

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**ZONING BOARD OF APPEALS**  
**REGULAR MEETING**  
**DECEMBER 8, 2011**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, December 8, 2011 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Acting Chairman David Forbes-Watkins, Boardmember Ray Dovell, Boardmember Mark Pennington,, Boardmember Matthew Collins, Village Attorney Marianne Stecich, and Building Inspector Deven Sharma

**CITIZENS:** Unknown

**Acting Chairman Forbes-Watkins:** Good evening. This is the Zoning Board of Appeals meeting for December 8, 2011. We have before us tonight on the agenda four items: Case No. 23-11, returning for discussion, AT&T; Case No. 25-11, Arthur Riolo for view preservation approval and for additions and alterations; Case 26-11, Louis Zazzarino, for view preservation and a special use permit for addition of two stories to a current building; and Case No. 27-11, Luca and Costanza Zordan, 1 Zinsser Way, for construction of a canopy porch.

Chairman Murphy is unable to preside today because he's out of town. I am, both in terms of hair color and also lack thereof, the senior member of the Board and get the pleasure of chairing this meeting. The first thing we should advise all of our applicants, there are only a total of four Zoning Board members here tonight, and it is an applicant's right to have a full board. Therefore, anyone who so desires can request that we delay and defer their application to the next meeting. They can do that at the beginning of the session or during the course of the hearing.

On top of which, for the first agenda item regarding AT&T, one of the Boardmembers must recuse himself. And therefore, we will only have three Boardmembers voting at this time if we come to a vote. I should point out that the rules concerning Zoning Board approvals require a minimum of the total number of members; that is, any vote would have to be unanimous of the three of us in the case of the three-person Zoning Board, and only one person could be a negative in the case of a four-person.

That being wandered through, let me ask have the mailings all been checked and in order?

**Building Inspector Sharma:** Yes. I've been informed by my office all the mailings are, indeed, in order in all the cases.

**Acting Chairman Forbes-Watkins:** All right, thank you very much.

We'll then proceed to the agenda and the AT&T presentation.

[Boardmember Collins recuses]

**I. OLD BUSINESS**

**Case No. 23-11**  
**Cuddy & Feder LLP (AT&T)**  
**7 Maple Avenue**  
**(Continued from 10/27/11)**

**For the construction/addition of, or modifications to, existing antennas and associated equipment on the roof of the Municipal Building at 7 Maple Avenue in the designated View Preservation District.**

**Village Attorney Stecich:** Mr. Chairman, by way of background, this was before the Planning Board, which gave them other approvals except for view preservation approval, which is up to this board. Remember, this is already in the overlay district so it's not like some of the other applications you have. They don't need any permission from you, other than the view preservation approval.

And the other thing you have to do – this is not, I know, on most of the applications we have – we haven't had to do State Environmental Quality Review Act determination, but you will on this. The Environmental Assessment Form was submitted. The Planning Board did it, and determined that there wouldn't be any significant environmental effects from adding these panels.

**Acting Chairman Forbes-Watkins:** So we need to vote to turn over to the Planning Board the ...

**Village Attorney Stecich:** No, you don't have to vote. When you get to the vote, if you want, I'll make the motion for you on the SEQRA negative declaration. It's just you have to do that before you make any decision.

**Acting Chairman Forbes-Watkins:** Fine. Thank you.

Please?

**Daniel Leary, attorney – Cuddy Feder & Worby, LLP:** We represent the applicant. When we last appeared before the ZBA on October 27, at that time the Village was in the process of hiring an RF consultant. And at that time, as Marianne had just mentioned, the Planning Board had continued its hearing until the 17th in order to get that information to make the recommendation to you on the view preservation approval and to give us our special permit and site plan approvals. That did all take place on the 17th.

The hired consultant, Mr. Fishman of RCC Consultants, sent a report out and made a number of inquiries to the applicant, including the issue that had been raised here at the prior ZBA hearing on the size and the number of antennae that were being proposed. He did confirm before the Planning Board, and I believe as well in writing an electronic communication, that he agreed that what we were proposing was the minimum amount of antennae necessary and the minimum size necessary, and the cabinetry as well.

**Acting Chairman Forbes-Watkins:** We have a copy of that letter here on file.

**Mr. Leary:** Right. So that was, I believe, the primary issue with the ZBA.

The other issue I think that you had raised was that the width of the antenna – which we confirmed and, I believe, Mr. Sharma independently confirmed – was less than the amount, or within the parameters of the amount, that you had approved in 2009.

**Acting Chairman Forbes-Watkins:** OK.

**Mr. Leary:** My recollection is, those were the two outstanding issues.

**Acting Chairman Forbes-Watkins:** OK. Did I recall some questions from Chairman Murphy asking you to provide some more possible photographic review to look at different angles?

**Mr. Leary:** No, I don't remember that.

**Acting Chairman Forbes-Watkins:** No? OK.

**Mr. Leary:** No, I didn't. That wasn't asked for.

**Acting Chairman Forbes-Watkins:** Are there any questions from any members of the Board?

**Boardmember Pennington:** The renderings that we've seen show the location of the antennas on the top of the building, but they are essentially views from the street or from the pedestrian level. I don't believe there's any kind of rendering that demonstrates the view impact. I think that's the issue you were addressing.

**Acting Chairman Forbes-Watkins:** Right.

**Mr. Leary:** The view impact?

**Boardmember Pennington:** Of the additional antenna, correct.

**Mr. Leary:** Well, we show the antenna without the proposal – before and after with the proposed antenna – and the existing conditions. So that shows what the impact would be.

**Boardmember Pennington:** Do you have those drawings, renderings?

**Mr. Leary:** Yeah, they're in your materials there.

**Acting Chairman Forbes-Watkins:** The one point, though, in the packets – and the point just made – is, they tend to be ground level. Whereas if I look at this building from up the hill, the building is there and so are the various antennae, et cetera. And that was why I thought we had asked for additional renderings or pictures that might depict what a person might see, say, from up at the top of the hill by Warburton looking down as they came down the hill, or up on William Street.

