

Planning Board  
Village of Tarrytown  
Regular Meeting  
September 30, 2020 7:00 pm

PRESENT: Chairman Friedlander, Members Aukland, Birgy, Raiselis, Tedesco,  
Alternate Member Lawrence, Counsel Zalantis, Village Engineer Pennella,  
Village Planner Galvin; Secretary Meszaros

ABSENT: All present

\*\*\*This meeting is being held via Zoom video conference in accordance with the Governor's Executive Order issued in response to the COVID-19 Pandemic that authorizes public meetings to be held in this manner. The public will be able to view the meeting through the Zoom application and be given the opportunity to speak during the public comment period for each application by pressing the "raise your hand" icon to speak or \*9 on their phone.\*\*\*

Chairman Friedlander called the meeting to order at 7:05 p.m.

Approval of Minutes – August 24, 2020

Mr. Tedesco moved, seconded by Mr. Aukland, with Ms. Raiselis abstaining, to approve the minutes of the August 24, 2020 Planning Board meeting.

Dr. Friedlander asked for a roll call vote:

Member Tedesco: Yes  
Member Birgy: Yes  
Member Aukland: Yes  
Ms. Raiselis: Abstain  
Chair Friedlander: Yes

The minutes were approved 4-0 with one abstention.

Dr. Friedlander announced the following adjournment:

Continuation of Public Hearing – Adjourned

Tarrytown Snack Mart, Inc. (tenant)  
440 South Broadway

Expansion of existing automotive filling station to include a net increase of 776 s.f. to the existing convenience store with storefront parking and other related site improvements.

CONTINUATION OF PUBLIC HEARING - Peter Bartolacci – 67 Miller Avenue

Removal of a railroad tie wall, construction of retaining walls, and landscaping of rear yard.

Dr. Friedlander advised that there was a draft resolution prepared for consideration this evening.

Mr. Aukland said that the hearing is still open so we should seek public comment first.

Dr. Friedlander asked if there was anyone in the audience who had any comment.

Geraldine Baldwin, 66 Riverview Avenue, read a statement into the record.

“As the most severely impacted downslope neighbor, I am seriously concerned about my safety and visitors to my yard should the huge concrete walls you are considering come crashing down. My concerns are based on two particular factors that I have raised repeatedly and they have not been seriously considered by this Planning Board. Slope stability analysis: At a recent Planning Board meeting the Village Engineer opined that since the walls will be on rigid or solid surface slope analysis is rendered meaningless. My question is where is the evidence that the two walls across the 70 feet on the western side of the property will be on a rigid or solid surface. A brief summary of the engineering review of this application clearly demonstrates there's no evidence the walls will be on such a surface. According to the applicant's Tectonic report the entire steep slope is only fill added when the house was built in the 1950s. The only boring data on any plan shows that at the top of the steep slope, rock was found at 25 feet below ground. At the bottom of the steep slope at about five feet from the north end of the lower wall, it shows rock at 12 and a half feet below ground towards the middle South End rock at three to four feet below ground. Slope stability analysis was raised both by the Village Engineer and the only independent engineer, Hahn Engineering in their March 19, 2020. Later they say that slope stability analysis should be provided at this time and further analysis that a later date should be removed. Notably, the current plan from August 11, 2020 still recites slope analysis at the time of excavation. This is too late, too little too late. Since applicant's engineer provided no answer to this issue Hahn Engineering complained to the Village Engineer that the applicant's engineer was non responsive to his concerns. The current plan from August 11, 2020 shows only rock at the location of the lower wall. That's the current plan specifies only the lower wall is pinned to rock. The upper wall is on fill only. Rock below the upper wall is too far down for pinning my question: Where is the evidence that the upper wall and even the walls on the north and south ends of the property will be on rigid or solid surface obviating the need for slope stability analysis? There is no edge and secondly stormwater management and drainage. My question: Why is there no water management system required for the huge concrete walls on engineering March 19, 2020 letter requested water management. The applicant's engineer only reply was none on the property none planned. No explanation was ever given why this applicant doesn't need water management when other applicants have been required to provide it when building a wall on a steep slope. The current plan specifies only a single row of tiny weep holes and a small open ended pipe at the base of the wall. Again, other applicant's building a wall on a steep slope have been required to provide larger drainage systems. The mafia block wall on applicant's adjacent neighbor's property had no water management and no drainage. As demonstrated by the recent collapse of that wall, water drainage and management are critical to stability, and they're required for safety of the downslope properties. My neighbor has suffered not only flooding, but much trauma from this wall and its failure when the large blocks can crashing downhill dangerously close to her house. Applicant's huge concrete walls will put me in the same position. This planning board must require the applicant demonstrate that the walls meet these critical safety factors for this property on a tiny piece of land in a residential, our 7.5 neighborhood.”

Kristen Wilson, Attorney for Ms. Baldwin, referenced the two letters, dated September, 25, 2020, to the Planning Board and the Zoning Board of Appeals, raising issues already presented to this Board with respect to the expiration of the variances for the record. She would like to address the letter to the Planning Board regarding the applicant's outstanding escrow payments. Under Village Code Section 305 - 138 F, “no permits variances licenses subdivision site plan or other approvals or authorizations shall be issued, no informal conference preliminary review or other procedure in relation there to shall be conducted by the Village Board or the Planning Board, unless and until

all outstanding fees including but not limited to inspection consultant and recreation fees are paid". According to this code, there is no leniency provided to any Board to allow an applicant to have some form of payment plan or loan for outstanding fees that are due and owed. This type of provision is typical of municipal codes. It is there to protect the Village and its consultants from bearing the risk of being not been paid. In this situation, we're not talking about a couple hundred dollars, it's more to the tune of several thousand dollars. And, either the Village has not paid its consultants or the Village has fronted the money for the applicant so that the consultants at least are paid. If this resolution moves forward, the Village may never be reimbursed since the applicant may never get to the point of give getting a building permit and then there is no incentive or requirement for the applicant to reimburse the Village for monies. This applicant is aware that there were consultants reviewing the project and he was made aware of, several years ago, that he had to bring his escrow account back up. It was clear that monthly reviews were going on and the applicant's engineer was in contact with the Village's own outside engineering firm. To allow them to have this loan is putting the village in a position where other applicants will also seek some type of loan from the Village or a payment plan for outstanding fees. This Board is putting the Village and its other taxpayers at risk by holding the bag, which is unfair and in violation of the Village code. She respectfully requests that this Board adjourn or postpone the duration of this resolution until the escrow or all outstanding monies that are due are paid.

Dr. Friedlander asked Counsel Zalantis to bring the Board up to date with regard to the escrow payment.

Counsel Zalantis said there is a condition in the proposed draft resolution that the escrow has to be paid the earlier of either 6 months or before the building permit is issued.

Dr. Friedlander stated that the objection by the attorney is satisfied then because a permit will not be issued until the monies are paid.

Counsel Zalantis said yes, it is a condition in the site plan approval. She noted a submission by the applicant's attorney, dated, September 28, 2020, for the record, that gave a little bit of detail regarding the delay in getting the escrow balance due to the COVID situation, which is another reason why the Village and the Board is allowing the six months, but it has to be paid within the six months or before the building permit is issued, whichever comes first. If the applicant never pulls a building permit it still has to be paid within the 6 months. Mr. Tedesco said that this was important.

Mr. Aukland asked Counsel about the two other letters Ms. Wilson noted in her statement. Counsel Zalantis said that these letter address the same issues that have been previously raised but this letter was sent to the Zoning Board regarding the purported expiration of the variances. Again, Counsel said that this is not within this Board's purview. And, as she has previously stated, she does not believe that the time has even started running because it runs from the granting the of the site plan application.

Dr. Friedlander read another letter received from Tim and Monica Shepherd, dated September 28, 2020, into the record:

“Dear Members of the Planning Board:

We are the new owners of 71 Miller Avenue, but we are not new to the neighborhood. In fact, we previously resided as 26 Riverview Avenue, a lovely little house that became too small for our family, and we welcome that third child. We wanted to stay in our neighborhoods, which we love because of the walkability and the warmth and conviviality of the people who live here. It's gratifying to be in a house for fitting our family's needs, or remaining in the neighborhood and the town that we love. Recently, we thoroughly reviewed the plans for a series of retaining walls proposed by our next door neighbors, Peter and Suzanne Bartolacci. A letter was also hand delivered by Mrs. Geraldine Baldwin detailing her concerns about the project. After careful consideration of the impact of the project on our property in the community at large, we are absolutely in favor of the proposed work. We believe that these changes will have a positive impact on the safety, appearance and value of our property. There are over 20 children between the ages of four and 12 on Park, Independence and Miller Avenues, (not to mention visiting friends and family). As such, we are primarily concerned about the safety and well-being of the children. We appreciate that the Planning Board is as invested in the safety of its residents as we are. The children play together daily and the yards of every family (and some agreeable neighbors) are all fair game, including ours. Where the proposed Southern retaining wall meets our property is in the exact location where the seven year old boys like to play soccer and football. The proposed changes will improve the safety of the area. Finally, a myriad of challenges that we aren't even aware of must arise when planning a project like this. We have faith that between the Village Engineer, the Bartolacci's engineer, and several consultants, that all the issues including soil erosion, and water drainage have been aptly addressed. We also recognize that the Planning Board has carefully considered the many (sometimes conflicting) facets of this project: not an easy task. It is our sincere hope that the Planning Board will also consider our perspective and wholeheartedly support of the proposed project. Warmly, Tim and Monica shepherd.”

Dr. Friedlander asked if Mr. Pennella had any further comment.

Mr. Pennella commented that with regard to the structural integrity of the wall, the present design submitted negates the need for the slope analysis because it is pinned on rock. It's like having a hard surface attached to another hard surface which gives you the structural stability that doesn't have overturning or sliding out. Now, with that said, the largest segment of the wall, which is at eight, those two walls are actually two walls connected together at the base, it's not one and one wall that floats on top. As the wall gets shallower to the south, and it becomes one single wall, it's also pinned to rock. So sheet 2 to five is very clear, it shows that the entire length of the wall is going to be pinned on rock that faces Mrs. Baldwin's property. In regards to the storm water, this is not a redevelopment project. It is simply a construction of a wall. Therefore, when you look at the water runoff, currently, because of the steepness of the hill, it runs right off the property and it moves faster from point A to point B, the time of concentration is a lot less and therefore moves quicker down to the property line. What they're proposing to do make it level, it actually allows for this the water to percolate into the ground and not run off. So the water runoff is a reduction into what is currently there and not an increase. Hahn Engineering has reviewed this wall and they also don't see a need for slope stability analysis because of this revised design. In the prior design, yes, it was required because it's like a floating wall, it's a like a soft condition, it could move and then you want to see the stability, so it doesn't slide out. This is not the same design. This is pinned to rock.

