20 I think there is a harsh -- particularly  
 21 with a property this size and scale that  
 22 clearly can handle the size of the  
 23 structure and the use. I don't know if  
 24 anyone else has a different view or wants  
 25 to --

24

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 2 MS. STECICH: They are in  
 3 code 295-146 (B)(2). No use variance  
 4 shall be granted by the Board of Appeals  
 5 without a showing by the applicant that  
 6 applicable government regulations and  
 7 restrictions have caused unnecessary  
 8 hardship. In order to prove the  
 9 unnecessary hardship, the applicant shall  
 10 demonstrate to the Board of Appeals that  
 11 for each and every permitted use under the  
 12 zoning rights for the particular district  
 13 where the property is located, the  
 14 applicant cannot -- well, this is a little  
 15 bit different, that part of it, but,  
 16 anyway, this is the show the applicant  
 17 should make; that the applicant cannot  
 18 realize a reasonable return, provided that  
 19 that return is substantial as demonstrated  
 20 by competent financial items; that alleged  
 21 hardship relating to the property in  
 22 question is unique and does not apply to a  
 23 substantial portion of the district or  
 24 neighborhood; the requested use variance,  
 25 if granted, will not alter the essential

23

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 2 MR. PYCIOR: No, I concur.  
 3 In fact, one of the standards for use  
 4 variance is "the alleged hardship relating  
 5 to the property in question is unique and  
 6 does not apply to a substantial portion of  
 7 the district or the neighborhood." Most  
 8 people in the district don't have barns  
 9 and certainly don't have much property.  
 10 So it is unique.  
 11 CHAIRMAN MURPHY: So,  
 12 Counsel, I don't know if we need to take a  
 13 formal vote on the interpretation  
 14 question.  
 15 MS. STECICH: Well, if you  
 16 cared to, I mean, just for the purposes of  
 17 setting a precedent or just go to the use  
 18 variance question. I think it might be a  
 19 little better that way. You have that  
 20 opportunity to resolve each one of the  
 21 zones. And the standards -- do you want  
 22 me -- the standards, do you want me to  
 23 read for you the use variance?  
 24 MR. LEAF: Would you,  
 25 please.

25

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 2 character of the neighborhood and the  
 3 alleged hardship is not self created. And  
 4 those are the four things that have to be  
 5 shown.  
 6 CHAIRMAN MURPHY: Right. I  
 7 think, Mr. Tilly, you are familiar with  
 8 these requirements, I think, as well.  
 9 MR. TILLY: Yes.  
 10 CHAIRMAN MURPHY: At least  
 11 in my view of the use variance  
 12 applications we have had have come down  
 13 to is the first one is the problematic  
 14 one -- we should talk about a little -- is  
 15 the cannot realize a reasonable return  
 16 shown by some kind of financial evidence,  
 17 because the others I agree with Stan.  
 18 This is a unique situation. It has not  
 19 been self created. It certainly won't  
 20 alter the essential character of the  
 21 neighborhood. And so we are looking for a  
 22 way to get you where you need to go  
 23 consistent with our code.  
 24 MR. TILLY: Yes. The  
 25 argument that really has to do with the

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2 financial side is that the building is  
3 sitting there and it is deteriorating and  
4 the making of reasonable use of it is  
5 the -- really is the occasion for us to  
6 make an investment in the structure in  
7 order to rehabilitate it in order to gain  
8 that use. So that's really in a nutshell  
9 the argument I would make about the  
10 structure, which is allowing it --  
11 permitting it to -- since barn uses or  
12 architectural uses are no longer  
13 applicable and we are -- and cars are --  
14 and vehicles are no longer permitted. In  
15 fact, we are organizing them so that they  
16 don't get anywhere back into this part of  
17 the site. It is a beautiful site. And so  
18 it is sitting there without any reasonable  
19 use. And so I think permitting some kind  
20 of reasonable use allows this kind of  
21 investment to be made.  
22 CHAIRMAN MURPHY: Are you  
23 saying also that the alternative is that  
24 it is in such deteriorated condition that  
25 at some point it would have to be -- it

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2 it would just take that to become a  
3 dwelling. And what kind of assurances  
4 could we have that that would not take  
5 place? Just there are three distinct  
6 uses. There is a pool -- there is a pool  
7 component which is the bath and the water  
8 closet and the shower. And there is a  
9 billiard room. Then there is a large  
10 upstairs loft. There are three pretty big  
11 uses up here. And that is the only part  
12 of it that I find -- I understand the  
13 desire, but I'm just wondering what kind  
14 of assurances that we have that that  
15 doesn't take place.  
16 MR. TILLY: You could impose  
17 whatever kind of conditions you would like  
18 on the approval. Certainly it is very  
19 similar -- I mean, in the last few years  
20 I've done pool houses in New Castle and  
21 Dobbs Ferry which have even more  
22 facilities than this, where they -- and  
23 where it was a permitted accessory use.  
24 But there certainly were the same kind of  
25 concerns about still second units or

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2 would incur costs just to tear it down so  
3 it is safe?  
4 MR. TILLY: In a sense the  
5 process is kind of demolition by neglect  
6 or that kind of sequence. And this does  
7 give the occasion. So that's in the sense  
8 how I frame the argument from that  
9 economic side. I think there is -- I  
10 mean, that is a real problem as far as we  
11 are concerned.  
12 CHAIRMAN MURPHY: Anyone  
13 else? Ray, do you have some questions?  
14 MR. DOVELL: The only thing  
15 that troubles me about -- what I'm looking  
16 at right here is that just to look at  
17 this, it looks like a really nice  
18 guesthouse. It has all the components to  
19 be a dwelling. Simply with the addition  
20 of a stove it becomes a dwelling. And it  
21 even has an upstairs, a lovely upstairs.  
22 It has a bathroom and it has an area for a  
23 kitchen.  
24 We understand it doesn't have -- it  
25 is not being outfitted with a stove, but

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2 guesthouses or what have you. And I think  
3 there are remedies that you can by  
4 condition of approval of a variance that  
5 you grant that no use of that type should  
6 be -- no cooking facilities or what have  
7 you could be installed. So that seems to  
8 me a remedy that is available.  
9 CHAIRMAN MURPHY: For  
10 example, the application is styled as a  
11 pool house, playhouse and I think that  
12 could be and should be a condition of the  
13 motion, if someone were to -- if the board  
14 would wish to grant a favorable motion.  
15 MR. LEAF: We could even add  
16 the phrase "and not as a dwelling."  
17 CHAIRMAN MURPHY: And not  
18 as a dwelling, yes. And I think that  
19 would satisfy everyone's concern on that  
20 point, because that really is -- that's  
21 the issue. We don't want to set that  
22 precedent, and it is not provided for in  
23 the code. So it shouldn't be done.  
24 MR. TILLY: No. We would be  
25 here applying for an accessory unit if

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2 that was what our intent was.  
3 MS. STECICH: Which is  
4 actually an interesting point because they  
5 could apply for an accessory apartment.  
6 So you might want to clarify that, if the  
7 board would want this. But I think it  
8 would be clear. I would clarify that the  
9 board doesn't want it used as an accessory  
10 apartment. Say it will not be used for  
11 dwelling purposes, including as an  
12 accessory apartment.  
13 MR. LEAF: Marianne, my  
14 concern is not that if an accessory unit  
15 were applied for it would necessarily be  
16 rejected, it is that it hasn't been  
17 applied for. Using the application for a  
18 pool house to become a way around future  
19 applications that might look for a  
20 guesthouse dwelling --  
21 MS. STECICH: I wanted to  
22 make sure the board understood.  
23 MR. LEAF: -- for college  
24 students --  
25 MS. STECICH: You could do

