

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
June 13, 2016
Date 7:30 p.m.

PRESENT: Chairwoman Lawrence; Members Jolly, Weisel and Rachlin; Counsel
Christie Tomm Addona; Assistant Village Engineer Pennella; Secretary Liz
Meszaros

ABSENT: Member Maloney

Chairwoman Lawrence called the meeting to order at 7:35 p.m.

APPROVAL OF THE MINUTES – May 9, 2016

Ms. Weisel moved, seconded by Ms. Lawrence, and unanimously carried, that the minutes of May 9, 2016 be approved as submitted.

Ms. Lawrence said that she was going to change the order of the new public hearings this evening and hear application by Maria Sanchez & Associates - 25 Neperan Road first.

CONTINUATION OF PUBLIC HEARING 1- 7 Main Street – Tarrytown, New York

Counsel Addona stated for the record that this matter has been adjourned pursuant to Village Code 305-138(F) (1). Ms. Addona advised that she has reached out to the attorney for this application, Leo Napior, who has consented to an extension of time beyond the 62 days for the Zoning Board to make a decision, until such time that the violations have been resolved on this property.

CONTINUATION OF PUBLIC HEARING – C.M. Pateman - 48 Sheldon Ave. Tarrytown

C.M. Pateman, applicant, representing himself, is seeking a FAR variance to construct a single family residence at 48 Sheldon Avenue. He explained that this hearing is being continued and, in response to the Board's request, he has revised his plan by setting the house back 28 feet, where only 20 feet is required. He has also completed a detailed landscaping plan.

After reviewing his application, Mr. Pateman stated that he made an error in the original application. He advised the Board that the FAR submitted was incorrect; the calculation did not include a deduction for half of the garage, therefore the FAR variance has been significantly reduced.

Ms. Lawrence asked what the FAR variance has been reduced by. Mr. Pateman said it went from 994 s.f. to 669 s.f.

Mr. Pateman said he thinks he has done what the Board requested. He also planted 60 trees to make the property look nicer.

He explained that the neighbors were pleased with his project and he has put significant detail to the trim and siding to reduce the impact of the home, which is 25 feet in height, where 30 feet is required.

Mr. Pateman read through zoning chart on the plan and said that the property is oversized and it does exceed every other setback regulation.

He explained that there are two separate lots but his choice is to merge the lots into one and build one house on the merged lot, which he feels would be less of an impact than building two separate houses.

Mr. Jolly asked about the petition from the neighbors which was included in his application package as “Exhibit 8”.

Ms. Lawrence referred to “Exhibit 8” and said it is a favorable petition from Sheldon Avenue area residents with 10 signatures listed who support the building of this home. Ms. Lawrence read the letter into the minutes:

“Dear Members of the Board:

Please be advised that we are all residents of the Sheldon Avenue area of Pennybridge. We are writing to advise you that we support the request for a variance from the Floor Area Ratio’s Cap section of the Zoning Ordinance for a new home at 48 Sheldon Avenue proposed by Chuck Pateman.

We have reviewed the architectural plans and are familiar with the 2 properties which he has proposed to merge into 1 lot containing 13, 508 square feet. We believe this home would be an asset to our neighborhood.”

Counsel Addona asked Mr. Pateman if he has closed on the second lot.

Mr. Pateman said he has not closed yet. Counsel Addona advised Mr. Pateman, as discussed at last month’s meeting, that if he builds this house on the two lots, as a matter of law, they will merge as one. Mr. Pateman will have to close on the 2nd property and provide one deed for the two lots. Mr. Pateman agreed and confirmed he would do this.

Ms. Lawrence asked what lot Mr. Pateman owns. He advised that the village owned the 50 x 100 lot, which he has closed on.

Ms. Lawrence asked if anyone in the public would like to speak.

Assistant Village Engineer Pennella clarified for the record that the FAR variance Mr. Pateman is seeking is for 689 s.f., not 669 s.f., over the 2,925 s.f. permitted, due to a bathroom, which was not included in the calculation. Mr. Pateman agreed with this.

Ms. Lawrence thanked Mr. Pateman and said the house is lovely and the design is nice, but, this is a very large home in an area where the houses are not that large and this house is not consistent with the homes in the area. Most raised ranch houses have finished basements; the living room, dining room and kitchen are on the top floor with a couple of baths and bedrooms, and the bottom is finished and habitable. It seems that because of the size of the family, this house is needed, but if the basement was finished then maybe the house would not have to be that big.

Mr. Pateman said he has had no opposition from neighbors and he really does need this space.

Ms. Lawrence said she certainly takes into consideration the opinions of the neighbors, but this is new construction. We have had other homes with higher variances, but they were not new construction.

Mr. Pateman said that the application for 116 South Broadway, which was recently approved, was new construction, and requested more FAR than his variance.

Ms. Lawrence said that the applicant was not changing the footprint of the existing house. Mr. Pateman said, for the record, it is a new house, and the FAR is higher than what I have requested.

Ms. Lawrence said if you finished the bottom, there would be more people and more cars. Mr. Pateman said he plans to finish lower level which will be his own primary residence.