Dr. Friedlander asked if anyone else or any staff had any comment.

Secretary Meszaros noted two (2) emails she received from the applicant earlier this morning with attachments. The first attachments was, “Rebuttal comments to Mrs.

Baldwin’s neighbor’s petition”, and the second was, “Rebuttal to the Wilson and Baldwin Landscaping Comments made at the April 27, 2020 Planning Board Meeting”, both which will be made part of the record.

Mr. Aukland asked Counsel if there is a need to wait on this. Counsel advised that the hearing could be closed.

Mr. Aukland moved, seconded by Mr. Tedesco, to close the public hearing.

Mr. Birgy formally recused himself from the application

Dr. Friedlander asked for a roll call vote:

Member Birgy: Recused

Member Aukland: Yes

Member Tedesco: Yes

Member Raiselis: Yes

Chair Friedlander: Yes

All in favor. Motion carried. 4-0 with one recusal.

Mr. Aukland read through portions of the resolution and said that a copy of the resolution with general and specific site plan conditions will be provided to the applicant and the entire site plan approval resolution will be recorded in the minutes of this meeting.

**RESOLUTION  
VILLAGE OF TARRYTOWN PLANNING BOARD  
(Adopted September 30, 2020)  
Application of Peter Bartolacci  
Property: 67 Miller Avenue (Sheet 1. 70, Block 40, Lot 4 and R-7.5 Zone)**

**Resolution of Site Plan Approval**

**Background**

1. The Applicant requests site plan approval to remove a railroad tie wall and construct a new retaining wall with landscaping in the rear yard on property located at 67 Miller Avenue. The application will require a steep slope waiver pursuant to Section 305-67 F (1) (b).

2.The Planning Board confirmed on January 30, 2017 that this action is a Type II Action under NYS DEC 617.5 (c) (10) “*construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density*”.

3.The Applicant had made a preliminary presentation to the Planning Board on April 22, 2013 and, thereafter, the Planning Board conducted a duly noticed public hearing on June 24, 2013 and August 26, 2013. The application was subsequently adjourned due to the filing by the Applicant of an Article 78 proceeding. The Applicant submitted a new application and site plan on January 5, 2017 and the Planning Board continued the public hearing on January 30, 2017, February 27, 2017, April 24, 2017,

May 22, 2017, October 23, 2017, November 27, 2017, April 30, 2018, May 30, 2018, August 27, 2018, April 27, 2020, May 27, 2020, June 22, 2020, July 27, 2020, August 24, 2020 and September 30, 2020 receiving additional public comment.

4. The Planning Board has carefully examined the Application and the *Narrative* from Applicant's engineer (Fusion Engineering) dated 3/5/20 explaining the changes made to the plans since the Applicant's last appearance before the Planning Board on 5/30/18 and a revised set of plans dated 5/5/20 and a letter from Fusion Engineering dated 8/6/20 explaining the revisions made in response to Hahn Engineering review of 7/15/20, and has received comments and recommendations from the Village Consulting Planner in a *Site Plan Review* dated 1/30/17 and memoranda dated 5/5/17, 9/14/17, 10/11/17, 11/16/17, 4/17/18, 6/13/18, 7/12/18, 8/10/18, 9/10/18 and 3/10/20, from Munz Associates (former Village Landscape Consultant) in staff reports dated 4/24/17, 10/19/17, 12/4/17, 7/11/18, 9/12/18 and 10/22/18 and a staff report dated 3/25/20 from the Village's current Landscape Consultant and a final review dated 4/22/20, from the Building Inspector/Village Engineer in a letter to the Applicant dated 2/2/17 with a determination that the application requires a ZBA variance for wall height above 6', and memoranda dated 2/15/17 and 10/23/17 reviewing the plans, from Hahn Engineering, the Village's Engineering Consultant, engineering reviews dated 3/19/20, 6/5/20, 7/15/20 and final review 8/20/20, a Geotechnical Report from Tectonic Engineering provided to the Applicant's Engineer dated 2/26/19 and a letter from Fusion Engineering dated 2/23/17 addressing comments in the Building Inspector/Village Engineer's review dated 2/2/17 which the Planning Board has considered.

5. The Planning Board has reviewed and considered additional information from Applicant's arborists in reports dated 11/21/17 and 6/25/18 and supplemental information provided by the Applicant including *Photographs of Retaining Wall and Property* (4/27/17), *Listing of Retaining Walls in Tarrytown* with location, material and height (9/13/17), *Photographs of Screening of Other Large Retaining Walls* (10/23/17), *Side by Side Photo comparison of Property conditions and backyard loss between 1976 and 2017* (5/4/17), *Photographs of existing retaining walls 6+ in Tarrytown* (7/1/17) and both written and public comment from neighbors including Geraldine Baldwin's submission in letters dated 3/27/17, 5/12/17, 8/13/18, 9/15/18, 5/22/20, 8/20/20 and two emails each dated 4/27/20, letters from Geraldine Baldwin's Attorney, Ms. Kristen Wilson, dated 10/23/17, 11/27/17, 4/20/20, 4/27/20, 6/19/20, 7/24/20, 8/21/20 and 9/25/20, a letter from Michael McGuire dated 4/24/17, a letter from Lin/Jeffrey Scott Voth dated 6/25/18, a letter from Tim and Monica Shepherd, dated 9/28/20, a letter from J. David MacCartney, Jr., the applicant's attorney, dated 9/28/20, and additional correspondence received from the applicant on 9/30/20, all of which have been made part of the Planning Board record.

6. The Planning Board has reviewed and considered the *Narrative on Steep Slopes* prepared by Fusion Engineering P.C. and updated 3/5/20 addressing the criteria for granting the waiver for steep slope disturbance.

7. The Zoning Board of Appeals reviewed the Applicant's request for a variance to exceed the 6' maximum height limit on the proposed retaining walls. The ZBA opened a public hearing on this application on June 12, 2017 and continued the public hearing on July 10, 2017 and August 14, 2017. The ZBA closed the public hearing on August 10, 2017 and approved the variance subject to the following conditions including that the

variance is being granted to the two-tier wall concept presented to the ZBA with the first wall of the proposed two-tier wall being located a minimum distance of 7.5' from the rear property line and that the proposed two-tier wall will not be 9.5' for the full length of each of the tiers, but rather, the heights will range from 6' to 9.5' over the length of each wall. Additionally, the variance is granted subject to the review and approval by the Planning Board of a *Construction Management Plan*.

8. The Zoning Board of Appeals specifically contemplated that the Planning Board could make changes to the proposed plans provided that the any new plan was: (1) consistent with the two-tiered wall design; and (2) consistent with the proposed wall based on the first two-tiered wall being located a minimum distance of 7.5 feet from the rear property line.

9. After obtaining the requested variances for walls up to 9.5 feet high, the Applicant submitted plans to the Planning Board proposing two-tiered walls ranging from 6' to 8' over the length of each wall. In compliance with the Zoning Board of Appeals requirement, the first wall was proposed to be 7.5' from the rear property line. The combined height of both walls was reduced overall by a total of 3'.

10. The Planning Board closed the public hearing on September 30, 2020. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

### **Determination**

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval and the waiver for steep slopes disturbance are granted subject to the conditions set forth below.

#### **I. Findings**

The Planning Board finds that the Applicant has satisfactorily addressed the criteria for granting the waiver for steep slope disturbance under 305-67(F)(1)(b) and the Planning Board finds that the applicant has established that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The applicant's *Narrative* prepared by his engineer and updated March 5, 2020 is made part of the findings of the Planning Board and described below:

***Neighborhood Character:*** There will be no undesirable change produced in the character of the neighborhood. The Applicant introduced numerous examples of similar sized, similarly constructed, and similarly finished retaining walls in the immediate neighborhood and surrounding community built on steep slopes for the same purpose. Further, there was evidence produced that there had previously existed a significant retaining wall in the Applicant's yard and that applicant is proposing to restore the property to its approximate original condition based on aerial photos provided and corroborating testimony from at least six former and current neighbors. The proposed two-tiered wall system allows for robust and large sized plantings in front of each of the proposed tiered walls that will afford greater screening to the neighboring properties, thereby, significantly improving on the existing visual aesthetic which currently consists of dense wildly overgrown underbrush and parasitic vines (a danger to trees), mud, rotting creosote-coated railroad ties, exposed drainage pipes and cinder blocks, large protruding rusty nails, poison sumac, poison ivy, and tree stumps.

**Alternate Feasible Method to achieve benefit sought by applicant:** The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than a steep slope waiver. Whatever is done to stabilize the property will require a steep slopes waiver due to the erosion induced topography of the property and the location where work must be performed. The existing retaining wall that is collapsing was built some 60 years ago and the current condition is the result of years of neglect by prior owners of the property.

**Impact on Other Properties:** Granting the waiver will not be detrimental or injurious to other properties. It will restore the property substantially to its original condition as it was for at least 30 years prior to the retaining wall starting to collapse. Furthermore, it will provide the benefit to neighbors of much improved aesthetics (vs. what is there now and had been there previously) due to the proposed plantings for screening and the two-tiered retaining wall vs. the large single retaining wall that once stood on the property. The proposed poured concrete structure is not flammable and is better for the environment than the creosote-soaked railroad ties used in constructing the existing retaining wall and which remain on the property today. In the process of installing the poured concrete retaining wall, all remaining environmentally hazardous creosote-soaked railroad ties will be removed from the property, helping to ensure that no further harmful and potentially carcinogenic materials seep into the ground. The proposed design eliminates the severe public safety hazard present due to the collapsed railroad tie retaining wall. There will be no impairment of a slope area - the existing slope, which is to be disturbed, is not natural or man-made, was entirely created by erosion due to the retaining wall collapse and would not exist had the property been maintained to its original specification.

