

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting (Via Zoom Video Conference)
November 9, 2020 7:30 p.m.

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

ABSENT: All Present

*** 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. Lawrence opened the Zoom meeting at 7:30 p.m.

APPROVAL OF MINUTES – October 13, 2020

Ms. Weisel moved, seconded by Mr. Braun, with Mr. Song abstaining, to approve the minutes of the October 13, 2020 regular meeting.

The secretary recorded the vote:

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

All in favor. Motion carried. 5-0.

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

The secretary recorded the vote:

Member Weisel: Yes
Member Rachlin: Yes
Member Braun: Yes
Member Lawrence: Yes
Member Song: Yes

All in favor. Motion carried. 5-0

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, November 9, 2020**, 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 variances required to demolish an existing 1,024 s.f. retail convenience store and construct a new 1,800 s.f. convenience store with parking.

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 following variances are required:

Code Section 305: Attachment 9	Required (Permitted)	Proposed	Variance Required
Column 12: Min. distance for ea. side yard (North)	30 ft.	16.9 ft.	13.1 ft.
Column 12: Min. distance for ea. side yard (South)	30 ft.	26.6 ft.	3.4 ft,
Column 13: Min. distance for 2 side yards	60 ft.	43.5 ft.	16.5 ft.
Column 14: Min. distance for rear yard	50 ft.	3.3 ft.	46.7 ft
305-47 B. Minimum side yard setback - Parking	30 ft.	12 ft.	18 ft.
305-47 B. Minimum 2 side yard setback - Parking	60 ft.	42 ft.	18 ft.
305-47 B. (7) Maximum wall height - Permitted	(6 ft.)	8.55 ft.	2.55 ft.
305-63 D. Off Street Parking 10 spaces for fueling = 10 1 space / employee = 1 1 space per 300 s.f.= 6	17 spaces	12 spaces	5 spaces

The Public Hearing will take place via Zoom Video Conferencing in accordance with the Governor's Executive Order 202.1, which has been extended.

***Please visit <https://www.tarrytowngov.com/home/events/26524> 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, in advance of the

November 9, 2020 meeting. 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: October 30, 2020

The mailing receipts were received and the property sign was posted and Board Members visited the site.

Mr. Pennella began the meeting with a plan that he prepared to show the variances that the applicant is requesting. He showed the existing site to what is proposed, and identified all of the variances that are needed as outlined in the notice. He showed the side yard setbacks to the north and south and the variance needed to allow for the parking spaced in addition to a variance of 5 spaces when 17 required and they are only able to provide 12 spaces. They will also require a rear yard variance of 46.7 feet since they are proposing 3.3 feet when 50 feet is required. He showed the wall that they are adding in the back of the building with a proposed height of 8.55 feet, which will require a variance of 2.55 feet, where the code requires a maximum of 6 feet. He showed the building envelope and noted that the applicant is razing the building so it is basically a new site plan and new construction. The applicant is here for variances since the new building would never be able to fit in the existing envelope. Mr. Pennella advised that this application is currently before the Planning Board. They reviewed it and had certain concerns relating to the existing trees on site. There has been a landscape review by the village landscape consultant and changes have been made. They are before this Board for the variances described and will return to the Planning Board for final approval if the variances are approved.

Ms. Lawrence asked the applicant to present their 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 showed a picture of the property from 1920 and gave a brief history of the site which has been owned by the Marasco family for some time. He noted that the property was much larger back then and stretched from where the Speedway is on Route 119 all the way down to Sheldon Avenue. Gradually the site was subdivided as the area became commercial. To this day, three of Tarrytown's gas stations are in this area which include the Speedway and the Shell station across the street. He noted that they are seeking a lot of variances but there has always been a need for variances on the properties along this section of South Broadway because the original subdivisions were done back in the 1950s, before variances came into effect in this area. He showed the slant at the east side of the property that was all part of the thruway undertaking and noted that the original Marasco properties went way back almost to the edge of the

