

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
December 12, 2016 7:30 p.m.

PRESENT: Members Maloney, Jolly, Weisel and Rachlin; Counsel Addona; Village Engineer Pennella; Secretary Meszaros

ABSENT: Chairwoman Lawrence

Mr. Maloney chaired the meeting in Chairwoman Lawrence's absence and called the meeting to order at 7:37 pm.

APPROVAL OF THE MINUTES – October 13, 2016

Mr. Maloney moved, seconded by Mr. Jolly, with Ms. Weisel abstaining, that the minutes of October 13, 2016 be approved as submitted. All in favor. Motion Carried.

APPROVAL OF THE MINUTES – November 14, 2016

Mr. Maloney moved, seconded by Ms. Weisel, with Ms. Rachlin abstaining, that the minutes of November 14, 2016 be approved as submitted. All in favor. Motion Carried.

CONTINUATION OF PUBLIC HEARING: REALTY @460 SB LLC - 460 S. Broadway

John J. Hughes, Jr. Attorney, representing the applicant, introduced Jack Ryan, V.P. of Operations of Honda Corporation, the applicant, and John Manilio, PE, of Redcom, LLC, the project engineer, architect and contractor for this project. He stated that the Public Hearing with this Board began last month on November 14, 2016 and this is a continuation of that hearing. At the Board's request, the project engineer has eliminated a couple of minor variances and has submitted revised plans. He noted that the Planning Board issued a Negative Declaration SEQRA determination for this project at their meeting on November 28, 2016. He introduced John Manilio, PE to explain the changes and requested variances.

Mr. Manilio presented a July 25, 2016 rendering and indicated that they have cut 8 inches off of the building thus eliminating the .2 foot rear-yard setback variance. He pointed to the last parking space and said they were able to shift this space a bit and are now compliant with the 10 foot required setback and will no longer need a .3 foot variance. As a result of these changes, building coverage, floor area and impervious coverage slightly decreased.

Mr. Jolly asked Mr. Manilio to go over the changes.

Mr. Manilio said they are asking for:

- 84 parking spaces since 191 are required and they are proposing 107. In addition, they are asking for twenty four (24) of these spaces to be (8' x 18') to

accommodate more parking stalls which will be used for inventory and storage of vehicles.

- Special front yard setback of 50 feet, which is in line with diner.
- Building Coverage required is 20%; they are asking for 8.93% or 6,224 s.f.

Ms. Weisel asked about 11 parking spaces in front. Counsel Addona advised that the 11 spaces is a reduction in what currently exists at this site (31 spaces). Since it is a lesser variance, it was not noticed as determined by Mr. Pennella in his plan review.

Mr. Pennella asked Mr. Manilio to go over the variances requested.

Mr. Manilio briefly went over the variances.

1. Off Street Parking: 84 parking spaces.
2. Special front yard: 50 foot variance.
3. Maximum building coverage: Permitted is 20%; proposed is 28.93%, so the variance requested is 8.93% or 6,224 s.f.
4. Parking spaces size: Asking for 24 of the 107 spaces to be 8' x 18'. Required space/stall size is 9' x 18'.

Mr. Jolly said he was satisfied with the variances as explained by the applicant.

Ms. Rachlin asked, and Mr. Manilio confirmed the building coverage variance is 8.93%.

Counsel Addona advised that a resolution was drafted and circulated to the Board in advance of this meeting for their review and comment. She advised the Board to make sure that they have all of the information they needed before closing the Public Hearing.

Mr. Jolly asked about terms of lease with the owner of 460 S. Broadway. Mr. Ryan said they have a 20 year lease with 3 five year renewable options, which is a total of 35 years. They also have the right of first refusal should the property go up for sale.

Counsel Addona advised all the applicants that since there was not a full Board this evening, that they are within their right to adjourn the meeting until the next month.

Mr. Maloney moved, seconded by Mr. Jolly, to close the Public Hearing. All in favor. Motion carried.

