

# Village of Tarrytown, NY

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

## Zoning Board of Appeals Minutes 7/8/2013

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
July 8, 2013; 8:00 p.m.

PRESENT: Chairwoman Lawrence; Members Maloney, Brown, Weisel; Counsel Shumejda; Secretary Bellantoni

ABSENT: Member Jolly

### APPROVAL OF THE MINUTES - June 10, 2013

Mr. Maloney moved, seconded by Ms. Brown, that the minutes of June 10, 2013 be approved as submitted; all in favor. Motion carried.

### CONTINUATION OF PUBLIC HEARING-Checchi, Checchi & Robinson-88 Main Street

Chairwoman Lawrence stated that this application has been adjourned.

### CONTINUATION OF PUBLIC HEARING-15 N.Washington St.. LLC - 15 N. Washington St.

Chairwoman Lawrence stated that this application has been withdrawn.

### CONTINUATION OF A PUBLIC HEARING – 23 John Street

Mr. Dalessandro, architect for Mr. Jones stated that he measured the distance from the proposed curb cut to the corner of the parking area on John Street, as the board requested. He said he did two measurements. The first one he used a space measure of 9' x 18' which resulted in eight (8) 18' deep spaces up to the proposed curb cut. The second measurement he used is 10' x 21' which resulted in seven (7) 21' deep spaces, with same room left over, up to the proposed curb cut.

Counsel Shumejda asked if there are any driveways on that side up to Elisabeth Street. Mr. Dalessandro said only the house on the corner has a driveway but it is on Elisabeth Street.

Counsel Shumejda asked if the 18' spaces were increased for maneuvering. Mr. Dalessandro said no. He measured spaces in the Village and saw some were 21' so he used the largest measurement.

Chairwoman Lawrence asked what surface the driveway would be made of and how close to the lot line will the driveway be. Mr. Dalessandro said it will be made of pervious pavers which will come 1' off the lot line.

Counsel Shumejda asked how many cars park on the street. Mr. Dalessandro said about either (8) with room for a small compact car.

Chairwoman Lawrence asked if other than John Street residents park on John Street. Mr. Jones said yes, all the time.

Counsel Shumejda asked how far it will go into the property. Mr. Dalessandro said they measured from the end to the proposed curb cut and had 118' left for parking.

Mr. Dalessandro said the space between the driveway is only 16' but we decided to up it to 18'.

Ms. Brown asked if that is what the code says for on-street parking. Mr. Dalessandro said the size of on-street parking is not in the code.

Ms. Brown asked how they ended up with a half curb cut. Mr. Jones said it was there when he bought the house. Mr. Dalessandro said in 2001 the sidewalks were redone and it was done that way then. Mr. Jones said originally there was an alley way along that side of the property.

Chairwoman Lawrence asked if anyone would like to speak.

Chairwoman Lawrence read the following Environmental report from Michael Blau, Environment Review Officer dated July 8, 2013:

*I have reviewed this application for the construction of a new driveway which will require parking in the front yard setback. While parking in the front yard is never desirable, the Board must evaluate neighborhood conditions and make a determination whether this will pose a significant adverse environmental impact.*

Ms. Brown moved, seconded by Mr. Maloney, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for 23 John Street.

Chairwoman Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the hearing be closed.

Chairwoman Lawrence stated that typically it is not desirable to have parking in the front yard but since it is such a short street she feels she can approve the variance.

Chairwoman Lawrence moved, seconded by Mr. Maloney, and unanimously carried that 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 above-referenced variance for 23 John Street.

#### NEW PUBLIC HEARING – Quay - South Broadway

Jerry Stepman representing the Quay stated that they are before the board seeking a variance to replace an existing 8' fence with a new 8' fence. He showed the board a sample of what it will look like.

Chairwoman Lawrence said they did a second site visit to get a better look at the existing fence and where it goes. She said the existing fence is not in great shape.

Chairwoman Lawrence asked if anyone would like to speak.

Stephanie Kulsha, property manager for 303 South Broadway, the property adjacent to the Quay, stated that she liked the look of the new fence and has no objections. She just wants them to coordinate the work with her because of the parking in front of the fence. She would also like a copy of the contractor's insurance.

Mr. Stepman said none of that is a problem.

Chairwoman Lawrence read the following Environmental report from Michael Blau, Environment Review Officer dated July 8, 2013:

*I have reviewed this application to replace an existing 8 ft. fence with a new 8 ft. fence and determined the proposal appears to pose no significant adverse environmental impact.*

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for the Quay on South Broadway.

Chairwoman Lawrence moved, seconded by Ms. Brown, and unanimously carried, that the hearing be closed.

Ms. Brown moved, seconded by Ms. Weisel, and unanimously carried that 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 above-referenced variance for The Quay on South Broadway.

#### NEW PUBLIC HEARING – Collado - 116 South Broadway

The secretary read the following public hearing notice:

*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, July 8, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by*

*Albert Collado  
116 South Broadway  
Tarrytown, NY 10591*

*for property located at the above address for renewal of a variance of the Zoning Code of the Village of Tarrytown permitting two professional offices at the above address requiring the following variance:*

*Currently has two (2) off-street parking spaces which are being increased to provide for four (4) off-street parking spaces where eight (8) parking spaces are required.*

*Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is located at 116 South Broadway and is shown on the Tax Maps of the Village of Tarrytown as Sheet: 1.80, Block: 54, Lot: 16 and is located in an R 10 (Residential) 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*

*Dated: June 27, 2013*

Board members visited the site.

