

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
August 14, 2017 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Maloney, Jolly, Weisel, Rachlin;  
Counsel Zalantis; Village Engineer Pennella; Secretary Meszaros

Chairwoman Lawrence called the meeting to order at 7:34 pm.

APPROVAL OF THE MINUTES – July 10, 2017,

Mr. Maloney moved, seconded by Ms. Weisel, with Ms. Lawrence abstaining, that the minutes of July 10, 2017 meeting be approved as submitted. All in favor. Motion carried.

*Portions of this meeting have been transcribed by a court stenographer and will become part of the record.*

COMPREHENSIVE PLAN AND STATION AREA ZONING PROJECT UPDATE

Joan Raiselis, Co-Chair of the Steering Committee for the Comprehensive Plan and Station Area Zoning Project appeared before the Board with Village Administrator, Richard Slingerland to briefly update them on the status of the project and the next steps going forward toward updating the Village Wide Comprehensive Plan and Station Area zoning changes. Mr. Slingerland informed the Board that Chair Sally Lawrence has joined the Comprehensive Plan work group and ZBA member Tori Weisel has joined the Steering Committee. Ms. Raiselis briefly discussed the history of the project which began 3 years ago, resulting in the “Tarrytown Connected” Station Area Zoning Plan and the Strategic Plan. She explained that they have had a lot of outreach to the community and to the station area owners/developers, noting the summer symposiums that were held this past June, July and August and announced the Public Workshop scheduled on Sunday, September 17, 2017 at 1:00 pm at the Warner Library. The phase has expanded to a re-write of the entire plan for the village; David Aukland is working on this portion. The zoning portion of this project will start sometime in the fall after the draft of the comprehensive plan is completed. Mr. Slingerland read through the topics of the 3 symposiums and encouraged the Board to get involved and help spread the word to village residents to attend and submit comments. This is an important process that will mold and shape the future of Tarrytown. Ms. Raiselis added that they have posted signs along the village and encourage everyone to write in their comments.

Mr. Jolly wanted to know about the electric cars discussion. Mr. Slingerland said it was related to sustainability and changing our energy sources by moving toward solar panels and micro grids instead of large grids.

Ms. Raiselis and Mr. Slingerland thanked the Board for their time.

NEW PUBLIC HEARING – Russell Rogers, 67 Prospect Avenue

Secretary Meszaros read the Public Hearing notice.

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, August 14, 2017**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Russell Rogers  
67 Prospect Avenue  
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown Code ("Zoning Code") for additions and alterations to a single family dwelling. The property is located at 67 Prospect Avenue, Tarrytown, NY and is shown on the tax maps as Sheet 1.100, Block 71, Lot 1 and is in the R 15 Zoning District.

**The variances sought are as follows:**

<b>Zoning Code Section</b>	<b>Permitted</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required</b>
305-11: Schedule; Application of District Regulations for R-15 Zone. Attachment 5: Column [11] Front Yard Setback	27 ft.	25.13 ft.	22.6 ft.	4.4 ft.

Additional approvals related to the above-referenced project will be required from the Architectural Review Board.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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

Lizabeth Meszaros  
Secretary to the Zoning Board

The certified mailing receipts were submitted and the sign was posted

Board members visited the property.

Sam Vieira, Project Architect, representing Mr. and Mrs. Russell Rogers, also present, appeared before the Board. Mr. Vieira presented the plan and explained that the footprint of the home will not change; they will be raising the roof of the main house and enclosing a small breezeway connected to a garage. The 2<sup>nd</sup> floor roof will be raised to

make it habitable space, and the single car garage will become a den. The house sits on a corner lot. They have created a back door facing Heritage Hill and are putting a roof above this door which triggers the 4.4 feet requested variance.

Ms. Lawrence asked about the second floor. Mr. Vieira said they are only expanding the second story by raising the roof but not adding onto the house thus minimizing the disturbance.

Ms. Lawrence asked about the single car garage. Mr. Vieira said they are converting it into habitable space. Mr. Maloney asked where the two garage is. Mr. Vieira showed the structure on the rear elevation plan and explained that they received a variance for this garage over 20 years ago.

Ms. Lawrence asked if anyone Board members had any questions.

Mr. Jolly asked to clarify what they are doing with the single garage. Mr. Vieira said that it has not been used as a garage in 20 years; only as a storage space, and they are turning into habitable space with windows facing Heritage Hill, and it will no longer look like a garage.

Ms. Lawrence asked if anyone in the public had any questions. She asked Mr. Russell, in the audience, if he has heard from his neighbors. Mr. Russell said that he has spoken with several neighbors and they seem fine with this project.

Mr. Kozlowksi, of 38 Heritage Hill, was in the audience and did not come up to the podium but said that he had no objection to the proposed project.

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

Ms. Lawrence read through the criteria:

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. *Ms. Lawrence stated that no undesirable change or detriment will be produced, it will only add more attraction to the property and neighborhood.*
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. *Ms. Lawrence said in this particular application, the variance is minor and not aggressive.*
3. That the requested area variance is not substantial. *Ms. Lawrence said that the variance requested 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. *Ms. Lawrence said that that no conditions appear that will have an adverse effect in the neighborhood.*
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 variance. *Ms. Lawrence said that the variance has been created in a minor way and it will not create a problem with the character of the neighborhood.*

Mr. Jolly moved, seconded by Ms. Weisel, that this minimal variance be granted as discussed. All in favor. Motion carried.

Counsel Zalantis asked to include that she be authorized to draft a resolution memorializing the discussion and to include the general conditions of approval for an area variance.

Mr. Maloney moved, seconded by Ms. Weisel, to approve this application and advise Counsel Zalantis to draft a resolution memorializing the discussion to include the general conditions of approval. All in favor. Motion carried.

#### CONTINUATION OF PUBLIC HEARING – Peter Bartolacci - 67 Miller Avenue

Ms. Lawrence confirmed that they did receive the revised plan they requested at the July meeting. Mrs. Bartolacci, of 67 Miller Avenue, appeared before the Board and explained that they are here to request a variance for a retaining wall. They have submitted an alternate plan dated 7-28-17 in response to the sketch they shared with the Board at the last meeting on 7-10-17. They have broken up one wall into 2 tiers as an alternative option with a lesser variance as requested by the Board. The plan was submitted in time so to ensure that the Village Engineer, Board and interested neighbors would be able to review and comment at this meeting. She also will share three landscape renderings to help visualize the landscaping options. She commented that her neighbors to the north, the Robertson's, and to the south, the Bollenbacher's, fully support the 2 tier design. She introduced Paul Berté, the project engineer to go over the details of the submitted plan.

Mr. Berté presented and described the plan of a 2 tiered wall. The first wall is 7.5 feet back from the property line, maintaining the existing stone wall along the property line. Six feet from that wall, is a second wall, which will be about 13.5 feet from the rear property line. He noted that the 9.5 foot height only lasts for a certain amount of distance and drops off to heights lower reaching down to 6 feet. For the first 20 feet the wall is at its highest, as the grade drops so does the height. The second wall also tiers. He did an average grade of the base of the wall and the top of the wall, and based on the calculation, the average height from the base wall is just over 7 feet. For the upper

wall, the average wall height is just under 7 feet. So, although they are asking for a variance of 9.5 feet, the entire proposal for the design is something lower.

With regard to the landscaping, after speaking with the wall manufacturer, Mr. Berté said they can safely modify the grid to allow for more of a root ball to provide meaningful screening between the walls.

Ms. Lawrence said the lower tier looks like it can definitely be screened and asked if the upper can as well. Mrs. Bartolacci distributed the landscape renderings she referred to earlier, attached as "Exhibit A".

Mr. Berté made reference to the protection of the tree on the neighbor's property that the Planning Board has requested.

Ms. Lawrence asked about the color of the wall. Mrs. Bartolacci said there are many colors and they submitted a catalog for the record. She said they want something to blend in. Ms. Lawrence was pleased that there were color options.

Mrs. Bartolacci submitted pictures of Arborvitae to show how effectively they could screen the walls, attached as "Exhibit B".

Ms. Lawrence asked if anyone had any questions in the audience.

Geraldine Baldwin, of 66 Riverview Avenue, gave her statement to the secretary for the record, pages 1 through 8 with appendices and distributed it to all the Board Members. She read the complete statement into the record which is attached as "Exhibit C".

After reading this statement, Mrs. Baldwin introduced her attorney, Kristen Wilson, Partner, of Blanchard and Wilson, who distributed a letter to the Board and Counsel as part of her presentation, which is attached as "Exhibit D". She stated to the Board that simply, the record does not support granting this variance. This application is in front of the Planning Board for a steep slope waiver and they are adding insult to injury asking for a humongous variance that is not needed. It is clear that they have not met their burden. This Board is well versed in the criteria, none of which supports granting this variance. The applicant has made it clear that they want to enlarge their backyard. Ms. Wilson said this is not under this Board's authority, which is to grant the minimum area variances necessary. This goes back to stabilizing the slope, which can easily be achieved by some other method.

Ms. Wilson referenced other cases, outlined in her letter, supporting her request to deny this variance since it fails to satisfy any of the village criteria for granting variances. She said the applicants are here to seek a larger backyard and bring in hundreds of cubic yards of fill when the proposal is disproportionate to the actual need.

Ms. Wilson continued and went through each of the criteria to support her position referencing various cases why the variance must be denied and how the criteria has not

been met, which is included in her attached letter (Exhibit D). In summary, she said that a vast majority of the walls shown last time were not in residential areas and the code prohibits this type of wall in residential areas. She referenced a case where the Town of North Hempstead Zoning Board denied a variance based on the detrimental effect to the neighborhood vs. the overall benefit to the applicant. The applicant is seeking a variance when they can easily construct a smaller wall. The overall impact for 2 walls is the exact same and not necessary to stabilize the slope. The variance will negatively affect Mrs. Baldwin and her neighbors next door. And, the variance was self-created since a wall can be constructed to replace what existed back in the 1970's.

Mrs. Wilson said another area the Board should focus on is the type of material, the wall specifications, and the maintenance plan. She made reference to the failure of the wall in the Ossining case that Mrs. Baldwin referenced in her presentation. She requested that before the plans are considered further, she would like to know the length of the 2 geogrids and how they will be constructed, and also said that the landscaping plan is a red herring. The balancing test does not hold and the record clearly shows that the criteria are not met. The size of the backyard is irrelevant. There are pertinent questions with regard to maintenance, construction and landscaping. She is requesting that the Board deny the variance since it is not necessary to build either of the walls proposed.

Mary Fedigan, sister of Geraldine Baldwin, came up to read a letter on behalf of Lin Snider and her husband Jeffrey Scott Voth, of 64 Riverview Avenue, with a petition which was already submitted to the Board. Ms. Lawrence agreed to let her read the letter on behalf of Lin Snider who could not attend this evening. Ms. Fedigan read the letter dated 8-14-17 into the record and submitted it to the secretary with the previous petition from neighbors, which was already part of the record, attached as "Exhibit E".

Ms. Lawrence asked Mr. Berté to discuss the viability of the mesa block wall. Mr. Berté said Mesa Block walls are widely used today. Toll Brothers uses them extensively on their projects; they build walls 18 to 20 feet in height in residential areas. He said that all walls can fail, whether they are concrete, stone or mesa, if they are not built properly. Ms. Lawrence asked if the homeowner will be maintaining the wall, which Mr. Berté confirmed.

Ms. Lawrence asked how high the wall must be to stabilize the slope. Village Engineer Pennella said the slope is somewhat stabilized and it is not an easy question, an analysis would have to be done. The plan in front of this Board is a conceptual plan for the height of the wall. He advised that the project engineer will come up with a full design. At this point he has not designed the wall to the full extent. Also, if the manufacture is changed, it also changes the geogrid. A bearing capacity and stability analysis of the wall and a combination of the entire slope also needs to be designed. Right now, the wall height and the distance of the wall from the property line is the concern.

Mr. Pennella asked Mr. Berté if the landscaping will be able to be accomplished since there is about 5 feet for plantings. Mr. Berté said the plan is fluid; the 7.5 feet is intended to be at the base of the wall and they will be providing enough room from the property line to the base of the bottom of the wall for plantings. Mr. Pennella confirmed then that the 7.5 feet is from the face of the bottom wall to the face of the first wall and for the second wall they show 6.5 feet. Mr. Berté said they do have flexibility. Mr. Pennella asked Mr. Berté if the final design might be that the walls get pushed back even further from the property line. Mr. Berté agreed.

Chairwoman Lawrence asked the actual percentage of variance requested. Mr. Berté said we are asking for at 3.5 foot variance on a 6 foot wall.

Ms. Weisel asked what determined the actual depth of the yard to where it is now. Mr. Pennella said the upper wall is generally in the same location as the existing so if you look on the plan generally it is 3 or 4 feet away from the existing wall.

Ms. Lawrence asked how the fill will be brought in. Mr. Berté said that fill will be brought in from the side of the house.

Mr. Jolly asked if they want to make the backyard larger. Mr. Berté said they want to replace the wall to where it was. The backyard will be larger than it is right now. They will be pushing back hedgerow about 10 feet. There is 24 feet of grade change from the westerly corner to the back of the house. There has been a lot of discussion to stabilize the slope and what it would take. In order to do a slope you need 48 feet from the property line all the way back to the house. The wall is fluid, we are presenting to you our proposal to rebuild the wall. We will take a grade and reconstruct the wall and will provide enough screening between the 2 tiers.

Mr. Pennella explained to the Board that when we talk about the wall being fluid, we mean that from the property line back they are going back 7.5 feet. If this distance cannot be achieved, any kind of approval will be null and void. So, if the plan does not work when they go back to the Planning Board with this height or they cannot satisfy the 7.5 feet minimum distance then, they would have to come back to the Zoning Board. Mr. Berté said they are asking for a path forward for the design, it could even go to 8.5 feet, which is a more than the required 7.5 feet.

Mr. Jolly asked if they considered pressure treated wood. Mr. Berté said the mesa wall has a longer life. Mr. Pennella said it is not common to use railroad tie walls today. For the height, it is hard to achieve with the tiebacks and deadmen and most likely you would end up with more tiers to make it viable.

Mr. Berté said the idea is to screen the wall with landscaping.

Mr. Bartolacci came up and said that railroad ties were used in the past and back then it was probably state of the art. Today, railroad ties are not necessarily the best solution. Mesa block is the latest technology and is used extensively and is very effective. It

would be difficult for us to replace a wall with something that we know would fail eventually.

Brian Tompkins, who was born and raised at 63 Miller Avenue, next door to 67 Miller Avenue, came up to speak. He said there was one continuous wall which he would climb and hop over the fence at the edge of the wall. It was one complete wall slightly pitched and the backyard was completely flat. As a kid we can exaggerate. He said he was 25 when he left the house. The minimal height was 20 feet. He just met the Bartolacci's this past year and he is not friends with them.

Mrs. Bartolacci came up and briefly described some inaccuracies in the transcript of July 10, 2017 meeting. She found these after reviewing the video tape that her representative recorded at the meeting. This information is attached as "Exhibit F".

With regard to wall height suggested by Mrs. Baldwin and her attorney, she presented an elevation drawing prepared by Fusion Engineering. She showed the property elevation change of 7 feet from the existing wall at the s/w corner to the existing wall at the n/w corner. She said that if all three sides of the wall were all 7 feet, the top of the existing wall at the s/w corner would have to be at ground level if the n/w corner was 7 feet high. She concluded that it could not possible for all three walls to be 7 feet. This drawing is attached as "Exhibit G".

Mr. Bartolacci showed a map of Tarrytown with circles. He explained that the purple circle represents 2000 feet radius from their property. There are 38 properties that have a retaining wall greater than 6 feet and 16 of them are greater than 9 feet. Within 1250 feet, there are 24 with walls greater than 6 feet; 12 are greater than 9 feet. The density of walls greater than 9 feet is higher as you get closer to our property. These are the only walls he could identify. There may be more. When you hear testimony that these walls are not in residential areas, it is simply not true. Many walls are in single family residential areas. It is important to get the facts straight. He pointed to the blue line on the map at the Washington Irving field and indicated that all of those properties have retaining walls. This drawing is attached as "Exhibit H".

Mrs. Baldwin came up and went through the 52 walls presented and said that none were mesa block. Of these walls, 60% are made of old stone, which is not what is comparable to what is built today and they predate the current code. Maintenance or repair of stones to restore the mortar is not new construction. They are seeking new construction of a 20 foot wall. Only one wall that is 20 feet and is located at River Plaza parking lot by the multi-family housing. Of the 17 walls 10 to 17 feet high: 6 are old stone, 9 are connected with multi-family housing, mostly parking lots, 1 is an office building on White Plains Road and another is in an industrial area built for the backup generator for the village sewer pumping station.

Mr. Maloney moved, seconded by Ms. Weisel, to go into executive session at 9:13 pm. All in favor. Motion carried. Board members left the meeting room.

Board members returned to the meeting room. Mr. Maloney moved, seconded by Ms. Weisel, to come out of executive session at 9:31 pm. All in favor. Motion carried.

Mr. Maloney moved, seconded by Ms. Weisel, to close the Public Hearing. All in favor. Motion carried.

Ms. Lawrence said that she will ask the members of the Board about the application and ask Counsel Zalantis to draft a resolution to be considered at the next meeting.

Ms. Rachlin said she is inclined to grant a variance for the 2 tiers, which she feels is a better plan.