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1 Zoning Board of Appeals - 7/24/2008  
2 have concern about that.  
3 Our concern -- Alice Shafran is our  
4 treasurer at Hastings Landing -- and our  
5 concern for the whole community is that  
6 our new neighbor Broad View Properties has  
7 also bought No. 17 in Hastings Landing.  
8 And it is a rental property. There have  
9 been other situations at Hastings Landing  
10 where there have been rentals. So -- but  
11 the control of it, particularly since we  
12 are dealing with an LLC corporation, it is  
13 a little suspect. And I'm speaking from  
14 years of real estate experience in New  
15 York City. And we have that concern.  
16 But we are here to welcome our new  
17 neighbors, Broad View Properties, but with  
18 the understanding that there should be  
19 some restraint about using something like  
20 what we are considering here strictly for  
21 their family and the owners of the  
22 property and not for outsiders or not for  
23 rentals or at least have some sort of  
24 strict control on that sort of a  
25 situation, because it could slip out of

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2 that as well.  
3 CHAIRMAN MURPHY: Any other  
4 comments or questions from the board?  
5 Mr. Tilly, do you have anything else on  
6 this?  
7 MR. TILLY: No. I mean,  
8 there is this second variance about the  
9 dormer. But on this particular issue, I  
10 don't have anything else to add.  
11 CHAIRMAN MURPHY: How about  
12 anyone in the audience? Anyone in the  
13 audience wish to be heard?  
14 MR. BRITZ: Yes.  
15 CHAIRMAN MURPHY: Just  
16 please identify yourself.  
17 MR. BRITZ: My name is  
18 Everett Britz. I'm here representing  
19 Hastings Landing, and my concern -- I see  
20 the board addressing it right here -- is  
21 that if this goes down to becoming a  
22 situation where Broad View Properties  
23 starts renting it out, it becomes more  
24 likely it is going to be a problem,  
25 heading up to a second dwelling. And I

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1 Zoning Board of Appeals - 7/24/2008  
2 your hands. That's my comment on behalf  
3 of Hastings Landing.  
4 CHAIRMAN MURPHY: Thank you.  
5 No, we do understand that. And frankly  
6 the best enforcement is our good  
7 neighbors. So we will make the  
8 appropriate --  
9 MS. STECICH: I have a  
10 question, though. Deven, isn't part of  
11 the application an affidavit of ownership,  
12 which I don't see on this. I thought that  
13 the owner was McHale and O'Halloran. But  
14 on the -- in other words, I don't have --  
15 I don't see an affidavit of ownership on  
16 the application.  
17 MR. BRITZ: I think both  
18 entities are mentioned. It would be nice  
19 to get a clarification as to whether we  
20 are dealing with two individuals here or  
21 whether we are dealing with the LLC  
22 corporation.  
23 MR. SHARMA: I didn't pick  
24 up on that. What I see, I see an  
25 affidavit on page 3 of the application.

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 2 MS. STECICH: Is it on  
 3 there?  
 4 MR. SHARMA: Yes.  
 5 MS. STECICH: No, the one  
 6 that says that all statements are true.  
 7 No. We don't have a page that is an  
 8 affidavit of ownership?  
 9 MR. SHARMA: No.  
 10 MS. STECICH: I don't know  
 11 why I thought that was a part of the  
 12 application.  
 13 MR. LEAF: That's for a  
 14 building permit.  
 15 MR. SHARMA: Yes, it is.  
 16 MS. STECICH: It is.  
 17 MR. SHARMA: Yes.  
 18 MS. STECICH: I don't see  
 19 it in this.  
 20 MR. SHARMA: I don't see it  
 21 on this, unless we have it on the forms  
 22 downstairs.  
 23 MR. PYCIOR: Mr. Tilly, who  
 24 owns the property, the McHales or Broad  
 25 View?

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 2 did not personally.  
 3 MS. STECICH: Oh, I bet the  
 4 notice is to Hastings Landing, goes to the  
 5 building.  
 6 MR. FORBES-WATKINS:  
 7 Apparently there is a potential conflict,  
 8 so I must recuse myself from this  
 9 particular issue. I will come back after.  
 10 CHAIRMAN MURPHY: All right.  
 11 Thank you. We will let the record reflect  
 12 Mr. Forbes-Watkins has to recuse himself  
 13 from this application, so we have a voting  
 14 group of four. Mr. O'Halloran, you  
 15 understand the concern here? The concern  
 16 of the board is simply that if the use  
 17 variance gets approved that it is not to  
 18 be used as a dwelling unit.  
 19 MR. O'HALLORAN: I  
 20 understand.  
 21 CHAIRMAN MURPHY: Thank  
 22 you. I guess we clarified the ownership.  
 23 Anything else from the board or comment?  
 24 Anyone else in the audience wish to be  
 25 heard on this application? Hearing none,

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 2 MR. TILLY: Here is Michael.  
 3 MR. O'HALLORAN: Let me  
 4 introduce myself. I'm Michael O'Halloran,  
 5 and my wife is Judith McHale. And we are  
 6 Broad View Properties, the two of us, as  
 7 an LLC that was set up to -- basically for  
 8 tax purposes for the ownership of this  
 9 property, the one next-door, 253 Broadway,  
 10 and we just purchased 17 Hastings Landing.  
 11 MR. PYCIOR: Do you intend  
 12 to live at 255 Broadway?  
 13 MR. O'HALLORAN: Yes. We  
 14 are renovating it now towards the view of  
 15 living there. We live in Maryland now.  
 16 We plan to move back when the renovation  
 17 is complete.  
 18 MR. FORBES-WATKINS: I have  
 19 to recuse myself. I live in Hastings  
 20 Landing, and apparently Hastings Landing  
 21 has made a statement.  
 22 MS. STECICH: Are you in  
 23 the noticed area? Did you get a notice of  
 24 this?  
 25 MR. FORBES-WATKINS: No, I

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 2 board members, does someone want to make a  
 3 motion? Marc, do you want to give it a  
 4 try?  
 5 MR. LEAF: Would this be a  
 6 motion on the use?  
 7 CHAIRMAN MURPHY: For the  
 8 use variance. Yes.  
 9 MR. LEAF: Marianne, is  
 10 there a form for making a motion on a use  
 11 variance that is required?  
 12 MS. STECICH: No. There is  
 13 no required form. I'll correct you if you  
 14 are wrong.  
 15 MR. LEAF: So I move that  
 16 the board approve a use variance to use an  
 17 existing carriage house to be renovated  
 18 for use as a recreation room, bar and bath  
 19 for use as a pool house or playhouse --  
 20 well, this is not a playhouse, right?  
 21 MS. STECICH: Well, you  
 22 could say it is for the uses shown on  
 23 whatever drawings those are in, and  
 24 reference those drawings and it is limited  
 25 to that. Do you know what I mean?

