

Planning Board
Village of Tarrytown
Regular Meeting
November 22, 2021 7 pm

PRESENT: Chairman Tedesco; Members Friedlander, Aukland, Raiselis, Birgy
Alternate Member Gaito, Alternate Member Mendez-Boyer; Counsel
Silverberg; Village Engineer Pennella; Village Planner Galvin; Secretary
Meszaros.

ABSENT: All Present

APPROVAL OF MINUTES – October 25, 2021

Ms. Raiselis moved, seconded by Dr. Friedlander, with Mr. Aukland abstaining, to
approve the minutes of the October 25, 2021 regular meeting, as submitted.

Mr. Tedesco asked for a roll call vote:

Member Friedlander: Yes
Member Raiselis: Yes
Member Birgy: Yes
Chairman Tedesco: Yes
Mr. Aukland: Abstain
All in Favor. Motion carried. 4-0

Mr. Tedesco announced the following adjournment:

1. Hackley School - 293 Benedict Avenue -Pending Town of Greenburgh Approvals - Site
plan approval to demolish existing gymnasium building and construct a net increase of 56
surface parking spaces with stormwater and other related improvements, in connection
with the proposed construction of a new Center for Creative Arts and Technology Building
on property located within the unincorporated area of the Town of Greenburgh.

CONTINUATION OF PUBLIC HEARING– John Malone, RA – 9 Powder Horn Way

John Malone, RA, the project architect, appeared before the Board on behalf of the
property-owners, Catherine and Erik Johnson. He advised the Board that they have
added some evergreen Rhododendron to the landscape plan and have also moved the
Dogwood tree further up the hill as directed.

Mr. Tedesco asked if the Board Members or staff had any comment or questions.

The Board Members had no further comment. Village Engineer Pennella advised that the applicant has satisfied the stormwater requirements and made the applicant aware that no work can take place within the sewer easement.

Mr. Tedesco invited the public to comment on this application. No one appeared.

Mr. Tedesco moved, seconded by Mr. Aukland, to close the public hearing.

Mr. Tedesco asked for a roll call vote:

- Member Raiselis: Yes
- Member Aukland: Yes
- Member Friedlander: Yes
- Member Birgy: Yes
- Chairman Tedesco: Yes

All in Favor. Motion carried. 5-0

Mr. Aukland read through portions of the Resolution and advised that a copy will be provided to the applicant and the entire Resolution will be recorded in the minutes of this meeting as follows:

RESOLUTION
 VILLAGE OF TARRYTOWN PLANNING BOARD
 (Adopted November 22, 2021)

Application of Catherine and Erik Johnson
 Property: 9 Powder Horn Way (Sheet 1.220, Block 128, Lot 23 and R-15 Zone)

Resolution of Site Plan Approval

Background

1. The Applicant requested site plan approval for the construction of a 757-sf rear addition and deck to an existing 4,187 sf single-family residence in the R-15 zone. Project consists of the exterior renovation of the existing residence including new siding, windows, and roof and a basement level and main floor level addition in the rear yard.

2. The Planning Board on October 25, 2021, determined this to be a Type II Action under NYS DEC 617.5 (c) (11) *“construction or expansion of a single-family, a two-family or a three-family residence on an approved lot.* Therefore, no further SEQRA review was required.

3. The Planning Board has conducted a duly noticed public hearing on October 25, 2021 and continued on November 22, 2021, at which time all those wishing to be heard were given the opportunity to be heard.

4. The Planning Board has carefully examined the Application and the Applicant's cover letter dated October 7, 2021, the Architect's set of plans including site plan, zoning compliance, calculation analysis for steep slope reduction of 585 sf, *Steep Slope Waiver Narrative* for 50 sf of disturbance, Hudson Engineering's *Stormwater Management Plan and Drainage Analysis* revised September 3, 2021, exterior lighting specifications (dark sky compliant) and Applicant Architect's response memorandum dated October 29, 2021 to Village Landscape Consultant's review. The Planning Board also reviewed comments and recommendations from the Consulting Village Planner in a memorandum dated October 11, 2021, and November 8, 2021, a landscape review report from the Village Landscape Consultant dated 10/21/21, November 3, 2021, and final review on November 5, 2021, and a denial letter from the Village Engineer/Building Inspector dated September 28, 2021, which they have considered.

