

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
FEBRUARY 24, 2011**

A Regular Meeting was held by the Zoning Board of Appeals on Thursday, February 24, 2011 at 8:00 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Chairman Brian Murphy, Boardmember Ray Dovell, Boardmember Stan Pycior, Boardmember David Forbes-Watkins, Village Attorney Marianne Stecich, and Building Inspector Deven Sharma

**CITIZENS:** Unknown

**Chairman Murphy:** I think we're ready to get started tonight. We're here for the February 24, 2011 Hastings Board of Appeals meeting. We have one case on our agenda tonight.

**I. OLD BUSINESS – (Adjourned from Previous Meeting)**

**Case No. 3-11**

**Hastings-on-Hudson Affordable Housing Development Fund, Inc. Mt. Hope Boulevard  
(Adjourned from 1/27/11 meeting)**

**For the construction of an affordable one-family house with an accessory apartment**

- 1. Lot width: Existing and Proposed - 85 feet; Required Minimum - 100 feet {295-68E}**
- 2. Front Yard for the Principle Structure: Proposed - 15 feet, Required Minimum - 30 feet {295-68F(1)(a)}**
- 3. Front Yard for the Accessory Garage Structure: Proposed - 0.0 feet. Required Minimum - 30 feet (295-68F(1)(a)}**
- 4. Off-Street Parking - Proposed in Alternate One: two in the accessory structure in Front Yard;  
Proposed in Alternate Two: none. Required: three (two for the one-family dwelling plus one for the One-Bedroom Accessory Apartment {295-36 and 295-68D9b)(1)(k)}**

**Chairman Murphy:** Mr. Sharma, are the mailings in order?

**Building Inspector Sharma:** There were no new mailings needed for this. It's a continuing application.



**Chairman Murphy:** And I'll note for the record, then, that the Boardmembers received some revised plans from the applicant. So if we could have the applicant's representative start for us please, and just explain where we are? Mr. Keaney?

**James Keaney, Affordable Housing Committee:** Sue Smith is out of town for this meeting, so she asked me to fill in.

I regret to say that our architect, Mr. Vogel and Mr. Warshauer, are not here. They're usually pretty prompt. They may be coming very shortly. But I believe he has presented two alternative plans to you, following up on recommendations that were made last week.

Before we get started, there was one thing that the committee wanted to say, and that's that many neighbors have expressed concerns about this project at many public meetings, and I'm assuming they're here tonight to express their concerns again. Issues will arise as this project goes forward, and we would like to keep the neighbors abreast of issues that arise. We invite the neighbors, and I hope this has been relayed to you. We had spoken to a neighbor, and she said she was going to relay this to some of the other neighbors.

We would invite the neighbors to have two spokespersons who would be on working sessions that we would have as issues arise. The role would be to have instant communication going back and forth both ways. Because architects' issues arise, builders' issues arise – they always do – and I think it's in everybody's interest that these issues be exposed quickly, instantly, and that responses be made.

We are making this because we want to have a successful project that fits in with the neighborhood and with the site. Having said that, I wish that the architects were here to explain in more detail what the alternative plan shows. So I would ask for a recess of 10 minutes.

**Chairman Murphy:** Sure, we will wait a few minutes, Mr. Keaney. Just one question. Ms. Smith had submitted to us a memo dated February 14, indicating that, on the proposal, to have two spokespersons from the neighborhood be in contact with the Affordable Housing Committee; that someone from the committee was going to try to telephone the neighbors and make that proposal known to them before this evening. Do you know that was able to be done?

**Mr. Keaney:** I know that Sue contacted one of the neighbors that had come pretty much to all the meetings, and that neighbor said that she would be in contact with some of the neighbors and pass that on.



**Chairman Murphy:** But Ms. Smith isn't here tonight, right?

**Mr. Keaney:** She's not.

**Chairman Murphy:** The other thing to note during our recess, if you can get hold of the architect, is we have only four Boardmembers this evening and the vote requires a vote of three to approve an application. So the applicant has the choice of going forward with four Boardmembers or adjourning to the next meeting.

**Village Attorney Stecich:** Brian, one other thing that should be explained is that if it's a vote of two-to-two, not only do they not have the vote, it's considered a denial.

**Chairman Murphy:** Understood. So we'll break for 10 minutes and reconvene.

[RECESS FROM (time).p.m. to (time) p.m

**Chairman Murphy:** We now have our architect here. Mr. Keaney, I did want to make sure you heard one thing. We don't have a full board tonight. Our alternate could not make it, and Mr. Leaf, our regular Boardmember could not make it so we have only four Boardmembers this evening.

So in terms of voting on the application, our counsel just wanted to explain what that means and what the options are.

**Village Attorney Stecich:** I'm sure you understand that you need a vote of three; you need a majority vote.

But also you should understand that if there's a vote of two-to-two that's considered a denial. Just to make sure you understand.

**Mr. Keaney:** Could I impose? As long as we have Mr. Vogel here, could he make his presentation, or part of it, and neighbors could speak, and then we can make a decision?

**Chairman Murphy:** Yes, sure.

**Mr. Keaney:** Is that OK?

**Chairman Murphy:** Of course. Yes, that's fine.

Mr. Vogel, nice to see you.

**Ed Vogel - Warshauer Mellusi Warshauer Architects:** Mr. Chairman, members, thanks everyone for some patience. I was running late today, obviously.

