

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
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Zoning Board of Appeals Minutes 6/9/2014

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
June 9, 2014; 8:00 p.m.

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

ABSENT: Member Maloney and Brown

APPROVAL OF THE MINTUES – May 27, 2014

Mr. Jolly moved, seconded by Ms. Weisel, and unanimously carried, that the minutes of May 27, 2014, be approved as submitted. Motion carried.

CONTINUATION OF A PUBLIC HEARING - DCD Realty Holdings LLC (Tarrytown Honda) - 480 South Broadway

Application adjourned

CONTINUATION OF A PUBLIC HEARING – Rothman - 49 Roundabend Road

Application adjourned.

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, June 9, 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 construct a shed and foundation 4 feet from the side property line where the required minimum distance for an accessory building from the side and rear property line is 10 feet.

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 Board

Dated: May 31, 2014

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

The board members visited the property.

Mr. John Lee, homeowner, explained that he was before the board in March for a variance for a shed to be placed within the rear yard setback. At that meeting his rear yard neighbor showed that his survey differed from Mr. Lee's survey; therefore the board asked Mr. Lee to have his rear yard surveyed and staked before they could make a decision. Mr. Lee decided to change the location of the shed. He now wants to put it far enough from the rear yard setback so as not to encroach in it, but within the side yard setback. He talked to his neighbor on that side of his property and they are fine with it being 4' from the property line. He is now here before the board seeking a 6' side yard setback variance for his shed. Mr. Lee said that the new location is actually better because that area of the yard is flatter. He said it would be a wood shed with one window.

Chairwoman Lawrence asked if he spoke to his neighbors. Mr. Lee said yes and they are all OK with it.

Mr. Jolly asked him if he is sure the property line is correct. Mr. Lee said yes because his neighbor's recently had their property surveyed and confirmed that it is correct.

Chairwoman Lawrence opened the meeting to the public.

Chairwoman Lawrence read the following environment review by Michael Blau, Environmental Review Officer, dated June 9, 2014:

I have reviewed this application for a shed in the rear yard and find the proposal appears to pose no significant adverse environmental impacts.

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

Mr. Jolly moved, seconded by Ms. Weisel that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for 54 Highland Avenue. All in favor; motion carried.

Mr. Jolly moved, seconded by Ms. Weisel, subject to the approval of the Building Inspector and having arrived at the following Findings required by the ordinance:

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

Grants the requested variance as stated above for 54 Highland Avenue. All in favor; motion carried.

NEW PUBLIC HEARING – Byrne/Marquez – 30 Leroy Avenue

The Secretary read the following Notice of Public Hearing:

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, June 9, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*Joyce Byrne and Rolando Marquez
30 Leroy Avenue*

Tarrytown, New York

for a variance from the Zoning Code of the Village of Tarrytown §305-47, Yards, setbacks for property located at 30 Leroy Avenue, Tarrytown, New York in order to allow the expansion of an open deck to be built 5 feet from the side yard where 6 feet is allowed.

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 1.10, Block 71, Lot 23 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 Board

Dated: May 31, 2014

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

Board members visited the property.

Sam Vieira, Architect, representative for the applicants said they are seeking a 1' variance to expand their existing non-conforming open deck which currently is 5' from the side yard where 6' is allowed for an open deck. The expansion will not encroach into the side yard setback any further than the existing 5'. Mr. Vieira said there is no other place that they can expand the deck because of the door in the corner of the house which would be blocked.

Chairwoman Lawrence asked the reason for the expansion, just to enjoy it. Mr. Vieira said it will allow them to have more room on the deck for cooking and eating and it will allow them better access into the kitchen.

Chairwoman Lawrence asked if they spoke to the neighbors. Ms. Byrne said yes and the neighbor right next door is fine with it.

Chairwoman Lawrence opened the meeting to the public.

Chairwoman Lawrence read the following environment review by Michael Blau, Environmental Review Officer, dated June 9, 2014:

I have reviewed this application for variance for the expansion of a pre-existing non-conforming deck in the side yard and find the proposal appears to pose no significant adverse environmental impacts.

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

Mr. Jolly moved, seconded by Ms. Weisel that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for 30 Leroy Avenue. All in favor; motion carried.

Mr. Jolly moved, seconded by Ms. Weisel, subject to the approval of the Building Inspector and having arrived at the following Findings required by the ordinance:

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

Appeals but shall not necessarily preclude the granting of the area variance.

Grants the requested variance as stated above for 30 Leroy Avenue. All in favor; motion carried.