**Consistency of Project with Intent of the Steep Slopes Chapter:** The waiver is consistent with the purposes, objectives, or general spirit and intent of this chapter as the proposed tiered retaining wall will:

- a. vastly improve drainage and reduce or eliminate stormwater runoff by allowing water to percolate through the soil behind the proposed retaining wall; and
- b. increase slope stability and protect future slope failure; and
- c. improve the property's aesthetics while ensuring the public health, safety, and general welfare of the Village and its residents.

Additionally, the Planning finds that under 305-67(F)(2) that for the reasons set forth above, the proposed development will not be materially detrimental or injurious to other properties and will not increase the danger of fire or flood, endanger public safety or result in substantial impairment of the slope area. Also, as set forth above, the waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of the chapter. Finally, the waiver is the minimum relief necessary to relieve the extraordinary hardship established by the Applicant. Over the course of the review, the Applicant has significantly reduced the proposed scope and scale of the two walls and reduced the amount of necessary fill. Granting this waiver based upon the Approved Plans (defined below) is the minimum relief that could be granted to address the Applicant's hardships, including but not limited to, the need to increase stability, to protect against future slope

erosion and failure; to remove hazardous materials; and to create safer living conditions and a safer rear yard.

In addition, the Planning Board has considered the standards set forth in the Village of Tarrytown Zoning Code (“Zoning Code”) Chapter 305, Article XVI and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein. The Planning Board has also reviewed the proposed landscaping and plantings and finds that the landscape plantings are in conformity with the natural resource goals and policies of the Village’s Comprehensive Plan relating to the promotion of functional and native plant species, habitat creation and biodiversity, and guidelines for the removal of nonfunctional invasive species.

The Planning Board has conducted an extensive review of the applicant’s proposal to remove the existing, deteriorated railroad tie wall and construct a new retaining wall. The subject property is a 7,500-sf property located at 67 Miller Avenue in an R 7.5 Residential District. The property’s steep slopes constitute 2,512-sf of the property or 33% of the total site. The existing railroad tie retaining wall is failing and can pose a hazard to the property owners and adjacent neighboring properties. Continued deterioration may result in a total wall failure similar to the wall failure on the adjacent property to the north.

The Project has undergone various iterations ranging from a single wall to multiple tiers. The initial proposal was a single wall at a height of 20’. The proposed three-tier wall system would have been code compliant with none of the walls being above 6’ in height. The Applicant’s revised two-tier poured concrete retaining wall system was granted a variance by the ZBA on 8/10/17 for a 9.5’ height for each wall. This proposed system provided the opportunity for more significant landscape screening for the neighboring properties. Subsequently, the Project has been further modified to reduce the height of both walls to 8’. The first wall of the proposed two-tier wall will be located 7.5’ from the rear property line in compliance with the ZBA approval. The upper wall will be located approximately 13.5’ from the rear property line. The proposed upper -tier wall will not be greater than 8’ for the full length., The proposed lower tier wall height will range from 6’ to 8’ over its entire length. The combined height of both walls has been reduced overall by a total of 3’. The plans have been revised so that the walls are now are pinned to the underlying bedrock. The revised plans show that the Applicant has lowered their backyard so that it will be level with their existing basement floor. This has allowed the reduction in height for the two retaining walls.

Lowering the backyard elevation decreases the amount of fill to be brought into the site to backfill at the rear of the walls. The net fill for the property has been reduced to a total of 103.5 cubic yards. A new staircase is proposed along the south side of the new walls. The existing stone wall located at the bottom of the property will remain in place. This stone wall is approximately 50’ in length and less than 4’ high. Textured paint (natural) will be used on all of the exposed concrete surfaces. Since the retaining walls have a lower height, 6’ – 7’ plantings consisting of arborvitae will be planted and used for screening for each wall. Plantings will consist of “Green Giant” Arborvitae. The number of Arborvitae have been increased from 29 to 36 plants. The lower row will be planted in

a zig zag pattern to provide more depth to the proposed planting/screening plan. The landscaping will be provided between each of these walls. The construction of the walls will result in a gradual slope with the two-tiered wall system and landscaping breaking up the visual impact from properties to the rear. There will also be a code required 4' fence at the top of the upper wall. The initial concept of installing a drip irrigation system was discussed with the Project Engineer and Landscape Architect. The project consultants advised against the installation of the drip irrigation system with the new wall design. Their concern was that a leaking or burst buried pipe could go undetected, causing soil saturation which could undermine the foundation of the retaining wall. This would result in potential damage to the neighboring property downhill of the retaining wall. The landscaping will be properly hydrated through normal means.

The proposed design is a cast in place reinforced concrete wall with a stem and footing that is pinned to solid rock. The reduction in slope of the grade behind the wall in comparison to the existing and the proposed landscaping between the walls will percolate water into the ground, thereby, reducing stormwater runoff. The engineering calculations for the walls have been reviewed to be acceptable by Hahn Engineering. The Village Landscape Consultant has provided the final review of the landscape plan dated 4/22/20. The plans indicate that there will be an excavation of 134 cubic yards for the walls with a total of 325 cubic yards of certified fill to be brought onsite to fill in behind the walls and develop a gradual slope. The net fill is 191 cubic yards. The applicant's engineer has developed a soil and erosion control plan to protect adjacent properties to the rear. As part of the soil and erosion control plan, a soil stockpile will be provided in the backyard closer to the residence with a silt fence at the base of the stockpile between the construction area and the stockpile. The stockpile is shown on the site plan together with anti-tracking pads at the southeast corner of the site leading out to Miller Avenue.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning Board and approved by the Planning Board as follows:

Plans by Fusion Engineering, P.C. dated 5/5/20 and last revised 8/11/20 as prepared for "Peter & Suzanne Bartolacci – 67 Miller Avenue" are entitled as follows unless otherwise noted:

- Sheet 1 of 5 "*Site Plan*" dated 5/5/2020.
- Sheet 1A of 5 "*Existing Conditions & Demolition Plan*" revised 8/11/2020.
- Sheet 2 of 5 "*Wall Profile*" Revised 6/10/2020.
- Sheet 3 of 5 "*Cut/Fill, Slopes, Details*" revised 6/10/2020.
- Sheet 4 of 5 "*Footing Plan*" dated 5/5/2020.
- Sheet 5 of 5 "*Details*" revised 8/11/2020.
  - L-1 "*Planting Plan*" Bartolacci Residence, 67 Miller Residence, Tarrytown, NY 10591" prepared by Daniel Sherman, Landscape Architect dated 10/10/17 and last revised 4/14/20.  
(the "Approved Plans").

III. General Conditions

- (a) **Requirement to Obtain Approvals:** The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.
- (b) **Changes to Approved Plans:** If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Village Engineer, they shall also be considered “Approved Plans.”
- (c) **Force and Effect:** No portion of any approval by the Planning Board shall take effect until (1) all conditions are met, (2) this Final Site Plan resolution is signed by the chair of the Planning Board and (3) the Final Site Plan resolution signed by the Planning Board Chair has been filed with the Village Clerk
- (d) **Field Changes:** In the event the Village Engineer/Building Inspector agrees that, as a result of of conditions in the field, field changes are necessary to complete the work authorized by the Approved Plans and deems such changes to be minor, the Village Engineer/Building Inspector may, allow such changes, subject to any applicable amendment to the approved building permit(s). If not deemed minor, any deviation from or change in the Approved Plans shall require application to the Planning Board for amendment of this approval. In all cases, amended plans shall be submitted to reflect approved field changes.
- (e) **Commencing Work:** No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained and to establish an inspection schedule. **Failure to comply with this provision shall result in the immediate revocation of all permits** issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.

IV. Specific Conditions

- 1. **Landscaping:** Continuous screening of the retaining walls in accordance with the Approved Plans shall be maintained with living, healthy, unimpaired and undamaged plant material as

determined by the Building Inspector, except that no replacement plantings shall be required to be done during winter.

2. Prior to the issuance of a building permit or no later than 180 days after the approval of the Site Plan Resolution by the Planning Board, whichever is sooner, the Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application. Partial payments may be made during this period.
3. Prior to the issuance of a building permit, Applicant shall provide a *Construction Management Plan* for the review and approval of the Building Inspector/ Village Engineer that will provide for staging of construction of the proposed walls and ensure the protection of adjoining and neighboring properties, including protection of existing mature trees.
4. Written permission (signed and notarized) from the property owner to the north should be provided for temporary construction access/use to install the section of the wall on the north side.
5. Written permission (signed and notarized) from the property owner to the south shall be provided for temporary construction access/use to install this section of the wall on the south side.
6. Additional details of the temporary shoring and piles shall be provided to the Village Engineer as construction details or construction plans.
7. Wall drainage has been shown on the wall details, however, dimensions and filter fabric should be shown and provided to the Village Engineer as construction details or construction plans.
8. Nothing herein authorizes improvements on any other property other than 67 Miller Avenue.
9. Textured paint (“natural” color/shade) shall be used on all of the exposed concrete surfaces of the two-tiered walls.

Dated as of September 30, 2020

Mr. Tedesco moved, seconded by Mr. Aukland, to approve this site plan application.

Dr. Friedlander asked for a roll call vote:

Member Aukland: Yes  
 Member Tedesco: Yes  
 Member Raiselis: Yes  
 Chair Friedlander: Yes  
 Member Birgy: Recused

The Resolution was approved 4-0, with one recusal.

CONTINUATION OF PUBLIC HEARING – Lexington Group 202 LLC - 29 S. Depot Plaza  
 Re-referral by Board of Trustees for review and recommendation of a petition for zone changes to allow for 88 residential units above a self-storage facility with parking.

Dr. Friedlander noted that he had to leave toward the end of the last work session when this application was being discussed. He asked any of the Board Members if they had brought up any questions for Mr. Collins at that session with regard to the economic viability of the project. No one recalled having this discussion. Mr. Birgy said he had a problem with his wi-fi at that meeting.