**Chairman Murphy:** No problem. I know you and your firm have submitted some revised plans.

**Mr. Vogel:** We have, and it's a direct response to the Board. We took a look at our project with a garage and providing two parking spaces on-site. The site plan then reflects just a turnaround, and then a driveway crossing the unimproved right of way of Mt. Hope Boulevard. So that's what we are considering as Site and Zoning Sheet A1-A, which is just a slight modification of the last submission.

From there, we've also submitted Site Plan A1-B, which is, again, a modification of the plan, where we're providing two parking spaces on-site. Those are surface parking contained within retaining walls, and a turnaround space and a driveway through the unimproved right of way.

From there, we have the elevations that correspond to those, where we have the garage space. We've reduced the mass, stone front. We have an opportunity for some green, and then a rail – the edge protection – behind that, a little bit further back. It's also represented in the two side elevations.

The alternate to this is, again, without the garage. In the front elevation, you can see we've taken the stone, the Cultured Stone, around the retaining walls across the back of the parking, surface parking, and back around to the front.

In addition to this, tonight I've brought a few sections which demonstrate the spaces that are created in and around the garage here. So you have a section through the garage, and the dash line represents the approximate grade that's there now. And then this was to get that excavation in. And then on this side, we have just the straight surface parking; the stone wall that works its way around, and in.

**Chairman Murphy:** And Mr. Vogel, also if you look at A1-A, the walkway from the front yard to the one-bedroom accessory apartment, could you just describe where that now runs?

**Mr. Vogel:** There's an existing opening in the stone retaining wall. We're going to utilize that to step up to the grades behind the wall. And then it'll work its way to the south, and then the entry to the unit would be to the southern edge of the structure.



**Chairman Murphy:** Those are the improvements. There's two alternatives.

**Mr. Vogel:** Correct.

**Chairman Murphy:** The first alternative, let's call it the A1-A series, includes the two-car off-street parking with the stone-faced garage, with the reduced mass and the railing as we discussed.

**Mr. Vogel:** Correct.

**Chairman Murphy:** And the second alternative has no garage, two off-street parking spaces on impervious surface, with sort of a big stone-faced retaining wall around that parking area.

**Mr. Vogel:** Around, right, the surface parking.

**Chairman Murphy:** Anything else? I think that covers it.

**Mr. Vogel:** That covers the comments that we had from the last meeting, yes.

**Chairman Murphy:** Right. Drainage improvements remain the same; everything else remains the same.

**Mr. Vogel:** The proposal remains the same, correct.

**Chairman Murphy:** And these current plans, as revised and presented this evening and for this evening's meeting, are dated February 10, 2011?

**Mr. Vogel:** They are, both sets.

**Chairman Murphy:** I think that's pretty clear. Members of the audience ... Mr. Keaney, do you have anything else to add before we hear from any members of the audience?

**Mr. Keaney:** No, I don't.

**Chairman Murphy:** All right, thank you. So I recognize some familiar faces from our previous meetings and we've had a lot of public comment, but the Board ... I know this is an important decision for everyone, and so we're happy to hear any more comment on the latest revisions.

I would appreciate it if you could try to focus your comments on the latest changes and those particular improvements that Mr. Vogel has just presented, based on our discussion last time. We don't need to repeat the discussion from last time.

But having said that, please?

**Susie Walrath-Mehrotra, 338 Mt. Hope Boulevard:** I live two houses up north of this property. When I think about our neighborhood and where we live, it's very clear that one of the less aesthetically pleasing things about our neighborhood is that we actually live very close to the Saw Mill Parkway.

The lot that we're talking about gives us a little open space, with beautiful trees and dramatic rocky ledges. This space creates the illusion that no, we don't actually live near one of Westchester's major traffic thoroughfares, we live in a green, wooded area where hawks and owls come to rest and view the scenery. So when I walk around the neighborhood, or even if I just look out the window towards that side, south, from my house, I always avoid noticing the traffic by looking up at the trees that dominate the view.

There are 11 really large trees in this lot in the front section where the construction is proposed. The diameters of those trees start at 20 inches and range upward from there. One of the trees has a trunk that measures actually more than 12 feet around, which gives it a diameter of between 4-1/2 to 5 feet. If this space is developed we're going to lose that natural cover that camouflages the traffic of the parkway. Developing this site would have a huge adverse impact on our neighborhood, especially if it's developed in the way that's proposed.

This site happens to be located midway between two recently-built projects that, I'm sorry to say, I call neighborhood eyesores. There's a new house on Cliff Street, and there's a newish house at the bottom of the hill where Mt. Hope Boulevard becomes Stanley Avenue near Clarence Avenue. These two houses are way too wide and too tall for the property around them. From the street-level view they loom up and out, and just don't fit in with the neighboring properties.

And what is this proposed development going to look like? The lot is more narrow than the standard lot width. The less steep and less rocky area is way up front, so the building is set way up front on the property.

The dimensions laid out here are wide and tall, but hardly deep enough to live in. This is what we were trying to express when you heard some of us say in previous meetings that the



house was too big and also say that the house is too small. It's a building shaped like a double-decker RV with garage space and parking – for three cars, or two cars, or for the people who live there – and it's set closer to the road than any of the other houses which are built along the right of way.

