

Zoning Board of Appeals
Via *Zoom Videoconference only
Village of Tarrytown
Regular Meeting
January 10, 2022 7:30 p.m.

*This public hearing was held via Zoom videoconferencing in the interest of public health due to an increase in COVID-19 cases in the Village of Tarrytown, and in accordance with NYS Authority.

PRESENT: Chairwoman Lawrence, Members Weisel, Rachlin, Song, Abraham, Alternate Member #1 Jolly, Alternate Member #2 Kaplan; Counsel Zalantis, Village Engineer Pennella, Secretary Meszaros, Village Administrator Slingerland (meeting moderator)

ABSENT: All present

CONTINUATION OF PUBLIC HEARING - MMC/Montefiore Medical Center – 555 S. Broadway
Applicant is seeking an interpretation/appeal pursuant to New York State Village Law Sections 7-712- a(4) and 7-712-b(1) and the Village of Tarrytown Zoning Code Section 305-118A, appealing the Building Inspector's determination that the Applicant requires use variances for alterations to convert 34,000 SF of the existing research laboratory and pilot experimental facilities into a pharmaceutical warehouse/distribution center for the Montefiore Hospital Network.

Ms. Weisel chaired this portion of the meeting.

Anthony Gioffre III, Attorney with the law firm of Cuddy & Feder, appeared before the Board representing his client, MMC Corporation/Montefiore Medical Center. He introduced Stefano Cardarelli, the Project Architect, and his colleague, Max Mahalek, an attorney with Cuddy & Feder. Mr. Gioffre advised the Board that they had given a full presentation at the December 13, 2021 New Public Hearing appealing the determination made by Mr. Pennella. He briefly explained that Montefiore operates the premises as a principal permitted executive business, sales, accounting and general offices use, which is permitted in the OB district. The code also permits, as an accessory use, the storage of goods, which is what he contends Montefiore is proposing to do. They would like to use a very small portion of the first floor of Building-D for the storage of pharmaceuticals, goods, personal protective equipment, and vaccines, in order to be utilized through Montefiore's hospital system. He again advised that this storage area will not be open to the public since the property is gated as some Board Members observed at their December site visit. He again advised that there will be no retail sales conducted on the premises, nor will there be any displays of goods or over-the-counter merchandise/retail transactions. Effectively, Montefiore will store the goods, and when needed, as identified by the hospitals within their network, delivery will be coordinated by employees on site. There will be a limited number of trips - approximately five entering and five exiting per day. He advised that Montefiore's current use of the premises is a permitted use and is not in dispute. What is in dispute is whether or not the storage of the goods on premises is an accessory permitted use,

which is what they believe it to be. He noted that they did update the Notice of Public Hearing property signs and, for the record, one sign was moved from one section of the fence over, so that it is on their property in accordance with all applicable noticing requirements. He is happy to answer any questions.

Ms. Weisel noted the site visit. At the December meeting, she advised that she needed time to sort through the language of the code as it pertains particularly to accessory use incidental to the Administrative Office principal use.

She asked the other Board Members if they had any questions and noted that Ms. Lawrence and Ms. Rachlin were not at the December meeting. Mr. Gioffre advised Board Members who were not at the December meeting that the only guidance in the code with regard to storage is the definition of storage space which is defined in the code as, “rooms or space for storage of goods or merchandise, but not including space for display of merchandise...” Mr. Gioffre stated that this is the reason that he used some of this specific language earlier since they will not be utilizing the space for display of merchandise. For those Board Members who visited the site, it was patently evident that there are access gates, restricting the public, and that the area proposed would be used for storage of these goods.

Ms. Weisel asked if any other Board Members had any additional questions. Ms. Lawrence is having technical problems and will try to return. No other Board Members had any additional questions for the applicant.

Ms. Weisel opened the meeting up to the public for comment.

