

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
ph: (914) 631-1885

Zoning Board of Appeals Minutes 4/8/2013

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

PRESENT: Members Maloney, Jolly, Brown, Weisel; Counsel Shumejda; Village Engineer McGarvey; Secretary Bellantoni

ABSENT: Chairwoman Lawrence; Village Administrator Blau

Mr. Maloney chaired the meeting in Chairwoman Lawrence's absence

APPROVAL OF THE MINTUES – March 11, 2013

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

CONTINUATION OF PUBLIC HEARING – McCaffrey – 60 North Washington Street

The applicants withdrew their application.

CONTINUATION OF PUBLIC HEARING – Checchi & Robinson – 88 Main Street

Application adjourned.

CONTINUATION OF PUBLIC HEARING – 15 North Washington Street, LLC – 15 North Washington Street

Application adjourned.

NEW PUBLIC HEARING – Zollo – 21 South Broadway

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, April 8, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*Douglas and Lorraine Zollo
4 River Terrace
Tarrytown, NY 10591*

for a variance from the Zoning Code of the Village of Tarrytown § 305-63 D (1), Off Street Parking and Loading, which requires 2.5 off-street parking spaces for a one-bedroom apartment and no additional off-street parking is proposed.

The property is located at 21 South Broadway, Tarrytown, New York and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.70, Block 35, Lot: 4 and is located in an RR (Restricted Retail) 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

The certified mailing receipts were submitted and the sign was posted.

Board members visited the property.

Sam Vieira, Architect for the Zollos, introduced himself and Mrs. Zollo who was present.

Mr. Vieira said that this application has two parts; one is to determine if they do need to be before this board; and secondly if they do, they are seeking a parking variance. Mr. Vieira said Mr. and Mrs. Zollo purchased the property in 2005 when it was a fully residential property requiring 10 parking spaces. There was a single car detached garage in the rear of the property providing only one off street parking space. The Zollos renovated the property keeping the second and third floors as residential apartments and converting the first floor to office space for their business. This renovation increased the required parking to 12.5 spaces. They took down the garage and created 3 off- street parking spaces in the rear. In 2005 this board granted them a 10 space variance. In 2008 the Board of Trustees enacted a local code for properties in the Restricted Retail zone whereby if there was a change of use, renovations or anything that changed the numbers of parking from the previous existing occupancy they were given a waiver of 5 spaces. If more than 5 spaces were required by the code, they would have to come before the Zoning Board for a variance.

This application is to convert the basement into an apartment. By doing so according to the code they would need 15 parking spaces. Mr. Vieira stated because this will required an increase of 2.5 spaces, it now falls within the parameters of that waiver of 5 spaces allowed in the RR zone.

Ms. Brown asked if they would have gotten those 5 spaces if they already had a variance for spaces over that required number. Mr. Vieira said there is nothing in the code that talks about previous variances issued or not. He said all of the properties along Main and Broadway have no off-street parking, so they are starting at 0; but the Zollo's property is starting at 3 because they do have some off-street parking. If the 2008 code was enacted in 2005, they would have 8 spaces and instead of a 10 space variance they would be seeking a variance for 7 spaces. The 7 space variance is less than the 10 space variance granted in 2005. Once the Board of Trustees enacted this, it changed the entire formula for this area; therefore, they are actually seeking a lesser variance than what was granted in 2005.

Mr. McGarvey said that the math may seem confusing but it does work out. He explained that he and Mr. Vieira have gone over this application extensively and he tends to agree with Mr. Vieira. Mr. McGarvey said according to the Village Code the Board can refer the decision to the Building Inspector. He read that section of the code as follows:

§ 305-132 (C). In the RR Restricted Retail Zone, if the Building Inspector finds that a change of use of occupancy will not require an increase of more than five off-street parking or loading spaces beyond that required for the previous use, or in the number of spaces actually approved for construction to serve the use as of the effective date of the provision, and the applicant does not have land available on site for parking or does have land on site that cannot be accessed from public rights-of-way, site plan approval requirements may be waived by the Building Inspector. The decision of the Building Inspector can first be reviewed by the Village Administrator and then by the Planning Board.

Mr. McGarvey said had he known about this months ago, he would have said they did not have to go before the Zoning Board; but since the notices were already out, they continued with the process. Since this change of use does not require more than 5 spaces, site plan approval can be waived. Now the Board has to decide if they want to act on this or pass it on to the Building Inspector.

