

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
November 13, 2017 7:30 p.m.

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

ABSENT: Chairwoman Lawrence, Member Weisel

Mr. Maloney chaired the meeting in Chairwoman Lawrence's absence and called the meeting to order at 7:32 pm.

APPROVAL OF THE MINUTES – October 10, 2017

Ms. Maloney moved, seconded by Ms. Rachlin, that the minutes of October 10, 2017 be approved as submitted. All in favor. Motion carried.

ADJOURNMENTS:

AT & T Cingular Wireless – 120 White Plains Road

Mr. Maloney moved, seconded by Ms. Rachlin, to adjourn this application to the December meeting. All in favor. Motion carried.

202 Lexington Group LLC – 29 South Depot Plaza -

Mr. Maloney moved, seconded by Mr. Jolly, to adjourn this application to the December meeting. All in favor. Motion carried.

NEW PUBLIC HEARING – Lynelle Chang – 217 Wilson Park Drive

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, November 13, 2017**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Lynelle Chang
217 Wilson Park Drive
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown Code ("Zoning Code") for the placement of two columns in the front yard to define the existing driveway.

The property is located at 217 Wilson Park Drive, Tarrytown, NY and is shown on the tax maps as Sheet 1.10, Block 1, Lot 30.13 and is in the R 40 Zoning District.

The variance sought is as follows:

Section 305-11: Schedule; application of district regulations for R-40 Zone	Permitted	Existing	Proposed	Variance Required
Attachment 5 Column [11] Front Yard Setback	40 ft.	40 ft.	7 ft.	33 ft.

Additional approval will be required from the Architectural Review Board.

Documents are available for inspection in the Planning and Zoning Office. 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: November 3, 2017

The mailing receipts were received and the signs were posted. Board members visited the property.

Frank Giuliano, Landscape Architect, representing the applicant, explained that the Chang's applied for a permit for an outdoor patio, there was no permit for the columns in the front yard.

Mr. Pennella explained to the Board that the Building Permit 2016- 8710 did not show the columns of the site plan, but they were on the landscape plan. After the columns went up, he instructed applicant to come in and apply for this additional work. The columns are considered an accessory structure and do not meet the front yard setback which is why the applicant is here.

Mr. Giuliano said the benefit of the columns is to define the driveway and safety netting can be put up to prevent children from running into the road. He also presented pictures of similar columns at 7 Warner Lane, a property nearby. He explained that the columns were not put up maliciously and they are quite attractive. There is a conduit installed, but they will not be installing lighting.

Mr. Maloney asked Mr. Pennella how he noticed the columns. Mr. Pennella said he drove by the residence and notified the Chang's that the columns were not a part of the

site-plan. He said they were very cooperative and submitted plans for a variance immediately. Mr. Jolly asked if the columns are completed. Mr. Pennella said he instructed the applicant to stop the work until they filed an application. Mr. Giuliano said the columns were completed in August. Mr. Pennella said he did issue a notice of violation, but the applicant complied with our request to file a variance application.

Mr. Maloney asked if anyone in the public had any questions. No one appeared.

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

Mr. Jolly moved, seconded by Ms. Rachlin, to close the public hearing.

Ms. 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. *Mr. Maloney feels there is no undesirable change with respect to location to define the driveway.*
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. *Mr. Maloney does not feel that any other method could be achieved other than to get a variance.*
3. That the requested area variance is not substantial. *Mr. Maloney does not feel that this variance 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. *Mr. Maloney does not feel that the variance will have any adverse impact on the physical or environmental conditions in the neighborhood.*
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 said that this was self-created but he feels that the variance is not substantial.*

Mr. Jolly moved, seconded by Mr. Maloney, to approve this application and direct Counsel Addona to draft a resolution memorializing the discussion this evening. All in favor. Motion carried.

New Public Hearing – Mark Morganelli – 1 Dixon Lane

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, November 13, 2017**, 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

to consider an application to amend the July 11, 2016 Zoning Board Resolution in order to extend the hours and periods of operation at the 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.

Documents are available for inspection in the Planning and Zoning Office. 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: November 3, 2017

The mailing receipts were received and the signs were posted. A prior site visit has taken place and Board members are familiar with the site.

Mark Morganelli appeared on his behalf and explained to the Board that the Jazz Forum opened in June of this year and they are celebrating 5 successful months. When they received ZBA approval on July 11, 2016, they voluntarily offered to close the club during the months of January and February, thinking that it was the winter months and possibly he and his wife would like to travel. They now realize that there is a need for continuity to keep the club open. They have circulated a petition affirming the need for a community based entity to be opened year round which they presented to the Board with their application. He feels that with regard to snow removal, it will not be any more hazardous in January and February than now or in March and the neighbors on the block all contribute for a snow removal service.

Mr. Morganelli informed the Board that a neighbor voiced his concerns at the Planning Board meeting about insufficient lighting on the block. He explained that there are a number of motion sensors existing, but they will be installing additional motion sensor lighting further down toward Dixon street and on their building which will be directed toward the middle of the block and at the end toward Dixon so that there is sufficient lighting from Dixon all the way down to Central Avenue. He also stated that the NYS-

OPRHP, which owns and operates the Old Croton aqueduct, has leased to them additional parking spaces on McKeel Avenue and a 5 year deal for the other half of the lot on the weekends. With this and the existing 25 spaces from the Reformed Church, the parking situation has been improved.

