

# Village of Tarrytown, NY

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## Zoning Board of Appeals Minutes 4/21/2014

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
April 21, 2014; 8:00 p.m.

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

ABSENT: Village Engineer McGarvey

### APPROVAL OF THE MINTUES – February 10, 2014

Mr. Maloney moved, seconded by Ms. Brown, and unanimously carried, that the minutes of March 10, 2014, be approved as submitted. Motion carried

### NEW PUBLIC HEARING – 21 Wildey Street, LLC – 21 Wildey Street

Chairwoman Lawrence explained they adjourned this application at the March meeting in order to give the board members time to review the Planning Board minutes. She said they received a letter from the Library regarding the view shed from the Library. She said this board understands that there was an issue with the Library and the view shed; however, that application proposed a four-story building. The current application before this board is for 12 affordable units in a two-story building.

John Meyer of National Resources and representative for 21 Wildey Street LLC gave an overview of the project. He said the site was chosen by the Village of Tarrytown for 12 affordable units as a condition of the Hudson Harbor approval. He said it was the responsibility of the developer to demolish the building and garage and to receive the necessary approvals. The buildings have been demolished; and after many meetings and several design alternatives, they have received Planning Board approval for the two-story building before this board.

Mr. Meyer said the original design was a five-story building with parking under the four stories of living space. When the building was reduced to two stories, it expanded, requiring a cover variance where 15% is allowed and we are proposing 26.84%. They evaluated the parking with the Planning Board and came up with 16 spaces in the rear of the building and five spaces in the front for a total of 21 spaces; the zoning requirement is 30 spaces. The Planning Board felt the 21 spaces were sufficient for the affordable housing use.

Mr. Meyer explained the variance for the side yard setback. He said they are proposing 2' side yard setback for the driveway which accesses the front and rear parking; 5' is required; however, the existing property has a driveway which is 1.5' off the side yard setback. In order to accommodate the rear parking they are proposing side yard setback of 16' on one side and 14' on the other, for a total of 30' for both side. The zoning requirement is 25' on one side and 10' on the other, for a total of 35'. Mr. Meyer said this variance could be resolved by eliminating one or two parking spaces but the Planning Board asked for as many parking spaces as possible.

Chairwoman Lawrence opened the meeting to the public.

Liza Glover, trustee of the library board, showed pictures of the panoramic view from the second and third floors of the Library. She said the structure will be 22/23' tall and she showed what it will look like using the flag pole which is 20' high as a reference point. She said 165,000 people come to the Library each year. Mr. Maloney asked if they all go there for the view. Ms. Glover said no but it is spectacular and can never be replaced. She said the board feels it is a very important part of the Library and they feel as trustees it is their duty to preserve this view for future generations. Ms. Glover said the view from the first floor, which is the children's room, will be gone; they will be

looking into the windows of this building. Chairwoman Lawrence said let's not forget that the children don't go to the Library to look out the windows.

Mr. Maloney asked if they have any picture with the old Village Hall. Mr. Jolly asked how tall it was. Ms. Glover said they have pictures but not with them and she thought the height of the old Village Hall was 2½ stories; Chairwoman Lawrence said it was more like 3 stories. Chairwoman Lawrence said she was just given a picture of the old Village Hall which showed a three-story structure. She said she did not know the height but it set back and there were no complaints about the view.

Ms. Glover introduced two other members of the Library Board, Michelle Gonzalez and Fiona Hodgson.

Ms. Glover said we realized that the building is going to be built but our main concern is that it not be more than two stories. She stated that they are very pleased with the two-story structure and the parking as presented.

Ms. Gonzalez said the old Village Hall peaked but the building they are talking about is rectangular. She said although the children did not appreciate the view, they do appreciate the light and this new structure will block a lot of that light causing the cost of lighting to increase significantly. She said we do understand that there is a need for affordable housing and we do want to be good neighbors but hope that the community as a whole can benefit from both the affordable housing and the view from the Library.

Mr. Jolly asked if they have considered putting more windows in on the first floor of the Library to allow for more light. Ms. Gonzalez said she supposed they could but it would be very costly.

Ben Gross, 20 Wildey Street said he lives across the street and is Chair of the Affordable Housing Committee for which he has recused himself from for this application. Mr. Gross asked Mr. Meyer what income group that are targeting for these units. Mr. Meyer said whatever is required by the Village regulations; he could not give a specific income but they will do whatever is required.

