

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
March 14, 2016; 8:00 p.m.

PRESENT: Chairwoman Lawrence; Members Maloney, Jolly, Brown, Weisel; Counsel Addona; Assistant Village Engineer Pennella; Secretary Meszaros

APPROVAL OF THE MINUTES – January 11, 2016

Mr. Maloney seconded by Chairwoman Lawrence, with Ms. Weisel and Mr. Jolly abstaining, that the minutes of January 11, 2016, be approved as submitted. All in favor. Motion carried.

APPROVAL OF THE MINUTES – February 8, 2016

Mr. Maloney, seconded by Ms. Brown, with Ms. Lawrence abstaining, that the minutes of February 8, 2016, be approved as submitted. All in favor. Motion carried.

Chairwoman Lawrence called the meeting to order at 8:02 pm.

NEW PUBLIC HEARING – Tarrytown Associates – 1- 7 Main Street

Counsel Addona 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 pm on Monday, March 14, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Tarrytown Associates, LLC  
250 Park Avenue, Suite 1901  
New York, NY 10177

For a variance from chapter 305 of the Village of Tarrytown Code (“ Zoning Code’) in order to restore a previously damaged portion of the existing structure and create two new residential units on the third story of the structure. The property is located at 1-7 Main Street and is shown on the tax maps as Sheet 1.40, Block 18, Lot 1 and is in the RR zoning district.

The variance sought is as follows:

Zoning Code Section	Description of Section	Required by Zoning Code	Existing on Property	Proposed by Applicant	Variance Required
305-39 (C )	Min. Lot Size	23,000 s.f	15,861 s.f.	15,861 s.f.	7,139 s.f.

Additional approvals related to the above referenced project will be needed from the Planning Board.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and 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

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: March 4, 2016

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

Board members visited the property; the applicant was not able to be present due to illness.

Leo Napior of Harfenist Kraut & Perlstein, on behalf of the applicant, explained that an identical application was presented to this Board two years ago, but was adjourned pending a resolution to parking. The project is to restore the rear section of the 3<sup>rd</sup> floor to create two new units. This project received site plan approval two years ago. At that time there were 6 parking spaces. Two spaces were to the rear of the property which blocked the emergency egress to the Music Hall. The amended site plan currently before the Planning Board renewed those spaces and the Planning Board has issued a Negative Declaration. The addition of the two residential units will increase the minimum lot size to 23,000 s.f. and therefore, they are seeking a variance for the 7,139 square foot deficiency. He referred to a letter in his application from the Tarrytown Music Hall endorsing this project and also a copy of the Negative Declaration from the Planning Board.

Ms. Lawrence asked how many apartments they are proposing. Mr. Napior said they are asking for 2 more apartments, which would bring the total to 18, and they have no plans to convert back to 16. He explained that Planning Board site plan approval was conditional upon payment into the parking fund: for each new apartment 2.5 spaces are required; so they will be paying for 5 spaces.

Ms. Brown asked if the negative declaration included parking. Counsel Addona said that it did and referred to exhibit 4 in the application packet. Ms. Lawrence read the a portion of the Negative Declaration issued by the Planning Board concluding that there is currently in excess of 40 or more available parking spaces in the nearby lots. Ms. Brown said that parking is critical in this area and asked for more details about the study.

Mr. Napior briefly explained that the Planning Board asked them to do a study the lots within 1000 foot radius of 1-7 before and after the chase lot was closed and it was determined that the McKeel Lot always had ample parking. He said that there is street parking and the meters stop and 6 pm but are free on Sundays and residents can apply for parking permits.

Ms. Lawrence asked when this application was last put before the Board. Mr. Napior believed it was the summer/fall of 2014.

Ms. Lawrence said her concern is the parking and the fact that they are adding 2 apartments in an already congested area. Mr. Napior said that last time they were here, the Board thought it was a good idea to add the apartments to the area. Ms. Lawrence agreed that the space had been developed a long time ago and they are ideal apartments and are beautiful.

Ms. Lawrence asked if anyone would like to speak.

Mark Fry, resident of Tarrytown and founder of Main Street Association in 1980, said that the parking problem in the village is bad and granting this variance without any additional parking will only make it worse. Paying into the parking fund will not solve the parking problem and the applicant is asking for a substantial variance of 50%.

A discussion took place about Fire Department access to the area. Counsel Adonna advised that these are planning board issues. Assistant Village Engineer Pennella said that the new construction would require the installation of a sprinkler system which was not a requirement in the past. Counsel Adonna advised that we could provide the Fire Department comments to the Board. Mr. Napior advised that with respect to the Fire Department, there was a prior application in 2001, and they did not object to rebuilding but no new parking in the back because it would limit access. And in 2014, a meeting also took place with the Fire Department and Building Inspector. Various conditions were issued and they were asked to agree to those conditions.