Mr. Jolly would be favorable to granting the variance and thinks they should have a backyard.

Ms. Lawrence thanked the applicants and was pleased to see a plan that they could actually address with specifics. As far as increasing the backyard so that they will have an area to enjoy is perfectly acceptable; otherwise they would not be here. She is inclined to approve, however, she needs qualifications with regard to a landscape plan and who will maintain the walls.

Mr. Maloney agrees with the Chair but has concerns about the plan. He is inclined to approve.

Ms. Weisel agrees but there must be stipulations in place to protect both sides which need to be worked out before anything is approved.

Ms. Lawrence asked Counsel Zalantis to prepare a draft resolution with conditions to discuss for consideration at the next meeting.

Ms. Lawrence moved, seconded by Mr. Maloney, to continue the Public Hearing. All in favor. Motion carried.

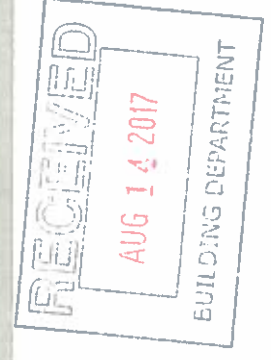
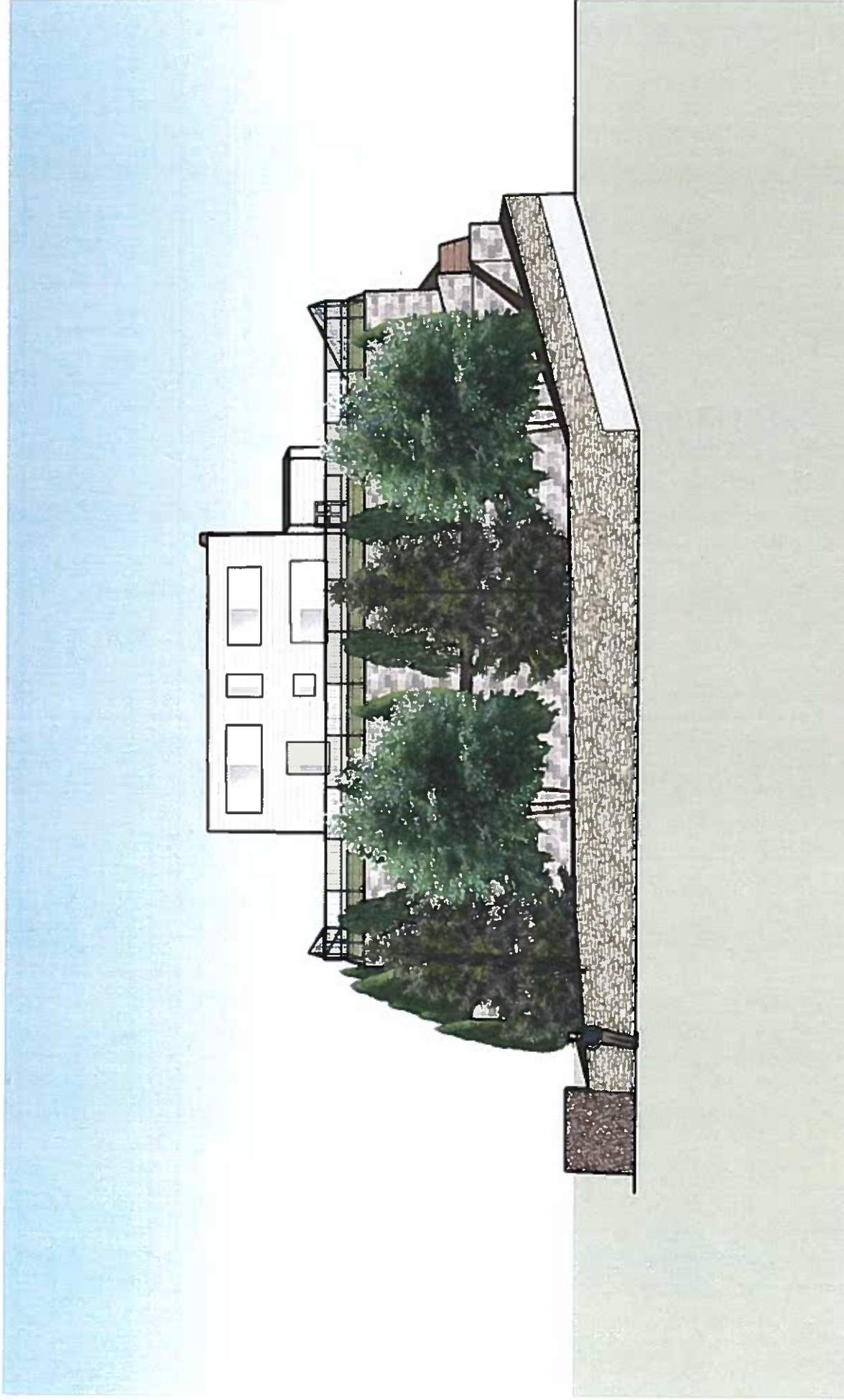
Mrs. Bartolacci asked if she has to submit a landscape plan at this point. Ms. Lawrence said that a landscape plan would be included as part of the conditions of approval. Mrs. Bartolacci asked about the stipulations in height and distance from the property line. Counsel Zalantis advised that the Public Hearing has been closed. She will be preparing a resolution with conditions that the Board will consider. Ms. Lawrence said there is no more information needed from the applicant.

#### ADJOURNMENT

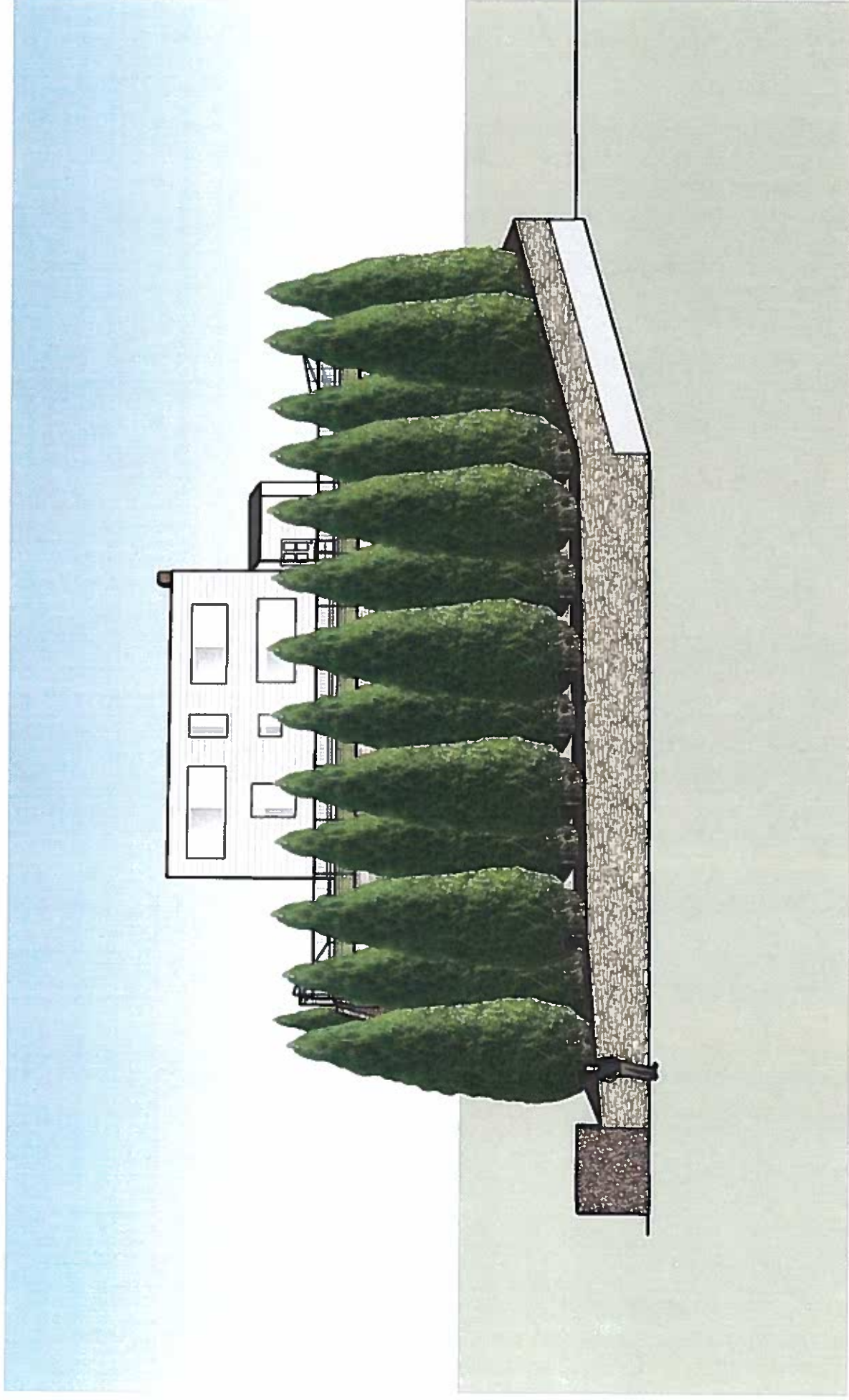
Ms. Maloney moved, seconded by Ms. Lawrence, and unanimously carried, that the meeting be adjourned – 9:37 p.m.

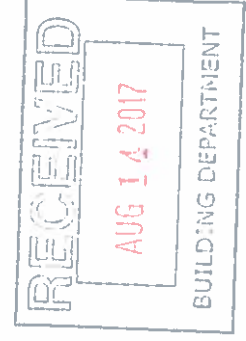
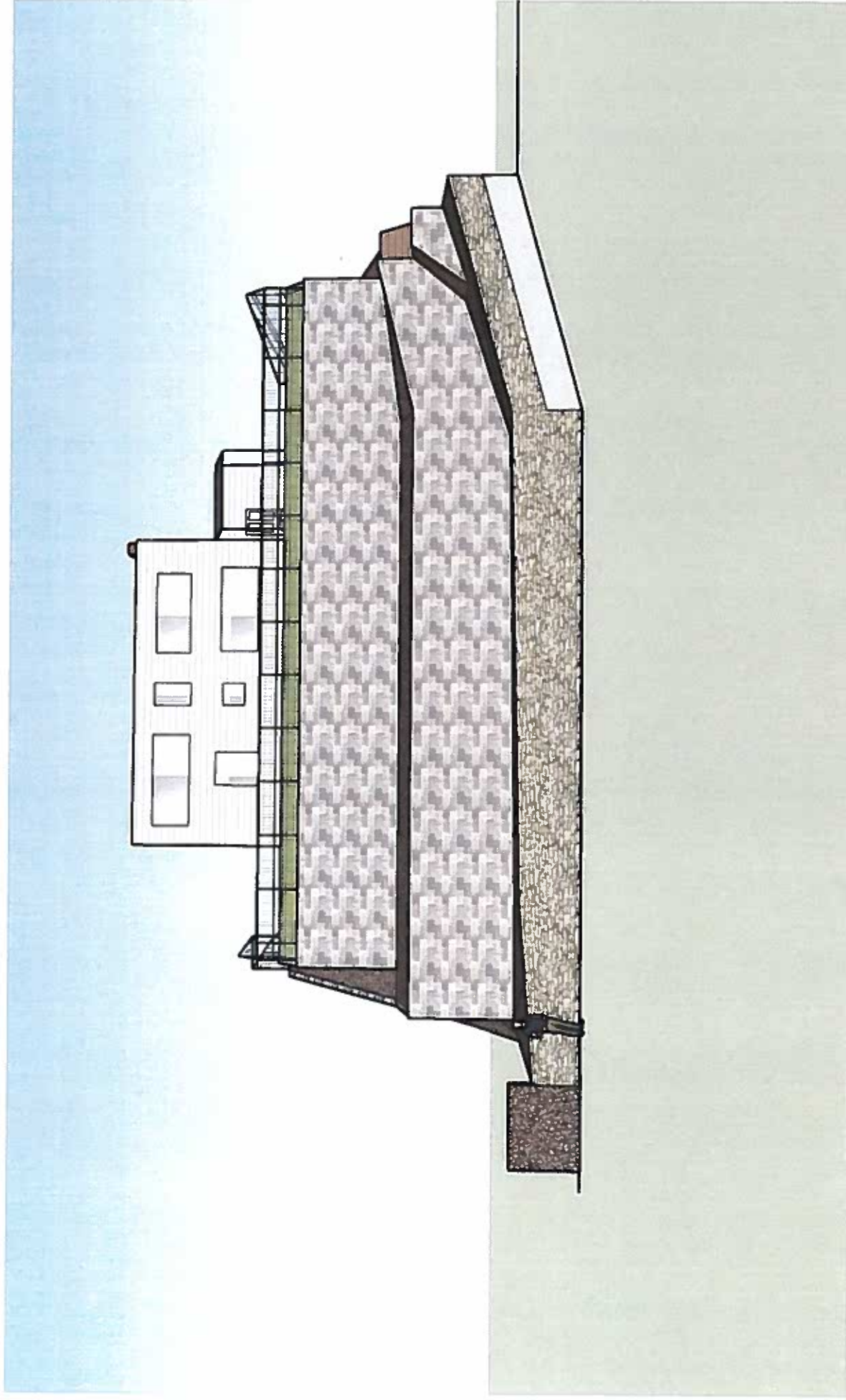
Liz Meszaros – Secretary

# EXHIBIT A

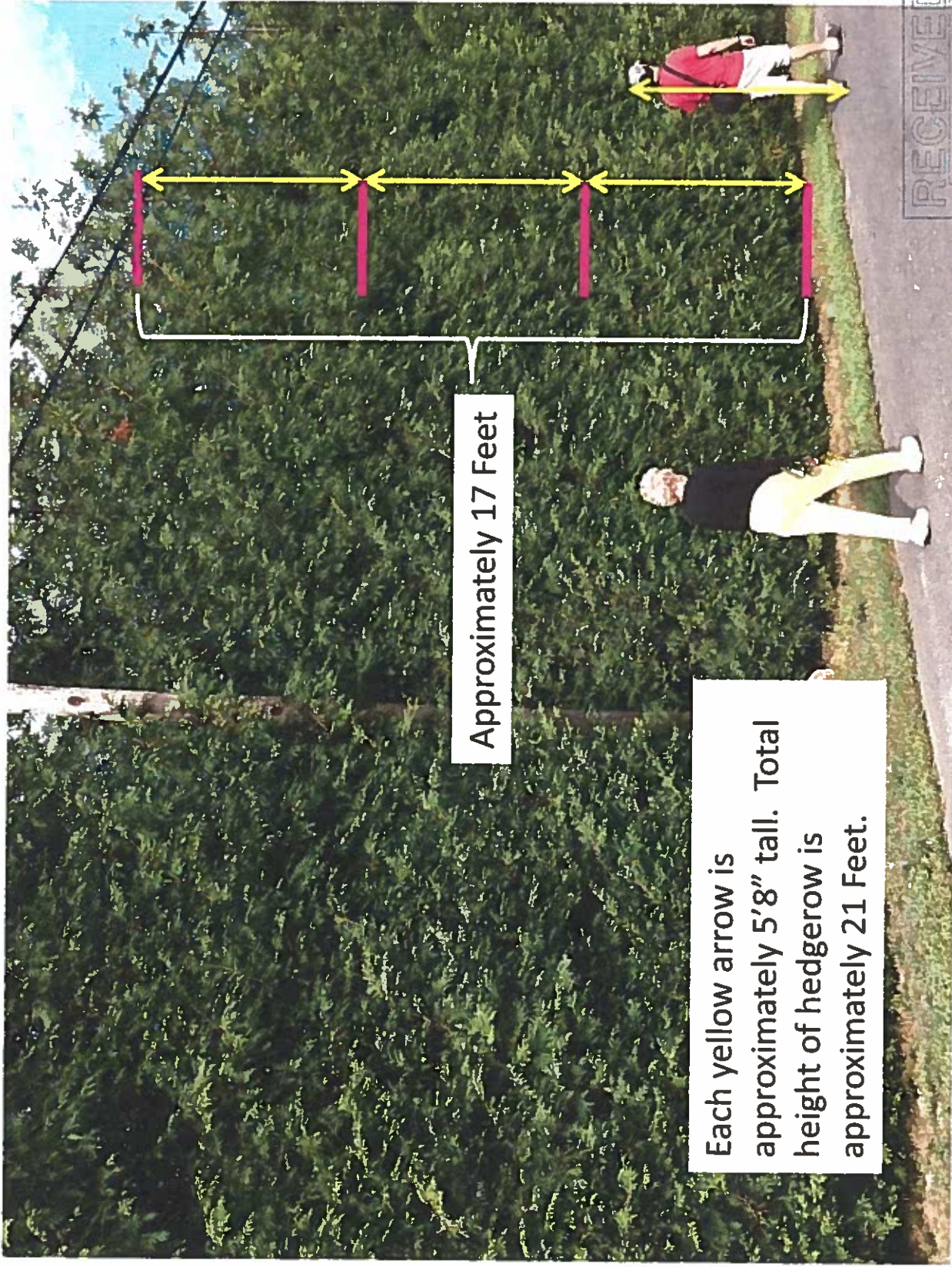


*Bertelucci Simon*





# EXHIBIT B



Each yellow arrow is approximately 5'8" tall. Total height of hedgerow is approximately 21 Feet.