Mr. Gross said the Village target rate is \$1,500/month for a one bedroom and \$1,668/month for a two-bedroom and under commonly accepted guidelines for Westchester County the income for a one-bedroom would be about \$60,000/year and \$67,000/year for a two-bedroom. However if you can't meet those guidelines, you can charge up to \$2,500/month with an income up to \$100,000/year. In order to understand the parking, it is important to know what income group you are targeting. He said the affording housing across the street was supposed to have 15 parking spaces but it only has nine spaces. They have an agreement with the Police Department of the Village; should more be needed, they would provide six more. They have never had a problem because of the people who live there earn less than \$50,000/year; some earn less than 25% of the area mean income; they are poor and cannot afford cars. The site across the street has not relevance if you are renting to wealthier people.

Mr. Meyer said the Planning Board agreed with you and changed our ratio to 2 spaces for the two-bedroom units and 1 ½ spaces for the one-bedroom units. Mr. Gross said the Planning Board did not approve the parking, they sent it to the Zoning Board; and I am asking that the Zoning Board not approve it because of the income of the residents targeted. Mr. Gross read the attached list of requirements and said he does not feel that this project meets them; it does not meet any of the design features, it isn't consistent with the height, it isn't consistent with the volume, and it isn't consistent with the setbacks. He then showed pictures (attached) of the houses in the neighborhood taken from the library demonstrating that the view will not be blocked if the building is the same size as those on the block. He said all houses on the street are about the same height. He said there are two structures that interfere with the view shed; one is Asbury Terrace and the other is the Townhouses in Hudson Harbor.

Dean Gallea, 20 Wildey Street, pointed out that the McGee house is three stories.

Mr. Gross asked that the Zoning Board reject this application

Mark Fry of Sleepy Hollow said he supports the Library and in his opinion public view sheds, as opposed to private view sheds, should be protected. He said he followed the entire Ferry Landings application and the applicant never had the option of building a six-story building. The applicant has been very responsive to the comments of the board of Trustees, the Library Board and the public in general. He said errors may have been made in the past regarding the view but those errors don't have to be made again. He felt there was nothing excessive about the bulk of the building and the size of the units are a good mix. He said he agrees in principle with Mr. Gross's view but it would be impossible to use those standards with this number of units on this property without variances for setbacks. He feels that the proposed building is a very good compromise for the public benefit.

Dean Gallea said he supports Ben Gross's objections to the variances. He pointed out that the option of a three-

story building was never fully reviewed. They went from a five-story building to a two-story building. He did some visual measurements today from the Library and the addition of one more story will not affect the view that much. It would decrease the coverage which would allow for more parking spaces, and it would provide the opportunity to change the roof line more in keeping with the neighborhood.

Mr. Gross said we never saw a three-story proposal.

Mark Fry explained the difference between a two-story building and a three-story building and said a two-story building often appears to be a three-story building because of the style of the roof. He said gables were proposed but were rejected by the Planning Board because they blocked the views somewhat.

Mr. Meyer summarized:

- The Planning Board evaluated, made changes, and eliminated the market-rate units.
- The Board of Trustees required a minimum of 800 s.f. with an average of 1,000 s.f. units; they are proposing a minimum of 850 s.f. with an average of 1,087 s.f. They have meeting the requirement for the size of the units and that is another reason the building is larger. The Library was the governing factor for the Planning Board; they wanted a two-story building.
- They looked at putting the building back further, but it came down to the view from the park and the Library.
- They showed a fully compliant building that was five stories for the 12 units; it was rejected.
- In addition the proposed building itself meets the setback for the zone.
- They are working with the ARB for the aesthetics of the building

Chairwoman Lawrence said her biggest concern is the conformity with the rest of the buildings in the neighborhood. The design of the building is not compatible at all. Mr. Meyer said the ARB did not like it either and it is going to be changed. Ms. Brown said how much can you change a box like that? Mr. Meyer said they didn't like a lot of things and their architect is working on them to resubmit to the ARB.

Chairwoman Lawrence asked if they ever considered a two-story building with a parking structure underneath; a three-story structure pushed back some. She said she can't imagine it would affect the views that much. Mr. Meyer said the Planning Board did not want the parking under the building.

