

VILLAGE OF HASTINGS-ON-HUDSON
ZONING BOARD OF APPEALS MEETING
SEVEN MAPLE AVENUE
HASTINGS-ON-HUDSON, NEW YORK 10706-1497

Held August 6, 2009 at 8:00 P.M.

BOARD MEMBERS PRESENT:

Stanley Pycior, Deputy Chairman
Marc Leaf, Member
David Forbes-Watkins, Member
Ray H. Dovell, Jr., Member
Matthew Collins, Alternate

Marianne Stecich, Board Counsel
Deven Sharma, Building Inspector

ALSO PRESENT:

2 Members of the Public (approximately)

TRACI L. COLLINS, R.P.R.
REPORTER

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2 MR. PYCIOR: Good evening. This
3 is the Thursday August 6, 2009 meeting of
4 the Zoning Board of Appeals.

5 The Chairman of the Zoning Board,
6 Brian Murphy, could not be here this
7 evening. So I, Stan Pycior, the Deputy
8 Chair, will be chairing this meeting.

9 Before us, we have one case
10 tonight.

11 Before I explain it, Mr. Sharma,
12 are the mailings in order?

13 MR. SHARMA: Yes, all the
14 mailings for this case are in order.

15 MR. PYCIOR: The case before us
16 is Case No. --

17 MR. SHARMA: Case No. 6-09.

18 MR. PYCIOR: Case No. 6-09. It's
19 an application for a variance for repair
20 and extension of existing deck. Proposed
21 setback for the uncovered deck would be
22 18 feet 6-3/4 inches.

23 The permitted minimum for the
24 uncovered porch or terrace at levels no
25 higher than the main entrance floor of the

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2 house is 24 feet.

3 The currently existing deck is
4 23.7 feet.

5 So, the variance is for the
6 proposed setback of the deck.

7 The applicant is Kenneth Aigen.
8 Is someone here to present the case and
9 represent the applicant?

10 MS. AIGEN: Yes.

11 MR. PYCIOR: Please identify
12 yourself for the court reporter.

13 MS. AIGEN: Yes. My name is
14 Benedikte Scheiby Aigen, and I live at 15
15 Hudson Street in Hastings, and I'm his
16 wife.

17 MR. CAIN: And I'm the architect,
18 Niall Cain.

19 MR. PYCIOR: Can you please tell
20 us what you'd like to do? I mean, we have
21 all the paperwork.

22 MR. CAIN: Would you like to see
23 the context photographs just to see the --
24 I assume that's generally important.

25 So, those are the photographs; so

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2 you can see currently it's a covered deck
3 in a very bad state of repair. I think Ken
4 said he was the only one allowed out on it
5 to barbecue.

6 MS. AIGEN: Yes, it's sinking
7 down and falling apart.

8 MR. CAIN: So, the idea is to put
9 a new deck on without a roof, taking that
10 roof covering off completely. So it would
11 be an open deck. And extending it to a
12 size that the owners feel is sufficient for
13 a table and a barbecue and so forth.

14 MS. AIGEN: Just a flat, plain
15 one, no top and no sides.

16 MR. PYCIOR: Yes, we have the
17 photographs.

18 MS. AIGEN: Yes.

19 MR. PYCIOR: I must note that
20 when I did visit the site, I did notice it
21 is sagging, and it's only supported by some
22 four by four posts.

23 (MULTIPLE SPEAKERS)

24 MR. CAIN: Yes. There's no
25 proper footings to do it correctly.

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2 But they would like to sort of
3 make it a size that is much more functional
4 to be actually able to sit out on it with a
5 table. It's really not that way currently.

6 And actually, as you can see,
7 there's a side yard variance as well, given
8 the existing conditions of the house, which
9 is currently not -- it doesn't --

10 MR. PYCIOR: Right, it's
11 nonconforming.

12 MR. CAIN: I don't -- I think the
13 photographs were the only thing --

14 MR. PYCIOR: I understand you're
15 stating that you want the deck bigger in
16 order to have circulation around the table
17 and the barbecue area.

18 MR. CAIN: Yes.

19 MR. PYCIOR: Other questions from
20 members of the Board?

21 MR. FORBES-WATKINS: Yes, if I
22 could.

23 First off, I'm just confirming
24 there's wood lattice on the bottom of the
25 front of the current deck, but the drawings

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2 show wood lattice on the side also. Is
3 that plan correct?

