

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
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Zoning Board of Appeals Minutes 8/12/2013

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
August 12, 2013; 8:00 p.m.

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

APPROVAL OF THE MINTUES – July 8, 2013

Mr. Maloney moved, seconded by Ms. Weisel, and unanimously carried, that the minutes of July 8, 2013, be approved as submitted. Motion carried.

CONTINUATION OF PUBLIC HEARING—88 Main Street – Checci, Checci & Robinson

Application was adjourned by the Zoning Board for legal clarification.

CONTINUATION OF PUBLIC HEARING – Heuter - 80 Van Wart Avenue

Zoning Board members visited the site for a second time. The sign was posted as required.

Mr. and Mrs. Heuter, homeowners, introduced themselves and their landscape designer, Mark Masello, design lighting.

Mr. Masello explained that he showed the neighbor the spec sheet for the generator and explained that it locks and that he is now very comfortable with the generator being placed on the side of the house closest to his house. He said moving it to the other side of the house would be very expensive; not so much for the electric, but the plumbing would be very costly because a 24' trench 18" deep would have to be dug to run the plumbing and it would end up in a beautiful area where children play. Where they want it is very unattractive because there is not light and nothing grows. It is mainly a utility area.

Chairwoman Lawrence asked if they planned to enclose it. Mr. Mosello said they planned to landscape around it with arborvitaes about 3' high, which would cover it completely.

Mrs. Heuter said they are very anxious to get it in before another storm. They are willing to do whatever is required. She explained that this is a state-of-the-art, safe permanent generator which is very safe.

Mr. Mosello said it is 60% quieter than a portable generator.

Ms. Brown said that house took advantage of some loop holes in Tarrytown's zoning and believe it's setback are much smaller than it would be by today's zoning regulations. She said variances now are different. Ms. Brown stated that it house is very close to the neighbors; almost in the neighbor's yard, and feels an extra step should be taken to make it look nice.

Mr. Mosello said they want to do landscaping. Mr. Heuter said trees were taken out this year because they were dead.

Mr. McGarvey asked why it could not be put around the corner in the back of the house. Mr. Mosello said that is where the children play. Mr. McGarvey said literally around the corner. Mr. Mosello said there are two air conditioning condenser units there and it must be a distance away from them. It's the only landscaped area. Ms. Heuther said the fence goes as far east as it can go. We have two boys and that is where they play; the side where

they want to put the generator is not usable space. The yard is not that big.

Mr. Mosello said they are willing to go before the ARB to extend the fence if necessary. Mr. McGarvey said that they have to go before the ARB for the generator if it can be seen from the street. He explained that anything that is constructed or erected and can be seen from the street, has to go before the ARB; whether that be a fence or a generator or anything else constructed or erected. Chairwoman Lawrence said there is a hill and it cannot be seen from the street, only one neighbor can see it.

Mr. Jolly asked the decibel level. Mr. Mosello said it is safe, about 25" high with a decibel level of about 60 at 20'.

Chairwoman Lawrence read the following Environmental report from Michael Blau, Environment Review Officer dated August 12, 2013:

I have reviewed this application to allow a generator to encroach into the side yard setback and determined the proposal appears to pose no significant adverse environmental impact.

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of renewing the requested variance for 80 Van Wart Avenue.

Chairwoman Lawrence said she had lot of questions and concerns because she feels it belongs in the back where no variances are needed but feels better about approving it there as long as there is a fence along the property line. Mrs. Heuter said they are happy with that.

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

Mr. Jolly moved, seconded by Ms. Brown, 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, with the condition of the installation of a fence which is practical and aesthetically pleasing along the property line on the side of the house where the generator will be installed, for 80 Van Wart Avenue. All in favor; motion carried.

NEW PUBLIC HEARING – Hull - 111 Wilson Park Drive

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, August 12, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

*Gregory and Ann Hull
111 Wilson Park Drive
Tarrytown, NY 10591*

for the following variance from the Zoning Code of the Village of Tarrytown §305-47, Yards; setbacks, to legalize an existing shed which encroaches into the side yard setback:

<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance</u>
Side Yard Setback:	16'	3'	13'

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is located at 111 Wilson Park Drive and is shown on the Tax Maps of the Village of Tarrytown as Sheet: 1.50, Block: 20, Lot: 55 and is located in an R 20 (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: August 2, 2013

Board members visited the site.
The certified mailing receipts were submitted and the sign was posted.

Ann Hull, homeowner, explained that she was issued a violation for the shed which does not meet the current setbacks, but it was there when the adjoining lot was part of their property. It was an existing structure which is shown on 1982 survey as well as the 1992 and 1995 surveys. She explained that their property is higher and they could look into the new house that was built so they put in lots of landscaping for privacy. The original owners of the new house were fine with the landscaping; but now there are new owners. We did not know that there was a problem and they would like to get it cleared up as soon as possible and then will install a privacy fence which is a good neighbor solid cedar fence like the fences surrounding the other neighbors' property.

Chairwoman Lawrence asked if anyone would like to speak. No one responded.