Counsel Addona again said that she drafted a Resolution and circulated it to the Board in advance of this meeting for their review and comment. She said that she will read the draft resolution and give the Board a chance to discuss it afterwards.

Counsel Addona read through the Resolution and referred to changes where necessary relating to list of plans to be amended to include landscaping and floor plans in response to discussion at the last meeting, as well as changes in the numbers as a

result of the elimination of the 2 rear yard setback and rear yard parking variances, along with some minor changes.

When Counsel Addona finished reading the Resolution, Mr. Maloney asked why the variance for the parking in the front was not included. Counsel Addona advised that this variance is not necessary since it is improving the existing condition which was determined by the Building Inspector.

Mr. Jolly asked Counsel Addona to clarify in the Resolution that the building at 480 S. Broadway will be primarily used for sales.

Mr. Maloney moved, seconded by Ms. Weisel, and unanimously carried, that the Board approve the referenced variances to construct a 20,168 S.F. Automotive Sales/Service facility with the modifications discussed in the Resolution. All in favor. Motion carried.

The following votes were recorded:

<u>In Favor:</u>	4
<u>Opposed:</u>	None
<u>Abstain:</u>	None
<u>Absent:</u>	1

NEW PUBLIC HEARING – Dolf Beil – 108 Main Street – Tarrytown, NY

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, December 12, 2016**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Dolf Beil  
303 Hall Avenue  
White Plains, NY 10604

For a variance from Chapter 305 of the Village of Tarrytown Code (“Zoning Code”) to construct a storage shed for a garbage receptacle. The property is located at 108 Main Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.70, Block 31, Lot 6 and is in the GB District.

In accordance with §305-62 A (2) – Non-conforming building, lots and uses, the applicant is seeking a use variance to construct an accessory structure to store a garbage receptacle.

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: December 2, 2016

The certified mailing receipts were submitted and the signs were posted.

Board members visited the property.

Dolf Beil, owner of 108 Main Street, his rental property, explained that this has been a very educational process which started when the village dropped off the new garbage receptacles, which he supports. He wanted to store his trash cans at grade and in order to do so; he filed a use variance to extend a 4' x 9' platform to be 8' x 9' so that he can put wheeled trash containers at grade level. After meeting with Board Members, he has learned that a use variance has strict requirements and he anticipated that he would probably be denied this variance. He would like to wait depending upon what may happen with the Board of Trustees who may be making revision to the zoning code. He is asking that his application be adjourned this evening to see what the Board of Trustees may determine.

Counsel Addona advised that perhaps the application can be amended if necessary.

Mr. Maloney moved, to adjourn this meeting and continue to next month, seconded by Ms. Weisel. All in favor. Motion carried.

**NEW PUBLIC HEARING – Christopher Maceyak – 91 Sunnyside Avenue**

Secretary Meszaros 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, December 12, 2016**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Christopher Maceyak  
91 Sunnyside Avenue  
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown Code ("Zoning Code") for the construction of a 16 ft. x 24 ft. one story open deck with stair to grade. The property is located at 91 Sunnyside Avenue, Tarrytown, NY and is shown on the tax maps as Sheet 1.80, Block 45, Lot 3 and is in the R 7.5 District.

**The variance sought is as follows:**

Zone Code Section	Code Description	Required By Code	Existing	Proposed	Variance Required
§305-47 B (5)	Side Yard Setback (Deck)	6 feet minimum	n/a	3 feet	3 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: December 2, 2016

The certified mailing receipts were submitted and the signs were posted.

Board members visited the property.

Mr. Sean McCarthy, Architect, appeared with Mr. Maceyak, the applicant.

At Mr. Maloney's request, Mr. Pennella gave a brief history to the Board stating that a building permit was issued that did not include a deck and the door location is probably not where you saw it yesterday at the site visit. The door was relocated to what you have seen. This change will have to be certified with regard to structural conditions (headers) and the building department has not issued a violation.