Mr. Napior stated that Mr. Fry is incorrect that we are asking for a 50% variance.

Mark Fry returned and stated that the parking study that was done was not a professional study done by a licensed engineer.

Ms. Lawrence asked if anyone had any more questions. She read and commented on the criteria:

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:

Ms. Lawrence stated that it is a negative change adding to the parking problem.

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:

Ms. Lawrence stated that there doesn't seem to be any other method.

3. That the requested area variance is not substantial:

Ms. Lawrence said that the variance is about 1/3, which is 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:

Ms. Lawrence asked Mr. Napior how many bedrooms in each apartment. Mr. Napior said each apartment is 1200 s.f. and there are not many families; mostly commuters live in the building.

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:

Ms. Lawrence said that it is self-created but the Board will not take that into consideration and this is the minimum variance necessary.

Ms. Lawrence asked again if there were any more questions.

Ms. Weisel asked about the FAR and Height on of the building. Mr. Napior stated that there is no maximum FAR requirement in the zone. The maximum height is 42 feet, which will not change.

Mr. Fry returned and said that they are increasing the degree of non-conformity.

Mr. Napior said that it is not economically feasible to restore the area with one apartment; the area is an eyesore and not serving any purpose to the village.

Ms. Lawrence stated that she would like more time to review this application and gather more information. She would like input from the Fire Department and would also like to schedule another site visit with the applicant.

Mr. Maloney moved, seconded by Ms. Lawrence to adjourn the application to next month; all in favor. Motion carried.

NEW PUBLIC HEARING – Kaufman Associates – 69 North Broadway

Counsel Addona has advised that the village has had discussions with the applicant and his representatives and he will not be at this public hearing. She will keep the Board advised of this progress.

NEW PUBLIC HEARING – Tarrytown Associates – 15 Baylis Court

Counsel Addona 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 pm on Monday, March 14, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Paul Jeris  
15 Baylis Court  
Tarrytown, NY 10591

For variances from chapter 305 of the Village of Tarrytown Zoning Code in order to construct a new three family residence. The property is located at 15 Baylis Court and is shown on the tax map as Sheet 6, Block 17, Lot 80 and is in the M-1 zoning district.

The variances sought are as follows:

Zoning Code Section	Description of Section	Required By Zoning Code	Existing on Property	Proposed by Applicant	Variance Required
305-33.A(3) (C)	Min. distance between multifamily structures	25 l.f.	n/a	5 l.f.	20 l.f.
305 Attach. 6: Column 7	Width at Front of Building	50 l.f.	46.67 l.f.	46.67 l.f.	3.33 l.f.
305 Attach. 6: Column 12	Minimum for each side yard	15 l.f.	0 l.f.	5 l.f.	10 l.f.
305 Attach. 6: Column 13	Minimum 2 side yards	30 l.f.	0 l.f.	14.8 l.f.	15.2 l.f.
305-63 D	Off Street parking and loading (2.5 per D.U.)	7.5 spaces	0 spaces	6 spaces	1.5 spaces
305-67 A (2) (a)	Steep Slopes (25% or more)	0	n/a	983 SF	983 SF
305-47.B	Parking in front yard setback	Not permitted	n/a	8 l.f.	8 l.f.

Additional approvals will be needed from the Planning Board and Architectural Review Board.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and 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

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: March 4, 2016

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

Board members visited the property; the applicant was not present.

Mr. Jolly recused himself from this application.

Ms. Lawrence asked Counsel Addona if the Board can vote on this application this evening. Counsel Addona advised that they could since this was a Type 11 action.

Sam Vieira, Architect, explained that the prior approval to build this house has expired and since then, Mr. and Mrs. Jeris have sold the home at 17 Baylis Court and that the application before the board is the same size and format that was presented 4 years ago, and no lot line was adjusted.

Mr. Vieira presented a plan and went through the variances sought:

Mr. Vieira explained that the lot is existing, non-conforming in the M-1 zone and the width is beyond their control; but is minimal. With regard to minimum side yard, this is common in the village; the intent is to create more space between the new building and existing building at 17 Baylis Court. With regard to off-street parking, building is set back 30 feet to provide for 6 parking spaces in tandem; 7.5 are required; so they are asking for 1.5 spaces. The steep slope is actually man made when they carved out Baylis Court from the hillside; it is located where the new driveway will be.

Ms. Lawrence asked that the secretary provide the minutes from when the last application was approved by the Board. Mr. Vieira said that the garage was not approved but the three family home was because they were providing more off street parking.

Ms. Lawrence asked if they considered building a two family home instead. Mr. Vieira said that the original project was for a four family home and they did downsize to a three family home. A two family residence would still require a larger driveway which will not

change the parking and the spaces lost in the street. The larger driveway will allow the residents to safely turn around.

