

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
August 9, 2021 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Weisel, Rachlin, Song, Alternate
Member #1 Jolly, Counsel Addona; Village Engineer Pennella; Secretary
Meszaros

ABSENT: All Present

APPROVAL OF MINUTES – June 14, 2021

Mr. Jolly moved, seconded by Mr. Song, with Ms. Lawrence abstaining, to approve the minutes of the June 14, 2021 meeting.

The secretary recorded the vote:

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

All in favor. Motion carried. 3-0

APPROVAL OF MINUTES – July 12, 2021

Ms. Rachlin moved, seconded by Mr. Jolly, with Ms. Lawrence and Mr. Song abstaining, to approve the minutes of the July 12, 2021 meeting.

The secretary recorded the vote:

Member Weisel: Yes
Member Rachlin: Yes
Alt. Member Jolly: Yes

All in favor. Motion carried. 3-0

CONTINUATION OF PUBLIC HEARING – Matthew Cordone Architect- 88 Main Street

Matthew Cordone, RA, the project architect, showed the requested alternate plan which would reduce some of the setback variance by centering the roof deck on the ridge of the building. This would require extending the reinforcement beams underneath the deck to the load bearing walls. They also identified a glass railing system to allow more of a river view. He returned to the original plan showing the terrace set back on the roof with the glass railing system. He noted that previously they did not identify the neighbor to the west and the deck is actually lower than anticipated. The neighbor is concerned with the staircase location proposed in the side yard. He noted that this side yard is

already paved and is currently used by all the tenants as a circulation area to store and get the trash into the street for removal. There is an existing 6-foot fence which will hide about 40% of the staircase. They are not changing any permeable surface since the area is completely paved. Someone had said that a certified letter was not received, but the mailing receipts were submitted to the ZBA Secretary. They are trying their best to work with the neighbor. He noted that out of the 67 mailings sent, the only negative feedback has been from the owner of 3 Windle Park. They have not received any positive feedback. Mr. Cordone noted again that the YMCA Senior Housing project will also have a roof terrace. Mr. Pennella said that application was a different review process. Ms. Lawrence said it would be good to see what that terrace will look like.

John Hughes, ESQ., appeared, representing the owners of 3 Windle Park, the property contiguous to 88 Main Street. He submitted a letter, dated July 27, 2021, attached as Exhibit "A" of these minutes, outlining the reasons that the variances for this project should not be granted with pictures of the property. He referred to Section 305-62(a)(2) which specifically prohibits this deck use. It is difficult to overlook the sections of the law pertaining to non-conforming uses and the significant variances that have been requested here. He feels this type of proposal would be more appropriately considered holistically by the Board of Trustees through a legislative process.

Mark Fry, currently of Ossining, but has lived in Tarrytown for many years, appeared and advised that he is working with John Hughes and the applicant, Mr. Love, on other matters, but is not involved with this application. He noted that all the buildings on Main Street are pre-existing non-conforming, and the degree of non-conformity may not be increased without going before this Board. He feels the nature of the variance is minimal. The narrow alley has been on the side of the house for the past 100 years and it will continue. Another run of stairs is also not a major variance. None of the buildings on Main Street conform with the side yard setbacks. There are other roof decks on Main Street and there will be many more to come. The lot coverage is not increasing. Nothing is being built outside the building envelope except for the height. This building is one entire floor less in height than what it can be under code. The applicant could add a floor as of right or do a 100% roof deck, but he is only proposing 25% of the roof area for the deck. He suggested communication between Mr. Hughes and the applicant or his representatives.

Ms. Lawrence has not been at the last two ZBA meetings but she has looked at all the minutes and has reviewed the application. She wanted to vote tonight but now she has concerns about the proposed roof deck/terrace at the YMCA new senior building. She would like to look at the plans to see what it will look like since it is only a half block away from this property. She does not know of any other roof decks on Main Street and is unsure of what decks Mr. Fry is referring to. If a roof terrace/deck is being built at the YMCA, it may change her feeling a little bit. This is an increase in non-conformity. She asked the Board Members to comment.

Ms. Weisel is concerned about the view from the Historic District. She wanted to confirm how many feet this property is to the District. Mr. Pennella estimated that this property

is about 1000 feet from the Historic District. Ms. Weisel said that the village is concerned with respecting the views of property owners. She feels the deck is very different from the character of the neighborhood.

Ms. Rachlin and Mr. Song have no comment.