George Gasperini, 47 Paulding Avenue, would like clarification. He understands that the applicant wants to turn the brick building across the street from his house into a warehouse for the distribution of medicine. Ms. Weisel did not think that was the correct building in question. Mr. Pennella advised Mr. Gasperini that the Building in question is Building-D, which is directly across from the pond as you enter the property. It is a tan, two-story brick building which was formerly used as a pilot plant by General Foods. The applicant is proposing to convert the ground level of that second story building into a storage distribution center which is how the original building permit plans were titled, and which lead to his determination. He advised that revised plans were submitted which were titled as, “Proposed Administrative Offices and Accessory storage”, but the bottom line is that ground floor will be converted for the storing of pharmaceutical drugs that come from different manufacturer’s, and they will be collated and then distributed to the network of hospitals throughout for Montefiore System. Mr. Pennella showed the a first-floor plan indicating the use in each area for the storage, the distribution (5,500 s.f.) and the offices.

Mr. Gioffre once again clarified that there will be 5 trips in and out each day and they will only be using small box trucks or vans.

Mr. Gasperini said he doesn't believe that and thinks the trips will increase as the demand for medicines go up. He said that the south end of the village doesn't need any more traffic. They already have enough traffic with the JCC and the Honda Dealership. He wants the area to stay rural and he votes no.

Mr. Slingerland advised that there was no more public comment.

Mr. Gioffre advised that the vans will come in and out through the main gate to Broadway and they will not be going through the residential neighborhood. He also noted that if this entire area was utilized for office space, he would anticipate that there would be more traffic than the five trips in and out which are very limited.

Ms. Rachlin moved, seconded by Ms. Kaplan, to close the public hearing. All in favor. Motion carried.

Ms. Weisel commented that she had difficulty in utilizing the language in the code to make this use applicable to this situation that is proposed. The office piece makes it very hard to walk away from the fact that this is less focused on office and more heavily focused on distribution to eight different hospital settings, and because of the wording, it sets up precedent for further interpretation, should it be allowed. She asked Counsel Zalantis to read the draft resolution for the Board's consideration.

Counsel Zalantis read the entire draft Resolution below into the record:

ZONING BOARD OF APPEALS RESOLUTION

Application of MMC Corporation/Montefiore Medical Center ("Applicant")
555 S. Broadway, 0 S. Broadway, 555 Broadway, Tarrytown, New York 10591 (the "Property")
Section 1.140, Block 88, Lot 8; Section 1.221, Block 129, Lots 5 & 6
OB (Office Building) Zoning District

WHEREAS, the Applicant has appealed to the Village of Tarrytown Zoning Board of Appeals ("ZBA") from a determination by the Building Inspector dated September 14, 2021 ("Denial Letter") that the Applicant's proposed pharmaceutical warehouse/distribution center (1) is not a permitted principal use under Village of Tarrytown Zoning Code ("Zoning Code") § 305-35(A) and (2) is not a permitted accessory use under Zoning Code § 305-35(B); and

WHEREAS, the Applicant submitted an application to the ZBA seeking an interpretation that the Denial Letter was issued in error because the Applicant incorrectly identified the proposed use as a pharmacy distribution center when it is actually an accessory "storage facilit[y] incidental to the principal use" that is permitted under Zoning Code § 305-35(B)(1)(u); and

WHEREAS, under New York Village Law § 7-712-b(1), the ZBA "may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the

enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken;”

WHEREAS, a duly noticed public hearing was held at the regular meeting of the ZBA on December 13, 2021 and continued to the ZBA’s January 10, 2022 meeting,¹ and members of the public having the opportunity to attend and be heard, the public hearing was closed on January 10, 2022, and

WHEREAS, this Board, after having the opportunity to visit the Property and after duly considering all the proofs and evidence before it, determines as follows:

IT IS RESOLVED, this interpretation is a Type II action under the State Environmental Quality Review Act and therefore no further environmental review is required, and

IT IS FURTHER RESOLVED, this Board denies the Applicant’s application and affirms the Building Inspector’s Denial Letter based upon the following findings:

1. The Property currently consists of 89.7 acres with several buildings totaling over 270,000 square feet. It operates under the principal use permitted under Zoning Code § 305-34(A)(4) of “[e]xecutive business, sales, accounting and general offices and research laboratories, . . .” The Property is used for administrative offices for the Montefiore Health System, which has several locations.
2. The Applicant proposed to convert a portion of the ground floor of the existing Building “D” to a storage and distribution facility for pharmaceuticals and personal protective equipment (“PPE”). To facilitate this use, the Applicant proposes alterations to approximately 17,300 square feet of the approximately 34,000 square feet on the ground floor of Building “D.” Approximately 2,760 square feet would be used for the storage of pharmaceuticals, approximately 2,340 square feet would be equipped with a conveyor system to bar code and log the pharmaceuticals for tracking and approximately 400 square feet for loading/unloading, for a total of 5,500 square feet for this function; and the remainder of the 17,300 square feet of alterations would be used for storage of PPE, lounges, bathrooms and offices.
3. The Applicant intended to use this space to have a centralized storage location for pharmaceuticals and supplies for the eight hospitals/medical facilities in the Montefiore Health System. The pharmaceuticals and supplies would be delivered to the Property, stored on the Property and then repackaged and distributed to the hospitals/medical facilities within the Montefiore Health System. The pharmaceuticals would have to be coded and logged before being distributed and a pharmacy license would have to be issued by the State.
4. The Applicant originally submitted a building permit application for what it called a “pharmacy distribution center.” Once the Denial Letter was issued advising that the use was not permitted, the Applicant revised its plans to characterize the proposed use as

¹ The January 10, 2022 public hearing was held via Zoom videoconferencing in the interest of public health in light of the rapid increase in COVID-19 cases in the Village of Tarrytown in accordance with Chapter 417 of the Laws of 2021 signed by the Governor on September 2, 2021.

“accessory storage.” However, the Applicant did not make any substantive changes to the plans or the proposed use other than what the use was called.

5. The Applicant contends that this use is permitted on the Property as an accessory use that is a “storage facilit[y] incidental to the principal use” under Zoning Code § 305-35(B)(1)(u). In order for the ZBA to accept this interpretation, it must answer three questions in the affirmative: (1) is the proposed use a storage facility, (2) is the proposed use incidental to the administrative office principal use, and (3) is the proposed use accessory to the principal use? While failure to affirmatively answer any one of these questions would require the ZBA to deny the Applicant’s interpretation, the ZBA answers all three questions in the negative.
6. With respect to the first prong, this is not a storage facility. It is a warehouse and/or a distribution center. Pharmaceuticals and equipment are to be delivered to the Property, stored on the Property and then coded, logged and repackaged for distribution to one of Montefiore’s eight hospitals/medical facilities. This is comparable to the “[w]arehousing, wholesaling and storage, . . .” use that is permitted in the ID (Industrial) zoning district, but is not permitted in the OB (Office Business) zoning district where the Property is located.
7. The Applicant cites to the definition of “storage space” in Zoning Code § 305-5, which is “[r]ooms or space for storage of goods or merchandise, but not including space for display of merchandise.” The ZBA does not deny that part of what the Applicant proposed to do includes storage, but the Applicant also expanded that proposed use beyond just storage to distribution. The ZBA rejects the Applicant’s argument that because the Applicant is not Amazon it is not a distribution center. The proposal of having pharmaceuticals and materials brought to the Property to be processed and repackaged for distribution to hospitals is akin to what any warehouse or distribution facility would do, regardless of the products or the scale. The fact that there will be no retail sales on or public access to the Property is irrelevant.
8. The latter two prongs of the inquiry are interrelated and therefore will be considered together. The Applicant’s proposed use is not “accessory to” or “incidental to” the permitted principal use of administrative offices. The Zoning Code does not define either term, and therefore the ZBA looks to their common dictionary definitions.
9. The applicable definition of “accessory” in the Merriam-Webster Dictionary is “aiding or contributing in a secondary way.”² There is nothing in the Record before this Board to establish how the proposed storage/distribution use “aids or contributes” to the administrative office use. This is not a storage facility for papers, pens, printer ink, file folders, etc. – materials that would be stored on site to aid or contribute to the administrative office use. In reality, the proposed storage/distribution use aids or contributes to the hospital/medical facility uses that will ultimately receive and utilize these pharmaceuticals and materials (and where they are currently being stored as the function of the Applicant’s proposal is to create a centralized off-site location). But the

