

Village of Tarrytown, NY

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Zoning Board of Appeals Minutes 3/11/2013

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
March 11, 2013; 8:00 p.m.

PRESENT: Chairwoman Lawrence; Members Maloney, Brown, Weisel; Counsel Shumejda; Secretary Bellantoni

ABSENT: Member Jolly

APPROVAL OF THE MINTUES – February 11, 2013

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the minutes of February 11, 2013, be approved as submitted. Motion carried.

CONTINUATION OF PUBLIC HEARING – McCaffrey – 60 North Washington Street

Adjourned at the applicant's request.

CONTINUATION OF PUBLIC HEARING – Loja – 44 Storm Street

Ms. Diana Loja of 44 Storm Street explained that the house is a three-family house with two rental units and one owner-occupied unit. The house presently has a 50' rear yard and they would like to have a 15' addition built onto the rear of the house for a new kitchen for the owner-occupied unit. This will leave them with approximately 33' in the rear yard. Ms. Loja said along with the addition, they will be reconfiguring the inside of the unit. She said they presently have only two bedrooms and a very small kitchen.

Chairwoman Lawrence asked if there is any rear egress from the addition. Ms. Loja said yes, there will be a door in the rear of the addition.

Chairwoman Lawrence felt the parking would be tight. Ms. Loja said they only have one car. Ms. Weisel said there was a car in the driveway when they did the site visit and it seemed OK.

Mr. Maloney asked how many bedrooms they have in the first floor unit. Ms. Loja said one bedroom on the first floor and a second one in the basement. She said there are five people living in the house; herself, her parents, and her two brothers which is why they need more bedrooms.

Chairwoman Lawrence was concerned about blocking the windows of the house next door for light and site. She asked if there are any windows on that side of the proposed addition. Ms. Loja said no, for privacy they will not have any windows on that side.

Chairwoman Lawrence asked if they will have the construction vehicles park in their driveway. Ms. Loja said yes.

Ms. Weisel asked if they use their garage for parking. Ms. Loja said yes they have one car in the garage.

Chairwoman Lawrence asked if there were any more comments and then read the following review from Michael Blau, Environmental Review Officer dated March 11, 2013:

I have reviewed this application for variances to allow for a one-story rear addition and find the proposal appears to pose no significant adverse environmental impacts.

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variances for 44 Storm Street.

Mr. Maloney moved, seconded by Ms. Weisel, and unanimously carried, that the hearing be closed and the Board having arrived at the Findings required by the ordinance:

1. That no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance;
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. That the requested area variance is not substantial;
4. That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. That the alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

grants the requested variance for 44 Storm Street.

NEW PUBLIC HEARING – Checchi – 88 Main Street

Counsel Shumejda recused himself from this application.

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, March 11, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Ugo Checchi, Jr., Bobby Checchi & Linda C. Robinson
88 Main Street
Tarrytown, NY 10533

for an interpretation of the Zoning code of the Village of Tarrytown § 305-62 (5), Non-Conforming buildings, lots and uses; Effect of discontinuance for property located at 88 Main Street that the use of a garage for commercial storage may be continued as a legal non-conforming use, or in the alternative, that a variance allowing such use be granted.

The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.70, Block 32, Lot: 8 and is located in an M-1 (Multi-Family Residence) zone.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Zoning Board of Appeals

Dale Bellantoni
Secretary

Board members visited the property.

Mr. Blancato said the green return receipt cars will not be available until tomorrow.

Richard Blancato, representative for the owner, explained that this is a two-part application; first is for interpretation. This garage has been used for commercial storage for many years by several different companies: a moving company, Ugo Checchi Plumbing and Heating, RSG Roofing, Goldberg Hardware, Zeppo Contracting, and presently the Checchi family use it for furniture storage. They now want to list it for sale. According to the Village Code Section 305-62 (5) if a non-conforming use has ceased for six months or longer, it shall be abandoned and the non-conforming use cannot be resumed. They would like an interpretation as to whether the use can be continued. A number of interested buyers want to know if the garage can be used for commercial storage; for example, an

electrician would like to store his equipment and supplies in the garage.

