

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
Village Hall – 1 Depot Plaza
July 10, 2023 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Rachlin, Kaplan, Abraham,
2nd Alternate Member Young, Counsel Addona; Village Engineer Pennella,
Secretary Meszaros

ABSENT: Member Kudla, 1st Alternate Member Jolly

Ms. Lawrence opened the meeting at 7:30 pm.

APPROVAL OF MINUTES – May 8, 2023

Ms. Rachlin moved, seconded by Ms. Kaplan, to approve the minutes of the
May 8, 2023 meeting as submitted.

The secretary recorded the vote:

2 nd Alt. Member Young:	Yes
Member Abraham:	Yes
Chairwoman Lawrence:	Yes
Member Rachlin:	Yes
Member Kaplan:	Yes

All in favor. Motion carried. 5 - 0

NEW PUBLIC HEARING – Benjamin and Julie Green – 25 Rosehill Avenue

The following public hearing notice was made available to the public:

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, July 10, 2023** in the Municipal Building,
One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Benjamin and Julie Green
25 Rosehill Avenue
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the
construction of terraced retaining walls, an inground swimming pool with patio, pergola
and associated site improvements.

The property is located at 25 Rosehill Avenue and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.80, Block 49, Lot 6 and is located in the R-10 Zoning District.

The following variance is sought:

Code Section: Residential R-10 Zone	Permitted	Existing	Proposed	Variance Required
§305 Attachment 5:1				
Column 9: Accessory Building Coverage	1,057 SF 5.5%	642 SF or 3.3%	1,576 SF 8.2%	519 SF 2.7%

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 will be required by the Planning Board and the Architectural Review Board.

By Order of the Zoning Board of Appeals.

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: June 30, 2023

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

David Verespy, Landscape Architect, with Rock Spring Design Group, appeared before the Board, representing the applicant, Benjamin Green, also present. Mr. Verespy presented the site plan and noted that this property received a FAR variance from this Board in 2016 for alterations to the home which included the construction of a two-car garage. He showed the existing house and the garage and noted that the lot is approximately 28,000 square feet, which is an oversized lot for the R-10 Zone (10,000 s.f.). They are seeking a 2.7% increase in accessory coverage in order to construct a 642 s.f. swimming pool and a 312 s.f. pergola. Mr. Verespy showed the proposed structures on the site plan and noted that a large portion of this property is located on a steep slope and, as a result, the building lot area is reduced, which affects the calculations for accessory building coverage. He stated that, basically, anything built on this property would require a steep slope waiver. They are currently before the Planning Board for site plan approval and a waiver of steep slope. They will be constructing terraced retaining walls to level out the property to allow for the installation of a pool and pergola and will provide extensive landscaping on site with stormwater

improvements. There are no other proposed buildings and no changes to the principal structure or to the garage. The accessory coverage variance request is strictly for the pool and the pergola.

He noted that the Board Members visited the site yesterday. A discussion took place about relocating the pool but he explained that relocating the pool would not change the variance request for coverage, which is based on square footage, not location.

Ms. Lawrence asked if the property will be leveled off. Mr. Verespy said the intent is to level off the property with retaining walls. A stormwater plan has been provided which will improve the conditions by slowing down the water and the additional native plantings proposed will also help to absorb water.

Ms. Kaplan asked about construction access. Mr. Verespy said access will be off the existing driveway where there is room for a staging area. They will work from the bottom up, finishing up with the pool, landscaping and site restoration.

Counsel Addona advised the Board that the accessory building coverage variance request is based on the size of the pool and the size of the pergola that is being proposed, which are both accessory structures.

Mr. Verespy confirmed with Mr. Pennella that 5.5% or 1057 SF is allowed by code, existing is 3.3% or 642 SF and the proposed is 8.2% or 1576 SF, which is 2.7% above what is permitted. Mr. Verespy gave each of the Board Members the lot calculation sheet so that the Board could better understand how the variance request was calculated.