4 MR. CAIN: The side, you mean --
5 I'm getting confused what's side and what's
6 front.

7 Yes, I show it at the front,
8 but --

9 MR. FORBES-WATKINS: The drawing
10 suggests -- the side view suggests a
11 lattice work on --

12 MR. CAIN: I think what you're
13 calling the side, I'm calling the front.

14 MR. FORBES-WATKINS: Do you plan
15 to have lattice work on the side?

16 MR. CAIN: Yes, I believe so, but
17 I think on the other side there's actually
18 a window under there, so they want to keep
19 it open. So not have it on the side that
20 doesn't show it, on the -- on the rear.

21 MR. FORBES-WATKINS: Well, I
22 wouldn't expect it on the rear. I'm
23 thinking of what the neighbors -- for
24 instance, at the present time in your
25 underdeck area is a toy storage area.

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2 MS. AIGEN: That's right.

3 MR. FORBES-WATKINS: I would
4 describe it as that, anyhow. And those
5 underdeck storage areas can get to be
6 rather unpleasant at times. And I would
7 think that a wooden lattice covering might
8 be a good idea. You might consider it.

9 The other question I have has to
10 do with the stone work underneath the deck.

11 At the current time that stone
12 deck extends a couple of feet beyond the
13 current deck. Are you planning to extend
14 the stone patio beyond the proposed new
15 porch area?

16 MR. CAIN: I don't believe so,
17 no.

18 MS. AIGEN: No.

19 MR. FORBES-WATKINS: So, the
20 stone work would go out as far as the
21 porch, but no further?

22 MR. CAIN: Right. That's the
23 intent.

24 MR. FORBES-WATKINS: Okay. Those
25 were my questions.

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2 MR. PYCIOR: Questions from other
3 members of the Board?

4 (NO RESPONSE.)

5 MR. DOVELL, JR.: I think that
6 with the removal of the covered portion of
7 it, the effect is actually diminished. The
8 solid roofing, its removal does improve the
9 overall appearance of the house.

10 MS. AIGEN: And we'll clean up
11 underneath the porch and not use it as a
12 toy storage place because our children are
13 not at home anymore.

14 MR. PYCIOR: So they're toys that
15 are no longer used?

16 MS. AIGEN: Right, right.

17 MR. PYCIOR: Any other questions
18 or observations by Board members?

19 (NO RESPONSE.)

20 MR. PYCIOR: I'll ask this
21 anyway.

22 Is there anyone else in the
23 audience that wishes to be heard with
24 regard to this application?

25 (NO RESPONSE.)

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2 MR. FORBES-WATKINS: Hold just a
3 second. We're checking the setback issue.

4 MR. SHARMA: You said the steps
5 that you show on the side of the deck, it
6 says new masonry stairs; it leads from some
7 lower level to an upper patio or something?

8 MS. AIGEN: Yes.

9 MR. CAIN: There's currently
10 stairs there now. It says remove existing
11 stairs and push them forward so that --
12 because the grade drops somewhat
13 dramatically from the front yard to that --

14 MR. SHARMA: So, as you make the
15 deck larger, the stairs move just further
16 up.

17 And what's the distance of the
18 stairs from the edge of the property line?

19 MR. CAIN: They're right at the
20 grade. Is there a -- something we should
21 know about regarding a setback to stairs?
22 I mean, if that's an issue, we can --

23 (MULTIPLE SPEAKERS)

24 MS. STECICH: It's more than 30
25 feet.

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2 MR. CAIN: The plans don't show
3 the dimension because I didn't think it was
4 an issue in terms of that setback.

5 (MULTIPLE SPEAKERS)

6 MR. SHARMA: No. You see the
7 deck itself is 18 feet 6-3/4 inches.

8 The stairs -- and the width of it
9 would be within 12 or 13 feet of the
10 property line. It's more like a sidewalk
11 and patio kind of thing, and we haven't
12 really seen those things in terms of the
13 setbacks.

14 MR. CAIN: I believe the owners
15 are actually debating whether or not they
16 wanted to do these little stairs.

17 MS. STECICH: It looks to me like
18 the stairs are going further out of the
19 yard.

20 MR. SHARMA: They're concrete
21 stairs, Marianne. Look at --

22 MS. STECICH: Oh, these are the
23 new ones.

24 MR. CAIN: I'm sorry; there are
25 stairs from the deck going down to the

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2 yard, but they're talking about the masonry
3 stairs.

4 MS. STECICH: Oh, I see.

5 MR. CAIN: I don't know if it's
6 apparent in the photographs, but there's
7 currently masonry -- sort of concrete
8 stairs there now in somewhat of a state of
9 disrepair, which will be removed.