Mr. Blancato said an alternative is a use variance so that it can be used for that particular use. Mr. Blancato submitted copies of an income statement. He stated that an appraiser recently indicated that the property was valued at approximately \$500,000. The net income as shown is approximately 1% or less of a return on the property, without the income from the garage. If income from the garage, which is \$1,200 per month, were added, it would start to become a profitable venture and provide a reasonable return. The property is unique to the neighborhood. There are no other properties with this type of use which is a quiet operation. It is not self-created because when the zoning changed to M-1, it was the Village that changed it, not the owner. Nothing has been done by the owner to create a hardship.

Mr. Maloney asked how it became a problem. Mr. Blancato said the only problem is that it has been vacant for several months and the Building Inspector said to come to the Zoning Board for a ruling.

Mr. Shumejda said since he has recused himself, if the Board needs advice of Counsel, the Village will provide it.

Chairwoman Lawrence asked how many rental units and where the tenants park. Mr. Blancato said there are four units and they park on the street.

Chairwoman Lawrence asked how many years it has it been a storage garage. Mr. Blancato said for over 50 years.

Ms. Weisel asked what was in the garage after Zeppo Contracting left in 2010. Mr. Checchi said his mother passed away and they used it as storage.

Mr. Pennella said originally it was approved for storage but he believes in 2008-2009 it was used by a tile company. They were cutting tiles in the street and it appeared that it was being used as a business and not just storage. The Building Department received complaints and that is when the Building Department asked for clarification as to its use; was it being used for storage or was it being used for a business.

Chairwoman Lawrence asked if they know of any other houses in the Village renting garages for storage. No one knew of any other such property.

Ms. Brown asked if it was going to be used by the tenants in the building. Mr. Blancato said no it will be used for commercial storage.

Chairwoman Lawrence clarified that the code states if the non-conforming use has not been used for six months, it then reverts back to the use within the zone; in this case residential.

Ms. Brown asked what kind of complaints the Building Department was receiving. Mr. Pennella said parking, use as a business.

Ms. Weisel said there is office space and asked if that office space will be used by the company renting the storage space. Mr. Blancato said yes they will use the space but not as an office per se. Chairwoman Lawrence said they could not use it as an office because it is not zoned for office space. Mr. Blancato said it was always used as an office for that space.

Chairwoman Lawrence said now it has reverted back to residential because it hasn't been rented out for a couple of years.

Mr. Maloney asked if that was because of the economy or because they didn't want to do anything with it. Mr. Blancato said partly because of the economy but also because they needed space for their mother's things after she died.

Ms. Brown said she feels there is a distinction between the storage of items and a warehouse where items are coming in and out. Chairwoman Lawrence said that a plumber or electrician would probably use it daily or weekly with trucks or vans coming to the site.

Chairwoman Lawrence asked if anyone in the audience wanted to speak.

Ms. Brown asked if they would be extending the variance or granting a new one. Ms. Lawrence said she was not

sure.

Mrs. Bellantoni said she did not receive the green return receipts; they would not be available until tomorrow morning.

The Board agreed to adjourn so that they can speak with legal counsel, visit the site again, and obtain the green cards.

NEW PUBLIC HEARING – Cannavo – 15 North Washington Street

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, March 11, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*15 North Washington Street, LLC
15 North Washington Street
Tarrytown, NY 10591*

for a use variance from the Zoning code of the Village of Tarrytown § 305-62 (5), Non-Conforming buildings, lots and uses; Effect of discontinuance and § 305-33 Multifamily Residential M-1 Zone, Permitted principal uses, for property located at 15 North Washington Street to permit a vacant store to continue to be used as a store in the M-1 zone.

The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.70, Block 16, Lot: 4 and is located in an M-1 (Multi-Family Residence) zone.

All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Zoning Board of Appeals

*Dale Bellantoni
Secretary*

Mr. Blancato said the green return receipt cards will not be available until Tuesday.

Richard Blancato representative for Dr. Cannavo, stated that the property has always been used as a store. The property is in the M-1 zone. They have not been able to rent it for four years, since Hank's Alley moved out. They have someone interested in renting the property for a similar type use, an antique/gift shop. Mr. Blancato said it will be too costly to convert the space into an apartment to comply with zoning. He handed out an estimate showing the cost to be \$63,000. The property has been used as a store since it was built. They, along with two neighbors, have petitioned the Board of Trustees to change the zoning; but it was turned down. Prior to Hank's Alley a variance was granted for the use. If that is the case, the non-conforming conditions do not apply to a variance; it continues forever.

