

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
Village Hall – 1 Depot Plaza
November 14, 2022 7:30 p.m.

PRESENT: Members Weisel, Kaplan, Abraham, Alternate Member #1 Jolly,
Alternate Member Kudla, Counsel Addona; Village Engineer Pennella,
Secretary Meszaros

ABSENT: Chairwoman Lawrence, Member Rachlin

Ms. Weisel chaired the meeting in Chairwoman Lawrence's absence and opened the meeting at 7:35 pm.

APPROVAL OF MINUTES – October 13, 2022

Ms. Kaplan moved, seconded by Ms. Kudla, to approve the minutes of the October 13, 2022 meeting as submitted.

The secretary recorded the vote:

Member Abraham:	Yes
Member Kaplan:	Yes
Member Weisel:	Yes
Alternate Member Jolly:	Yes
Alternate Member Kudla:	Yes
All in favor. Motion carried. 5 - 0	

ADJOURNMENT:

Ms. Weisel announced the following adjournment:

Michael and Janaki Degen - 86 Crest Drive - Variances to construct a second story over the existing garage and principal dwelling and a one-story rear addition.

NEW PUBLIC HEARING – Carol Endres – 204 Riverview Avenue

The following public hearing notice was available to the public at the meeting:

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 14, 2022** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Carol Endres
204 Riverview Avenue
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the installation of a tool storage shed in the rear yard.

The property is located at 204 Riverview Avenue and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.100, Block 65, Lot 28 and is located in the R-7.5 zone.

The variance sought is as follows:

Code Section: §305-21. Residential R-7.5 Zone:	Required/ (Permitted)	Existing	Proposed	Variance Required
§305 Attachment: 5:1 Column 17, Minimum Rear Yard Setback	10 feet	n/a	2 feet	8 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: November 4, 2022

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

Steve Endres appeared before the Board, his wife, Carol Endres, was present in the audience. Mr. Endres stated that they are before the Board to seek an 8-foot rear yard variance to replace an old 7 ft. x 7 ft. “Rubbermaid” storage shed with a sturdier shed. The shed will be about 6 ft. x 10 ft., and will be placed in the same location as the old shed, which is 2 feet away from the rear fence of the property.

Ms. Weisel advised that the Board visited the site on Sunday, November 13, 2022 and discussed if there was any possibility of placing the shed somewhere else on the property. It was determined that the shed would have to be placed in the middle of the yard in order to comply with the property setbacks.

Mr. Endres advised Ms. Weisel that the new shed is a bit shorter and will not have a concrete foundation. He advised Mr. Jolly that it will be used to store the lawn mower and gardening tools and there will be no water or electrical connections.

Mr. Jolly asked if it could possibly be moved closer to the home. Mr. Endres said the only other location would block the window to the home, which is not safe.

Ms. Weisel noted the shed on the neighboring property and stated that if the new shed were moved a bit, that could trigger another variance. She referred to the picture submitted with the application and believes the proposed location of the shed is the best place. The new shed is a little bigger 6 ft. x 10 ft., but it is a bit shorter and doesn't extend out into the yard as much.

Ms. Weisel asked if anyone in the public would like to speak. No one appeared.

Mr. Endres advised that after the site visit, his neighbor came over and said that they had no objection to the location of the shed.

Counsel Addona advised that this is at Type II Action with no further environmental review required under SEQRA.

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

The secretary recorded the vote:

Member Abraham:	Yes
Member Kaplan:	Yes
Member Weisel:	Yes
Alternate Member Jolly:	Yes
Alternate Member Kudla:	Yes

All in favor. Motion carried. 5 - 0

Ms. Weisel read through and responded to 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. Weisel stated that the proposed project will not produce any change in the character of the neighborhood since it will replace a similar shed which is a little bigger but not taller and is adjacent to an existing neighboring shed.*
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. Weisel stated that the benefit sought by the applicant cannot be achieved by some other method other than the area variance due to the lot size.*
3. That the requested area variance is not substantial. *Ms. Weisel stated that the requested variance is not substantial, the applicant is limited due to the lot size and setbacks.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Weisel stated that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

5. That the alleged difficulty was 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. *Ms. Weisel stated that it is self-created but that does not preclude the Board from granting this variance.*

Ms. Kaplan moved, seconded by Mr. Jolly, to approve the requested 8-foot rear yard variance for the shed and to authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearing to include general conditions of approval.

