

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
ph: (914) 631-1885

Zoning Board of Appeals Minutes 1/13/2014

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
January 13, 2014; 8:00 p.m.

PRESENT: Chairwoman Lawrence; Members Maloney, Jolly, Weisel; Counsel Shumejda; Village Engineer McGarvey; Secretary Bellantoni

ABSENT: Member Brown

APPROVAL OF THE MINTUES – December 9, 2013

Mr. Jolly moved, seconded by Mr. Maloney, and unanimously carried, that the minutes of January 13, 2014, be approved as submitted. Motion carried.

CONTINUATION OF PUBLIC HEARING – Checchi, Checchi & Robinson - 88 Main St.

Richard Blancato was present as well as Mr. Ugo Checchi, Jr. Mr. Blancato explained that his clients' garage at 88 West Main Street has been used for many purposes. Originally the house was owned by their parents and the garage was used to store plumbing supplies for their father's plumbing business. There was also a small area which was used as their father's office for his business. Later it was used to store roofing supplies for a roofer, and Goldberg's Hardware used it to store supplies. The last outside contractor to use the garage was Zeppo Contracting, a tile contractor; however, Zeppo was actually doing work in the space, even cutting tiles in the street. They were asked to leave. After his client's mother died, they used the space to store her things when they emptied out her apartment. He said it is a continued use since it's use was never stopped except for a few months after all of their mothers items were dispersed. The alternative would be a use variance because the use in that zoning district is no longer allowed.

Mr. Blancato said it is a legal non-conforming four-family house and that the garage was never used for a car; it was designed for storage with a small office.

Mr. Blancato said they present financial information at a previous meeting. The information showed that the rents from the apartments equal \$42,900/year; with the expenses, it only brings in a return of \$2,850. The rent from the garage is going to be needed to make a reasonable return. He said it has been many months ago that they first came before this board. At that time the board had a legal question; and since Mr. Shumejda rescued himself, they were seeking an answer from outside counsel. He ask that they come to a resolution tonight.

Chairwoman Lawrence asked if it was used as a business when the tile company occupied it. Mr. Blancato said they were using as storage but were asked to leave because of the noise they created cutting tiles.

Chairwoman Lawrence asked if the space is being used today. Mr. Checchi said no. Mr. Jolly said he saw a truck there today. Mr. Checchi said it was a contractor friend that he hired to fix a broken window.

Chairwoman Lawrence said if a space is not used for six months, it is no longer a use.

Mr. Maloney said you said it has been vacant for several months; you put your mothers' stuff there when she died but it has now been emptied out.

Mr. Ugo Checchi said when his mother died they put her stuff in there until they were able to get rid of it. Now it is empty except for one or two things but it is in limbo; they can't rent it or do anything with it. Chairwoman Lawrence said you can't use it for parking for the tenants. Mr. Blancato said we came to this board for relief so that it can be rented out.

Chairwoman Lawrence said clarify to me what you are exactly asking for. Mr. Blancato said we are asking to be able to use it for storage; to legalize it for storage. Ms. Brown asked for renting to someone or will the family use it.

Mr. Checchi said when his family originally bought the building, they took out permits to use it for his father's business. The permit was issued and it said for warehouse and office. The documentation in Greenburgh says warehouse and office. The space was designed for that use. The permits were issued and COs given. They only store what is legal.

Chairman Lawrence said the original use was for your family business and it was used for the storage of that business. The area has changed; it's a residential area and a very busy street. She is concerned that cars or trucks cannot even access the garage for pick-up and delivery for the storage area because there is no parking.

Mr. McGarvey explained that the storage use was permitted because it was a family business. Once that ends, you need to go before the Planning Board for the parking issues. He said the garage was designed to park cars.

Chairwoman Lawrence said there was a variance for the use for your family. Mr. Blancato said there was no variance; it was a permitted use. When they bought the building, it was already being used by a moving company.

Mr. Checchi said when you give a permit, it is for the building. The building was designed that way and for that use. The building has to keep on going; you can't have it stay vacant. He said they are not going to let anyone park in there.

Mr. McGarvey asked why they won't let anyone park in there. Mr. Checchi said you have zoning laws that require sprinklers. Mr. McGarvey said a continued use does not require sprinklers; a new use does. If it's a change of use, you may have to sprinkler it.