Approximately 17 Feet

RECEIVED

AUG 14 2017

BUILDING DEPARTMENT

*Bartolucci Submission*



Note how effectively the arborvitae screens the property.

# EXHIBIT C

Statement of Geraldine F. Baldwin to the Tarrytown Zoning Board of Appeals August 14, 2017

My name is Geraldine F Baldwin; I live at 66 Riverview Avenue, Tarrytown, NY. Before I begin my Statement, I would like to assure this Board that I am not against a wall being repaired or reconstructed on Applicant's property. I do believe that the existing wall should either be repaired or replaced with a wall in the same location as the original, of either timber, stone or concrete, at the same height as the original as determined by the Village Engineer ,i.e., at 7± feet high. For reasons detailed, below, I submit that the proposed Mesa<sup>®</sup> block wall(s), most suited to industrial or commercial properties, are NOT suited and should not be constructed on a steep slope in a single family residential neighborhood.

Initially I would like to clear up the record by reviewing some of the previous testimony and then I will review, very briefly, the relevant facts for the Board. After that my Attorney Kristen Wilson, Esq. will review the relevant legal principles on which this Board should decide.

I. STATEMENTS WITHOUT FACTUAL SUPPORT

A. Statements Re: Aerial Photographs Having No Basis in Fact

Applicant has presented several images of aerial photographs of 67 Miller Avenue obtained originally from Mapping Westchester County. Applicant has marked the images with various notations. At great length, Applicant has argued that comparison of aerial photographs of the property from 1976 and 2013 show that: 1. the rear yard of the property was much larger in 1976 and 2. the retaining wall was much higher in 1976. In fact, Applicant has argued that the retaining wall was 16 feet high.

Applicant has presented no evidence that he has familiarity, much less, expertise in reading and interpreting aerial photographs. Perhaps, given his overwhelming desire to enlarge the rear yard of 67 Miller, Applicant has convinced himself and has tried to convince others of what he wishes were so.

In fact, however, as indicated in the Minutes of this Zoning Board of Appeals (ZBA), Chairperson Lawrence clearly stated that, in her profession, she has years of experience viewing and interpreting aerial photographs. Chairperson Lawrence further stated that "the aerial photos were unclear to her". (Minutes of the ZBA Meeting of June 10, 2017, p.14). Mr. Maloney remarked the "it is hard to tell in the photos if the backyard was larger" (Id.)

With respect to determining the size of the original wall from the aerial photographs, Chairperson Lawrence stated that: "she could not ascertain the size of the wall from aerial photographs". Moreover, Chairperson Lawrence remarked:" there is no proof of what the wall looked like" (Id. p.13).



Attention is directed to Appendix A, attached. Appendix A is a Letter from Andrew J. Allison, AIA with Exhibits A and B. Exhibits A and B are, respectively, copies of aerial photographs submitted by Applicant of the 67 Miller property labelled 1976 and 2013.

Mr. Allison is a licensed, practicing Architect. Although Mr. Allison does not have expertise in interpreting aerial photographs, in his letter, he explains that as an Architect, he has over 20 years' experience with minute details of site plans, schematics and other types of plans and drawings. Thus, he is experienced in ascertaining details from numerous types of images. After carefully examining the attached Exhibits A and B, Mr. Allison has concluded the following:

1. "The 1976 photograph is so blurry that it is impossible to determine whether the size of the backyard was larger in 1976 compared to that in 2013; and
2. It is impossible to determine the size of the wall from the aerial photographs,"

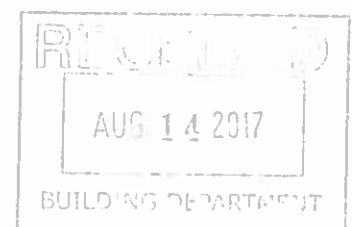
Thus, Mr. Allison confirms and corroborates the findings of the Board Members that Applicant's statements regarding the aerial photographs have no basis in fact.

#### B. No Basis in Fact in Childhood Recollections from 40 to 50 Years Ago

Applicant has presented testimony of several neighbors or ex-neighbors who allege that they played on the railroad tie retaining wall as children of somewhere between 8 and 11 years old. The recollections are from adults recalling events at least 40 and 50 years ago. They have alleged that the wall was much higher than currently —one even going so far as to allege the wall was a story high.

Although it is often pleasant to walk down memory lane, memories and recollections from decades ago in childhood are not reliable for factual events, much less for accurate determinations of physical parameters such as height. Consider your own memories of sleigh riding down the highest hill in your neighborhood as an 8-10-year-old. The hill was really high and scary. It looked to be the steepest hill around and may even have been given a nick name such as "dead man's hill" or "suicide hill". If you were to re-visit that same hill as an adult, I am sure you would be very surprised to find that it is only a small bump on the landscape. You might even feel "cheated" that the hill has shrunk since you last saw it. That is how unreliable such childhood recollections really are.

Moreover and most importantly, it is NOT RELEVANT what size of yard may have existed decades ago on Applicant's property. The role of the ZBA is not to establish what might have existed in the 1950's, 60's 70's or even in 2009. The ZBA's role is to apply the standards set forth under Tarrytown's current Code---not the law that may have existed decades ago when the childhood recollections were made.



C. No Basis in Fact That the Yard Has Changed in Size Since 1987

Testimony of another neighbor has been presented to allege that the yard was larger and that the previous owner had to move the hedge at the top of the hill closer to the house.

I have owned the property at 66 Riverview Avenue immediately adjacent to the West property line of 67 Miller Avenue since the end of 1986. In 1987, the hedge at the top of the slope was mature and old. In all the time from 1987 to the present, the hedge has not been moved. Thus, the extent of the yard between the house and the hedge is no smaller or larger than in 1987. Based on Applicant's plans, I estimate that there are about 12-15 feet of yard between the hedge and the house.

II. REVIEW OF RELEVANT FACTS

A. Applicant Does Not Seek Any Reconstruction or Repair

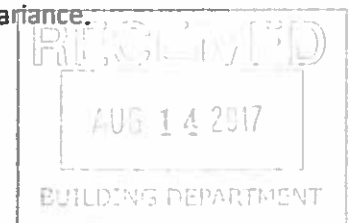
The pending Application states: The project is to "reconstruct an existing failed railroad tie wall". Despite the stated objective, throughout all the proceedings Applicant has sought not to repair or reconstruct the original wall, but rather new construction of a much higher wall which will remove the steep slope. The objective is to extend and flatten the Westward portion of the rear yard. Such extension is the sole reason Applicant seeks a 20-foot-high wall. Indeed, the "need" for a 20 foot-high wall (or two walls 10.5 and 9.5 feet high) is only to satisfy Applicant's desire for a larger backyard, NOT to stabilize the steep slope.

Significantly, in prior proceedings regarding Applicant's Application, two Judges of the State of New York found that: "there is insufficient evidence Petitioner intends to repair the pre-existing wall." Rather these Courts found that: "There is ample indication that Petitioner intends to wholly replace what is left of the existing structure with a three-sided retaining wall constructed of Mesa<sup>®</sup> concrete blocks" (*Matter of Bartolacci v. Village of Tarrytown Zoning Board of Appeals*, Decision and Order Index No. 1326-14 June 5, 2014, *aff'd* 41 N.Y.S.3d 116 (2016)).

As found by the Judge in the Article 78 Proceeding: "there is a more than minimal distinction between the railroad ties and concrete" *Id.* In addition to the "obvious differences in aesthetics" the Judge noted "equally apparent distinctions in the materials, respective weight and absorbency and in the methods of installation required" (*Id.*)

B. Applicant Does Not Seek a Wall the Same Size as the Original

Attention is directed to Appendix B attached which tabulates the Plans and "Conceptual Sketches" presented by Applicant to the Planning Board and/or this Board. Every Plan and Conceptual Sketch proposes a total wall height of at least 12 feet; all but one proposes a total wall height of at least 18. The only actual Plan before this Board proposes a wall of 20 feet high and requires a substantial feet. variance of 14 feet over the height limit of the Village Code, that is at least a 230% variance.



The most recent "Sketch" proposes 2 walls, one of 9.5 feet high and one of 10.5 feet high-----which when viewed from the downslope properties will still appear as a 20-foot high wall. The impact to the downslope properties will be no less detrimental than the single 20-foot high wall.

After much discussion, deemed only "speculation" by Planning Board member Ms. Raisellis, regarding the original height of the retaining wall, the Chairman directed the then Village Engineer, Michael Mc Garvey, to revisit the rear yard and determine the height of the original wall. Chairman Friedlander stated: "the Planning Board will take a wall that replaces the wall according to Mr. McGarvey's opinion of height". (Village of Tarrytown Planning Board Minutes, August 26, 2013).

As instructed, the Village Engineer visited the site. He noted that if the wall were 20 feet high as alleged by Applicant's Engineer, there should be evidence on the neighbor's property below. He found no such evidence. In conclusion, Mr. McGarvey stated: "As a professional engineer, I do not believe that a railroad tie wall 20' high was ever constructed on the site; instead, I believe there were three walls approximately 7' (+) high." (Mc Garvey Letter to the Planning Board dated September 26, 2013.)

Applicant has alleged that Mr. McGarvey was mistaken in indicating a three tier wall system. This again has no basis in fact. Indeed, as noted above, in the prior Article 78 Proceeding, after having reviewed the entire record, the Judge found the Applicant intended to replace "what is left of the existing structure with a three-sided retaining wall . . ." (*Matter of Bartolacci. v. Village of Tarrytown Zoning Board of Appeals*, Decision and Order Index No. 1326-14 June 5, 2014, *aff'd* 41 NYS. 3d 115 (2016) (emphasis added). Thus, it is clear that any reasonable person having viewed Applicant's property or his Plans would surely understand that there is a three-sided wall system, i.e., a wall on the North side, a wall across the West side and a wall on the South side---Mr. McGarvey never suggested there was a three-tiered wall system across the West side.

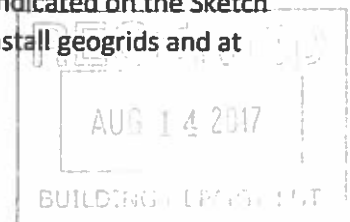
In fact, Mr. McGarvey's statement was further corroborated by the Judge in the proceeding under Article 78 of the New York State CPLR, who found that the record was "devoid of evidence" that the proposed 20-foot high retaining wall would be of "equivalent dimension to the prior wall". In contrast, the Judge found that the "proposed retaining wall is also intended to be taller than the pre-existing structure". (*Id.*) (The Judge stated: "The pre-existing wall is estimated to have been between seven and ten feet (Certified Record, pp. 178-79)". (*Id.*)

### C. Applicant Does Not seek to Stabilize the Steep Slope

Most importantly, every proposed wall is to be constructed of Mesa<sup>R</sup> blocks. For stability, Mesa<sup>R</sup> block walls minimally require 2 things: 1. extensive excavation for installation of lengthy geogrids and 2. an extremely large amount of fill to stabilize the geogrids.

Attention is directed again to Appendix B attached i.e., a Table of Applicant's Proposed Walls. The currently proposed 20-foot high wall requires excavation of the steep slope sufficient for the installation of 12 separate geogrids, each 16 feet long behind the wall of Mesa<sup>R</sup> blocks. It further requires at least 262 cubic yards or 26 truckloads of stones and fill. Such excavation and fill will eliminate the steep slope at the rear of the yard and extend the yard about another 15 feet, thus doubling the size of the yard.

The most recently proposed 2-tier walls of 9.5 and 10.5 feet high, although not indicated on the Sketch dated July 31, 2017, require excavation of at the very least 10 feet in length to install geogrids and at



least 465 cubic yards or 46.5 truckloads of fill. Such excavation and fill will likewise eliminate the steep slope and extend the yard about 15 feet.

The only object of all the proposed Plans and Sketches is enlarging the rear yard ----not stabilization of the steep slope.

#### D. Applicant Does Not Address the Safety of the Downslope Properties

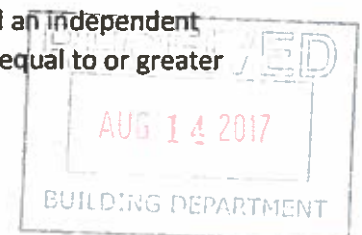
There has been no study conducted to demonstrate whether any remainder of the steep slope or the subsurface will be able to withstand the additional fill and the Mesa<sup>R</sup> block walls. The Manufacturer's literature, however, clearly states that: "A qualified professional geotechnical engineer should evaluate the site, surface and subsurface conditions, other environmental factors and the intended use and location of the wall in advance of final wall design and installation". (Mesa<sup>R</sup> Retaining Wall Systems: System Overview, p. 16(emphasis added). See attached Appendix C for pp. 15-16, available at [www.tensarcorp.com](http://www.tensarcorp.com))

Mesa<sup>R</sup> blocks, connectors and geogrids are shown in Applicant's Plan for the 20-foot high wall. The literature by Tensar, manufacturer of Mesa<sup>R</sup> block walls, however, indicates that more components are required. It clearly states: "drainage composite, piping and geotextile materials may also be required". (*Id.* p.16). Further and most significantly, the Tensar literature warns that: "Surface or subsurface water should never be allowed to saturate the backfilled reinforcement zone. Adequate drainage measures . . . are the responsibility of the owner or owner representatives (not Tensar)" (*Id.*).

At page 6, The Tensar brochure entitled Mesa<sup>R</sup> Retaining Wall Systems: Installation and Special Considerations Manual states that: "The contractor is also responsible for . . . surface water drainage and control". See attached Appendix C for pages 6-7, available as [www.tensarcorp.com](http://www.tensarcorp.com)). The brochure further warns: "Surface water drainage must be addressed during and after construction". (Emphasis added) See attached Appendix C for p.7.

It is extremely important to note that none of Applicant's Plans or Sketches addresses the issue of drainage or surface water. In fact, Applicant has repeatedly alleged that since the steep slope is being flattened that there is no need for control of drainage or run off from the property. Applicant's Engineer has repeatedly claimed that there will be no impact of water to the downslope properties because the flatter slope will permit water to percolate behind the wall. This is completely contradicted by the instructions of the Mesa<sup>R</sup> Block Manufacturer. Due to compaction of the required fill, no percolation of surface water can occur. Water management and containment on Applicant's property is critically needed. The Manufacturer's literature notes specifically that the NCMA Segmental Retaining Wall Drainage Manual, published in 2002, "should be consulted prior to final design and construction". See attached Appendix C, Mesa<sup>R</sup> Retaining Wall Systems: System Overview. p. 16, emphasis added).

Additionally, all Applicant's Plans and Sketches proposing two-tier walls fail to meet the minimum requirement for space between the two walls required by the Manufacturer for stability. With respect to tiered or terraced walls, the Manufacturer states: "For each wall to be considered an independent structure, typical design guidelines require enough 'green space' between the walls equal to or greater



than two times the height of the lower wall" (*Id.* at p.15). Thus, for a lower wall of 9.5 feet, a space of at least 19 feet would be needed between it and the upper wall to meet the minimum requirement of the Mesa<sup>R</sup> Block Manufacturer. There is not enough space between any of the walls that are proposed to be tiered. On the current Sketch, there are only 6 feet between the walls. According to the Manufacturer's requirements, there need to be at least 19 feet. How can this Board grant any variance for such proposal which does not appear to be actually feasible?

Applicant's Plans and Sketches provide absolutely no provision for protection or security of the downslope properties should the Mesa<sup>R</sup> Block wall(s) fail. Based on the evidence presented below and substantiated by attached appendices D-H, failure of a Mesa<sup>R</sup> Block wall is a very real possibility.

Although there are no Mesa<sup>R</sup> Block walls in the Village, I was informed recently about two Mesa<sup>R</sup> block walls built in other fairly close towns. One was built at the Peekskill High School and the other at the Library in Ossining. Both Mesa<sup>R</sup> Block walls have failed.

The experience at the Library is informative. The Mesa<sup>R</sup> block retaining wall, about 20 feet high, was erected on a slope below the new Ossining Public Library (OPL). The new OPL opened on March 25, 2007. Thus, the Mesa<sup>R</sup> block retaining wall is about 10 years old; it has been failing since it was only about 7 years old.

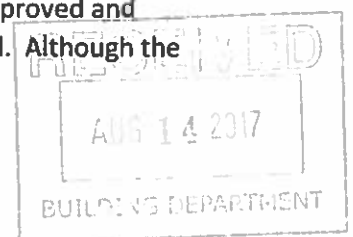
Attached Appendices D-G are photographs of the Mesa<sup>R</sup> block wall at the Ossining Public Library (OPL) taken in August 2017. The Mesa<sup>R</sup> block retaining wall is on a steep slope; above the wall is a Library parking lot. Appendices D and E show the wall from the downslope property. As seen in Appendix D, the Mesa<sup>R</sup> blocks on the face of the wall do not appear aligned and the wall has a "bumpy" appearance. As seen in Appendix E, obvious cracks are visible in the blocks on the face of the wall.

Appendix F shows the wall from the south side of the parking lot. Appendix F shows two images of devices mounted by the engineers to monitor movement or slippage of the blocks. The first image of Appendix F shows the monitoring devices spaced along the wall. The second image is a close up of a monitoring device—the devices are checked on a monthly basis.

Appendix G shows 12 parking spaces above the Mesa<sup>R</sup> block wall retaining the steep slope which have been cordoned off to avoid danger from the failing wall below.