Ms. Brown asked when a property is subdivided and there is a structure on it, does the placement of the line change the setback requirements. Counsel Shumejda said it doesn't matter; it must meet the current setbacks at that time.

Mrs. Hull said it was never subdivided; it was two lots owned by the same person and used by the same person until they sold off one lot. The shed was put there when there was only one house and both lots were used by the original owner of the property.

Ms. Brown asked if there is room for fencing. Mrs. Hull said yes and that she recently had the property marked out for the fence.

Ms. Weisel asked if the shed could be moved back. Mr. Hull said if you move it back it will be much higher; its better to leave it where it is.

Chairwoman Lawrence said if there is a temporary fence now. Mrs. Hull said yes because while work was being done the bulldozer damaged the shed accidentally so they put up temporary garden fence to protect the shed from further damage by the work being donee.

Mr. McGarvey asked where will the fence begin and end. Mrs. Hull said only on the west side. It will be like the rest of the neighbors. She said they are already on the ARB agenda for the fence; it is a Good Neighbor Fence.

Mr. Jolly said they should make the fence a condition because that will solve everyone's problem. He asked how high the fence will be. Ms. Hull said 6' which is sufficient to hide the shed.

Chairwoman Lawrence read the following Environmental report from Michael Blau, Environment Review Officer dated August 12, 2013:

I have reviewed this application to legalize an existing shed which encroaches into the side yard setback and determined the proposal appears to pose no significant adverse environmental impact.

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of renewing the requested variance for 111 Wilson Park Drive.

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

Ms. Brown made a motion to approve the variance without the condition of a fence.

After a brief discuss about the fence, Mr. Jolly moved to amend the motion, seconded by Chairwoman Lawrence, 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, with the condition of the installation of a fence, for 111 Wilson Park Drive. All in favor; motion carried.

NEW PUBLIC HEARING – 99 North Broadway Associates - 99 North Broadway

Counsel Shumejda rescued himself from this application.

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, August 12, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

*99 North Broadway Associates
99 North Broadway
Tarrytown, NY 10591*

for the following variance from the Zoning Code of the Village of Tarrytown for the conversion of ground floor medical offices to two (2) two-bedroom apartments:

Use Variance: §305-39. Restricted Retail RR Zone. (A) Permitted principal uses.

- *Residential not permitted on ground floor.*

Area Variance: §305-63. Off-street parking and loading.

- *Ten spaces required where nine spaces are provided.*

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is located at 99 North Broadway and is shown on the Tax Maps of the Village of Tarrytown as Sheet: 1.40, Block: 13, Lot: 4 and is located in an RR (Restricted Retail) 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: July 29, 2013

Board members visited the site.
The certified mailing receipts were submitted and the sign was posted.

Frank Tancredi, Architect, introduced himself, John Manuele of Manuele Management Group who manages the building and Dr. Larry Mendelowitz, one of the building owners.

Mr. Tancredi explained that his clients have owned this building for many years where they had their medical practice on the first floor until they moved their practice to Phelps Memorial Hospital in Sleepy Hollow. The second and third floors each have always had an apartment and they remain today. When the doctors moved out, they were able to rent the bottom commercial space for a few years. With the decline in the economy, that business went bankrupt and closed. They would now like to convert that commercial space into two two-bedroom apartments. All of the work is interior. The parking requirements for a multi-family building is 2 ½ spaces for each apartment. With four apartments, they would need 10 spaces and they are proposing to reconfigure the parking lot in the rear for 9 cars.

Chairwoman Lawrence asked why they don't want to keep it commercial. Mr. Tancredi said since the commercial business moved out, they have been trying to rent it to another commercial business with no luck and it is now becoming a financial hardship for the doctors.

Mr. Manuele, property manager said the property has been vacant for about 1 year and two months. They have advertised in various newspapers and have also listed with a realtor, with only one response. He said this building is very residential looking; and since the doctors have not been able to rent the commercial space to a business and since residential apartment life is at a peak in Tarrytown now, they felt converting the space back to its residential use and making it into two two-bedroom apartments which would benefit them as well as the Village.

Ms. Brown asked if the RR zone is only for medical. Mr. McGarvey said no, but is the most forgiving zone we have; you have to have residential above.

Mr. Maloney said it doesn't have a commercial storefront which is probably a turn-off for people for commercial rentals. The location is ideal for residential and we get a lot of inquiries for that type of space.

Mr. Tancredi said this area of the Village is much different than the main part of the business district. This property has a front lawn and it is very residential in nature.

Chairwoman Lawrence said it may be very residential in nature but it is surrounding by a lot of commercial spaces; bank, funeral home, dentist, etc.

Chairwoman Lawrence asked them about the financials. Dr. Mendelowitz said at this point in time all four partners are kicking in from their own finances for the building.

Mr. Manuele said the most profitable would be two residential apartments but they would even be happy with a residential apartment in the rear and commercial space in the front on the first floor; a smaller office would be more appealing.

Mr. McGarvey said in looking at the financial sheet given out, in 2011 it starting losing money; when did the doctors move out. Dr. Mendelowitz said in 2008.

Chairwoman Lawrence said the comparison shows all residential repairs are half; is that because commercial space creates more repairs; so with all residential space, the repairs would go down but the insurance would remain the same.