Mr. Pateman said if he builds two houses, the FAR will be 5,700 s.f., so the mass and the bulk would be more. He feels it is not really out of character considering Honda is directly across the street. Ms. Lawrence said Honda is the only commercial property in the area.

Counsel Addona advised that one lot is undersized, so you would need a variance to build on that lot anyway. Mr. Pateman said that lot was a single and separate ownership prior to the zoning going from 5,000 s.f. to 7,500 s.f. and he believes he will get that approval.

Assistant Village Engineer Pennella referred to the April 13, 2016 plans which reflect a finished lower level. Ms. Lawrence said according to plan there will be 7 bedrooms once the basement is finished. Mr. Pateman confirmed this and said the bedrooms are small and the people in the home will not be driving.

Ms. Lawrence asked if anyone in the public had questions. No one appeared.

Mr. Jolly asked about his preference to build two houses or one. Mr. Pateman said his preference is to live here in one house. If not, he would turn it into a business property, which would be unfortunate for him.

Ms. Weisel asked about the request from the Board at the last meeting, and believes it is in the May 9th minutes, asking Mr. Pateman to consider submitting a smaller design, in addition to moving the house back. Mr. Pateman said the variance was lowered significantly due to an error so he was hoping that would compensate for that.

Ms. Rachlin asked about the windows in the attic area. Assistant Village Engineer said the windows are for design only, there is no attic area and attic space would increase FAR. Mr. Pateman thought it was a much better design and attractive, but he could change that if the Board would like; the house is still only 25 feet in height, which is lower than the required 30 feet.

Mr. Jolly moved, seconded by Mr. Weisel, to close the public hearing. All in favor. Motion carried.

Counsel Addona suggested that Ms. Lawrence read through criteria for area variance.

Mr. Pateman said he did go through this criteria in his application. Ms. Lawrence said she did read his comments and it is a nice application.

Ms. Lawrence read through and responded to the area variance 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 there will be a change in character because house is oversized for the neighborhood. She believes that the average square foot of a house on Sheldon is 1,500 s.f. and even the multifamily homes are no more than 2,000 s.f. The house the applicant is proposing is 1950 s.f. on first floor. Mr. Pateman started to respond to this comment.

Counsel Addona advised that if the applicant would like to speak the public hearing would have to be re-opened to have further dialogue with the applicant. Ms. Lawrence said she could go through the criteria without hearing from Mr. Pateman. Mr. Pateman asked to be able to discuss the criteria and would like an opportunity to speak for the record.

Mr. Jolly moved, seconded by Mr. Weisel, to re-open the public hearing. All in favor. Motion carried.

Mr. Pateman said the first floor is 1,925 s.f. and the lower level is 1,100 s.f.

Ms. Weisel responded to criteria # 1:

The bulk and size of the house is enormous and Honda is not in the residential zone. Mr. Pateman said he understands what Ms. Weisel is saying but doesn't agree. He said he is directly across the street from a 24,000 s.f. commercial building and to the south are attached apartments, and it is okay, that is why we have the Supreme Court. Ms. Weisel said this home does not match with character of the neighborhood.

Ms. Rachlin responded to criteria # 1:

Ms. Rachlin said it is a beautiful house but agrees with what Ms. Weisel is saying.

Mr. Pateman said it is a nice house and not one neighbor has opposed this project and he would like that to be part of the record. He said he has had nothing but support from the neighbors; it is the Zoning Board that does not like it. Ms. Lawrence said it is not that we don't like it, it is oversized. Mr. Pateman said he is across the street from a 24,000 commercial building. Ms. Lawrence said you are in a residential neighborhood. Mr. Pateman said he is across the street from a commercial building in a residential neighborhood. Ms. Lawrence said you are also near the church. Mr. Pateman said, yes, and also 180 feet long attached apartments.

Ms. Lawrence continued reading the criteria:

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 said she has not seen any compromise at all when it comes to the size. Mr. Pateman said the point is that he could build 2 houses on each lot. Ms. Lawrence said that is what it can be. Mr. Pateman said that is what he intends to do.

3. That the requested area variance is not substantial.

Ms. Lawrence said this variance is substantial for new construction. Mr. Pateman said it is much less than what the Board has approved in the last three years. Ms. Lawrence said we take each application on its own merits and individually. Mr. Pateman said that is what you are supposed to do, I understand that.

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

Ms. Lawrence said no adverse effect except home is oversized.

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, after Mr. Pateman's presentation, this difficulty is self created because the applicant has not made any steps toward compromising. He was asked to move the house back and consider reducing the size of the house. Mr. Pateman said he did everything the Board asked him to do. He has the right to build what he wants to and if you grant it fine, and if you don't that is also fine. Ms. Lawrence just wanted to make it clear. Mr. Pateman said Ms. Lawrence made it very clear.

Before closing, Mr. Pateman requested that his presentation boards become part of the record and he asked that the tape also be made part of the record.

Ms. Lawrence moved, seconded by Mr. Weisel, to close the Public Hearing. All in favor. Motion carried.

Counsel Addona advised all applicants this evening that in order for an application to be approved they will need 3 out of 4 votes from the Board, since one member is absent. She advised all applicants that they have the right to defer until there is a full Board to vote.