The secretary recorded the vote:

Member Abraham: Yes
 Member Kaplan: Yes
 Member Weisel: Yes
 Alternate Member Jolly: Yes
 Alternate Member Kudla: Yes

All in favor. Motion carried. 5-0

NEW PUBLIC HEARING – Joseph DeNardo- 1 Emerald Woods

The following public hearing notice was available to the public at the meeting:

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 14, 2022** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Joseph DeNardo
 86 Main Street
 Irvington, New York

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the construction of a single-family home.

The property is located at 1 Emerald Woods and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.190, Block 112, Lot 15 and is located in the R-60 zone.

The variances sought are as follows:

R-60 Zone w/R-30 (Footnote 2 in schedule)	Permitted	Existing	Proposed	Variance Required
§305-49 - Impervious Coverage	19.25% 3,893 S.F.	4.9% 1,000 S.F.	21.5% 4,349 S.F.	2.25% 456 S.F.
§305 Attachment: 5 Column 6 Minimum Lot Size	Required 30,000 S.F.	20,226 S.F.	20,226 S.F.	9,774 S.F.

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 Village of Tarrytown Planning Board and Architectural Review Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: November 4, 2022

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

Jim Annicchiarico, PE, the project engineer, with Cronin Engineering, appeared before the Board. Joseph DeNardo, the owner of the property, was also present. Mr. Annicchiarico presented the site plan and reminded the Board that variances for this property have been approved by this Board twice, once in 2010, and most recently, in 2017, for variances related to the same plan. Mr. DeNardo did not file a building permit within the required 2-year period and therefore the Zoning Board approval lapsed and, in accordance with the Village Code, he is required to return to this Board for approval of the variances. They are seeking variances for lot size for a pre-existing non-conforming lot, where the required lot size is 30,000 s.f., and they have 20,226 s.f., and a variance of 2.25% or 456 s.f. for impervious coverage. He advised that they appeared before the Planning Board on October 24, 2022 and are now before this Board for the requested variances.

Mr. Pennella advised the Board that this property transferred around 1972 and at that time it was a self-standing subdivided lot that met all zoning requirements. This lot is non-conforming pre-existing and has not changed, but there have been homes that have been developed around it when the area was zoned to R-60, to allow for fewer homes to be built in the subdivision. At that time, the zoning also allowed for R-30 standards to be applied for certain dimensional criteria. Mr. Pennella noted when they took the original house down, they could have built this home as of right, without any land use approvals. Mr. Annicchiarico said that this property was the caretaker's home for the original estate and when he died, his wife sold the property to Mr. DeNardo. Mr. DeNardo added that he owned this property before the Emerald Woods Subdivision.

Ms. Weisel confirmed with Mr. Pennella that the zone is R-60 but R-30 standards are applied for certain dimensional criteria. In this case, the lot was pre-existing, non-conforming. The other variance is for impervious coverage. Counsel Addona said when the Board previously granted variances for this application, it was for a greater percentage of impervious coverage. Mr. Pennella said there were some minor changes

made since the applicant was only given credit for 1,000 s.f. of driveway area for existing impervious coverage, so the applicant is asking for a lesser variance. Counsel Addona said since the variances have expired, the application is back before this Board to consider the variances and if inclined to deviate from them, they would need to provide a sound basis. Mr. Pennella said with regard to the lot size, it cannot change and it is a pre-existing non-conforming lot.

Ms. Weisel read an undated letter into the record from Matthew Kempler. The secretary acknowledged receipt via email to Mr. Kempler on November 7, 2022:

To: Chairperson Sally Lawrence and Members of the Zoning Board of Appeals
Tarrytown Village Hall
One Depot Plaza
Tarrytown, NY 10591

Re: 1 Emerald Woods Zoning Variance Application

As a neighbor to the proposed property and a member of the surrounding community I would like to express my concerns at the project proposed to be built at 1 Emerald Woods. I do NOT feel that the proposed variance satisfies the 5 criteria set out in 305-118(b). I put forward that:

1. No undesirable change will be produced in the character of our neighborhood,

We believe there WILL BE an undesirable change in the character of our neighborhood. The lot size of that property is less than half an acre. The lots on the balance of the street are 1 acre lots. The proposed residence size is 5000+ square feet - which is larger than some of the neighboring homes my 4500 square foot home on a 1-acre lot. I feel the home will look out of place and not conform to the aesthetics and current design of the street.