Ms. Brown asked if it is taxed the same? Chairwoman Lawrence was not sure.

Mr. Jolly asked if they have analyzed how much it will cost to convert to residential. Chairwoman Lawrence said it would have to be gutted.

Chairwoman Lawrence asked if half residential/half commercial would make a difference. Mr. McGarvey said it will have to be re-noticed; it would be a lesser variance but the parking will be different, it may increase it.

Chairwoman Lawrence reminded everyone of the following regulations for granting a use variance:

Pursuant to New York State Village Law § 7-712-b "...no such use variance will be granted by a board of appeals without a showing that applicable zoning regulations and restrictions have caused unnecessary hardship." In order to prove the requisite unnecessary hardship the applicant must demonstrate to a zoning board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, [1] the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; [2] that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; [3] that the requested use variance, if granted, will not alter the essential character of the neighborhood; and [4] that the alleged hardship has not been self-created."

Section 305-118 (B) (2) of the Tarrytown Code Zoning Code provides that "...no such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship." A key factor in making this determination is that "...the applicant be deprived of all reasonable economic use or benefit from the property in question..." The lack of reasonable return requirement derives from Section 7-712-b of the New York State Village Law which mandates that no use variance be granted unless the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

Chairwoman Lawrence said she understands the difficulty in renting space. Dr. Mendelowitz said they never planned on leaving that space.

The Board Members and Mr. McGarvey reviewed the financial sheet that was supplied to them by the owners, but they did not feel it was clear and needed more explanation.

Mr. McGarvey said maybe the Board would like to ask the applicant to answer its reason for the use variance in writing. Chairwoman Lawrence she would; and asked Dr. Mendelowitz when he responds, can he make the financials more clear and have the preparer sign it.

Chairwoman Lawrence said she would like to make a site visit because she was out of town for the first visit.

Ms. Brown asked, does the property as it is, meet the parking standards for both commercial and residential. Mr. McGarvey stated that they will need a parking space for every 300 s.f. and one for each employee.

Ms. Weisel asked if street parking can count. Mr. McGarvey said no. It can be looked at but it can't be counted.

Mr. Tancredi said you might consider with residents there are less cars going in and out; with a business, cars will come in and out all day and that is a difficult place to get in and out of.

Chairwoman Lawrence asked if anyone present wanted to speak to the issue. No one responded.

The board members agreed to continue the hearing until the September meeting so that the applicant can supply them with clearer financial statements signed by the preparer of such.

NEW PUBLIC HEARING--DCD Realty Holdings LLC (Tarrytown Honda)-480 S. Broadway

The secretary read the following public hearing notice:

PLEASE TAKE NOTICE that the Zoning Board of the Village of Tarrytown will hold a public hearing on Monday, August 12, 2013 at 8 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*DCD REALTY HOLDINGS, LLC (d/b/a Tarrytown Honda)
480 South Broadway
Tarrytown, New York 10591*

For variances from the area requirements of the Schedule of Zoning, in connection with a proposed expansion of the existing automobile dealership, as follows:

SCHEDULE	TARRYTOWN REQUIRED	EXISTING	PROPOSED	VARIANCE
Front Feet (So. B'Way)	30	0.1	12	18
Front Feet (Walter & Sheldon)	30	42.51	29.2	0.8
Rear (feet)	50	29.09	40.6	9.4
Side (feet) NYS Thruway	30	0.31	0.9	29.1
Max Building Coverage (sq ft)	14,192.84	15,270.00	30,857	16,664.16
Max Building (%)	20%	26.6%	43.5%	23.5%
To Gable roof section (ft)	35	17.2	39.2	4.2
Parking	309		268	41*

**In the alternative, the applicant is seeking parking for 16 vehicles on contiguous lands pursuant to Section 305-63(C)(1) of the Zoning Code; currently owned by New York State Thruway Authority (7 spaces under license to Applicant; 9 spaces under application for amendment of license to provide for said parking).*

The property is shown on the Tax Maps of the Village of Tarrytown as Section 115.15, Block 3, Lots 42, 43 and 44 and is located in an NS and 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.

By Order of the Zoning Board

Dale Bellantoni, Secretary

Dated: August 2, 2013

Board members visited the site.

The certified mailing receipts were submitted and the sign was posted.

John Hughes, attorney for the applicant, introduced himself; Dwight Dachnowicz, owner of Tarrytown Honda; Michael Stein of Hudson Engineering.

Mr. Hughes said they have been working on the site plan for several years and asked Michael Stein who designed it to address the board.

Michael Stein, President of Hudson Engineering, went through the survey. He showed the site's current location, the parcel at the dead-end of Sheldon Avenue which is to be purchased from the Village of Tarrytown, and the second parcel to be purchased from a private owner. He showed an aerial view with the current building shown in green and the proposed building in red. Mr. Stein said 277 parking spaces are being provided which includes the 9 and 7 on the Thruway property. The existing condition has approximately 230 spaces on the site of which the majority is exterior parking. The proposed site will have 80 spaces on the exterior and 150 will be inside the building. There will be a ramp along the side to access the lower and second levels.