**Mr. Leary:** No, no one asked for that. No one asked for that.

**Acting Chairman Forbes-Watkins:** I think we should have, but that's another ...

**Village Attorney Stecich:** Mr. Chairman, there's one other thing. I'm just looking in my notes. This thing has been back and forth between the two boards. I spoke with Mr. Fishman, our consultant, on this about a question like would smaller antennas do it, or could there be lighter antennas. I asked him that question directly, and he said no.

**Acting Chairman Forbes-Watkins:** No, that's clear in his letter.

**Village Attorney Stecich:** Right. And he said at first he thought there could be, but then when he looked at it, in order to accomplish what they were doing with three – I think it's three different kinds of services – it couldn't be done. So he was pressed on that issue.

**Acting Chairman Forbes-Watkins:** OK. Are there any comments from the audience?

There being none, I think we are ready to proceed to a vote. I want to make one brief comment. It seems to me that we've gone so far down this road of putting antennae on the top of this building that putting another couple on is just something that's inevitable at this point. And therefore, from my perspective personally, we should go ahead. Can I have a motion to deal with this?

**Village Attorney Stecich:** Well, the first thing you need to do is have a SEQRA motion before you could do anything new. Somebody would have to move that they don't believe that this application will have any significant negative environmental effect.

**Acting Chairman Forbes-Watkins:** Can I have a motion to that effect?

On MOTION of Boardmember Pennington, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved [the proposal will not have a detrimental environmental impact - (Boardmember Collins recuses)].

**Acting Chairman Forbes-Watkins:** It passes. All right, second motion.

**Village Attorney Stecich:** Now you get to vote on the deal.

**Boardmember Pennington:** I would just first state I don't know that it is entirely inevitable that we continue to add antennas to the roof. I think there has to be some kind of limit. But based on the proposal in front of us, the impact, the small increment, is such that I don't think we have the legal authority to reject it.

**Boardmember Dovell:** Well, we've discussed this at length before. I think the damage has really been done. The building is littered with antennas now. It really compromises the quality of the architecture. But simply said, another three antennas on top of this adds another little piece to the wiring at the top. It's unfortunate, but I think in this case that the damage is done and we're not significantly increasing a view preservation issue.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Pennington with a voice vote of all in favor, the Board resolved [approve view preservation for three additional antennas on the top of the Municipal Building - (Boardmember Collins recuses)].

**Mr. Leary:** Thank you very much. Have a good evening.

**Village Attorney Stecich:** You've got to get me the information for the lease of the square footage that's occupied.

**Mr. Leary:** I will. Yes, I will.

**Village Attorney Stecich:** I'm going to say the Building Department ... until I have that information about the lease and the lease is proper they can't get a building permit.

**Building Inspector Sharma:** And you have to file the papers for the building permit.

**Mr. Leary:** Yes, I understand that, Marianne. I'll be in touch tomorrow. OK, thank you. Bye-bye.

**Case No. 25-11**  
**Arthur G. Riolo**  
**32 Main Street**

**For View Preservation approval for the addition and alterations for conversion of an existing 2-1/2 story office/commercial building at 32 Main Street into a single-family residence and office space on part of the first floor.**

**Acting Chairman Forbes-Watkins:** The second case before us this evening, Arthur G. Riolo, 32 Main Street. And Matt will come back to the Board.

**Village Attorney Stecich:** Mr. Chairman, on this as well you also do have to make a SEQRA determination because this isn't a single-family house. So essentially the same thing. The reason that it hasn't come up before, virtually any action you take requires a determination under SEQRA. Single-family houses are exempt, which is 98 percent of what you get before you – 99 percent. It's just that tonight there's a cluster of non single-family houses so you have to make that determination.

And then the second thing is, you needed a number of approvals besides the view preservation recommendation for the Planning Board, which he did get and the Planning Board did recommend.

**Acting Chairman Forbes-Watkins:** Yes, that is the first thing I'd like to have clarified, please. This is clearly not just a view preservation issue. There is building that is going within, or extending beyond, the boundaries of property lines, I believe. Not beyond the boundaries of property lines – excuse me – we are entering into areas that need approval for building, do we not?

**Village Attorney Stecich:** There was a waiver that the Planning Board had to give because there was residential use on the ground floor. Because ordinarily there's not supposed to be residential use on the ground floor. But the Planning Board, not the Zoning Board, can permit it if certain conditions are met, which they found were met. He needed site plan approval, which he got. They're not requesting any variances from you. They're not before this board for any variances.

**Acting Chairman Forbes-Watkins:** Well, let's pursue this.

**Arthur Riolo, applicant – 32 Main Street:** I live at 2 Fairmont Avenue. What we're planning on doing is selling our home and moving to 32 Main Street. We're going to be using the front room as an office and the remaining portion of the structure for residential use.

I believe I'm in front of you today for two reasons. We're squaring off the back of the building. So we're adding 13 square feet of footprint, but we are not encroaching in any way as far as zoning goes. And we want to raise the center portion of the roof from 31-1/2 feet to 35 feet. Within the zoning code, 40 feet is permitted.

**Village Attorney Stecich:** You are not before the Board for that because you don't need any variances. That's the client's. If you were before this board it would have meant that you needed a variance. We went through this. At the Planning Board meeting I had a long list of items that I wasn't sure were met, and we went through with the Planning Board and everything to satisfy it. So we didn't need any variances.

**Mr. Riolo:** So I'm before you tonight for view preservation. What I have done is, I have taken pictures. Can you see this? What you have here is 30 Main Street's office, 32 Main Street, 36 Main Street, and 40 Main Street. This building ... this is the river side, to the west of 30. My brother owns 30 Main Street, I own both 32 and 36.

So what I did was go to the rooftop back fire escape of 40 Main Street. I took pictures from where there are windows on this side of the building – this is 40 here – and this is what you see. You actually see the roof of 36 Main Street. So I'm not really blocking any views because they're already looking at the next door neighbor's roof. The actual structure of 32 is

here. So that's this picture and this picture. This is a picture just of the chimney of 32 Main Street.