NEW PUBLIC HEARING – Anderson – 28 Mallard Rise

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, June 9, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*Barbara Anderson
28 Mallard Rise
Irvington, New York*

for a variance from the Zoning Code of the Village of Tarrytown §305-47B(6), Yards, setbacks; Obstructions in yards for an existing non-conforming property located at 28 Mallard Rise, Irvington, New York in order to construct a chimney 5 feet from the side yard property line where 10 feet is allowed.

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 1.270, Block 137, Lot 49 and is located in an R10 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: May 31, 2014

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

Board members visited the property.

Barbara Anderson owner of the property said she is seeking a variance to construct a chimney with the side yard setback. The existing house already extends 12 feet into the setback.

Chairwoman Lawrence said don't you already have one fire place. Ms. Anderson said yes but we can't hook into that chimney.

Chairwoman Lawrence asked if she spoke to her neighbors. Ms. Anderson said yes she spoke to the neighbors on both side of her property and they are OK with it.

Mr. Jolly asked what they will be burning. Ms. Anderson said wood. She said the reason they are putting in another fireplace is because there is an issue with heat in the house. They have lots of single-pane windows which they are replacing gradually over time. Mr. Jolly asked if they thought about bringing in a gas line for a gas fireplace to reduce the emissions. Ms. Anderson said in their letter there is a statement about the emissions. She said they do have a gas fireplace upstairs but it is expensive to run; this fireplace will be more cost effective. She said it is a direct pressure system which is a very efficient way to heat a house; it is a completely sealed unit that can burn for about 48 hours.

Chairwoman Lawrence said it is very close to the neighbor, and they are OK with it. Ms. Anderson said we spoke to them and they are OK with it; they have one themselves.

She said many of the houses on the street have fireplaces and the original ones are in the front of the house but ones put in later on, mostly wood burners, are on the side of the house.

Chairwoman Lawrence asked what material will be used on the exterior of the chimney. Ms. Anderson said the same as the exterior of the house.

Mr. Jolly asked the age of the house. Ms. Anderson said it was built in 1958. She said there is a deck in the back which prevents them from putting it there.

Mr. Pennella asked if the house next door is lower than her. Ms. Anderson said yes.

Mr. Pennella said if the board approves this variance, it will be subject to New York State Building Code.

Chairwoman Lawrence asked the distance between her house and the house next door. Ms. Anderson said 14' from house to house. Mr. Pennella said but the code is from property line to property line.

Chairwoman Lawrence opened the meeting to the public.

Chairwoman Lawrence read the following environmental review by Michael Blau, Environmental Review Officer dated June 9, 2014.

I have reviewed this application for variance for a chimney in the side yard and find the proposal appears to pose no significant adverse environmental impacts.

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

Mr. Jolly moved, seconded by Ms. Weisel that the Board determines there will be no significant adverse environmental impact as a result of granting the requested variance for 28 Mallard Rise. All in favor; motion carried.

Mr. Jolly moved, seconded by Ms. Weisel, subject to the approval of the Building Inspector and New York State Building Code and having arrived at the following Findings required by the ordinance:

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

Grants the requested variance as stated above for 28 Mallard Rise. All in favor; motion carried.

NEW PUBLIC HEARING – Tarrytown Associates LLC – 1-7 Main Street

The secretary read the following public hearing notice:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, June 9, 2014, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

*Tarrytown Associates LLC
60 E. 42nd St.
New York, New York 10165*

for variances from the Zoning Code of the Village of Tarrytown §305-39C, Minimum lot area and §305-63D Schedule of Off-Street Parking Requirements for property located at 1-7 Main Street, Tarrytown, New York in order to restore the rear section of the third floor of the property which was destroyed in a fire in the 1970's.

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 1.40, Block 18, Lot 1 and is located in the RR (Restricted Retail) zone.

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

By Order of the Zoning Board of Appeals

Dale Bellantoni, Secretary to the Zoning Board

Dated: May 31, 2014

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

Board members visited the property.

Leo Napior attorney with Harfenist Kraut & Perlstein and Rex Gedney, architect represented the applicant. Mr. Napior explained that there was a fire in the 1970s and two units in the rear third floor of the building were burned out and never restored. They still contain the exterior brick walls and have been used by the other tenants in the building as an unofficial open air patio space. His client has owned the building for about 10 years and he would now like to restore those units to their original use as livable space. Mr. Napior said the building is existing non-conforming with respect to minimum lot size and off-street parking. The Village code §305-39(C) requires a minimum lot size of 5,000 square feet for commercial space and 1,000 square feet per residential unit. When applied to the existing structure the required minimum lot size is 21,000 square feet, whereas the subject property is 15,861 square feet. The addition of two residential apartments will increase the required minimum lot size to 23,000 square feet; therefore the applicant is seeking a variance for the 7,139 square foot deficiency. He said there are six on-site parking spaces and place to create more. The addition of the two units may require a variance for five additional parking spaces. They have received Planning Board approval for payment into the Parking Fund for these five spaces.