When you come up Mt. Hope from the bottom of the hill, which side of the house are you going to see at that curve? How little depth there is from front to back, or how the front of the house is so wide it fills up the full area from one notch in the old stone wall to the next. My house is about half as wide as this house would be from the front view.

Some of my concerns might not be issues if this were being developed without the affordable housing component; not because I'm opposed to affordable housing, but because this designation brings some other complications. On this slightly small lot, the proposal is for a unit for two families – the house and the accessory apartment – with space for cars for two households.

A standard market builder wouldn't be trying to cram the two units on to this small piece of land, and a standard market builder would have to propose a project that was more in line with the zoning rules of the town. I'm concerned that there is a pressure to green light this project because of a designation, in spite of how many variances are being requested or whether the final result will cost a lot to the neighborhood in terms of the natural environment and aesthetics.

I also keep coming back to the idea that planning affordable housing needs to be done with an eye towards long-term goals. I know people who live in Hastings and Dobbs Ferry who live very thriftily and don't drive. They live close to the bus lines and the train stations and the shops in town. I grew up in Hastings being able to do that on the other side of town.

When we've talked about drainage and how hard the rock is, that's because we have some local experience with the terrain. And those of us who've done construction in the neighborhood know how expensive it is to build something here because of the physical properties of the landscape. The cost and the practicality of housing projects: which board addresses those issues?

As a taxpayer, I would like to have county money or Village money spent to help people in a smart way so the property is really designed with affordability in mind; affordability of building it, and being affordable to whoever is living there. Thank you.

**Chairman Murphy:** Thank you, Ms. Walrath. Anyone else in our audience like to be heard?



**Mary Wirth, 335 Mt. Hope Boulevard:** I heard you say that we should come up and respond to the changes, not rehash what's been said already. But I feel that you need to hear what we're saying and what we've been saying over and over again because it really does matter. It's not like we've heard it and we're done with that, and now let's move on.

**Chairman Murphy:** Well, don't take it the wrong way, Ms. Wirth.

**Ms. Wirth:** OK.

**Chairman Murphy:** I'm listening, the Board's listening. We haven't made a decision because it's not an easy one.

**Ms. Wirth:** OK, good. I'm glad.

OK, I have a very short thing, and I'm not going to read a long letter to you this time. But I just wanted to point out some of my major concerns, and I'll keep it short.

One of them is the loss of trees and greenspace and how that impacts the feel of the neighborhood, which has been mentioned before. The trees help absorb some of the noise and emissions from the parkway, which has increased quite a bit over the years. I've been here 30 years, and it's a major difference in how there's a steady drone of noise at all hours.

The design of the house and how it will look, crammed into the space available; the lack of buildable space on this lot is what is driving the design. The design of the house can have a detrimental effect on the beauty of a neighborhood if that design does not seem harmonious with existing homes. And that house, from the side, looks like trailers stacked on top of each other.

The parking situation: I don't think the right of way should be paved. It is maintained by the parks department of this Village as parkland and it should stay that way. The variances required ... I'm a little confused about the fact that on the agenda that goes out it says that there is a variance being requested for the front yard setback. But there's also the lot width, which is not the right lot width.

There is also the number of cars, the spaces I think, that are being proposed. There are a number of things in there, and I don't know why there's only one variance being granted or being requested.

**Chairman Murphy:** Oh, no, no. It's four variances.



**Ms. Wirth:** Four variances all at the same time. OK.

And then the other thing that ... oh, OK, about the variances and how this will affect future boards and their decisions for granting future applications for variances – not just in your time, but down the line – if this house is built, and it's a new house and variances are granted, how will that affect future applications for variances for other construction?

And my final point is, what guarantee do we have – I mean, we've lived here, we know what the neighborhood is like, we know what the properties are like – what guarantee do we have that once they start breaking ground that they are going to be able to build whatever structure is there and not have further complications due to hitting rock or a spring or anything else like that?

And the bottom line for me is, once the trees are cut – these big trees, which are mostly down close to the wall where this house is going – once they're cut, they're cut and they're gone for good.

Thank you.

**Chairman Murphy:** Thank you, Ms. Wirth. I appreciate it. Do we have anyone else who'd like to be heard?

**Sandeep Mehrotra, 338 Mt. Hope Boulevard:** So again, dear Boardmembers, here we are again discussing this unfeasible project, again trying to shoehorn something so we can get the metrics of building affordable housing, but not the quality that I assume that we all aspire for, living in this town.

Based on my experience over the last couple of meetings on how this process has unfolded and is unfolding, it is clear to me – and I'm sad to say this – that certain aspects of democracy, and listening to the public within this village government, is either dying or does not exist. I'm surprised and disappointed that over the past few months the residents and neighbors have strongly objected to this proposal and, as part of the due process, requested additional details and information about this project to no avail.

In fact, at the last meeting, even one of the Boardmembers had requested the Affordable Housing Committee to reach out to the neighbors and to try and work out their major objections. To date, I have not been notified of any such outreach collectively. It seems like a closed process with no regard to the neighborhood character or environmental or quality of life impacts related to the neighbors as well as to the proposed residents of this proposed



project. I mean, we're trying to build something that we'll just hand over to someone, and then they have to deal with the mistakes that we made in this process.