Then I went to the roof of 45 Main Street, the new building across the street, and I took pictures looking down. By the way, these are four 1886 Queen Anne Victorian houses. So you're looking down upon – and I guess you can kind of see Dorian Tergis' building – 30 Main Street, which is our office, 32 and 36. So I don't believe I'm obstructing anyone's views by doing what we're proposing. I

If you have any questions I'd be happy to answer them.

**Acting Chairman Forbes-Watkins:** OK, I'm still puzzled by the addition on the roof, and why we don't have ... it appears in the drawings that the addition will broaden the current attic floor, third floor, so that it is full with the building. Is that correct?

**Mr. Riolo:** In the middle of the building, yes. In the front of the building we are keeping the original façade, front façade, and front half. So this half is staying. In the middle of the building it will widen and pop up. And then it will return back in the back of the building. So there will be a hip in the front and a hip in the back, and a ridge in the middle.

**Village Attorney Stecich:** David, maybe what's confusing you, there's no side yard setbacks in this district.

**Acting Chairman Forbes-Watkins:** Oh, OK.

**Village Attorney Stecich:** There's no side yard setbacks unless you abut a residence. And that was my concern because I thought the property to the east was a residence. And it was determined at that meeting that it's not. It's an art gallery, I guess.

**Mr. Riolo:** This would be an office on the first floor.

**Village Attorney Stecich:** So yeah, that's why. No side yard setback.

**Acting Chairman Forbes-Watkins:** No side yard setbacks, fine.

**Boardmember Dovell:** Just to continue in the vein of trying to figure out what you're doing here, you said you were filling in a little niche in the back that's about 13 square feet, which is your note number two on the drawings?

**Mr. Riolo:** That's correct.



**Boardmember Dovell:** And then there's a larger rectangle that's 6.5 feet by 12 feet, which is covered by note three, and that's extending a one-story covered area to three stories. So you're building up a block of new floor area in that zone.

**Mr. Riolo:** If I may, I have a photograph of what you're referring to. This is an existing porch that is being taken down, and we're basically squaring off the building. So instead of this being one story, it will come straight up the side. And although we don't have a picture of it, across the back of the building – this is coming out 15 inches – it's squaring off in different directions.

**Boardmember Dovell:** I think the only observation I have beyond that is that it's impossible to tell from these floor plans what's existing and what's proposed, other than that little ... you know, the floor plans don't show it. It's very hard. If the plans for the record could somehow be ... if it could be shown with dotted lines or another set of floor plans what's existing and then what's proposed. Because we're just looking at the finished product here.

**Mr. Riolo:** OK, we can do that.

**Boardmember Dovell:** Otherwise, we don't know what it is we're approving.

**Mr. Riolo:** I can say to you ... you can't see it there, but I can say to you what is being added is the 13 square feet across here and squaring off of this space. The center portion of the third floor, that's what's being added.

**Boardmember Dovell:** I got it. You can see that your drawings represent the finished composition, and you've demonstrated that you can't see anything that does not affect the view corridor. It's simply a matter of a drawing showing what the extent of it is.

**Acting Chairman Forbes-Watkins:** I think that would be helpful in understanding the work, but I'm not sure that it really speaks to view preservation. And so a question of whether we would need that to authorize the view preservation is the question.

**Village Attorney Stecich:** You could just require that it be done before it gets the building permit. So if the Building Department has those drawings in the file.

**Acting Chairman Forbes-Watkins:** That would seem, in this particular case possibly, to be able to satisfy.

**Boardmember Collins:** Visiting this site, I think it looks like a great addition. And I struggle to see any negative impact on view.

**Boardmember Dovell:** Likewise.

**Acting Chairman Forbes-Watkins:** Are there comments from the audience?

**Boardmember Collins:** So, Marianne, should we move with the condition that the submission be amended to include a drawing that captures the current condition? Is that, Ray, what you're looking for?

**Boardmember Dovell:** Well, I'm just looking for *a* drawing to show what was there.

**Boardmember Collins:** What is there now.

**Boardmember Dovell:** And what the extent of the infill is.

**Village Attorney Stecich:** That's fine. It's fine with the applicant.

**Mr. Riolo:** Can my engineer maybe speak?

**Len Guglielmo, engineer – 32 Main Street:** I guess, from a zoning perspective, we can provide a drawing which shows exactly what's new and what's ... what's existing and what's proposed. I think from a zoning perspective, though, the side yards, the setbacks, et cetera – like the envelope, I guess, is what I'm saying – seems to, one would think would, satisfy the requirements. But we could provide ... there's no problem at all providing the details.

**Acting Chairman Forbes-Watkins:** It would be, probably, helpful for the Building Department anyway.

We first need a motion on SEQRA.

**Village Attorney Stecich:** Mark's a pro on this one.

On MOTION of Boardmember Dovell, SECONDED by Boardmember Collins with a voice vote of all in favor, the Board resolved proposed changes do not have a significant environmental impact.

**Acting Chairman Forbes-Watkins:** OK, now the question of view preservation. Do we have a motion?

**Building Inspector Sharma:** Would this board want to see those plans, or is it just for me to look at?

**Boardmember Dovell:** For the record.

**Village Attorney Stecich:** Just that they'd be in the file.

**Boardmember Dovell:** For the record.

On MOTION of Boardmember Collins, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved approve Case 25-11 for view preservation approval of the addition and alterations, as indicated in the agenda, with a request that we receive the plans that we asked for that show both proposed and current condition.

## II. NEW BUSINESS

Case No. 26-11  
Louis Zazzarino  
400 Warburton Avenue

**View Preservation approval and Special Use Permit, per code, for the addition of two stories and other needed alterations to convert an existing single-story building at 400 Warburton Avenue into four (4) townhouses.**

1. **Lot Area for four dwelling units: Proposed - 5,619.00 square feet; Minimum Required - 6,000.00 square feet {295-72.1.D.(2)}**
2. **Rear Yard: Existing & Proposed - 1.06 feet; Required - 30 feet {295-72.1.E.(1)b}**
3. **Side Yard: Existing & Proposed - 0.7/2.26 feet; Required - 12 feet {295-72.1.E.(1)c}**

**Acting Chairman Forbes-Watkins:** Our third case is Louis Zazzarino, view preservation for special use permit, et cetera.

