

Village of Tarrytown, NY

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Zoning Board of Appeals Minutes 9/8/2014

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

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

APPROVAL OF THE MINTUES – June 9, 2014

Ms. Weisel moved, seconded by Mr. Jolly, and unanimously carried, that the minutes of June 9, 2014, be approved as submitted. Motion carried.

APPROVAL OF THE MINTUES – August 11, 2014

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the minutes of August 11, 2014, be approved as submitted. Motion carried.

CONTINUATION OF PUBLIC HEARING – Rothman - 49 Roundabend Road

Chairman Lawrence stated that board members were at the site on August 10, 2014.

Ms. Lawrence stated that they received revised plans for the tree house.

Bruce Rothman, owner of 49 Roundabend Road, explained that they were directed to legalize the tree house. He said the new plans show that the tree house will be independent of any trees, it will have a new traditional staircase in place of the ladder, and the house itself will be lower than the original.

Chairwoman Lawrence asked if the slide will be removed. Mr. Rothman said no, they want to keep it; but it can be moved back so that it will not be in the way of the staircase.

Chairwoman Lawrence asked if it will no longer be over the property line and if there is anywhere else it can go. Mr. Rothman said it has been moved back so that it will no longer be over the property line and said that there is nowhere else it can go because that is the only place where there are trees. Chairwoman Lawrence asked if he could move it away from the dead tree. Mr. Rothman said if he moves it away from the dead tree, he will have to remove the tree; and it will take away from the design which is a tree house within the trees as shown in the elevation picture. He thinks it is beautiful to be ensconced in the trees.

Ms. Lawrence asked what kind of materials it would be made of. Mr. Rothman said the material has to be approved by the Building Department but he is very flexible. He said it is important to him that it fits into the natural environment so the materials have to be natural. He said he harvested natural materials last year; he got them from Joe DeNardo's lots.

Mr. Rothman said it will be lower than the original which is about 21'. He said looking at the picture it appears to be higher on the left side because the ground slopes down. Mr. Rothman said that the deck would be the same as the original but the tree house itself will be lower; it will be about 18' to the tip of the roof and there is a slight change in elevation. He said the pitch is exaggerated on the plan; it's actually about 10". Mr. Rothman said the drawing is incorrect because of where it was measured and that the height is 18'-6". He said the roof that is there has to be lower; the entire roof is coming down and being re-engineered so he can make it according to the specifications required by the Building Department. Counsel Shumejda said two variances are requested; one for the height and one for the rear yard setback. The permitted height in your zone is 12' and you are saying the height is 18'-6". Is it

18'-6', or is it 21'; what are you looking for. Mr. Rothman said it is as shown on the plan, 18'-6".

Mr. Maloney said the rear is 18'-6" and you said there is a 10" difference on the left side which makes it about 19'-4".

Counsel Shumejda said the average can't be 18'-6"; are you seeking 19'. Mr. Rothman said yes, that would be great. Counsel Shumejda asked if the setback is still 1'. Mr. Rothman said yes. Chairwoman Lawrence asked if it had to be re-noticed. Counsel Shumejda said no because the notice says 21'-2", so we are lower than what was requested.

Ms. Brown asked the square footage inside the house. Mr. Rothman said it measures 12' x 14' but the two trees take up space. Chairwoman Lawrence said the staircase landing has to be counted.

Ms. Lawrence asked if he could bring it two feet forward away from the property line. Mr. Rothman showed the board that he could bring it further away from the property line but then there is a problem with the staircase. He said the stairs on the side are less obvious and it is a requirement of the Building Department; he would prefer a ladder. Mr. Pennella said it is not the Building Department's preference or location; it is part of New York State Building Code that you must have a staircase.

Ms. Brown asked if there is a code for tree houses. Counsel Shumejda said yes an accessory structure. Ms. Brown said this is an accessory structure; and if we approve we are approving any kind of an accessory structure. If they take it down, they can put up any accessory structure; this is open but a closed structure can replace it. Counsel Shumejda said normally we get a full set of plans. You can approve with a condition that it must be an open air structure. Chairwoman Lawrence asked if there are full plans for the tree house. Counsel Shumejda said we require full plans for an accessory structure so that we know exactly what is going to be built.

Mr. Pennella said you can make the approval renewable every year. If they enclosed it they would have to come back.

Ms. Brown asked if the variances go with the property. Counsel Shumejda said yes; but if you approve with no walls, it has to remain open. Mr. Pennella said if they change the structure, they would have to come back.

Mr. Rothman said there is no plumbing. Counsel Shumejda said no but what have you done with the electric. Mr. Rothman said Judge McGovern said we would have to have the tree house approved before the electric can be approved. Mr. Pennella said we cannot approve the electric until the board approves the tree house.

Chairwoman opened the meeting to the public.