Mr. Lawrence asked if we have a motion on the table.

Mr. Jolly moved, seconded by Ms. Lawrence, to vote on the proposed variance for this property.

Ms. Lawrence moved, seconded by Ms. Weisel, to deny this application on the variance proposed.

The following votes were recorded:

Ms. Lawrence:	No
Ms. Weisel:	No
Mr. Jolly:	No
Ms. Rachlin:	No

Ms. Lawrence stated that the variance is denied.

NEW PUBLIC HEARING - Maria Sanchez and Associates – 25 Neperan Road

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 7:30 p.m. on Monday, June 13, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Maria Sanchez and Associates, Inc.
310 East 70th Street
New York, NY 10021

For area variances from Chapter 305 of the Village of Tarrytown Code (“Zoning Code”) in order to replace existing non-conforming exterior stairs.

The property is located at 25 Neperan Road, Tarrytown, NY and is shown on the tax maps as Sheet 1.80, Block 41, Lot 19 and is in the RR 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
Restricted Retail RR §305-39.D.(2)	Additional Area requirements and other provisions.	8 feet	0.29 feet on adjacent property	0.4 feet	7.6 feet

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: June 3, 2016

The certified mailing receipts were submitted and the sign was posted

Board members visited the property.

Maria Sanchez, representing herself, explained that she and her brother inherited this house in 2002. She explained that during a fire inspection, a fire escape had to be repaired, and there were issues identified with the existing staircase which lead to the 2 apartments on the second floor, which do not meet the code. They felt it was necessary to replace the staircase for the safety of the tenants. She introduced, Theresa Beyer, her Architect, who explained the need for the variance.

Ms. Beyer, presented the plan and explained that the first floor design does not allow entry through the porch to get to the 2nd floor. To remedy this, someone built the stairs

outside the structure for access. The platform of the stairs extends 6 inches over the property line. This has been a 3 family house for over 50 years.

Ms. Lawrence asked if property to the east is the Croton Aqueduct and it is not encroaching on any other neighbors. Ms. Beyer confirmed that it was and that there will be no encroachment. Assistant Village Engineer Pennella said the property is adjacent to a residential district.

Ms. Lawrence asked if anyone in the public had any questions. No one appeared.

Ms. Lawrence confirmed with Ms. Beyer that the new plan for the stairway is not going to encroach on any property lines.

Counsel Addona stated that this is a Type II action with no further action required under SEQRA.

Ms. Lawrence read through the criteria for an area variance:

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 there is no undesirable change since they are replacing a stairway that has existed for 50 years.

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 this is the only plausible entrance into the 2nd floor.

3. That the requested area variance is not substantial;

Ms. Lawrence said this was not a substantial variance.

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

Ms. Lawrence stated there will be no adverse effect since vacant land to neighbor to the east.

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 this was self- created many, many years ago.

Mr. Jolly asked if you have a Certificate of Occupancy for the property. Assistant Village Engineer said that the property is pre-existing, non-conforming and is allowed to continue its use as a three family. There is no official certificate of occupancy on record; the property was built in 1920.

Ms. Lawrence moved, seconded by Mr. Rachlin, to close the Public Hearing. All in favor. Motion carried.

Ms. Weisel moved, seconded by Mr. Jolly, and unanimously carried, that this application be approved. All in favor. Motion carried.

NEW PUBLIC HEARING - Kaufman Associates – 69 N. Broadway

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 7:30 pm on Monday, June 13, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

David A. Barbuti
150 White Plains Road
Tarrytown, NY 10591

For an area variance from chapter 305 of the Village of Tarrytown Zoning Code in order to obtain a parking variance for 38 parking spaces.

The property is located at 69 North Broadway and is shown on the tax map as 1.40-14-4, 5 and is in the RR 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
305-63 (D)	Minimum off street parking	75 Spaces	37 spaces	37 spaces	38 spaces

Additional approvals 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: June 3, 2016

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

Board members visited the property; however the applicant was not able to be there.

Dave Barbuti, Architect, representing the applicant apologized for not being able to make the site visit.

Counsel Addona explained that the applicant is before Planning Board, who is Lead Agency for a coordinated SEQRA review. The Planning Board has not issued a SEQRA determination so this board cannot take action this evening; this is opportunity for the Board to look at this application from an environmental perspective and submit comments to the Planning Board and also have an opportunity to visit the site.

Mr. Barbuti explained that this is an existing 52,000 sf. lot and the building is 16,000 s.f. The applicant intends to use the ground floor of the former carpet show room, which has been vacant for 2 years, for a fitness center. In order to do this, they are asking for a parking variance for 38 spaces.

Mr. Barbuti referred to the February 22, 2016 Planning Board minutes, which confirmed that there is adequate parking for this facility. He informed the Zoning Board that there will be no classes at this facility and there is only a 40 minute workout routine, unlike a typical fitness center. Mr. Barbuti referred to the parking studies, also verifying sufficient parking for this facility.

Mr. Lawrence asked if the gym would be open 24 hours. Eric Thomas, franchise owner of SNAP Fitness, said he was hoping that they would be get permission to operate this facility 24 hours.