² <https://www.merriam-webster.com/dictionary/accessory>

principal use of the Property is not a hospital/medical facility and the pharmaceuticals and other materials to be stored are not intended for use on this Property but to serve uses located off-site.

10. Further, the offices that are proposed to be created as part of the renovations are to administer and facilitate the proposed storage/distribution use. In this scenario, the storage/distribution use is the principal use and the offices are the accessory use that “aids and contributes” to the principal use. This is the inverse of what the Zoning Code permits.
11. There is nothing substantive in the Record before the ZBA to support that the proposed storage/distribution use is incidental to the administrative office use. Merriam-Webster Dictionary defines “incidental” as “being likely to ensue as a chance or minor consequence.”³ The Applicant’s proposed storage/distribution use is a calculated plan to create a central storage/distribution facility for Montefiore Health System’s hospitals/medical facilities. It is certainly not a chance occurrence or minor consequence of the existing administrative office use, but a considerable expansion beyond those office uses to serve another, completely different function of the Montefiore Health System.
12. For all of these reasons, the Board finds that the Applicant’s proposed use of the Property is not a “storage facility” and the proposed use is not “accessory to” or “incidental to” the existing permitted principal use of “[e]xecutive business, sales, accounting and general offices and research laboratories, . . .” And for these reasons, the Applicant’s interpretation is denied and the Building Inspector’s Denial Letter is affirmed.

BE IT FURTHER RESOLVED, the Board separately finds that if it did grant the Applicant’s interpretation it would be establishing a problematic precedent for this Property and potentially other properties in the future that would undermine the effectiveness of the Zoning Code for the following reasons:

1. The Applicant’s permitted principal use is an administrative office use for the Montefiore Health System and is seeking to store materials for the hospitals/medical facilities in the Montefiore Health System on its Property for future distribution to the hospitals/medical facilities. It seeks to do so under the Zoning Code’s permitted accessory use of “storage facilit[y] incidental to the principal use.”
2. To grant the Applicant’s interpretation would mean that the administrative offices of any business with retail/service locations could store materials and equipment for those other locations on their property for distribution to their retail/service locations. By way of analogy, if Mavis had its administrative offices on the Property and it wanted to store tires on the Property for when they were needed by individual stores/service centers, that would be a permitted accessory use. The ZBA finds that to be an untenable conclusion and inconsistent with the Zoning Code.