2. The benefit cannot be reasonably achieved by some other method

I believe the home can be built at a smaller scale, without the proposed variance in question.

3. The variance is not substantial

By definition the proposed variance being sought after IS EXTREMELY SUBSTANTIAL. The requested variances are LARGE and would greatly affect the neighboring properties:

R-60 Zone w/R-30 (Footnote 2)	Permitted	Existing	Proposed	Variance Required
§305-49 - Impervious Coverage	19.25% 3,893 S.F.	4.9% 1,000 S.F.	21.5% 4,349 S.F.	2.25% 456 S.F.
§305 Attachment: 5 Column 6 Minimum Lot Size	Required 30,000 S.F.	20,226 S.F.	20,226 S.F.	9,774 S.F.

4. The variance will have no adverse environmental effects to the neighborhood

I believe there will be adverse environmental effects to the neighborhood - After Mr. Denardo built several houses down the street on Gracemere, there was significant damage to the private road that our HOA is responsible to pay for. I am concerned that the construction process could also damage the road.

5. The alleged difficulty was not purposefully self-created.

This is a desired variance and not a necessary one to create.

Given the proposed variance DOES NOT meet the criteria I am NOT in support of the proposed project and would like the board to know I alongside many in the community feel the proposed variance is should not be approved.

Thank you for your consideration,
Matthew Kempler
6 Emerald Woods - Tarrytown NY 10591

Ms. Weisel opened the meeting up for public comment.

Shirley Ecklund, who lives at 3 Emerald Woods, next door to the property at 1 Emerald Woods advised that she also emailed a similar letter to the Zoning Board. The secretary said she would check but did not recall seeing a letter from Mrs. Ecklund to the Zoning Board; however, she did receive and acknowledge an email from Mrs. Ecklund addressed to the Planning Board, which was forwarded to the Planning Board prior to that October 24, 2022 meeting. Ms. Ecklund had the letter in her cell phone and read it into the record:

To: Chairperson Sally Lawrence and Members of the Zoning Board of Appeals
Tarrytown Village Hall
One Depot Plaza
Tarrytown, NY 10591

Re: 1 Emerald Woods Zoning Variance Application

As a neighbor to the proposed property and a member of the surrounding community I would like to express my concerns at the project proposed to be built at 1 Emerald Woods. I do NOT feel that the proposed variance satisfies the 5 criteria set out in 305-118(b). I put forward that:

1. No undesirable change will be produced in the character of our neighborhood,

We believe there WILL BE an undesirable change in the character of our neighborhood. The lot size of that property is less than half an acre. The lots on the balance of the street are 1 acre lots. The proposed residence size is 5000+ square feet - which is larger than some of the neighboring homes my 4500 square foot home on a 1 acre lot. I feel the home will look out of place and not conform to the aesthetics and current design of the street.

2. The benefit cannot be reasonably achieved by some other method

I believe the home can be built at a smaller scale, without the proposed variance in question.

3. The variance is not substantial

By definition the proposed variance being sought after IS EXTREMELY SUBSTANTIAL. The requested variances are LARGE and would greatly affect the neighboring properties:

R-60 Zone w/R-30 (Footnote 2)	Permitted	Existing	Proposed	Variance Required
§305-49 - Impervious Coverage	19.25% 3,893 S.F.	4.9% 1,000 S.F.	21.5% 4,349 S.F.	2.25% 456 S.F.
§305 Attachment: 5 Column 6 Minimum Lot Size	Required 30,000 S.F.	20,226 S.F.	20,226 S.F.	9,774 S.F.

Ms. Ecklund added that the variances are significant compared to the 1-foot variance to place a shed on her property which was heard by this Board last month.

4. The variance will have no adverse environmental effects to the neighborhood

I believe there will be adverse environmental effects to the neighborhood - After Mr. Denardo built several houses down the street on Gracemere, there was significant damage to the private road that our HOA is responsible to pay for. I am concerned that the construction process could also damage the road.

5. The alleged difficulty was not purposefully self-created.

This is a desired variance and not a necessary one to create.

Given the proposed variance DOES NOT meet the criteria I am NOT in support of the proposed project and would like the board to know I alongside many in the community feel the proposed variance is should not be approved.