Ms. Lawrence asked if staff is on hand overnight. Mr. Thomas explained that the system put in place will allow patrons to use a key card for access; but there will be video surveillance in the facility and an emergency alert system will be connected to the police department.

Ms. Lawrence asked how many people use the facility overnight. Mr. Thomas responded that about 1 to 4 people per hour will use facility. These users are people, such as police office, nurses, and others who work off hours.

Ms. Lawrence referred to the traffic study. She asked what the peak use hours are. Mr. Thomas said during the week there is a bit of a rush between 5 am and 8 am. Use is steady throughout the day and peaks again between 5 pm and 8 pm. It levels out overnight. Weekend use is slower; Sunday is the slowest.

With regard to access to facility; Ms. Lawrence thought it would be better if clients used the street parking at night or park at the Mckeel lot. It is very dark and residents would see lights.

Ms. Rachlin asked if they will be using the lower level of the building. Mr. Thomas said not now but maybe down the road, but they will be paying the rent for this space.

Ms. Weisel asked who pays for snow and ice removal. Mr. Thomas said the renters share this responsibility and he will be included.

Assistant Village Engineer Pennella recommended that a parking plan be put in place similar to the one that Coco Management has in the adjacent lot.

Ms. Lawrence said parking has been a problem in this area for many years.

Mr. Thomas said they will have 38 pieces of equipment. He is projecting 30 to 35 users at peak times. They will also encourage people to walk or bike to the gym. The average workout is 40 minutes. He also stated that he has run a successful gym operation in Mahwah, NJ for 8 years.

Ms. Lawrence referred to the parking study and said it was favorable and indicates sufficient parking.

Ms. Lawrence asked if anyone in the public would like to speak.

Donald McGee, of 20 Dixon Street (one house down from Snap Fitness Parking) expressed his concern that the parking is only going to get worse with this new business. He also heard a rumor about a boxing ring and is concerned about bells and noise.

Mr. Thomas explained that this boxing ring is for training and it will not be used before 7 am or 8 am in the morning and definitely not in use overnight and will be tightly regulated.

Mr. McGee asked how many people the applicant needs to make a profit. Mr. Thomas explained that no matter how many people join, only 30 to 40 percent use the facility regularly. Additionally, they cap the number of members because they don't want to overcrowd and only have limited pieces of equipment. Once this cap is reached; there is a waiting list to join.

Mr. McGee asked if any spaces are assigned to the gym. Ms. Lawrence said Kaufman owns one third of the lot. They cannot park in Mrs. Green's parking lot. Mr. McGee said in the past Kaufman has booted the cars and it is not pleasant.

Mr. McGee also stated that it is no longer dark in the parking lot, it is lit up.

Counsel Addona said the lighting issue could be addressed as part of the SEQRA environmental review.

Mr. McGee is also concerned about the 24 hour open facility and the noise it will create. Mr. Thomas said he will work with his users to have them only enter in the front door during the overnight hours.

Mr. Barbuti said lighting will be addressed to shield on site plan so as not to create a nuisance. Assigned spaces would be ideal; however, the Police Chief requested that the parking lot not be used at night, which was discussed at the last Planning Board meeting.

Mr. Lawrence moved, seconded by Ms. Weisel, to continue public hearing to the July meeting. All in favor. Motion carried.

A site visit will be scheduled before the next meeting. Counsel Addona will prepare a memo to the Planning Board regarding the environmental issues discussed.

NEW PUBLIC HEARING - Mark Morganelli – 1 Dixon Lane

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 7:30 p.m. on Monday, June 13, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Mark Morganelli
1 Dixon Lane
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown Code ("Zoning Code") for parking requirements in order to convert first floor space to retail for a Jazz Forum. The property is located at 1 Dixon Lane, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 14, Lot 22 and is in the RR 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
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Restricted Retail RR - Business §305-63.D.(1)	Schedule of Off-Street Parking Requirements	41 Spaces	3 Spaces	3 Spaces	38 Spaces
§305-63.C.(1)	Off-Street Parking on another lot in excess of 300 feet from site	38 Spaces	0	0	38 Spaces
§305-63.C.(3)(b)	Parking in a side yard setback	10 feet	8 feet	8 feet	2 feet
§305-63.C.(3)(b)	Parking in a front yard setback	15 feet	0 feet	0 feet	15 feet

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

The certified mailing receipts were submitted and the sign was posted

Board members visited the property.

Counsel Addona stated for the record that the last variance has been determined not to be needed by the Assistant Village Engineer/Building Inspector.

Stephen Tilly, Architect, 22 Elm Street, Dobbs Ferry, representing the applicant Mark Morganelli, is here to describe the project to adapt re-use of interior of space for a jazz forum. With regard to the parking which has been secured with the materials submitted, the parking spaces are beyond the 300 foot maximum permitted distance for off-site parking and require a variance from the Zoning Board.

Mr. Tilly said they had a positive discussion with the Planning Board. Counsel Addona advised that although the applicant's materials stated that the Planning Board had approved the application on the condition that the applicant get variances from the ZBA, that was not the case. The applicant appeared before the Planning Board for a preliminary presentation and moved the applicant to Public Hearing and they are before this Board to get parking variances first. The applicant agreed that this is actually what happened.