The certified mailing receipts were submitted and the sign was posted

Mr. Collado, owner of the property, said his business has been in that office for 13 years. He received and had renewed this parking variance through those 13 years and now he would like to renew it again for another five (5) years.

Mr. Maloney asked Mr. Collado how many employees he has. Mr. Collado said 11 and they all have cars but only five park in the back. It never has been an issue.

Ms. Weisel asked how many cars fit in the back. Mr. Collado said five.

Chairwoman Lawrence asked if anyone would like to speak.

Chairwoman Lawrence read the following Environmental report from Michael Blau, Environment Review Officer dated July 8, 2013:

*I have reviewed this application for renewal of a variance for required parking and determined the proposal appears to pose no significant adverse environmental impact.*

Ms. Brown moved, seconded by Mr. Maloney, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of renewing the requested variance for 116 South Broadway.

Ms. Weisel moved, seconded by Ms. Brown, and unanimously carried, that the hearing be closed.

Mr. Maloney moved, seconded by Ms. Weisel, and unanimously carried that 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.

#### NEW PUBLIC HEARING – Heuter - 80 VanWart Avenue

The secretary read the following public hearing notice:

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, July 8, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

Sue Heuter  
80 VanWart Avenue  
Tarrytown, NY 10591

for the following variance from the Zoning Code of the Village of Tarrytown §305-47, Yards; setbacks, to install a generator which will encroach into the side yard setbacks:

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Side Yard Setback:	12'	12.3'	8.0'	3.7'

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is located at 80 Van Wart Avenue and is shown on the Tax Maps of the Village of Tarrytown as Sheet: 1.140, Block: 90, Lot: 3 and is located in an R 10 (Residential) 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

Dated: June 27, 2013

Board members visited the site.  
The sign was not posted.  
Certified receipts were not received.

Chairwoman Lawrence said the board visited that site and she noticed that the sign was not posted. Counsel Shumejda said they can be heard tonight but a decision cannot be made because they will have to post the sign and come back next month for the decision.

Mark Mosella, representative for Ms. Heuter explained that his client would like to place a generator on her property on a concrete pad. He said it is a very small, unobtrusive generator measuring approximately 2' x 4'. He did not have a cut sheet nor did he provide any decibel information. Mr. Mosella said the generator could be put in another place on the property but it would not be good for other reasons. Those reason being that the other locations are where her children play and where they have a patio on which they use for eating and relaxing.

Ms. Heuter said in the back of the house there already are two air conditioner condenser units and she did not want to add to that. Her other side yard is larger but that is where her children play.

Chairwoman Lawrence asked if she would need a variance if it were put in the back of the house or on the other side. Mr. Mosella said no.

Ms. Brown asked if it is in full view of the neighbors. Mr. Mosella said it is the quietest one on the market and it should not offend the neighbors.

Ms. Weisel asked if it was behind the fence. Ms. Heuter said no there is not fence on that side of the house.

Mr. Maloney said it is proposed to be place on the left side of the house. Mr. Mosella said yes.

Chairwoman Lawrence explained that variances are granted for several reasons; one is a hardship. If you have another location where it can be installed without a variance, this is a self-imposed hardship. Each variance is voted on for a good reason.

Mr. Mosella said aesthetically speaking it will be very unattractive placed in another location.

Chairwoman Lawrence said it is very close to the neighbor. Mr. Mosella said the owner is willing to landscape or whatever the board requires.

Chairman Lawrence asked if anyone would like to speak.

Valentin Mendoza, 3 Washington Place is concerned for his children playing on that side. It will be only 3' from the property line and that is the only side of his house where his children can play. He said it is very close to his property and there is no fence and the trees died so there is no separation.

Chairwoman Lawrence asked Mr. Mendoza if he has two houses on one lot. He said yes, he lives in the front house and his brother lives in the back house. He said there is no back yard and that is the side yard is the only yard his children have to play in. She asked Mr. Mendoza if he has a generator. He said only a portable one.

Mr. Mendoza said he does not have a problem with Ms. Heuter having a generator but he is worried about his children if it is put in the proposed location. Mr. Mosella said it is not harmful. Mr. Mendoza said then why doesn't

Mr. Heuter want it where her children play. Mr. Mosella said they are no concerned about the children getting hurt, they are concerned that the children will hit it will a bat and damage it.

Ms. Heuter said if they put it in the corner they would have to take down a tree or would have to put it very close to her children's swings.

Chairwoman Lawrence said it is a very narrow back yard but there is a big space on the other side and it wouldn't need a variance and it would be away from the neighbor.

Mr. Maloney said he would like to take another look at the area and would like the lot line marked out.

Ms. Heuter said she was planning on planting a garden with her children on the west side of the house. The east side is a dirt and gravel area. She is willing to put up a fence with a gate. She stated that she plans on being in this home for ever. All she wants is a contingency plan if the lights go out again as they have in the past.

Chairwoman Lawrence asked if the existing fence goes around to the east side. Ms. Heuter said she is will to extend the fence.

Chairwoman Lawrence said they are going to continue this hearing to the August 12, 2013 meeting because the sign was not posted and the required documentation for the generator was not provided. She asked that they have the sign posted and to please provide the documentation prior to the August meeting.

Counsel Shumejda asked that they please show on the plans the locations of the existing air conditioning units.

#### ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the meeting be adjourned – 8:45 p.m.

Dale Bellantoni  
Secretary