The publicly available Minutes of the Meetings of the Board of Trustees of OPL demonstrate that, beginning as early as October 14, 2014; the Library has an ongoing problem with the Mesa<sup>R</sup> block retaining Wall. Appendix H contains copies of relevant pages of the Minutes of the Meetings of the Board of Trustees for the Library available at [www.Ossining Library.org](http://www.Ossining Library.org).

As illustrated in Appendix H, beginning in October 2014, water presented an issue for the Mesa<sup>R</sup> block wall which became "an Emergency" issue by December of that year. Throughout 2015, various engineers were consulted and by November of 2015, the OPL had spent tens of thousands of dollars monitoring the wall. As of October 25, 2016, the emergency has persisted and monitoring has continued. From Jan-July 2017, the Board has discussed the Retaining wall at most meetings, continued monitoring the Wall, had a Peer Review of the Wall, consulted a geologist, and hired at least one other Engineer for a second opinion. At the most recent meeting July 31, 2017 the Board approved and authorized more tens of thousands of dollars for continued monitoring the failing wall. Although the



Board recognizes it need to “be shovel ready” to deal with the failing wall, no one seems to be able to come up with a solution for fixing the failing wall. (See Appendix H, Minutes of the Board of Trustees of OPL dated July 31, 2017).

Given the apparent inability of many engineers and other experts to find a solution to a failing Mesa<sup>R</sup> Block wall at a public institution what kind of protection would there be for the downslope properties if such wall were to be installed on a residential property with a steep slope? Approval of Applicant’s massive Mesa<sup>R</sup> Block wall on the steep slope solely to enlarge his backyard will be at the expense of the downslope properties. Should the proposed wall fail, all the excessive stone, fill and concrete blocks will surely cascade down slope onto my property and that of my adjacent neighbors on the North and South.

### III. SUMMARY

Applicant persists in seeking no repair or reconstruction of the original railroad tie wall. Applicant seeks only to enlarge the rear yard.

Applicant does not seek a wall even comparable in size to the original wall. Applicant seeks new construction of a massive 20-foot high wall requiring a 230% variance. Even if Applicant were to actually seek the seemingly “lesser” variance needed for the two tier walls presented in the latest Sketch, the impact of the two Mesa<sup>R</sup> block walls of total 20 feet high will be the same on the downslope properties. In either event, the steep slope will be eliminated.

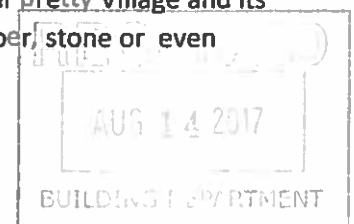
Applicant does not seek to stabilize the steep slope. Applicant’s only goal is to eliminate the steep slope so he can enlarge the rear yard.

Applicant has no regard for the safety of the downslope properties. Applicant cares only to remake the property to suit himself, regardless of the safety of the downslope neighbors. None of Applicant’s plans or sketches addresses any of the significant adverse impacts to the neighbors inherent in his plans.

Applicant seeks to enhance the value of his property to the detriment of his neighbors’ safety and property values.

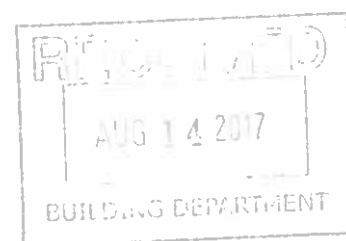
In view of the clarification and the facts, summarized above, it is submitted that the Application should be denied in its entirety by this Board.

As I stated at the very beginning of this Statement, I would like to assure the Board that I am not against a wall being repaired or reconstructed on Applicant’s property. I do believe that the existing long neglected wall should either be repaired or replaced with a wall in the same location as the original. The replacement wall should be of either timber, stone or concrete, at the same height as the original as determined by the Village Engineer, i.e., at 7± feet high. Unlike the proposed Mesa<sup>R</sup> block wall, such repaired or replaced wall would be compatible with the existing character of the neighborhood along Miller/Riverview Avenues. The steep slope would be disturbed during the repair or reconstruction but with a timber, stone or even concrete wall, the slope would recover. This would afford preservation of the steep slope and would be in accord with the Village’s objectives to preserve our pretty Village and its unique landscape features. Should such replacement wall fail, the cascade of timber, stone or even



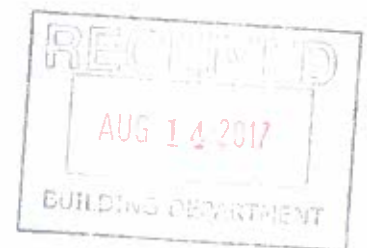
concrete onto the downslope properties would not be nearly as catastrophic as that of the Mesa<sup>R</sup> block, stone and 26 truckloads (or 46.5 truckloads) of compacted fill of Applicant's Plan or Sketch.

My attorney, Kristen Wilson, Esq. will now review the relevant Village Code and balance of equities that further substantiate that the Application should be denied in its entirety.



**LIST OF APPENDICES TO STATEMENT OF GERALDINE F. BALDWIN TO THE ZBA AUG 14, 2017**

- 1. Appendix A: Letter of Andrew J. Allison, AIA dated July 27, 2017 with attached Exhibits A & B**
- 2. Appendix B: : Table of Plans and "Conceptual Sketches of Mesa Block Wall by Applicant**
- 3. Appendix C: Mesa Retaining Wall Systems Overview, pp. 15-16 & Mesa Retaining Wall Systems: Installation and Special Considerations, pp. 6-7, [www.tensarcorp.com](http://www.tensarcorp.com)**
- 4. Appendix D: Photograph of the Mesa Block Retaining Wall at the Ossining Public Library (OPL) taken from the downslope property**
- 5. Appendix E: Photograph of the Mesa block at the OPL showing cracks in the blocks**
- 6. Appendix F: F1: Photograph of the Mesa Block Wall at the OPL showing an engineer's monitoring device on the wall. F2: Close-up photograph of the engineer's monitoring device on the wall.**
- 7. Appendix G: Photograph of the 12 parking spaces cordoned off and unavailable above the Mesa block wall at the OPL.**
- 8. Appendix H: Minutes of Various Meetings of the Board of Trustees of the OPL relevant to issues about the Mesa Block wall.**





**AJA Architecture**  
Three Broad Street  
Glens Falls, NY 12801

- Appendix A

Geraldine F. Baldwin  
66 Riverview Avenue  
Tarrytown, NY 10591

July 27, 2017

Dear Ms. Baldwin:

In response to your request, I provide the following information. I am a practicing Architect, licensed in the State of New York. Although I do not have expertise in interpreting aerial photographs, I am trained and have over 20 years' experience dealing with minute details of site plans, schematics and plans/drawings for buildings and other structures.

Per your request, I have examined two aerial photographs labelled "Mapping Westchester County" and "1976 67 Miller" and "Mapping Westchester County" 2013 67 Miller", attached to this letter, marked A and B. I understand that photographs A and B, taken respectively in 1976 and 2013, of a house at 67 Miller Avenue have been alleged to show:

- 1.) The backyard of the house at 67 Miller Avenue was substantially larger in 1976 when compared to that in 2013; and
- 2.) The presence of a 20-foot-high railroad tie retaining wall in the rear of that yard in 1976.

I have carefully reviewed and compared the two aerial photographs and, based on my experience and expertise as an Architect, I have concluded the following:

- 1). The 1976 photograph is so blurry that it is impossible to determine whether the size of the backyard was larger in 1976 compared to that in 2013; and
- 2.) It is impossible to determine the size of the wall from the aerial photographs.

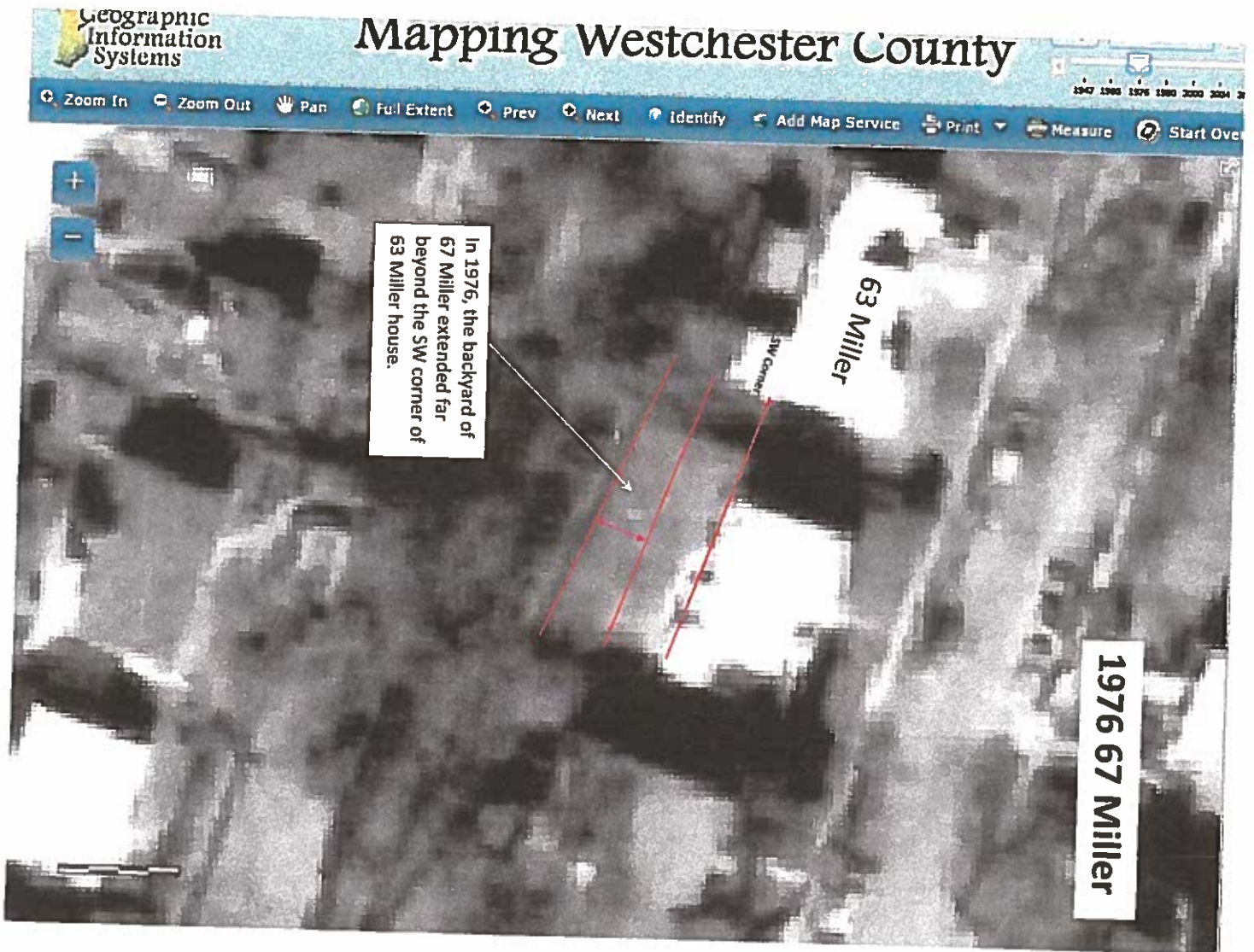
Sincerely,

A handwritten signature in dark ink, appearing to read 'Andrew J. Allison'.

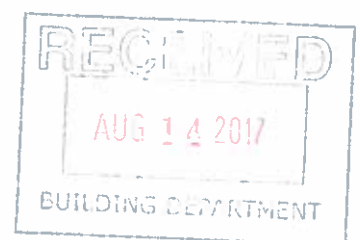
Andrew J. Allison, AIA



- Exhibit A -



- Exhibit B -



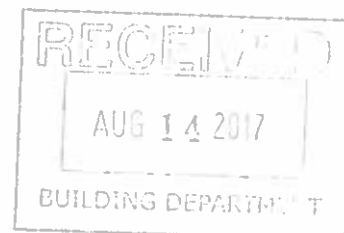
**APPENDIX B: APPLICANT'S PLANS and "CONCEPTUAL SKETCHES" MESA BLOCK WALLS**

Date	Height	Length of Geogrid	Cubic Yards Net Fill (# Truckloads of Fill)
June 12, 2012	Top Wall 10 Feet Lower Wall 8 Feet	10 Feet	Not indicated
Sept 5, 2012	One Wall 20 Feet	?	
April 1, 2013	One Wall 14 Feet	16 Feet	86 (8.6)
June 1, 2013	One Wall 12 Feet	?	
August 22, 2013	One Wall 20 Feet	16 Feet	
January 27, 2017	Top Wall 10 Feet Lower Wall 8 Feet	10 Feet 10 Feet	0 (0)
February 23, 2017	Top Wall 10 Feet Lower Wall 8 Feet	10 Feet 8 Feet	332 (33)
April 12, 2017*	Four Walls 6 Feet	10 Feet	545 (54.5)
May 22, 2017**	Three Walls 6 Feet	Not indicated	Not indicated
May 25, 2017	One Wall 20 Feet	16 Feet	262 (26)
July 10, 2017**	Top Wall 9.5 Feet Lower Wall 9.5 Feet	Not indicated	475*** (47.5)
July 31, 2017**	Top Wall 10.5 Feet Lower Wall 9.5 Feet	Not indicated	465 (46.5)

\* Conceptual Sketch Only—No details re construction— When asked how this would be built, the Engineer responded that he did not know

\*\* Conceptual Sketch Only—No details re construction

\*\*\*Engineer stated this is a "guesstimate"- No details re construction



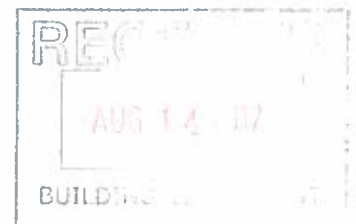
## DESIGNING FOR SPECIAL CONSIDERATIONS

Serpentine walls blend with naturally curving contours, while inside and outside corners complement the traditional angular look of existing structures. With the Mesa® Systems, your design options have no bounds.

- ▶ **Curves and Corners** – Designing for inside, outside and serpentine curves as well as 90° inside and outside corners is easy since the unique locking connector makes alignment and installation quick and simple.
- ▶ **Steps** – Whether you require steps inside or in front of your wall, the Mesa Systems are up to the challenge. By offering different size and style units to aid in your project requirements, virtually any design can be achieved.
- ▶ **Tiered and Terraced Walls** – A less obtrusive alternative than conventional wall solutions, tiered and terraced walls can be built in areas with sufficient land space. For each wall to be considered an independent structure, typical design guidelines require enough “green space” between the walls equal to or greater than two times the height of the lower wall.

- ▶ **Facing Combinations** – The blend of hardscape and softscape (vegetated face) is often preferred on projects that require an aesthetically green look.

For more information on design and construction of these or other special considerations, please refer to the *Mesa Systems Installation and Special Considerations Manual*. Other requirements and limitations based on actual site conditions may also apply.



# Standard Installation Procedures

The following steps provide a generalized guideline for installing a Mesa® Retaining Wall System with the Mesa Standard Unit. These steps will take you through a typical installation from start to finish.

Additional information is contained within the *Mesa Systems Installation and Special Considerations Manual* available at [www.tensarcorp.com](http://www.tensarcorp.com).

**NOTE:** Specific requirements and installation steps for your project are governed by the final drawings sealed by a registered professional engineer and the project specifications. Another useful document which should be consulted prior to final design and construction is the NCMA Segmental Retaining Wall Drainage Manual (2002).



## Step 1: PRECONSTRUCTION PREPARATION

It's important to be familiar with the components of the Mesa® Systems prior to the start of construction. Below is a list of these components and the tools needed to aid you in the construction of a standard Mesa Wall. Mesa Corner Units, drainage composite, piping and geotextile materials may also be required.

### MESA COMPONENTS:

- ▶ Mesa Block
- ▶ Mesa Connector
- ▶ Tensar® Geogrid
- ▶ Mesa Cap Unit (if applicable)
- ▶ Concrete adhesive (if applicable)

### SUGGESTED TOOLS FOR INSTALLATION:

- ▶ Dead blow hammer
- ▶ 2- to 4-ft level
- ▶ Utility saw and/or grinder
- ▶ Masonry string and chalk line
- ▶ Pitchfork (used to help remove slack from geogrid)
- ▶ Shovels
- ▶ Compaction equipment

## Step 2: PREPARE THE LEVELING PAD

Prepare the subgrade by excavating or filling vertically to plan elevation and horizontally to design geogrid lengths. If the excavated material can meet the reinforced fill requirement, then it can be stockpiled with surface vegetation and debris removed prior to backfill. Start the leveling pad at the lowest elevation of the wall. Level the prepared base with 6 in. of unreinforced concrete or well-compacted granular fill (gravel, road base or  $\frac{3}{4}$  in. minus crushed stone). The leveling pad is typically 12 in. wider than the Mesa Unit, extending 6 in. in front of and 6 in. behind the unit. Compact the well-graded stone in accordance with project plans and specifications. Aggregate leveling pads are generally overbuilt and should be carefully trimmed down to meet the proper elevation.

Steps in the leveling pad are required to change elevation. It is important that the height of the step is equal to the height of the number of unit courses. If a concrete leveling pad is used, it is important to have the step-up heights match the Mesa Unit's height exactly. If not, grinding and/or shimming may be required.