Mr. Jolly said a reason the notice was not received at 3 Windle Park could be because the owners do not live there. He confirmed with Mr. Love, who was in the audience, that he and his wife own and live on the property at 88 Main Street.

Ms. Lawrence said she likes the attractive deck design and appreciates the glass, however, this property, even though it is not in Historic District, is very close to it. There is nothing about the roof that looks like any of the other buildings. They want conformity and that is their job as a Zoning Board. They also try to keep variances to a minimum for a reason. This is the first type of application presented to this Board that she can recall. She is concerned about the degree of the variances which are substantial due to the non-conformity of the lot and this is a substantial change. She would like to see a picture of what the Senior Housing at 62 Main Street is proposing. If there is going to be a deck up the block, she wants to see it. It may help this application move along.

Mr. Song said the proposal at the YMCA could change his opinion.

Mr. Fry noted that there are some roof decks where the Lefteris Restaurant is on Main Street and Broadway, which were built after the fire. Mr. Pennella said the building Mr. Fry is referring to is 1-3 Main Street, owned by RA Cohen. The roof decks Mr. Fry is referring to are not visible from the street. Ms. Lawrence remembers that application and agreed that it is not comparable. She would like to see the proposal for the terrace/roof deck at the YMCA. Mr. Cordone agreed and said they are 1000 feet away from the Historic District and in the best interest of the urban landscape the original plan positioned the deck as far away from the front as possible. He will prepare street shots for the September meeting and noted that they have modeled the entire neighborhood.

Mr. Song moved, seconded by Ms. Rachlin, to continue the public hearing on September 13, 2021.

The secretary recorded the vote:

Chair Lawrence: Yes

Member Weisel: Yes

Member Rachlin: Yes

Member Song: Yes

Alt. Member Jolly: Yes

All in favor. Motion carried. 5-0

New Public Hearing - Chris and Sonia Cawley - 95 Wilson Park Drive

The following public hearing notice was made 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, August 9, 2021**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Christopher and Sonia Cawley
95 Wilson Park Drive
Tarrytown, NY 10591

For a variance required for the construction of an elevator shaft and scenic roof deck on a single-family dwelling.

The property is located at 95 Wilson Park Drive, Tarrytown, NY and is shown on the tax maps as Sheet 1.50, Block 20, Lot 59.1 and is in the R-40 Zoning District.

The variance sought is as follows:

Code Section: 305-16 Attachment 5	Required	Proposed	Variance Required
Column 19, Maximum Height	30 Feet	42 ft. 2 ½ inches	12 ft. 2 ½ inches

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: July 30, 2021

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

Amanda Linhart, RA, the project architect, appeared, representing the applicants, Mr. and Mrs. Cawley, not present. She presented the plans for a proposed elevator vestibule to be installed for access to each level of the home and the flat roof area. She showed the existing flat tar roof and the existing hatch with steep stairs leading the roof that do not meet the code. The applicants purchased the house in 2019 and saw the potential of the views. The home was built to 30 feet from average grade to the top. She showed a 3D view of the proposal for the elevator shaft. The owner's brother, who

visits often, is confined to wheelchair and they have constructed a ramp for access to the main level of the house, but not to the bedroom level. The proposed new elevator will give access to the roof and all the floors through the garage for the entire family. She showed the impact of the elevator vestibule looking from Beech and Walden; from Wilson Park Drive; further back on Walden and also looking up Beech. The renderings show minimal impact; the trees and telephone poles block the views. From Wilson Park Drive, you can see it a little bit. She briefly went over the plans. Access to the elevator will be through the garage level. The elevator cab interior dimension will be 36 in. x 54 in. It will be located in the corner and large enough for a wheelchair to fit. They carved out an area for the cab on the second level to access an unfinished storage area, which leads to an open recreation area and the bedrooms and a bathroom. She showed the roof deck and the elevations. They wanted to have plenty of glass and lots of windows and will use galvanized steel railings to match the spires on the home. They are requesting a 12.5 ft. variance for the vestibule. The cab is 8 feet and they need the extra 4.5 feet for the structure.

Ms. Linhart referred to a letter of support from the Ann and Greg Hull, who live at the first house on top of Beech Lane. She noted Mr. Crawford comments, another neighbor who felt he would be mostly impacted, but supported this application in person at the July 26, 2021 Planning Board meeting. Ms. Linhart confirmed that the railings for the roof deck are being installed for safety. There is no variance required. They are seeking a height variance for the elevator vestibule only.