Chairwoman Lawrence asked if you build a two-story structure, can't you have a different roof, not a flat roof; maybe a peaked roof. Mr. Meyer said the Planning Board wanted a flat roof.

Ms. Weisel said she is in favor of the two-stories because of the view shed, but the design mimics the Library. Can you mimic any of the architectural features? This looks like a concrete building. Mr. Meyer said the ARB did not like the look of the building; said it was prison-like and asked for many changes. He said it is not concrete; it will have either hardy plank for wood on the exterior of the building. Ms. Weisel said can't they do something similar to the other buildings in the neighborhood. Mr. Meyer said they are asking for more details on the building. Chairwoman Lawrence said anything that will make it look less institutional will be better.

Chairwoman Lawrence said she is concerned about the parking in the front of the building. The other homes on the street do not have parking in the front yards; that is a concern of the residents on the street. Mr. Meyer said they explored that but putting all of the parking in the rear only allowed for 15 spaces. He said originally Village Hall had parking in the front. Chairwoman Lawrence said yes but that was not institutional looking and the building was set back. Mr. Meyer said they started further back but it came up.

Mr. Jolly asked if all the funding is by the developer. Mr. Meyer said yes, there is government funding.

Ms. Brown said she agrees that the view from the Library is lovely but view shed is not only looking at the river but also looking down Wildey Street at the interesting houses and structures which has not been taken into consideration. She said she questions the bigger priority, saving the view from the Library which it has only had for

the past few years since the old Village Hall was taken down vs. the quality of life of the residents on that street because of the impact of the additional cars having to park there. She said she read the Planning Board minutes carefully and it appeared to her once it was determined that the additional market-rate units would not be allowed, the developer just wanted to get it done; a three-story was never looked at and what you lose in height you may gain in less bulk so that view may not be blocked. Mr. Meyer said with the market rate units, they were providing 10 extra parking spaces for the residents on the street. Ms. Brown said you could do it with 22 but not with 12. Mr. Meyer said yes because they had parking under the building and tandem parking.

Ms. Gonzalez said the old Village Hall was further back on the property so the Library always had a view and we could see around the roof. She said there was parking in the front of the building. She said 24 units were massive and once they came down and put up the balloons they could clearly see our concern. If it were a three-story building pushed back, you are compromising the view from the park. This building is a compromise.

Chairwoman Lawrence said she is concerned about the view being obstructed but no so worried about the park because they always had an obstructed view.

Maureen Petry, Director of the Library said the new building is going to be much closer to the Library and we just want to save the view.

Mr. Gross asked what if it was pushed west, there would be a better view from the first floor.

Mr. Gallea feels they still have room for architectural features without blocking the view.

Mr. Meyer said the Library did not like the peaks because they blocked the views. ARB gave direction to our architect.

Chairwoman Lawrence felt the roof is very unappealing; could you do nothing else? Mr. Meyer said it will have some pitch.

Ms. Weisel asked Counsel Shumejda if blocking view sheds from a private site is not an issue but aren't public buildings protected. Counsel Shumejda said there is a difference between view shed and street scape. A valid concern is the street scape.

Mr. Meyer said regarding the street scape they did provide actual photographs with the building superimposed on it. Regarding moving the building to the west side, we have a 22' driveway on the west side so if you move it any distance the driveway has to go to the east side which means you have to cut further into the hillside and right up to the property line. There is also a 12' easement for storm drain along that east property line.

Mr. Gross said the Library asked what would happen if that building were less than 12 units. He asked the Mayor what would happen if it is rejected and he said the trustees would be willing to entertain a proposal for fewer housing units; 12 is the agreement but it is open for negotiations.

Mr. Jolly asked if they could make the peak less obstructive. Mr. Meyer said this board would make recommendations to the ARB.

Chairwoman Lawrence read the following environmental review by Mr. Michael Blau, Environmental Review Officer, dated April 21, 2014:

*I have reviewed this application for variances for an affordable housing building and find the proposed variances appear to pose no significant adverse environmental impacts.*

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

Mr. Maloney moved, seconded by Ms. Brown that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variances for 21 Wildey Street. All in favor; motion carried.

Mr. Maloney made a motion, seconded by Mr. Jolly, that the board vote on the approval of the application for 21 Wildey Street. All in favor; motion carried

Chairwoman Lawrence asked each member to vote yes for approving the application or no for denying the application.