For a project that is seeking more than half a dozen variances and exceptions from multiple boards within the Village, it would seem most appropriate to have a joint Zoning, Planning, and public hearing for the project to comprehensively evaluate the impacts and feasibility of the project rather than endlessly spending the limited funds on continuous redesign options which might satisfy this board but, when we go to the next board – and if it's a drainage issue – you might have to undo.

I understand the current process is in compliance with the Village procedures. It's following all of the sequence of appearance in the different boards. But for a project that is seeking, as a minimum, various exceptions for front yard setback, side yard setback, lot frontage exceptions, parking exemptions, steep slope exemptions, tree preservation exemptions, drainage issues, sediment and erosion control, old growth tree destruction, et cetera this process may not be appropriate because it slacks off segmentation which flies in the face of current New York State environmental laws. If this is not segmentation, then I don't know what is.

Furthermore, based on my professional experience, a comprehensive review and evaluation of impacts may indeed result in a better and wholesome project for all involved, and will provide clear direction to the design professionals to deliver a cost-effective but exemplary project as opposed to giving them piecemeal directions based on knee-jerk reactions to the objections of the neighbors and the Boardmembers.

I mean, for the last three or four meetings that's what we've been seeing: that we have an objection.

**Chairman Murphy:** You know, stop right there. That's enough, OK? You have a right. You're just going to listen to me for a minute, OK? First of all, we're your neighbors. I happen to live on Lefurgy Avenue just up the block from where this is going in. I walk by there every day. Do you know how many times I've walked by there to look at this project? Do you think I did that because I wasn't listening to you?

No, you're going to listen to me for a minute, OK? Because now you got me ticked off, and I'm not easily ticked off. This board hasn't made a decision. Let me say that again. Look at me. *We haven't made a decision.* And if you're going to sit there and think I'm going to take a harangue from you, you're out of your mind. Don't tell me that this is a knee-jerk board that gives piecemeal advice to an applicant that has come here in good faith and been back here three times responding to *your* concerns and your neighbors' concerns.



And the fact of the matter is, I've been sitting on this board for years – and Dr. Magun was the former chairman who showed me the ropes. And let me say this: you're lucky Dr. Magun isn't sitting here, OK? So you can say whatever you want to finish up, but that's what I have to say. And all I'm going to suggest to you is, sometimes it's better to sit down before you cause more damage than you intend. That's a hard professional lesson I've learned myself, OK?

So you go ahead and you say whatever you like. I'll say it again. Sometimes it's better to sit down before you do more damage than you intended.

**Mr. Mehrotra:** With all due respect, Chairman, I would like to just finish a couple of to-the-point points I want to make. And at that point, I will sit down. But again, it is a public hearing and I do feel it is my right to express what I feel. Again, I thought this was a public comment period. And with all due respect, I mean, again, it's not a question ... I didn't come here to, you know, give this board a bad name.

It is a feeling that you have heard me speak at all your meetings, and we have requested certain additional information so that we can work this out. It's not a question whether it's workable or not workable. But just to keep it brief, I just want to go through a couple of other points specific to this proposal, and then we can move on.

One of the things I wanted to sort of point out was on the old growth trees. As earlier Susie pointed out, they are about 22 inches to 52 inches in diameter. And again, based on replacement of those trees, if we go by the National Arborist Association numbers you'd need to have about 150 to 200 trees – 3-inch caliber trees – to reconstitute for that thing. And that's at a total cost of about \$60,000.

The other thing I did have is about the green roofs. You know, green roofs are a great idea. But again, they are more costly to build and to maintain. And I just think that at an appropriate site it would be better to build it without a green roof if we want to make it affordable.

The couple of other things I had from the space – but I don't know if you would entertain them or not – I just wanted to display that, based on the information that we'd received, I'd taken some pictures and superimposed what this building would look like. I would just like to submit this to the Board.

With that, I would just like to submit my letter.



**Chairman Murphy:** Would anyone else like to be heard with a more respectful tone? It might be appreciated on this side.

**David Skolnik, 47 Hillside Avenue:** I didn't actually come here intending to speak. I've watched the meetings broadcast, and I did have ... I remain having some questions, but I'm not really going to pose those questions this evening.

It's unfortunate, I think perhaps, some of the comments from the previous speaker, and partly the way they were interpreted by the chairman, since the chairman was the only one that spoke to the comments.

**Boardmember Pycior:** If I may, I found the comments of another of your neighbors that this board was fast-tracking this project because it was affordable housing ... if we were fast-tracking it, we wouldn't be here. It would have passed three months ago.

**Mr. Skolnik:** Excuse me. I'm sorry, but absolutely with respect let me just interrupt and take the floor again. Because it's not my intention to debate that aspect of this interchange.

I want to just relate that perception has a great deal to do with this kind of procedure. And perception is on this side, perception is on that side. And things can be misperceived. I don't have the exact notes with me, but I do recall, in watching the last meeting and making note of the fact, that one of the members of the Board did make comments that, to me, personally, watching, reflected a distinct disposition towards approving the project.

I don't know whether that's what he meant. And all I wanted to say ... I did note it down because it seemed a little bit inappropriate to me. I'm not going back and debating that part with you. I'm just saying that there is that point that can be ... in doing your job in accommodating the presentation and trying to appear neutral, it can also at times appear as though there is a predisposition. It's not ... I don't think the intent was to accuse anybody of that. I don't think so.