Chairwoman Lawrence asked how many parking spaces and if they are licensed out. Mr. Napior said there are six spaces and five are licensed out with one open. Chairwoman Lawrence asked if they will offer it to the tenants. John Glasser, property manager for 1-7 Main Street said they are offered to any and all tenants.

Chairwoman Lawrence asked if there were 16 units prior to the fire. Mr. Napior said yes, that he did research which showed 16 units before the fire and there are 16 now so he assumes they were reworked. Chairwoman Lawrence asked why are we talking about 16 units; won't it be 18. Mr. Napior said the application is to restore the burned out area and the overall floor area will not change. Chairwoman Lawrence said but if the number of units change, the number of people and probably the number of parking changes. She said parking is a concern.

Mr. Napior said it complies with the Village's objective of supplying more living space in the downtown area.

Ms. Weisel said from the back you can see there were apartments there but from the front all you see is the commercial space and there is a lot of parking needed; lots of traffic there.

Mr. Napior said they are willing to contribute to the parking fund. It's his understanding that the purpose of the parking fund is to accumulate enough money to eventually be able to build more municipal parking to alleviate some of the parking issues the Village presently has. Ms. Weisel said there are so many units in this building and they are not the only ones in the area needing parking. Mr. Napior said he understanding this and that any prospective tenants will be informed of the parking situation. Mr. Jolly asked if they did a survey to see where the tenants that are there now park. He said he saw four lined spaces and a big garbage container taking up a space in the back of the building. If it were cleaned up they might be able to get more parking back there.

Chairwoman Lawrence said the prior owner brought the same application came before this board in 2002 and the issues were the same. She does not see that this is in the public good; can't see it adding to the Village. Mr. Napior said the Planning Board felt differently. Chairwoman Lawrence said she is not sure they were aware of the prior application. Mr. Napior said the Planning Board was aware of the prior application; and at that time the issue was that the Fire Department objected to them making any parking in the rear of the building because they were concerned about access to the Music Hall.

Mr. Napior said without the variances the building will stay as it is with the open spaces (shells) in the rear. Chairwoman Lawrence asked if the owner has any desire to fix up the façade in the rear of the building; it's a mess. Mr. Napior said he has done work to the front of the building; if this is approved, they will go forward, but if it is not approved, it will stay as is.

Chairwoman Lawrence asked if they could provide some financials. Counsel Shumejda said financials are usually for a use variance. He said you could ask them to come back with a condition that they fix up the rear. Chairwoman Lawrence said she would like them to delineate the six spaces. Mr. Pennella said spaces five and six do not exist; they are used for dumpsters, and he believes the Mozartina has an easement to access their building. Mr. Napior said he is not aware of that although there have been some discussion about it but no documentation showing it.

Chairwoman Lawrence said so there are only four spaces. Counsel Shumejda said you need to speak with the owner to see how many spaces are there. You are saying there are six when there may only be four; if that is the case, you will need a greater variance. Mr. Pennella said you also have to show the retaining wall with an approximate 2½' drop off.

Chairwoman Lawrence said she did not see any fire escapes for this building; is that part of the code. Mr. Pennella said they will have to install a sprinkler system in the two new units and show means of access/egress; that is part of the building permit process. Mr. Napior said they did a walk through with the Fire Department and they wrote a letter stating conditions; fire escapes were not one of the conditions.

Counsel Shumejda went over some of the conditions if they are granted a variance:

- Modify rear of building
- Striping of parking spaces
- Egress plan for fire access

Mr. Napior said he is not sure what they are looking for regarding the fire egress. Mr. Pennella said the design professional will have to perform an analysis of the space showing what is required in accordance with the New York State Building Code.

Counsel Shumejda read items from the Fire Department letter dated April 25, 2014 (copy attached).

John Glasser, Property Manager for the building, said they have six spaces occupied by the retail store, only two are used by tenants; most of the tenants work in Manhattan and take the train. Chairwoman Lawrence said it would be nice to know how many tenants do have cars.

Justin Lucas a tenant in the building said they don't parking there because it smells like garbage; he parks on the street.

Mr. Jolly moved, seconded by Ms. Weisel to continue the public hearing to the next meeting. All in favor; motion carried.

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

Dale Bellantoni
Secretary