Mr. Stein said currently the cars pull in off Water Street; often they line up on Walter Street and wait to enter. With the proposed building they will enter off Walter Street where there will be 10 interior drop-off parking spaces and 10 exterior for queuing to go into the drop-off area.

On the entire site there is approximately 68,900 s.f. of impervious area. They are proposing extensive landscaping along the front of the building, along Walter and Sheldon Avenues and along the rear of the property which will result

in a reduction of approximately 8,200 s.f. of impervious area.

As part of green technology, they are proposing a green roof as part of water quality for the run-off from the roof as well as stormwater planters in front of the building. They are providing attenuation for the stormwater because this area of the Village does experience some flooding so they are providing stormwater management to attenuate the flow down to below the existing conditions now.

Chairwoman Lawrence asked if they will be demolishing the current building and how many stories will the proposed building be. Mr. Stein said yes they will be demolishing the current building and the new building will be two stories with parking under the building.

Ms. Weisel asked if the green roof goes the entire surface. Mr. Stein said not the entire surface because there will be mechanical equipment and a mansard roof but there will be approximately 8,500 s.f. of green roof.

Chairwoman Lawrence asked how long they were before the Planning Board. Mr. Hughes said about 18 months in total.

Ms. Weisel asked how much use the ramp will get and how do cars get to it. Mr. Stein said it will only be used to access the lower level and the second level. Cars will drive behind to building to access the ramp. Ms. Weisel asked if there is an entry from Broadway. Mr. Stein said, no.

Chairwoman Lawrence asked if the carriers come up Walter to Sheldon and around the back. Mr. Stein said currently they would sometimes unload on Walter Street and sometimes on Sheldon. This is an issue that we went through with the Planning Board.

Mr. Hughes said car carriers are a big issue for the neighbors. Mr. Dachnowicz is now renting a large parking area in Rockland where cars are off-loaded and are driven across. Only time a carrier can come onto the dealership property is in an emergency and only 10 emergencies maximum a month are allowed. Mr. Stein said if a car carrier does come in they can come on the site and unload on the site. Mr. Hughes said this is part of the Planning Board approval.

Mr. Hughes explained that Mr. Dachnowicz is licensed with the Thruway Authority to park in the one section owned by the Thruway Authority for many, many years. The other section which they thought was owned by the Village is in fact owned by the Thruway Authority as well; and they have filed an amendment to the license to park in that section. He believes before final approval they will have the amendment to that license.

Mr. Hughes said the exterior parking is fluid because cars are his client's inventory. He has his employees park elsewhere because he needs all of his parking for his inventory and his customers to shop for a new car or for services.

Chairwoman Lawrence asked if the customer parking is specified. Mr. Stein said yes. Ms. Weisel asked where the employee park. Mr. Stein said it is within the lower level of the building. Chairwoman Lawrence asked how many employees. Mr. Dachnowicz said 52. Chairwoman Lawrence asked if there will be actual parking for employees in the new building.

Mr. Hughes said 309 parking spaces are required and they fall short because of the size of the lot and the configuration of it. For this reason, employees are presently parking in various areas near the building. Ms. Weisel asked where will the employees park. Mr. Hughes said the plan is for them to park in the lower level of the building.

Mr. Jolly asked how the 309 spaces were determined. Mr. Stein said there is a parking schedule on Sheet C1. He read the breakdown from the plan (see attached parking schedule).

Mr. Hughes said this property has been used for the sale of cars since the 1920's. Originally there was a gas station on the South side of the property, along with other businesses on the North side. The gas station sold used cars and over time it turned into a new car dealership in the 1930. Eventually they bought the other properties for the dealership.

Chairwoman Lawrence stated that there is nothing on the books showing that they were granted a variance for parking. Mr. Hughes said, not to his knowledge.

Ms. Brown asked, as it exists today would it be compliant. Mr. McGarvey said no. Mr. Hughes said it's a non-

conforming use and the building is non-conforming.

Chairwoman Lawrence asked the reason for the new building. Mr. Hughes said the existing building is somewhat of a hodge-podge. This proposal is to make it conform to today's standards for new dealerships through the country. He feels it is a very nice looking dealership, which is the result of the Planning Board's request.

Ms. Weisel asked for more details of the green roof and about the sound barrier wall. Mr. Stein showed her where the green roof will be and where the wall is proposed.

Chairwoman Lawrence asked with the new bridge will the configuration in the area be the same. Mr. Hughes said that is the plan for now; but with the Thruway Authority, things can change.

Ms. Lawrence if there were any other questions from the board.

Ms. Weisel and Ms. Brown asked for a clarification of the building coverage, specifically the 23.5%. Ms. Brown asked 23% of what? If they are doubling the building, it should be 100%. Mr. Stein explained that 23.5% represents the variance required which is the difference between the required (20%) and the proposed (43.5%). Mr. Hughes said you are right; if you look at the whole numbers, it is twice the size.

Mr. Hughes showed what a typical dealership looks like and stated that Tarrytown Honda does not look like that. He explained that this lot poses some issues; its size and location in a neighborhood. They spent the 18 months before the Planning Board trying to reconcile and balance keeping this very successful dealership here. This dealership produces tax revenues and employment to residents of Tarrytown. He read the Planning Board conditions (see attachments).