³ <https://www.merriam-webster.com/dictionary/incidental>

3. Further, the Applicant references the COVID-19 pandemic and the need to store PPE and vaccines due to supply chain and delivery issues, and while the ZBA is sympathetic to these issues, the Zoning Code does not contemplate exceptions for such extenuating circumstances, especially those that are inherently temporary in nature. Further, that does not appear to be the main objective of the Applicant's proposal, which is to store a variety of pharmaceuticals in a centralized location for hospital/medical facility use.
4. Lastly, while the interpretation before the Board is limited to the facts presented by the Applicant as to what they are currently proposing for the site, if the ZBA were to grant the interpretation based upon those facts, the Applicant would then likely be able to expand the use in any number of ways in reliance upon the Board's interpretation that it is a permitted accessory use (subject to amended site plan approval, if applicable).
5. For instance, currently the Applicant is only proposing to utilize approximately 17,000 square feet of the 34,000 square foot ground floor of Building "D" for this use. With the interpretation that this is a permitted accessory use, there would be nothing in the Zoning Code to preclude the Applicant from substantially expanding the square footage of this use to the rest of the ground floor of Building "D," the other floors of Building "D" or any of the ample other structures on the Property, while still utilizing less than half the total square footage of the existing structures on the Property. There would also be nothing in the Zoning Code to preclude the Applicant from expanding the materials being stored for the hospitals/medical facilities from pharmaceuticals and PPE to other medical/hospital equipment, such as, by way of illustration, hospital beds, x-ray machines, cardiac monitors, etc. These are all equipment that could be in short supply and could be stockpiled on the Property until needed by one of Montefiore's hospitals/medical facilities. Further, the Applicant is currently proposing 10 vehicular trips per day (5-in/5-out) in vans and/or small box trucks to bring pharmaceuticals and materials to and from the Property, but with an interpretation that this is a permitted accessory use there is nothing in the Code to preclude the Applicant from increasing those trips to 25 or 50 per day or to start utilizing 18-wheelers to transport larger and/or greater amounts of equipment.
6. Therefore, while the Board concludes that the proposed use is not permitted under the language in the Zoning Code, the Board separately notes for the record the problematic precedent that would be set by granting this application.

Dated as of January 10, 2022

Ms. Lawrence moved to approve the resolution, seconded by Ms. Rachlin.

Ms. Weisel asked for a roll call vote:

Member Rachlin: Yes

Member Abraham: Yes

Chair Lawrence: Yes

Member Song: Yes

Acting Chair Weisel: Yes

The Resolution was unanimously approved. 5-0

CONTINUATION OF PUBLIC HEARING - Mitul and Michele Patel – 24 Park Avenue

The following Public Hearing Notice was re-noticed to reflect a variance for parking space size as follows.

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, January 10, 2022, in the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Mitul and Michele Patel
24 Park Avenue
Tarrytown, New York 10591

For variances required for the construction of a new driveway for off-street parking in connection with variances for two-story 806 s.f. rear building addition (approved by the ZBA on December 13, 2021).

The property is located at 24 Park Avenue and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.100, Block 68, Lot 6 and is located in the R 7.5 Zone.

The variances sought are as follows:

Code Section – R 7.5 Residential Zone	Required	Proposed	Existing	Variance Required
§305-63 C. (3)(a) Parking in a front yard. 305 Attach. 5 Col. 11.	20 feet	0 feet	-	14 feet
§305-63 C. (3)(a) Parking in a side yard. 305 Attach. 5 Col. 12.	10 feet	4 feet	-	6 feet
§305-63 C. (3) (a) Driveway in side-yard lot line.	5 feet	4 feet	-	1 foot
§305-63 C. (3) (C.)(2) Size of Parking Spaces	18 feet in length/sp.	16 feet	-	2 feet/sp.
Variances listed below were approved on December 13, 2021:				
§305-21: Attachment 5 column 12, Min. Ea. Side Yard – West	12 feet	7.7 feet	7.7 feet	4.3 feet
§305-21: Attachment 5 column 12, Min. Ea. Side Yard – East	10 feet	5 feet	5 feet	5 feet
§305-21: Attachment 5 column 13, Min. 2 Side Yards	22 feet	12.7 feet	-	9.3 feet
§305-25 Maximum floor area Table 2, FAR = 0.4300	2,365 SF. Permitted	2,445 SF.	1,630 SF.	80 SF (3.3%)

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 approval is required from the Planning Board and the Architectural Review Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros - Secretary to the Zoning Board

Dated: December 31, 2021

The mailing receipts were received and the sign was posted.