But the piecemeal aspect, from my point of view, is what struck me from watching the last meeting, too, which was the ... I don't think the issues that you're being asked to address – I don't think, and you can correct me – I don't think they necessarily address all these issues that the neighbors have been coming up with. It seems as though your particular role is very specific. It's not to address the things that the Planning Board will be addressing. And to some extent it's not, I think, addressing what the Board of Trustees was to address.

So in a way, what you could help me and maybe the other people with is to, in fact, distinguish what it is ... those elements that you are ... that you base your decision upon, and



which of the things that have been presented may not be a part of your particular responsibility to address.

Thank you.

**Chairman Murphy:** Did we have someone else? I thought I saw at least one other person who wanted to speak. Yes, go ahead.

**Emily Duval, 342 Mt. Hope Boulevard:** Unfortunately I was late this evening, but I have been here at previous meetings. My sentiment's the same. I know that's on record, just to briefly state that.

I do believe that the site that has been chosen for this affordable housing is being challenged by nature, and it's requiring almost heroic measures and a number of variances to be changed, accept, or modified – whatever word would be the choice of your selection.

It's like we're going above what is expected and what can be done to achieve something that is a great principle and great value for our community. Nevertheless, it's posing a number of inconveniences. And one of the main things I think, regardless of the area, the boards should consider what impact does this change have over the existing community. And it's something that should be considered and thought about.

Thank you.

**Chairman Murphy:** Thank you.

**Michael Wagner, 342 Mt. Hope Boulevard:** I think that the parking and the cars in the right of way is an issue. And I know that last week we had said that, well, we're not going to grant any variances and this way we can move forward with it. Which may be an answer because I think it's an answer to anybody else that would like to build something else that, well, we didn't give a variance for that.

And then I think the answer was, well, it's OK to park in the right of way. But in the right of way, the plow comes by and so on and so forth. And now just the right of way, which was a walking area and sidewalk and stuff like this is now like a parking lot, which is technically OK because it's not allowing any variances.

I think in summary – just to brief, because like what Emily said about nature and because of the lot that it is – I just don't think that this project is feasible because of the lot and the



difficulties and the terrain that it's on and the drainage issues as well as the variances that we allow or not allow.

You, as the Board, I think that it's a problem regardless. Even if they're not allowed, I think that without the variances being allowed – or, I should say, without granting any variances and allowing cars to park in the right of way – I still don't think that it really works.

Thank you.

**Linda Innocenzi, One Cliff Street:** If I may add, the greenspace that they're talking about paving, when I was a child ... I grew up in Hastings, lived there all my life at One Cliff Street. And Mt. Hope, we used to sleigh ride down that hill all the time when I was younger. And then the house was built in the middle of Mt. Hope and they actually paved a driveway through the greenspace.

And ever since they paved it we were no longer sledding because, for some reason, the town never kept the greenspace clear anymore so it all overgrew. And if you drive up Mt. Hope you'll see it. All the inside is all overgrown. I mean, there's raspberry bushes there now. They were there still, they were just to the side.

So ever since that house was put in there, and they paved their driveway in, there was no more sledding. I mean, our whole neighborhood would sled there for years, until that house was built. So I don't know if that would be another issue there, where they're not going to upkeep the greenspace there once that's paved, but I know that occurred on Mount Hope.

**Chairman Murphy:** OK. Anyone else from the audience wish to be heard? No? Looks like that's it for comments.

Mr. Vogel, do you have anything else? Perhaps I should ask the Boardmembers if they have any further questions for Mr. Vogel on the application, particularly given the signed revisions that were made for tonight.

**Boardmember Pycior:** I have a question, really, for Marianne and Mr. Vogel. If a driveway's built through the right of way, who owns it, who maintains it, who removes the snow from it?

**Village Attorney Stecich:** I imagine on that they're probably going to have to go to the Board of Trustees. My guess would be ... Deven, am I right, or is a street-opening permitted or not for that?



**Building Inspector Sharma:** All driveways do pass through the public property.

**Village Attorney Stecich:** The right of way, yes.

**Building Inspector Sharma:** So that portion of the driveway is plowed and maintained by the property owner.

**Village Attorney Stecich:** So it's not different than ... yes, actually I guess they would just need a street-opening permit. But generally you're responsible for your own driveway, just as a property owner's responsible if they have a sidewalk in front of their house even though it's in the right of way.

It's the property owner who's responsible for keeping it free of snow and ice. So probably the same thing.

**Chairman Murphy:** Ray, do you have anything?

**Boardmember Dovell:** What is the ... looking at scheme A2-B, which is your garage-less scheme, what is the height from the base of the house within the parking area up to the roof of the house?

**Mr. Vogel:** So we're talking here from the driveway up to the top of the house? It would be about 38 feet, and that'll be to the roof eave. It won't be to the ridge; it'll be a little bit more to the ridge.

**Boardmember Dovell:** That's to the eave line. And the setback from the lot line at that plane?

**Mr. Vogel:** The setback from the lot line to that plane would be 20 feet, the depth of the garage.

**Boardmember Dovell:** OK. And if this were to be a complying height at that level, what would it be approximately? You're asking for a waiver on the height, as well, correct?