Mr. McGarvey asked for clarity regarding the employee parking. He said they cannot take the credit for employees either arriving to work by public transportation or by being dropped off. They must provide one space for each employee; only this board can give you credit for that. If you have 62 employees, you must provide 62 spaces plus one space for every 150' of gross floor area. Mr. Hughes said they have 62 employees, seven days a week; not all are there at the same time. Mr. McGarvey said you have to take your worst case scenario. Mr. Hughes said they had a traffic study that addresses this and they will bring it in the next time. Mr. McGarvey said that is fine. He had one last questions, the proposed parking is laid out the same as it is currently; the file does not show any variances for parking in the setback and you are not requesting any variances for parking the setbacks. Mr. Hughes said that parking condition was around before variances were required; they will amend the application.

Mr. Jolly asked about a condition on page 10, #10 "all traffic from Broadway." What does that mean? Mr. Stein said when they come in off of Broadway, they are not going through the residential neighborhood. Chairwoman Lawrence asked if they are going through the residential neighborhood now. Mr. Hughes said yes, and this is one of the conditions; it refers to parts suppliers, UPS truck or that type of delivery.

Chairwoman Lawrence asked if anyone would like to speak.

Audra Capri, 33 Sheldon Avenue, showed her property. She stated that the Planning Board asked her to trust them. They said the property they are purchasing would be left blank, only landscaping. This plan is showing two parking spaces and a dumpster. Why do I have to live next to a dumpster, it's not fair. We are not saying to go away just make this one nice instead of this large building. She asked why the Honda dealership in White Plains does not have to conform to Honda regulations for their building; they have three different buildings in three different locations. Six months ago he did stop the new car carriers from coming onto the street, but the used car carriers are still coming into it. Twice her cable was ripped out and part of the siding was taken down. The manager said he would have someone take care of it and it has been six months and it still has not been fixed. His garbage truck came at 1:30 in the morning.

Marissa Fiend, 12 Walter Street, read her letter addressed to the Zoning Board. Chairwoman Lawrence asked that the letter be put into the minutes (attached).

Ms. Fiend stated that the cars were moved for the zoning board member's site visit on Sunday, August 11th. She saw them moved away and then move back later on in the day. They drive them away with no license plates and they were pretty much back by 3:00 or 4:00 in the afternoon. She spoke about the percentage of used cars that can be shown on the lot; and she believes that under the current site plan, they are violating the conditions for used cars. They are currently working under an approved site plan with conditions that are not followed. They are parking on State-owned property, there is no employee parking, they are parking at the Doubletree; they should have gotten

variances for all of this. This makes her nervous because if new variances are granted, who is going to make sure the rules are followed. All vehicles should enter off Walter Street. Everyday there is an 18-wheeler truck that backs up down Sheldon backwards to the site; the garbage dumpster are always overflowing which is a violation of Village Code.

Chairwoman Lawrence asked what site plan she is referring to. Is it the one recently approved by the Planning Board? Ms. Fiend said no, it's the one they are currently working under.

Ms. Fiend said the public hearing notice is inaccurate. It should say 101% in the maximum building percentage, not 23.5%. They want to buy land from the Village and rezone property. These decisions should be made by the Board of Trustees. She does not feel it should be before the Zoning Board yet. Chairwoman Lawrence asked her why she thought that, they are here for variances. Ms. Fiend felt it should be adjourned because the public hearing notice is not correct. Chairwoman Lawrence said she is not sure why she feels it is not sufficient. Ms. Fiend said the public hearing says, "a proposed expansion of the existing automobile dealership," and the application which was received in the Building Department says, "for the demolition of an existing dealership and the construction of a new dealership." She feels it is confusing.

Ms. Brown said isn't there articles about teardown that apply here. Counsel Shumejda said that teardown legislation applies to residential. The question here is about the public hearing notice.

Chairwoman Lawrence said it is appropriate to be at the Zoning board. The applicant went before the Planning Board and got the site plan approval subject to the variances. They are now before this board for the required variances. Variances are the purview of the Zoning Board, not the Board of Trustees. Ms. Fiend said so you guys can agree to the selling of Village land. Chairwoman Lawrence said we are not agreeing to sell or not to sell. Ms. Fiend said they need to have deeds for the land they want to purchase before they can come before the Zoning Board. Counsel Shumejda said they can come before this board as a contract vendee.

Ms. Brown said even if we grant these variances, the conditions of the Planning Board will have to be met before it can be built.

Mr. Jolly said we are not judging those conditions we are only judging the variances. Chairwoman Lawrence said we are reviewing the variances and that is the reason for the public hearing.

Ms. Fiend said she is concerned about the size of the building. Please make it smaller. We understand that it needs to be done over, make it nice; but they need all of this space.

Mr. Jolly said do you feel that you would rather have it remain the way it is now. Ms. Fiend said it doesn't have to be run the way it is now. It is just pumped up with cars. It's already doing well so why do they have to double the size. We would like it to work well with better access and egress and parking. They are still doing test drives in the neighborhood.