Mr. Maloney asked why they need an increase in the hours. Mr. Morganelli explained that the 10 pm set was too late for their customers so they want to move the sets back to 7 pm and 9 pm, which would require them to open an hour earlier. He said the shows are over by 10:30 pm and they are dark by 11:30 pm. On Sunday, Brazilian shows are at 4 pm and 6 pm. Doors open at 3 pm. After the 6 pm show, they would like to have the option of an 8 pm set until midnight for local emerging artists. He explained that they currently have the parking until 1 am and they are open until midnight. In addition, their patrons are an older demographic who arrive, have a glass of wine with some food, listen to the music, and head home. The show should end early on a Sunday, but he would like the option to be able to play on a Sunday night. In addition, he does not want to kill the momentum of the club or lose staff as a result of closing during the months of January and February and informed the Board that there are employees in the audience this evening supporting this application.

Mr. Jolly asked about the Coco parking lot and was concerned about the club customers parking there. Mr. Morganelli said they don't need it and he has been advised that Coco will be fencing off the cut through which has been there for 40 years. He said this will have no effect on their business. Mr. Maloney asked if patrons are cutting through the Coco property to get to the club. Mr. Pennella said this site is completely independent of the Coco property.

Mr. Maloney asked if anyone in the audience had any questions.

Counsel Addona read correspondence from Chief Barbelet to Mr. Pennella stating that they have not had any incidents or police reports to date at the Jazz Club on 1 Dixon Lane.

Counsel Addona referred to a second correspondence received from Greg DiNapoli which she read into the record as follows:

Chairwoman Lawrence and Members of the Zoning board:

I would like for this to be for the record regarding the Jazz club at 1 Dixon lane

As I am the owner of the 4 family house next to the club, located at 27 Central Ave, I wanted to state that I have no objections to them nor have I heard any complaints.

But as they look to increase the operating hours, my only concern is that for my current and future tenants.

I would like to ask the board if they could consider a mechanism so that if the operation interferes with the quiet enjoyment of my tenants, the club must address the issues and provide any sound and/ or light mitigation. Also, prevent club patrons from using the emergency exit and my backyard for anything else

other than an exit. I'm concerned that over time it may get louder and interfere with my tenants use of the property. If you would consider a yearly renewal and meeting where we can address any concerns, or something written in the language of the approval where it can be addressed if (and) as needed.

Again, I think this club serves a great purpose and I am in agreement that it should continue, but I just want to make sure we can address any issue as described above, if needed. Good luck to them!

*Thanks,
Greg DiNapoli*

Mr. Morganelli addressed Mr. DiNapoli's letter and said that one of Mr. DiNapoli's tenant's is a regular customer and the Jazz Forum. The emergency door is only used for folks who have difficulty walking. With regard to noise, this was addressed at the Planning Board. The room is designed so the stage is in the corner adjacent to the Coco parking lot. A fireproof stage drape is around the band and a rug has been installed and in addition, eight acoustic panels are installed above which mitigate the sound.

Ms. Rachlin asked the applicant if there have been any noise complaints. Mr. Morganelli said he is not aware of any. Mr. Pennella referred to Chief Barbelet's memo stating that there have been no complaints.

Mr. Jolly asked the capacity of the club. Mr. Morganelli said they have a 99 person capacity.

Mr. Maloney asked if anyone else had any comments.

Keith Cobb, a creative artist, who grew up in town said he has been at the club and it is beautifully done. Mark Morganelli is a cultural treasure and he knows that he we will do the right thing. He supports this change in hours.

Tamara Bauer, a Tarrytown resident who walks down to hear music at the Jazz Club, said it is a lovely club and allows the residents to stay local. She has never heard any noise and would be thrilled to have the club here with the extended hours.

Mr. Maloney would like to amend the hours and asked Counsel the procedure.

Counsel Addona said if you are just changing the hours then you can do it orally.

Mr. Maloney asked Mr. Morganelli if they have an earlier set why can't they close an hour earlier. Mr. Morganelli said they are still closing by midnight, and realistically will be closing an hour earlier, but he would like to keep the later hour to cover himself.

Counsel Addona advised the Board that they may want to include the items raised this evening in the resolution with regard to snow removal and the issues of opening during

the months of January and February and lighting since these items were not included in the original criteria.

Ms. Rachlin asked about Mr. DiNapoli's concerns with regard to noise.

Counsel Addona said because the variance runs with the land, noise is not something the Zoning Board can consider. The police department can enforce Mr. Dinapoli's concerns with noise since the applicant does have to comply with the noise ordinance in the village.

Mr. Maloney asked Counsel to draft a resolution and the Board will vote next month.