**Village Attorney Stecich:** Mr. Chairman, on this I have a few items as well. You were told at the Planning Board meeting that before there was further review on this you needed to post an escrow for professional fees, and it hasn't been posted. Last go-round when it was before

... yeah, in the summer, were told when it comes back. I'm not saying ... but you're just going to have to post the escrow for any professional review. That was decided. That doesn't mean it can't be reviewed tonight, I'm just reminding.

I know the Board hasn't had to grant special permit before. It's actually fairly unusual, but in this district there is. And the requirements for the special permit, I doubt you'd get to it tonight. But just so you know, section 295-87 has the standards for granting a special permit. There's the specific requirements in the MR-O section, where it says you can do it provided that they provide a certain amount of open space and recreation area. But in addition, there's general permit standards for granting a special permit. And that's in your code, 295-87. They're fairly generous standards.

So do you have any questions about this special permit?

**Boardmember Pennington:** I do. Isn't the typical sequence that this would first be a recommendation of the Planning Board, both for the special use permit and for the view preservation which is before us?

**Village Attorney Stecich:** Right.

**Boardmember Pennington:** And what we have is a circumstance where the dates have been flipped so the Zoning Board is meeting before the Planning Board. And the question, I guess, before us is whether this board wants to pass upon those issues ...

**Acting Chairman Forbes-Watkins:** A very good question.

**Boardmember Pennington:** ... without the recommendation.

**Village Attorney Stecich:** Right. You know the process on view preservation. You ordinarily wait for the Planning Board's recommendation. Once in awhile you've granted it subject to ... in a rare situation. On the special permit, it isn't the same sort of two-step process. But on a special permit, once the application's made to the Zoning Board of Appeals a copy of it is to be sent to the Planning Board and the Planning Board makes a recommendation on it. So you may very well want the recommendation on that.

Additionally, it is going to require SEQRA review. Now, you can decide whether each of you should do your own, or whether one or the other of you should be the lead agency for SEQRA. So only one of you has to do it. If it were what's called a "type one action," you would have to agree on a lead agency and do what's called "coordinated review." This is not. So you could do your review, they could do their review.

And you need to submit ... you haven't yet submitted an Environmental Assessment Form.  
Or if you have, it ...

**[Male Voice]:** (Inaudible).

**Village Attorney Stecich:** Was it? Oh, I don't think it was. Was it in the packets?

**Building Inspector Sharma:** It was sent to ... or it'll be sent to the place.

**Village Attorney Stecich:** OK, it wasn't in the packet. It should be part of the packet because the Zoning Board also ... the Zoning Board can't make a decision until it does SEQRA first. So it has to be in the Zoning Board packet.

And then the other question I had was ... oh, I know. I was going to say it looks like it needs coverage variances and front yard variances. But I guess it doesn't because the building itself is not ... is the building not changing?

**Acting Chairman Forbes-Watkins:** It's going up.

**Village Attorney Stecich:** Well, wait. Aren't you coming further out in the front with the decks?

**Building Inspector Sharma:** It's coming out to be in line with the currently existing front of the building.

**Village Attorney Stecich:** The decks.

**Building Inspector Sharma:** Yeah.

**Village Attorney Stecich:** The decks aren't out any further. OK.

**Building Inspector Sharma:** No, it's not coming ... because the current existing building is right up to the property line. Coming anywhere beyond it would actually be encroaching onto public property.

**Village Attorney Stecich:** Well, wait. Then is the building coming down? I don't understand how the building decks ...

**Boardmember Dovell:** The deck is on the roof of the existing ...

**Village Attorney Stecich:** Just on the roof.

**Boardmember Dovell:** It's on the roof, yeah.

**Village Attorney Stecich:** OK, and there's no overhang. OK.

**Acting Chairman Forbes-Watkins:** Now, the question then, before we proceed – and I apologize to you for having you stand here while we talk this through – we must have Planning Board approval on special use before we can vote on it?

**Village Attorney Stecich:** Not an approval. A recommendation from the Planning Board.

**Acting Chairman Forbes-Watkins:** A recommendation, all right.

**Village Attorney Stecich:** Now, they may meet and not give you one. But you have to ... there has to be the opportunity. I'd be very surprised if they didn't make a recommendation because they also have to do site plan approval.

**Acting Chairman Forbes-Watkins:** But this is a requirement for the Zoning Board; to have it go before the Planning Board in some way.

**Village Attorney Stecich:** Yes.

**Acting Chairman Forbes-Watkins:** And it is also ... we also have to determine whether we wish to be the SEQRA reviewer as well as the Planning Board, or whether we would like to defer to the Planning Board.

**Village Attorney Stecich:** Yeah, exactly.

**Acting Chairman Forbes-Watkins:** I would ask why this is being brought to us at this meeting. I don't understand.

**Building Inspector Sharma:** I can try and explain. The applicant came before the Planning Board for a preliminary informal review of what they are proposing, hoping to do, and whether there's any future in it, per se. After having done that, he got the impression that, OK, the next stop for him is to come before the Zoning Board. And he wanted to come to both boards this month.

Being that the Zoning Board happens before the Planning Board, contrary to what happens in most other months, he took a chance to discuss the project with this board. There are variances required. The Board may not review any other aspect but the variance aspects only. Then he would go back to the Planning Board next week. And if and when he needs to come back to this board, he will come.

**Acting Chairman Forbes-Watkins:** I'm not prepared to vote on any variances.

**Village Attorney Stecich:** No, you can't vote tonight. Because nothing can be voted until SEQRA's done.

**Building Inspector Sharma:** Exactly.

**Village Attorney Stecich:** You can't even grant a variance without SEQRA.

**Building Inspector Sharma:** Oh, I see.

**Village Attorney Stecich:** Only on one-family houses. I can't imagine that this would be resolved in one meeting anyway.

**Building Inspector Sharma:** Right.

**Village Attorney Stecich:** So it makes some sense for the applicant to let you know what he's got in mind. If you've got particular issues, have him deal with it and maybe come back to you with a more acceptable application, or, know that it's OK. So just don't think about making the decision tonight. You're probably not going to be ready to make it. If you did, it would be conditional on so many things I don't think the Board could be comfortable doing that.