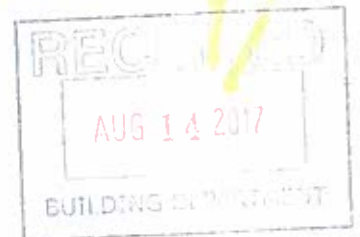
**NOTE:** The leveling pad requirements and the suitability of the foundation soil for your project should be determined by a qualified professional engineer engaged by the installer on the project.

## Step 3: INSTALL THE BASE COURSE

Once the pad is in place, begin by making a wall line where the units will be positioned. Chalk works well for concrete, while string works well for aggregate. Place the first course of Mesa Units tightly together, with the sides touching and the textured face outward. The first course must be accurately placed to align with the string line, carefully spaced and leveled to facilitate construction and enhance the appearance of the wall. The tail of the unit should always be used to align the wall face. Occasionally, a unit will have a slight difference in height. If this occurs, the rib or fingers of the geogrid may be used to shim the face or tail back to level.

**NOTE:** Surface or subsurface water should never be allowed to saturate the backfilled reinforcement zone. Adequate drainage measures, the testing of site soils and backfill compaction, and overall construction quality control are responsibilities of the owner or owner representatives (not Tensar).

**NOTE:** A qualified professional geotechnical engineer should evaluate the site, surface and subsurface conditions, other environmental factors and the intended use and location of the wall in advance of final wall design and installation.



**FIGURE 1:** Prepare for wall construction by clearing the site and cutting and color-coding the Tensor® Geogrid.



## Construction and Quality Control

### 1.1 CONSTRUCTION RESPONSIBILITIES

This installation section of the manual provides general guidelines for construction and quality control of the installation. This section should be provided to the owner's engineer, the construction quality assurance inspector and the contractor. Specific construction details and procedures depend on individual site conditions and other considerations, which are the responsibility of the owner and engineer.

**NOTE:** All installation instructions apply to the Meso® Standard Unit except where otherwise stated.

The contractor must provide construction in accordance with the contract documents, plans and specifications. The contractor is also responsible for the verification of line, grade and other physical features as well as surface water drainage control.

### 1.2 MATERIALS AND HANDLING

#### Materials Supplied

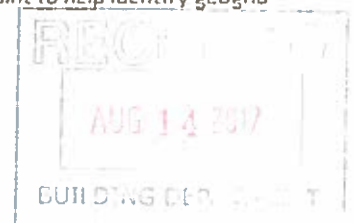
- ▶ Mesa Units and Connectors
- ▶ Mesa Cap Units (where required)
- ▶ Tensor® Uniaxial (UX) and/or Biaxial (BX) Geogrids
- ▶ Drainage composite and piping (where required)
- ▶ Geotextile filter materials (where required)

#### Handling Wall Materials

- ▶ The concrete facing units are delivered on pallets and off-loaded by the contractor. Transporting equipment must have firm ground and a stable, level area to off-load. A forklift is normally used to handle pallets. If pallets are the property of the block manufacturer, they must be stored by the contractor for pick up. The contractor must provide protection from staining or discoloration of the units by using wood dunnage and polyethylene sheet film, or similar.
- ▶ The Mesa Connectors are shipped in cartons and should be stored in a secure and dry location.
- ▶ Tensor Geogrids are shipped in roll form; the contractor is responsible for off-loading.
- ▶ Geogrid rolls should be stored in a secure area. Each roll will be labeled by type, lot number and roll number.



- ▶ Standard Tensor UX Geogrid roll sizes are 4.36 ft wide x 200 or 250 ft long (1.33 m x 61 m or 76 m). Rolls weigh between 87 and 170 lbs (40 and 77 kg) depending on type. Before labels have been removed, rolls should be color-coded with spray paint to help identify geogrid type (Figure 1).



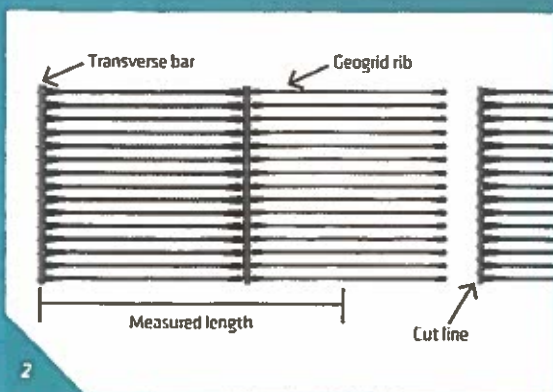


FIGURE 2: Cut Tensor Geogrid at nearest transverse bar beyond the measured length.

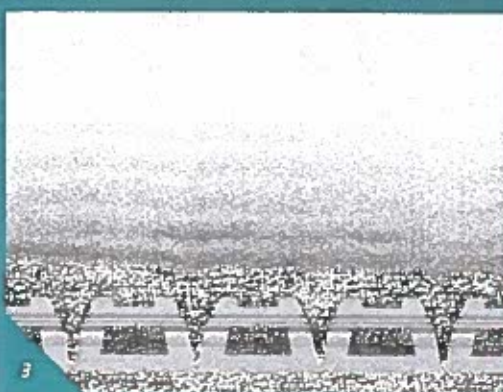


FIGURE 3: The base course of Mesa® Units.

- It is the contractor's responsibility to verify the quantities shipped and condition of the materials. The contractor will inventory materials supplied to assure sufficient quantities have been delivered.
- The contractor will be allowed a limited amount of time to off-load materials.
- If certifications are required, the contractor must provide a written request prior to shipment of the material. The contractor will ensure that all information, including product type, roll/lot number, etc. is furnished to the engineer.

### Contractor Supplied Materials

- Dead blow hammer
- 2- or 4-ft (.61 or 1.22 m) levels
- Utility saw and/or grinder
- Masonry string and chalk line
- All cast-in-place concrete and structural components
- Stone filter medium
- Reinforced or select fill
- Pitchfork, stakes and/or rods used to remove slack from geogrid
- All labor, equipment and supervision necessary to perform the total Mesa® Wall construction

### 1.3 WALL CONSTRUCTION PREPARATORY WORK

- Verify approval of Mesa Units, Tensor® Geogrids and the specified reinforced fill.
- Review drawings to plan geogrid layout. Review drawings and site plans to consider surface water drainage control both during and after construction.

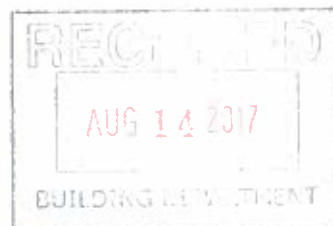
- Prepare subgrade by excavating vertically to plan elevation and horizontally to design geogrid lengths. If a rock face is shown, it is the responsibility of the Engineer to determine the competency of the rock at the limits of excavation shown on those plans.

**NOTE:** Any deviation in the location of the rock face with respect to the face of the retaining wall may require an adjustment to the Tensor Geogrid design and the Engineer of Record must be notified by the contractor prior to proceeding with the wall construction.

- The subgrade shall be approved before proceeding with wall construction. Any foundation soils found unsuitable by the engineer shall be treated in a manner approved by the engineer.
- To speed up construction on larger projects, we suggest cutting the Tensor Geogrids in advance. Cut geogrid at the nearest transverse bar beyond the measured length (illustrated in Figure 2) or several inches in front of the transverse bar to provide "finger shims" (Figure 8 on page 9).

### LEVELING PAD CONSTRUCTION

- The leveling pad must be flat and level to assure the first course of Mesa Units will provide uniform support to the courses above it. Non-uniform support will induce tensile stresses and shear stresses in the Mesa Units above the first course that can result in cracking.
- The leveling pad (Figure 3) may be constructed with unreinforced concrete or compacted  $\frac{3}{4}$  in. (1.9 cm) minus, well-graded aggregate. It is typically 12 in. (30 cm) wider than the Mesa Units, providing 6 in. (15 cm) in front of and behind the Mesa Unit allowing for wall curvature and minor alignment adjustments. It is generally 6 in. (15 cm) deep. For unreinforced concrete leveling pads, steel or wood forms are generally required to assure that the top of the leveling pad is flat and level. For aggregate leveling



Appendix D



Appendix E



Appendix F 1



Appendix F2



# Appendix G



# Appendix H

OPL BOT Regular Meeting, October 27, 2014

## Building and Grounds Committee

- The Board asked that Randy Martin and John Tortoso attend the next Board meeting.
- Retaining Wall – problem with water. John Crawford and Matthew Weiss will take pictures of wall. Board needs to get someone in to inspect it.
- Revisit roof clips – have letter sent by attorney to manufacturer asking manufacturer to honor his warranty
- Paint chipping from prior water leakage – 2<sup>nd</sup> floor
- Need for prioritizing building items
- Bids on window cleaning
- Next Board Meeting on November 10 is a Work Session. Topics to discuss:
  - \* HVAC
  - \* Roof letter
  - \* Look into retaining wall inspector
  - \* Windows and painting
  - \* Randy Martin and John Tortoso
  - \* Lower circle/curbing

Safety Planning Committee – they are working on the Disaster Plan.

## Resolutions

### RESOLUTION #22

RESOLVED, that the Board of Trustees approves the personnel changes so noted.

Name	Title	Department	Projected Hrs.	Salary	Effect. Date
<b>NEW HIRES</b>					
Carleen Ince	Lib. Clerk	Circ. Dept.	Up to 17 hrs/wk	\$17.77/hr.	10/7/14 (\$302.09/wk)
Marco Llano	Lib. Clerk	Circ. Dept.	Up to 17 hrs/wk	\$17.77/hr.	10/17/14 (\$302.09/wk)
Marcie McMahon	Page	Children's	12 hrs/wk	\$8.00/hr.	10/16/14 (\$96.00/wk)
Thao Nguyen	Librarian I	Children's	On call	\$28.96/hr.	10/4/14

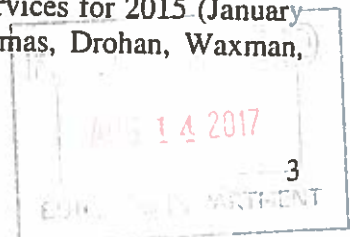
### RESOLUTION #23

RESOLVED, that the Board of Trustees accepts, with thanks, the following:

1. A 90% appropriation of the 2014 LLSA in the amount of \$8,095.50. The LLSA-NYS Grant line (2760000) of the Revenue Report will be increased by \$8,095.50.
2. A grant in the amount of \$700 for the Learning Ambassador Program. The Miscellaneous Grants line (2760003) of the Revenue Report will be increased by \$700.
3. A donation in the amount of \$10 from Alfred Goyburu. The Gifts and Donations line (2705000) of the Revenue Report will be increased by \$10.

### RESOLUTION #24

RESOLVED, that the Board of Trustees approves the fees for legal services for 2015 (January 1-December 31) as outlined in the October 14, 2014 letter from Thomas, Drohan, Waxman, Petigrow & Mayle, LLP.



**BOARD OF TRUSTEES**  
**OSSINING PUBLIC LIBRARY**  
*Special Meeting/Work Session*  
*November 10, 2014, 7:00 p.m.*

**MEETING MINUTES**

**In Attendance:** Alice Joselow, *President*; Lucinda Manning, *Vice President*;  
Madeline Zachacz, *Secretary*; John Crawford, Debbie Goddard,  
Matthew Weiss, Stephanie Unger

**Staff:** John Tortoso

**Public:** Randy Martin

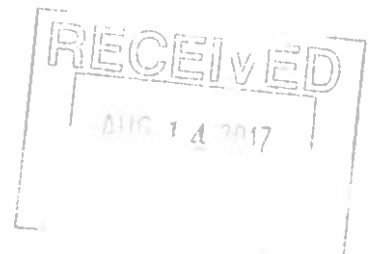
**Call to Order**

At 7:06 p.m. President Alice Joselow called the November 10, 2014 Special Meeting to order.

**Work Session**

**HVAC: Randy Martin and John Tortoso**

- Matthew Weiss briefly discussed how John Tortoso introduced the Building and Grounds Committee to Mr. Martin.
- We should have gotten a heat reclamation system, but even that wouldn't have been enough.
- Supplemental heat should have been required – even with shutting all dampers, our system is not going to be able to get the building to a comfortable temperature without supplemental heat.
- Leaks along ceiling as well – cold is everywhere because of the glass. No positive pressure.
- No question – must have supplemental heat. Electric is expensive, oil is not environmentally friendly and needs lots of maintenance. Natural gas (20-30% less than other fuels) which we have although we need to upgrade the meter. Uses PVC, no oil tanks.
- Geothermal will always need maintenance – “can't fix broken.”
- Cooling tower is what we need. Supplemental system can kick on at the peaks and troughs of temperature.
- Timeline: (1) Design and layout, calculation; (2) ConEd: 10-12 months. Get in touch with Senator Carlucci's office to see if we can move that along! Con Ed may or may not be able to upgrade it for free.
- Outer perimeter is where greatest heat loss happens
- Low electricity solution. May be a matter of \$1,000/year in maintenance.
- Randy Martin will submit agreement to Board for December 3 Work Session by 6:00 p.m. Monday, November 24.



**Roof letter**

- Letter to Judith Mayle re: Roof Contractor

**Retaining wall inspection**

- Matthew Weiss to ask John Tortoso to get two commitment-free quotes/ideas from engineers.

**Executive Session**

At 7:58 p.m. Madeline Zachacz moved and Debbie Goddard seconded the motion to move into Executive Session. Motion passed.

At 8:05 p.m. Madeline Zachacz moved and Matthew Weiss seconded the motion to move out of Executive Session. Motion passed.

**Adjournment**

At 8:06 p.m. Madeline Zachacz moved and Debbie Goddard seconded the motion to adjourn the November 10, 2014 Special Meeting of the Board of Trustees.

Respectfully submitted,  
Madeline Zachacz, Secretary



- “Emergency” Issues:
  - \* Retaining Wall - Warranty has expired. Need structural engineer to inspect. If there is a fee John Tortoso will let Board know.
  - \* Development of Up-to-Date Evacuation/Disaster Plan  
Review what we already have - Police, EMS. Show plan to Scott Craven or J.T. Camp (Fire Dept.)  
Emergency Procedures for Personnel - People part/Material part  
Disaster Recovery Plan Company?

**RESOLUTION #28**

**RESOLVED**, that the Board of Trustees accepts, with regret, the resignation of John Crawford in accordance with his email dated November 20, 2014.  
Debbie Goddard moved and Stephanie Unger seconded the motion to approve Resolution #28. Motion passed unanimously.

**Executive Session**

At 7:06 p.m. Madeline Zachacz moved and Debbie Goddard seconded the motion to enter into Executive Session to discuss personnel matters. Motion passed.

At 7:35 p.m. Stephanie Unger moved and Debbie Goddard seconded the motion to leave Executive Session. Motion passed.

**Adjournment**

At 8:09 p.m. Matthew Weiss moved and Debbie Goddard seconded the motion to adjourn the December 3, 2014 Special Meeting of the Board of Trustees.

Respectfully submitted,  
Kathy Beirne, Secretary to Director



**REGULAR MEETING**

**Approval of Prior Meeting Minutes**

Motion to Accept the Minutes of the June 22, 2015 Regular Meeting and the March 19, 2015 Special Meeting of the Board of Trustees.

Madeline Zachacz moved and Matthew Weiss seconded the motion to approve the June 22 and the March 19, 2015 meeting minutes. Motion passed unanimously.

**Public Comment** - None

**Director's Report and Personnel Report**

- \* Chris Surovich stepping down from *Time 4 Twos* Program
- \* Teens' and Children's Summer Programs
- \* Battle of the Books in October

Operating Budget and Revenue Report (*Not yet finalized for year-ending June 30, 2015*)

**Committee Reports**

**President's Report**

- \* New Director visit to be scheduled in August
- \* Union Grievance



**Policy and Bylaws/Personnel Committee**

- \* Fringe Benefits Policy for Non-Union Employees (and CSEA new contract) – carryover of vacation days to be addressed – no more than one week of vacation carried over - no more unlimited carryover.

**Finance Committee**

- \* Tax Certioraris – school district refunded money to library. Budget line for certioraris.

**Buildings and Grounds Committee**

- \* Review building plans for lot and wall
- \* Phones – ITC has upgraded the system with off premises access to status update
- \* Update of building locks
- \* Wobble upgrade – no response from Wobble yet
- \* Parking lot lines repainting
- \* Monitoring of wall – Board needs to review proposal
- \* Write RFP – engineers to advise/study solution; design and execute same
- \* Window washing has begun

**Resolutions**

**RESOLUTION #13**

**RESOLVED**, that the Board of Trustees approves the personnel changes so noted.

<u>Name</u>	<u>Title</u>	<u>Dept</u>	<u>Proj Hrs.</u>	<u>Salary</u>	<u>Effect. Date</u>
<b><u>NEW HIRES</u></b>					
Skyler Jones	Page	Children's	6 hrs/wk	\$8.75/hr	06/05/15
Christopher Blaha	Page	Teens	6 hrs/wk	\$8.75/hr	06/29/15
Kerry Cavanagh	Page	Children's	6 hrs/wk	\$8.75/hr	06/07/15
Karen LaRocca-Fels	Director III	Admin.	35 hrs/wk	\$112,000/yr	09/01/15

**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Special Meeting/Work Session  
November 2, 2015, 8:00 p.m.**

**DRAFT MEETING MINUTES**

**In Attendance:** Alice Joselow, *President*; Madeline Zachacz, *Vice President*;  
Matthew Weiss, *Secretary*, Debbie Goddard, Lucinda Manning,  
Cecilia Quintero, Stephanie Unger

**Staff:** Karen LaRocca-Fels, *Director*; Molly W. Robbins, *Assistant Director*;  
John Tortoso, Building Consultant

**Call to Order**

At 7:58 p.m. President Alice Joselow called the November 2, 2015 Special Meeting of the Board to order.