Mr. Blancato said if it were used for parking wouldn't it need a special fire rated ceiling because of the apartments above. Mr. McGarvey said storage is the worst situation.

Mr. McGarvey said he believes the original use was for garage space for residents of that building. At some point it was change to storage and office use. In 2014 you cannot rent it out unless this board grants you a variance for that use. You have to convert it back to a garage for the tenants in that building. You are required to have two parking spaces for every unit in that building. Mr. Blancato said it was never a garage for its apartments. Mr. McGarvey said what was it used for? Mr. Checchi said it was a moving company.

Mr. Checchi said we had a recession which killed our ability to rent it for storage. If we did not have a recession, we would not be here tonight; it used would be continued. He said they have maintained the building and paid their taxes. They have abandoned the building; they have done nothing wrong.

Chairwoman Lawrence said you never gave any thought to using it as a garage for your tenants, to at least get on car off the street. Mr. Checchi said no because the building was set up as a business, not a garage. Chairwoman Lawrence said if you wanted to use it for storage for your family, that is fine; but to rent it out for a commercial use is not. It has not had a commercial use for some time.

Ms. Brown said it's pretty simple. Our code said if it hasn't been used for six months, the use is lost. In this case it's 4 years. She asked Mr. McGarvey, if we do entertain a use variance, wouldn't work have to be done to bring it up to code. Mr. McGarvey said yes.

Mr. McGarvey asked where do the tenants of those apartment park? Mr. Checchi said I guess wherever they can find parking. Mr. Jolly said parking is a big issue in that area and that is the only house on lower Main Street with a garage.

Mr. Maloney moved, seconded by Mr. Jolly to close the public hearing. All in favor; motion carried.

Chairwoman Lawrence moved to approve the continuance of the non-conforming use for 88 Main Street. The board was instructed to vote yes, in favor of continuing the use; or no, not to continue the use. The board voted as follows:

Ms. Weisel	No
Mr. Maloney	Yes
Ms. Lawrence	No
Mr. Jolly	JJ, rescued
Ms. Brown	No

Motion denied.

CONTINUATION OF PUBLIC HEARING – The Quay - 261-299 South Broadway

Chairwoman Lawrence stated that they did not have a site inspection for this application on Sunday.

Sherry Alperstein said she is here representing the Quay and said they board did do a site inspection in October. At that time the board asked her to have the property staked because there were too many fences already and they did not know who they all belonged to. They had the property staked and they all belong to the Quay. She said they are going to remove all of the fences and install the new one. She said they were here originally because the posts extended a few inches above the 6' fence.

Mr. McGarvey asked if they are going to remove all of the fences and have the new fence installed all the way back to the property line. Ms. Alperstein said they are going to remove all of the fences. They will install the new fence in front of the property line. The only thing they are not removing is a brick wall which is a retaining wall. Mr. McGarvey said they fence on Tappan Landing are being changed out, correct. Ms. Alperstein said yes, except for the chain link fence around the pad which belongs to them. She said the fence they are installing is the same as the new one recently installed on the south side of the property. She said they are removing and replacing 1,200' of fencing.

Chairwoman Lawrence ask who surveyed the property? Ms. Alperstein said Link Land Surveyors.

Chairwoman Lawrence asked if anyone would like to speak.

Chairwoman Lawrence read the following environmental review by Michael Blau, Environmental Review Officer:

I have reviewed this application to install a new 6 foot fence with a post exceeding 6 feet and find the proposal appears to pose no significant adverse environmental impacts.

Mr. McGarvey asked Ms. Alperstein the exact height the fence will be. Ms. Alperstein said the posts are only a few inches higher than the fence panels; let's say the fence will be 6'-6". The fence is 6' and the posts are 6'-6".

Mr. Maloney moved, seconded by Ms. Weisel, to close the public hearing. All in favor; motion carried.

Mr. Jolly moved, seconded by Mr. Maloney, that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for The Quay , 261-199 South Broadway. All in favor; motion carried.

Mr. Maloney moved, seconded by Ms. Brown, subject to the approval of the Building Inspector and having arrived at the following Findings required by the ordinance:

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 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. That the alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

Grants the requested variances as stated above for The Quay, 261-299 South Broadway. All in favor; motion carried.