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 2 MR. LEAF: They take down a  
 3 billiard table and put up a ping-pong  
 4 table, it should still be -- it is to be  
 5 used for a recreational facility and as a  
 6 pool house, not as a dwelling.  
 7 MR. TILLY: My term was  
 8 recreation pavilion for lack of a better  
 9 term.  
 10 MR. LEAF: At least we would  
 11 be approving the only recreational  
 12 pavilion in Hastings. So the motion is to  
 13 approve a use variance to use the existing  
 14 carriage house as renovated as a  
 15 recreational pavilion and possible future  
 16 pool house and not as a dwelling.  
 17 CHAIRMAN MURPHY: Do I have  
 18 a second?  
 19 MR. PYCIOR: I'll second.  
 20 CHAIRMAN MURPHY: All in  
 21 favor? Aye.  
 22 MR. LEAF: Aye.  
 23 MR. DOVELL: Aye.  
 24 MR. PYCIOR: Aye.  
 25 CHAIRMAN MURPHY: The vote

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 2 height of the proposed dormer is above the  
 3 15 foot requirement, but it is below the  
 4 current height of the structure.  
 5 MR. TILLY: That is correct.  
 6 CHAIRMAN MURPHY: Let's  
 7 just -- how far out -- does it come out  
 8 beyond the edge of the --  
 9 MR. TILLY: No, it sits in  
 10 the back --  
 11 CHAIRMAN MURPHY: --  
 12 structure?  
 13 MR. TILLY: Yeah.  
 14 CHAIRMAN MURPHY: Anyone  
 15 else have any questions on the board for  
 16 the proposed height variance for the  
 17 dormer? Ray, do you have anything?  
 18 MR. DOVELL: No.  
 19 CHAIRMAN MURPHY: Anyone  
 20 from the audience wish to be heard on the  
 21 area variance for the dormer? All right.  
 22 Hearing none, do I have a motion for the  
 23 height variance on the dormer?  
 24 MR. LEAF: I move that we  
 25 approve an area variance to approve a

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 2 was unanimous. All right. Next,  
 3 Mr. Tilly?  
 4 MR. TILLY: Okay. The next  
 5 is the dormer on the second floor facing  
 6 west which requires an area variance  
 7 because the existing building, as you  
 8 know, is 19 feet. And to get a little  
 9 daylight in there on the west, we are  
 10 proposing this little shed dormer. And  
 11 the height of that dormer exceeds the 15  
 12 feet requirement. Therefore, we are  
 13 building in the area above the area  
 14 limited by the height restriction for  
 15 accessory building as the building exists.  
 16 CHAIRMAN MURPHY: So on  
 17 your application you have the new dormer  
 18 as 19.3 feet in height which is below the  
 19 current ridge line structure which is 29.9  
 20 feet.  
 21 MR. TILLY: That's correct.  
 22 And that's the top of the slope of the  
 23 dormer, and it slopes down from there to  
 24 where the glazing needs to --  
 25 CHAIRMAN MURPHY: The

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 2 proposed new dormer 19.3 feet where 15  
 3 feet is permitted.  
 4 CHAIRMAN MURPHY: And that  
 5 is on the accessory structure?  
 6 MR. LEAF: That is on the  
 7 accessory structure.  
 8 MS. STECICH: That would be  
 9 19.3 feet in height.  
 10 MR. LEAF: 19.3 feet in  
 11 height where the proposed new dormer --  
 12 where 15 feet is permitted.  
 13 CHAIRMAN MURPHY: Do I have  
 14 a second?  
 15 MR. DOVELL: Second.  
 16 CHAIRMAN MURPHY: All in  
 17 favor?  
 18 MR. PYCIOR: Aye.  
 19 CHAIRMAN MURPHY: Aye.  
 20 MR. LEAF: Aye.  
 21 MR. DOVELL: Aye.  
 22 CHAIRMAN MURPHY: Four/O.  
 23 Thank you. Our next case is Peter and  
 24 Andrea Rockland, 45 Circle Drive for a  
 25 proposed addition and alterations to an

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 2 existing deck. The variance is being  
 3 sought for the corner lot front yard for  
 4 an open deck at or below the entrance  
 5 level. Please give us your name, sir.  
 6 MR. LEWIS: Yes. Hi, I'm  
 7 Michael Lewis, Michael Lewis Architects,  
 8 P.C. I'm going to come up closer because  
 9 the drawings are not that large.  
 10 This project that is on  
 11 Circle Drive is in a neighborhood where  
 12 many of the lots are non-conforming.  
 13 There are many lots irregular, smaller  
 14 than the required lot size non-conforming.  
 15 This lot on the corner is unusual because  
 16 as a corner lot it has the 30 foot setback  
 17 on a large percentage of the lot. The  
 18 building, of course, is existing  
 19 non-conforming, and with it there is a  
 20 non-conforming deck right there. And the  
 21 deck is narrow for use.  
 22 The Rockland family of four would  
 23 like to eat and entertain on the deck, and  
 24 so they wanted to add about 5 feet to it.  
 25 That is what this proposal is about,

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 2 CHAIRMAN MURPHY: At least  
 3 I didn't receive it.  
 4 MR. SHARMA: We didn't  
 5 receive any letters in support of the  
 6 approval.  
 7 MR. LEWIS: They were in the  
 8 file. I know I saw it. Sorry.  
 9 CHAIRMAN MURPHY: Just bear  
 10 with us for a moment. When you said that,  
 11 it occurred to me that we hadn't seen  
 12 letters.  
 13 MR. SHARMA: I apologize.  
 14 MR. LEWIS: I'm glad you  
 15 found that.  
 16 CHAIRMAN MURPHY:  
 17 Mr. Sharma, thank you. I'll just pass  
 18 these around. Mr. Lewis, if you would  
 19 give us one moment. So we have letters  
 20 from residents at 24 Chestnut Drive, 50  
 21 Circle Drive, 57 Circle Drive, 56 Circle  
 22 Drive, 48 Circle Drive, 18 Chestnut, 38  
 23 Circle Drive all in support of the  
 24 proposed variance. I'll let the other  
 25 members take a look at that.

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 2 extending the deck about 5 feet. Most of  
 3 that 5 feet or about half of it is  
 4 occurring in the 30 foot setback there.  
 5 So we are enlarging the non-conforming  
 6 condition we are proposing by adding this  
 7 deck.  
 8 As I mentioned, many of the lots  
 9 and the houses are non-conforming in this  
 10 area. And so it is really sort of a  
 11 thing -- it is not really terribly outside  
 12 the character of the neighborhood to push  
 13 the limits a little bit. And so Peter and  
 14 Andrea went and talked to all the  
 15 neighbors in advance. The houses in green  
 16 are the ones that have submitted letters  
 17 as far as this application in support of  
 18 the project. That little bit of red  
 19 there, it is small but that --  
 20 CHAIRMAN MURPHY: Sorry,  
 21 Mr. Lewis, let me stop you for one moment.  
 22 Do we have letters from the neighbors in  
 23 the file?  
 24 MR. LEWIS: Part of the  
 25 application.