**Pledge of Allegiance**

All those present stood for the Pledge.

**Work Session**

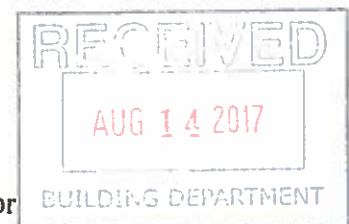
- Building and Grounds Presentation – Molly Robbins, Assistant Director  
Work responsibilities re-evaluated by Molly, Karen and John Tortoso. Two page handout distributed – Tracking and Maintenance.  
Critical Projects: Heating System  
Facilities Committee – meet with staff monthly to stay up to date with Board  
John Tortoso – large projects – equipment is priority  
Molly Robbins – maintenance  
Heating Grant – NYS \$50,000 is forthcoming  
Wall consultant \$20,000 spent to date for monitoring  
Roof – attorney review underway  
Deteriorating cement at traffic circle waiting for ConEd to complete work before repair

\$3,400.78 owed to Maureen Sullivan for consulting.

- Fringe Benefits Policy for Non-Union Employees  
Nearing completion for review and approval.
- Finance Committee – Set Date to Meet With Auditor to Review Audit  
Will set up date to meet with Auditor.

**Executive Session**

At 9:03 p.m. Madeline Zachacz moved and Stephanie Unger seconded the motion to enter into Executive Session for the purpose of discussing personnel matters. Motion passed unanimously.



the February 22, 2016 Regular Meeting of the Board. Motion passed.

<i>Vote</i>	<b>D Goddard</b>	<b>A Joselow</b>	<b>L Manning</b>	<b>C Quintero</b>	<b>S Unger</b>	<b>M Weiss</b>	<b>M Zachacz</b>
<i>Yes</i>	X	X	X	X		X	X
<i>No</i>							
<i>Abstain</i>					X		

Motion to Accept the Minutes of the March 14, 2016 Special Meeting of the Board of Trustees.

Stephanie Unger moved and Madeline Zachacz seconded the motion to approve the Minutes of the March 14, 2016 Special Meeting. Motion passed.

<i>Vote</i>	<b>D Goddard</b>	<b>A Joselow</b>	<b>L Manning</b>	<b>C Quintero</b>	<b>S Unger</b>	<b>M Weiss</b>	<b>M Zachacz</b>
<i>Yes</i>		X	X	X	X	X	X
<i>No</i>							
<i>Abstain</i>	X						

### Director's Report

- The Board asked questions about Linda Puskar's sudden resignation. We are temporarily piecing together hours with other staff members. Replacement search has begun.

### Committee Reports

#### **Policy and Bylaws, Personnel – First Reading: Revised Nook Policy**

- Nooks not circulating
- Reduce fines for losing Nooks from \$200 to \$100
- Extend lending time to 3 months

Board decided to table approval until next meeting/Policy Committee review. Also, add review of Procurement Policy.



#### **Building and Grounds**

- Bids for repairs to HVAC system put out
- Clean Air on hold
- Wall: set up for dye test - results from test will tell us what we're dealing with
- Safety trainings being scheduled. Active Shooter tabletop/AED training
- Vending machines will be brought in – due 5/1/16 – per Stephanie Unger
- Hire new lawyers to investigate roof

### Resolutions

#### **RESOLUTION #40**

**RESOLVED**, that the Board of Trustees approves the following personnel change:

#### **RESIGNATION:**

<u>Name</u>	<u>Title</u>	<u>Department</u>	<u>Hrly. Rate</u>	<u>Hrs Wrk</u>	<u>Effective Date</u>
Linda Puskar	Librarian I	Children's	\$31.37	17 hrs/wk	03/07/16

Lucinda Manning moved and Madeline Zachacz seconded the motion to approve Resolution #40. Motion passed.

### Old Business

- Long Range Plan – on track – focus group meetings scheduled – still waiting for survey

**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Special Meeting  
October 25, 2016, 7:00 p.m.**

**MEETING MINUTES**

**In Attendance:** Alice Joselow, *President*, Matthew Weiss, *Vice President*, Stephanie Unger, *Secretary*, Debbie Goddard, Lucinda Manning

**By Phone:** Madeline Zachacz (until 7:25 p.m.)

**Absent:** Peter Capek

**Staff:** Karen LaRocca-Fels, Director; John Tortoso, Consultant

**Call to Order**

At 7:12 p.m. President Alice Joselow called the October 25, 2016 Special Meeting of the Board of Trustees to order.

**Pledge of Allegiance**

All those present stood for the Pledge of Allegiance.

**Retaining Wall**

The Board of Trustees discussed possible problems with the retaining wall and approved the following resolutions:

**RESOLUTION #23 – EMERGENCY AUTHORIZATION TO KAREN LAROCCA-FELS**

**RESOLVED**, that the Board of Trustees designates that the condition of the Retaining Wall is an emergency situation and authorizes Karen LaRocca-Fels, Director, to take action after conferring with the Ossining Public Library Board of Trustees Building Committee. The full Board of Trustees authorization and consensus is not required.

Stephanie Unger moved and Matthew Weiss seconded the motion to approve Resolution #23. Motion passed. Lucinda Manning abstained.

**RESOLUTION #24 – STRUCTURAL MONITORING SERVICES**

**RESOLVED**, that the Board of Trustees accepts the proposal from Contractors' Line & Grade South, LLC for weekly monitoring & utility survey of the Retaining Wall for a period of one month. The Board will re-evaluate the situation at the end of the month and will determine further service requirements at that time.

Stephanie Unger moved and Matthew Weiss seconded the motion to approve Resolution #24. Motion passed. Lucinda Manning abstained.

**Adjournment**

At 8:22 p.m. Stephanie Unger moved and Matthew Weiss seconded the motion to adjourn the October 25, 2016 Special Meeting of the Board of Trustees. Motion passed unanimously.

Respectfully submitted,  
Stephanie Unger, *Secretary*



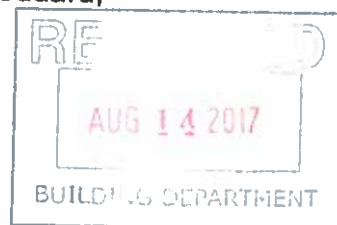
**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Executive Session & Special Meeting  
November 16, 2016, 6:00 p.m.**

**MEETING MINUTES**

In Attendance: Alice Joselow, *President*, Matthew Weiss, *Vice President*,  
Stephanie Unger, *Secretary*, Peter Capek, Debbie Goddard,  
Lucinda Manning, Madeline Zachacz

Staff: Karen LaRocca-Fels, Director

Other: Craig Olivo, Esq.



Call to Order

At 6:13 p.m. President Alice Joselow called the November 16, 2016 Special Meeting of the Board of Trustees to order.

Executive Session

At 6:13 p.m. Debbie Goddard moved and Matthew Weiss seconded the motion to enter into Executive Session to discuss the Director's contract. Motion passed unanimously.

At 7:10 p.m. Peter Capek moved and Madeline Zachacz seconded the motion to leave Executive Session. Motion passed unanimously.

Special Meeting

Pledge of Allegiance

All those present stood for the Pledge of Allegiance.

Executive Session

At 7:11 p.m. Debbie Goddard moved and Peter Capek seconded the motion to enter into Executive Session to discuss the new CSEA contract. Motion passed unanimously.

At 8:37 p.m. Matthew Weiss moved and Madeline Zachacz seconded the motion to leave Executive Session. Motion passed unanimously.

Work Session

- Retaining Wall  
The retaining wall is being addressed.
- Proposals:
  1. Canopy Roof

**RESOLUTION #32, APPROVAL LONG RANGE PLAN REVISED DRAFT**

**RESOLVED**, that the Board of Trustees approves the Long Range Plan Revised v7 01/09/2017 Draft as prepared by Alan and Leslie Burger.

Madeline Zachacz moved and Matthew Weiss seconded the motion to approve Resolution #32. Motion passed. Peter Capek abstained.

**Work Session (additional items)**

- **Printer Contract**  
The contract with CBS expires in March. Karen presented Board with proposals from Toshiba Business Solutions and Office Dynamics. She will make recommendation to the Board as soon as possible.
- **HVAC System Assessment**  
Karen distributed OLA Consulting Engineers report. The consultant will be back to do formal presentation with full Board.
- **Retaining Wall**  
Board reviewed the latest report. AAAE to come in and give full report to the Board
- **Ossining Basics**  
Board reviewed letter of appreciation for OPL participation in the Ossining Basics kickoff.

At 8:17 p.m. Stephanie Unger moved and Matthew Weiss seconded the motion to enter into Executive Session to discuss personnel matters. Motion passed unanimously.

At 8:31 p.m. Stephanie Unger moved and Matthew Weiss seconded the motion to leave Executive Session. Motion passed unanimously.

**RESOLUTION #33, APPROVAL OF CONFIDENTIAL EMPLOYEE CONTRACT**

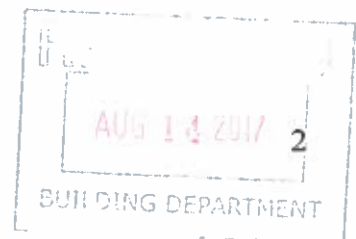
**RESOLVED**, that the Board of Trustees approves the 1/09/17 contract for Confidential Employee Robert Majernik effective January 1, 2017 through June 30, 2018.

Matthew Weiss moved and Stephanie Unger seconded the motion to approve Resolution #33. Motion passed unanimously.

**RESOLUTION #34, APPROVAL OF CONFIDENTIAL EMPLOYEE CONTRACT**

**RESOLVED**, that the Board of Trustees approves the 1/09/17 contract for Confidential Employee Kathleen Beirne effective January 1, 2017 through June 30, 2018.

Matthew Weiss moved and Stephanie Unger seconded the motion to approve Resolution #34. Motion passed unanimously.



**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Regular Monthly Meeting  
January 30, 2017, 7:00 p.m. (Rescheduled from 1/23/17)**

**MEETING MINUTES**

In Attendance: Alice Joselow, *President*, Matthew Weiss, *Vice President*, Stephanie Unger, *Secretary*, Peter Capek, Debbie Goddard, Lucinda Manning, Madeline Zachacz

Staff: Karen LaRocca-Fels, *Director*; Molly Robbins, *Assistant Director*; John Tortoso, *OPL Building & Grounds Contractor*

Other: (HVAC) Jim Dolan, *OLA*; (Wall) Robert Antonucci, Nunzio Pietrosanti; Drew Macko of AAAE; Robert Simpson, *Carlin, Simpson & Associates*

Call to Order

At 7:01 p.m. President Alice Joselow called the January 30, 2017 Regular Meeting of the Board of Trustees to order.

Pledge of Allegiance

All those present stood for the Pledge of Allegiance.

Public Comment - None

*Moved up in the Agenda:*

New Business

1. *Report on Wall by Antonucci & Associates*  
Antonucci & Associates submitted report dated January 30, 2017. The report was discussed at length.
2. *HVAC Assessment Report*  
Jim Dolan submitted report to the Board dated January 23, 2017. Discussion took place.

Approval of Prior Meeting Minutes

Motion to accept the revised meeting minutes of the December 12, 2016 Regular Meeting of the Board of Trustees.

Matthew Weiss moved and Madeline Zachacz seconded the motion to approve the revised December 12, 2016 Regular Meeting Minutes of the Board. Motion passed unanimously.

Motion to accept the revised meeting minutes of the January 9, 2017 Special Meeting of the Board of Trustees.

Madeline Zachacz moved and Stephanie Unger seconded the motion to approve the revised

AUG 14 2017

**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Special Meeting/Work Session  
February 13, 2017, 7:00 p.m.**

**MEETING MINUTES**

In Attendance: Alice Joselow, *President*, Matthew Weiss, *Vice President*,  
Stephanie Unger, *Secretary*, Peter Capek, Debbie Goddard,  
Lucinda Manning, Madeline Zachacz

Staff: Karen LaRocca-Fels, Director; Kathy Beirne, Secretary to Director

Other: Jim Dolan, OLA Consulting Engineers (via phone)

Call to Order

At 7:03 p.m. President Alice Joselow called the February 13, 2017 Special Meeting of the Board of Trustees to order.

Pledge of Allegiance

All those present stood for the Pledge of Allegiance.

Work Session

- Wall Discussion

Discussion points:

- Need for wall planning process
- Further information required
- Obtain second opinion
- Protecting the integrity of the wells
- Go back to Antonucci
- Ask Village Engineer to make recommendation

- HVAC Discussion

The Board discussed the HVAC (and the state of the wall) via phone call with Jim Dolan of OLA.

- Hudson Steppe PILOT

Karen and Peter attended a Village Board Meeting for overview of the PILOT. Karen will meet with representatives from Hudson Steppe.

- Rescheduling 2/27/17 Regular Meeting of the Board

The regular meeting was rescheduled to begin at 6:30 (changed later to 6:45 PM), meeting minutes approved, resolutions and then Long Range Planning.

Adjournment

At 8:43 p.m. Madeline Zachacz moved and Matthew Weiss seconded the motion to adjourn the February 13, 2017 Special Meeting of the Board of Trustees. Motion passed unanimously.

Respectfully submitted,  
Kathy Beirne, Secretary to Director



**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Special Meeting/Work Session  
March 13, 2017, 7:00 p.m.**

**MEETING MINUTES DRAFT**

**In Attendance:** Alice Joselow, *President*, Matthew Weiss, *Vice President*, Stephanie Unger, *Secretary*, Peter Capek, Debbie Goddard, Lucinda Manning (arrived at 7:27 PM), Madeline Zachacz

**Staff:** Karen LaRocca-Fels, *Director*; Kathy Beirne, *Secretary to Director*

**Call to Order**

At 7:06 p.m. President Alice Joselow called the March 13, 2017 Special Meeting of the Board of Trustees to order.

**Pledge of Allegiance**

All those present stood for the Pledge.

**Work Session**

- ***Retention of Bond, Schoeneck & King, PLLC – General Counsel Services***  
The Board discussed the appointment of Bond, Schoeneck & King, PLLC as Library General Counsel. See Resolution #37.

**RESOLUTION #37**

**RESOLVED**, that the Board of Trustees approves the appointment of Bond, Schoeneck & King, PLLC as Library General Counsel for a period of one year effective March 15, 2017 through March 14, 2018 at the special blended hourly rate of \$245 per hour.

Matthew Weiss moved and Madeline Zachacz seconded the motion to approve Resolution #37. Motion passed unanimously. (Lucinda not present for vote.)

- ***Antonucci & Associates Consulting Engineering Services for Retaining Wall & Associated Work***

Karen reviewed history of the wall as she was able to reconstruct. Board discussed. Further review to be obtained by another engineer and possible review assistance from School District Superintendent of Buildings and Grounds.

Review again at next scheduled meeting, March 27, 2017.



**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Special Meeting/Work Session  
May 8, 2017, 7:00 p.m.**

**DRAFT MEETING MINUTES**

In Attendance: Alice Joselow, *President*, Matthew Weiss, *Vice President*,  
~~Stephanie Unger~~, *Secretary*, Peter Capek, Debbie Goddard,  
Lucinda Manning, Madeline Zachacz

Staff: Karen LaRocca-Fels, *Director*; Kathy Beirne, *Secretary to Director*

Call to Order

At 7:11 p.m. President Alice Joselow called the May 8, 2017 Special Meeting of the Board of Trustees to order.

Pledge of Allegiance

All those present stood for the Pledge.

**RESOLUTION #45**

**RESOLVED**, that the Board of Trustees approves the payments represented by the unpaid bills report of May 8, 2017 reviewed by the Board.

Debbie Goddard moved and Matthew Weiss seconded the motion to approve Resolution #45. Motion passed unanimously.

Work Session

- Emergency Procedures Manual draft version – Board to continue to submit suggestions.
- *Library In-Charge Person* (LICP) had first meeting – Karen reviewed procedures and gave tour of building to review Emergency Exits.
- PESH – no report yet but we have been attending to the issues.
- Budget Promotion – put out yard signs. Postcard mailed – next year add sentence in Spanish to refer to Website and Absentee Ballot information.
- Wall – Engineers have additional questions of peer review. Information sent last Friday to SGH. Conference call requested for Thursday or Friday of next week – no confirmation yet.
- Agenda for Annual Meeting, June 12, 2017 – invite LRP focus group participants
- Karen, Alice and Suzy working on Frog Rock \$20,000 Grant. Outreach for Summer Reading – creative programming alternate summer camp at OPL for middle schoolers transitioning to high school.
- Add Jaime Aguirre, Treasurer, to Website



- *Law Enforcement Inquiries Policy* – Policy Committee to review and add language similar to Neighbors' Link procedure. Review with Library-In-Charge Persons. Attorney to review and advise.