But you certainly can hear it and ask questions, and hear from the public. I think there might be people from the public who have things to say, which may influence how it goes forward.

**Acting Chairman Forbes-Watkins:** All right. Well, under those circumstances, you are?

**Lanny Lerner, Lerner Architecture, PC - Scarsdale:** Let me give you a little background. I live on Warburton, a little further south, and I have been passing this building for many years, wondering why nothing has happened to it. It's been sitting vacant. It's a one-story building, I guess you've seen it. I've got some pictures here for you. What I'm proposing to do is to use the existing building as a base to add two additional stories.

The existing building, as you know, is built nearly to the property lines. It's bounded by Quarry Road on the south, which is a paper road, and by Brown Brothers Roofing on the north, which is a commercial use. This building has always been a commercial use, and is now in a residential zone. The entire neighborhood is a residential area. It's all three- and four-story multi-family buildings, and some single-family buildings, in the immediate area.

What I'm proposing to do is add those two stories and create four townhouses on top of this building. The two stories would be set back as much as I could practically do. This is the existing line of the building. You can see it on the diagonal. One of the points that the Planning Board made was they'd like to see it set back. Originally, I had it set right on the wall. They'd like to see it set back from the trail, which connects to the Croton Reservoir Trail.

This is currently set back 12-1/2 feet on the corner, and it tapers back to about 2-1/2 feet as the building comes back on the side. On the north side, it's right on the building line. On the front, it is set back 10 feet, which is what's required by ordinance. In the back, it's set back 16-1/2 feet, which is more than a two-family, but less than the requirement for a four-family.

I guess you've seen the elevations. Currently, you have this big, hulking gray building, one story, that is not contributing, in my opinion, anything of value to the neighborhood. If we were to add something that brought some scale back, that we set back from the street and created some residential use there, I think it would be very appropriate for this neighborhood. It is a residential neighborhood. I'm proposing to do residential work in that neighborhood.

I guess the first thing we should be talking about is whether this could be a possible project, whether you would be considering granting the variances that are required.

**Village Attorney Stecich:** Whether they grant the special permit.

**Mr. Lerner:** And the special permit because it's a four-family.

**Boardmember Pennington:** Could we start with a special permit question, a question of fact about where any recreational or open space is proposed to be located in your plan?

**Mr. Lerner:** The ordinance for this amount of construction, interior residence, would require about 1,500 square feet of open space. I'm showing decks on the front and the back totaling about 1,700 square feet. So we're in excess of the requirement as far as the open space requirement.



**Boardmember Dovell:** Does the requirement specify where that is in elevation? Can it be over the top of a garage or residential space below?

**Mr. Lerner:** That's a question for Mr. Sharma, I guess.

**Building Inspector Sharma:** Yes, I believe it doesn't have to be on the ground floor itself. It could be on top of a terrace.

**Village Attorney Stecich:** The code doesn't specify at all, and I would think that would be a matter this board would interpret. It's actually a quite new provision of the code. I'm not sure it's been applied. But anyway, it's something that this board would decide. And the thing is, you're considering the whole thing – the special permit – and that would be fair to consider as part of it: do you believe this constitutes open space within that venue.

**Boardmember Pennington:** And it would be helpful to just get a little more context as to whether the recreation and openness benefits residents of the building or residents of the neighborhood. If you look at other recent construction in the area, there's the affordable project which has a plaza which is a public plaza, which adds a certain amount of air to the streetscape. And it can be used by other members of the public. So what's the thought about whether this is recreation for residents or recreation for public?

**Mr. Lerner:** Given the fact that the building covers the entire site, there's no way to do open space on this site without going up. And therefore it is entirely for the residents.

**Boardmember Pennington:** Well, I guess that was one of the questions that was asked by the Planning Board. You look at the building, it is, as you say, a hulking building that's significantly wider on the street than any of the other buildings around it. And if you maintain the existing appearance, and build up, you'd have it set back a little bit for the addition.

But there's really very little breathing room, and it is of a different character than other things that have been built in the neighborhood because of the width in its frontage.

**Mr. Lerner:** Certainly not by its height, though. There are many taller buildings in the neighborhood.

**Boardmember Pennington:** There are taller buildings. So this building would not be as tall as the building directly facing to the left.

**Mr. Lerner:** Yes, to the left. This one here, for example, and the buildings across the street are all four stories.

**Boardmember Pennington:** One story short of that building.

**Mr. Lerner:** Yes.

**Boardmember Dovell:** The purpose of this is it's a residential condominium development. So this is a for-profit venture.

**Mr. Lerner:** Yes, presumably.

**Boardmember Dovell:** Well, I very much like the idea of adaptive reuse of the building. And I agree with you it's been sitting there a long time with very little going on. The site is full of building right now. It doesn't have the required rear yard that would be required for a three- and four-family dwelling. And then there are two side yards that are 12 feet each required.

**Mr. Lerner:** Required, yes.

**Boardmember Dovell:** And then there is a 10-foot setback in the front.

**Mr. Lerner:** Yes.

**Boardmember Dovell:** I just did a quick little calculation. The existing building is overbuilt, just in terms of area on the lot, by about 3,200 feet. There's that much stuff on the lot that's beyond the setback lines. And then that would stay as existing noncomplying space. The proposal, then, would be to have a setback of 16 feet in the back?

**Mr. Lerner:** Sixteen-and-a-half feet.

**Boardmember Dovell:** And side yards of about 7 inches or something on the north side, and then varying. But if you just take a look at what you're proposing on 2 and on 3, taking into account the required setback lines, you're asking for, all in, about 3,000 square feet of new space beyond the setback requirements. We don't look at floor area particularly. We look at setback. But the floor area was an interesting way of trying to understand the extent of this variance.

Although I'm very much enamored of the idea of an adaptive reuse of that building, this is a major ... it's a major variance.

**Mr. Lerner:** Yes.

**Boardmember Dovell:** It is not a small ... it's not a percent or two. These are 50 percent increases, and more in some cases.

**Mr. Lerner:** Right. And I would never come to a board asking for those kinds of variances without having an existing building that already blows that out of the water.