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

Chairwoman Lawrence moved, seconded by Ms. Brown that the application for 21 Wildey Street be denied with a vote of three against and two in favor. Motion denied; all in favor.

Ms. Lawrence said perhaps you can go back and work with your architect to designed a building that is compatible to the neighborhood, meets the requirements of the Board of Trustees and she stated that they are not against affordable housing; it just that this particular building is not compatible especially with the parking in the front of the building and also the appearance of the two-story flat room building. She said the street scape will be totally changed with this building and she is sure their architect can come up with something more compatible.

Ms. Brown said maybe the space is not the right place for this building. Maybe the Board of Trustees did not take into consideration that it does not work there.

Ms. Weisel said according to the June 24<sup>th</sup> Planning Board minutes if the 12 units don't fit, the Village can find another site for the remainder of the units; but Mr. Blau said it can be built there. Mr. Meyer said if the Village wants to put some on another site, the Village has to buy the site.

Ms. Weisel left the meeting.

#### NEW PUBLIC HEARING - Lee - 54 Highland Avenue

The secretary read the following public hearing notice:

*PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, April 14, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:*

*Mr. and Mrs. John S. Lee  
 54 Highland Avenue  
 Tarrytown, New York*

*for a variance from the Zoning Code of the Village of Tarrytown §305-47, Yards, setbacks for property located at 54 Highland Avenue, Tarrytown, New York in order to construction a shed and foundation 2' from the rear property line where the required minimum distance from an accessory building to the rear property line is 10'.*

*Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.80, Block 52, Lot 38 and is located in an R7.5 zoning district.*

*All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.*

*By Order of the Zoning Board of Appeals*

*Dale Bellantoni, Secretary to the Zoning Boards*  
 Dated: March 28, 2014

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

John Lee, owner of 54 Highland Avenue explained that he wants to put up an 8' x 10' storage shed on a concrete form in his back yard. He said that is the flattest area in yard so it would be the best place to put it. He said there is a stone wall which is shown on the survey he presented as his rear property line and he wants put it 2' - 3' from that stone wall in the rear center of his property. He indicated the shed on the copy of his survey (copy attached).

Norm Mason, 120 Crest Drive abut the Lee property in the rear. Mr. Mason said the stone wall does not define the property line. He said he has a 10' x 20' shed in his yard the meets all of the setbacks. Mr. Mason indicated that he has had problems with others neighbors in the past and he is worried about property values. Mr. Mason showed a copy of his survey which shows a different property line (copy attached) than the line on the Lee's survey. He is against the board granting a variance for this shed. He asked if the shed would meet the side property lines.

Chairwoman Lawrence said he wants it in the middle of the back line so there is certainly plenty of room of each side.

Todd Gorman, 186 Gunpowder Lane said he agrees with Mr. Mason.

Counsel Shumejda said the board cannot act on this application because they don't know the exact property line. It will have to be staked because you have two surveys, ten years apart with two different property lines.

Chairwoman Lawrence explained that the applicant must have his rear lot surveyed and the corners staked so that we can determine what the variance request is for. She said we will have to adjourn until you get the rear lot line surveyed and the corners staked. If we have to go back out and look at it, we will.

Counsel Shumejda asked Mr. Mason to give Mr. Lee a copy of his survey so that the surveyor can see the problem. He also asked that he give the Building Department a copy of his survey

Ms. Brown asked Mr. Mason if once the property is surveyed and staked will you still have a problem with Mr. Lee putting the shed closer to the property line than 10'? Is the issue that you just don't want the shed or that you don't know where the property line is. Mr. Mason said there are two issues; he does not want to have the shed 2' from his property and where will it be, in the middle or in the corner.

Chairwoman Lawrence adjourned the meeting to the May meeting.

#### NEW PUBLIC HEARING - EF International - 100 Marymount Avenue

The secretary read the following public hearing notice:

*PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, April 14, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:*

*EF International  
100 Marymount Avenue  
Tarrytown, New York*

*for a variance from the Zoning Code of the Village of Tarrytown §305-67 C for property located at 100 Marymount Avenue for the construction of the site work pertaining to the conversion of Gaines Library to a dorm for 225 students.*

*Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.80, Block 43, Lot 1.1 and is located in an R20 zoning district.*

*All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.*

*By Order of the Zoning Board of Appeals*

*Dale Bellantoni, Secretary to the Zoning Board*

*Dated: March 28, 2014*

The certified mailing receipts were submitted.  
The signs were posted.  
Board members visited the site.