cliffs. The thruway took much of that so if you're going to push the envelope of any building in this area, such as the tire store, Speedway, or Honda, variances will be required. He thanked Mr. Pennella and the Village Landscape Consultant, Suzanne Nolan, and the Village Tree Warden, Peter Bartlett, who have worked with them on this project. He noted that the gas station area was updated in the 80's and the variances granted were similar to what they are seeking now except they are adding more parking spaces in the front, which requires setting the building back a bit. They are adding 700 s.f. of retail, storage and office space. This additional space is 250 feet smaller than the Shell Gas Station with a secure lockable office for staff. It is not a truck stop, since trucks cannot maneuver in and out of the site. It is all commuter traffic, and they are expanding the breakfast area since most of the sales are at breakfast time.

Kevin Masciovecchio, PE, the project engineer, with JMC, thanked Mr. Pennella for his brief presentation of the variances that this project requires. He briefly showed the existing and proposed building envelope and the variances needed as a result of having to push the building back in order to provide for the expanding storefront parking. He noted that they are keeping the proposed parking within the existing pavement areas. They are just relocating them and adding six additional spaces from the existing. The code required 17 parking spaces are comprised of 10 spaces for the automobile fuel filling and service station use one parking space for an employee and six parking spaces for the proposed convenience store, which requires one per 300 square feet. He noted that the 12 existing fuel filling pumps are not counted in this calculation, even though customers can park their car at the fueling location while they go into the convenience store. If the 12 spaces at the fuel pumps were included towards the parking supply for the site, there would be a total of 24 parking spaces, which exceeds the village code requirement of 17 parking spaces.

Mr. Walsh confirmed that there are 2 employees on site. While parking is not assigned, the manager parks in space 3. Most of the employees are dropped off and if they are not, they would use either space 4 or 5.

Mr. Masciovecchio showed the wall on the side which is the last requested variance. The wall is mostly blocked from the street by the proposed building. They are requesting the variance for the wall to provide a level planting area at the top of the wall which was recommended by the village landscape architect, consulting with the tree warden. Mr. Pennella said the proposed wall height is 8.55 feet only in that triangle area and not the entire wall from end to end. He feels that the height can be dropped in the corner. He showed the little piece where they could still plant and then have a wall behind the plantings. Mr. Walsh has no objection to revising the plan for a two-tiered wall and noted that the wall height was determined by the village landscape consultant. Mr. Masciovecchio advised that this area can be regraded. here will be a slightly steeper area for plantings behind it, but it's something that can be done.

John Hughes, ESQ., representing the Marasco Family, summarized the benefits of this project for the tenant and the landlord. The existing convenience store is 35 years. It is made of cinderblock and in need of an upgrade. The store is too small to allow for the wide variety of items that are typically found in these types of convenience store sites. It

also lacks the office space for security and storage space. It is anticipated that the property will become more viable for the long run by allowing additional space. Secondly, there is no parking for the convenience store, which is essential. Currently, customers must park their cars at the pump to go in and out, which presents a traffic problem. Thirdly, it is anticipated that the landscaping that is proposed will make the site more appealing to both the village and the customers. The height of the retaining wall, will be revised to be code compliant. The proposed size of this building is similar to the other stations and convenience stores in the immediate area. These benefits cannot be accomplished by any other means other than these variances. He does not believe that the variances requested are substantial. The only substantial variance is for the rear yard and there are no neighbors back there. That property was taken years ago; subdivided years ago. He respectfully requests that these variances be granted since there are only benefits and no downside to granting them.

Ms. Lawrence asked Mr. Ringel if there was any public comment.

Mr. Ringel advised that there is no one in the public raising their hand to comment.

Ms. Lawrence asked the Board Members if they had any questions.

Ms. Weisel asked where the propane gas tanks that they sell will be stored. Don Walsh said it is not on the plan to have them on the outside of the building. In the future, they will go through the building department, should they want the store the tanks outside. The vacuum and air pumps will remain as part of the gas operation which has been upgraded over the years and is fully compliant. It is the building that has not been touched in almost 40 years. He noted that this company has six stations in Westchester, the closest one being in Valhalla, which is similar to this site.