**Boardmember Dovell:** Existing, yes. Understood. What are the hardships that you're confronting that require that you build this much?

**Mr. Lerner:** It comes down to financial issues. You need four units to make this thing work financially. Anything less, it just won't work. So that's, honestly, what it comes down to.

**Boardmember Dovell:** So even if you left the existing building in its current shape, and take advantage of that extra area, you couldn't make an economically viable building on top of that.

**Mr. Lerner:** That's right.

**Boardmember Dovell:** You know, I think the demonstration of that's going to be foremost in my mind before we look at anything as we go forward with this.

**Acting Chairman Forbes-Watkins:** I'd like to focus a little bit, just for a change of pace, on the view preservation issue. First off, the Zoning Board has received generally, with view preservation applications, photos showing the current conditions. And it has been very helpful to have Photoshop mockups showing the proposed changed building. Particularly of interest to me would be mockups looking from the Aqueduct and, more important, from Marble Terrace.

It seems to me fairly obvious that the Marble Terrace view is going to show some appreciable deterioration in the view. Whether the absolute level of loss will persuade the Board that this is not going to be an acceptable view preservation situation I'm not ready to judge at this point. But I certainly think you should be well aware that it looks to me, walking along Marble Terrace, like there's an awful big chunk of view that's lost.

**Mr. Lerner:** I've been up there, of course. It's a good 20 feet above the roof level.

**Acting Chairman Forbes-Watkins:** The current roof level.

**Mr. Lerner:** The current roof level to where the base of that one important house is. But their views start a full floor above that.

**Acting Chairman Forbes-Watkins:** I agree.

**Mr. Lerner:** So I frankly think that ...

**Acting Chairman Forbes-Watkins:** How about the apartments to the north of that house? They have a view out which may not be straight out, but it's angled out.

**Mr. Lerner:** Yeah, it's a diagonal view. But I think all of those views are well above. I'll try to demonstrate that in an illustration. But I think most of those, I can show -- or all of those I can show -- are above that.

**Acting Chairman Forbes-Watkins:** OK. I'll be very interested to see those views.

**Village Attorney Stecich:** But you're saying he could do it in a depiction. I think you need to take photos.

**Acting Chairman Forbes-Watkins:** Yeah.

**Village Attorney Stecich:** What the Chairman is saying is, you need to go take photos from that location.

**Acting Chairman Forbes-Watkins:** And then Photoshop off of that.

**Mr. Lerner:** OK. I have photos, of course. You've been there. It's no substitute for being there.

**Building Inspector Sharma:** Photos of the Palisades and the river as seen from different vantage points.

**Acting Chairman Forbes-Watkins:** Do you have some at this point? Because you didn't provide them to this ...

**Mr. Lerner:** I have these, mostly from Marble Terrace.

**Boardmember Collins:** I think what the chairman is saying what he wants to see is a mockup of how it would look with this proposed structure.

**Village Attorney Stecich:** A line drawing. If you do a line drawing of the house.

**Mr. Lerner:** Sure.

**Boardmember Dovell:** What was the building used for before? Was it automotive?

**Mr. Lerner:** I'm not sure. It's a big open warehouse type space. There are some office spaces in it now that also are unused.

**Building Inspector Sharma:** There's been a photography store, or a studio of sorts.

**[Male Voice]:** A vitamin warehouse.

**Acting Chairman Forbes-Watkins:** Do you have any other issues at this point? Do you wish to pursue more?

**Boardmember Dovell:** Just one point of clarification. The front setback is 10 feet. Is that correct?

**Mr. Lerner:** Yes.

**Boardmember Dovell:** You have portions of the building which step out?

**Mr. Lerner:** Yes. As bays, which I think we're allowed to go into the required setbacks.

**Boardmember Dovell:** But are they bay windows? At the third floor, they seem to occupy about 70 percent of the front. I just wonder if that's the ...

**Mr. Lerner:** I'm not sure how it's defined, frankly.

**Boardmember Dovell:** You know how bay windows are defined: the framing extends out, the floor extends out. It's floor area, in effect, over the setback line.

**Mr. Lerner:** Yes.

**Boardmember Dovell:** I mean, I would just argue that that's not a bay window. That that's floor area, and it's a part of the architecture that pushes out.

**Building Inspector Sharma:** The other thing is, this issue may have come up at another time where the space below the bay window an alcove has been created. We didn't quite know how to treat it; whether to treat the whole thing as a bay window, or an extension of the floor. I'll look, but I don't think there's a real definition.

**Boardmember Dovell:** I mean, it marries. The way the architecture shows, it marries to the roof and it marries to the floor.

**Village Attorney Stecich:** If there's an extension of the floor it's more than a bay window.

**Building Inspector Sharma:** So the bay window would essentially have to be ...

**Village Attorney Stecich:** It's a window.

**Building Inspector Sharma:** ... at least a foot or so, a few inches, above the floor. It can't be at the same level. I can understand.

**Village Attorney Stecich:** Probably not a few inches.

**Building Inspector Sharma:** Six inches.

**Village Attorney Stecich:** Because that's not going to be a few inches from the floor. I mean, I've seen that, really, technically. People come in and argue, "Oh, it's a window." So you really do have to be careful. But since our thing just says "window," you know what a window is.

**Building Inspector Sharma:** The window could extend down to the floor.

**Village Attorney Stecich:** And when it comes almost down to the floor, and it increases floor area, it's more than a window. It may be a window, but it's also more.

**Acting Chairman Forbes-Watkins:** Matt, do you have any questions?

**Boardmember Collins:** No. No, I have nothing further.

**Acting Chairman Forbes-Watkins:** Ray, anything more?

**Boardmember Dovell:** I think the intent is a really nice one. This kind of housing is really nice, but it represents a significant variance.

**Acting Chairman Forbes-Watkins:** It does indeed.

**Mr. Lerner:** Could you give me some guidance of how I should approach it next time we come back?

**Boardmember Dovell:** Well, I think we need to understand the physical hardship. And we have to make findings. So you have to help us help you. We need to understand what the physical hardships are. And I think in this case, because we have to make all of the findings ... don't we? We have to make an economic assessment.