10 MR. PYCIOR: And the stairs are
11 not part of the deck --

12 MR. CAIN: No.

13 MR. PYCIOR: So, the stairs will
14 be removed.

15 MS. STECICH: Let me doublecheck.
16 There is a thing for stairs, but I don't
17 know if there's stairs and deck, if you
18 count them both. Let me look at this.

19 MR. CAIN: You have stairs that
20 go right to the sidewalk like that. So,
21 right up against the property line,
22 typically; it's not unusual. I don't think
23 it's a setback concern.

24 MR. SHARMA: If they're not used
25 as stairs, it would be a retaining wall

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2 instead. So the stairs kind of negotiate
3 the two elevations between the upper and
4 lower level; so it's a retaining wall. So
5 I don't think that should be a building
6 setback issue.

7 MS. STECICH: Why don't you think
8 it's a building setback issue?

9 MR. CAIN: If you look at A1 --
10 A1 shows it in larger detail. It makes it
11 a little easier to see and you can see that
12 it's about a three-foot drop.

13 Would it help if I pointed -- I
14 mean, described --

15 MR. PYCIOR: Please take the
16 cordless mike.

17 MR. CAIN: Do I have to switch it
18 on maybe?

19 It's these -- they're existing
20 masonry stairs. We'll move it out because
21 here I have it noted as 08. So, we're just
22 taking that --

23 MS. STECICH: I see what you're
24 saying is they're below -- they're below
25 the grade.

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2 MR. CAIN: Yes, and, in fact, due
3 to budgetary reasons, they may not do that;
4 they may just keep it a gentle slope.

5 MR. SHARMA: So these stairs only
6 connect the two different levels.

7 MS. STECICH: If the Board is
8 comfortable -- I'm comfortable that the
9 notice was adequate because everybody knows
10 exactly what's going in there.

11 So what I would -- if the Board
12 is comfortable with it -- it could be that
13 the setback is additional there; I don't
14 know; we haven't looked at this issue.

15 So, what I would do, if you're
16 disposed to grant this, is grant the
17 variance as shown on this application. Do
18 you know what I mean? And then it will
19 cover everything, including these stairs,
20 without using a number.

21 MR. FORBES-WATKINS: Right.

22 MS. STECICH: Without using a
23 number. Just as shown on the application.
24 If that's the direction you're going in.

25 And that way we can just allow

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2 this grade thing and we don't have to deal
3 with it.

4 MR. CAIN: Based on my
5 experience, I don't think this is a setback
6 issue.

7 MS. STECICH: The Board has to
8 look at the issue, and I don't understand
9 why you would dispute it if the Board --

10 MR. CAIN: I'm just saying.

11 MS. STECICH: I know what you're
12 saying, but this is also my business too.

13 MR. DOVELL, JR.: I would just
14 say we should put some dimensions on them.
15 There's no dimensions on the masonry stair;
16 would you add some dimensions for that?
17 There's no width dimensions on them.

18 MR. CAIN: Right. No, I
19 understand.

20 Well--

21 MR. FORBES-WATKINS: There is a
22 dimension on drawing A1, three feet, I
23 think. It looks like it's intended --

24 MR. CAIN: That's the elevation.
25 They're about five-feet wide, just based on

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2 the scale of the drawing. It's a five-foot
3 dimension.

4 For example, you can see the
5 length of the new stairs coming down from
6 the deck is five feet; so that leaves
7 five feet.

8 MS. STECICH: You know what the
9 problem is? The way the code -- what you
10 have to look at is the definition of a
11 yard. And the yard is an open space,
12 unoccupied except as permitted.

13 It's not unoccupied. It's
14 occupied by this staircase. So, I mean --
15 I think the easiest way to deal with it --
16 you know, the only conceivable discrepancy
17 would be whether the notice was right when
18 it said 18 feet instead of 15 feet.

19 Again, I believe the notice is
20 perfectly clear what they were doing.
21 Anybody who would have objected would have
22 objected.

23 And this is a substantial notice.

24 And if the Board granted a
25 variance to permit the deck and, you know,

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2 the stairs as shown on this drawing -- on
3 this application, it would be fine.

4 MR. SHARMA: Or you could leave
5 the stairs where they are.

6 MS. STECICH: There's no point.

7 MS. AIGEN: We're not going to
8 need the stairs, right? Why would you
9 leave them if you don't need them?

10 MR. CAIN: Yes, because you'd
11 walk down and hit your head on the deck.

12 MS. STECICH: Am I clear?

13 MR. PYCIOR: Yes, because the
14 stairs would be built into the grade. It's
15 not like it's a stairway, free-standing.
16 But it is in the required yard.