Chairwoman Lawrence said the parking lot off site seems to be a better solution because the large trucks are not coming into the neighborhood. Also, Honda has certain regulations for service area, showroom area, etc.

Ms. Brown asked if there was ever a proposal for a smaller building. Ms. Fiend said it never changed. There was no other site plan. She said it could be run more efficiently if there were fewer cars.

Chairwoman Lawrence asked if the Fire Department saw the plans. Mr. McGarvey said yes, the plans were sent to the Fire Department. Ms. Fiend said there is not documentation. Mr. McGarvey said, excuse me; I can tell you that the plans were sent to the Fire Department. Ms. Fiend said she hand-delivered the plan and the Chief told her it was not his responsibility to comment. She said she does not feel that a fire truck can get through there if necessary.

Ms. Fiend said she asked the traffic consultant what they were going to do when a delivery truck, UPS truck and the mail show up at the same time. They said if they are not expected on the site, they are not going to let them on the site. She said so she guesses they will just drive around the street. There just isn't enough room on the site for all of this traffic.

Ms. Weisel asked about the signage; is there required signage. Mr. McGarvey said there is signage required as part of the approved site plan. Ms. Weisel said what about on the public street. Mr. McGarvey said only what is on the street now. Ms. Weisel said she feels there will be problems unless there is signage. Mr. Hughes said they will have signs on the exterior and interior of the property to direct people where to go.

Rupert Murray, 6 Glenwolde, asked if 29 Sheldon is owned by Honda. Chairwoman Lawrence said they are in contract. Mr. Murray asked how does Tarrytown sell a part of a street. Mr. McGarvey said by auction. Counsel Shumejda said it has to be declared a surplus and then it is put out to bid to get a fair price. Mr. Murray asked if that has happened yet. Counsel Shumejda said no. Mr. Murray asked what an emergency is. Counsel Shumejda said according to the planning board approval, an emergency is if the Tappan Zee Bridge is closed. If the bridge is closed, they can allow the car carrier to go there; otherwise no.

Mr. Murray discussed the traffic flow. He said traffic gets on the site and off the site quickly. He would like one way in and one way out. The site plan has both, in and out. Counsel Shumejda said this is based on the review of the traffic consultant. The Planning Board made that decision, but it is something to look at. Mr. Murray asked how we can make that happen. Counsel Shumejda said first we would have to ask the traffic consultant if that is advisable. Chairwoman Lawrence asked if we have that report. Counsel Shumejda said we have the report and we can have the applicant bring in the traffic consultant. Mr. Murray said in on Sheldon and out on Walter is the best way. Chairwoman Lawrence said there must have been a reason for the in and out, but that doesn't mean it can't be changed. Mr. Murray said the faster you get the traffic flowing out of the neighborhood the better. Mr. Jolly asked if they asked the Planning Board. Mr. Murray said yes and they said it can be done.

Mr. Murray asked if a no parking on Walter Street. Mr. McGarvey said absolutely not. Mr. Murray asked if it could just be limited to residents. Counsel Shumejda said you cannot limit it just to residents because it is public road that falls under New York State legislature.

Mr. Murray said the current building is one story and the proposed is two stories; how did it get to two stories. Chairwoman Lawrence said that is what they are proposing.

Mr. Murray asked where the off-site parking for employees is. Chairwoman Lawrence said she believes they have contracted with other properties, which is something that happens throughout the Village. Mr. Murray asked what happened if that business doesn't want them to park there anymore. Chairwoman Lawrence said they will have to find parking elsewhere.

Mr. Murray asked percentage-wise, how much bigger is the new building going to be then the current building. He doesn't understand if you add another floor the building coverage is still 23%. Mr. McGarvey said the building covers a certain percentage of that lot. You can have 15 stories on the same footprint as long as you don't go any wider or deeper the footprint stays the same. Mr. Murray said so the footprint is increasing 23%, even though the building is getting bigger the percentage is still only 23%. Mr. McGarvey said yes and deferred to Mr. Stein to explain. Mr. Stein said the required percentage is 20%, but we are going to 43.5% so there is a 23.5% increase based on the lot area. Mr. Murray asked how much bigger in square footage is the new building going to be than the current building. Chairwoman Lawrence said approximately twice the size.

Ms. Fiend said she does not have a driveway and her neighbor does not have a driveway. We use the street to park all the time and if that goes away, do you know what they will cause.

Chairwoman Lawrence asked if anyone else would like to speak.

Chairwoman Lawrence said they are adjourning this hearing until next month in order to have the traffic consultant present and for the re-notice.

NEW PUBLIC HEARING – Gagliardi - 52 High Street

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, August 12, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

*Vincent and Mary Gagliardi
52 High Street
Tarrytown, NY 10591*

for the following variance from the Zoning Code of the Village of Tarrytown §305-47 Yards: setbacks. To legalize an

existing deck and stairs (structure) constructed at the rear/left side of house, raised 7' above grade:

Required Existing Proposed
Principal Building:

•	One side:	10'	4.22'	4.22'
•	Rear:	26'	18.85'	18.85'

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is located at 52 High Street and is shown on the Tax Maps of the Village of Tarrytown as Sheet: 1.190, Block: 118, Lot: 3 and is located in an R-7.5 (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: August 2, 2013

Board members visited the site.
The certified mailing receipts were submitted and the sign was posted.