**Mr. Vogel:** No, actually it's the number of stories.

**Boardmember Dovell:** Number of stories.

**Mr. Vogel:** Correct.



**Boardmember Dovell:** It's not height permit story.

**Mr. Vogel:** Not height.

**Boardmember Dovell:** And the stories. The stories, as you're requesting, is for three.

**Mr. Vogel:** Is for three, three stories. Correct.

**Building Inspector Sharma:** Understand. When you build a garage if you don't have the garage, then that number of stories ...

**Mr. Vogel:** Right. The way the grades fall into that parking area, with or without the garage, lowers the grade plane. And that's the definition to establish the number of stories.

**Chairman Murphy:** And just a point of clarification on the proposed driveway through the right of way, the little bump out area, is that for turnaround space? Backing out of the garage spaces?

**Mr. Vogel:** Backing out of the garage.

**Building Inspector Sharma:** Usually that may not be necessary for a two-car garage space. Because from one space, you turn into the other space. You know, a lot of private driveways, for example, they're straight driveways, 8 feet.

**Boardmember Dovell:** That's a long, long backup.

**Chairman Murphy:** Yes, I understand. It's not a parking space which was proposed in an earlier iteration of this plan, but it's a small turnaround.

**Mr. Vogel:** Correct. This is a turnaround so you can then face going out.

**Boardmember Forbes-Watkins:** You're proposing an impervious driveway area, or not?

**Mr. Vogel:** I've been saying "impervious." I have been saying that. We would entertain a pervious type of a driveway system, as well.

**Boardmember Forbes-Watkins:** From the point of view of water, the whole issue of drainage: would not an impervious driveway make more sense?



**Mr. Vogel:** A pervious driveway would make more sense from the standpoint of water infiltration. But we still would need to collect water.

**Boardmember Forbes-Watkins:** Oh, yes. I suspect you'd be collecting water forever.

**Mr. Vogel:** The benefit out of it is just that we're allowing then, with a pervious surface, to absorb some of the runoff that would occur.

**Chairman Murphy:** And that would be supplemental to the drainage that's already proposed in that area?

**Mr. Vogel:** Correct. It would reduce somewhat what we're catching.

**Boardmember Forbes-Watkins:** Mr. Chairman, eventually we're going to have to vote on one of these two proposals: site plan zoning A1-A or A1-B. I would suggest that one thing the Zoning Board might want to do before moving towards any questions on the variances is to choose a plan to vote on. I don't really think that it makes sense to try and vote on two of them.

**Chairman Murphy:** Yes, I agree with you, David. And at least from my view, the second version is a non-starter entirely. If it's going to be discussed for a vote I suggest that the plan on A1-A, with the two-car off-street parking garage with the stone face and the improvements that are shown as discussed, has at least more merit to it.

I know Mr. Dovell may not share that view, and he's perfectly free to disagree with me. So he should express himself.

**Boardmember Dovell:** OK. The face of the primary structure is 20 feet from the lot line. That's what you said before.

**Mr. Vogel:** Correct.

**Boardmember Dovell:** So the depth of that house is 14 feet?

**Mr. Vogel:** Correct.

**Boardmember Dovell:** So, roughly, all but a 4-foot sliver of the house is within the front setback.



**Mr. Vogel:** At that point. As the property curves in a southerly direction, that sliver would widen as you work your way to the south to a point where the entire principal structure would fall within that property line, or just about. It falls right over the corner.

**Boardmember Dovell:** What troubled me about the garage initially was the fact that it's completely beyond the setback line and that it is an extensive request for a variance to put the structure entirely beyond the setback line. So I was looking for a way to minimize the extent of the variance by requesting that the garage be pushed, be eliminated, and a parking area be provided.

But what troubles me more than anything at this point is just the width of the overall ... the height and width of the overall structure that's entirely beyond the setback line. If you could just draw the setback line where it should be on the site plan there, if you could just sketch over it. Approximate, it doesn't have to be ... you did an exemplary job of analyzing the zoning on the street and where the setbacks were on the adjacent structures. And they all represent minor variations of a theme. Everything is kind of beyond the setback line, and in and out.

But you don't see a case where you have this particular width and height that's across that line. So that is still troubling me. It's just the extent of this is a very tall structure. What did you say the primary structure is from the parking area to the roof?

**Boardmember Forbes-Watkins:** Thirty-eight feet.

**Boardmember Dovell:** That's an extremely tall bit of structure that's very close to the lot line. And if it were a single location it would trouble me less, but the fact is it's the full width of the structure. And it also represents a presence on the street that is not ... that you don't see that I find is out of character. You see small encroachments. You don't see the width of encroachment or the height of encroachment anywhere else.

**Mr. Vogel:** May I respond?

**Boardmember Dovell:** Pardon? Yes.

**Mr. Vogel:** When we look at the full massing of this, if we go with the garaged element then you have your first, let's say, mass that you come across from to the retaining wall. Then it gets stepped back to a second mass, which is the accessory unit. And then, as the building works its way up and steps into the slope, you have a third mass behind there.



So it depends on which scheme you look at. If you look at the surface parking scenario, yes, you have a bit of a sheer wall that is straight up. When we talk about the three masses, as we work our way up the hill, that's exactly what they're doing. They're working with the contours of the existing grade.

And therefore the mass, although from the street to the very peak is going to be that height, it's also stepping back as the hill and the terrain works their way back. It is not uncommon to have two stories plus an extended basement, if you want to call it that, as a wall with a steep terrain as we have here.