**Boardmember Pennington:** The special use permit.

**Boardmember Dovell:** For the use permit, but also ...

**Village Attorney Stecich:** No, it's not a use variance. It's not the same as a use variance, not at all. A special permit is a permitted use. It's not like a use variance. It is a permitted use, provided certain conditions are met. So the financial return you're talking about is a requirement for a use variance. But nonetheless, that's their reason. They also have to show why it's necessary and that there is no alternative. You're suggesting an alternative might be fewer units or smaller units. So if he want to argue no, that alternative doesn't work, he does have to submit dollars and cents proof – essentially the same thing.

**Boardmember Dovell:** Right. But is there a scheme which acknowledges the existing noncompliance of the building, the existing building? And is there an as-of-right scheme that you can build up from that noncompliant base that will give you the return you need to make this viable? Do you own the property now?

**Mr. Lerner:** No, I do not. I'm working with the owner.

**Boardmember Dovell:** OK. So you and the owner represent the development team for this?

**Mr. Lerner:** Yes.

**Boardmember Dovell:** I do think we need to understand that. And is there an as-of-right solution that works, or demonstrate that it doesn't work.

**Mr. Lerner:** I don't see how it could possibly work as-of-right. Given the existing building, it's totally nonconforming.

**Boardmember Dovell:** Well, the existing building is nonconforming. But if you honor the setbacks – front, side and back – is there something there that is taking advantage of the nonconforming space below?

**Acting Chairman Forbes-Watkins:** On top of.

**Boardmember Dovell:** Is there something that works?

**Mr. Lerner:** All right, I'll see what I can do.

**Acting Chairman Forbes-Watkins:** At this point, I believe there might be one or two people who want to say something from the floor. And so I'll open the floor to comment.

**Jim Metzger, 427 Warburton Avenue:** I live across the street and just north of the proposed project. In our neighborhood, one of the key components of any project is parking. I believe I saw in the plans – because I didn't get a good look at the plans – that parking is going to be provided; the required parking would be provided within the existing footprint of the building. Is that correct?

**Mr. Lerner:** Yes, sir.

**Mr. Metzger:** OK. So that answers a major concern.

I think that you tapped into the view preservation issue and the views from Marble Terrace: one of the issues we have, again, in our neighborhood. It's the most dense neighborhood in Hastings, and as a former member of the Comprehensive Plan Committee I understand that you kind of want to keep your density where the density already exists. But we also have a situation where people have been living on Marble Terrace for years and have been enjoying these views. And it's really critically important that they don't lose the little bit of benefit that they have from having occupied that space for so many years to lose their river views.

I can see from the elevation that you're planning on a flat roof, which I applaud. My question is, what are your floor-to-floor heights in the building?

**Mr. Lerner:** They'd be a total of 9 feet.

**Mr. Metzger:** OK. We had a previous project where they were looking at 10 or 11 feet, and we had them bring it down to 9 feet over the three stories. That was a substantial change, but you've already addressed that.



The other thing that I'd just like to say is, I'm lamenting the loss of commercial space there. The Village is short on commercial space anyway, and I'm sorry that the present owner couldn't make that work. But I understand that that is not necessarily your issue; it's an issue in the Village of trying to make that work. But the other thing is, this building is adjacent to a new connector from the quarry down to the waterfront which will, at some point, be used by the public.

What I'd like to suggest the Zoning Board look into, if they can, is, as part of possibly a tradeoff for the special variance on public space, to create a connector from Warburton Avenue down to the Quarry Trail that does not exist now. The possibility of putting in a small landing and a stair down would be a nice enhancement for the path and for the people in the neighborhood to have another connection up to the Aqueduct and the quarry.

**Mr. Lerner:** That was actually something that the Planning Board suggested when we met in August, and I think it's a good idea.

**Mr. Metzger:** Thank you.

**Acting Chairman Forbes-Watkins:** Yes?

**Jim Stranges, 2 Marble Terrace:** I live directly behind this warehouse. I have a view of the Hudson as well as appreciate the view of the Palisades. I've been living there for 35 years. My wife and I are now retired, and we enjoy the view. It's a two-family house. From my tenant's apartment, there's a view of the Palisades and the Hudson from every room. I feel this building going up another 9 feet is going to eliminate my view of the Hudson.

I have pictures with me if you'd like to see them, both from my window and from the street. That's my car. And this is from my window, and a clear view of the Hudson and the Palisades. You can see where the roofline is, that double-peaked ... OK? It just goes up another 9 feet. It's going to eliminate my view of the Hudson, for sure, where their façade is. Of course, when he comes back with photo retouches or whatever, if they're a view from the Hudson, it would be Marble Terrace.

You see my view doesn't change that much from street level because there is no basement under my house, only on part of it. Originally it was a carriage house made out of stone.

**Boardmember Collins:** That's your house?

**Mr. Stranges:** That's my house, yeah. See, this portion here is the only portion that has a basement underneath it. This here is the window that you see the view of the Hudson from. This here's taken from, I guess, down by Warburton because it shows part of the façade of the building that he's looking to make larger.

**Acting Chairman Forbes-Watkins:** OK, thank you. Further comments?

**Lawrence Houghteling:** I'm Mr. Stranges' neighbor. I live right across the street at 9 Marble Terrace. I have sort of a sideways view of this very large building. As things are now, from my apartment – we have the lower two floors and we rent the top floor – we have kind of a large view. It would just simply be blocked for quite a large number of degrees of the view that we have.

I understand that there's a financial problem, but I also think that people buy buildings and the building is an existing building. It seems to me there's no necessary concomitant ability to alter the building just because you got a financial problem. The building is what it is when you buy it.

**Acting Chairman Forbes-Watkins:** Thank you. Further comments?

Mr. Lerner, obviously we're reaching the end of this session tonight. I think you appreciate some of the problems that we're going to face in the next session or two on this issue. I am going to ask the Board tonight to vote on whether we wish to do a SEQRA review, or whether we wish to ask the Planning Board to act for us. As far as I'm concerned, please move to ask the Planning Board to act for us.