Dr. Friedlander briefly went over the history of the project and said that from the beginning, one of the goals in this area was to have mixed use and increased development. After the 2 floors of storage was approved by the Board, a discussion took place with the applicant and the Board was willing to consider the project and the increased density at this location. As the project evolved, they proposed 69 units and now they are proposing 88 units. When this Board asked the applicant if they could lower the amount of units, they were informed by the applicant’s attorney that it was 88 units or nothing, since it was not economically viable for them. Dr. Friedlander initiated questions and asked Arthur Collins, of Collins Enterprises, to provide information so that he could review the cost and revenue structure to determine the profit per unit and the break-even density, to satisfy his concerns about this project being too dense. Mr. Collins provided the information, some of which he noted was proprietary. He does not want to waste a lot of time and realizes that people have positions, and, if they do not want to listen to him that is their prerogative. He did his own calculations and based on 60 units at 20,000 profit per unit, this would yield an approximate 30% rate of return. He therefore thinks that there is a number less than 88 units that would be financially viable and profitable. He hopes by his demonstration of these numbers that they would be willing to entertain this number of units. With regard to an applicant leaving this project, self-storage is much less profitable than residential, and is unlikely that anyone would give up a much more lucrative project and rate of return. He just feels everyone would benefit if there was a less dense project.

Dr. Friedlander referenced some of the items in the letter of recommendation that he would like to address:

He referenced the proposed design criteria, which reads that “no facade shall exceed 150 feet in length, without architectural features designed to break up the visual effect of the building and avoid a box like appearance. Design features may include variations in height with offsets, projections, balconies, setbacks, and other distinctive architectural

elements. These design features need to be acceptable the Planning board (Design criteria have now been added to the proposed zoning text to address massing)". He would like the Board Members to consider that the bulk of the building be 60% greater than 150 in order to reduce the massing of the building. The 60% would allow for a very substantial increase in the length of the building from 150 to 240. This will allow for the creation of a viewshed and a 50-foot setback on the southern side to separate the residential building from the industrial use. This area could be used for recreation space. He would also like some standards for the landscaping to provide enough greenery and enough separation of screening in the area next to the recycling plant. With regard to building coverage of 75%, they are creating a residential zone in the ID zone. He noted that there is no residential zone in this Village that has 75% coverage and he thinks that the maximum coverage in any zone in the Village is 50%. He feels that this is something that should also be considered. With regard to the viewshed, Franklin Courts has been neglected in the discussion. Right now, there is no viewshed because there are buildings there, but they are creating a new building so this should also be considered. With regard to the density proposed, the project falls within the category of 75 units per acre, or 88 units on the 1.18-acre parcel. This parcel is larger than one acre which allows the squeezing in of the 88 units. In reality, it's a 38,000 s.f. parcel. He does not think that the calculation for the buildable lot area should include the road easement area which is used by 18-wheel trucks going to the recycling plant and for MTA vehicles. The fact that we say this is a driveway in the report, in reality, it is a major roadway, leading to a recycling facility and to maintenance activities in that area. So basically, the text allows for 88 units on 38,000 s.f., which he feels is not good planning. And, when you factor in the self-storage and the retail component, it becomes clear that the project is too dense. He would like to know why the Board is accepting this density. He is appealing to the logic and good sense of the Board to reconsider what the density may be. Another item to consider is that we are in the middle of a pandemic and people are fleeing the urban areas. This change could negatively impact the school district. Rather than the 12 children proposed, it could essentially be increased to 56 children, based upon the 28-2-bedroom apartments proposed, which could also affect the net taxes after the costs are deducted for the increased residents. Dr. Friedlander ended by saying that it would be helpful if Mr. Collins could break down the actual fixed costs for the special costs related to the project keeping in mind that there is a tremendous financial benefit to using the existing foundation. There are some small changes in the actual text amendment that can be made without starting over that would allow the Board to achieve some of the objectives that he has just laid out.

Ms. Raiselis commented that she tries to determine the value of a project by how it affects the land use, how it affects the neighborhood, and how it supports the Comprehensive Plan that the Village has spent so much time on, not what the profitability is to the developer. She feels as if they are looking at the money and not the goals of the Comprehensive Plan. She would like to look at the studies that have been done, which support this project, such as traffic, utilities, etc. She believes that this is a good TOD project that is worthy of the space and fits in with the SAO zoning supported by the Board of Trustees. She objects to the Chair's statement that the Board has not considered Franklin Courts since there has been much discussion on this throughout the entire process. At one point, the Chair proposed a structured garage between this project and

Franklin Courts. The SAO talks about neighborhoods in a complete way and, when they do site plan review, they are going to push to ensure that this project and Franklin Courts has a really strong interweave. They have talked for 18 months and she is not willing to go back and start the conversation over and say how we can tweak it to make a project that does not have the majority thinking of the Board.

A brief discussion took place between Dr. Friedlander and Ms. Raiselis. Dr. Friedlander expressed his lack of courtesy at the staff meeting when the Board members moved to go ahead and vote of the Negative Declaration for the project. Ms. Raiselis noted that Dr. Friedlander remained on camera during the period in question and she was not aware that he was not able to comment. Dr. Friedlander said he did not have a chance to ask Mr. Collins the questions at the work session and a vote was taken without him and that is how it went.

Dr. Friedlander wants to reduce the length of the building. It is good planning to have the separation since the paper facility is an industrial polluting use. He asked if the Board for comment.

Ms. Raiselis said it is an industrial use that packs paper, it is not polluting, and at some point in the future this area will be something other than industrial.

Dr. Friedlander said we can't just pick and choose the density. The recycling plant has to go through the SAO and it would not pass. He just wants to separate the buildings by 100 feet like they did in Hudson Harbor. What is wrong with that? Ms. Raiselis does not understand why Dr. Friedlander is making the changes at the last minute. She wants to know his rationale for too dense. Dr. Friedlander said it is 7.5 times more than Hudson Harbor. Ms. Raiselis said Hudson Harbor is a high-end market that does not achieve the goals of the station area, which is higher density and a TOD. Ms. Raiselis has no problem with 60 feet and the 88 units. She is not considering another height since the Board of Trustees indicated that they would not consider a project above 60 feet. Counsel Zalantis clarified and said that the Board of Trustees will not entertain any project above 60 feet and would not re-refer a project back to this Board unless it met the height requirement. Dr. Friedlander would like to also make some restrictions and asked why this Board is restricting them. Ms. Raiselis is not restricting the changes, she just doesn't agree with them.

Mr. Aukland agrees with Ms. Raiselis. He addressed the Chair and said that he has predicated all his comments, very nicely laid out. He thinks this project is just right and is a really good use of this location.

Dr. Friedlander said the building is on 67% of the buildable land. He asked if that was okay with the Board. Mr. Aukland said we noted that you don't specify a density going into this project. What you do instead, is take a look at all of the impacts and the consequences of that density. The Board has done that, and, in this case, it's making a really full use of a very difficult area. They have looked at all of those consequences and found that there aren't issues. He is not sure what the Chair's concern is.

Dr. Friedlander thinks that the proposal is way too dense for the property. Ms. Raiselis is saying it is way too dense for what the Chair thinks should be there. Mr. Aukland said it is a good use for this location. This Board has looked at impacts of density and there are not many consequences.

A brief conversation took place about the implications of the SAO.

Mr. Birgy said this project is 8 times the density of Hudson Harbor. Ms. Raiselis said you can't compare Hudson Harbor to this development. Mr. Birgy said experts are telling us that density is not a great idea and people are fleeing the city. It is clear that, people who have chosen to live here, moved here to be in a small village, and the TOD concept that has been warmly embraced is an urban planning strategy that somehow has made its way to Tarrytown. It is more appropriate for White Plains, New Rochelle or Mt. Vernon, not Tarrytown. We are in the middle of a pandemic and we are rushing to approve a project that is 8 times as dense and we don't even know if people are going back to NYC. We do not even know the traffic impacts of the Edge on Hudson Development. He referenced a study done by a professor from the Colorado State University, the School of Global Environmental Sustainability regarding the Covid-19 pandemic, and the perils of density. The takeaway from the article is that, "this is perhaps the most important environmental lesson COVID-19 can teach environmentalists is that increasing the density of human populations is not the answer to our environmental problems, even in normal times, excessive density harms people, people's physical and mental health, during a pandemic density can quickly turn deadly". This is just common sense to him. He does not understand why we would pack as many people as physically possible into a smaller parcel. With regard to the one elevator proposed, can you imagine having 88 units with one elevator at six o'clock hits. If the city commute ever comes back, everybody wants to go to the train, at the same time, how many people are going to get down in one elevator? He is going on record that he strongly opposes this density. He is not against a mixed use project on the site, it is only a matter of how dense it should be. And, as the Chair mentioned, he does not think this has to do with the profitability, this project is a clear detriment to the Village. So what we're saying is somebody paid X amount of dollars for a building lot and the developers come in and tell us that he has to build 88 units so they are given 88 units for free. How many builders would love to come in and get a bonus of 88 units that basically costs them nothing. He thinks it is an absurd argument. Everybody wants to make the maximum amount of money possible and he is not against that. But he is against a situation where somebody puts the health and the safety of residents at risk, simply because they have to maximize the return on their investment. If there was an RFP for 30 units, we would have builders lining up around the block to do this project. This is not a hardship case of having to build 88 units, so why is it an obsession to put as many units as possible there, when common sense and experts are telling us, it is a dangerous thing to do, and yet we're flying into it as fast as we can.

Ms. Raiselis pointed out that this article that Mr. Birgy referenced says, "As a consolation prize, we will get to virtue signal that our per capita emissions have gone down because of density, but it is total emissions that ultimately matter when it comes to climate disruption. Density is less dense. It is more dense, yes, but less pollution than single family houses, which are the most climate dangerous proposals that we could

do". So, what Mr. Birgy is saying spread everything out, but at the same time, be climate smart. In her opinion, this is not and the 88 units work.

Mr. Birgy is concerned about people's exposure in the middle of a pandemic, we are not at the end of this pandemic, and you act like it has no consequence. Mr. Birgy said Dr. Friedlander is asking what is the minimum number of units that we can do here and still make this work. That's a normal question, especially in the situation we are in. He is not trying to be critical, but this whole issue is being totally ignored. He would like to know why the Board is approving something that's eight times denser than the nearest multi-unit project.

A brief discussion took place between Mr. Birgy and Ms. Raiselis since the future is uncertain due to the pandemic and no one knows what the future will bring. It is all speculation. Mr. Birgy said they have stated their positions in a reasonable way. He is hoping that the Board of Trustees will realize that the Board is split on this issue. He feels it is critical that the Board of Trustees understands the minority opinion of the Board. He feels that less is more and they should be erring on the side of caution, especially since we don't know the future.

Mr. Tedesco suggested that the public comment period be opened.