Thank you for your consideration,
Shirley and John Ecklund
3 Emerald Woods - Tarrytown NY 10591

Eileen Stassa, who lives across the street at 2 Emerald Woods, stated that her home is 4,000 s.f. and sits on one (1) acre. Her principle concern is that this property has an Emerald Woods address and the front yard also faces Emerald Woods but the property does not contribute to the maintenance of the roads, which is the responsibility of the homeowners who live on Gracemere and Emerald Woods, who are part of the Homeowners' Association (HOA). She advised that when Mr. DeNardo developed the other homes in the area, the street was not repaired after that construction. She is concerned that it will not be taken care of again with the new construction. She contacted Mr. DeNardo to ask him to remove the leaves from his property which are lying on Emerald Woods. Leaves are all over and it will harm the sewers and the property is not being kept nice which is not fair to the residents. She believes if the variance is going to be granted, it should be reduced and this property should be required to join the HOA and contribute to the costs of maintaining the street. Mr. DeNardo should also comply with removing the leaves from the lot.

Counsel Addona confirmed with Ms. Stassa that this property is not part of the Homeowners' Association and advised her that her concern is a private property matter and not related to the variances before the Board. She advised that Land Use Boards cannot compel membership into a HOA. Ms. Stassa asked if the Board could then require that the entrance to the home be on Sheldon Avenue, rather than on Emerald Woods. Counsel Addona advised that again that would be a private matter if she does not believe Mr. DeNardo has rights to Emerald Woods. Ms. Stassa said she would just like Mr. DeNardo to pay his fair share of the costs, join the HOA and keep the property neat.

Ms. Kaplan asked Ms. Stassa if they asked Mr. DeNardo to join the HOA. Ms. Stassa said yes, a while back. Mr. DeNardo came up and said that the association can ask the new homeowner to join the HOA. He is the developer, not a homeowner. Mr. DeNardo commented that if he agrees as a developer to join the HOA, and he sells the house, and they don't want to be a part of the HOA, then what happens? Counsel Addona said if you agree to join the HOA now, there is a way for the property to become part of the HOA with recorded documents. Mr. DeNardo believes that in order to join an HOA, the property would have had to be part of the subdivision.

Mr. Pennella said this property was always a standalone lot. The address was originally 118 Sheldon Avenue and he believes the owner had the option to join the HOA when the application was before the Planning Board. The new homes were built around this property and the road improvements were made as part of the subdivision. Mr. DeNardo said that the driveway to this property was always on the Emerald Woods side. Mr. Pennella agreed and said they built the subdivision around that paper road.

Mr. Abraham does not believe that this HOA matter falls is beyond the scope of the Board. Counsel Addona asked about the leaves. Mr. DeNardo said he has been removing the leaves for the past 10 years. They have only been there since this Thursday and they are not on the street and noted that Ms. Ecklund had her leaves at

the curb before he did. Mr. Abraham interrupted and said, although they can sympathize, this leaf conversation is also irrelevant to this Board.

Ms. Wiesel agreed and said they are looking at the variances for impervious coverage and the lot size, not the house itself. Mr. Pennella said the impervious calculation is based upon the house footprint (including garage), the roof area, driveway and walkways. It has nothing to do with the FAR or square footage of the home. Ms. Kaplan commented that the driveway looks big. Mr. Annicchiarico said that they are proposing a modest walkway and patio. The driveway may seem big because there is a turnaround to allow cars to safely back out of the garage rather than into the street. He could cut that turnaround out, but it would not be as safe.

Ms. Stassa asked why the garage is on Emerald Woods and not on Sheldon Avenue. Mr. Annicchiarico said when they were doing the original subdivision, they were not allowed to cut off access to this property and they were required to include the driveway access for the existing house, which is why the drop curb was installed. Ms. Stassa said it is a corner lot and asked why the entrance can't face Sheldon Avenue since the property is not part of the HOA. Ms. Weisel said that issue is not within the purview of the Board. Mr. Abraham agreed and said that they can only deal with the variances before them.

There was a brief discussion about the square footage of the homes in the area. Mr. DeNardo confirmed with Ms. Kuldla that he built six homes in the area: one on Emerald Woods and five in Gracemere. All of the homes he built were much larger but they were built on 1-acre lots. This property is a pre-existing non-conforming lot. Ms. Stassa said she lives across the street and her house is 4,000 s.f. on 1-acre. She does not think this house will fit in.