**Village Attorney Stecich:** All right. You know what? I'll convey that. Because the way the process works is, the Planning Board declares itself lead agency and you agree. I'll let them know you would not like to be lead agency.

**Acting Chairman Forbes-Watkins:** Very good. I believe that's all for tonight. Thank you so much.

**Case No. 27-11**  
**Luca & Costanza Zordan**  
**1 Zinsser Way**

**For the construction of a canopy/porch over the front entrance.**  
**Existing - 26.25 feet; Proposed - 23.83 feet; Required - 30 feet {295-68.F.(a)}**

**Acting Chairman Forbes-Watkins:** Our final case for this evening is Luca and Costanza Zordan, 1 Zinsser Way. You are, sir?

**Luca Zordan, owner – 1 Zinsser Way:** I'm the owner of the house on 1 Zinsser with my wife, Costanza. We just recently bought the house this summer. This front side of the house has an existing blue stone slab door entrance, but it has no porch. It becomes very useful, especially like today and yesterday.

As you can see from the drawing, the design works seamlessly with the existing outdoor of the house. We'll use the same material, it will be very light and open on three sides. It's a convenience feature because right now it's just an open space. In the wintertime it could be protected for milk and when we have UPS packages. Two days ago they arrived completely drenched. So it's a very simple addition to the house.

**Acting Chairman Forbes-Watkins:** OK. What you're talking about is a 6 by 11 ...

**Mr. Zordan:** 10.6.

**Acting Chairman Forbes-Watkins:** 10.9 – 6 by 11 roughly.

**Mr. Zordan:** It's on top of the platform that we have right now that was existing when we bought the house.

**Acting Chairman Forbes-Watkins:** You will be staying within the perimeter of the deck that is out there at the present time?

**Mr. Zordan:** Yes, yes, yes. It will have, like I say, looking from the front it will really integrate very well with the cedar panel that we have. So we will use the same material.

**Acting Chairman Forbes-Watkins:** Shake shingles?

**Mr. Zordan:** Yes. I never get the right pronunciation. Cedar, I think.

**Acting Chairman Forbes-Watkins:** Are there any questions from members of the Board?

**Boardmember Collins:** Just a clarification. It looks like you're proposing a flat roof over the covered porch. Is that correct?

**Mr. Zordan:** It's not a flat roof. It has a little slope. It will have the same appearance of the main roof, but it has an angle. That's why I requested it, for the snow and everything.

**Acting Chairman Forbes-Watkins:** Will that be a water collector?

**Mr. Zordan:** Yes, yes, absolutely. I definitely asked the architect because I was concerned about snow. We moved from Florida, so we realize that there's a lot of water, a lot of snow here. So we don't want to have massive water.

**Acting Chairman Forbes-Watkins:** OK. You're going to have to have some sort of -----.

**Mr. Zordan:** Yeah, that we have. Yes.

**Acting Chairman Forbes-Watkins:** Well, this is a very minimal addition which would seem to make a great deal of sense if I were living in your house.

**Mr. Zordan:** Yeah, thank you.

**Boardmember Collins:** I think it's a good-looking addition, and it's in keeping, certainly, with a lot of the homes in this and many other neighborhoods in Hastings. So I'm prepared to endorse this approval.

**Acting Chairman Forbes-Watkins:** Can I ask if there are any questions from the audience, or comments? Sir?

**Mike Arment, 117 Edgars Ln.:** My wife, Tiffany Arment, and I live next door. You actually approved a variance on our house this summer. Thank you.

**Acting Chairman Forbes-Watkins:** Yes.

**Mr. Arment:** We think this is a great idea. As you guys can see, plainly it's good and will break up the front face of the house a bit. It's great for convenience and practicality and I don't think it will have any meaningful effect at all negatively on anybody. So I think it's a great idea and we fully support it.

**Acting Chairman Forbes-Watkins:** Thank you. Further?

**Boardmember Dovell:** I think it's minimal. I think it's very nice.

**Boardmember Pennington:** I agree.

**Acting Chairman Forbes-Watkins:** Shall we move to consider the motion?

On MOTION of Boardmember Collins, SECONDED by Boardmember Dovell with a voice vote of all in favor, the Board resolved approve Case 27-11 for the construction of a canopy porch over the front entrance; existing front yard setback 26.25 feet proposed; 23.83 feet against required 30 feet.

**Mr. Zordan:** Thank you.

**Acting Chairman Forbes-Watkins:** Go to it.

### III. APPROVAL OF MINUTES

#### Regular Meeting of October 27, 2011

**Acting Chairman Forbes-Watkins:** We have minutes to deal with. Now, I'm just checking. Yes, we do have three Boardmembers who were present and who are present. I could not find any significant items to question.

**Boardmember Collins:** Yeah, I found nothing to correct.

**Boardmember Pennington:** I would just commend the effort here because it was not an easy discussion to follow. I read it all and I found no mistakes.

**Boardmember Collins:** That's a rarity. It's probably the software. My guess is there's a software system behind this.

**Village Attorney Stecich:** They send it out to a guy to type, right?

**Boardmember Collins:** Oh, is that how it works?

**Village Attorney Stecich:** Yeah, they record it.

**Boardmember Collins:** Because there are voice recognition software packages.

**Village Attorney Stecich:** No. If it's the same guy, I think he's in Colorado. They send it to him and he transcribes it.

**Boardmember Collins:** Well, kudos to him. I hope the next one is just as good.

**Building Inspector Sharma:** He is listening.

On MOTION of Boardmember Collins, SECONDED by Boardmember Pennington with a voice vote of all in favor, the Minutes of the Regular Meeting of October 27, 2011 were approved as presented.

#### IV. ADJOURNMENT

**Acting Chairman Forbes-Watkins:** The next meeting is January ...

**Building Inspector Sharma:** January 25, I think.

**Village Attorney Stecich:** Wait one second. No, January 26.

**Acting Chairman Forbes-Watkins:** We'll convene on January 26.

**Boardmember Collins:** Happy New Year.

**Village Attorney Stecich:** See you next year.

On MOTION of Boardmember Collins, SECONDED by Dovell with a voice vote of all in favor, Chairman Murphy adjourned the Regular Meeting.