5. The Planning Board closed their public hearing on November 22, 2021. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval is granted subject to the conditions set forth below.

I. Findings

The Planning Board finds that the Applicant has satisfactorily addressed the criteria for granting the waiver for steep slope disturbance under 305-67(F)(1)(b) and the Planning Board finds that the applicant has established that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The proposed basement level addition in the rear of the existing residence will disturb approximately 50 square feet of existing steep slopes. These slopes are the result of post development grading and are not part of an existing natural environment. The applicant's *Steep Slope Narrative* prepared by his architect and updated October 15, 2021, is made part of the findings of the Planning Board and described below.

Neighborhood Character: There will be no undesirable change produced in the character of the neighborhood. The proposed project is a small expansion to the rear of an existing single-family house in a neighborhood of existing single-family homes, and will not produce an undesirable change in the character of the neighborhood.

Alternate Feasible Method to achieve benefit sought by applicant: The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than a steep slope waiver. Given the location of the existing residence relative to side yard setbacks and limitations of vehicular access in the front yard, the storage room is located at the basement level at the rear of the residence. In this location it does have a slight impact on existing steep slopes, however the impacted steep slopes are not part of a preexisting natural topographically feature but the result of post development grading.

Impact on Other Properties: Granting the waiver will not be detrimental or injurious to other properties. The subject property is served by existing public water and sewer systems. The project includes a new stormwater management system to address additional

runoff. The waiver will not result in a change which will be materially detrimental or injurious to other properties or improvements in the area, nor will it increase the danger of fire or flood, endanger public safety or result in substantial impairment of a slope area.

Consistency of Project with Intent of the Steep Slopes Chapter: A waiver will be consistent with the purposes, objectives, general spirit and intent of the code as described in Section §305-67, which is to preserve particular environmental and aesthetically sensitive characteristics of the Village of Tarrytown that identify its landscape.

As indicated in §305-67 A. (1) of the Tarrytown Code, the steep slope restriction was designed to provide the following objectives:

- (1) *Minimizing erosion and sedimentation, including the loss of topsoil.*

Temporary erosion and sediment control practices will be installed on site to provide stabilization of the property during construction activities. Upon completion of construction, all disturbed areas are to be either hardscaped, landscaped, or topsoiled, seeded and mulched, in order to provide permanent stabilization. In addition, the submitted Stormwater Management Plan will serve to mitigate and further improve impacts with regard to stormwater runoff on and off-site.

- (2) *Preventing habitat disturbance.*

There will not be any removal of existing trees, nor habitat disturbance.

- (3) *Protecting against possible slope failure and landslides.*

The proposed site plan has been designed by a Professional Architect and the Stormwater Management Plan by a Professional Engineer. Both designs protect against any possible slope failure and landslides.

- (4) *Minimizing stormwater runoff and flooding.*

A Stormwater Management Plan developed by a Professional Engineer has been provided and minimizes stormwater runoff and flooding

- (5) *Providing safe and stable building sites.*

The proposed plans submitted by this office, signed and sealed by a Professional Architect and a Professional Engineer provide a safe and stable building site.

- (6) *Protecting the quantity and quality of the Village’s surface water and groundwater resources.*

- (7) *The proposed project and the Stormwater Management Plan protect the quantity and quality of the Village’s surface water and groundwater resources.*

- (8) *Protecting important scenic vistas, slopes, rock outcroppings and mature vegetation.*

No scenic vistas, slopes, rock outcroppings and mature vegetation have been affected by this project.