Ms. Lawrence asked if anyone in the public had any comment. No one appeared.

Ms. Lawrence asked the Board Members if they have any questions or comments.

Mr. Jolly wants to know if Mr. Cawley's brother can use a chair lift. Ms. Linhart said that he could but it would be hard for him to work around.

Mr. Song has no questions.

Ms. Rachlin asked if the Cawley's use the roof now. Ms. Linhart said they are not using it now because it is not safe and it is difficult to access the roof through the hatch. The steps do not meet code.

Ms. Rachlin asked if they heard anything from the neighbors on the Walden side since she felt they would be the most impacted. Ms. Linhart said that the biggest concern was the view toward the water. She is not aware of any negative feedback from those neighbors.

Ms. Lawrence said the variance is substantial. She is sympathetic to the owner's brother, but he does not live in the house. She does not think the elevator conforms to the neighborhood. They have the zoning code for a reason and they look carefully at requests for variances. Ms. Linhart said they have examined other options like an exterior staircase and determined that there is really no way to get that code compliant

without doing major work. She suggested another option would be to center the cab a bit more which could reduce the height by 2 feet and still be able to fit within the structure. They need 8 feet for the cab to go up. Some of that additional footage is for decorative purposes. She is not sure if 2 feet less would make a difference to the Board.

Ms. Rachlin asked Ms. Linhart if the applicant considered installing the elevator without using the deck. Ms. Linhart said that she thinks they would do the elevator anyway. They intend to stay in the home as they get older. They also entertain a lot in the garage and bringing food from the kitchen down to the garage would be easier with the elevator. Ms. Lawrence confirmed that the roof is just a flat tar roof with no green infrastructure, although the home was built to be entirely energy efficient.

Mr. Jolly asked why the chair lift will not work to get up to the roof. Ms. Linhart said it is too steep for a chair lift and the opening is too small and it is not code compliant. They could look into alternatives, but they think their proposed design is the most attractive alternative.

Ms. Rachlin asked if they could do the deck only. Mr. Pennella noted that the rooftop deck still requires Planning Board approval. The application is before this Board for the height of the elevator. He suggested that maybe they could explore using glass. Ms. Lawrence would like the applicant to bring back another idea. It is attractive but it does not fit into the neighborhood.

Mr. Song feels that the design is very consistent with the character of the neighborhood. The design resembles the design of the house and it is not an undesirable change. Ms. Rachlin feels that the proposed glass design would be worse.

There was no public comment.

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

The secretary recorded the vote:

Chair Lawrence: Yes
 Member Weisel: Yes
 Member Rachlin: Yes
 Member Song: Yes
 Alt. Member Jolly: Yes

All in favor. Motion carried. 5-0

Ms. Weisel 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 agrees with Ms. Lawrence that the style is not in keeping with the character of the entire neighborhood.*

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 said in this case, no, simply because of the difficulty with code compliant staircases and this seems the one way to get the elevator.*
3. That the requested area variance is not substantial. *Ms. Weisel stated that the 12.5-foot height variance is substantial.*
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 variances 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 said it is self-created because the brother is not a full time resident. Having an elevator in the home is acceptable but bringing it up to the height is a different story.*

Counsel Addona suggested that other Board Members comment on the criteria.

Mr. Song does not think that the benefit sought by the applicant can be achieved by any other means. He also does not think that the variance request is substantial. He doesn't believe that there is going to be an adverse effect on the physical or environmental conditions of the neighborhood. The point of difference is really on the first criteria and he believes that some of the alternatives discussed would probably be less in keeping with the character the neighborhood than what is being presented.

Mr. Jolly understands the need for an elevator and the neighbors are supportive. He does not know if medical needs should play a role in this decision, but that could be a possibility.

Mr. Rachlin moved, seconded by Mr. Song, to approve the application and authorize Counsel Addona to draft a resolution memorializing the discussion of the application this evening to include general conditions.

Ms. Lawrence asked for a roll call vote:

Chair Lawrence:	No
Member Rachlin:	Yes
Member Weisel:	No
Member Song:	Yes
Alt. Member Jolly:	Yes

All in favor. Motion carried. 3-2

New Public Hearing – Kathryn Hamilton - 80 Grove Street.

The following public hearing notice was made 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, August 9, 2021** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Kathryn F. Hamilton
80 Grove Street
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") for the placement of a condenser unit in the side yard of the property.