Mr. Jolly asked if the apartment building down the street has parking. Mr. McGarvey said no and that most of Main Street has apartments on the second floor which do not having parking. The Village has recently put in a new parking lot on South Washington Street and they are looking into putting more parking behind the Nearly New Shop

to provide more parking for residents and shoppers. Mr. Vieira said since 2005 new parking lots have been added to that area which has changed the off-street parking drastically to that neighborhood.

Ms. Brown commented that the Village has done great things to add more parking; but each month we are getting requests for parking variances, so it doesn't seem that we will ever actually get more available parking. Mr. Vieira said Tarrytown's parking requirements are a little over the top in comparison to neighboring municipalities which puts the burden on this Board. Ms. Weisel stated that less than 5 spaces is the only viable argument; and because this application is less than 5, it is less of an issue.

Mr. Maloney asked how many cars park in the rear of the building now.

Lorraine Zollo, building owner, said currently they have three apartments and two of the apartments park cars in there now; the third apartment does not have a car. During the day she parks her car there. She said they have never had any renters that have two cars. It is part of the appeal of their building that they can walk to the train and stores; they don't necessarily need a car.

Ms. Brown asked what they need to do to allow Mr. McGarvey to make the decision. Counsel Shumejda said although he has recused himself from this application, he is only providing technical advice. He explained that according to the Code it is the Building Inspector's decision. If Mr. McGarvey waives it, the Zoning Board does not have to deal with it. He suggested that they adjourn.

Mr. McGarvey said he would be required to send them a letter stating that he has waived it.

Mr. Maloney read the following environment review by Michael Blau, Environmental Review Officer dated April 8, 2013:

I have reviewed this application for a parking variance and determined this variance would appear to pose no significant adverse environmental impacts.

Mr. Jolly moved, seconded by Ms. Weisel to adjourn the application. All in favor, motion carried.

PUBLIC HEARING – Canfin 39 Main, LLC – 39 Main 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, April 8, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*Canfin 39 Main, LLC
39 Main Street
Tarrytown, NY 10591*

for the following variances from the Zoning Code of the Village of Tarrytown for the existing non-conforming property to demo existing garage and build new garage attached to building with one story above for extended art gallery use:

	<u>Required/ Permitted</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Principal Building Coverage (%):	50%	55%	65%	15%
Total Coverage (All Buildings) (%):	50%	69%	65%	15%
Minimum Front Yard – 1 (Ft.):	15'	9.76'	9.76'	5.24'
Minimum Front Yard 0 2 (Ft.):	15'		0.42'	14.58'
Minimum Rear Yard (Ft.):		26'	0.48'	16'
Total Parking Spaces:	11	7	8	3

The property is located at 39 Main Street and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.040, Block 17, Lot: 14 and is located in the RR (Restricted Retail) 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

The certified mailing receipts were submitted and the sign was posted

Board members visited the property.

Leonard Brandes, architect for the applicant, introduced himself. Mr. Brandes said that Mr. Canfin wants to take the existing garage down and build a new one on the back of the existing building with one story above which will be used as additional gallery space and storage. He explained that there will be a 10' buffer of plantings between the new garage and the rear neighbor. Additional parking spaces will be created for the tenants. The rear yard is not unusual in this area. We are proposing a screened and tree area which is an improvement to the area. They are improving the space and adding parking. The present building is in need of repair and they are taking care of the repairs.

Ms. Brown said they are making improvement for the immediate neighbors but is there anyone else whose line of sight you will be blocking. Mr. Brandes said the first floor is commercial and they are only going to the first floor level, which is lower than the neighbors.

Mr. Brandes stated that they have been before the Planning Board and receive their approval.

Mr. Shumejda asked where the variance for the new addition is on the plan. Mr. Brandes said the setback for the existing building is 0.42 and they are just extending the building and the setback will remain at 0.42.

Mr. McGarvey asked if they have gone before the Architectural Review Board. Mr. Brandes said they are on this month's agenda pending Zoning Board approval.

Mr. Maloney read the following Environment Review by Michael Blau, Environment Review Officer dated April 8, 2013:

I have reviewed this application from demolition of existing garage and construction of a new garage attached to the building with one story above for extended art gallery and determined the proposed appears to pose no significant adverse environmental impacts.

Mr. Jolly 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 39 Main Street.