Mr. Morganelli said it is now Nov. 13th already and they have complied with everything that has been asked of them. He was hoping to get approved so that they will be able to book artists for January and February. A brief discussion took place. Counsel Addona advised Mr. Morganelli that this is the first meeting. It benefits everyone that we are on the same page. Mr. Morganelli said he is not clear to the weight given to one concern by one abutter.

Mr. Jolly advised the applicant that they could have come in earlier for this approval.

Mr. Morganelli thought that parking was the main concern and is disappointed that the decision will be delayed. Counsel Addona advised the applicant that the resolution goes with the land and the Zoning Board has a statutory obligation to satisfy criteria and protect the public. Changes have to be made and properly incorporated. It appears that the Board is looking at this application favorably.

Mr. Maloney moved, seconded by Mr. Jolly, to close the public hearing and direct Counsel Addona to draft a resolution to be considered at the December 11, 2017 meeting.

New Public Hearing -202 Lexington Group LLC – 29 South Depot Plaza

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 November 13, 2017**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Lexington 202 Group LLC
34 Norm Avenue
Bedford Hills, NY10507

For variances from chapter 305 of the Village of Tarrytown Code (“Zoning Code”) in order to satisfy the parking requirements for the proposed self-storage facility on lot 38.

The property is located at 29 South Depot Plaza, Tarrytown, New York and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.70 Block 29, Lot 38 and is located in the ID Zoning District.

The variances sought are as follows:

Zone Code Section	Code Description	Required By Code	Existing	Proposed	Variance Required
Industrial Zone (ID) §305-63. D(1)	Minimum Off-Street Parking Requirements	51 Spaces	39 Spaces	36 Spaces	15 Spaces
Industrial Zone (ID) §305-63. F (2) (C)	Minimum Off-Street Loading Requirements	6 Spaces	6 Spaces	4 Spaces	2 Spaces

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.

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

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: November 3, 2017

The mailing receipts were received and the signs were posted. Board members already have visited the property and are familiar with the site.

Mark Constantine, Attorney, representing the applicant, Peter Ferraro, also present, explained to the Board that his client has a good track record in the village. The Zoning Board granted a similar variance for parking at the 160 Wildey Street self-storage facility, which is scheduled to open in the near future.

He reminded the Board that this property was subject of prior request for an appeal for an interpretation for the meaning of “adjacent” which has been adjourned this evening. And, while applying for the site-plan approval, the issue of subdivision for this property has been raised and there is a subdivision application by the property owner before the Planning Board. This subdivision application will also require a variance from this Board.

In summary, Mr. Constantine said that this new application before them is only for Lot 38, which he identified on the plan. He explained that it is the same configuration but adds the area of the driveway portion of the property. The lot line is 15 feet closer to the existing Ontrack building. The front yard of lot 38 will be increased so that it conforms with the front yard setback in the code.

Mr. Maloney asked to see a map of the subdivision. Counsel Addona handed out maps to the Board members.

Mr. Maloney asked about easements. Mr. Constantine said there is an easement for the railroad and the County of Westchester. The easements will not be disturbed, this it is just a reconfiguration. The easements run with the land and exist in perpetuity.

Mr. Maloney asked about square footage. Mr. Constantine said the lot is 51,466 sf. The building is 25,758 sf as it stands. With a second story added, the proposed square footage is 47,875 sf. It will be two stories in the same box; they are just adding architectural detail.

Mr. Pennella clarified for the Board that the applicant is in front of the Board for parking variances. They have included a small area for retail. The original application included a variance for off-site parking on Lot 37 which they no longer seek. They are asking for parking variances only for Lot 38 - 15 regular spaces and 2 loading spaces.

Mr. Constantine referenced documents emailed to the Board earlier which he will submit at this time for the record.

1. Traffic and Parking study dated Sept. 25, 2015 conducted for 160 Wildey Street property which is relevant to location since the property is less than half a mile away. Mr. Constantine commented that in the study it said that self-storage use generates 2/10 of a parking space, so the standard is really 1/5 of the parking required.
2. ZBA Resolution dated Sept. 30, 2015 for 160 Wildey Street
3. Site Plan Resolution dated Nov. 23, 2015 for 160 Wildey Street
4. Planner Galvin's memorandum for the current site plan application concluding that self-storage facilities have low impact on traffic and parking. (see page 2)

To conclude, Mr. Constantine said that this new application for Lot 38 only improves conformance with code, logistics, and also adds a necessary and vibrant economic engine to the train station area and the village. He respectfully requests that the Board approve these variances.

Counsel Addona advised the Board that the Planning Board has declared itself Lead Agency for this Unlisted Action under SEQRA. Therefore, the Zoning Board is not in the position to vote on this application until a negative declaration is issued by the Planning

Board. Discussion this evening will allow the Board the opportunity to discuss this application.

Mr. Maloney thinks that this project will enhance the area.

Mr. Maloney asked if anyone on the Board or in the public has any questions.

Mr. Maloney moved, seconded by Ms. Rachlin, to continue the public hearing at the December meeting. All in favor. Motion carried.

ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Rachlin, and unanimously carried, that the meeting be adjourned – 8:40 p.m.

Liz Meszaros- Secretary