Ms. Lawrence asked Mr. Green if he has heard back from any of the neighbors. Mr. Green advised that his neighbors have no issue with the proposed project.

Mr. Abraham asked if any of the neighbors have pools. Mr. Verespy said there are 2 properties next to them that have swimming pools.

Counsel Addona noted that the variance requested is not reflected on the plan that was submitted. Mr. Verespy said that he will update the plans but the zoning chart in the application is correct.

There were no more questions from the Board.

There was no one in the audience to comment on this application.

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

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

The secretary recorded the vote:

2nd Alt. Member Young: Yes
 Member Abraham: Yes
 Chairwoman Lawrence: Yes
 Member Rachlin: Yes
 Member Kaplan: Yes
 All in favor. Motion carried. 5 - 0

Ms. Lawrence 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. Lawrence stated that the proposed project will not bring an undesirable change to nearby properties in the neighborhood. There are other similar swimming pools and improvements made to neighboring yards.*
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. *Ms. Lawrence stated that the benefit sought by the applicant cannot be achieved by some other method other than the area variance taking into consideration that the majority of the property is on a steep slope.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the requested 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. *Ms. Lawrence stated that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*
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. Lawrence stated that it is self-created but that does not preclude the Board from granting this variance.*

Ms. Rachlin moved, seconded by Ms. Kaplan, to approve the variance and authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearing to include the general conditions of approval and a specific condition that the plans submitted be updated to reflect the 2.7% variance request for accessory building coverage.

The secretary recorded the vote:

2nd Alt. Member Young: Yes
 Member Abraham: Yes
 Chairwoman Lawrence: Yes
 Member Rachlin: Yes
 Member Kaplan: Yes

All in favor. Motion carried. 5- 0

Board Discussion

Counsel Addona advised the members that the Board of Trustees will be reviewing a first draft of language with regard to changing the village code to 1) allow for certain accessory structures to be permitted without the need to obtain a variance from the Zoning Board and 2) to eliminate the need to go to the Zoning Board for parking variances in lieu of paying into the parking fund which is determined by the Planning Board at site plan review. Counsel advised that there may be future opportunities for the Board to weigh in on the code language before the local law is adopted.

Mr. Pennella explained the proposed changes which would allow certain structures (condensers, sheds, tool houses, playhouses) to be located within the property setbacks, but no closer than 3 feet to the property line. The purpose of the 3-foot setback is for egress and fire protection which is consistent the NYS code. The size of the structure cannot be greater than 100 S.F. and no higher than 12 feet. Generators are excluded from this proposed law since they tend to make noise. The Board Members thought these changes were reasonable with the conditions recommended.

With regard to the payment into the parking fund, in order to assist businesses that do not comply with the parking requirements for properties in the RR zone, they will be able to make payment into the parking fund, as a condition of site plan approval, without having to also go to the Zoning Board to seek approval for the parking variance. This will save potential businesses the added administrative, professional and legal expenses associated with going before the Zoning Board of Appeals.

Counsel Addona explained to the Board that the purpose of the parking fund is to fund the creation of new parking or maintenance of existing lots within the Main Street area of the village (Restricted Retail Zone). Mr. Pennella noted that the village purchased the South Washington Street municipal parking lot and there are costs associated with that and costs for the general maintenance of all of the village municipal lots. The Board thought that this change was reasonable and would help more businesses come to Tarrytown.

Another discussion took place with regard to the need for a variance for side or rear stairs attached to a principal building since setbacks for the principal building need to be met. A code revision would allow for stairs to be no closer than 3 feet to the property line provided that they are not above grade. The members agreed that this could be a positive change.

ADJOURNMENT:

Ms. Lawrence moved, seconded by Ms. Rachlin, to adjourn the meeting at 8:05 p.m. All in favor. Motion carried. 5-0

Liz Meszaros, Secretary