#### Old Business

- Long Range Plan – Karen to write implementation matrix.
- Update on Wall – Phone meeting with John Tortoso, Karen with engineers. Board wants to push the meeting forward. (Note: June 29, 2017 Karen, John, Alice and Peter participated in phone meeting with engineers.)
- HVAC – Board asked to bring back Jim Dolan possibly at July 10 meeting to resume start of HVAC improvement plan.
- Update on 125<sup>th</sup> Committee – Meeting Notes were given to Board for their information. Fundraising. Kick-off with big event 2/9/18. Carry programming throughout the year. 12/9/18 final big event. Book authors of Ossining – OPL influence on them.

#### New Business

- **Nomination of Officers**  
Alice Joselow nominated Matthew Weiss as President. Debbie Goddard moved and Madeline Zachacz seconded the nomination.

Madeline Zachacz nominated Alice Joselow as Vice President. Matthew Weiss moved and Stephanie Unger seconded the nomination.

Alice Joselow nominated Madeline Zachacz as Secretary. Stephanie Unger moved and Matthew Weiss seconded the nomination.

- **First Steps**  
Board discussion ensued. Consensus was that it would cause a significant disruption to our patrons.
- **Website Upgrade**  
Tabled until July 10 meeting.

#### Resolutions

##### **RESOLUTION #49 – Unpaid Bills Report and Approval**

**RESOLVED**, that the Board of Trustees approves the payments represented by the unpaid bills report of June 26, 2017 reviewed by the Board.

##### **RESOLUTION #50 – Personnel Changes**

**RESOLVED**, that the Board of Trustees approves the 2017-2018 Salaries per the June 26, 2017 Salaries Schedule and also the following personnel change:



- Patron Privacy and Law Enforcement policies need review.

**Ad Hoc: 125th Committee**

- Fundraising meeting July 11

Revisit LRP focus group community leaders – resource or center of influence for financing. Present strategies plan. Draft overview – email to contacts. Draft of goals on LRP. We still have two \$50,000 awards from PILOTs.

**Resolutions**

**RESOLUTION 14 – Personnel Changes**

**RESOLVED**, that the Board of Trustees approves the following personnel change:

Name	Position	Department	FT/PT	Pay Rate	Effective Date
<b>Resignation:</b>					
Myles Robert	Lib. I	Children's	PT	\$28.96	6/28/17

Alice Joselow moved and Madeline Zachacz seconded the motion to approve Resolution 14. Motion passed unanimously.

**RESOLUTION 15 – Window Cleaning Contract Approval**

**RESOLVED**, that the Board of Trustees approves the window cleaning contract for Clean View Window Cleaning in the amount of \$6,435 for the fiscal year July 1, 2017 through June 30, 2018.

Alice Joselow moved and Matthew Weiss seconded the motion to approve Resolutions 15. Motion passed unanimously.

**RESOLUTION 16 – Unpaid Bills Report and Approval**

**RESOLVED**, that the Board of Trustees approves the payments dated July 10, 2017 represented by the unpaid bills report of July 7, 2017 reviewed by the Board.

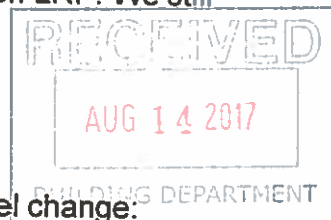
Debbie Goddard moved and Alice Joselow seconded the motion to approve Resolution 16. Motion passed unanimously.

**Old Business**

- Wall  
Per conference call with geologist wall needs to be monitored – it is vulnerable to fail. We need to be ready with shovel-ready project and the funds to move ahead. Board asked for alternatives besides digging. Karen did not receive wall report for meeting. We need strategies for remediation. Kathleen Dunne (the wall designer) will locate original plans to build the wall.
- HVAC Recommendations  
We still have the two NYS \$50,000 grants.

**New Business**

- Open Trustee Term Ending June 30, 2018 due to Stephanie Unger's Resignation



**BOARD OF TRUSTEES  
OSSINING PUBLIC LIBRARY  
Special Meeting/Work Session  
July 31, 2017, 7:00 p.m.**

**AGENDA draft**

**Call to Order**

**Pledge of Allegiance**

**Work Session**

- Unpaid bills
- HVAC Discussion – Jim Dolan
- Wall Update and Estimate
- Security Upgrade and Sidewalk Project
  - Possible Construction Grant Project
- Boat Donation Offer



**Resolutions**

**RESOLUTION #17**

**RESOLVED**, that the Board of Trustees approves the Unpaid Bills Payment Schedule dated July 28, 2017 that was reviewed by the Board.

**RESOLUTION #18**

**RESOLVED**, that the Board of Trustees approves the July 17, 2017 Retaining Wall and Associated Work Proposal from Antonucci & Associates in the amount of \$22,500.

**RESOLUTION #19**

**RESOLVED**, that the Board of Trustees approves the preliminary grant application for security and access upgrades.

**Executive Session**

**Adjournment**



AUG 14 2017  
BUILDING DEPARTMENT



100

STUDENT

AUG 14 2017

# EXHIBIT D

MARK W. BLANCHARD  
PARTNER

KRISTEN K. WILSON  
PARTNER  
*\*Also admitted in CT*



BLANCHARD & WILSON LLP

235 Main Street / Suite 330 / White Plains, NY 10601

P (914) 461-0280 F (914) 461-2369

BlanchardWilson.com

ALAN H. ROTHCHILD  
OF COUNSEL

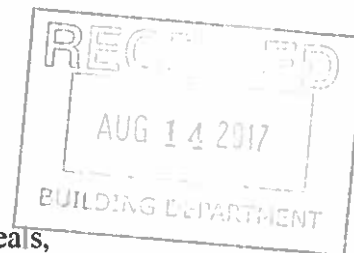
DENNIS E.A. LYNCH  
OF COUNSEL

August 14, 2017

**Via Hand Delivery**

Honorable Chairperson Lawrence and Members of the Zoning Board of Appeals  
Village of Tarrytown  
One Depot Plaza  
Tarrytown, NY 10591

Re: 67 Miller Avenue  
Parcel ID # 1.70-40-4



Dear Honorable Members of the Tarrytown Zoning Board of Appeals,

I am in front of your Board again this evening representing Ms. Geraldine Baldwin as it relates to the direct impacts she will have to endure should this Board approve the current application submitted by Peter Bartolacci for significant height variance(s) for the construction of two retaining walls (the "Application"). Although the Planning Board and this Board have heard from the Mr. and Mrs. Bartolacci (the "Applicants") over the course of numerous meetings and several months, it is clear that the Application must be denied. As this Board is aware, the Applicants are in front of the Planning Board for a waiver of the steep slope regulations pursuant to Village Code § 305-67(F). The Planning Board has grappled with the Application for months and raised numerous concerns over the impact to the Village, the impact to Ms. Baldwin, and whether the Application meets the strict criteria outlined under the Village Code.

Now, in front of your Board, the Applicants have made it clear that their main purpose is to create a significantly larger backyard on a severely sloped parcel of property. However, there is no "permit" or even approval process set forth in the Village Code that allows for the creation of a back yard on a steeply sloped parcel. Indeed, what this Board must remember is that your role is to grant the minimum variance necessary to stabilize the existing slope – NOT the "humongous" variance necessary to allow the Applicants to create a larger back yard. Although you have heard hours of testimony that the backyard used to be larger decades ago, this Board's authority and jurisdiction is limited to evaluating whether this approximately 20' tall structure is what is actually necessary to stabilize the existing slope. Based on the record before you, the answer must be no.

The Applicants have had ample opportunity to submit a plan that addresses the criteria outlined in both the Village Code and under New York State law. However, the Applicants continually fail to do so and are pleading with your Board to allow them to construct a structure

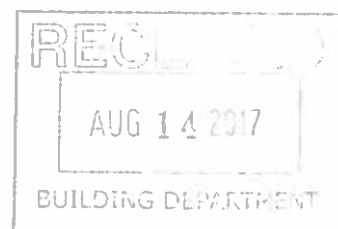
that is not permitted in the Village. This letter supplements the letters I submitted during the June and July ZBA meetings and addresses additional issues and arguments.

**I. APPLICANTS' PROPOSAL MUST BE DENIED AS IT FAILS TO SATISFY ANY OF THE CRITERIA IN THE VILLAGE LAW FOR AREA VARIANCES**

The basic inquiry for zoning boards at all times is whether the strict application of the ordinance in a given case will serve a valid public purpose which outweighs the injury to the property owner. See *Grace v. Palmero*, 182 A.D.2d 820, 582 N.Y.S.2d 284 (2d Dep't 1992). In *Palmero*, the property owner was seeking substantial side yard variances and a height variance for an existing garage. The Court found that the property owner conceded his ability to situate the garage on his property in such a way as to conform to the setback requirements and, ultimately, the zoning board denied the variances. The Court also noted that the financial hardship incurred to the property owner to remove the existing garage did not give rise to any entitlement to the area variances.

Here, for hours, this Board has considered testimony regarding the size of the backyard that may have existed decades ago. This argument is a red herring. First, the Applicants are in front of the Planning Board for a waiver of the prohibition of building on steep slopes – not a permit to bring in truckloads and hundreds of cubic yards of dirt to create a larger backyard. However, not only are the Applicants seeking a complete waiver of the regulations under Chapter 305-67, they are asking for a mind-boggling variance. How can this Board consider the application and properly apply the balancing test when the proposal is so disproportionate to the actual need? Moreover, as the Second Department found in *Palmero*, if the Applicants can construct a wall that meets the zoning criteria, then it must deny the application.

By way of example, someone buys property in a single family zoning district and wishes to construct a single family home. The homes in the neighborhood range from 2,500 to 3,000 square feet. The initial proposal is for a 10,000 square foot home that vastly exceeds the permitted FAR, requires side yard and rear yard variances and needs a lot coverage variance. The abutting neighbors are directly impacted by the size of the proposed home and the proximity to their existing homes and they raise their concerns with this Board. This Board's role is to review the proposal and see if the requests are the minimum necessary, if the proposal adversely impacts the neighborhood, etc. In this example, the need for such extreme variances is entirely self-created, creates an undesirable change in the character of the neighborhood, and the homeowner can certainly reduce the proposed square footage of the home. Moving the home closer to the east side of the lot does not address the overall impacts created by such a disproportionately sized home. Similarly, here, by asking for two walls that, individually, do not require as much of a height variance (but still significant), does not address any of the impacts and still fails to meet the criteria necessary for an area variance. On paper, a variance that is less of a percentage may look better in writing but in reality the impacts are just as great (if not greater) because there are two walls. As a result, the Application must be denied.



In my June letter, I outlined how the single 20' retaining wall failed to meet any of the area variance criteria. Outlined below are more reasons why the current Application continues to fall well short of the criteria this Board must apply. As a result, the Application must be denied.

a. Whether an undesirable change will be produced in the character of the neighborhood.

As evidenced by the petition previously submitted by numerous neighbors, there would be a significant and undesirable change to the neighborhood if this Board granted variances for either the 20' wall plan or for the two wall plan. This Board has numerous pictures of what the impact would be to my client and the downhill properties. Constructing two walls that amount to the same height as the original 20' proposal has not mitigated the undesirable change. Moreover, despite seeing numerous walls located in other areas of the Village, the vast majority of those walls are not in a similar location to the one proposed here (i.e., in a residential backyard). This type and size of structure is not meant to be placed in residential backyards – indeed, the Village Code does not permit it. As a result, this Board must deny the Application. *See Fowlkes v. Board of Zoning Appeals of the Town of North Hempstead*, 52 A.D.3d 711 (2d Dep't 2008) where the zoning board denied an area variance for an existing two family home where the certificate of occupancy was for a single family home. The board based its decision on the detrimental effect to the neighborhood that primarily consisted of single family homes. The Town of North Hempstead zoning board found that the overall detriment to the surrounding properties outweighed the benefit to the property owner. *See also Kraut v. Board of Appeals of the Village of Scarsdale*, 841 N.Y.S.2d 369 (2d Dep't 2007) where an area variance for a front yard setback was denied because of the detrimental effect on the neighborhood.

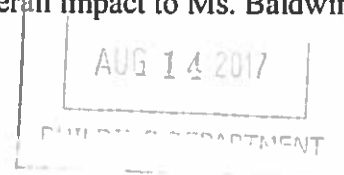
b. Whether the benefit sought can be achieved by some other feasible method

The answer to this question is simply “yes” – the need to stabilize the slope can be achieved by other feasible methods. Similar to *Palmero, supra*, there are other much less intrusive and code-complaint options that could possibly stabilize the slope. In *Merlotto v. Town of Patterson Zoning Board of Appeals*, 43 A.D.3d 926, 841 N.Y.S.2d 650 (2d Dep't 2007), the applicant was seeking a variance for more than 3 times the permitted size to legalize the existing construction of their home. The Second Department found that the Patterson Zoning Board of Appeals acted rationally when it found, among other reasons, that the applicant could have easily constructed a smaller home in compliance with the code, it was not the minimum variance necessary, and that this need for a variance was entirely self created.

The facts in front of this Board are remarkably similar. The Applicants are seeking a variance to allow a structure (or a combination thereof) significantly greater than what is permitted when they can easily construct a much smaller wall. As a result, this Board must deny the application.

c. Whether the requested variance is substantial

The Applicant's attempts to lessen the “size” of the height variance by proposing two slightly shorter walls is unavailing. As mentioned above, the overall impact to Ms. Baldwin is just



as significant and has not been mitigated at all. Constructing two walls that meet or exceed the height of the single wall in terms of visual impact does not negate the substantial request that the Applicants are requesting. Whether you have two walls that equal the same height as a taller single wall does not address the concerns raised by Ms. Baldwin. As set forth in *Merlotto, supra*, the Second Department found that the Patterson Zoning Board of Appeals properly relied upon the significant size of the request when it denied the area variance for a single family home. Here, there is no question that the requested variance is substantial.

d. Whether the variance will have an adverse effect or impact on the physical or environmental conditions

In *DeCillis v. Grannis*, 69 A.D.3d 851 (2d Dep't 2010), the petitioner owned property in the Nissequogue Recreation River Corridor and wanted to subdivide. The property did not meet the minimum lot size to subdivide and the New York State Department of Environmental Conservation Commissioner denied the requested area variance stating that such a variance would result in adverse impacts to the area. The Second Department upheld this determination and found that reliance on the potential impact to the environmental conditions of the areas was supported by the record.

As stated previously in other letters, the variance will have a significant adverse impact on both the physical and environmental conditions. Not only will the fortress-like wall allow for truckloads of fill to be brought in potentially creating a greater erosion issue, the aesthetic impacts alone are so significant that the Application must be denied. It is also unclear whether the proposed planting plan is even feasible and there is no maintenance plan submitted. Furthermore, a wall that simply stabilizes the slope would be much less intrusive to the environmental conditions of the slope and would result in a much less overall impact to the neighborhood. Again, the Applicants are seeking this staggering variance in addition to a waiver of the steep slope regulations from the Planning Board. This application must be denied.

e. Whether the need for the variance is self created

The Applicant has never substantially addressed this point and, as a result, this Board cannot adequately weigh this factor in its decision and the variances must be denied. The only testimony proffered by the Applicants regarding the "self created" standard is this "need" for a larger and flatter back yard. The Applicants' need is entirely self-created. See *Merlotto, supra*. The Applicants fail to meet this criteria and the variance must be denied.

II. TYPE OF MATERIAL, WALL SPECIFICATIONS AND MAINTENANCE PLAN

A significant issue that the ZBA should consider is the type of material that the Applicants are proposing to use for any retaining wall. Ms. Baldwin just referred to a very serious failure of a Mesa Block® wall in Ossining and the issues experienced there should be addressed as part of this Board's review of the retaining wall. The partial plans submitted by the Applicants do not show what the lengths of the geo-grids are and how the wall will be constructed. More importantly,

there is not enough space between the walls for wall stabilization in accordance with the manufacturer's specifications. The landscaping plan is also a red herring. It will take years for the trees and other plantings to grow to ten feet in height. Again, if this Board is reviewing the proposed screening as a condition or mitigation of the impacts, it has the obligation to ensure that the plan will actually work.

Equally important to the type of material used and the wall specifications is the proposed maintenance plan. It is unclear where any sewers or catch basins are proposed to address any drainage issues. With Mesa Block® walls, some form of drainage system must be in place. Moreover, what is the proposed maintenance plan for the trees and shrubbery? A maintenance plan for any size wall must be in place and a condition of any variance.

### III. CONCLUSION

This Board, along with the Planning Board, and the Village staff have committed hours to addressing the Bartolucci's application but it is clear that the proposal is simply too extraordinary, has significant adverse and direct impacts to the downhill neighbors, and sets a dangerous precedent for the Village. Moreover, the Bartolucci's have failed to meet *any* of the criteria to support the granting of this (these) variance(s) and this Board must deny the Application. Any discussion or consideration of the possible size of the backyard that may have existed decades ago is irrelevant and outside the scope of this Board's authority in granting a variance. Furthermore, there were several other pertinent questions that this Board should resolve before any variance is granted (i.e., material of wall, maintenance plan, confirmation that there is sufficient distance between the two walls for wall stabilization).

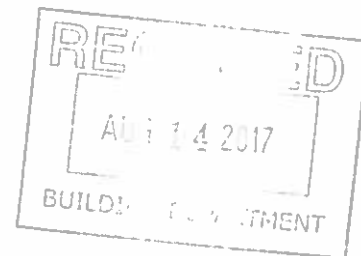
As a result, we respectfully request that this Board deny the requested variance. Simply stated, despite the hours of testimony, there is nothing in the record showing that a 20 to 21' structure (or combination of structures), is necessary to address any identified erosion/steep slope issues.