17 MS. STECICH: And it's not
18 unoccupied. It's occupied by something.

19 I know what you're saying. But
20 you have to look at each code and the way
21 each code defines the term.

22 (MULTIPLE SPEAKERS)

23 MS. STECICH: It just seems to me
24 sort a sophistic argument.

25 MR. PYCIOR: I like Ray's idea

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2 that some dimensions have to be attached.

3 MR. FORBES-WATKINS: Can I
4 propose a motion to try and deal with it?

5 MR. PYCIOR: Yes.

6 MR. FORBES-WATKINS: I move that
7 the Board approve the proposed replacement
8 of the deck and enlargement to a proposed
9 setback of 18 feet 6 inches from the
10 current 23 feet 7 inches with a 24-foot
11 permitted zone -- depth.

12 I also move that the concrete
13 steps that are proposed, adjacent to the
14 lower portion of this deck, be approved.

15 That way you don't have to do
16 footing, square footing, distance exactly.

17 MR. CAIN: I'd be happy to
18 resubmit the drawings with the dimensions
19 on the stairs.

20 And it is five feet.

21 MR. PYCIOR: It is my
22 responsibility to ask for a second or if
23 someone would like to amend David's motion
24 to specify either the submission of
25 drawings to state the width of the stairs

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2 or that right now it be stated and added to
3 these drawings, if it can be.

4 MR. CAIN: It would be no more
5 than five feet.

6 MR. PYCIOR: Would someone like
7 to make that motion or amend David's
8 motion?

9 MR. LEAF: Marianne, is it in
10 order for me to ask a question in the
11 middle of a motion? Can I do that?

12 MS. STECICH: If the chairman
13 wants to allow it.

14 MR. PYCIOR: Yes, please.

15 MR. FORBES-WATKINS: If the rules
16 allow it, you should really have a motion
17 before you can do anything.

18 MR. LEAF: I don't think we could
19 adopt Robert's rule, but do we need to say
20 anything about the porch remaining
21 uncovered?

22 Ordinarily, would covering an
23 uncovered porch require a building permit
24 and, therefore, raise this issue?

25 MS. STECICH: That's why my

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2 suggestion is that you approve the variance
3 shown in these plans. The variance shown
4 in these plans is an uncovered deck.

5 But what you could say is a
6 variance for an uncovered deck. Just add
7 the word "uncovered" to David's
8 description.

9 MR. LEAF: I would like to amend
10 the motion for the Board to approve a
11 variance to permit an uncovered deck in
12 accordance with the drawings that were part
13 of the submission, provided that the
14 masonry stairs to the lower level shall not
15 exceed five-foot in width.

16 MR. FORBES-WATKINS: I'll accept
17 that amendment.

18 MR. PYCIOR: Do I have a second
19 to the motion as amended? Do I have a
20 second?

21 MR. DOVELL, JR.: I second it.

22 MR. PYCIOR: All in favor?

23 (ALL IN FAVOR)

24 MR. PYCIOR: Please note
25 five/zero in favor.

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2 Concerning the minutes of our
3 last meeting, June 25th, I ask if anyone
4 has any corrections or changes.

5 MR. FORBES-WATKINS: On Page 13,
6 Line 4, it notes Mr. Sharma. I believe it
7 was the chairman.

8 MR. PYCIOR: Okay. Thank you for
9 restoring my role.

10 Any other corrections?

11 (NO RESPONSE)

12 MR. PYCIOR: Do I have a motion
13 concerning the minutes?

14 MR. FORBES-WATKINS: I move to
15 accept them.

16 MR. PYCIOR: And a second?

17 MR. LEAF: Second.

18 MR. PYCIOR: All in favor?

19 (ALL IN FAVOR)

20 MR. PYCIOR: As to our next
21 meeting, do we have a date?

22 MS. STECICH: Previously, we did
23 it earlier in September, but that's because
24 you didn't have an August meeting.

25 (MULTIPLE SPEAKERS)

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2

3 MS. STECICH: So what is it,
4 September 24th? Planning Board is the
5 third Thursday. This is the
6 fourth Thursday.

7 MR. SHARMA: The fourth Thursday.

8 MR. PYCIOR: Okay. So our next
9 meeting then will be Thursday,
10 September 24. Okay.

11 Thank you all. Do I have a
12 motion to adjourn?

13 MR. FORBES-WATKINS: So moved.

14 MR. PYCIOR: Do I have a second?

15 MR. DOVELL, JR.: Aye.

16 MR. PYCIOR: All in favor?

17 (ALL IN FAVOR)

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19

20 (Whereupon, at 8:27 P.M. this
21 meeting was adjourned.)

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23

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