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 2 MR. FORBES-WATKINS: Could  
 3 you show me the map?  
 4 MR. LEWIS: Yes, sir, the  
 5 houses in green.  
 6 MR. FORBES-WATKINS: The  
 7 house right there (indicating).  
 8 MR. LEWIS: This one?  
 9 MR. FORBES-WATKINS: Yes.  
 10 MR. LEWIS: Right. They're  
 11 neighbors also and my understanding is  
 12 that they are not opposed to it and Andrea  
 13 spoke with them.  
 14 MS. ROCKLAND: I spoke with  
 15 them. We didn't -- I wasn't able to get  
 16 the letter but we can get that letter in.  
 17 MR. FORBES-WATKINS: The  
 18 reason I ask is that particular dwelling  
 19 is probably the one that is most directly  
 20 in line of sight, is it not?  
 21 MR. LEWIS: Not necessarily.  
 22 I don't think they can even see it.  
 23 MR. FORBES-WATKINS: Oh, I'm  
 24 sorry. You're correct. It is one of the  
 25 greens. It is one of the green ones is

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 2 the direct.  
 3 MR. LEWIS: In fact, we were  
 4 trying to get letters all the way around.  
 5 Why not? I think the reason we don't have  
 6 this is pure logistics. There is no  
 7 opposition as far as I know.  
 8 MR. DOVELL: Can you  
 9 describe the topography that goes through  
 10 there?  
 11 MR. LEWIS: I'll show you  
 12 photographs that show. Here is the  
 13 existing deck basically. This is the end  
 14 view from Circle Drive as it comes around  
 15 to the west. And then this is the back  
 16 view of the deck. This area right here is  
 17 where we want to extend it 5 feet further  
 18 into the backyard or technically it is the  
 19 side yard, but it is so confusing with the  
 20 corner lot.  
 21 And, of course, again, the idea is  
 22 that the deck is in disrepair. It is  
 23 unsightly. I think the owners are  
 24 certainly looking forward to repairing it  
 25 and making a nice deck there. And I think

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 2 CHAIRMAN MURPHY: So  
 3 whichever direction it is where you are  
 4 building out 5 more feet, the setback  
 5 according to your plans will be 14 feet 5  
 6 inches?  
 7 MR. LEWIS: Yes, sir. That  
 8 is the side yard, 12 foot required.  
 9 MR. PYCIOR: Are you  
 10 demolishing -- will they demolish the  
 11 existing deck?  
 12 MR. LEWIS: Yes, sir,  
 13 entirely demolishing it and then  
 14 rebuilding it.  
 15 MR. PYCIOR: Why approach  
 16 approximately 5 feet into the front yard?  
 17 That is -- right now it is not flush with  
 18 the house. It protrudes about 5 feet out  
 19 from the house.  
 20 MR. LEWIS: That's right.  
 21 It is basically they are just matching the  
 22 existing deck and using the existing  
 23 footings in that area and extending it out  
 24 into topography.  
 25 MR. PYCIOR: You wouldn't

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1 Zoning Board of Appeals - 7/24/2008  
 2 the neighbors also are looking forward to  
 3 that.  
 4 MR. DOVELL: Does the grade  
 5 pitch up towards the street or is it --  
 6 MR. LEWIS: The grade on the  
 7 yard which is down in this direction  
 8 (indicating).  
 9 MR. DOVELL: Okay.  
 10 CHAIRMAN MURPHY:  
 11 Mr. Lewis, one question I had in terms of  
 12 extending the width of the deck, currently  
 13 it is just under 10 feet wide, roughly 30  
 14 feet long. But the variances that you are  
 15 applying for indicates that the existing  
 16 non-conformity, the setback is 13.4 feet  
 17 and that you are going to maintain that  
 18 13.4 foot setback.  
 19 MR. LEWIS: I think that --  
 20 that's right, because it is so odd because  
 21 of the corner lot, the way it is measured.  
 22 You can see the lot here and you can see  
 23 the 30 foot setback. And this thing here  
 24 is 13.4. And so that's continuing  
 25 straight across.

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 2 need as much of a variance if you made the  
 3 deck flush with the house.  
 4 MR. LEWIS: That's correct,  
 5 if we were to push that back it would be  
 6 less of a variance. It would still be a  
 7 variance. In fact, what it would mean is  
 8 that -- well, sure. It would be less of a  
 9 square footage of the deck would be in the  
 10 non-conforming zone. I guess when the  
 11 deck was originally built, the idea is  
 12 that by having it protrude by the house it  
 13 opened up more view. And so in that  
 14 regard it's advantageous to the owners.  
 15 CHAIRMAN MURPHY: Yes, I  
 16 was concerned about the same thing, Stan,  
 17 but on that side what the applicant is  
 18 saying, it is only -- required setback is  
 19 only 12 feet. Even with the 5 foot bump  
 20 out, it is going to be 14 feet 5 inches  
 21 from the line because of the weirdness of  
 22 the lot.  
 23 MR. FORBES-WATKINS: Will  
 24 the -- in the plan will there be an under  
 25 coverage? I found the -- looking at the

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2 deck from down looking from Circle Drive  
3 and looking up, I found it particularly  
4 unattractive.  
5 MR. LEWIS: Yes, it is. We  
6 are proposing a cedar lattice screen.  
7 I'll show you on the elevation. That, of  
8 course, so the deck is cantilever. It  
9 will give it a nice shadow line, a lattice  
10 screen that wraps all the way around the  
11 corner.  
12 CHAIRMAN MURPHY: I think  
13 the plan is great. It is a big  
14 improvement over what exists now. That's  
15 for sure. My only question is really the  
16 need to increase the size. Roughly you  
17 are adding another 50 percent or so square  
18 foot.  
19 MR. LEWIS: 150 feet.  
20 CHAIRMAN MURPHY: Is that  
21 just to -- why does the applicant need the  
22 space, the extra space?  
23 MR. LEWIS: Basically when  
24 we lay out seating and a table, it makes  
25 it comfortable. The additional 5 feet

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2 That's what bothered me. What bothered me  
3 when I went out there is the fact that the  
4 posts are at the end of the deck. But I  
5 notice in the new one you are going to  
6 cantilever.  
7 MR. LEWIS: Yes, sir.  
8 MR. PYCIOR: It doesn't  
9 bother me nearly as much, because the  
10 mass of the deck --  
11 MR. LEWIS: Right. I think  
12 the cantilever deck will be a lot nicer.  
13 CHAIRMAN MURPHY: Any other  
14 questions from any of the board members?  
15 MR. DOVELL: I think the  
16 fact that you have a skirting around the  
17 base of it does improve the appearance  
18 from the street enormously. Is it the  
19 intention to plant that out or how are  
20 you --  
21 MR. LEWIS: We haven't  
22 really discussed it. I would assume that  
23 once the deck is completed, it would be  
24 natural to landscape it and enhance the  
25 lot as much as possible. It is not part

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2 makes it much more comfortable for  
3 entertaining.  
4 CHAIRMAN MURPHY: I do note  
5 that in terms of the footprint area, 2500  
6 feet is permitted in the district. And  
7 with the proposed deck addition, the  
8 applicant will still be slightly under  
9 2,000. And the percent lot area will go  
10 to about 19 percent, when 25 percent is  
11 permitted. It is certainly well within  
12 the permitted area of coverage based on  
13 the applicant's information.  
14 MR. LEWIS: Again, I think  
15 one of the reasons that the deck becomes  
16 perhaps a little more critical is because  
17 it is so rocky there on the corner of  
18 Circle as you come up and around, that the  
19 yard space is really limited for the kids.  
20 But in particular a level place to eat  
21 outside, and it is really -- the idea by  
22 adding this additional width they can sit  
23 comfortably outside.  
24 MR. PYCIOR: Can I see the  
25 photo of the existing deck again? Okay.

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2 of our plans at this point.  
3 MR. PYCIOR: Ray, we can  
4 always specify landscaping if you wish  
5 when we grant the variance.  
6 MR. DOVELL: I think it  
7 would help because of the proximity. It  
8 is quite visible, and the proximity to the  
9 street, I think we would want that.  
10 MR. LEWIS: I'm all for  
11 landscaping it. How to specify in advance  
12 without really designing it, what kind of  
13 landscaping would be the nicest, it  
14 usually takes some time and consideration  
15 in figuring out the best way to do it.  
16 CHAIRMAN MURPHY: Well, I  
17 don't think we need to micromanage the  
18 landscaping. If you want to put that in  
19 as a condition of the motion, just that  
20 the applicant landscape that end of the  
21 deck on Circle and screening this, I think  
22 that's all you need to say.  
23 MR. DOVELL: Okay.  
24 CHAIRMAN MURPHY: Anyone  
25 else? David?