**Boardmember Price:** If I can return to the garage question versus parking space, at first glance a garage seems better. But I was speaking with Mr. Sharma earlier, and he reminded me of the reality that people fill their garages with bikes, snowblowers, and lawnmowers, and end up parking in the driveway.

So if you have a parking-space space, you put cars in those spaces. If you have a garage, you put, at best, cars in the garage.

**Chairman Murphy:** Fair enough. David?

**Boardmember Forbes-Watkins:** I'm in a quandary. From the point of view of looking at the drawings, the second version is more attractive aesthetically. But I'm just listening to some of these things, and it gives me a puzzle.

But I would say that a garage is my preferred alternative, and that's a change from last week. When I heard the idea from Ray, I thought that sounded better. But looking at a schematic, I think a garage is the preferred alternative.

**Chairman Murphy:** Well, so what you have -- if you will -- is what they call a "deadlock." I happen to agree with Mr. Forbes-Watkins: that in terms of the two alternatives, for me, aesthetically, the second one is better, with the appropriate conditions that we've stated earlier -- which is a green roof, a stone wall -- the reduction in the scale that you've now executed is much, much more attractive from the street.

It still doesn't address Mr. Dovell's point -- which is the fundamental point that we've heard -- which is that you're still trying to put a very wide, what will become tall, structure because of the steep slope into a tight spot. But the fact is, we have to pick an alternative. At least this board seems to be split, which doesn't bode well no matter what the alternatives are to do.



So I think we need to come to grips with that because you can't vote on it. I don't think it's appropriate to vote on – two proposals. That makes no sense to me.

**Boardmember Pycior:** Couldn't agree more.

**Chairman Murphy:** Stanley, go ahead.

**Boardmember Pycior:** I, too, share many of the concerns of Boardmember Dovell. As I review the Zoning Board, what we're supposed to take into consideration is whether an undesirable change will be produced in the character of the neighborhood. This house is different from, or out of character with, the rest of the neighborhood.

We're also asked to consider whether the area variance is substantial. Some variances are substantial. And then we're also asked to consider whether the proposed variance will have an adverse effect, or impact, on the physical or environmental conditions of the neighborhood. For the two meetings I've attended on this, the neighbors have mentioned the trees, the open space. And certainly those are environmental factors that will be affected.

The garage question, I think aesthetically the garage is more pleasing and if we have to choose a plan, I could choose the garage for the sake of moving the process forward.

**Chairman Murphy:** Well, we either have to take a vote, or agree to move forward on a substantive discussion of one or the other. I mean, the issues are clear. I tend to agree with you. For me, what the troubling issues are is the change in the character of the neighborhood based on the site location, particularly the front yard setback which has always been a problem.

And then the shape of the design, particularly the extent it was changed. I think it was at the last meeting that it was made clear that on the accessory apartment the new contour of that apartment is odd. And it was entirely to try to accommodate a minimum setback of 15 feet because the steepness of the site, and the slopes, are so severe.

So for me it's that aspect, and the height aspect of the overall design that are troubling me, along with the substantial change in the environmental condition, if you will, or the trees. Having said that, to be fair, the explanation of the accommodations for the drainage are clearly an improvement, not only to this home but to the neighborhood.

The treatment of the garage I think was very sensitive and responsive and actually looks very, very nice and very much in keeping with that neighborhood, and is the equal of anything that's there now, if not better.



We have to balance, as a matter of law, the fact that this is an affordable housing project and so there's a certain extra impetus to try to accommodate that. And in fact the Village, at least in my experience and the applications I've been part of, has a very good record. Particularly the two-unit dwelling unit on Warburton, which this board had an awful lot to say about and well there was an awful lot of opposition and complaint about. And, a couple of years later we hear no complaints from the neighbors and the neighborhood, and I think that came out well and is, if anything, an example of how it should be done and could be done quite well.

The problem with this project as a whole is the site. This particular site has always been a poor site, and it's hard to overcome that. I think the applicant has done lots of good things to overcome that. In spite of all that effort, that an effort to be objective about it ... you know, it's a tough sell. And it shouldn't be. For me, what it comes down to is it shouldn't be that close a call.

And so when people start to shove, that's where I'm coming down on it. I like what you've done. I think the Planning and Affordable Housing Committee and Ms. Smith, who isn't here tonight, deserve everyone's respect and everyone's congratulations for driving this issue throughout our community. She's done a lot of good things for the community and not only in this project but many others that she's done, including the Historical Society. And she was my neighbor for many years.

In spite of the difficulty, she has pushed this to force, I think, a real debate about just how badly we need affordable housing, and just what we can do because we owe it to the community to do this. That's the way it is. So that's what makes it a tough decision. Because that balance on one side of the scale, and we can't ignore that and would like not to.

So that's my current position. Having said that, I come back to the procedural motion that I can't vote on two plans. For me, it's only the garage plan that works at all to even discuss. I'm not sure it's worth the approval, but it certainly does ... the other one, I won't vote for. So if we have any vote, we need either consensus or agreement. And if there's no agreement, we come back to the applicant and they can be guided by kind of where we're at.

Yes, Mr. Keane.