Ms. Lawrence read a letter into the record from Keith Betensky, Attorney at Law, (which is attached) representing the new property owners at 17 Baylis Court. In summary, the letter requested more time to gather information and a request for adjournment.

Ms. Lawrence thought it best to give the new neighbors the courtesy to let them be heard and go back to the site. Mr. Vieira said the new neighbors were aware of this application when they purchased the home. Mr. Paul Jeris, also commented that this project delayed the sale of the house.

Ms. Lawrence asked if anyone had any comments.

Keith Betensky, Attorney, representing the new owners of 17 Baylis Court, Drs. John Rocco Robilotto and Larah Alami, asked that the Board give his clients more time to gather information on this application. In addition, he would like input from the Fire Department with regard to emergency access and also attend the site visit with the Board.

Mr. Wiesel moved, seconded by Ms. Brown to adjourn the application to next month; Mr. Jolly recused himself; All in favor. Motion carried.

#### NEW PUBLIC HEARING – Education First- NY Campus – 100 Marymount Avenue

Counsel Addona 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 8:00PM on Monday, March 14, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Education First- NY Campus  
(EF Schools, Inc.)  
100 Marymount Avenue  
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown Code ("Zoning Code") in order to rehabilitate and upgrade the existing parking lot with related improvements to lighting, drainage and accessibility to the Sports Building. The property is located at 100 Marymount Avenue and is shown on the tax maps as 1.50-24-1 and is in the R-20 zoning district.

**The variance(s) sought are as follows:**

<b>Zoning Code Section</b>	<b>Description of Section</b>	<b>Required by Zoning Code</b>	<b>Existing on Property</b>	<b>Proposed by Applicant</b>	<b>Variance required</b>
305-47 B	Parking in Front Yard	No	Yes	Yes	Yes
305-128 B	Front Yard Parking Setback	35 Ft.	0 Ft.	4 ft.	31 ft.
305-67 A (2) (b)	Construction on high ground	No	Yes	340 ft. elevation	yes
305-63 C (3) (b)	Off street parking	No	Yes	New driveway in front yard setback	yes

Additional approvals related to the above referenced project will be needed from the Planning Board.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: March 4, 2016

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

Board members visited the property.

Chris Orofino, PE, of VHB, Engineering, Surveying and Landscape Architecture, LLC, introduced himself and Mr. John Canning, also from VHB.

Mr. Orofino presented a streetscape of the 2 parking areas and explained that they plan to formalize, rehabilitate and upgrade the existing parking lots and build an accessible sidewalk to comply with current ADA standards. 39 parking spaces are proposed in the front and 15 in the back.



Mr. Orofino explained that the Planning Board asked them to revise plans to address the steep slope and parking so close to the road. The new plan will have an 8 ft. setback, instead of a 4 ft.; therefore, the variance requested has been reduced to 27 feet instead of 31 feet. There will be 20 ft. from the parking area to the curb line of Marymount Avenue. With regard to the variance criteria, Mr. Orofino stated that this project will improve the area with landscaping, drainage and lighting improvements. There will be much needed additional parking for everyone, including ADA compliance, and the variance is not substantial. There will be no adverse effect on the environment.

Mr. Orofino introduced Stephen Yarabek, Landscape Architect, who presented the landscape plan and said that they were looking to make this area a showcase by replacing trees with Hawthorn planted along the walkway, and American Elm will be planted near the discreet lighting. Impervious surface will not be increased.

Ms. Lawrence commented that the view from Marymount Avenue is spectacular and the added trees and parking will only improve the area.

Counsel Addona advised that the Board could not take any action on this application this evening since this is an unlisted action.

John Canning of VHB asked for the Board's input. Ms. Lawrence said she was very positive about this project. The parking lot is in bad shape and the ADA access is so important.

Ms. Weisel asked about the height and color of trees.

Mr. Yarabek stated that 10 ft. tall Hawthorns will be planted along walkway. They are native, bloom in spring and they are white. The American Elms are 12 feet tall and will be planted near the lights. To date, EF School has planted 60 new trees on campus.

Ms. Lawrence asked if anyone had any comments.

Mark Fry, Tarrytown resident and founder of Main Street Association, said that he is very pleased with the improvements made by E.F. along Neperan Road as well as the Stormwater Management Improvements and he is strongly in favor of this project.

Mr. Jolly moved, seconded by Mr. Maloney to adjourn the application to next month; all in favor. Motion carried.

#### ADJOURNMENT

Mr. Jolly moved, seconded by Mr. Maloney to adjourn the meeting; all in favor. Motion carried; adjournment 9:58 p.m.

Lizabeth Meszaros  
Secretary