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2 MR. FORBES-WATKINS: No.  
3 CHAIRMAN MURPHY: Anyone  
4 from the audience, anyone wish to speak?  
5 MR. LEPRE: My name is Jorge  
6 Lepre and my wife, Gretchen. We are the  
7 neighbors on the end of the deck of the  
8 Rocklands. We support them in their  
9 renovation. We just when they ask us, we  
10 didn't know that this would require a  
11 variance. So we would like to ask you to  
12 explain to us why they request a variance  
13 and what could be the disadvantages to us  
14 if the building gets done, because we  
15 don't really understand very well why the  
16 variance is required and maybe it is just  
17 maintaining it but --  
18 CHAIRMAN MURPHY: As  
19 Mr. Lewis was explaining, the applicant  
20 needs a variance because they are  
21 expanding the deck. They are going to  
22 tear down the old deck, build a new deck,  
23 and they are widening the current deck.  
24 So the current deck is approximately 10  
25 feet wide, and the new deck they are

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1 Zoning Board of Appeals - 7/24/2008  
2 yard, certain number of feet from the rear  
3 yard for protection of the neighbors.  
4 Everybody has that. If you've got a 12  
5 foot -- if your side yard is supposed to  
6 be 12 feet, you want to build your -- you  
7 only want to be 8 feet with your deck,  
8 then you need permission from the zoning  
9 board because you are building within the  
10 setback.  
11 MR. LEPRE: Okay. Okay. In  
12 this case this deck is too close to what  
13 limit of the property? Too close to the  
14 street or the --  
15 MR. LEWIS: Excuse me. If  
16 you like, I can show you. This is the  
17 lot. And they have the lot. The lot is a  
18 corner lot. Normally you'd have a certain  
19 number of space allowed on the front. You  
20 have a certain distance you are allowed on  
21 the front, a certain distance you are  
22 allowed on the back and then the distance  
23 on the side. And initially the side  
24 setbacks are small and the front and back  
25 are big since this is on the corner.

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1 Zoning Board of Appeals - 7/24/2008  
2 proposing will be about 15 feet wide along  
3 the length of that house.  
4 MR. LEPRE: Um, so then why  
5 is the village limiting the size of the  
6 deck? Why -- it sounds like something  
7 very trivial to build on. And why is a  
8 variance required?  
9 CHAIRMAN MURPHY: Because  
10 the code -- because whenever you construct  
11 or make an alteration to a house, you need  
12 to get a building permit. And if you need  
13 a variance, because you are not in  
14 compliance with the strict requirements of  
15 the zoning code, you need to apply for  
16 one. And that is what they are doing.  
17 MR. LEPRE: Why is there a  
18 restriction? It is because the way it  
19 looks in the neighborhood or because --  
20 CHAIRMAN MURPHY: Marianne,  
21 would you like to take over?  
22 MS. STECICH: All  
23 construction has setbacks. It has to be a  
24 certain number of feet from the side yard,  
25 certain number of feet from the front

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1 Zoning Board of Appeals - 7/24/2008  
2 The buildable area for this house  
3 legally is this line here. The existing  
4 house is non-conforming. The reason is  
5 that this house was in place before the  
6 zoning -- before the laws were made. So  
7 the laws came in afterward and they don't  
8 fit in. Anything that happens in this  
9 area, any enlargement that occurs in this  
10 area outside of this line requires a  
11 special approval. Since we are adding  
12 this piece here, it is outside of that  
13 line, we require a special variance.  
14 That's the reason that we are here.  
15 MR. LEPRE: Okay. Thank you  
16 very much. Yes, we support the  
17 renovation.  
18 CHAIRMAN MURPHY: Thank  
19 you. Mr. Lewis, thank you too. Anyone  
20 else have anything? David?  
21 MR. FORBES-WATKINS: No, I'm  
22 ready to make a motion.  
23 CHAIRMAN MURPHY: Either  
24 one.  
25 MR. DOVELL: I'll make a

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1 Zoning Board of Appeals - 7/24/2008  
 2 motion to approve the variance for a front  
 3 yard setback for a new wood deck where the  
 4 required is 24 feet and proposed is 13.4  
 5 feet, provided the deck contain wood  
 6 skirting and landscaping to conceal the  
 7 lower portion of it.  
 8 MR. FORBES-WATKINS: Second.  
 9 CHAIRMAN MURPHY: Do I have  
 10 a second?  
 11 MR. FORBES-WATKINS: Second.  
 12 CHAIRMAN MURPHY: All in  
 13 favor?  
 14 MR. DOVELL: Aye.  
 15 MR. LEAF: Aye.  
 16 CHAIRMAN MURPHY: Aye.  
 17 MR. PYCIOR: Aye.  
 18 MR. FORBES-WATKINS: Aye.  
 19 CHAIRMAN MURPHY: The vote  
 20 is unanimous. Thank you.  
 21 All right. Our last case tonight,  
 22 the Newington-Cropsey Foundation, 25  
 23 Cropsey Lane.  
 24 MR. SPILATRO: My name is  
 25 Gary Spilatro. The foundation is

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1 Zoning Board of Appeals - 7/24/2008  
 2 in particular.  
 3 MR. DOVELL: Could you  
 4 describe the topography of that? It looks  
 5 from the drawings and from the  
 6 photographs, that it is quite -- it is  
 7 nestled.  
 8 MR. SPILATRO: Okay. The  
 9 existing structure in front -- there is  
 10 the patio in the back on a concrete slab,  
 11 where the structure will be built. There  
 12 is a retaining wall, and then it goes up  
 13 the side of the hill about 20 feet  
 14 straight up to the next structure above,  
 15 the property above. So this is a 20 feet  
 16 drop to a retaining wall to a concrete  
 17 slab. There is no increase in impervious  
 18 surface or anything else. There is no  
 19 increasing of anything. So we would be  
 20 removing the slab and putting the slab  
 21 back in place. Then there is the house,  
 22 below the ridge of the house, smaller than  
 23 the house and sitting in tuck behind that,  
 24 where the building is an L-shaped building  
 25 where it will not even touch the retaining

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1 Zoning Board of Appeals - 7/24/2008  
 2 proposing to build a studio behind the  
 3 existing structure. And we are here for  
 4 the view preservation. As I think you've  
 5 been out there, the complex -- the  
 6 foundation is in a ravine. The nearest  
 7 property is 20 feet above this property,  
 8 and I don't think there is any question  
 9 about --  
 10 CHAIRMAN MURPHY: Just give  
 11 us the dimensions of the proposed  
 12 structure so we make a record of that.  
 13 MR. PERCIASEPE: My name is  
 14 John Perciasepe. I'm the contractor.  
 15 That structure on the front side will be  
 16 17.4 and project back 14 foot.  
 17 CHAIRMAN MURPHY: The  
 18 height?  
 19 MR. PERCIASEPE: The highest  
 20 point would be 14 foot.  
 21 CHAIRMAN MURPHY: Anything  
 22 else from the applicant? The board? I  
 23 know we've had a chance to look at the  
 24 plans and are familiar with the property.  
 25 I don't know if anyone had any questions

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1 Zoning Board of Appeals - 7/24/2008  
 2 wall or the side hill. So this will be  
 3 strictly just removing slab surface and  
 4 putting it back, right back in place.  
 5 CHAIRMAN MURPHY: And was  
 6 there a recommendation from the planning  
 7 board?  
 8 MR. SPILATRO: Yes, last  
 9 week.  
 10 CHAIRMAN MURPHY: What was  
 11 that recommendation?  
 12 MR. SPILATRO: They  
 13 recommended. They passed us.  
 14 CHAIRMAN MURPHY: They  
 15 recommend that we approve?  
 16 MR. SPILATRO: Yes.  
 17 CHAIRMAN MURPHY: David?  
 18 MR. FORBES-WATKINS: My only  
 19 comment is if you go and stand where this  
 20 facility will be added, not only is there  
 21 no view issue that I can think of, that  
 22 what you view from there is the abutment  
 23 of the bridge. So this is not a view  
 24 issue.  
 25 CHAIRMAN MURPHY: Right.