The property is located at 80 Grove Street and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.80, Block 48, Lot 17 and is located in the R-10 Zone.

The variance sought is as follows:

Code Section §305-20 Attachment 5:1	Required	Existing	Proposed	Variance
Column [16] - Side yard setback	12.0 ft.	7.5 ft.	6.1 ft.	5.9 ft.

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: July 30, 2021

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

Kathryn Hamilton, owner of 80 Grove Street, appeared before the Board. She is here to seek a 5.9 ft. variance for the placement of the condenser in the side yard of her property. She noted that the condenser was installed and cannot be seen by any of her neighbors.

Ms. Lawrence referenced the letter of support from Ms. Annette Stiloski, a neighbor, who lives way up on the hill, which was included with the application. She has not heard any negative feedback from anyone other neighbors. She asked Ms. Hamilton about the noise from the condenser. Ms. Hamilton said the condenser was on when the Board visited her home and Ms. Weisel said it was not making any noise at that time.

There was no public comment.

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

The Board members reviewed 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.
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance
3. That the requested area variance is not substantial.
4. That the proposed variances 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 moved, seconded by Ms. Rachlin, to grant the side yard setback variance to the applicant and authorize Counsel Addona to draft a resolution memorializing the discussion of the application this evening to include general conditions.

Ms. Lawrence asked for a roll call vote:

Member Rachlin: Yes
Member Weisel: Yes
Member Song: Yes
Alt. Member Jolly: Yes
Chair Lawrence: Yes

All in favor. Motion carried. 5-0

New Public Hearing – Mounir and Ilhem Meghelli – 25 Wilson Park Drive.

The following public hearing notice was made 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, August 9, 2021**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Mounir and Ilhem Meghelli
25 Wilson Park Drive
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") for the placement of a shed in the rear corner of the property.

The property is located at 25 Wilson Park Drive and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.10, Block 1, Lot 18 and is located in the R-15 Zone.

The variances sought are as follows:

Code Section: 305-19 Attachment 5:1	Required	Proposed	Variance Required
Column 16: Min. Distance From Accessory Structure to Side Lot Line	14 ft.	11 ft.	3 ft.
Column 17: Min. Distance From Accessory Structure to Rear Lot Line	14 ft.	4 ft.	10 ft.

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: July 30, 2021

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

Mounir Meghelli, owner of 25 Wilson Park Drive, appeared before the Board to request variances to place a shed in the rear corner of his property.

Mr. Meghelli said the shed will be used to store tools since they don't have a lot of space in their garage.

Ms. Lawrence noted that they have a large lot which is flat and asked if there is any other area where they could place the shed.

Mr. Meghelli said they could put it on the side of the house but that is where they enjoy family gatherings and also where the kids play ball.

Ms. Lawrence said there is a shed on adjacent property which is close to the corner which has been there for quite a while. It is up against the fence.

Ms. Lawrence asked if the Board Members had any questions.

Mr. Jolly asked if he is original owner of the house. Mr. Meghelli said he is not but has owned the home for about 14 years. He has never had a shed on the property.

Ms. Rachlin confirmed that the shed is about 10 feet high and will be placed in the back-right hand corner of the property.

Mr. Meghelli has not heard any feedback from his neighbors.

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

The Secretary recorded the vote:

Member Rachlin:	Yes
Member Weisel:	Yes
Member Song:	Yes
Alt. Member Jolly:	Yes
Chair Lawrence:	Yes

All in favor. Motion carried. 5-0

Ms. Lawrence read through 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 does not think there will be an undesirable change since there are several sheds in the area and up against the property.*
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 said that there are other areas on the property to place the shed but she does not think that placing it in the middle of the property would work.*
3. That the requested area variance is not substantial. *Ms. Lawrence said the rear lot line of 10 feet is a substantial variance.*

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. Lawrence stated that the proposed variance will have an adverse or negative effect on the 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 said it is self-created because the shed is being placed in a spot that requires the variances but that does not preclude the granting of the variances.*

Mr. Song moved, seconded by Ms. Rachlin, to approve the variances and authorize Counsel Addona to draft a resolution memorializing the discussion of the application this evening to include general conditions.