Steven Novelli, 22-year resident of 22 Riverview Avenue, a retired police officer from Tarrytown, is concerned about the traffic that the project will bring onto Riverview Avenue. They already suffer enough train traffic which goes right through Miller Park and down Riverview Avenue, if you add another 88 apartments down on Franklin Courts, there will be another 150 cars a day passing through the neighborhood. That's his main concern but also wanted to make everyone aware that the county's main sewage pump station is at the end of Depot Plaza and wondered who would want to live next to that. The more density will create more traffic that will affect the Village for the next 100 years. He feels that the Chair was right on point with a lot of things that he has said.

Dr. Friedlander asked the Board why a number that is thrown out by a developer is the number you would have come up with as a planner. As planners, we should be saying here's a piece of land, we want residential, we want mixed use. We want connectivity, we want all of these things that we've talked about in the Comprehensive Plan and in our planning activities over many, many years. He is at loss to try to understand this. The only issue that's really at stake is what would be good planning for that property, in terms of its density, in terms of its land coverage, in terms of its viewsheds in terms of its setbacks. When we look at all the things that you've done over the years, we ask these questions, and we come up with reasonable adjustments or compromises. He has suggested a few things and he has never heard anyone say they are really against it. When he asked about the 60% addition, so that the maximum length of the building would be 240 feet, he doesn't understand why the Board is against that. Is that a bad idea? Is it bad planning? Is it bad to have a viewshed? Why is there no answer? He is making an amendment to the text and he just wants know how the Board feels about it. He has listened to the Board very carefully about all the issues that they are concerned about. He just wants a discussion. He doesn't understand why his questions are not

being answered about the length of the building, the viewshed and the 50 foot setback which would allow for a 16,800 footprint where they can get 60 units or so and give up the self-storage and get the 80 units. What is wrong with this suggestion as a planner?

Mr. Aukland said that this area will not stay industrial forever. They want to see a lot of things in this area. They want to increase the foot traffic and make it a neighborhood, have some maker space where a hum of people will be important. Dr. Friedlander says that his proposed text changes will not affect these goals. Mr. Aukland said it will if you reduce the numbers.

Mr. Tedesco wants to hear from the applicant. Dr. Friedlander said he wants to hear from this Board first. Zoom has reduced this Board's ability to communicate effectively with each other. He is imploring the Board to respond to his questions. He is concerned about good planning and the responsibility to the Village. He would like each member to respond.

Mr. Tedesco said it is not whether we need the opinion of the applicant. He just wants to see if the applicant thinks the Chair's suggestions are possible. He is trying to decouple if there are things that can be done that deal with the zoning amendment, apart from a Negative Declaration. If they could work on the zoning amendment to incorporate something that the Chair thinks is desirable, and maybe the Board would think would be a desirable, the applicant might be willing to go for it.

Dr. Friedlander would like to hear from the Board first.

Ms. Raiselis said that the length of the building can be worked out at site plan. They can coerce a viewshed through the design of this building. There are lots of places where you can see through a building and provide viewshed through glass. She would like to see a break, but she sees the problems the applicant is facing. She would like to work with the applicant to get what the Village wants. She doesn't think that picking an arbitrary 240 feet is necessary. She originally proposed 150 feet to break up the building and thought it was a good compromise because she was tired of arguing.

Mr. Tedesco agreed and said there is a lot of power during the site plan review that they seem to be skipping over as we discuss many of these other ideas. Mr. Aukland agreed.

Two more members of the public would like to speak.

Colin Vanderhorn, of LeGrande Avenue, voiced support of Member Birgy and Dr. Friedlander's perspective. Every person that he has discussed these dense projects with, agrees that they are not appropriate for Tarrytown. And the public sentiment seems to be with both Mr. Birgy and the Chair. When Mr. Birgy discussed why people move here, he was absolutely correct. The ability of the public to weigh in on these issues is also severely diminished over Zoom. The continued work sessions are hard to keep track of. He also agrees that Tarrytown will get sued to allow similar projects if this is allowed to go forward and it could change the fabric of the Village. He has seen this happen in several other municipalities. He wants to know if there are any conflicts of

interest with Board Members and developers? And, if those conflicts exist, would they be made public?

Ms. Raiselis wondered if Colin has read the Comprehensive Plan and if he realizes that this Board's job is to support it. This plan guides the policy here. She understands that people have come in and they don't want anything to change, but there is a plan in place, that was a long time coming and developed through a lot of public outreach. For the record, she has no conflicts or connection with the developer if Colin is referring to her.

Mr. Birgy said just because our Comprehensive Plan says that density should be increased, we need to be careful. If a developer came in and said I have the parking and wants to put 500 units on this site, would that mean that this is in support of the Comprehensive Plan? He does not believe that anyone in their wildest dreams thought that we would be talking about putting 88 units on less than an acre at the station area with all of the issues that have been outlined. He hopes that anyone who spoke tonight, or who is listening in, will make an effort to attend the Board of Trustees meeting to comment on the project. The Board of Trustees needs to hear from the public. So far, everyone that has spoken about this project has expressed similar comments. This isn't about people not wanting things, it's a matter of doing something that's reasonable. We love this Village dearly, and don't want it to change in a negative way. He doesn't understand why it has to be so big and why the Board is accepting the demands of the applicant. He feels that 40 units could be economically viable for the Developer. He urges anybody listening, to please come to the Board of Trustees Zoom meeting. He and Dr. Friedlander will be there presenting the minority view and he hopes that others will join them in voicing opposition to this proposal.

Mr. Aukland said the said the Comprehensive Plan is the Board of Trustees policy statement which was put together with a lot of public outreach. There was never any intent other than to have substantial density at the station area. The density was never defined, but they are doing that right now. He disagrees that this project should be compared to Hudson Harbor, which is a high-end waterfront development. This development is for a much more modest clientele and it is not on the water side of the tracks. The lot is in a very difficult position, and the whole thought here is that it's a really good use of that space.

Dr. Friedlander said that it is a different economic structure from Hudson Harbor but you still need substantial income to live in a 2-bedroom unit like this. It is still expensive housing, at \$48,000 a year. Mr. Aukland said this is why he is comfortable about the school impacts. Dr. Friedlander said the pandemic has to be taken into consideration. Housing prices are going up, people are buying more used cars and are leaving the city with their children. They can't send their children to school because they're fearful of a pandemic. Dr. Friedlander does not think the studies that Mr. Aukland is referring reflect the current situation. He feels that his resistance is overwhelming, as if the number of units is fixed, and he is unwilling to deviate by one unit. He can't understand the rigidity and a forcefulness of this position without looking at all the other things people are saying. He just keeps saying that it meets the criteria of 88 units. He asked then why not consider 100 units and if there is any limit to the number of units. He

acknowledges that the Comprehensive Plan did not set a density limit, but to go from the normal average and increase it to three, four or five times, it is a tremendous increase in density. It's never been done before. The developer wants 8 times the density and Mr. Aukland resists asking the applicant to make changes. He doesn't suggest something less than that, something that will have less impact, more open space and viewshed, less congestion and more safety. There has to be a reason for the 88 units, and he has never heard the reason.

Mr. Tedesco said he agrees with Mr. Birgy, and if this comes to a minority position that he and Dr. Friedlander will make a great presentation of their objections to the changes in the zoning with the Board of Trustees. And there will be other people to show up. He thinks at this point, he should read the Negative Declaration and they should take a vote on it.

Mr. Ringel advised Mr. Tedesco that there is still more public waiting to comment.

Amy West, who lives at Rivercliff, agrees with the Chair and Mr. Birgy in the sense that the timing has changed in our town. She doesn't see how the pandemic can be ignored. Units are flipping very quickly and there is a rush to get out of the city. She also cannot ignore the density of the 88 units which she feels is too high. She thinks that we have to consider the aesthetics of Hudson Harbor. This is not a standalone area and it should be integrated into the rest of the Village moving up the hill and into the town. She feels that the blocky building that is being proposed will not fit in with the area around the train station. Franklin Towers was built 70 years ago and it is a tall building, but it should not be the benchmark to set for the entire SAO, which would follow with a whole bunch of other tall buildings. If you start to carve the area and put little blocks down there, it is going to look very clunky. The reason why we love this Village is for the tremendous river views everywhere and why change it for 100 units. It's silly, and she thinks we have to think long term. She believes the Zoom calls are very sanitized. She feels that the public can't get their voices heard. The Board is not seeing the crowd of people and some people don't have the technology to tune in. She doesn't think it is fair that these decisions are being made during this pandemic.

Mark Fry, a professional planner, has appeared before the Board on a great number of issues. He had represented Artis Sr. Living, who is before the Board at the current time, but he no longer does. He lived in Tarrytown for 17 years, came back and lived another five years there. He has owned property on Main Street. He published the History of the Tarrytowns. He is intimately familiar with the history of the Village especially since the urban renewal area. He was around when Franklin Towers was built and Asbury Terrace. With regard to the Station Plaza area in 2020, he has about 1000 friends in Tarrytown, but some of them have asked him to jump in. He has read the Comprehensive Plan extensively, and has followed the entire approval process. While there are tiny snippets of the Comprehensive Plan that encourage high density, He wants to make it very clear that the Comprehensive Plan does not support this kind of density which is completely out of scale with the development in that area. Hudson Harbor was very carefully designed, at 10 units per acre, 238 units and 23.6 acres. It was a reasonable compromise and he was pleased with the amount of open space. He thinks that to completely trash zoning of the Village of Tarrytown and adopt what are

wrongly and falsely assertions as new standards would be a terrible mistake, and have an irreversible impact. Everyone watching should know that the Board of Trustees has had a proposal on the Station Area Zoning in front of them for 18 months, and it has not been adopted. There are no such standards. He fully supports everything that Chairman Friedlander and Mr. Birgy have said on this application. He appeals the other Board Members not to vote in favor of a Negative Declaration on this and not to approve this project at this time. Instead, he would appeal to them to extend the public hearing and allow more input.