(9) *Preserving the Village’s attractive aesthetic character and property values*

The proposed addition and improvements, and the disturbance of the existing steep slopes will not have an impact on the Village’s attractive aesthetic value and property values in the surrounding area.

(10) *Otherwise protecting the public health, safety and general welfare of the Village of Tarrytown and its residents.*

The proposed project has taken into consideration the health, safety and general welfare of the Village of Tarrytown and its residents by minimizing the disturbance of the existing slopes onsite to the maximum extent possible in order to provide the desired addition to the homeowner. Temporary and permanent stabilization of the property upon completion of construction will be provided, as well as a stormwater management design according to the conditions of the site.

Additional Findings Required:

An application for a waiver to permit development on or near a slope area may be approved only if the Planning Board specifically finds that:

(1) *The proposed development will not be materially detrimental or injurious to other properties or improvements in the area in which the subject property is located, increase the danger of fire or flood, endanger public safety or result in substantial impairment of a slope area.*

The subject property is served by existing public water and sewer systems. The project includes a new stormwater management system to address additional runoff. The waiver will not result in a change which will be materially detrimental or injurious to other properties or improvements in the area, nor will it increase the danger of fire or flood, endanger public safety or result in substantial impairment of a slope area.

(2) *The waiver will not be inconsistent with the purposes, objectives or the general spirit and intent of this chapter.*

The grant of the waiver will be consistent with the purposes, objectives and general spirit and intent of §305-67, and was designed to meet the objectives in §305-67 A. (1) of the Tarrytown Code, as outlined with our responses above.

(3) *The waiver is the minimum relief necessary to relieve the extraordinary hardship established by the applicant.*

Considering the benefit sought by the applicant, the character of the affected steep slopes and the minimal disturbance to steep slopes, we believe that the proposed

project as designed represents the minimum disturbance of the existing slope area on the site.

In addition, the Planning Board has considered the standards set forth in the Village of Tarrytown Zoning Code (“Zoning Code”) Chapter 305, Article XVI and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein.

The subject property is a 16,500-sf lot occupied by a one ½ story single-family residence. The property fronts on Powder Horn Way, south of Tarryhill Road and the rear yard borders on South Broadway in the R-15 zone. The Project consists of the exterior renovation of the existing residence including new siding, windows, and roof and a basement level and main floor level addition in the rear yard. The rear addition consists of 757 sf being added to the existing 4,187 sf house. The proposed addition increases the footprint by 605 sf to 1,969 sf, representing an increase of 44 percent. Applicant is replacing in kind the existing stockade fence at the west side of the property along Broadway. In response to the Village Landscape Consultant’s comment to improve the mitigation of the visual impact of the addition from Broadway, Applicant has revised the planting plan and moved the 8-foot high native Dogwood tree to a point uphill to a point 2’ higher in elevation and closer to the house. An evergreen rear foundation planting of (6) native Catawba Rhododendron has been added and shown to be planted at a minimum height of 4’. This will achieve a height equal to that of the foundation. Applicant also provided revised tree protection details on 10/25/21. The Village Landscape Consultant’s final review was issued on 11/5/21 which had no further recommendations.

The existing porch, wood deck and concrete slab will be demolished. The exterior lighting will be wall mounted sconces noted as dark sky compliant. The existing roof leader will be replaced with new roof leader drains connected to the cultec chambers via underground piping system. Hudson Engineering has prepared a *Stormwater Management Plan and Drainage Analysis* for the site dated May 27, 2021, and revised September 3, 2021. An infiltration system is proposed to be installed with five cultec chambers set in one foot of gravel at the sides in the northwest portion of the property. The system is designed to fully accept (no release) the entire stormwater runoff volume for the 25-year storm event from the watershed and ex-filtrate the runoff.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plan submitted to the Planning Board and approved by the Planning Board as follows:

Architectural and Site Plans prepared by Ferguson Malone Architects for Johnson Residence, 9 Powder Horn Way, Tarrytown, NY dated 5/22/21 and last revised 10/7/21 unless otherwise noted entitled:

- G-0.00 “General Notes & List of Drawings”
- G-1.00 “Zoning Analysis”
- G-1.01 “Site Demolition & Tree Protection Plan” last revised 10/25/21
- G-1.02 “Proposed Site and Planting Plan” last revised 11/3/21

- G-1.03 “Site Details” last revised 8/23/21
- G-1.04 “Existing Exterior Pictures” Last revised 10/1/21
Civil Drawings prepared by Hudson Engineering & Consulting, PC
- C-1 “Proposed Stormwater Plans” dated 5/26/21
- C-2 “Stormwater Details” dated 5/26/21

Survey “Topography of Property prepared for Catherine Johnson Situate in the Village of Tarrytown, Town of Greenburgh, Westchester County, New York” surveyed by TC Merritts Land Surveyors, surveyed 5/6/20
(the “Approved Plan”).

III. General Conditions

- (a) Requirement to Obtain Approvals: The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.
- (b) Changes to Approved Plans: If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Village Engineer, they shall also be considered “Approved Plans.”
- (c) Commencing Work: No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained and to establish an inspection schedule. Failure to comply with this provision shall result in the immediate revocation of all permits issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.
- (d) ARB Review: No construction may take place and a building permit may not be issued until Applicant has obtained approval from the Board of Architectural Review in accordance with applicable provisions of the Village of Tarrytown Code.
- (e) The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.

Mr. Tedesco moved, seconded by Mr. Aukland, to approve this site plan application.

Mr. Tedesco asked for a roll call vote:

Member Raiselis: Yes
Member Aukland: Yes
Member Friedlander: Yes
Member Birgy: Yes
Chairman Tedesco: Yes

All in Favor. Motion carried. The site plan application was approved. 5-0

NEW PUBLIC HEARING – Mitul and Michele Patel – 24 Park Avenue

Mr. Tedesco read the public hearing notice into the record:

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on **Monday, November 22, 2021 at 7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Mitul and Michele Patel
24 Park Avenue
Tarrytown, NY 10591

For site plan approval for the construction of a two-story 806 s.f. rear building addition and new driveway on an existing 5,500 s.f. lot.

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.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

All interested parties are invited to join the meeting and be heard.

Additional approval will be required from the Board of Trustees, the Zoning Board of Appeals and the Architectural Review Board.

By Order of the Planning Board

Lizabeth Meszaros, Secretary to the Planning Board

Dated: November 12, 2021

The mailing receipts were received and the property sign was posted.

Amanda Linhart, RA, of All Design Architecture, appeared before the Board, representing the owners of the property, Mitul and Michele Patel, who recently purchased the property in May of this year. She showed the site plan and the existing 1,600 s.f. single family residence that needs some repair and landscaping. The owners wish to expand the home to allow for Mr. Patel's parents to live with them and their new baby. Mrs. Patel is a long-time village resident and her parents live just around the corner. They are proposing a single car lane driveway on the west side of the property which will lie 4 feet off of the property line, where 5 feet is allowed. Ms. Linhart showed the interior plans proposing entertainment space with a large kitchen and dining area, and a bedroom suite for the in-

laws on the first floor. The existing screened-in porch will be turned into a four-season room and noted that they are not expanding out on either side of the existing home. The second floor will have a full bathroom and master suite, three bedrooms and another full bath. Ms. Linhart noted that the lot size was not correct on the original plans and it should be 5,550 s.f. In addition, they have received an updated survey which has been submitted for the record which eliminates one variance. Ms. Linhart briefly went through the variances, most of which are for existing conditions. The driveway will require new variances to allow them to park their cars on the property and not on the street. This will benefit the neighborhood by taking the cars off the street and will also help during snow removal. She showed the existing fire hydrant in the front of the property which also prevents them from parking in this area and advised that they have been directed to go before the Board of Trustees for approval to allow for a curb cut for the proposed driveway. Ms. Linhart ended her presentation by showing the elevations and how the home will look from the street. The only changes to the outside will be cosmetic; a new roof, windows and roof over the entryway will give the home a farmhouse look. The height and mass of the building will not change. She noted letters that they have gotten from the surrounding neighbors who are in support of this project which were submitted to Secretary Meszaros for the record.