Jonathan Walko, of Steve Tilly Architects, referred to each of the parking agreements secured and the most recent executed agreement with New York State Office of Parks,

Recreation and Historic Preservation and Chase Bank, which he gave to all of the members, Counsel and the Secretary at the meeting.

Mr. Walko said that the Chase parking lot has been jointly involved in the approval and facilitated agreement which is owned by the Old Croton Aqueduct. They are giving them 22 spaces and Key Bank is giving them 16 spaces.

Ms. Rachlin asked if anyone will police this to make sure their patrons are only using these lots.

Mr. Morganelli referred to the submitted executed contract with New York State OPRHP and said if there is any problem with the parking he will endeavor to replace spaces and get approval. With regard to signage, a sign will be erected advising exclusive parking for jazz forum patrons only. With regard to parking at the church, they have agreed that the forum can use their lot as long as they are not having an event. In addition, there is the underutilization of parking at the McKeel Lot. He already approached Kaufman Management and Coco Management about utilizing some parking but were denied spaces.

Mr. Morganelli explained the Jazz Forum's operation will be limited to weekends. There will be two jazz sets until midnight on Fridays and Saturdays and on Sunday from 4 to 7 pm, Brazilian groups will perform. If he does rent the space, they can ask the Reformed Church to use spaces.

Ms. Lawrence was concerned about the noise. Mr. Morganelli said that the residential area is not near the music. It is a 1910 bakery and hard to hear. The instruments used are Steinway grand piano, bass and drums acoustic, and a vocalist. He has held 34 free concerts; half in Tarrytown and has done business with the Village since 1998.

He also said that a handicapped space will be provided.

Ms. Lawrence asked if anyone knows about project. Morganelli said neighbors are at the hearing this evening.

Ms. Lawrence asked how they will make patrons aware of the no parking restrictions in the Kaufman Lot. Mr. Morganelli said there will be a sign and map.

Assistant Village Engineer Pennella advised that the applicant was asking for 38 parking spaces but they did not account for employees in accordance with section 305-63 D, which requires one space for each employee. Therefore, Mr. Pennella said you will need to reduce the occupancy from 99 to 94 or re-notice. Otherwise, you will need a variance for 43 spaces.

Mr. Pennella also advised that Dixon Lane is a private road and advised the applicant to check on the deed as it appears that Schedule B may not have been included in the

recording of the deed. There is also a concern about the drop off zone with regard to traffic.

Mr. Pennella also advised that per NYS Building code, the applicant may need two (2) ADA parking spaces and may need a variance from the state. The code calls for the accessible route to be within the site. Mr. Tilly believed that the state building code allows for an accessible path that is not on the premises. Village Engineer Pennella said he will ask for an interpretation from the state.

Mr. Morganelli referred to the plan and said they could provide two (2) ADA spaces with a shared strip in the middle or Mr. Morganelli could accommodate disabled people by picking them up.

Ms. Lawrence identified the items that need to be addressed:

1. Occupancy needs to be decreased or applicant must re-notice apply for 43 spaces.
2. Access on Dixon lane: right to travel through. It is a one lane road. No drop off is allowed. Mr. Tilly said this is a Planning Board matter.

Mr. Morganelli asked if they could approach the Reformed Church to ask for 5 spaces for the employees.

Ms. Lawrence said they would need a letter of dedication from the church, but would have to re-notice anyway.

Mr. Morganelli agreed to revise the plans so that the occupancy limit is 94.

Chairman Lawrence asked if anyone in the public would like to speak.

Michelle Pasarella, of 36 N. Washington Street, said that Dixon Lane is a one lane road that the village does not plow. It will be hard to prevent people from dropping off. She also worries about the noise since her bedroom windows are in back and people will be leaving around 1 am. Another concern is that she heard the applicant was applying for a cabaret license. She has two parking spaces in the lane and asked what will prevent people from parking in these spaces. When she comes home from work she can never find parking. Mrs. Pasarella said there is a towing sign there. Mr. Morganelli said this happens anyway, and he would not be parking his car on the lane. The handicapped parking is right in front of the two apartment buildings.

Ms. Lawrence said Mr. Morganelli will let patrons know that there is no drop off allowed.

Mr. Morganelli also stated that he will close in January and February and re-open in March.

Assistant Village Pennella referred to the parking for the residential component as required by code and said that the applicant did provide parking for residential units in the facility.

Ms. Hollis Glaser, of 28 Dixon Street, said that she appreciates having this Jazz Forum nearby. She is concerned also about parking but she hopes that the Board doesn't punish this applicant because of the parking situation. The jazz forum will add to the attraction of the neighborhood and she supports this project. Patrons will not be a rowdy crowd.

Robert Perelman, of 23 Rivers Edge Drive, said it is very good for business, restaurants, and people are dying for a jazz venue in this area. We have a real opportunity to make this great for the village. Ms. Hiromi Kasuga Perelman, his wife, also completely endorses project. She explained that famous musicians will come and many people will also take the train.

Ms. Lawrence said that regardless of use, we do have codes that applicants have to adhere to and we have to take the code into consideration.