Amanda Linhart, RA, the project architect, appeared before the Board, representing the applicants, Michele and Mitul Patel, also present. She briefly updated the Board and noted that the Board of Trustees approved their request for the required curb cut for the driveway at their December 20, 2021 meeting, and noted Mr. Pennella's memo to the Board of Trustees. She showed the site plan showing the elimination of one parking space on the street. She showed the 32-foot length driveway area which triggered the need for the additional variance to reduce the parking space length by 2 feet per space to allow two cars to fit. She noted that they understand that the cars should not overhang the property line or extend into the sidewalk. She advised that front yard driveways are common on this street and this is the only house on the street without a driveway. She once again presented pictures of homes with parking in the front yard and commented as follows on each of them: 71 Miller Avenue appears to have converted the garage into living space; 42 Independence has a garage with carriage doors which also appears to be living space; 15 Independence, 29 Independence and 16 Park Avenue all have a garage in rear but no standard width for access to the garage. She also noted that 16 Park has a fence blocking access to get to the garage area which would have to be opened each time for access. She showed the proposed driveway grass pavers to prevent stormwater runoff and the landscaping plan to include a buffer area between the driveway and the house.

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

Mr. Slingerland advised that there were no members present to comment.

Ms. Lawrence asked Mr. Pennella if there were any issues with the fire hydrant location. Mr. Pennella said currently, as shown, they have a 3-foot distance from the edge of driveway which will not pose a problem. Mr. Pennella said this plan has gone through several changes, and it was re-noticed to provide for 2 cars which required a 2 ft. variance per space, but he noted that they are taking 2 cars off of the street. Since the driveway is only 2 feet away from the home, they will also have to install bollards to protect the house. He had no other comments.

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

Counsel Zalantis read through portions of the draft Resolution. The entire resolution is included for the record:

ZONING BOARD OF APPEALS RESOLUTION

Application of Mitul and Michele Patel (“Applicant”)
24 Park Avenue, Tarrytown, New York 10591 (the “Property”)
Sheet 1.100, Block 68, Lot 6
R-7.5 (One-Family Residence) Zoning District

WHEREAS, the Applicant has appealed to the Village of Tarrytown Zoning Board of Appeals (“ZBA”) from a determination by the Building Inspector dated October 7, 2021 and last revised December 17, 2021 that the Applicant’s proposed (1) two-story, 900-square foot rear yard addition (the “Addition”) and (2) new driveway for off-street parking (“Driveway”) do not comply with the requirements of Chapter 305 of the Village of Tarrytown Zoning Code (“Zoning Code”), and

WHEREAS, the Applicant seeks the following area variances as follows:

- For the Addition:
 - Variance of 4.3 feet to allow a side yard setback of 7.7 feet (west lot line) where Zoning Code § 305-21 and 305 Attachment 5, Column 12 require a minimum side yard setback of 12 feet
 - Variance of 5 feet to allow a side yard setback of 5 feet (east lot line) where Zoning Code § 305-21 and 305 Attachment 5, Column 12 require a minimum side yard setback of 10 feet
 - Variance of 9.3 feet to allow a 2-side yard setback of 12.7 feet where Zoning Code § 305-21 and 305 Attachment 5, Column 13 require a minimum 2-side yard setback of 22 feet
 - Variance of 80 square feet to allow a floor area of 2,445 square feet where Zoning Code § 305-25, Table 2 permits a maximum floor area of 2,365 square feet(collectively, the “Addition Variances”)
- For the Driveway:
 - Variance of 20 feet to allow parking in a front yard with a 0-foot setback where Zoning Code § 305-63(C)(3)(a) prohibits parking within the 20-foot front yard setback
 - Variance of 6 feet to allow parking in a side yard with a 4-foot setback where Zoning Code § 305-63(C)(3)(a) prohibits parking within the 10-foot side yard
 - Variance of 1 foot to allow a driveway 4 feet from a side lot line where Zoning Code § 305-63(C)(3)(a) prohibits a driveway within 5 feet of the side lot line

- Variance of 2 feet per parking space to allow the 2 parking spaces to be 16 feet in length where Zoning Code § 305-63(C)(3)(c)(2) requires a parking space to be 18 feet in length

(collectively, the “Driveway Variances”)