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1 Zoning Board of Appeals - 7/24/2008  
 2 Stanley?  
 3 MR. PYCIOR: No.  
 4 CHAIRMAN MURPHY: Would  
 5 anyone like to make a motion on the  
 6 applicant's request for view preservation  
 7 approval for the construction of the  
 8 summer art studio?  
 9 MR. FORBES-WATKINS: I so  
 10 move that the zoning board approve view  
 11 preservation issue for the  
 12 Newington-Cropsey Foundation, Case  
 13 No. 17-08.  
 14 CHAIRMAN MURPHY: Second?  
 15 MR. PYCIOR: I'll second.  
 16 CHAIRMAN MURPHY: All in  
 17 favor?  
 18 MR. DOVELL: Aye.  
 19 MR. LEAF: Aye.  
 20 CHAIRMAN MURPHY: Aye.  
 21 MR. PYCIOR: Aye.  
 22 MR. FORBES-WATKINS: Aye.  
 23 CHAIRMAN MURPHY: Vote is  
 24 unanimous. Thank you very much. Counsel,  
 25 I know we have another agenda item. Are

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 2 public hearing, it goes to both the  
 3 planning board and the zoning board for  
 4 its recommendations. And so did you want  
 5 me to go through each of these amendments?  
 6 CHAIRMAN MURPHY: No, no.  
 7 MS. STECICH: I think my  
 8 memo explained each of them and why they  
 9 were in there. Mainly they were to  
 10 clarify the building coverage and stuff,  
 11 because right now there are not too many  
 12 limits on paving coverage except it can't  
 13 be in required yards and stuff. So there  
 14 was -- mainly what it was aimed at was  
 15 clearing up a couple of definitions.  
 16 And actually the thing that has  
 17 given Deven and me the most trouble over  
 18 the years is what is a structure, and it  
 19 was a little unclear what is considered a  
 20 structure, not a structure and that the  
 21 planning board also spent a lot of time on  
 22 that. And if we just take the definition  
 23 of anything affixed to the ground, well,  
 24 you know, that includes swing sets, jungle  
 25 gyms. Do you really want to require a

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1 Zoning Board of Appeals - 7/24/2008  
 2 we ready to --  
 3 MS. STECICH: The first  
 4 memo attached on there has nothing to do  
 5 with the recommendation. That is just to  
 6 let you know that I did pass it on to the  
 7 board of trustees.  
 8 CHAIRMAN MURPHY: Thank  
 9 you, Marianne. We appreciate it.  
 10 MS. STECICH: We'll see  
 11 what happens. Then I don't know -- just  
 12 with working with the code over the many  
 13 years, there are a bunch of things we came  
 14 across that we thought needed to be  
 15 clarified in the code. Some of the stuff  
 16 we weren't maybe definite on or we  
 17 disagreed, or we thought it was important  
 18 to get the planning board's input on it.  
 19 We met with the planning board a  
 20 couple of times and got their  
 21 recommendations about things like building  
 22 coverage and abutment coverage and came up  
 23 with a set of amendments that were  
 24 presented to the board of trustees which  
 25 set a public hearing. When it sets the

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1 Zoning Board of Appeals - 7/24/2008  
 2 building permit for that? So the  
 3 definition of structure was made, we hope,  
 4 clearer. And then most of the other stuff  
 5 dealt with coverage.  
 6 But I think the cover memo is  
 7 self-explanatory. I'll be glad to answer  
 8 any questions.  
 9 MR. PYCIOR: Marianne, under  
 10 structure a few times we faced storage  
 11 sheds. And they are structures.  
 12 MS. STECICH: Yes.  
 13 MR. PYCIOR: That is not  
 14 listed. Would it be beneficial to list  
 15 that, because I think three or four  
 16 occasions that the storage shed has been  
 17 the issue in terms of a side yard or rear  
 18 yard.  
 19 MR. SHARMA: We are clear;  
 20 it is a structure. We didn't have  
 21 difficulty, a problem, with it. The  
 22 problem we had was like a barbecue,  
 23 barbecue grill kind of thing. Would that  
 24 be a structure? A swing set, jungle gym,  
 25 would that be a structure? So those are

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1 Zoning Board of Appeals - 7/24/2008  
 2 some of the things. But a storage shed is  
 3 an accessory structure.  
 4 MR. PYCIOR: It is clearly a  
 5 structure.  
 6 MS. STECICH: I think it is  
 7 pretty clearly a building. The other  
 8 things that are in there and -- you know,  
 9 is a patio a structure? Deven and I were  
 10 always disagreeing on that. I thought it  
 11 was; Deven didn't.  
 12 CHAIRMAN MURPHY: So now we  
 13 are clear. As you defined it in the new  
 14 definition of structure, a patio is an  
 15 impervious surface and will now be  
 16 considered a structure.  
 17 MS. STECICH: Right.  
 18 CHAIRMAN MURPHY: And I  
 19 think that's a good idea.  
 20 MR. SHARMA: Two things  
 21 happen in terms of lot coverage. That was  
 22 another thing, whether to count it towards  
 23 lot coverage or not. So we have the lot  
 24 coverage, what we also call the  
 25 development coverage. So there is

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 2 listed.  
 3 MS. STECICH: Yes. It  
 4 doesn't say, you know, house, garage, you  
 5 know. If you start listing all of them,  
 6 if you don't include it, it really  
 7 includes the things that aren't so clear.  
 8 Deven?  
 9 MR. SHARMA: Garbage sheds,  
 10 garbage container sheds, for practical  
 11 purposes we are not using them, you know,  
 12 because they are not structures. We are  
 13 not asking people to get permits if they  
 14 happen to be a certain distance from the  
 15 property line, things like that. But if  
 16 it is not clearly a garbage container, a  
 17 shape and size of it, then it is a shed  
 18 and then it is an accessory structure.  
 19 And it can only be a certain distance away  
 20 from the front line and side.  
 21 MR. LEAF: The things that  
 22 are not mentioned here -- so a garbage  
 23 container is not a structure?  
 24 MR. SHARMA: For the  
 25 purposes of building permit or the zoning

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 2 buildings and other structures, patios and  
 3 other things, so they have a separate  
 4 percent of the lot that can be covered  
 5 through that kind of development. So that  
 6 will help us a lot.  
 7 MS. STECICH: What is a  
 8 structure? The reason it is significant  
 9 is for two things. No. 1, you have to get  
 10 a building permit for a structure. And  
 11 secondly, it gets included in coverage.  
 12 If it is a structure it gets included in  
 13 coverage and lot coverage. If it is not,  
 14 obviously it doesn't.  
 15 MR. FORBES-WATKINS: If I go  
 16 to Home Depot or one of the places and buy  
 17 one of those tool sheds, that I can truck  
 18 in, throw together, is that a structure?  
 19 MS. STECICH: Yes. It is a  
 20 building. It might be a small building,  
 21 but it is a building.  
 22 MR. FORBES-WATKINS: That  
 23 may be a toolshed question.  
 24 MR. PYCIOR: No, but that is  
 25 obviously a structure so it may not be

