

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting (Via Zoom Video Conference)
January 11, 2021 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Weisel, Rachlin, Braun, Song, Alternate Member Jolly, Counsel Zalantis; Village Engineer Pennella; Secretary Meszaros

ABSENT: Chairwoman Lawrence

*** This meeting is being conducted via Zoom video conferencing, which has been authorized by the Governor's Executive Order issued in response to the Covid-19 Pandemic. The orders have been renewed and are in effect. ***

Ms. Weisel opened the Zoom meeting at 7:31 p.m.

APPROVAL OF MINUTES – December 14, 2020

Mr. Braun moved, seconded by Ms. Rachlin, to approve the minutes of the November 9, 2020 regular meeting.

The secretary recorded the vote:

Member Weisel: Yes
Member Rachlin: Yes
Member Braun: Yes
Member Song: Yes
Alt. Member Jolly: Yes

All in favor. Motion carried.

NEW PUBLIC HEARING – Marasco Family and Trust - 440 South Broadway

The following public notice was mailed to the abutting property owners:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing by **ZOOM video conference**, at **7:30 p.m., on Monday, January 11, 2021**, to hear and consider an application by:

The Marasco Family and Trust
c/o John J. Hughes, ESQ.
170 Hamilton Avenue – Ste 207
White Plains, NY 10601

For a variance from Zoning Code Section §305-37 B. to permit multiple accessory structures where none are allowed in the NS Zone.

The property is located at 440 South Broadway, in the Village of Tarrytown, and is shown on the Tax Maps as Sheet 1.140, Block 96, Lot 2, located in the NS (Neighborhood Shopping) Zone.

The Public Hearing will take place via Zoom Video Conferencing in accordance with the NYS Governor's Executive Orders 202.1 and 202.79, which have been extended.

***Please visit <https://www.tarrytowngov.com/home/events/33206> for instructions on how to join the meeting and for updates, if any, if the meeting location information has changed.**

Public comments may be emailed to imeszaros@tarrytowngov.com or mailed to Village of Tarrytown, Zoning Board of Appeals, 1 Depot Plaza, Tarrytown, NY 10591, by 12 pm on January 8, 2021. Documents relating to this application will be provided by emailing the Zoning Department at imeszaros@tarrytowngov.com or by calling 914-631-1487.

Additional approval will be required by the Planning Board and the Architectural Review Board.

All interested parties are invited to join the meeting and be heard.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: January 1, 2021

The mailing receipts were received and the property sign was posted. Ms. Weisel noted that a site visit had taken place in November so they are all familiar with the site, the setbacks, the parking, etc.

She asked the applicant to present the application.

Don Walsh, of Development Strategies, White Plains, appeared on behalf of the applicant, Marasco Family Trust, and also Tarrytown Snack Mart, Inc., the proposed tenant. He introduced Kevin Masciovecchio, PE, the project engineer, with JMC, and John Hughes, ESQ., representing the Marasco Family.

Mr. Walsh advised that they are back before the Board to ask for one variance for the placement of the generator which was brought up at the November meeting. Mr. Pennella has considered this an accessory structure and noted that it would require a variance.

Kevin Masciovecchio showed the site plan and the existing generator. He explained that it is just being moved further north closer to the northern property line. He also showed the other structures such as the vacuum station and the propane tanks.

Mr. Walsh noted that the generator was required by a 2014 state mandate to keep the gas operation including the fire suppression system online in the event of a power failure.

Mr. Hughes, attorney for the applicant, briefly went over the criteria. He does not believe that there will be any undesirable change in the in the neighborhood by virtue of the granting of this variance because the all the neighboring properties have similar types of issues. The benefits sought by this application cannot be achieved by any other means. Thirdly, while the variance is, in objective terms substantial relative to the non-conforming nature of this site, it will not have any effect on the neighborhood.

Mr. Walsh said the most important single thing is the neighbors and Mr. Hughes hit it right on the head, all of the three gas stations in Tarrytown have a generator. They are all located in different place. He respectfully requests this Board consider favorably the location that they have proposed which has been done in consultation with village staff.

Ms. Weisel asked if any Board Members had any comment.

Mr. Braun wanted clarification on what other accessory structures they were considering this evening. Mr. Walsh noted that, in 2015, the village decided that these structures were movable and not considered accessory structures. He understands Mr. Pennella's position that the generator is an accessory structure since it is propane fed and installed on a pad. The other accessories are movable, but he will yield on that determination.

Mr. Pennella said that the generator is considered an accessory structure which has triggered the variance. He has worked with the project engineer and they haven't been able to locate another location where it would fall under the building canopy. Because of the other fire codes and limitations and location of a wall, it is impossible to relocate it to somewhere else. Mr. Pennella noted that he is only addressing the generator in this application. The other movable accessories can be handled administratively.

Mr. Pennella asked Mr. Masciovecchio if there is a possibility of moving the generator closer to the wall or the propane tanks. Mr. Masciovecchio noted a tree that would have to be removed in order to accomplish this. Mr. Walsh noted that they have already gone through a great deal of consultation with the village landscape consultant and he feels that the proposed placement is in the ideal location for the neighbor as well.

Mr. Weisel confirmed that the propane tanks are for public sale and are stored in a portable cage that slides in, and back out again. Mr. Walsh advised that the tanks will be used for this generator and that the station is a propane sales outlet for Tarrytown. Bryan Orser, the General Manager of the BP dealership, confirmed the location of the ice freezer, and advised that they would like to keep it at this location. Mr. Pennella noted that this location was approved in an earlier application. He noted that the

applicant will be returning to the Planning Board and there are ways of making this more aesthetically pleasing.

Mr. Jolly confirmed with the applicant that this is the existing generator on site which they are moving to the new location and will in no way affect traffic.

Mr. Weisel asked if there is any public comment.

Mr. Pennella advised that there is no one in the audience.

Counsel Addona advised that this is a Type II action with no further environmental review required under SEQRA.

Mr. Braun moved, seconded by Ms. Rachlin, to close the public hearing.

The secretary recorded the vote:

Member Weisel:	Yes
Member Rachlin:	Yes
Member Braun:	Yes
Member Song:	Yes
Alt. Member Jolly:	Yes

All in favor. Motion carried. 5-0

Ms. Weisel read through the criteria for an area variance:

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. Weisel said there does not seem to be any undesirable change that will be produced in the neighborhood since there is already the same generator on this site, the other gas stations in the immediate area are required to have generators, and is has been placed in an acceptable location.*
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. Weisel said they have reviewed the location of the generator and the proposed location seems to the best location.*
3. That the requested area variance is not substantial. *Ms. Weisel stated that based on the configuration of the lot, the variance request is not substantial.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Weisel stated that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

5. That the alleged difficulty was 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. Weisel stated that it is a NYS code requirement for gasoline stations to have a generator on site.*

Ms. Rachlin moved, seconded by Mr. Braun, to approve the variances and authorize Counsel Addona to prepare a resolution with the standard general conditions based upon the general discussion this evening.

The secretary recorded the vote:

Member Weisel:	Yes
Member Rachlin:	Yes
Member Braun:	Yes
Member Song:	Yes
Alt. Member Jolly:	Yes

All in favor. Motion carried. 5-0

ADJOURNMENT

Ms. Weisel moved, seconded by Mr. Jolly, and unanimously carried, that the meeting be adjourned – 7:50 p.m.

The secretary recorded the vote:

Member Weisel:	Yes
Member Rachlin:	Yes
Member Braun:	Yes
Member Song:	Yes
Alt. Member Jolly:	Yes

All in favor. Motion carried. 5-0

Lizabeth Meszaros- Secretary