Emilio Escalades, representing Mary Gagliardi, introduced himself and explained that Ms. Gagliardi is trying to sell the house and must legalize the deck. The deck has been there for 40 years and a new survey showed the current setbacks. The deck is one story above grade. He stated that the neighbors have been contacted and none have a problem with the deck.

Mr. Jolly noted that the house next door has a similar deck. Mr. Escalades said that it was no uncommon when these houses were built.

Ms. Gagliardi said the house belonged to her father and at the time he spoke to the Building Inspection who said not to worry about it.

Ms. Brown asked would it have been allowed 40 years ago? Counsel Shumejda said zoning occurred in the 1930's; the property would have required a variance at that time.

Ms. Brown said we would not allow that now because it is so hi and it looks down into the neighbor.

Chairwoman Lawrence asked if there are other decks like it. Mr. Maloney said yes.

Chairwoman Lawrence said she is concerned about the neighbors right next to it because they are so close. She asked if the green cards came back yet. Ms. Bellantoni and Counsel Shumejda checked the cards and Counsel Shumejda said the card for the property was not returned yet.

Ms. Brown said doesn't taken the deck down devalue the house. Chairwoman Lawrence what else is there, a door? Ms. Gagliardi said there is a door from the kitchen onto the deck.

Ms. Brown said no paper work exists for this deck. Mr. McGarvey said Mr. Escalades will have to certify that it is in conformance with New York State Residential Building Code.

Counsel Shumejda said he would like to wait until the green card comes back for the next door neighbor or a letter from the next door neighbor. He said they should bring in the green card or a letter before the next meeting.

Mr. Escalades said Ms. Gagliardi is selling the house and has a very interested buyer, which she may lose if they have to wait another month for approval. Counsel Shumejda said the felt they would have enough time; that the

closing will take longer than a month.

The board members agreed to continue the hearing to the September meeting.

NEW PUBLIC HEARING – Cunningham/Levin - 121 Neperan Road

The Chairman read the following Notice of Public Hearing:

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, August 12, 2013 in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by

*Edward Levin and Camille Cunningham
121 Neperan Road
Tarrytown, NY 10591*

for the following variance from the Zoning Code of the Village of Tarrytown §305-25(A) Maximum Floor Area in the R-10 Zoning district in order to construct an addition to the existing house with a footprint of 433 s.f. and a total floor area of 821 s.f.:

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>
Total Gross Floor Area (FAR):	3,500 s.f.	4,382 s.f.	5,203 s.f.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is located at 121 Neperan Road and is shown on the Tax Maps of the Village of Tarrytown as Sheet: 1.50, Block: 22, Lot: 2 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: August 2, 2013

Board members visited the site.

The certified mailing receipts were submitted and the sign was posted.

David Cooper with the law firm Zarin & Steinmetz introduced himself and Christina Griffin, architect for the applicants. Mr. Cooper explained that his clients are requesting an FAR variance for an 821 s.f. bump-out with a footprint of 433 s.f.; not very large. The floor area of the bump-out is 321 s.f. He said the lot is 13,631 s.f. The existing square footage of the house is 4,382 s.f. and with the addition it will be 5,203 s.f. The addition will be for a family room off the kitchen. Mr. Cooper said originally they wanted to use the basement for the family room but the condition of the basement precluded that use; pipes, lack of lighting and load bearing wall made it much too costly to use. He showed the addition on the plan and the screening they proposed to provide for the neighbor's property. He showed comparable within the Village. Mr. Cooper said the scale of the bump-out is not out of scale for the property. The appearance of the bump-out will maintain the style and elegance of this house.

Mr. Cooper said 11 letters have been submitted in approval of this addition and he had an additional letter recently received from 111 Neperan Road in support of the addition, as well as a number of neighbors at this hearing in support of the bump-out.

Mr. Cooper said this house is located in an R-10 zoning district which has a FAR cap of 3,500 s.f. The FAR for the existing house is over that cap at 4,382 s.f. and they are requesting a variance for an additional 821 s.f. of FAR.

This is a unique hardship because the floor area includes 1,109 s.f. of the unusable basement which is included in the FAR calculation. Without the basement the floor area is 3272.5 s.f.; with the addition it would be 4,093.5 s.f., which would be a variance of 16%; but with the unusable basement, it brings it up to 5,203 s.f. and a variance of 48.7%.

Mr. Cooper explained the legal standard of review for any variance. He said the Board must look at objective facts and basis, obtainable evidence, not just generalized opinions; there must be numbers attached to the decision.

Mr. Cooper stated that the average FAR is 46% over the permitted in the neighborhood and his clients are seeking a variance for 48.7% over. He stated other similar applications came before this board, specifically 120 Cobb Lane, where a variance was granted. Mr. Cooper explained how his client's request fits within the conditions of granting a variance:

- The addition does not pose a detriment to the character of the community.
- There is no detriment to the neighborhood because there will be a 38' setback between the addition and the next door neighbor.
- There is no feasible alternative since the basement is not suited for the use.
- The percentage of the variance is substantial; however the variance granted for 120 Cobb Lane was a 45% deviation.
- The hardship is caused by the way the basement was originally constructed.