Fred Mauhs, of 17 Walden Road, has not followed the development of this proposal, or even the proceedings of the Planning Board generally. This agenda came to his attention somewhat accidentally. His reaction was what is going on in Tarrytown? This particular proposal for 88 units at 60 feet is pretty high for Tarrytown and it is just one of several big-ticket items on the agenda. He is wondering, how we have gotten to a place where such big projects are on Tarrytown's Planning Board agenda, driving zoning proposals to change the zoning code? Is there really an overall Tarrytown Comprehensive Plan that envisions such a sudden jump in the number of residential units in Tarrytown? Where is the study that looks at the cumulative effect of all of these changes? And the future changes? If it's true, he thinks it is, then we are probably setting a precedent here. After speaking with the residents in the citizen trenches, he is not aware of anyone in our Village who is clamoring for a new and different Tarrytown or change from the feel of a village to the feel of a city. Everyone does agree that we need to make changes to address the underused real estate near the train station and the empty storefronts on Broadway. The Planning Board has the biggest role in addressing those problems and the Village appreciates the Board's service in doing that. He thinks most residents would say that we have to follow a kind of precautionary principle here and adopt the most minimal zoning changes possible to address the problems. The feeling that you get from reading the agenda is that someone's playing Monopoly with Tarrytown. For him, the aesthetics of the Village are important. He doesn't mean just the way it looks to us who live here but also how Tarrytown looks from the river and from vantage points across from the river. There is already too much of a loss of greenery from the banks of the Hudson from those vantage points. He supports the comments of Chairman Friedlander especially with respect to Franklin Courts. He asks the Board not to sacrifice any more of Tarrytown's natural visual profile.

Dr. Friedlander asked when we can go back to having public meetings.

Mr. Ringel, Ass't Village Administrator, said there are too many people to be able to conduct a public meeting of this kind since the meeting room can only fit a certain amount of people to comply with social distancing rules. The Board of Trustees has not opened the building to the public yet. Zoom meetings allow everyone to listen in and call in. We also televise the Planning Board meeting live as we always have and people can call in through Zoom. Dr. Friedlander said it could be done for the Board, but it would be difficult for the public. We probably should discuss this further but at another time.

Ms. Whitehead noted that this matter has been before the Board for 18 months. With Zoom, the Village is actually getting more public participation. For the first year of this application, not a single member of the public spoke at a meeting.

Katie Kreider, of 42 North Washington Street, wants to echo a lot of what the public has been saying. She has lived here since 2000. She feels that this project is too dense for this close to the Main Street. She feels that density should be added somewhere else, but right here in the center of town there is already too much traffic. She doesn't want to become one of the other river towns that are nothing but big high rises. This is not the feel of the Village. There is already not enough parking down there as it is. Everyone will also have a car, because the truth is that you do need a car in Tarrytown. If they are coming from the city, they're going to want that car and they're going to want to have their kids in the schools. A lot of people in the city have one and two bedroom apartments with two or three kids, so you can't assume that the schools will not be affected. You can't assume that the sewers are not going to be affected. She does not want to see that kind of density and doesn't know anyone that does.

Carole Griffiths, a member of TEAC, is not speaking on behalf of the council. She understands the need to increase density with the assumption that people will have fewer cars. She also thinks that increased density has to be consistent with the character of this Village. She feels that such a big development down near the station is inappropriate. She would like the Planning Board to look very closely at this and perhaps think about not issuing that Negative Declaration.

Peter Bartolacci, 67 Miller Avenue, is concerned that if people are complaining about density for this one project and the potential impact on traffic, what's going to happen when there are six projects down there? He thinks the SAO is not going in the right direction and they should start all over again. This conversation tonight is the perfect example of why the SAO needs to be looked at more carefully.

Howard Smith, 87 Main Street, asked the members of the Board, who are interested in proceeding right now with a vote, to reconsider. He understands the long period of time that has been devoted to this but he feels that the zoning function and people connected with it, is a protective function and should lean toward the interest of current Village residents, not developers, and not people who don't yet live here. He challenges the assumption that this development and level of density is consistent with the vision reflected in the Comprehensive plan. He does not think it is and he does not most of the residents of Tarrytown do either. To push forward with this at a time when people cannot physically be present to make their voices heard with the implications of pandemic is reckless in terms of the future interests of the Village residents. When you speak about the height and character of the buildings, it is not a high rise, it is low rise, and the standard really should be the buildings on Main Street, the heart of the community. He has not heard much of any reference with respect to the impact on Main Street, which is struggling right now. He does not see a benefit for the proposed development that's being contemplated now, and also in the future, in terms of a more densely populated Riverfront community for people who come and go on a train but don't live here. There will be more traffic and he would like to know who is knocking on the door, saying that they want more density and want more traffic, more demands for

services, and more pressure on infrastructure? He feels the residents do not want this. He urges that the Board not push forward and vote on this tonight, and give it more time and be open to the feedback that they are getting, which is that a less dense proposal might make the most sense for the Village.

Dr. Friedlander wants to respond with regard to the cumulative effects. In addition to this 90 unit development, if approved, the property next door could propose two times what we have here, which is 270 units. If you add in the Walgreens area, there could have another 180 units there. And the Stiloski area could have another 80 or 100 units. So, there are about 500 units in the station area, if developed at the same density would generate an additional 1000 more people, an 11% increase, which will impact traffic. When Sleepy Hollow put forth the increased density on General Motors, the Village sued them because we didn't have the capacity or the road network in the station area to absorb the cars. So, there is a history of trying to not increase density. He feels that they should be real important reasons and the public benefit should be considered when increasing density. Currently, the Board has 109 units of affordable housing at the YMCA and an 80 unit proposal at the Coco property on the agenda. The property next to Coco could also be developed and they could have a project at the Chase or Citibank properties. So, there is a potential for 350 units to be developed in the heart of the Village. This is a tremendous number of units and the cumulative effects should be taken into account. The Board has to be able to justify the density. For example, the 109 units at the YMCA is supported because it is affordable housing, and the Village has goals for affordable housing. This project is a grand slam home run, because it has 109 affordable units on Main Street, walkability, connectivity, everything. More importantly, 69 underground parking spaces are proposed to increase the retail purchasing power of those stores and keep them vibrant and profitable. With regard to the other projects with similar densities of 80 plus units, we have to consider the impact on the entire Village, instead of segmenting them off in a SEQRA process. There must be clear public benefits. He noted the Hudson Harbor project and how the Board worked with a developer to get the Recreation Center with a swimming pool and the Village Hall. This 88 units sets a pattern or precedent for the rest of the Village and for the rest of the people who expect similar developments. It is very dangerous. He urges everyone to consider these factors, rather than just saying we have a project, we have to get started because we are way behind, and if the Board doesn't do what the applicant wants, it's going to be ruined. He feels that people will find that property valuable. And, if they don't find that property valuable, they'll find the next piece valuable.

Mr. Birgy commented that he drives to the south end of town each day and there are many times that you cannot make a left going down to the station area and we are not even at normal traffic levels due to Covid.

Laura Burk, 40 N. Washington Street, agrees with the Chair and Mr. Birgy with regard to setting a precedent and the overall density and traffic in the Village. She would like to know what the Boards are doing in the Village to protect and represent the residents who live here. Why are the developers getting everything they want and at what cost? Ten people have spoken about this project tonight and the Board is ready to vote on it. She

is concerned that the residents are not being heard. She would like to think that the Planning Board is looking out for the best interests of the Village residents. There are 12,000 people who live here and they want to be heard as well.

Mark Fry said that he supports the public comments made this evening. There are 464 units proposed on the agenda tonight. It is truly unprecedented, the idea that we will increase the Village population by 10%. This is the first time this has happened since the Village was incorporated in 1870. He has added up the potential development in the SAO, which will add another 600 units. He noted that American Paper Company has already sold the parcel to Lexington 202 Group and said he has seen the deed. He noted that there will be other properties, such as Royal Properties on Main Street, who will immediately apply for this density. He appeals to Mr. Tedesco not to vote on the Negative Declaration tonight.

Dr. Friedlander apologized for taking so much time on the application at the beginning but he didn't have the time at the work session. The Board is split on this project. Many residents have spoken and there may be more who want to speak. He would like to have a motion to continue the public hearing to allow more people to speak, so we don't have to rush to make a decision.

Mr. Aukland said we owe the applicant a chance to speak. Ms. Whitehead said she will be quick for the record.

Linda Whitehead, Attorney with McCullough, Goldberger and Staudt, LLC, representing the applicant noted for the record that the last speaker, Mr. Fry, said the other parcel owned by American Independent Paper, has been bought by her client, which is not true. It was sold by American Independent Paper to the operator of the recycling business, so that information is just incorrect. This proposal before the Board is not under the SAO. About a year and a half ago, the Board of Trustees directed them to propose a zoning amendment since the SAO was not completed. It is a year and half later and the SAO is still not done yet, so they are glad they proceeded. The Chair referenced the other lot next to theirs on South Depot Plaza and said it is 2 times the size of their lot. That lot is smaller than their lot. There was a reference to all of the other parcels that could be developed up to 500 units but this is an application for this one piece of property for 88 units, and for a zoning amendment that will only allow the 88 units on this lot. It does not allow for any additional development on any other property. They have presented a traffic study. The residents of this building will not be travelling to the train station, they are already there. The traffic will be opposite from the peak traffic traveling to the station in the morning and reverse for the evening commute. They have also provided a traffic study to include the pandemic impact. We all acknowledge that we are living in a different world right now, but this project will take at least 2 years to build, and they still need to return for site plan review. We are hopeful that there will be a vaccine and she does not think that they should be looking at this project in this way. It should be noted that the Comprehensive Plan was done after Hudson Harbor was developed. Hudson Harbor is a completely different type of development. It is not a Transit Oriented Development (TOD); they are multi-million dollar waterfront high-end units. Their proposed units will be rented at reasonable

rents, something that the Comprehensive Plan asked for. This project will not affect traffic on Broadway. A comment was made that the developer was given 88 units for free. The land acquisition cost was 3.5 million dollars but the true cost is not just the land cost. That maybe what the Ferraro's paid for the property, but it is not what Mr. Collins is paying. He is going into an agreement with the Ferraro's. The true cost is not just the land cost. The numbers that were provided to you really to show that there are significant development costs with this site, many of which are the same whether you're building 20 units or 88 units, because of the location and the things that have to be done on site. So again, that the calculations are not based solely on land costs as was set forth. There was a comment made that there will only be one elevator, there will be one elevator bank with elevators. With regard to the 240-foot building length, they are trying to work with an existing building, which is 300-feet long. It is their full intention, as Ms. Raiselis discussed, to try to use design elements to break up that length but they are starting with a 300-foot-long building foundation. She reminded the Board that the approved two-story self-storage-facility is the full 300-foot-long and is actually a much boxier structure than what is proposed here. With regard to the comparison to other zones and other developments, this is a new type of zoning that the Comprehensive Plan recommended and to say the TOD is only an urban type of zoning is very wrong. TOD's are being built in suburbs, and certainly all over Westchester. She wanted to clarify these points for the record and asked Mr. Collins if he wanted speak.