Ms. Lawrence asked for a roll call vote:

Alt. Member Jolly: Yes
Member Song: Yes
Chair Lawrence: No
Member Weisel: Yes
Member Rachlin: Yes

All in favor. Motion carried. 4-1

NEW PUBLIC HEARING – Kimberly and Anthony Mosca – 64 Sheldon Avenue

The following public hearing notice was made 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, August 9, 2021**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Kimberly and Anthony Mosca
64 Sheldon Avenue
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") for the construction of a 328 SF single story rear addition.

The property is located at 64 Sheldon Avenue and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.180, Block 103, Lot 4 and is located in the R 7.5 Zone.

The variances sought are as follows:

Code Section: 305-21 Attachment 5 (Existing lot area: 2563.58 SF)	Permitted/ Required	Existing	Proposed	Variance Required
Column 8: Principal Building Coverage	24% 615 sf.	<u>24.9%</u> 640 sf.	<u>38.2%</u> 980 sf.	<u>13.3%</u> 340 sf.
Column 10: Total Coverage of all buildings	<u>30%</u>	24.9%	<u>38.2%</u>	<u>8.2%</u>
Column 12: Min. for Ea. Side Yard	10 ft.	2.5 ft - west 3.5 ft - east	3 ft - west 5 ft - east	7 ft - west 5 ft - east
Column 13: Min. for 2 Side Yards	<u>22 ft.</u>	6 ft.	<u>8 ft.</u>	<u>14 ft.</u>
§ 305-49: Impervious Surface	<u>40.75%</u> 1,025 sf.	37.7% 967 sf.	<u>46.3%</u> 1,188 sf.	<u>8.6%</u> 163 sf.
§ 305-25: Total Gross Floor Area Floor Area Ratio – F.A.R.	0.43 1,102 sf.	<u>0.47</u> 1,209 sf.	<u>0.60</u> 1,537 sf.	<u>0.13</u> 328 sf.

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: July 30, 2021

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

Sam Vieira, RA, the project architect, appeared before the Board. The owner, Anthony Mosca, was also present. Mr. Vieira showed the plans and explained that the Mosca Family would like to add a rear addition to their home. They have three children and need the additional bedroom space for their daughter. The property is an undersized lot, very narrow and irregularly shaped, and the house is non-conforming.

When designing the rear addition, he had concerns about the distance of the addition from the property lines on the east and west. The east side has an existing walkway and after a discussion with Mr. Pennella he suggested that a minimum 5-foot clearance be provided. If they had maintained the 5-foot setback on the west side, they would have ended up with a very narrow addition. The addition is 20.6 ft. x 16 feet. They

pushed the addition over 3 feet, which created the footprint which triggered the variance request before the Board. He briefly went over the interior alterations and noted that they did not put any windows on the east side for privacy issues.

He explained that although the variances for the most part seem substantial, it is because the house itself is non-conforming as are most homes in the neighborhood, many of which have been improved. You cannot see the single-story rear addition from the street so there is no visual impact on the neighbors.

Mr. Mosca advised the Board that he knocked on doors and described the plans and he has had very positive feedback from his neighbors.

Ms. Lawrence agreed that the homes in this area are small with two bedrooms and it is not unusual to see these additions.

There was no public comment.

Mr. Jolly asked about the square footage of the yard that will be left after the addition. Mr. Vieira said they will still have about 45 feet in the rear yard. They will be digging out the basement and installing "Bilco" style doors for access.

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

The Secretary recorded the vote:

Member Weisel:	Yes
Member Rachlin:	Yes
Member Song:	Yes
Alt. Member Jolly:	Yes
Chair Lawrence:	Yes

All in favor. Motion carried. 5-0

Ms. Lawrence read through 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 does not think there will be an undesirable change since there are several homes in the area with additions since the homes are very small and the lots are close together. It is consistent with the character of the neighborhood,*
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 said the benefit sought by the applicant cannot be achieved by some method other than the area variances due to the lot size and configuration.*

3. That the requested area variance is not substantial. *Ms. Lawrence said the variances are not substantial considering the lot size and configuration.*
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. Lawrence stated that the proposed variance will not have an adverse or negative effect on the 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 said it is self-created but the lot size and configuration will not allow for the addition and this does not preclude the granting of the variances.*

Ms. Weisel moved, seconded by Mr. Song, to approve the variances and authorize Counsel Addona to draft a resolution memorializing the discussion this evening to include general conditions.