CONTINUATION OF PUBLIC HEARING – Bartolacci - 67 Miller Avenue

Chairwoman Lawrence stated that the public hearing was closed at the last meeting and Counsel Shumejda prepared a draft decision based on their straw vote at the November 12, 2013 meeting. Counsel Shumejda provided the board with the draft decision prior to tonight's meeting so that the board was able to review it, ask questions and voice concerns. Chairwoman Lawrence read the following decision which the board members voted on and the results of the vote are part of this decision:

Ms. Weisel asked Counsel Shumejda for a clearer explanation of what they are voting on. Counsel Shumejda said it is a Type II action because of the State Environmental Quality Review Action whenever a board interprets an existing code, rule, or regulation it's an exempt action. The application before this board is for the interpretation of the decision made by Mr. McGarvey pursuant to 305-67 and also the interpretation of 305-132. You are not being asked to approve any action; the building of a wall; only asking for the interpretation.

ZONING BOARD OF APPEALS

January 13, 2014

Re: Bartolacci, 67 Miller Avenue, Appeal of the Determination of the Building Inspector

Chronology:

May 22, 2012: Letter from the Building Inspector to Petruccelli Engineering, the Professional Engineer retained by the owners of 67 Miller Avenue, that the application requires site plan approval from the Planning Board per section 305-67 and section 305-142 of the Zoning Code;

August 28, 2012: Letter from the Building Inspector to Petruccelli Engineering that the project may now move forward to the Planning Board;

September 5, 2012: An Application for Site Plan Review by the Planning Board, a Site Plan and a Short Environmental Assessment Form were submitted to the Building Department by Petruccelli Engineering;

April 1, 2013: A second Site Plan Application, a revised Site Plan and a Short Environmental Assessment Form were submitted to the Building Department by Petruccelli Engineering;

April 22, 2013: Planning Board preliminary presentation;

May 28, 2013: Application adjourned by the applicant;

June 7, 2013: Planning Board Site Plan Review Public Notice was published for the June 24, 2013 Planning Board public hearing;

June 17, 2013: A revised Site Plan was submitted to the Building Department by Petruccelli Engineering;

June 24, 2013: Planning Board public hearing;

July 22, 2013: Planning Board public hearing adjourned by the applicants;

August 22, 2013: A revised Site Plan was submitted by Petruccelli Engineering;

August 26, 2013: Planning Board public hearing;

October 15, 2013: Zoning Board of Appeals public hearing;

November 12, 2013: Zoning Board of Appeals public hearing;

December 9, 2013: Zoning Board of Appeals public hearing;

January 13, 2014, Zoning Board of Appeals meeting.

The revised plan dated August 22, 2013 depicts a pre-cast wall 20 feet high on the left side, 14 feet high on the right side and 157 feet in length. The wall requires the addition of 86 cubic yards of fill and excavation of 16 feet of the steep slope back from the wall for

the installation of a geogrid.

The Building Inspector referred the application to the Planning Board for review and approval pursuant to Village of Tarrytown Code §305-67.

The owners of the property have challenged the determination of the Building Inspector by filing this appeal with the Village of Tarrytown Zoning Board of Appeals pursuant to New York State Village Law §7-712-a (5) (b). The property owners challenge the Building Inspector's determination to refer the application to the Planning Board. The applicant stated at the hearing on October 15, 2013 that he is not appealing the referral pursuant to §305-67. The property owners state that their application should not have been referred to the Planning Board because §305-132 does not apply.

Village of Tarrytown Code §305-67

The rear yard of 67 Miller Avenue contains steep slopes as defined by §305-67 (A) (2) (a) "a grade of 25% or more" and is depicted on the applicant's site plan as a steep slope.