That can be explored but we would rather just go forward with a use variance because the tenant is very anxious to move in. Chairwoman Lawrence said she has the minutes for 1975 when a variance was granted. Mr. Maloney said it was a variance for ladies slacks and blouses. Counsel Shumejda said in 1975 there was an approval for the cutting only of ladies slacks and blouses, no retail.

Esther Dehollander of Ossining, the prospective tenant, said she plans on selling antiques and vintage items, pet items, art, stationery, textiles and gifts. Chairwoman Lawrence asked if there would be any pets. Mr. Dehollander said no pets.

Chairwoman Lawrence asked Ms. Dehollander if she had other retail space. Ms. Dehollander said no, this will be her first.

Ms. Brown asked if there are parking requirements for retail that we have to take into account or just on-street parking. Counsel Shumejda said the number of square feet of the building determines the parking requirements.

Chairwoman Lawrence asked how long the space has been vacant. The prior application required six off-street spaces in 1975, but that was for that use only.

Ms. Weisel asked where the tenants in the apartment above park. Dr. Cannavo said it's vacant. She asked where the green gate on the left side of the building lead to? Mr. Cannavo said it leads to the boiler room.

Chairwoman Lawrence asked when the apartment is rented how many spaces will be needed for the apartments and the retail space. Dr. Cannavo said that today's cars are smaller than the cars were in 1975. Today eight cars can fit where six cars used to fit. Counsel Shumejda said the size of the cars does not matter. We must follow the code and we will need a parking plan to see that it meets the code.

Mr. Blancato said the person renting the store will also be renting the apartment. Counsel Shumejda said it still has to be shown on a plan.

Chairwoman Lawrence said we need to see a parking plan.

Dr. Cannavo, owner who resides in New York City, said he invested a lot of money and have no income from the property. He said the parking will not change. Chairwoman Lawrence said we still need a parking plan. Dr. Cannavo said every month it is put off it cost him more money.

Chairwoman Lawrence read a letter from Jo Ann Sullivan of 56 Central Avenue (copy attached) regarding a cast iron pipe connected to the leader drain coming from the roofs of 17 and 15 North Washington Street which is causing an overflow and creating a swamp-like condition on her property. Mr. Pennella said we looked into this matter. He visited the property and spoke with a contractor and asked him to fix the leader which is overflowing into her property, but it has not been done yet. Dr. Cannavo said no problem, it will be done tomorrow.

Dr. Cannavo explained that he owns #15 North Washington Street as well as #17, which he plans to renovate next. He stated that he put \$200,000 worth of renovations into #15 without any return. He stated that the parking will not change. He said it seems like such a process. Chairwoman Lawrence said yes, it is a process; a process that everyone must go through. She explained that we must see the parking plan to be certain that it conforms to our code. Ms. Brown said if you cannot meet the required parking, you can always come before this board for a parking variance.

Ms. Brown said if we do what is asked, to continue the use, we are approving the use to cutting women's clothing.

Mr. Blancato said we are asking for a use variance to allow for Ms. Dehollander's business. Counsel Shumejda said the public hearing does not refer to a use variance nor does the application. If they are asking for a use variance, it will have to be re-noticed.

Counsel Shumejda asked Ms. Dehollander the number of employees on the site. Ms. Dehollander said no more than two.

Counsel Shumejda asked the hours of operation. Ms. Dehollander said she needs to see what hours fit best in Tarrytown but she is planning to be open Wednesday through Sunday, with Monday and Tuesday closed.

Counsel Shumejda asked Ms. Dehollander if she will be changing the exterior or interior. Ms. Dehollander said she would not be changing the exterior but would be refreshing the floors and painting, no structural changes.

Counsel Shumejda asked if the goods would be delivered or would she bring them in herself. Ms. Dehollander said she will have the goods delivered to her house and she will bring them in herself in small quantities.

The board decided to adjourn the application to the April meeting so that the applicant can provide the parking plan and re-notice for the use variance.

ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the meeting be adjourned – 9:00 p.m.

Dale Bellantoni
Secretary