Mr. Morganelli said he is trying to do the right thing for the village and he will have monthly workshops and host the editorial board of the Hudson Independent and is open to hosting other community events. Ms. Lawrence said it sounds terrific, but we do have the code.

Diane Tuohy, of 11 Storm Street, said she is happy about the music but concerned about the cabaret license. She feels that it is too close to the residential area where she is raising her children. She asked about the potential for having valet parking and Mr. Morganelli said that Coco Management would not cooperate. Mr. Morganelli said he would approach Charlie Kaufman, to ask for some of their spaces, but Coco Management will not agree.

Ms. Ellen Prior, wife of Mr. Morganelli, said the issues raised tonight are so huge and she will commit to helping patrons understand that parking spaces are for people who live here and they should only park in dedicated spaces. In terms of the sound, the property is literally in the space of the parking lot. The only houses adjacent are on the far side. There is a very large space in between so there should be no problem with the sound. With respect to the bar, they will encourage people not to hang out and be respectful of the community.

Mr. Morganelli said there will be a \$20 cover charge; patrons are coming for the music, they are not rowdy, they are a classy and cultural crowd.

Mr. Jolly asked if he has had any events yet. Mr. Morganelli said he has had some fundraisers.

Eric Borcharding, of 144 Benedict Avenue, is in favor of this project. He has seen his fair share of raucous bars; he would bring his family to this forum and is not concerned about the alcohol.

Donald McGee also raised concern about the alcohol. Mr. Morganelli said it would be hard to have a business without this license.

Kevin Kaye, Co-President of the Chamber of Commerce and resident, said it was refreshing to see a community that is so respectful of each other. Mark and Ellen do so much for the community. There is a challenge and we have to deal with the parking issue, crowd control and noise, but he feels that there can be a solution with the neighbors. Mark is a genuine sincere person and he hopes this project can work out to everyone's satisfaction. Mr. Kaye said he has operated a night club and this is not a venue which would attract a rowdy bunch of kids.

Ms. Lawrence asked if they could also see the interior of the facility and asked if they are going to re-notice for next month's meeting.

Mr. Morganelli said they will reduce the occupancy to 94 so they do not have to re-notice.

Mr. Tilly pointed out that they are asking for a limited number of hours only on weekends for 10 month of the year and as far as the sound issue review there will be noise quality conditioning and it will not be an issue. Parking variances are about the distance percentages, it is not about the number of spaces.

Ms. Lawrence said they are going to reduce the occupancy and asked Assistant Village Engineer Pennella if the handicap space issue is settled. Mr. Pennella said it is his opinion that they will need a state variance but that could be subject to a condition of approval. Mr. Tilly believes this is a Planning Board and building code issue.

Counsel Addona asked about signage to mitigate any parking issues. Mr. Tilly said this was discussed at the Planning Board meeting and this was going to be a condition of site plan approval.

Counsel Addona said this Board has the authority to also make that conditions in their approval.

Ms. Lawrence agrees and appreciates the fact that this application has taken a long time. She said she would like to adjourn for one month to visit the facility and get a good feel for it before she makes a determination; meanwhile the applicant can work on the other issues.

Mr. Morganelli wants to know exactly where he fell short since he is not getting approved tonight after 13 months of hard work. Ms. Lawrence made reference to the access on Dixon Lane.

Counsel Addona said with all due respect you are not entitled to an approval as a matter of right and certainly not at the first meeting that the Board is hearing the application. Ms. Lawrence said she has to follow a process and this is the first time before the Board.

Mr. Tilly asked if the board intended to move to adjourn application to next month. Ms. Lawrence said they will vote at the next meeting.

Mr. Jolly moved, seconded by Ms. Lawrence, to adjourn the meeting to next month. A site visit will be scheduled.

New Public Hearing - John Loja – 40 Storm Street

Counsel Addona read the Public Hearing Notice:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 7:30 p.m. on Monday, June 13, 2016, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

John Loja
40 Storm Street
Tarrytown, NY 10591

For area variances from Chapter 305 of the Village of Tarrytown Code (“Zoning Code”) in order to raise the walls of the existing third floor to provide greater headroom and area in the dwelling. The property is located at 40 Storm Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 12, Lot 24 and is in the M 1.5 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
§305-32 (3)(D) Attachment 6:2	Maximum Height (Stories)	2 (maximum permitted)	2.5	3.5	1 Story
§305-32 (3)(D) and §305-47 Attachment 6:2	Minimum for side yard setback	15 ft.	2.15 ft.	2.15 ft.	12.85 feet

Additional approvals related to the above reference project will be needed from the 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 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: June 3, 2016

Diana Loja, sister of the applicant, John Loja, said that they are here to request a variance to add 2.5 feet more of headroom to the 3rd floor of the home at 40 Storm Street.

Mr. Loja, the applicant, said that he bought the house last year and it was in terrible condition and needed a lot of work. On the third floor you can barely stand up in the bathroom and the kitchen. It is not safe. He wants to add headroom to make it easy to walk in the area.

Ms. Lawrence asked about moving the bathroom. Mr. Loja said it would be too expensive. He wants to improve this house and feels this is the best way.