Village of Tarrytown Code §305-67 is entitled "Visual character and environmentally sensitive areas". The law's purpose is "...to define and quantify particular environmental and aesthetically sensitive characteristics of the Village of Tarrytown in order to preserve and safeguard those features that identify its landscape: steep slopes ... and vegetation." §305-67 (A)

The objectives of the restrictions are as follows:

- (a) Minimizing erosion and sedimentation, including the loss of topsoil;
 - (b) Preventing habitat disturbance;
 - (c) Protecting against possible slope failure and landslides;
 - (d) Minimizing stormwater runoff and flooding;
 - (e) Providing safe and stable building sites;
 - (f) Protecting the quantity and quality of the Village's surface water and groundwater resources
 - (g) Protecting important scenic vistas, slopes, rock outcroppings and mature vegetation;
 - (h) Preserving the Village's attractive aesthetic character and property values; and
 - (i) Otherwise protecting the public health, safety and general welfare of the Village of Tarrytown and its residents. (§305-67 (A))
- Pursuant to §305-67 (A), the preservation of the following areas are intended to be encouraged by the restrictions:

- (a) "Steep slopes: a grade of 25% or more"...
- (e) "Significant amounts of existing vegetation":
 - (2) "Screening vegetative ground cover, including saplings, shrubs and bushes."

§305-67(A) states that the Planning Board shall "prohibit new construction and/or vegetation removal in such designated area" ... "in the course of subdivision, site development plan, compatible use permit or any other regulatory procedure embraced by this chapter or other local laws, codes or ordinance of the Village of Tarrytown." (See, §305-67 [A]) The direction given to the Planning Board is mandatory and not discretionary. The construction of the new wall is "new construction" since it is not in the same place as the former wall and is not a "stick for stick" in-kind replacement. The neighbor directly behind the subject property has stated that for 27 years the wall was never more than a 4 to 8 foot high railroad tie wall.

Pursuant to Village of Tarrytown Code §305-4, the Building Inspector has been designated by the Board of Trustees to administer the Village of Tarrytown Zoning Code and other Village regulations. An application is a "...regulatory procedure embraced by this Chapter or other local laws, code or ordinance of the Village of Tarrytown." (See, §305-67 [A]) The Building inspector referred the application to the Planning Board because the Planning Board is specifically mandated to control new construction and vegetation removal from steep slopes. The site contains steep slopes and vegetative ground cover including saplings, shrubs and bushes, and the application would impact:

- [a] erosion
- [b] sedimentation
- [c] habitat disturbance
- [d] stormwater runoff
- [e] significant amounts of screening ground cover including saplings, shrubs and bushes on steep slopes

Therefore the Planning Board has jurisdiction to review the retaining wall application pursuant to §305-67.

Village of Tarrytown Code §305-132

A. §305-132(A) (1) requires site development plan approval by the Planning Board:

"The Planning Board shall have the authority to review and approve site plans upon those proposed lots **which it deems appropriate in the interest of the general welfare and to minimize any potential adverse impact.**" (Emphasis supplied)

The application will have a potential adverse impact. The Planning Board is authorized to review site plans that it "deems appropriate in the interest of the general welfare" and "to minimize any potential adverse impact" §305-132(A)(1). The Building Inspector could have referred the application to the Planning Board pursuant to this section. The Planning Board has jurisdiction to review the retaining wall application pursuant to §305-132(A) (1).

B. §305-132(A) (2) requires site development plan approval by the Planning Board:

"**All uses of land where no building is proposed** including the proposed use and development of all land within proposed subdivisions." (Emphasis supplied)

The application involves a "uses of land where no building is proposed." Therefore, the Building Inspector could have referred the application to the Planning Board pursuant to this section. The Planning Board has jurisdiction to review the retaining wall application pursuant to §305-132(A) (2).

Village of Tarrytown Code §305-135

§305-135 (E) entitled "Wetlands and steep slopes protection" requires site development plan approval by the Planning Board.

§305-135 (E) states that "In the course of site plan review, **the Planning Board shall require the protection of wetlands and steep slopes**" (Emphasis supplied)

The owners of 67 Miller Avenue and their attorney cite the case of Moriarty v Planning Bd., 119 AD 2nd 188 (Second Dept. 1986) in support of their claim that the Village of Tarrytown Planning Board does not have the authority to review the application for "it has been consistently held that each local agency involved in the zoning and planning process may not exceed the bounds of the power specifically delegated to it". (Attorney's letter dated November 12, 2013) The Moriarty court based its decision on Section 7-725 of the Village Law.

However, Village Law 7-725 was replaced with Village Law 7-725-a in 1993. The legislature sought to rectify the effect of Moriarty by enacting Village Law 7-725-a.