Mr. Collins said the information he provided was to show the Board the elements that need to happen in order to develop and pay for the infrastructure for this project. He feels that 88 units is not a high density. They submitted a density analysis and have a parking agreement in place with the MTA. The project will actually create real value in the properties that surround the train station. They are not building mid-rise, it is actually low rise, which is the lowest category of construction type that exists. They are not trying to overbuild. They have responded to sustainable energy concerns, and the shared parking with the MTA. They are trying to work with the Village to get what the residents of the Village of Tarrytown can be proud of. The existing property is derelict and does not fit. They have put together an entire analysis of what needs to happen to make it work. He has submitted the numbers in good faith so the Planning Board can see what it takes to get a project financed. They like the idea of the what the Village has created, in terms of creating growth districts and promoting private investment in places that really need it. They have also respected the public housing. They have addressed a number of different issues that the Board has asked of them, and to be here, still arguing about the basics of the traffic, which we've already studied, or the building height, or the viewsheds, or the setbacks is going in the wrong direction. He guesses that they just have to leave the project, because they just can't do it. And if that's really the way that the Planning Board wants to take us, then we are just going to have to give it up and deal with a two story, self-storage building which is basically what the Board is arguing for. Some of the arguments and comments that have been made are not current and not educated based on what was submitted. He would like to sit down and thoroughly analyze the issues and address the Board's concerns. He has the answers, and feels that he can solve them. He thought that they were there last week, when went through all these issues. But again, here they are, it's been an hour and a half or more, that they are still talking about same issues. His company is passionate about

what they do. They will come into Tarrytown, and they are not going to sell off what we have. They are invested on a long-term basis and want to create something that this town will be proud of. He wants to work as a team with the Village. That is why he provided information to the Chair, so he could take a look at the challenges related to this site. If you have questions about it, he is happy to answer them. This evening, they were hoping to have a short meeting and there would be a vote so they are not with where they are. As far as he is concerned, it's up to the Board to figure out what they want from them, and they will tell them whether or not they can do it.

Dr. Friedlander thanked Mr. Collins for the information. He did not have time to ask questions at the last work session and he would have liked to have pursued that. He finds it awkward to do it here because you said some of the information is proprietary.

Mr. Collins said that he has spoken with Mr. Galvin 14 times. He has been open and completely candid with all of the information. He is happy to meet with Dr. Friedlander. It is hard to communicate with the Chair through Mr. Galvin. He would just like to meet with the Chair and sit down. He will go to a coffee shop, social distance, whatever it takes. Ms. Whitehead said if the Chair had questions, he could have asked them through Mr. Galvin. It is not their fault that he was not able to stay at the work session. Mr. Collins said they have spent millions of dollars to get to where they are today and they are nowhere. He asked the Chair what he wants them to do. The Board is opposing them on every little thing.

Dr. Friedlander disagreed. He said they were willing to trade a floor of storage for x number of units. He is willing to have a 240 foot building and 70 feet to give them 16,800 feet for each five floors. If you add that up and divide by 800 a square foot of an apartment you come up with a big number. So don't say that he has not supported the project. He asked if the applicant has budged on the size of the building at all, or the setbacks. The applicant has not even shown us the MTA lease. From the numbers, it looks to Dr. Friedlander that this \$20,000 a unit profit is a net profit. The applicant says that the Ferraro's invested three and a half million dollars and now they are saying there's \$3 million infrastructure costs, which is part of the project. He would like to know what the extraordinary costs are and how much. What exactly is different on this project that makes it extraordinary, as opposed to a development that you do someplace else? He was told that they have to use the concrete base because it provides a protective layer, and they are saving money. When we asked the applicant to take the concrete away and put an underground parking garage, they said they couldn't do it. Ms. Whitehead said they have made a number of changes to the proposed zoning amendment that the Board requested and have addressed every item requested.

Dr. Friedlander asked Ms. Whitehead not to interrupt him. Nothing was given back from the applicant. He has some more questions but he would like to know in black and white, how much they are making per unit. He would like to see this information. It is not enough detail.

Mr. Collins said this is the first time he is hearing that Dr. Friedlander had these questions and that the letter was not satisfactory. He is willing to answer these questions. The

bottom line is that they have the infrastructure costs and they are also giving affordable housing units. The Chair said he can call him and ask the questions, but he can't meet with him due to Covid. He said he will have his questions on Friday and will follow up with Mr. Collins.

Ms. Whitehead said if the Board wants to vote on the Negative Declaration this evening, which she believes some members of the Board did, she will leave that up to the them.

Dr. Friedlander said they have heard comment from the public this evening and people are against the project. This information is new to the Board. He also heard that Mr. Collins is willing to work with us, which he appreciates. So, he suggests that the vote be postponed until he gets more information from Mr. Collins so that he can share it with the Board.

Mr. Birgy said there may be pushback from the community when this gets to the Board of Trustees. If there is any way that the applicant can scale back the density, they may see a different response from the minority on this Board, and a vast majority of the community. It doesn't seem that anyone is in favor of this density except for the 3 Planning Board Members.

A brief discussion took place between Mr. Birgy and Mr. Collins. Mr. Collins said that if Mr. Birgy read the economic report on the project he would know that they can only do it with the 88 units. Mr. Birgy finds it impossible. Many builders would be thrilled to be able to build here. He doesn't want to see them walk away. He has never heard an applicant speak to a Planning Board the way they have and he finds it inappropriate and he hopes this changes. Ms. Whitehead said that some Board Members have spoken to them in ways that have not always been appropriate too. Mr. Collins asked Mr. Birgy what he thinks would be appropriate. Mr. Birgy thought somewhere between 30 to 40 units would work. Mr. Collins said that would be impossible. He looks forward to sitting down and working through these issues so he can show them why they are proposing this density and the other items regarding traffic, viewsheds, etc.

Mr. Birgy said it would have to be done in public. With regard to the traffic, we don't need a traffic consultant to tell us the traffic is okay. We live with it every day. It is a bad spot down there. Mr. Collins asked Mr. Birgy what the traffic generation is, if he read the report. Dr. Friedlander interrupted and said, in terms of SEQRA, there are 6 to 10 sites that could impact the entire Village. If everyone comes in with the same plan, we're talking about 900 units, which is the concern. Incrementally, the marginal impact of each extra car has tremendous consequences. Our merchants can't stay in business unless people can flow through into the Main Street corridor and park their cars. The people who are living in this development may not go into the city, they may go to White Plains, they may go to Yonkers and Mount Vernon, they may go to Peekskill. They have to get out of that area, and the only way out is up Main Street and through the residential neighborhoods. It is the Board's job to try to figure out what the sequential cumulative impacts are going to be. Mr. Collins said you are comparing an apples and oranges. Mr. Whitehead said she has already addressed those six sites which are not affected by this zoning amendment.

Dr. Friedlander said he is afraid of setting a precedent. A brief discussion took place and Counsel Zalantis suggested to take a break to go into executive session since they are getting into a legal discussion. Dr. Friedlander said he does not want to do it now. It is too late. Dr. Friedlander will contact Mr. Collins. If he is willing to compromise that is fine.

Mr. Tedesco ended by saying that this discussion tonight has almost moved him to resign from the Planning Board. This is the most divisive issue that he has come across in his 33 years on the Planning Board and he does not see a light at the end of the tunnel. It is unbelievable to him that this has gone to this particular stage. He thinks that they do need an executive session with Counsel Zalantis to discuss this. While they can't do anything tonight, obviously because it's like trying to end world war three with a shotgun, common sense and compromise has to come into this at some point. If it's impossible for that to happen, then things have to be scrapped. There's no other way he can see out of this quagmire. He has never been upset as much as he is tonight as a member of this Board.

Mr. Tedesco, moved, seconded by Mr. Aukland, to continue the public hearing.  
 Dr. Friedlander asked for a roll call vote:

Member Raiselis: Yes  
 Member Tedesco: Yes  
 Member Birgy: Yes  
 Member Aukland: Yes  
 Chair Friedlander: Yes

All in favor. Motion carried. 5-0

CONTINUATION OF PUBLIC HEARING - Artis Sr. Living -153 White Plains Road  
 Construction of a 64 Bed Alzhiemer/Dementia Care Facility

Linda Whitehead, partner with the law firm of McCullough, Goldberger and Staudt, LLC, appeared and advised the Board that she has been retained on behalf of the applicant, Artis Sr. Living, also present, to work on the final open items with respect to the site plan application before this Board.

She referenced the September 10, 2020 submission which included:

- A letter from the Fire Department indicating their support for the plans as currently proposed in relation to fire fighting and rescue operations.
- A revised roof plan showing the maximum number of solar panels that could fit due to the fire department comments, the mechanicals and the elements of the roof. The panels will provide 9% of the electricity demand for the building.
- A summary of the other sustainable features that they have incorporated into the building to reduce energy demand.

With respect to the landscaping plan, there was additional memo received late today with minor open comments which they will address and finalize with the Village Landscape Architect.

They are continuing to work with Mr. Pennella to address existing sewer issues that have been found on Martling Avenue. They are also working on the final stormwater design.

The final issue remaining is the connection from the bus stop on Route 119 to their site. She advised that Columbia Doctors, a tenant at 155 White Plains Road, who has some approval authority over any work at the site, will not allow the construction of the stretch of sidewalk they proposed. It would have to be ADA compliant and a rather extensive system of sidewalk. They have been reviewing this matter carefully and they have tried to identify a walking route. She noted that there will be limited use of the sidewalk to their site. Artis employees operate 3 shifts: 7 am to 3 pm, 3 pm to 11pm, and 11pm to 7 am. Since the Bee Line bus does run at night, the employees really cannot use the bus. So, employees coming by bus and using the sidewalk are really limited to those on the 7am to 3pm shift. At 7 am, the Columbia facility is not active; their appointments start at 8 or 9 am. Artis has looked at some of their studies at other sites and they believe on the morning shift, it is likely that no more than 2 or 3 employees will be taking public transportation. So, basically, there will not be groups of people walking up from the bus through 155 to their site. She is assuming that they could build the stretch of sidewalk from the bus stop. Right now, there is no sidewalk connecting the bus stop to the existing stretch of sidewalk on 155. There is a gap between the bus stop and the existing walkway. They would like to build that section that would lead someone to the existing sidewalk in front of the building that extends up to the stairway into 155. Then there is that short stretch where they would walk on the grass or along the edge of the parking lot roadway up to a spot where they would stripe a crosswalk. This crosswalk would lead directly to the sidewalk that they are proposing to be built up to the front of their facility.