Ms. Lawrence said she is concerned about the house which is already one of the biggest houses on the block; the application submitted is proposing to raise the house from 2 ½ story to a 3 ½ story and there are no houses in the area that have 3 ½ stories.

Mr. Loja said there is also a 3 family house at the corner of Wildey and Storm Street.

Ms. Lawrence said that you are adding a whole story.

Mr. Loja introduced his Architect, Theresa Beyer, who explained that the attic is not high enough to use for living space. This area has been an apartment for 63 years.

Ms. Lawrence is very concerned about adding another story. It is a 2 ½ story house which is typical of this style house in this area. Ms. Beyer said the only reason they are here because it is on the lot line. If the house was pushed into the center of the lot, we would be able to do this.

Ms. Weisel asked about the sprinkler system which is required under building code. Assistant Village Engineer said this is a building department issue and they would be required to install a system. He also said even if they moved the house closer to the center of the property, you are only permitted to have a 2 story house in this zone and would need a variance as to the stories. With regard to height, Mr. Pennella suggested the Board may want to consider a balloon test, which may be helpful so the Board can see the proposed increase in height. Ms. Lawrence was favorable to doing this test since it was helpful with the 116 South Broadway application.

Ms. Beyer said we are only raising the house 3 feet and side walls and, according to her calculations, this is already a 3 story house, which was pointed out. She did not understand why it was noticed the way it was. Ms. Lawrence said you are still going up one story.

Mr. Pennella said, again, what needs to be clear is all of the houses are existing non-conforming. Therefore, it was built before zoning regulations came into play.

Ms. Lawrence asked if anyone in the public would like to speak.

Eleanor Misciasua, of 36 Storm Street, said she did not receive a notice about this meeting tonight. At one time this house was a dairy farm and she believes it is on the historical register, so you cannot put another floor on it since it was a farm house. It will take away from the neighborhood and change the character of the house. She feels there is no reason why they can't renovate the top floor without raising the roof.

The Secretary confirmed that the applicant provided proof of mailings and will review the file to see whether or not a notice was mailed to 36 Storm Street.

Mr. Loja said he is trying to fix the house and make it look nicer for the neighborhood. Ms. Lawrence said she understands but you are still adding to the house. Diana Loja said that the house is not designated as an historic site. Ms. Lawrence asked for a letter from historical society stating that it has no historic designation.

Diane Tuohy, of 11 Storm Street, said she is very excited that they are doing work on the house. The house needs to be restored, however, her home is in the shadow of this home. She is on the corner and when she looks out the window, her view will change. She would like to see the house be kept in uniform with all of the other homes.

Mr. Lawrence asked if anyone else in the public had any more questions.

Mr. Jolly asked about the stories of the house. Ms. Beyer does not understand how Tarrytown calculates its stories. In her opinion it was already a three story house and we added the three feet and it is still a three story house.

Mr. Loja said it is a three family house, but the third floor apartment there is no room for the head. He wants to do this long term to pass onto his family.

Ms. Beyer said she could do a redesign. Ms. Lawrence said she would like to do the balloon test first. She appreciates the work they are doing with the house but they are altering look of the house.

Assistant Village Engineer Pennella said they would not be here if they were not touching anything on the left of the property. He suggested the applicant may want to raise the ridge line on the right hand side, which would preclude you from coming to the

Zoning Board. Mr. Loja said that doesn't look nice. Mr. Pennella said this is just to offer alternatives to the Board.

Ray Tuohy, of 11 Storm Street, stepped up with a suggestion. Mr. Tuohy suggested bumping room out and that would take care of headroom issue in the bathroom and kitchen with no plumbing changes, so it will not cost any more money.

Eleanor Misciasua, of 36 Storm Street, submitted a picture of her home for the record, to show the height of her house (next door) relative to the height at 40 Storm Street.

Ms. Weisel moved, seconded by Mr. Jolly to adjourn application to next month to do the balloon test. All in favor. Motion carried.

Preliminary Presentation for Honda SEQRA Review

Realty @ 460 SB LLC (Honda) - 460 South Broadway

Review of referral from Village Planner on behalf of the Planning Board, dated May 9, 2016.

John J. Hughes, attorney for the applicant, Realty@460 SB LLC, introduced himself along with Mr. Jack Ryan, Vice President and General Manager of the existing Honda Dealership at 480 S. Broadway, and Mr. John Manilio, PE, of Redcom Engineering, the design engineers for this project, specializing in car dealerships. Mr. Manilio will present the plan and go through the list of impacts identified as part of the Planning Board SEQRA review and answer any questions you may have.

Mr. Manilio explained that the plan is to take down the existing 8,500 s.f. Eldorado Diner and construct a new sales and service facility for Tarrytown Honda which is auxiliary to the facility the applicant currently owns at 480 South Broadway.

Mr. Manilio presented the plan and said they are proposing a 20,907 s.f. facility with parking around the perimeter of the building and said that there will be access from 2 driveways with one full access ingress and egress to the north. They tried to keep the same footprint of the existing site. He briefly explained the floor plan. Cars will pull into the 3 overhead doors of the building and line up to get serviced. There will be a waiting area inside. There is also a small sales component.