Mr. McCarthy explained that a major renovation project is ongoing at this residence. Mr. Maceyak purchased this property in June and has invested over \$100,000 at this time. During the course of siding and kitchen work he decided to switch the door. They have since stopped that work and it has been abandoned pending approval by this Board. In the application, the exact location of the door is provided as well as a letter dated October 20, 2016, which outlines zoning criteria.

Mr. Maloney asked Mr. McCarthy to go through this letter and zoning 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;

Mr. McCarthy said the applicant wanted to build a deck with stair to grade. It is one step below first floor line of the house and a 3 foot side yard variance is needed. The deck will be aligned with the original portion of the house. It is an open structure with 3 foot high railing with no roof and is similar to other decks in the area. Only one neighbor adjacent to this home will have a view of the deck and that neighbor did get a notice of public hearing.

2. 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;

Mr. McCarthy explained that the deck is outside of the dining/living area which is the most practical spot; moving it any further would move it too far away. Mr. Maloney asked if they put it by the double doors. Mr. McCarthy said it will start right at the edge of the door. There is no room to move the door any further.

3. That the requested area variance is not substantial;

Mr. McCarthy said the variance is not substantial; the house and lot are non-conforming. Ms. Weisel also pointed out that the lot is very small when she visited the site.

Mr. Pennella said asked if they have a slider or French door. He asked if having one door would prevent access to the yard. Mr. McCarthy said one door could work but a double door is much better since it allows for easier access for bringing in items such as large furniture. Mr. Pennella said, according to sketch submitted, it shows a slider. Mr. McCarthy said it should be a 6 foot French door. Mr. Pennella said if the Board does not approve this, you could only have one door.

Mr. Maloney asked about the edge of the deck and Mr. McCarthy confirmed that the deck will be where ladder is right outside doorway. Ms. Rachlin asked if deck ran to the end of the house. Mr. McCarthy said yes and 3 ½ feet is going to be the stairs.

4. That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Mr. McCarthy stated that the the construction of the deck will not require any major excavation, removal of trees, or drainage structures. After construction, there will be no increase in traffic, noise or pollution.

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.

Mr. McCarthy said the existing lot is only 50 feet, where 75 feet is required so they have minimal options to construct a deck without requiring a variance.

Mr. Maloney asked if anyone had any questions.

Mr. Jolly asked about contractor making a mistake with door.

Mr. Pennella said these doors as constructed were not part of the original approval. If the Board is favorable, then the applicant will need to submit revised plans.

Mr. Maloney asked if the Board if they had any questions or concerns.

Mr. Jolly asked about the materials used to construct the deck. Mr. McCarthy said the steps which will be brick and deck will be wood. Mr. Jolly asked if the neighbors are okay with this project.

Mr. Maceyak said that his neighbor is fine with this project. He has spoken to him on a couple of occasions and said they would be willing to discuss this with the Board.

Counsel Addona asked if the door in the plan is an issue. Mr. McCarthy said the plan will be revised to reflect the corrected door.

Ms. Weisel asked if there is anything else on the plan that has been altered. Ms. Rachlin said the deck was not on the original plan.

Counsel Addona said usually when this Board approves an application, they link it to a set of plans in the Resolution. Mr. Pennella said that if you approve this application with the 3' setback, it makes no difference if it is a sliding door or a French door.

Mr. Maloney said the door looks like it is much farther in. Mr. McCarthy approached the dais and showed the plan to Mr. Maloney and the Board to clarify the location of the door. A brief discussion took place.

Counsel Addona stated that this is a Type II action and no further action is required for SEQRA.

Mr. Maloney moved to close the Public Hearing, seconded by Mr. Jolly. All in favor. Motion carried.

Mr. Maloney read through 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.
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 variance.

Mr. Maloney moved, seconded by Mr. Jolly, that this variance be granted subject to the conditions of approval as discussed. All in favor. Motion carried.

Counsel Addona advised that she will draft a Resolution memorializing the Board's discussion and decision.

#### ADJOURNMENT

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the meeting be adjourned – 8:35 p.m.

Liz Meszaros- Secretary