Village Law 7-725-a (2) (a) authorizes a Board of Trustees by:

"... local law (to) specify the land uses that require site plan approval and the elements to be included on plans submitted for approval. The required site plan elements which are included in the local law may include, where appropriate, those relating to....**screening...landscaping, architectural features...adjacent land uses and physical features meant to protect adjacent land uses** as well as **any additional elements specified by the village board**

of trustees in such local law"

In 2003 the Board of Trustees by Local Law 7-2003 enacted Section 305-135 (E) (formerly 305-61 (C)(1)(c)) by adding a new section to Site Plan review entitled "Wetlands and steep slopes protection" which states that "...the Planning Board shall require the protection of wetlands and steep slopes"

In 2005 the Board of Trustees by Local Law 10-2005 determined that the ability of the Planning Board to "restrict" new construction and vegetation removal on areas defined as steep slopes should be replaced by the word "prohibit".

Therefore, the Building Inspector could have referred the application to the Planning Board pursuant to this section. The Planning Board has jurisdiction to review the retaining wall application pursuant to §305-135(E).

Previously Approved Walls

The applicants provided a list of walls that they claim were not referred to the Planning Board and therefore they are claiming that they are being treated differently.

The Building Inspector has reviewed these applications and reported his findings to the Board as follows:

21 Union Avenue: The plans for this application did not show that the wall was in a steep slope as required by the Village Code. Mr. McGarvey stated that because the wall was in a steep slope, it should have been referred to the Planning Board.

96 Main Street: This wall was rebuilt prior to Mr. McGarvey's employment by the Village of Tarrytown. However, a review of the file indicates that there was an existing retaining wall and the application was for the rebuilding of the wall in the same exact location, with the same height. No steep slopes were disturbed. Therefore, the application for this wall was not required to be referred to the Planning Board.

116 South Broadway: Contrary to the Applicant's claim, the wall was not a change of use. The application was to construct a parking lot. The application was referred to the Planning Board.

53 Walls: Mr. McGarvey stated that he reviewed the applications for these walls. They were replacements of existing walls that existed at the time the application was made and none disturbed steep slopes. Therefore, none of the 53 wall applications cited by the applicant were required to be referred to the Planning Board.

The Building Inspector also submitted a memorandum dated December 9, 2013 wherein he referenced an application for a retaining wall at 65 Castle Heights Avenue that he referred to the Planning Board because slopes on the sides of the existing retaining walls contain steep slopes.

James Maloney moved, seconded by John Jolly that the Board determines that the decision of the Village of Tarrytown Zoning Board of Appeals on the appeal of the owners of 67 Miller Avenue pursuant to New York State Village Law §7-712-a (5) (b) is a Type II Exempt Action under SEQRA pursuant 6 NYCRR Part 617.5(c)(31).

Votes in Favor 5 Votes Against 0

All in favor; motion carried.

James Maloney moved, seconded by Karen Brown that the Board affirms the Building Inspector's decision to refer the

application of the owners of 67 Miller Avenue for a retaining wall on their property to the Planning Board for its review and approval pursuant to §305-67 of the Village of Tarrytown Zoning Code and that the Planning Board has jurisdiction to review said retaining wall application.

Votes in Favor 5

Votes Against 0

All in favor; motion carried.

James Maloney moved, seconded by Karen Brown that the Board determines that §305-132(A)(1), §305-132(A)(2) and §305-135(E) of the Village of Tarrytown Zoning Code apply to the application of the owners of 67 Miller Avenue for a retaining wall on their property and that the Planning Board has jurisdiction to review said retaining wall application.

Votes in Favor 5

Votes Against 0

All in favor; motion carried.

NEW PUBLIC HEARING - Elio and Joanne Cecchis - 181 South Broadway

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, January 13, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

*Elio & Joanne DeCecchis
127 West Main Street
Tarrytown, New York 10591*

*For amendment of a use variance from the Zoning Code of the Village of Tarrytown for property they own at **181 South Broadway, Tarrytown, New York**. Previously amended use variance allowed for the occupancy of a real estate broker, attorney, insurance and real property management and mortgage broker in a residential zone. Application is made to modify variance granted to include offices for clinical psychologist and Wall Street Hedge Fund manager (by telephone only).*

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.100, Block 67, Lots 1 and is located in an R-7.5 zone.