WHEREAS, a duly noticed public hearing was opened at the regular meeting of the ZBA on December 13, 2021, at which meeting the ZBA voted to approve the Addition Variances, and the ZBA continued the public hearing with respect to the Driveway Variances to its January 10, 2022⁴ meeting to allow the Applicant to obtain approval from the Village of Tarrytown Board of Trustees (“BOT”) for the proposed driveway curb cut that would eliminate one parking space and to allow the Applicant to renote the Driveway Variances to include a variance for the size of the parking spaces that would allow for two off-street parking spaces, and members of the public having had the opportunity to attend and be heard, the public hearing was closed on January 10, 2022; and

WHEREAS, in connection with the application, the Applicant submitted (1) a survey prepared by Ward Carpenter Engineers Inc. dated October 27, 2021 and (2) a signed and sealed Site Plan prepared by Amanda L. Linhart, R.A. dated September 10, 2021 and last revised December 16, 2021 (collectively referred to herein as the “Approved Plans”); and

WHEREAS, at its December 20, 2021 meeting, the BOT voted to approve the Applicant’s requested curb cut; and

WHEREAS, this Board, after having the opportunity to visit the Property and after duly considering all the proofs and evidence before it, determines as follows:

IT IS RESOLVED, this is a Type II action under the State Environmental Quality Review Act and therefore no further environmental review is required, and

IT IS FURTHER RESOLVED, the Board hereby memorializes the granting of the Addition Variances based upon the following findings:

1. There will be no undesirable change produced in the character of the neighborhood or detriment to nearby properties as a result of the variances. The Applicant’s Property is an undersized lot with a small house. The Applicant proposes the two-story, 900-square foot rear yard addition in order to add a bathroom and expand the dining room and kitchen on the first floor and to add a bathroom and master bedroom on the second floor. The square footage of the house with the addition will be 2,430 square feet, which is comparable to or smaller than the square footage of other homes in the area. The Applicant are not extending the home on either side and the rear addition will be in line with the side yard setbacks of the existing home. The rear yard addition will not extend any further than any other properties in the area, including the two neighboring properties. The Applicant also provided letters from 7 neighboring property owners supporting the project.
2. The benefit to the Applicant cannot be achieved by any feasible means for the Applicant to pursue other than seeking the requested area variances. Because the lot is undersized and the house is small and already encroaching on the side yard setbacks,

⁴ The January 10, 2022 public hearing was held via Zoom videoconferencing in the interest of public health in light of the rapid increase in COVID-19 cases in the Village of Tarrytown in accordance with Chapter 417 of the Laws of 2021 signed by the Governor on September 2, 2021.

the Applicant cannot increase the square footage of the home to create more living space without the need for area variances.

3. The variances are not substantial when considering the undersized nature of the lot and the other homes in the area.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The Applicant is proposing landscaping in the rear of the Property and intends to keep the existing stockade fence for screening. The rear addition will not extend any closer to the neighboring property lines than the existing house.
5. While the hardship may be self-created to the extent that the Applicant proposes an addition that is not permitted under the Zoning Code, this does not necessarily preclude the granting of the variances, especially given the undersized lot and the fact that the home will be consistent with the character of the neighborhood.

IT IS FURTHER RESOLVED, the Board hereby grants the Driveway Variances based upon the following findings:

1. There will be no undesirable change produced in the character of the neighborhood or detriment to nearby properties as a result of the variances. The Applicant is proposing an on-site driveway that will provide two off-street parking spaces. The curb cut has been approved by the BOT. The Applicant also presented evidence of other properties in the area where the residents park in the front yard in their driveway. The Applicant also provided letters from 7 neighboring property owners supporting the project.
2. The benefit to the Applicant cannot be achieved by any feasible means for the Applicant to pursue other than seeking the requested area variances. Because the lot is undersized, the only place to put a driveway with off-street parking is in the setbacks. The Applicant has also sought a variance from parking length in order to allow for two off-street parking spaces instead of one. The Applicant also reduced the size of their side porch by 2 feet to provide additional distance for the driveway.
3. While the variances for parking in the front yard and side yard could be considered substantial, given the undersized lot and the fact that the proposed driveway is consistent with the character of the neighborhood and there will be no adverse impacts, this is not a basis to deny the area variances. The variances for the driveway in the side yard and the length of the parking spaces are not substantial.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The Applicant is creating two on-site parking spaces. Even though the creation of the curb cut, which was approved by the BOT, will eliminate one on-street parking space, this parking space is very close to a fire hydrant and therefore a large portion of the curb cut area cannot currently be used for legal parking. The Applicant is also proposing landscaping in front of the house.

5. While the hardship may be self-created to the extent that the Applicant proposes a driveway and off-street parking that is not permitted under the Zoning Code, this does not necessarily preclude the granting of the variances and by allowing the off-street parking it will allow the existing on-street parking to be used by other vehicles.

AND IT IS FURTHER RESOLVED based upon the foregoing findings, the Addition Variances and the Driveway Variances are granted subject to the following conditions:

1. The variances are granted solely in connection with the Approved Plans (which are incorporated by reference) and the variances are granted only to the extent that they authorize the proposed Addition and Driveway as shown on the Approved Plans. If any material changes are made to the Approved Plans, other than those required by the Planning Board as part of its review of this proposed project (if applicable) and so long as the change(s) does not increase the number or degree of variances needed, the Applicant must make an application to the ZBA for amended approval.
2. The Property shall only be used as a single-family residence.
3. The granting of this application shall not be deemed to relieve the Applicant of the need to obtain approvals or permits of any other board, agency or officer as prescribed by law or ordinance with regard to the Approved Plan or construction or any other phase of the project, including but not limited to the Planning Board and Architectural Review Board. The granting of this application shall not be deemed to relieve the Applicant of the need to comply with any and all other local, state and federal requirements, including but not limited to compliance with the New York State Uniform Fire Prevention and Building Code and any applicable regulations related to the proposed use, location or construction.
4. These variances are granted subject to the accuracy of the representations made by the Applicant and its representatives to the ZBA in its written submissions and during the public hearing and if any material representation, whether or not it is included in this Resolution, is found to be inaccurate, at the discretion of the ZBA the Applicant shall be required to make an application for an amended approval.
5. The Applicant shall procure a building permit from the Building Department within two (2) years of the date of this Resolution or one (1) year from obtaining the last required land use board approval (i.e. planning board or architectural review board), whichever is later, and all work shall be completed within one (1) year from the date of the building permit, otherwise this variance grant becomes void; and any request to extend the time within which to obtain said building permit or complete said work shall be filed no less than sixty (60) days prior to the expiration of the applicable time period.
6. The failure to observe and perform these conditions shall render this resolution invalid.

Ms. Weisel moved, seconded by Mr. Abraham, to approve this Resolution as drafted.

Ms. Lawrence asked for a roll call vote:

Member Weisel: Yes
Member Rachlin: Yes
Member Abraham: Yes
Member Song: Yes
Chair Lawrence: Yes

The variances were unanimously approved. 5-0

APPROVAL OF MINUTES – December 13, 2021

Ms. Weisel moved, seconded by Ms. Kaplan, with Ms. Lawrence and Ms. Rachlin abstaining, to approve the minutes of the December 13, 2021 meeting. Ms. Lawrence asked for a roll call vote:

Ms. Lawrence asked for a roll call vote:

Member Weisel: Yes
Member Song: Yes
Member Abraham: Yes
Alt. Member Jolly: Yes
Alt Member Kaplan: Yes

All in favor. Motion carried. 5-0

ADJOURNMENT:

Ms. Weisel moved, seconded by Ms. Lawrence, to adjourn the meeting at 8:30 p.m.
All in favor. Motion carried. 5-0

Liz Meszaros
Secretary