Mr. Tedesco asked if any Board Members or staff had any questions or comments.

Mr. Pennella advised that a new revised denial letter has been issued which eliminates one variance. The letter has been forwarded to the applicant and will be sent to this Board for the record. This application requires approval from the Board of Trustees for the curb cut because of the elimination of a parking space and the realigning of the parking on the street and also requires variances from the Zoning Board. Once these approvals are in place, the applicant can return to this Board for site plan review.

Mr. Birgy asked about the accuracy of the lot size. Mr. Pennella said it is an undersized lot. The house to the east of the property has a driveway, but this property does not, so it seems smaller than the others, but it is in proportion to the others on the block.

Mr. Tedesco asked if anyone in the public would like to comment on this application.

John Walsh appeared before the Board. His family owns the property at 17 Independence Street which abuts the backyard of 24 Park Avenue. He showed the view of his property looking at 24 Park Avenue and has concerns where the construction will likely take place. He didn't have the opportunity to contribute to the list of people adding to the testimonial, and has concerns over the proposal to build a large addition to the property at 24 Park Avenue for the stated purpose of housing extended family for large gatherings. What stands on this site currently is a single-family dwelling previously owned by an elderly widow who lived alone. What is being proposed is the construction of a two-story wing which would dramatically increase the size of the structure and essentially turn a single-family home into a multi-family/multi-use structure for gatherings. His concern stems in part from the cover letter that the owner submitted to the Village in which they clearly

state that their intent is to build an oversized structure on an undersized lot and intend to hold large gatherings of such size. He feels that this will irreversibly and adversely affect the quality of life in the neighborhood. Another concern is that Part 2 of the Environmental Impact form on the Village website is incomplete. He referred to Part 3 of this assessment which asks, “Will the proposed action impair the character or quality of life for the existing community? He submits that it will, and believes that leaving this crucial area blank shows some lack of consideration to the impact this construction might have on the existing community. Finally, the cover letter also states that the construction won't really impact anyone who can see the house from the front or from the street. This statement totally ignores the impact it will have on the property-owners whose backyard faces this property; the construction with the associated digging, the noise, the dust and the length of the project are all factors. He feels that this project exhibits a total disregard for the quality of life for his family who has lived, worked, attended school, attended church, volunteered and have contributed to the Village of Tarrytown since 1974. For these reasons, he would ask that the Village deny this proposal at this time.

Mr. Tedesco read a letter of support into the record:

“I have reviewed the plans for an addition and new driveway for 24 Park Avenue in Tarrytown, NY as presented to me by my neighbors, Michele Mosa Patel and Mitul Patel. Although I am unable to attend the upcoming Board Meeting in person, I have no objection to the plans and support them on this project.”

Each letter was submitted individually by the following individuals.

- Gina Kelly – 16 Park Avenue*
- Lia Rodriguez- 21 Park Avenue*
- Jeffrey Rizzo – 21 Park Avenue*
- Carolyn Zara- 23 Independence Street*
- Sandy and Bob Olson – 20 Independence Street*
- Elizabeth Schubert – 11 Independence Street*
- Benjamin Posner- 12 Park Avenue*

Mr. Tedesco moved, seconded by Mr. Aukland, to declare this a Type II action with no further environmental review required under SEQRA.