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 2 code application.  
 3 MR. LEAF: And the barbecue  
 4 you were discussing, if the barbecue  
 5 rolls, it is clearly not a structure. If  
 6 the barbecue is built into a cinder block  
 7 or brick or --  
 8 MS. STECICH: Or a patio.  
 9 MR. LEAF: I'm going to get  
 10 to the impervious patio in a second. What  
 11 is the point of the barbecue? Is a  
 12 barbecue a structure or not a structure if  
 13 it were built in?  
 14 MS. STECICH: If it is  
 15 built in, yes, it is a structure.  
 16 Actually, I think to tell you the truth, I  
 17 probably would differ with that than about  
 18 the shelter. I mean, yes, this is the  
 19 first I've heard about these little  
 20 garbage sheds. I would say a garbage shed  
 21 is a building structure, but I can  
 22 understand why.  
 23 But it is always going to be the  
 24 case that sometimes you just have to use a  
 25 common sense approach to it. And if it

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2 makes sense, then it is -- you know, how  
3 much things cover. The garbage can is  
4 covered up. I understand that.  
5 MR. SHARMA: You may not be  
6 able to cover all eventualities. But  
7 whenever it is not, Marianne and I do  
8 speak, and we will concur one way or the  
9 other which way to go and take a chance.  
10 If something comes up, we deal with it.  
11 Normally if something comes up on the  
12 borderline, then we talk and see if we can  
13 concur.  
14 MS. STECICH: Actually, one  
15 of the biggest problems was, and it is not  
16 really so much a problem but people  
17 calling the building department and saying  
18 I want to put in -- some of those jungle  
19 gyms are pretty elaborate these days. And  
20 you know, so this was -- that the planning  
21 board just didn't make -- think that kind  
22 of thing made sense.  
23 MR. LEAF: I think that's  
24 fine. Patio with an impervious surface,  
25 does impervious refer to the materials

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2 they have a space in them and that space  
3 could make it pervious, that's why rather  
4 than just saying impervious patio, yes, a  
5 patio is an impervious surface as opposed  
6 to one with grasscrete or gravel. There  
7 was no concern about gravel. I guess you  
8 could say a little piece of gravel is  
9 impervious, but it is one of those things  
10 you use in common sense.  
11 No, that's a fair point.  
12 And I don't remember where it happened  
13 that we finally decided on the language  
14 patio was an impervious surface. So you  
15 would count those things that have space  
16 in between, because you want people to  
17 have to come in for building permits for  
18 them because it is going to affect  
19 drainage. That is the main thing. It is  
20 going to affect drainage.  
21 MR. LEAF: You have all  
22 these new development coverages which are  
23 greater than building coverage.  
24 MS. STECICH: Right.  
25 MR. LEAF: Where did those

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2 with which the surface is constructed --  
3 MS. STECICH: Yes.  
4 MR. LEAF: -- or does it  
5 refer to the manner in which the surface  
6 is connected, the surface is put together?  
7 MS. STECICH: I would say  
8 that a blue stone patio with spaces in  
9 between the blue stone, I think that the  
10 understanding it is an impervious surface.  
11 MR. SHARMA: If you  
12 remember, we talked about concrete pavers  
13 or blue stone pavers with space in  
14 between, the square footage, the total  
15 area of the patio, will be the total area  
16 of the patio less for some formula the  
17 open spaces in between. So say 10 feet by  
18 10 feet the patio with, you know,  
19 grasscrete or concrete pavers --  
20 MS. STECICH: Grasscrete, I  
21 don't know why you said that, why you  
22 mentioned grasscrete. That is not  
23 impervious. We are talking about blue  
24 stone or pavers or whatever. And I think  
25 the understanding was that even though

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2 percentages come from?  
3 MS. STECICH: It is all ten  
4 percent or greater. And that's what a lot  
5 of municipalities have. Pretty much what  
6 we've got now is the building coverage  
7 that we've got. And the question is what  
8 is considered included in a building  
9 coverage. Well, driveways aren't. Paved  
10 areas aren't. And they haven't been.  
11 So you want to put a limit on the  
12 paving. So what they did is they took  
13 whatever -- if the zoning district said  
14 you can add 25 percent lot coverage,  
15 that's the way the code reads. Now we  
16 say, Okay, you have 25 percent building  
17 coverage. Those numbers weren't changed.  
18 And the coverage that -- the development  
19 coverage limit is that plus ten percent,  
20 is 35 percent. And that's how those  
21 numbers came out.  
22 MR. LEAF: Clearly it is an  
23 improvement that we are now looking at  
24 developing coverage and limiting it. My  
25 only question was, did we get engineering

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 2 or expert advice --  
 3 MS. STECICH: No.  
 4 MR. LEAF: -- regarding what  
 5 is the appropriate coverage? What you are  
 6 saying is kind of rule of thumb. If you  
 7 are assuming that buildings can go up to  
 8 25 percent, then if there is going to be  
 9 some kind of other things, like driveways,  
 10 that's giving them a little extra. The  
 11 ten percent is what you are allowed with  
 12 the building and a little extra.  
 13 MS. STECICH: The number  
 14 wasn't just pulled out of the sky. It was  
 15 not done scientifically. There were no  
 16 studies done, but except looking at other  
 17 codes. I know that is how a lot of other  
 18 codes do it, and the board did discuss it.  
 19 Deven had a different scheme. He had  
 20 instead of plus ten percent, he had plus a  
 21 certain percentage of. And the planning  
 22 board considered that and didn't like  
 23 that. They really liked the plus ten  
 24 percent. They thought about it in terms  
 25 of different properties, and it made sense

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 2 you require a building permit for paving  
 3 expressly now. But there is an exception  
 4 and the building permit shall not be  
 5 required to repair or repave a driveway so  
 6 long as the dimensions of the driveway are  
 7 not being altered. So repair, I get, or  
 8 repaved, suggesting it has been paved  
 9 before.  
 10 If you take a driveway which is not  
 11 paved, like a gravel driveway or a  
 12 driveway which is dirt or something, and  
 13 then you pave it, I assume what you mean  
 14 here, it is not paved before so it will  
 15 not have been -- that will not be repaved.  
 16 MS. STECICH: Exactly.  
 17 MR. LEAF: You take a gravel  
 18 driveway and I pave it, that is a paving,  
 19 even though the driveway exists and you  
 20 are not changing the dimensions.  
 21 MS. STECICH: Right.  
 22 MR. LEAF: It is a paving.  
 23 MS. STECICH: Right. It is  
 24 not repaving. It is not repair. It is  
 25 paving, so you have to come in.