Ms. Rachlin asked about the height of the building. Mr. Walsh said it will have a peaked roof, cape cod style, very similar to the Shell on 119. The project will require ARB approval. It is about a story and a half, prefabricated building, with a high ceiling. Mr. Pennella said it was code compliant, about 18 to 19 feet at midpoint.

Mr. Braun has no comments. He may abstain since he was not at the site, and there seems to be some kind of unique considerations to the site but what they propose sounds just fine to him.

Ms. Weisel asked Mr. Walsh to comment on the lighting. Mr. Walsh said that the lights for the new building will be inside the building and there will be no direct lighting going out off the site at all. The store will be lit on the inside with room size lighting that will be LED and will match the lighting pattern that is in the canopy.

Ms. Weisel asked if the revision of the triangle pocket to the tiered wall will change the variances requested. Mr. Pennella confirmed that none of the building offsets/setbacks will change since they are going into the earth.

Mr. Song has no comments or questions; what has been presented is fairly clear.

Mr. Jolly asked if the owner is responsible for the infrastructure or is it all part of the tenant responsibility. Mr. Walsh said that the site provides rental income to the Marasco Family. The responsibility of this construction project is resting on the tenant, but in turn, the tenant gets a longer-term lease going through 2040. They have a great relationship with the family. The store is being designed for something that can be affordable and viable which is why they are increasing the breakfast area, which accounts for two thirds of the monthly sales. It is a grab and go type store and there is no seating.

Mr. Jolly asked about safety of pedestrians walking between the pumps and the store since the distance is increased. Mr. Walsh said it will be safer because they will be encouraging people, both with the messages at the pump, to pull forward, park by the store and go into the store. This allows room for people behind them. This is the model they will encourage. Right now, they can't do that because there's nowhere to park in the front.

Ms. Lawrence thinks the variances are quite substantial and there are a lot of them. However, this is a unique lot and she understands the need for the variances. She suggested a walkway up to the sidewalk into the store for better safety. She is glad that they are revising the wall height to be code compliant and feels Mr. Pennella's suggestion is appropriate.

Mr. Ringel noted that there still was no one in the public raising their hand.

Mr. Pennella read the variances for the record again which are listed in the notice.

Ms. Lawrence 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. Lawrence stated that there does not seem to be there does not seem to be any undesirable change. The new structure will be in line with the other neighboring convenience stores.*
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 stated that there does not seem to be there does not seem to be any other method for the applicant to pursue given the configuration of the lot.*
3. That the requested area variance is not substantial. Yes, but in line with the configuration of the lot. *Ms. Lawrence stated that the requested variances are substantial but it is due to the configuration of the lot and there is a necessity for a larger convenience store.*
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. Lawrence 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 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 stated that this is self-created however, the variances granted are necessary in order for the applicant to move forward to have a modern convenience store.*

Counsel Zalantis suggested that the applicant withdraw their variance request for the wall height and that the resolution be drafted memorializing the Board's preference to have a two-tiered zoning compliant wall, which will be conveyed to the Planning Board, as suggested by the applicant.

Mr. Walsh agreed to withdraw this variance at the advice of the Board and will revise the plan to be code compliant.

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

The secretary recorded the vote:

Member Weisel: Yes
Member Rachlin: Yes
Member Braun: Yes
Member Song: Yes
Member Lawrence: Yes

All in favor. Motion carried. 5-0

Ms. Weisel moved, seconded by Ms. Rachlin, to approve this application and authorize Counsel to prepare a resolution memorializing the Board's discussion to include the general standard conditions and the applicant's withdrawal of the wall variance.

The secretary recorded the vote:

Member Weisel: Yes
Member Rachlin: Yes
Member Braun: Yes
Member Song: Yes
Member Lawrence: Yes

All in favor. Motion carried. 5-0

ADJOURNMENT

Ms. Jolly moved, seconded by Ms. Weisel, and unanimously carried, that the meeting be adjourned – 8:50 p.m.

Lizabeth Meszaros- Secretary