Doug Sherman, 45 Roundabend Road, asked who is going to do the work. The current tree house was built by Bruce and I told him it is an eyesore, its amateur looking, huge and ugly. No matter how it looks, he doesn't like it and doesn't see the need for it. No one plays in it. The last time it was months of work and lots of noise. He asks the board not to approve. Chairwoman Lawrence asked Mr. Rothman who would do the work and how long would it take. Mr. Rothman said it would have to be a combination of him and any required outside contractor, depending on the type of work. Mr. Pennella said a building permit is good for one year with two six-month extensions allowed; it could be as long as two years. Mr. Sherman asked if there are any hours for work in the permit. Mr. Pennella said, they are part our code.

Mr. Sherman said he is opposed to approval; it will lower their property value.

Steve Tubin, 41 Rounadbend Road, said the existing structure has taken a couple of years to build. It's been noisy, even on weekends. There is a light on it that shines into our house. The structure looks awful and he is opposed to approval.

Chairwoman Lawrence said what's there is much too big for a suburban neighborhood. The neighbors' opinions of how it looks are a matter of taste. The new one appears to be not as large and lower; the floor area is the same but lower. She asked if the children play on it. Mr. Rothman said it has been closed for sometime now as per the Court ruling. He said that is also why it looks dilapidated because he has not been able to work on it.

Mr. Jolly said the staircase looks better, more professional; but is it going to be painted or just remain natural. Mr. Pennella said the color is the purview of the ARB. Mr. Jolly asked if the Building Department will require better plans. Mr. Pennella said they will require beam size showing that it can support the weight, plans signed and sealed by an engineer or architect; this is not sufficient for a building permit.

Chairwoman Lawrence said she is concerned that the end product will not look like the rendering. We asked for an architect's or engineer's plan. She doesn't know if they can approve this because we don't have a true set of plans.

Counsel Shumejda said because you don't have a full set of plans, you cannot approve this plan. The issue is the variance; you can ask Mr. Rothman for a full set of plans. Mr. Rothman said this was prepared by an architect but did not want to incur more cost with plans if it is not approved. This is what we plan to build. Mr. Pennella said the elevations shown on the sketch do not meet your tree house elevations; your roof is hexagon but your floor plan is not.

Mr. Sherman asked if the work is required to be done by a professional. Chairwoman Lawrence said it has to be built according to New York State Building Code. Mr. Sherman said he is not sure Mr. Rothman is capable; Chairwoman Lawrence said that is your opinion; Mr. Pennella said the owner can contract himself. Mr. Sherman said if it's not like his new plan, does it have to be taken down. Counsel Shumejda said it will have to be fixed; the plans have to be signed and sealed by a professional and the Building Department does inspections but who builds it is the owner's choice.

Chairwoman Lawrence read the following environmental review from Michael Blau, Environmental Review Officer, dated September 9, 2014:

This application is for variances for an accessory structure and a variance to legalize and existing two-story deck.

The application has caused controversy among neighbors and the Board will have to determine whether there are any adverse environmental impacts associated with the proposals.

Chairwoman Lawrence said it is the consensus of the Board that we are going to vote tonight.

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

Counsel Shumejda explained to the Board that they must make a determination if there is an impact on the environment. He said the flood lights may be an issue unless he is going to remove them, then it will no longer be an issue. He asked Mr. Rothman if he is going to remove the flood lights. Mr. Rothman said his lights do not impact his neighbors; it is the Tarrytown House lights that impact them. He said he does have a light in the tree house and he is going to ask to legalize it if he gets approval. He said he does have a light on Mr. Sherman's property but he was unaware that it was his property when he installed it. He has every intention of removing that light and relocating it in order to illuminate his side yard for safety purposes. He said the lights in the tree house are very small; they are not the problem; it's the light on the Tarrytown House property. Mr. Tubin said that is not true.

Counsel Shumejda said the other issue was noise, but that was because of the half pike which is not before the board.

Mr. Sherman asked if you need a permit to remove a light. Counsel Shumejda asked if it is still on your property. Mr. Sherman said yes it is. Mr. Rothman said that he told him that he would remove it when this is resolved.

Mr. Maloney moved, seconded by Chairwoman Lawrence to vote on the determination of whether or not the proposed tree house has a significant adverse environmental impact. The Board voted as follows:

Ms. Weisel:	Yes
Mr. Maloney:	Yes
Mr. Jolly:	No
Ms. Brown:	No
Chairwoman Lawrence:	No

Three no's and two yeses; no significant adverse environmental impact. Motion carried.

Mr. Jolly moved, seconded by Chairwoman Lawrence to vote on granting the variances for the tree house regarding height and side yard setback as follows:

Ms. Weisel:	No
Mr. Maloney:	No

Chairwoman Lawrence: No

Mr. Jolly: Yes

Ms. Brown: No

Four no's and one yes; Variances denied.

ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Brown to adjourn the meeting. All in favor; motion carried. Adjournment 9:00 p.m.

Dale Bellantoni
Secretary