Ms. Ecklund came back up and said that she lives next door. She personally knows three other neighbors who submitted letters to the Zoning Board and is concerned that the Board has not seen them. The Secretary only recalled one letter she received and acknowledged from Mr. Kempler and an earlier letter from Ms. Ecklund which was sent to the Planning Board. Ms. Addona asked Ms. Ecklund if she was copied on the correspondence. She said she was not copied but wanted to make the Board aware that there are other concerned neighbors.

Ms. Ecklund said she is a direct neighbor and looking at the five criteria, the reality is that this is going to be a much bigger home on half an acre. Lucas Isola, her neighbor, at 7 Stephen Drive, maxed out his lot to 4,000 s.f. and that home looks very large on that lot. She is concerned about putting a bigger house on a similar size lot and how close it will be to her driveway. She feels her property value will be negatively impacted because she has a flag lot and her house will be in back of this new home; it will be the first house you see and will look out of place. In 2017, the neighbors came to voice their concerns at the meeting and she can't understand how the variances were approved back then since the variances are very large by definition.

Mr. Annicchiarico asked Ms. Ecklund which variances she thinks are large. She said they both are. Mr. Annicchiarico said the lot size variance is the larger, but again, this is a pre-existing non-conforming lot. The impervious coverage, which is minimal, was also reduced back in 2017. Ms. Weisel said that they are applying the R-60 zoning standards for impervious coverage. Mr. Pennella agreed and said that the homes in this area are all maxed out for coverage and many of the homes converted to permeable pavers to get around this variance. Mr. Weisel again noted that the applicant reduced the impervious coverage back in 2017.

Mr. Abraham confirmed with Mr. Pennella that if they proposed a gravel driveway or pervious pavers, then a variance for impervious coverage would not be needed. He then advised the public that, if the Board denied this variance, the applicant could install pervious pavers or gravel to be zoning compliant. Counsel Addona said they still need a variance for lot size, but that is a separate issue. Mr. Abraham understands and said that the lot size has nothing to do with the FAR. Mr. DeNardo said all the homes were approved for gravel driveways only and the homeowners came back and got the pervious pavers approved. They changed from gravel to pavers which most likely required variances. Ms. Stassa said she did come back to the Board and installed the expensive pavers with layers of gravel underneath.

Mr. Pennella also noted that the subdivision properties have a common pond to handle the stormwater. This property at 1 Emerald Woods is standalone and will have drywells. Mr. Pennella confirmed with Mr. Annicchiarico that the turnaround area in the driveway is about 170 s.f. Mr. Annicchiarico advised Mr. Jolly that the driveway is about 40 ft. x 12 ft. max. Mr. Jolly said you could take away that variance. Mr. Annicchiarico said they could make the driveway gravel, which doesn't seem practical. He advised that this property meets the FAR and all setback requirements. He noted that Ms. Ecklund had concerns about how close the house will be to her driveway, but the plan meets all the required setbacks. Ms. Ecklund just feels that the house will look out of place because of the lot size. She asked if the house could be built without these variances and why they need a variance for lot size. Jim Annicchiarico said they are building a home on a pre-existing non-conforming lot in a zone which was changed for the subdivision. Mr. DeNardo came up and said that the lot variance can't be denied. Mr. DeNardo said the variance has been approved twice by this Board and if not approved, they would be in court tomorrow. He has been down this road before. If the Board did not approve this variance, it would be essentially taking of a piece of property.

Ms. Weisel understands the pre-existing nature of the lot. She feels that they need to have a full Board and take a closer look, and would like to continue the public hearing to next month, December 12, 2022. Mr. DeNardo said he does not think it is fair to hold over this hearing. Counsel Addona advised Mr. DeNardo that the variances are not being denied but he has made some legal assertions and she needs to have an opportunity to advise the Board on this matter so that they have a better understanding.

Ms. Kaplan moved, seconded by Ms. Kudla, to continue to the public hearing to December 12, 2022.

The secretary recorded the vote:

Member Abraham:	Yes
Member Kaplan:	Yes
Member Weisel:	Yes
Alternate Member Jolly:	Yes
Alternate Member Kudla:	Yes

All in favor. Motion carried. 5-0

ADJOURNMENT:

Ms. Kaplan moved, seconded by Ms. Kudla, to adjourn the meeting at 8:25 p.m.

All in favor. Motion carried. 5-0

Liz Meszaros- Secretary