Mr. Tedesco asked for a roll call vote:

- Member Raiselis: Yes
- Member Aukland: Yes
- Member Friedlander: Yes
- Member Birgy: Yes
- Chairman Tedesco: Yes

All in Favor. Motion carried. 5-0

Mr. Tedesco advised the applicant that they need to get the necessary approvals from the Board of Trustees first, then from the Zoning Board. At that point, they can return to this Board to address the site plan.

Dr. Friedlander asked about the size of the lots in the area. Ms. Linhart agreed that it would be a good idea to provide this information but noted that they are not asking for a rear yard variance for this project. The addition is not going back any further than any of the other neighboring properties.

Dr. Friedlander asked about possible landscaping for screening so that the neighbors in the rear will not be impacted. Ms. Linhart agreed and said there is an existing hedgerow and she will look into possibilities. She showed the interior plans again and confirmed that there will be 3 bedrooms, a master bedroom and 2 full bathrooms on the second floor. The first floor will consist of a living room, four-season room, kitchen-dining room area, in-law suite, and a full bath.

With regard to the large gatherings mentioned in the cover letter, Ms. Linhart said that the family will spend Thanksgiving and other holidays together. It is not their intention to have large gatherings all the time.

Dr. Friedlander asked Mr. Walsh to return to the podium to discuss his concern about this becoming a multi-family. Mr. Walsh is concerned that no one had approached him about the project and that he was not given the opportunity to offer an opinion. He again referenced the cover letter that was submitted with the application which refers to having large gatherings twice in this letter. No one has needed to build an addition to accommodate large gatherings and it is alarming that someone is making it a matter of public record to do so. He is also concerned about the construction phase. No mention was made to the impact on his property. He feels they have been willfully ignored and it seems that their property will be impacted the most which sets off flags for him. This is a large addition; 50% of the home is going to be expanded. He also is concerned about drainage and the impact of the root system on the existing tree. He has other questions and is here to voice his concerns on behalf of his family.

Mr. Tedesco explained to Mr. Walsh that all of these items will be addressed when the applicant returns to this Board for continued site plan review. Mr. Pennella will make sure that stormwater is proper and efficient and there are things that can be done to alleviate his concerns that will be addressed with the applicant. The public hearing will be continued and this is not the only time he will be able to express his concerns.

Mr. Gaito asked if the success of the driveway is contingent upon moving the fire hydrant. Ms. Linhart said there is no need to move the hydrant and they are not proposing to move the hydrant.

Ms. Linhart will provide the square footage on the neighboring properties, along with a Landscaping Plan and a Streetscape, as requested by Ms. Raiselis as part of the site plan application.

Mr. Galvin suggested that the applicant share their plans with Mr. Walsh.

Mr. Aukland said that the plan could change based upon the BOT and ZBA approvals and there is no need to get into the details at this point.

Mr. Pennella advised that a review memo will be drafted and given to the applicant outlining the next steps discussed tonight and the additional requirements that will be needed from this Board for site plan review.

Ms. Mendez-Boyer asked about the zone, which was confirmed as R 7.5, a single-family zone, not a multi-family zone. Ms. Linhart confirmed that their intention is to keep this a single-family home.

Mr. Tedesco moved, seconded by Mr. Aukland, to continue the public hearing when appropriate.

Mr. Tedesco asked for a roll call vote:

Member Raiselis: Yes
Member Aukland: Yes
Member Friedlander: Yes
Member Birgy: Yes
Chairman Tedesco: Yes

All in favor. Motion carried: 5-0

Mr. Tedesco wished everyone a Happy Thanksgiving.

Adjournment:

Ms. Raiselis moved, seconded by Mr. Aukland, to adjourn the meeting at 7:38 p.m.

Mr. Tedesco asked for a roll call vote:

Member Raiselis: Yes
Member Aukland: Yes
Member Friedlander: Yes
Member Birgy: Yes
Chairman Tedesco: Yes

All in favor. Motion carried: 5-0

Liz Meszaros – Secretary