John Kirkpatrick, of Oxman, Tulis, Kirkpatrick, Whyatt & Gieger; Don Walsh of Development Strategies, representing EF; John Canning, of VHB; Stephen Yarabek, Landscape Architect; and Philip Johnson, representing EF all were present representing this application.

John Kirkpatrick said they are before the zoning board for a variance for impervious land coverage. The Planning Board has gone over the site and in the process of converting one of the buildings to dorms they took a look at the entire site. They determine that this would be a good time to take care of pedestrian lighting, pedestrian circulation and particularly safety circulation in so that the police and fire should adequately access the campus. This has resulted in the increase of impervious land coverage, the pavement. Because this site is more than 300' above mean sea level, we have a lower maximum coverage than the rest of the Village and we need a small variances. He asked Mr. Canning to explain how they got to this point.

Mr. Canning explained that that the library is situation on the side of a hill and it is accessed right now on a berm level of a bridge from a road in front of it and there is also and emergency egress to the grass from the basement and out the back onto a paved 18' wide driveway that lead to Irving Avenue and there is also a second level egress that gone onto a sidewalk that goes down to Ursula and goes up to Rita. He said they met on campus with the fire department who set up their ladder in various places. They could reach to the south side of the building but could not reach to the north side of the building so the requested that we provide an access road to the rear of the building so they could set up their equipment and reach to three sides. New York State Fire Code requires that the fire access road be 26' wide. In order to meet that requirement we are proposing to widen the driveway from 18' to 26' which means we will have an increase in impervious surface. They fire department also asked that we provide steps with landings in between so they can place ladders on the flat portion. We are proposing a 26' access road around the back of the building which will be constructed of a pervious material, basically a high strength plastic material with soil and grass will grow up through it. It is also necessary to building up the slope so that the fire department can set up their equipment. In order to do so they are proposing a field stone faced retaining wall 2' to as high as 6' for a length of 40' and back down to 2' and behind it they are putting in cultec drainage rechargers which will reduce the 100 year storm peak runoff by 20%. The impervious surface will be increased by .05 acres or .3% of the total site from 37.5% to 37.8%. We are here requesting a variance for the increase in impervious surface due to fire safety requirements.

Chairwoman Lawrence asked if anyone had any questions.

Mr. Jolly said it is the Gaines Library because it was donate by the Gaines Family and he wondered if there were any objections by them to this conversion. Mr. Kirkpatrick said when the property was purchased they did a full title report and there were no restrictions.

Mr. Kirkpatrick went through the findings as follows:

Will there be an undesirable change in the character of the neighborhood? He said this is a fully developed site and they are looking for .3% change to what is already allowed which is accompanied by significant improvements on the campus.

Can this be achieved some other way? Mr. Kirkpatrick said this is the site plan that is approved by the Planning Board for very good safety reasons.

Is the variance substantial? Mr. Kirkpatrick said 3/10 of 1% is not substantial.

Will it have an adverse impact to the neighborhood? Mr. Kirkpatrick said clearly the same as the first issue. It is very small and the campus is being improve all the time.

Is this a self-created hardship? Mr. Kirkpatrick said since this whole campus predates the provision in the code referring to the reduction in cover over 300', it is something we are stuck with, no self-created.

Chairwoman Lawrence read the following environmental review by Mr. Michael Blau, Environmental Review Officer, dated April 21, 2014:

I have reviewed this application for variances to convert Gaines Library to a dormitory and find the proposal appears to pose no significant adverse environmental impacts.

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

Mr. Maloney moved, seconded by Ms. Brown that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variances for 100 Marymount Avenue. All in favor; motion carried.

Chairwoman Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the hearing be closed and the Board having arrived at the Findings required by the ordinance:

1. That no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance;
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance;
3. That the requested area variance is not substantial;
4. That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. That the alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

grants the above-referenced variance for the conversion of Gaines Library to a dormitory at 100 Marymount Avenue. All in favor; motion carried.

#### ADJOURNMENT

Ms. Brown moved, seconded by Mr. Jolly, to adjourn the meeting at 9:55 p.m. All in favor; motion carried.

Dale Bellantoni  
Secretary of the Zoning Board