They see this plan as a viable compromise. Given the shifts and location and nature of the business, they don't anticipate more than 2 to 3 people using the bus at 7 am or 3 pm in the afternoon. She hopes that the Board will consider this as a reasonable compromise. She introduced Rich Williams, P.E., the project engineer, Max Ferentinos, with Artis Sr. Living and Don Walsh, also representing Artis, who are present to answer any questions.

Dr. Friedlander asked if any staff or Board Members had any comments.

Ms. Raiselis asked why they are not considering the visitors to the facility and if they have discussed any sidewalk proposal with Sunrise.

Ms. Whitehead said, this is memory care facility, and the clients do not leave the grounds and visitors don't generally come by public transportation. In terms of Sunrise, they are at the beginning of their approval process and they are at the end. When they looked At the Sunrise plan, it did not appear that they had any sidewalk or walkway going back towards the rear of their site. If Sunrise were to have a walkway, they may consider a condition that, if and when they build a walkway to that point, they would connect to it.

Ms. Raiselis commented that the sidewalk is for the future and this is one of the recommendations the County had made in their SEQRA comments. Ms. Whitehead said she is happy to have a conversation with the county. She is not sure that they understood the way the shifts work and the staffing and the low usage. She understands that these things can change in the future. Artis has information on the usage since they started developing these types of facilities, and they have not seen very heavy usage.

Mr. Pennella asked if they intend to get a state variance from the Department of Buildings, with regard to section 1104 of the state code, which requires an accessible route to public transportation. Ms. Whitehead said this property does not front on Route 119 or have direct connection to the bus route. Mr. Pennella's interpretation of the code is that they need to provide an accessible route to public transportation or seek a state variance.

Rich Williams, PE, the project engineer, presented the site plan, and said they are providing an accessible route to the site through Martling Avenue and not getting a variance. There are many places that do not have sidewalks along public thoroughfares, but ADA still requires them to build a connection to the nearest public thoroughfare, which, in this case, is Martling, so they will have ADA compliance. Also, for the future, they are willing to connect to the sidewalk if it is built. The additional connection from the bus stop to the existing sidewalk network would not be tied to their site plan. He showed the existing sidewalk on Route 119 and the sidewalk plan that Ms. Whitehead described previously. Rich Williams said there are design problems that they have encountered. The running slope of the existing driveway would not allow them to build a sidewalk parallel with the driveway and meet ADA. Once they build this connection, they do believe that they would be required to have an accessible route because they are now directly connecting this bus stop to their front door. That will drive a need for this portion of the sidewalk to be ADA compliant. The only way that they can actually make this ADA compliant is to adjust part of the wall. And starting back here, they would have to construct a series of ramps and landings which would diverge from the road grade and they would actually have a small wall along the curb line which would have to have handrails. So, one of the major concerns is that they are basically setting handrails along this entire curb line, blocking all of the users from walking to this access point, limiting people from walking to the building using the sidewalk. They would either have to walk to this specific point, or to this specific point, and that was something that they believe the tenant would not be comfortable with because it would alter how their site is used.

Ms. Raiselis asked if they spoke to the owner about this. Ms. Whitehead said yes, they have been told by the owner that Columbia Doctors will not permit this. Ms. Raiselis commented that you would think they would want this area as accessible as possible since there is an orthopedic in there. Mr. Williams said by making it accessible, you create a situation where some of the area has limited use. There is a 40 to 50 foot area that they are talking about.

Ms. Whitehead said they are at a disadvantage here since the easement that Artis has is an access and utility easement that goes along the road section. The tenant has control over what can be built on the property and they have discussed this with them

and they just won't budge. They have been trying to come up with a reasonable compromise, which is what they have presented. She also noted that Westchester County does have a Paratransit service who provides service to the front door of the facility.

Mr. Pennella said that this doesn't eliminate the need to satisfy the code from a building perspective. He asked if it was possible to do something going further east, if you follow the back of the buildings, where it is relatively level.

Mr. Williams said to Mr. Pennella that one of the disconnects that he is having between their conversation this morning and now is that they had talked about this connection to Martling and that it satisfies the ADA. Mr. Pennella agreed and said his original thought was that there is a bus stop on Prospect and Broadway and someone could conceivably be dropped off and go up Prospect, and then get over to Martling Avenue and into the property. But, they will be running across a steep grade there and you can't go in the bend there to the property, so, even if a sidewalk was ever proposed, it would never work. Mr. Williams said PROWAG kicks in along public right-of-ways and they have an exemption for this, but unfortunately, ADA didn't write that same exemption to their code. Otherwise, this would be a non-issue and they would have a sidewalk.

Ms. Raiselis said this plan looks like the best. They just need to figure out a way to make it safe for someone to come off the sidewalk that they are building and go onto that stretch of road and then go back, and then they just have to file an application for the state variance that Mr. Pennella referred to.

Ms. Whitehead said they are not conceding that they need a state variance.

Ms. Raiselis said Mr. Pennella thinks that they do.

Dr. Friedlander asked about the sidewalk that was discussed along the property line with Sunrise?

Mr. Pennella said there are a number of zigzags there and there are too many grade changes and it takes up a lot of land space in addition to the costs involved.

Dr. Friedlander said there are two similar projects that could both use the sidewalk but for some reason they can't do it. It might be simpler to figure out how to get a sidewalk along the border of these properties into the Artis property. Mr. Pennella said Sunrise is also proposing grade changes on their property as well so to transition there will be a problem for them too.

Mr. Pennella did meet with Sunrise and they said they would review it but he has not gotten a response.

Ms. Whitehead said she is concerned with the timing since Sunrise has just started their project. If the Sunrise's plan includes a sidewalk, if and when that gets built, they would agree to connect, but they do not want this to hold up their site plan approval, and that is why they came up with this other alternative.

Mr. Pennella suggested to have this as a condition of approval to potentially connect at a later date. A possibility would be to bring the sidewalk halfway up the midway of the property line and then onto Sunrise and then shoot over onto 155 and run it back. That could work. He is not saying that they would have to bring it all the way back onto the Sunrise property.

Dr. Friedlander said the first idea at Martling seems like a very long walk to reach the top. Mr. Williams said ADA only requires an entity on site to provide an access to the public right-of-way. Dr. Friedlander thinks it is too long and won't work. Mr. Williams agrees but as sight designers they are forced with these ADA guidelines.

Dr. Friedlander would like to know which is easier and which is better.

Mr. Williams showed the route from Rte. 119 on the plan and said when you come off the sidewalk and walk along the sidewalk, it's probably between three and four feet, there is a stone retaining wall, where 99 White Plains road is higher. The first thing is a bump grade to get into the property. Once you are up in this area, it flattens out. From here, again, they could build this connection if a sidewalk was brought to this point, but they would have to get through this hurdle here, and deal with the site plan grades. Another solution which Mr. Pennella mentioned is coming down this property line and coming across. One of the cruxes of ADA is they can't have over a 2% cross slope on a sidewalk. The existing running slope of this parking lot, which would become the cross slope of our sidewalk, is close to 8%. So, there is no opportunity to level off a 5-foot section running this way, so it becomes tough to come down and bend over. And, it becomes tough to deal with the grading issue, which he thinks would require reconfiguration of retaining wall. This is also a generally wooded area, and some of the trees would be disturbed.

Dr. Friedlander asked Mr. Williams what he proposes now to move this project along.

Mr. Williams believes that the connection to Martling satisfies our requirements under ADA. He believes that building this sidewalk connection, makes sense and helps get things farther along. They believe that based on their true needs for the sidewalk, that is seldom used, this walking route would provide a feasible solution for this project. They are willing to leave the option to connect to the sidewalk open in the future, when the Sunrise application catches up, if there is an opportunity, they are willing to leave that on the table for the future.

Dr. Friedlander asked if any Board members had any other comments.

Mr. Pennella advised the Board that there are still some issues that have to be resolved with the sewer repairs which have not been finalized.

Dr. Friedlander would like to continue the public hearing.

Mr. Ringel advised the chair that there are some people who would like to comment on this project and he advised the public if they wish speak \*9 on their phone or raise their hand.

Vincent Paone, of 2 Hillside Street, is calling on behalf of the public who has been waiting patiently for almost four hours to learn if the parcel that's on hillside street is going to be addressed tonight? He hasn't heard any agenda at the onset of the meeting, what addresses are going to be discussed tonight? He feels there should be a time limit on each of the parcels of land because we have been waiting for hours now, and have no idea what time this ends. He would like to get a little bit of feedback for the other people that have been waiting, such as his neighbor, who is ill and may have just left the meeting. He would like to know how many more addresses are in front of this application before we have the opportunity to speak. With all due respect to the Board, these types of issues, should be very simple. They should hear from the public, gather the information, let the Board speak privately, and then come back another date with recommendations or additional questions, but to hear some of the things that we heard tonight, for 4 hours, is not right as he starts his day at 5:30 in the morning. Going forward, there should be an agenda. How many addresses that there are or if there is a time limit so they can and plan the evening. He didn't see anything on the website. He thanked the Board for their time.

A brief discussion took place regarding the remaining items on the agenda and it was decided that these matters would be rescheduled to another date.

Ms. Whitehead asked if here are any other issues that need to be addressed and if it was possible to have a draft resolution prepared for the next meeting. Dr. Friedlander said it will be discussed at the next work session.

Mr. Birgy left the meeting and Ms. Raiselis also asked that the meeting be adjourned due to the late hour.

Dr. Friedlander apologized to the applicants who waited so long. He hopes the discussion was informative.

Mr. Tedesco moved, seconded by Mr. Aukland, to continue this public hearing and adjourn the remaining applications on the agenda to a later date.

Dr. Friedlander asked for a roll call vote:

Member Raiselis: Yes

Member Aukland: Yes

Member Tedesco: Yes

Chair Friedlander: Yes

All in favor. Motion carried: 4-0

The meeting was adjourned at 10:50 p.m.

Liz Meszaros- Secretary