**Mr. Keane:** I understand your reluctance to vote on two plans. And if it would help you in your deliberations I think I'd like to give you our decision on whether



we're going to ask for a vote tonight because of the membership issue. And I think we're going to ask you to readjourn at a time when you have a full membership.

**Chairman Murphy:** That's fine. And I guess, Marianne, just provide us with some guidance from you about how to handle that and what we should do. We need some guidance because I think we have to get over this alternate plan issue, and there is certainly some agreement among the Board.

So do we have to decide that first?

**Village Attorney Stecich:** I'm sorry, do you have to decide on one or the other plan?

**Chairman Murphy:** Yes.

**Village Attorney Stecich:** You know, the thing is if you're going to vote on it, it isn't so much a legal issue, but practically a way out of it. If you're going to postpone it until the last meeting, maybe there'll be a consensus because it won't be four people. It'll be two and there may be a consensus over one or the other plan.

So maybe you don't have to decide tonight, unless in the meantime the applicant decides to go with the garage plan or the parking area plan, well that's conceivable. But for this board, I would just suggest you put that off until the next meeting.

**Chairman Murphy:** Well, I guess I'm a little disinclined to do that.

**Village Attorney Stecich:** Fine, unless there is a consensus. But as far as I know, it was two to two. But Stan is willing to switch, so I guess Stan is the swing vote.

**Boardmember Pycior:** Yes. Because aesthetically I prefer the garage plan because of the stone facing.

**Boardmember Forbes-Watkins:** I should also point out that Marc had definitely indicated a preference for the garage in the previous meeting.

**Chairman Murphy:** No, I think that's right. But given the nature of the application, I think Marc needs to be here and speak for himself.



**Village Attorney** [redacted] **ich:** Because at that point it was hypothetical. I mean, you didn't know what the garage was going to look like, you didn't know what the parking area was going to look like.

**Chairman Murray** [redacted] OK. So we'll have to postpone that. At the applicant's request, we're going to adjourn tonight because we don't have a full board.

**Mr. Sharma,** after the next meeting if you could remind me to help remind the Boardmembers who aren't here that it would be quite important to have a full board at the next meeting, which I think is on Monday, March 24. That will be the next Zoning Board of Appeals meeting.

**Village Attorney** [redacted] **ich:** And then I would say to get the minutes done as quickly as possible so you can get them to Marc so he would have a chance to read the minutes from tonight. I mean, somebody gets them in the packet.

**Boardmember** [redacted] **ich:** One additional request for next time. For the future, could you put the 30-foot setback on your drawings, as well as the two-and-a-half-story height, so we can really see the extent of the variance that you're asking for? You know, graphically see it?

**Chairman Murray** [redacted] OK. Mr. Vogel, thank you. Mr. Keaney, thank you. I'm sure you'll be able to report to the Affordable Housing Committee and kind of let them know where things stand.

**Mr. Keaney:** Thank you. And I will make wider dissemination of that offer that was made to at least two of the neighbors. I will be sure that's done.

**Chairman Murray** [redacted] I appreciate that. OK, so our case is adjourned until our next meeting.

We have no other business this evening. We have to approve our minutes before we adjourn tonight. Thank you for coming.

## II. APPROVAL OF MINUTES

Meeting adjourned February 27, 2011



**Chairman Murphy:** We do have the minutes from the January meeting. I've gone through them. They look pretty good to me, but if anyone has any parting credits to put in the record, please go ahead.

**Boardmember Forbes-Watkins:** Page 5, at the bottom, "Old Business." It's necessary to do this, it really should be on page 9 prior to the affordable housing discussion. Because both of the cases prior to this were new business, and to call it old business when it was new business gives me a bit of the business.

**Chairman Murphy:** Fair enough, David. So duly noted. It should be on which page again?

**Boardmember Forbes-Watkins:** It says ... it's on page 5, but it should be on page 9 immediately before the affordable housing portion.

**Chairman Murphy:** Right.

**Boardmember Forbes-Watkins:** Also, starting approximately on page 26, there are a number of statements attributed to Boardmember Collins which I just think were his. I'm quite certain they were Mr. Dovell's.

**Boardmember Dovell:** Oh, mine. Which page?

**Boardmember Forbes-Watkins:** Starting on page 26.

**Village Attorney Stecich:** Yes, it does sound like him: "slices through buildings" and stuff.

**Boardmember Forbes-Watkins:** Yes, these are Ray's comments.

**Chairman Murphy:** Yes, so duly noted. On page ...

**Boardmember Forbes-Watkins:** It continues for a number of pages.

**Village Attorney Stecich:** That's of interest.

**Chairman Murphy:** Yes, on page 26 of the minutes from January 2011.

**Boardmember Forbes-Watkins:** It goes on for a couple of pages, and it reverts back occasionally.



**Chairman Murphy:** Right. I think it goes through about the middle of page 28, where the record indicates that statements of Boardmember Collins actually should be statements of Boardmember Daniels.

**Boardmember Forbes-Watkins:** Right.

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, the Minutes of the Regular Meeting of January 27, 2011 were approved as amended.

**Chairman Murphy:** Stanley can't vote. Three of us.

### III. ADJOURNMENT

On MOTION of Boardmember Forbes-Watkins, SECONDED by Boardmember Collins with a voice vote of all in favor, Chairman Murphy adjourned the Regular Meeting at 10:40 p.m.