Ms. Lawrence asked for a roll call vote:

Member Song: Yes
Member Rachlin: Yes
Member Weisel: Yes
Chair Lawrence: Yes
Alt. Member Jolly: Yes

All in favor. Motion carried. 5-0

ADJOURNMENT:

Ms. Rachlin moved, seconded by Ms. Weisel, to adjourn the meeting at 8:55 p.m.

The Secretary recorded the vote:

Member Weisel: Yes
Member Rachlin: Yes
Member Song: Yes
Alt. Member Jolly: Yes
Chair Lawrence: Yes

All in favor. Motion carried. 5-0

Liz Meszaros
Secretary

Exhibit A

Letter from John Hughes, ESQ
Re: 88 Main Street Application

HUGHES LAW OFFICE, P.C.

170 Hamilton Avenue, Suite 207 • White Plains, New York 10601
Telephone: (914) 631-8855 • Facsimile: (914) 631-8895
jhughes@hugheslawoffice.us



July 27, 2021

Zoning Board of Appeals
Village of Tarrytown
1 Depot Plaza
Tarrytown, New York 10591

Re: Application of Owner of 88 Main Street, Tarrytown, New York

Dear Chairpersons and Members of the Zoning Board:

My office represents the Simao family, owners of the premises located at 3 Windle Park, Tarrytown, New York. The Simao family premises is located immediately to the east of the reference premises.

My client opposes the granting of the variances requested, for the reasons stated herein.

The application before you involves a variance to construct a deck on top of the roof of the 88 Main Street building. The roof in question is an "A frame" style roof.

Enclosed please find the following:

- (1) Pictures of the north, west, south side of the premises;
- (2) Copy of the relevant portions of Tarrytown Zoning Code Section 305-62 (A) (2), entitled "Nonconforming Buildings, Lots and Uses".
- (3) Copy of the relevant sections of Village Law Section 7-712-B (3) (b).

Naturally, the Board is very familiar with the provisions of the New York State Village law and the Tarrytown Zoning Code. The Board may also be familiar with the 88 Main Street premises.

The reasons for my client's opposition to the requested variances are as follows:

(1) Nonconforming use: (Section 305-62(a)(2))

The residential building at 88 Main Street, violates, to very significant degrees, all yard setback, percentage of coverage, and parking requirements of the Zoning Code. As such, the building "may not be enlarged or altered so as to substantially enlarge or increase the habitable or other useful area or other useful area of nonconformity, including, without limitation, **the alteration of the roof area or floor levels or the addition of habitable or other useful area above or below such nonconforming structure.** See Zoning Code, Section 305-62 (9A) (2) (attached hereto)

The westerly side yard is proposed to be reduced from 3.8 feet to 1 foot, where there is a 20-foot requirement. This reduction is designed to accommodate the construction of a stairway, up to the easterly extension of the building to access deck to be situated on the roof.

In addition, the interior building contains three (3) apartments and a garage which accommodates the tandem parking of two automobiles.

(2) NYS Village Law, Section 7-712 (B) (3) (b)

(1) There is a detriment to the neighboring property in that the very small side yard (3.8 feet) will be reduced to 1 foot. A unusual deck is proposed to be constructed on the "A frame" style roof of the premises.

(2) The benefit sought by the Applicant cannot be achieved by any other method because there is no land (front, side or rear yards) on this property.

(3) The request is very substantial, increasing the side yard nonconformity (3.8 feet where 20 feet are required) to 1 foot (a 95% variance)

(4) As such, the proposed variance will have an adverse effect on the physical and environmental condition in the neighborhood.

Please call the undersigned should you require any additional information.

Thank you.

Very truly yours,



JOHN J. HUGHES, JR.

JJH:gs
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Section 305-62 Nonconforming buildings, lots and uses: (a) (2)

Nonconformity may not be increased or moved. No such land use, building or structure which is nonconforming with respect to height, percentage of area of lot occupied, minimum yard size or minimum lot area per family shall be enlarged or altered in such a manner as to increase any such nonconformity, including, without limitation, **the alteration of roof area or floor levels or the addition of habitable or other useful area above or below such nonconforming structure.**

Village Section 7-712-B (3) (b)

- (1) There is undesirable change in the character of the character or a detriment to nearby properties of the granting of the area variance.
- (2) The benefit to be sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue.
- (3) The requested variance is substantial.
- (4) The proposed variance will have an adverse effect on the physical and environmental condition in the neighborhood.



Front View (on north side)



REAR VIEW (on south side)



Side view (on west side)



Side View (in west side)