Respectfully submitted,

*Kristen K. Wilson*

Kristen K. Wilson

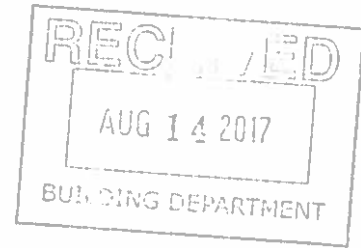
cc: Geraldine Baldwin



# EXHIBIT E

LIN SNIDER/JEFFREY SCOTT VOTH  
64 Riverview Ave.  
Tarrytown, NY 10591

August 14, 2017



Tarrytown Zoning Board

Dear Sirs/Madams:

My husband and I live at 64 Riverview Ave., the property just north of 66 Riverview Ave. which is directly behind the Miller property. While the proposed alteration of the steep slope and building of a 20 foot retaining wall will only directly contact our property at the SE corner, the effect it will have on our property's beauty and environmental stability is devastating.

I fail to understand why this issue continues to come before the Zoning and Planning Boards as the variance asked for clearly radically challenges the laws which have so wisely been enacted by the Village of Tarrytown.

Having already lived through the destruction of the slope directly behind us and the fact that we now look at an eight-foot concrete wall rather than a lovely weeping willow tree, I feel very strongly that the fragility and beauty of our backyards must be further protected.

I also have a few questions should this plan be allowed:

- Who will be maintaining and watering the plantings.
- What kind of laws will protect the neighboring properties from overgrowth, erosion, water run-off, etc.

We bought our house assuming our land and the adjacent areas would be protected, while Mr. and Mrs. Bartolucci bought their house assuming they could manipulate the town into destroying our beautiful natural environment to create a plan that only benefits them at the expense of the natural habitat and natural beauty of our surroundings. I think a large part of what has made this so difficult for us neighbors is that there seems to be no interest in the larger community, that the tactics have been aggressive and even hostile toward the neighbors and that it seems that they are willing to break or bend the law to make their property something it is not. I would have loved a flatter backyard but have not attempted to gouge out the hillside to make it happen. We have lovely parks in Tarrytown, the school playground is right across the street from their property and there are laws governing the protection of the land and footprints of the houses. I think the contempt for the Zoning Code and Planning Board are obvious and the assumption that the members of those boards will eventually just give in and move them away from their ethical, environmental and legal responsibilities is unconscionable. It just seems that you bought a home that you do not like and you are trying to fit a square peg in a round hole.

I also want to make clear that whatever statement I made in 2012 about giving you access to our backyard for any construction is no longer valid. My husband works tirelessly to create a beautiful garden and we will not allow any persons or machinery on our property in connection with any work on the adjacent hillside.

I feel like we have been dragged into a fourth-grade fight with a bully, something I have never experienced with a neighbor before. While I understand their desire for a flat yard and bigger house, the use of intimidation, manipulation, and tattle-tailing have brought up my desire to fight dirty also, but I really don't want to stoop to that level. There are laws in place that should be followed and which necessarily protect us all from situations as this where the very nature of a community is at stake. Can't we just be good neighbors, find a way to all enjoy the natural beauty and environmental protection so smartly put in place by the village and move on?

I would now like to read a petition that was presented to the Planning Board.

Sincerely,

  
Lin Snider

Jeffrey Scott Voth



To: The Tarrytown Building Dept.  
Planning Board and  
Zoning and Board of Appeals

Re: Application of 67 Miller Ave to construct two Mesa Block Walls  
on the Steep Slope at the Rear of the Property based on a Plan  
to replace a retaining wall dated February 23, 2017

I have been informed and understand that the Plan requires two Mesa Block walls, one 10 feet in height and one 8 feet in height, extending 75 feet in length across the entire rear of the property and extending on the North and South sides of the property—for a total length of 157 feet.

I understand further that construction of the planned walls will require excavation of the entire steep slope and 332 cubic yards or 33 truckloads of fill in order to stabilize the walls.

I have been informed that the Tarrytown Village Code seeks to protect our natural habitats and landscapes including the hills and steep slopes of our neighborhoods.

I have seen a picture of the current slope as viewed from the rear of the property and an artist's rendition of the planned walls (both attached). I am informed that the planned walls will be visible from the street on Riverview Avenue.

Based on my understanding, it is my conclusion and opinion that:

1. The proposed walls will result in a significant undesirable change in the neighborhood. None of the walls visible from Riverview Avenue appear as massive as the planned walls which are more suited to industrial or commercial property— not our residential neighborhood.
2. Permitting construction of the planned walls will not be consistent with the Village's objectives to preserve and protect our natural habitats and landscapes.
3. The neighborhood is hilly and many yards are not level. Construction of the planned walls will set a bad precedent and may well encourage others to demand similar walls.
4. Filling in a slope with 33 truckloads of soil to erect the planned walls is not the minimum necessary to replace a 7 foot high retaining wall.

Name: Geoffrey F. Burt Address: 66 Riverview Ave. Tarrytown, NY  
 Name: Eric Jaster Address: 73 Riverview Ave. Tarrytown, NY  
 Name: Jim Kasmanen Address: 80 Riverview Ave. Tarrytown, NY  
 Name: Bruce M. Fullmer Address: 67 Riverview Ave, Tarrytown, NY

To: The Tarrytown Building Dept.  
Planning Board and  
Zoning and Board of Appeals

Name: Don Petros Address: 67 Riverview Ave  
Tarrytown NY

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

To: The Tarrytown Building Dept.  
Planning Board and  
Zoning and Board of Appeals

Re: Application of 67 Miller Ave to construct two Mesa Block Walls  
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4. Filling in a slope with 33 truckloads of soil to erect the planned walls is not the minimum necessary to replace a 7 foot high retaining wall.

Name: Scott Vetter Address: 64 Riverview

Name: John Smith Address: 64 Riverview Ave.

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

To: The Tarrytown Building Dept.  
Planning Board and  
Zoning and Board of Appeals

Re: Application of 67 Miller Ave to construct two Mesa Block Walls  
on the Steep Slope at the Rear of the Property based on a Plan  
to replace a retaining wall dated February 23, 2017



I have been informed and understand that the Plan requires two Mesa Block walls, ~~one 10 feet in~~ <sup>one 10 feet in</sup> height and one 8 feet in height, extending 75 feet in length across the entire rear of the property and extending on the North and South sides of the property—for a total length of 157 feet.

I understand further that construction of the planned walls will require excavation of the entire steep slope and 332 cubic yards or 33 truckloads of fill in order to stabilize the walls.

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4. Filling in a slope with 33 truckloads of soil to erect the planned walls is not the minimum necessary to replace a 7 foot high retaining wall.

Name: Imad Majidi Address: 62 RIVERVIEW AVE TARRYTOWN NY 10591  
 Name: Bryna Majidi Address: 62 Riverview Ave Tarrytown NY 10591  
 Name: Carvin Majidi Address: 62 Riverview Ave Tarrytown NY 10591  
 Name: \_\_\_\_\_ Address: \_\_\_\_\_

# EXHIBIT F

## Corrections requested to transcript for July 10 2017 ZBA meeting re Bartolacci application

Below are the inaccuracies noted in what was transcribed during the July 10 2017 ZBA meeting. We have notified the Village Administrator of these and requested confirmation when the official transcript has been revised to reflect what was said. We can provide video clips to verify the requested changes if necessary.

1. On page 241, Line 14, I am quoted as saying that "If we did get moved to a two tier plan because we didn't get a variance approved by the Zoning Board..."

This should be changed to "If we did get moved to a **three** tier plan because we didn't get a variance approved by the Zoning Board..."

The variance we are requesting relates to a two tiered design. It is the three tiered design which we have been informed would not require a variance.

2. On Page 241, Line 22, I am quoted as saying "So I think it's something that should be of concern to the Zoning Board."

This should be changed to "So I **don't** think it's something that should be of concern to the Zoning Board."

Ms. Baldwin's attorney claimed that the ownership of a small stone retaining wall on our property, but close to the western boundary line abutting Ms. Baldwin's lot, is unclear, and that this ownership issue must be settled before the ZBA can even consider granting a variance. The point I was making in the July 10, 2017 meeting was that neither of the two designs before the ZBA (either the single wall or two-tier wall) for which we were requesting a variance will have any impact on this small stone retaining wall, and therefore should not be of concern to the ZBA in considering whether or not to grant my husband and me a variance.

3. Page 129 Line 18 through Page 130 Line 5

What the Transcript says: "So based on the timeline and the testimony from neighbors and in conjunction with Geraldine Baldwin's statement that the retaining wall has never been higher than five to 8 feet since 1986, you know what -- that tells us is there's -- you know, all of the retaining wall collapse had to happen in the eight years between 1977 and 1985. **It would be difficult to know further** in that retaining wall structure or erosion since that day which may seem somewhat implausible."

What was actually said: "So based on the timeline and the testimony from neighbors and in conjunction with Geraldine Baldwin's statement that the retaining wall has never been higher than five to 8 feet since 1986, you know what -- that tells us is there's -- you know, all of the retaining wall collapse had to happen in the eight years between 1977 and 1985 **with little to no further decay** in that retaining wall structure or erosion since that **date** which **to me** seems somewhat implausible."

4. Page 201 Line 25 through Page 202 Line 6

What the Transcript says: "That's where -- you know, **I think it's also good** to be suggesting that my husband and I have contributed to the deterioration and the condition of our backyard by neglecting to maintain it for the eight years or so that we owned the property."

What was actually said: "That's where -- you know, **I think Ms. Wilson appears** to be suggesting that my husband and I have contributed to the deterioration and the condition of our backyard by neglecting to maintain it for the eight years or so that we owned the property."



# EXHIBIT G

It is not possible that each of the 3 sides of the existing retaining wall were about 7 feet high, as alleged by Geraldine Baldwin and her attorney:

Elevation:

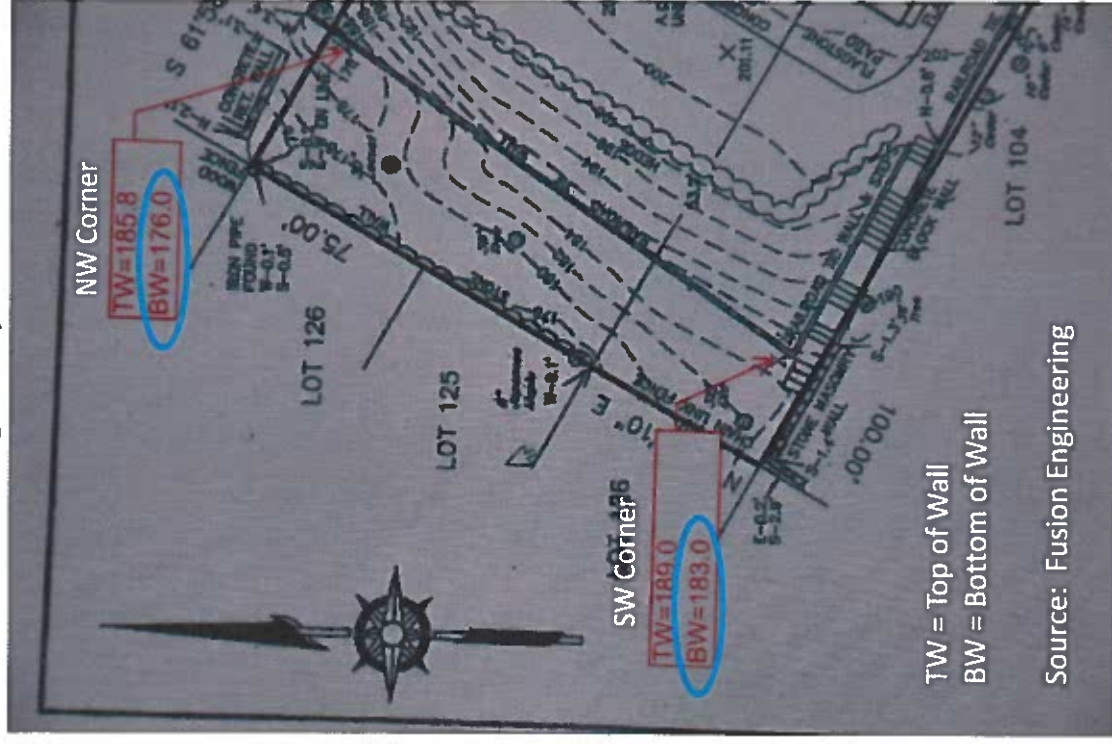
Bottom of Existing Retaining Wall SW Corner 183.0 Feet  
Bottom of Existing Retaining Wall NW Corner 176.0 Feet  
Elevation Change = 7.0 Feet

The difference in elevation between the SW Corner and NW corner of the existing railroad tie retaining wall is 7 feet.

To suggest, as Geraldine Baldwin and her attorney have, that the three sides of the retaining wall were all about 7 feet high is difficult to understand as this would mean that the top of the existing retaining wall at the SW corner would have to be at ground level if the NW corner was about 7 feet high.

On the other hand, if the SW corner of the existing retaining wall was about 7 feet high, that would mean that the NW Corner would have had to be about 14 feet high to account for the change in elevation from South to North.

Either way you look at it, it is simply not possible that all three sides of the existing railroad tie retaining wall were about 7 feet high as alleged by Geraldine Baldwin and her attorney.

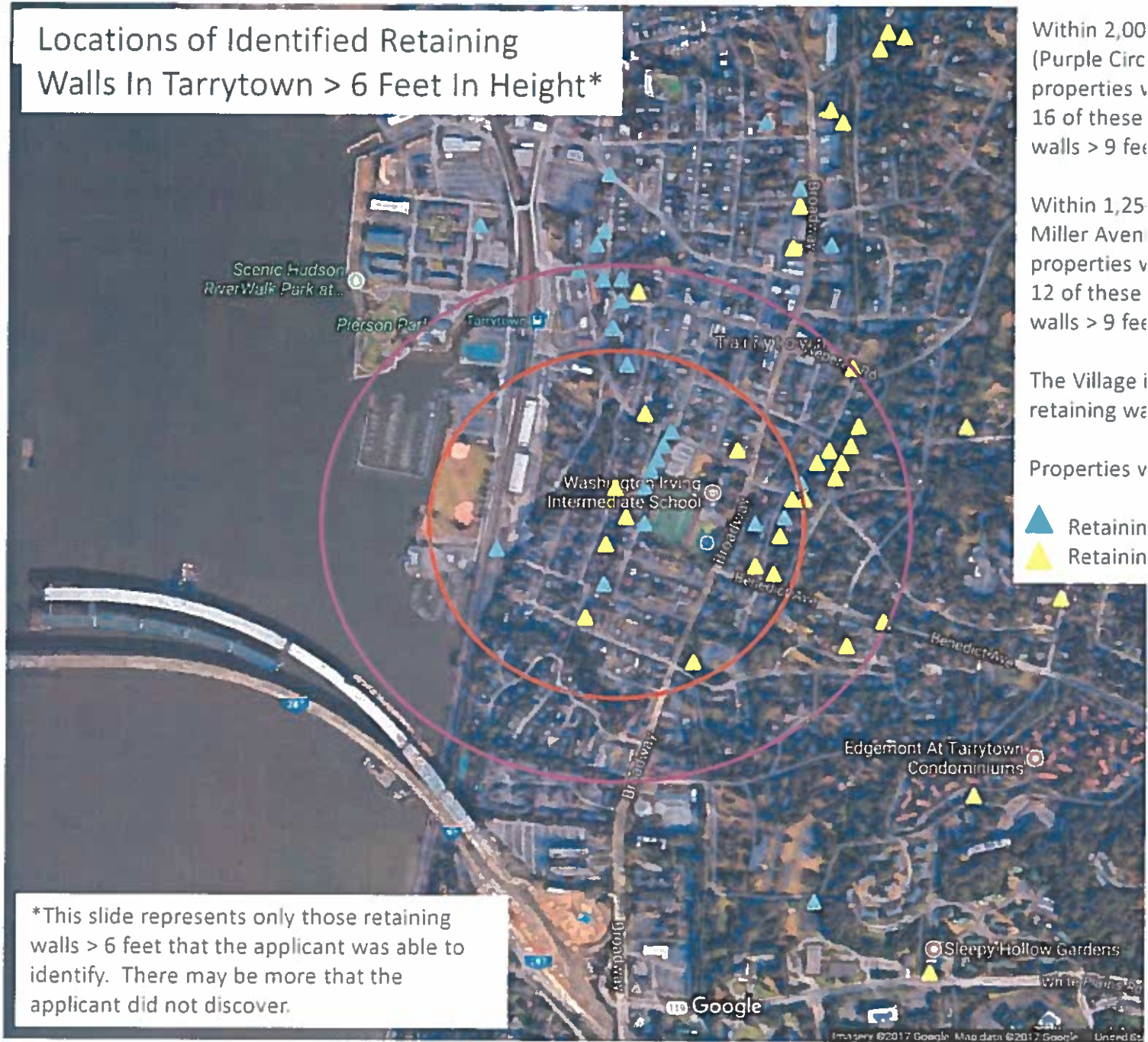


AUG 14 2017

BUILDING DEPARTMENT

# EXHIBIT H

# Locations of Identified Retaining Walls In Tarrytown > 6 Feet In Height\*



\*This slide represents only those retaining walls > 6 feet that the applicant was able to identify. There may be more that the applicant did not discover.