Mr. Cooper turned the presentation over to Christina Griffin, the applicant's architect.

Ms. Griffin explained the layout of the house stating that the first floor has a living room, dining room, kitchen and den. There are five bedrooms on the second and third floors and the basement was never designed to be used as living space.

Initially that looked at the basement for additional living space but found it to be unusable. They are proposing this bump-out addition as a family room next to the kitchen. Presently there is a mudroom and stairway to the basement in the kitchen area. The proposal includes a new mudroom and a new stairway to the basement. Not only does this provide more living space, it makes the existing small kitchen more usable.

She showed the site plan with the required setbacks; 38' side yard setback, where 12' is required and a 28' rear setback. The decision to put the addition on that side is because it ties in with the kitchen, it's setback to the rear corner of the away from a beautiful house tree, and also tucking it back makes less of an impact on the original house.

Ms. Griffin said they are proposing three plum trees and three evergreens as a buffer for the neighbor's property. She said three properties in the neighborhood have similar footprints; 111, the historic landmark house, 129 and 131 Neperan Road. Ms. Griffin said she compared 13 properties and provided that comparison to the board.

Ms. Griffin said the house next door is 41% over the allowable FAR. Her client's house has a floor area of 4,093 s.f. (with the addition); and if you eliminate the basement the floor area is 3,292 s.f.

Ms. Griffin showed views from LeGrande, from the neighbors at 111 Neperan Road, and from the street to show how much of the addition will be seen, and a profile of the house. She also showed pictures of the basement to show how unusable it is.

Chairwoman Lawrence asked how they decided on the octagonal shape. Ms. Griffin explained the reason for the octagon shape is because a lot of Victorian houses have interesting odd shaped rooms. The octagon shape is very similar to the towers that were often a part of houses of that era. She said sometimes a square bump out doesn't look at nice.

Edward Levin said their goal is to make a place where his teenage children can hang out. He stated that they had bigger plans but scaled them back; took out window that looks at neighbor's house, took out deck. He said his neighbors are happy with what they are doing.

Chairwoman Lawrence asked if anyone would like to speak.

Benjamin Sands, 131 Neperan Road, said they were told there was going to be a bump-out. Then they received a letter about the Architectural Review Board meeting. They were told it was an amendment to the kitchen work. Mr. Sands said he doesn't understand why Christina Griffin went before the ARB before ZBA. He said this addition will decrease their side yard setback from 55' down to 35'. He said they knew what was there when they bought the house.

Mr. Sands proceeded to read the rest of his statement which is represented in the attachment, as well as a letter read by Mr. Sands from the Historical Society.

Dana Sands, 131 Neperan Road, noted that 120 Cobb Lane, which has been used as a comparison for 121 Neperan Road, is on 1.3 acres and none of the neighbors can see their additions, which is half the size of the proposed addition at 121 Neperan Road. In addition none of the 120 Cobb Lane neighbors opposed it.

Mr. Cooper noted that on page 4 of his July 25, 2013 letter to the Zoning Board, the average FAR does not include 121 Neperan Road. He also noted that 121 Neperan Road is not on an historic list. He said this house represents the neighborhood and feels that Mr. Sand is disingenuous in that he added a deck/porch to his house and got a variance to do so.

Mr. Cooper stated that the board must consider the granting of this variance based on expert analysis.

Jacqueline Brady, 2 Grove Street, supports the addition; it seems in keeping with the neighborhood. She feels the addition will not change the look of the house or the view of the river. This is a very carefully thought out addition which is very modest.

Julia Street, 65 Castle Heights, said it is a very modest footprint.

David Davenport, 149 Neperan Road, said Mr. Sands got a variance for a deck which is very close to the property line.

Chairwoman Lawrence said she would like to visit the site again.

Ms. Weisel said they need more time. ARB was brought in has an information tool. She wants the FAR clarified.

Ms. Brown questioned if the basement is part of the FAR even if it's not living space.

The board agreed to continue the hearing to the September meeting.

NEW PUBLIC HEARING – Gagliardi - 52 High Street – HEARING REOPENED

Chairman Lawrence reopened this hearing because Mr. Escalades found the green card from the next door neighbor, which was the reason for the continuation of the hearing.

Chairwoman Lawrence read the following Environmental report from Michael Blau, Environment Review Officer dated August 12, 2013:

I have reviewed this application to legalize an existing deck and stairs constructed at the rear/left side of the house and determined the proposal appears to pose no significant adverse environmental impact.

Mr. Maloney moved, seconded by Ms. Weisel, and unanimously carried, that the Board determines there will be no significant adverse environmental impact as a result of renewing the requested variance for 52 High Street.

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

Mr. Maloney moved, seconded by Mr. Jolly, 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 52 High Street. All in favor; motion carried.

ADJOURNMENT

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the meeting be adjourned – 12:35 a.m.

Dale Bellantoni
Secretary