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 2 to them.  
 3 MR. SHARMA: Let me explain  
 4 one other thing. One of the main issues I  
 5 had, in current codes there has been no  
 6 paving in any required yards. So that's  
 7 kind of very difficult. What do you mean?  
 8 No walkways, no pathways, no patio? So by  
 9 putting that number five, ten, whatever  
 10 percent it is, yes, you can have some  
 11 paving, but there is a limit to how much  
 12 you can pave.  
 13 MS. STECICH: You still  
 14 can't have paving in a required yard.  
 15 That wasn't changed.  
 16 MR. SHARMA: But the --  
 17 MS. STECICH: You still  
 18 cannot have paving in a required yard.  
 19 Right now the way the code is, you can't  
 20 have it in the required yard. You can  
 21 have everything else, right? You can have  
 22 the house and you can have all kinds of --  
 23 and, again, the concern, big concern, do I  
 24 mention obviously, you know, green.  
 25 MR. LEAF: Last question,

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 2 MR. LEAF: Thank you.  
 3 MR. DOVELL: It does seem we  
 4 will have a lot more variance cases  
 5 regarding this just given the small size  
 6 of the lots in Hastings and a lot -- the  
 7 fact that they are not complying  
 8 currently. Ten percent doesn't seem like  
 9 a lot even given the topography and given  
 10 where people have terraces because of the  
 11 change in grade. And those terraces  
 12 generally are made of impervious material.  
 13 It does seem that the percentage -- it  
 14 seems to me the percentage is low, is an  
 15 awful low percentage and that we are all  
 16 of a sudden going to see a lot more.  
 17 MS. STECICH: Well, you  
 18 know, and if and when that happens, you  
 19 can -- you know, you can make the  
 20 suggestion, say, "Listen, ten percent  
 21 doesn't seem to make sense. Maybe you  
 22 ought to revisit it." That could be done.  
 23 That happened many years -- it actually  
 24 happened when the code was first enacted,  
 25 and, whoe, almost everybody had to come in

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2 if they did anything on their property.  
3 So that was why then a section was  
4 added -- Well, if it does -- to get rid of  
5 what they call nuisance variances. If it  
6 doesn't increase the non-conformity, you  
7 can do it. And so you can tweak it. You  
8 can tweak it. Maybe, you say, maybe there  
9 are certain circumstances you think it  
10 shouldn't have to come before or maybe you  
11 think the number is too small. But -- and  
12 maybe you do -- if somebody has that much  
13 of their lot covered, you may want them to  
14 be more restrained about it.  
15 MR. DOVELL: It is going to  
16 rule out a lot of home improvement  
17 projects. Trips to Home Depot will be cut  
18 down.  
19 CHAIRMAN MURPHY: Well, I  
20 don't know, Ray. 35 percent, that is a  
21 pretty good size lot coverage. I'm not  
22 sure you would want to go much higher than  
23 that.  
24 MS. STECICH: It is amazing  
25 when you look at -- sometimes you look at

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2 MR. PYCIOR: Yes, but right  
3 at the property line. Yes.  
4 CHAIRMAN MURPHY: That's  
5 your point. Certainly if you are going to  
6 include air conditioning units and  
7 generators, a pool filtration system is  
8 exactly the same kind of thing in my  
9 judgment. I don't know that --  
10 MS. STECICH: Again, these  
11 are just -- I mean, including without  
12 limitation -- you know, there is the  
13 general structure. These are some  
14 examples. These are the things that come  
15 up more. And I would think if you came in  
16 with something -- the question came to the  
17 building department, I would say, "Yes, I  
18 think it is really like a generator. It  
19 is an assembled, constructed, permanently  
20 affixed location. It is a structure."  
21 MR. SHARMA: The way the  
22 interpretation of the code by the building  
23 department -- and they can always  
24 challenge it. They come to me. Here it  
25 is and it is now specifically managed. I

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1 Zoning Board of Appeals - 7/24/2008  
2 something and say this has to be 50  
3 percent, because there is stuff all over  
4 it. When you actually do the calculation,  
5 it is lower than it looks frequently.  
6 CHAIRMAN MURPHY: All right.  
7 Do we need to give advisory approval?  
8 MS. STECICH: Yes.  
9 CHAIRMAN MURPHY: All right.  
10 Do we do it by motion?  
11 MS. STECICH: Yes.  
12 MR. PYCIOR: I have one more  
13 question. I notice under the structure,  
14 generator or air conditioning equipment is  
15 listed. How about pool filtering  
16 equipment? I walk by a property on a  
17 regular basis that has their filtration  
18 system at the property line, and the pool  
19 is 30 feet away. Would filtration be at  
20 the same category as generator or air  
21 conditioning equipment?  
22 MR. SHARMA: I would tend to  
23 think that way.  
24 MR. FORBES-WATKINS: It is  
25 probably on a cement path.

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1 Zoning Board of Appeals - 7/24/2008  
2 can say it to be a certain way. If they  
3 don't agree, they can, of course, come  
4 here. I would treat it the same way as  
5 some kind of accessory device that used to  
6 be a certain distance away from certain  
7 property lines, and that's how we treat  
8 it.  
9 CHAIRMAN MURPHY: All right.  
10 I'll move to approve our advisory approval  
11 of local law No. 24 amending the zoning  
12 code to impose limits on development  
13 coverage and curb cuts to clarify  
14 provisions relating to driveways and  
15 paving, to prohibit carports and clarify  
16 definitions of "structure" and "half  
17 story."  
18 MR. PYCIOR: I'll second.  
19 CHAIRMAN MURPHY: All in  
20 favor?  
21 MR. DOVELL: Aye.  
22 MR. LEAF: Aye.  
23 CHAIRMAN MURPHY: Aye.  
24 MR. PYCIOR: Aye.  
25 MR. FORBES-WATKINS: Aye.

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1 Zoning Board of Appeals - 7/24/2008  
 2 CHAIRMAN MURPHY: Vote is  
 3 unanimous. Counselor, thank you very  
 4 much. Approval of last month's minutes,  
 5 the meeting of June 26, 2008, fairly short  
 6 meeting. Do I have a motion to approve  
 7 the minutes?  
 8 MR. FORBES-WATKINS: I have  
 9 one. Page 26, line 22, I moved only 565  
 10 Broadway, not 555-565 Broadway. I made  
 11 that motion that way because I wanted to  
 12 exclude the southern half of that  
 13 property, which did not -- was not subject  
 14 to consideration.  
 15 CHAIRMAN MURPHY: Yes, I  
 16 think that's right. So we will have our  
 17 court reporter note that correction.  
 18 Thank you.  
 19 MR. LEAF: Appropriate to  
 20 that, there is a change on page 24, in  
 21 line 2. I was speaking. I said, I  
 22 recognize -- that it is not "the" but  
 23 "that." I recognize that no variance has  
 24 been requested. In line 2 of page 24,  
 25 please.

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1 Zoning Board of Appeals - 7/24/2008  
 2 CHAIRMAN MURPHY: All right.  
 3 MR. LEAF: And then on page  
 4 13, line 19, if you would indulge me and  
 5 put a colon between variances, after the  
 6 word "variances" in line 19, page 13.  
 7 Thank you.  
 8 CHAIRMAN MURPHY: So noted  
 9 and corrected. Anything else from the  
 10 board? Do I have a motion to approve the  
 11 minutes from our meeting of June 26, 2008?  
 12 MR. LEAF: So move.  
 13 CHAIRMAN MURPHY: Second?  
 14 MR. PYCIOR: Second.  
 15 CHAIRMAN MURPHY: All in  
 16 favor?  
 17 MR. DOVELL: Aye.  
 18 MR. LEAF: Aye.  
 19 CHAIRMAN MURPHY: Aye.  
 20 MR. PYCIOR: Aye.  
 21 MR. FORBES-WATKINS: Aye.  
 22 CHAIRMAN MURPHY: Our  
 23 meeting is concluded until our meeting in  
 24 September.  
 25 (Hearing concluded at 9:30 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 31st day of July, 2008.  
 22  
 23 NINA PURCELL,  
 24 NOTARY PUBLIC  
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