Ms. Brown 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 above-referenced variances for 39 Main Street.

NEW PUBLIC HEARING – Moll – 33 West Franklin 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, April 8, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Jason and Amy Moll
33 West Franklin Street
Tarrytown, NY 10591

for a variance from the Zoning Code of the Village of Tarrytown § 305-47 B, Yards; setbacks, to allow one off-street parking space in the front yard setback.

The property is located at 33 West Franklin Street and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.70, Block 36, Lot: 21 and is located in an M-2 (Multi-Family) 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

The certified mailing receipts were submitted and the sign was posted

Board members visited the property.

Sam Vieira, architect for the applicant, explained that Mr. and Mrs. Moll would like to create a parking space in front of their house in the front yard setback. Mr. Vieira passed out a drawing showing the other existing driveways on the street. This additional curb cut would only take one parking space off the street and it would not significantly affect the rest of the street parking.

Mr. Maloney asked if this street is a sticker street. Mr. Moll said it is a blue sticker street.

Mr. Vieira said they are across from the Washington Irving School parking lot and parking is allowed in that lot from 5:00 p.m. to 6:00 a.m., basically parking is not allowed during school hours.

Mr. Maloney said he has a problem with parking in the front yard. It's not what you want to see in a neighborhood any more.

Mr. Vieira asked if it is approved by this Board, will they have to get approval for a curb cut from the Board of Trustees. Mr. McGarvey said yes.

Ms. Brown said she feels the same as Mr. Maloney. She asked if they knew of any variances in that area. Mr. Vieira said no, not on this street but he knew of a similar situation on Central Avenue many years ago.

Amy Moll said the parking area will only be on half of the front yard; the other side is and always will be green. They too are concerned about the curb appeal of their home and the only side of the front yard has grass and trees and plantings. She said they will not be putting asphalt, but something else, such as pavers, more environmentally friendly. She said they have one young child and she is expecting twins and she can't imagine finding parking with three children in car seats, especially when the Music Hall has events.

Ms. Brown asked Mr. McGarvey's opinion. Mr. McGarvey said if its approved, it would have to come before him regarding stormwater retention and what they are going to use.

Mr. Vieira said they are willing to discuss what the parking area should be made of.

Mr. Maloney read the following environment review by Michael Blau, Environmental Review Officer dated April 8, 2013:

I have reviewed this application for a variance for parking in the front yard setback. While parking in the front yard is never desirable, the Board must evaluate neighborhood conditions and make a determination whether this will pose a significant adverse environmental impact.

Ms. Brown said they are directly across from the school driveway and wondered if that would cause a problem. Mrs. Moll said it would eliminate a car parking directly across from the parking lot exit which would be a benefit to the buses by giving them more room and making it easier for them to exit the lot.

Counsel Shumejda said from a traffic standpoint you will have the cars coming out of the parking lot while you are backing out, both potentially turning in the same spot. Mr. Moll said they would wait for the bus to turn before coming out into the street. Counsel Shumejda said that may be so; but what if you sell the house in the future, will the new owners do the same.

Mr. McGarvey asked about the sight distance and if it was an issue. Mr. Vieira said that is hard to measure; it depends on what is parked there.

Mr. Maloney asked if they planned to have the gates open outward. Mr. Vieira said the Mr. McGarvey has told him them he is not happy with that. He said the gate is not part of the variance; and if it is approved, they will discuss it with the Building Inspector and they will have to go before the ARB. They just showed it on the plan for full disclosure. Mr. Maloney said he can't see you stopping on the road to open up the gates. Mr. McGarvey said it can't swing out over the sidewalk (right-of-way) without Village Board approval; a slider is safe; and since you can't open in when the car is there, it is the only option. Mrs. Moll said it would only be closed when the children were playing in the yard.

Ms. Weisel said she understood their problem, especially with children; but she was concerned about setting precedence.

Ms. Brown moved, seconded by Ms. Weisel, and unanimously carried, that the Board determines there are significant adverse environmental impacts as a result of granting the requested variance for 88 West Franklin Street.

Mr. Vieira asked for an adjournment to be able to address the issues of traffic, egress and stormwater. He will let Mrs. Bellantoni know if they decide to come back to the next meeting or withdraw the application. The Board agreed to adjourn for this purpose.

ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the meeting be adjourned – 9:15 p.m.

Dale Bellantoni
Secretary