Ms. Lawrence asked about sales at this facility since she thought it was just for service. Mr. Manilio explained that there is a sales component involved but for most part, the facility will be predominantly used for servicing vehicles. The sales component gives the dealership and the patrons the ability to buy and sell cars.

Mr. Hughes said this area is in the NS zone and it is a permitted principal use for the sales and servicing of vehicles, which is a dealership use, a combined use.

Mr. Manilio distributed the letter to the Board listing the impacts identified in part 2 of the EAF and went through each item as follows:

Impact on Land:

Impervious surface: The original plan was an increase in impervious surface, but they have revised the plan and reduced it by 800 s.f.

Steep slopes: There is about 4000 s.f. of steep slope; they have revised the plan and to reduce the steep slope disturbance to 700 feet and are required to build a 6 foot code-compliant retaining wall which will limit the amount of disturbance.

Assistant Village Engineer asked if they will be storing vehicles for sales on the site.

Jack Ryan, VP of Operations for Honda, said no new vehicles will be stored at this site; they will be stored at another 60,000 s.f. warehouse in Rockland County. Mr. Ryan said that 85% of this facility will be used for service and 15% for sales. Sales will be continued at the existing 480 S. Broadway site.

Ms. Lawrence asked what a car stacker is. Mr. Manilio said they are used to stack the cars to be more efficient but they cannot be seen from the street.

Historic and Archeologic Resource:

Mr. Manilio explained that they are taking service customers away from this area. However, they do conform with the 30 foot setback, but do not conform with the 100 ft. front yard setback for parking. The Glenwolde District is 500 feet away from the project site.

Ms. Weisel asked about the use of the existing building. Mr. Ryan said the old building will be used for overflow for new car and pre-owned sales but minimal service will be provided at this facility.

The Pennybridge Association is pleased about moving to the other facility since it will move the service out of this area. They sent a letter to the Planning Board, asking them to be a little more flexible.

Sally asked how many bays are proposed at the facility. Mr. Ryan said 20 service bays; they will service about 60 cars per day with a stacking service schedule so there will be no congestion in the front; cars pull into the facility and line up.

Mr. Pennella and Ms. Weisel asked about traffic – Mr. Manilio confirmed that there is a right turn only to exit the property onto Broadway. Mr. Manilio said they will have to work with NYS with regard to traffic and the road widening project.

Assistant Village Engineer Pennella asked about environmental issues. Mr. Manilio confirmed that the monitoring well on the adjacent property was closed out by the DEC.

With regard to construction, Mr. Manilio said the site is already developed so there will be minimal rock removal and soil movement.

Impact on Health:

Day care facility is across the street; with regard to solid waste disposal, all oil is stored in tanks inside the building. When tanks are full, they are pumped out.

Impact on Community Character.

This fits in with the other facilities in the area. It is a permitted use in this zone. They are going to add stone to the building and plant trees and also add evergreens as you come off the thruway. Ms. Lawrence liked the landscaped trees along Broadway.

Mr. Jolly asked if Honda will own this property. Mr. Ryan advised that they will be entering into a long term lease.

Counsel Addona asked that they go over variances the applicant will be requesting from the ZBA.

Mr. Hughes said there area 2 significant vaiances. There have been changes to the square footage and parking since the last plan. The first variance is coverage.

Mr. Hughes said that he is asking the Village Board of Trustees for a change in the zoning code to allow for 30% coverage, which is what the Town of Greenburgh allows since automobiles take up a lot of space. Currently, the permitted coverage is 20% in the village.

With regard to the size of the building, Mr. Hughes referred to a chart for market area required and current building size. Honda requires that they will need 30 bays for this area. They have eleven at the existing adjacent site and are asking for 20; so they will have 31 which is one above what Honda requires them to have. Mr. Hughes said that 30% percent of cars sold in Tarrytown are serviced here. This company has thousands of local customers.

Mr. Hughes said that the Planning board is concerned with architectural appeal of the project. Ms. Lawrence said that is because it really is the beginning of Tarrytown. Mr. Hughes said it is a five lane highway and serves a lot of people. This is a motorist type area. Diner cannot keep up with taxes and market rent and are moving to Ossining. This is a motorist type area.

Mr. Hughes referred to pictures that he submitted of Honda facilities in Williamsburg, VA, and Charleston, SC, which are historic areas. He explained that this is where this dealership has to be. They have made some concessions; however, this is not a historic district, it is in the NS zone of the Village.

Ms. Lawrence asked if there was going to be a big Honda sign. Mr. Ryan said no and they will be adding stone. Mr. Hughes said this site is not in the historic zone.

The other issue is the parking. Mr. Ryan said that employees will park on 460 property.

There will be some variances for signage and landscaping. Mr. Hughes referred to the traffic study which said that this site would generate less traffic than the diner since it is not the same kind of use and is not open 24 hours a day 7 days a week.

The applicants concluded their presentation.

Counsel Addona asked if there was anything specific about the issues discussed that the Zoning Board would like the Planning Board to address.

Ms. Lawrence said that the Planning Board is being thorough with this application and she feels they are doing a good job.

Ms. Weisel moved, seconded by Mr. Jolly, and unanimously carried, that the meeting be adjourned – 11:00 p.m.

Liz Meszaros
Secretary