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.
Dale Bellantoni
Secretary to the Zoning Board*

Dated: December 30, 2013

The certified mailing receipts were submitted and the sign was posted

Richard Blancato was present to represent the applicants. He stated that they appeared before the Planning Board and they approved the modification. He said the tenants are here if you have any questions for them.

Chairwoman Lawrence said the clinical psychologist is not allowed but he has been there for about eight months. She asked why. Mr. Blancato said they did not realize it was not allowed until they received a complaint from a neighbor.

Mr. Maloney asked if this is a parking issue. Mr. Blancato said yes because different businesses create different

parking issues. These two offices reduce the number of parking. He also said the original approval land banked spaces on the lawn area.

Mr. McGarvey said the original approval listed the specific office so that has to be done each time. Mr. Maloney asked if they have to come back each time it changes. Mr. McGarvey said not as long as it is the same type of use. Counsel Shumejda said it was designed so that the board could have a handle on the amount of traffic going in and out.

Ms. Brown asked if the neighbor who complained was noticed. Counsel Shumejda said she is not within the 100' of the property, so she would not have gotten a notice; but they sign was posted and the notice was in the paper. She was at the Planning Board meetings.

The question was raised as to whether a similar type of office to the clinical psychologist can come in. Counsel Shumejda said all of the conditions from prior approvals still exist, they are just being modified. The total number of employees that were originally approved must remain. Counsel Shumejda read from the Planning Board approval which states, "the change of use for 181 South Broadway for an individual who is a psychiatrist or a psychologist and an individual in financial services." He said any type of financial services or a psychiatrist is ok. Chairwoman Lawrence read the following environment review from Michael Blau, Environmental Review Officer dated October 28, 2013:

I have reviewed this application to amend an existing use variance and find the use appears to pose no significant adverse environmental impacts.

Mr. Maloney moved, seconded by Ms. Weisel, to close the public hearing. All in favor; motion carried.

Mr. Jolly moved, seconded by Mr. Maloney, that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for 181 South Broadway. All in favor; motion carried.

Mr. Maloney moved, seconded by Ms. Brown, with reference made to the conditions of approval by the Planning Board and statements of the tenants as to their use of the space as stated in the October 28, 2013 Planning Board meeting, and having arrived at the following Findings required by the ordinance:

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 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. That the alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

Grants the requested variances as stated above for 181 South Broadway. All in favor; motion carried.

NEW PUBLIC HEARING - Fazzino - 26 Dixon Street

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, January 13, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

*Karla Fazzino
74 No. Washington Street
Tarrytown, New York 10591*

*For area variances from Chapter 305-62 (2) and Chapter 305-11 of the Zoning Code of the Village of Tarrytown, for property located at **26 Dixon Street, Tarrytown, New York** to legalize an existing non-conforming covered porch built without a permit.*

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.40, Block 14, Lots 9 and is located in an R-7.5 zone.

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.

*Dale Bellantoni
Secretary to the Zoning Board*

Dated: December 30, 2013

The certified mailing receipts were submitted and the sign was posted

San Vieira, representing the applicant, stated that his client is asking for a variance for an existing non-conforming second story covered porch requiring a 1' variance; 8' is required and 7' exists. He said Ms. Fazzino has owned the house since the mid 1980 and the structure has been there since then. He said it is structurally sound with a few minor issues which he will work out with the owner.

Chairwoman Lawrence asked if anyone had any questions.

Mr. Maloney asked if there is a CO on the house. Mr. Vieira said he believed so because they are closing next week and the title search would have picked that up.

Chairwoman Lawrence read the following environmental review from Michael Blau, Environmental Review Officer dated October 28, 2013:

I have reviewed this application to legalize an existing non-conforming covered porch and find this appears to pose no significant adverse environmental impacts.

Mr. Maloney moved, seconded by Ms. Weisel, to close the public hearing. All in favor; motion carried.

Mr. Jolly moved, seconded by Ms. Weisel that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for 26 Dixon Street. All in favor; motion carried.

Mr. Maloney moved, seconded by Ms. Weisel, and having arrived at the following Findings required by the ordinance:

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 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. That the alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

Grants the requested variances as stated above for 26 Dixon Street. All in favor; motion carried.

ADJOURNMENT

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the meeting be adjourned – 9:30 p.m.

Dale Bellantoni
Secretary