

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
December 10, 2018 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Maloney, Rachlin; Weisel, Alternate Member Kim, Counsel Addona; Village Engineer Pennella; Secretary Meszaros

ABSENT: Member Jolly

Ms. Lawrence called the meeting to order and moved to go into executive session to discuss procedural matters, seconded by Mr. Maloney. All in favor. Motion carried.

Board Members returned to the meeting room at 7:45 p.m. Mr. Maloney moved, seconded by Ms. Weisel, to come out of executive session. All in favor. Motion carried.

Approval of the Minutes – November 13, 2018

Ms. Lawrence moved, seconded by Mr. Maloney, with Ms. Weisel abstaining, to approve the November 13, 2018 minutes as submitted. All in favor. Motion carried.

Mr. Maloney announced the following adjournment:

Michael and Janiki Degen  
86 Crest Drive  
Variance needed for additions and alterations to a two-story single family home.

CONTINUATION OF PUBLIC HEARING – The Scipioni Group, LLC – 41 John Street

Sam Vieira, RA, appeared before the Board, at the request of the applicant John Scipioni, also present. He referred to the original plans which have since been revised. The new plans reflect the true elevations and indicate that the building sits on a sloped piece of property. In addition, they have added to the plan the existing vs. what is proposed for this property. They have modified the interior of the upper level so that it conforms with the definition in the code for a half story and have reduced the height of the building to 2 ½ stories; therefore, they no longer seek a variance for the 1 story. They are also requesting a variance to allow for the front porch addition which is adding to the non-conformity. In addition, 2 parking spaces are being proposed inside the garage, but 4 spaces are required. The remaining variances they are seeking are for setbacks which are necessary since most of the homes in this area are undersized lots and do not conform to the multifamily requirements.

Ms. Lawrence confirmed that there will be 3 bedrooms in the main unit and 2 bedrooms in the unit above the garage. Mr. Vieira noted there is a history of this property being occupied as a two-family. At some point in time, this property was a legal two-family and

it was brought back to a single family and then converted back to a two-family without the proper permits prior to his client's purchase.

Mr. Pennella provided Ms. Lawrence with a picture of the property "as is" from the garage over. Ms. Lawrence confirmed with Mr. Scipioni that the basement will be unfinished.

Ms. Lawrence asked Mr. Vieira to explain the changes to the plan since the first proposal. Mr. Vieira said that the original drawings placed the property on a flat piece of land so the representation was not accurate. They have submitted accurate elevations so you can actually see how the house sits. On the West Elizabeth side, the vertical wall was lowered, the roof becomes more pitched, and in effect lowers the height of the building. It is now a 2 ½ story rather than a 3 story structure, which is code compliant.

Ms. Lawrence was concerned about the light effect to the house on the south side of the property and if it had any windows. Mr. Vieira referenced the 2<sup>nd</sup> floor plan indicating that a small corner has been cut at a diagonal to accommodate a small window on the upper level of the home next door so that they will have natural light.

Ms. Lawrence asked if anyone in the public had any questions. No one appeared.

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

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

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 an undesirable change in the neighborhood since there are other two-families in this area and it will be an improvement.*
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 is no other method that the applicant can pursue other than the area variances considering the undersized lot and the close proximity of homes.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the variances are not substantial and the applicant has reduced them significantly from their original submission.*

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 stated that this action will not have any adverse effect or impact on the physical or environmental conditions 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 stated that although this was self-created it does not preclude the granting of these variances. The applicant is improving the property.*

Ms. Lawrence would like to include in the resolution that the variances proposed in the most recent plans, last revised on November 19, 2018, are less than what was originally proposed. She referenced Mr. Pennella's review of these plans and his subsequent Denial Letter dated December 1, 2018 indicating that some of the variances were reduced or eliminated entirely.

Mr. Maloney moved, seconded by Ms. Lawrence, to approve this application and authorize Counsel Addona to prepare a resolution memorializing the Board's discussions to include the general standard conditions and Ms. Lawrence's comment above. All in favor. Motion carried.

#### CONTINUATION OF PUBLIC HEARING– David Barbuti, RA – 15 N. Washington Street

Mark Blanchard, Attorney, of Blanchard & Wilson, LLP, appeared before the Board with David Barbuti, RA, the project architect. Mr. Blanchard stated that he has been working with the village staff and village attorney and referenced his letter to this Board dated November 30, 2018 indicating that his client has agreed to allow the former use variances to be extinguished as part of the application process. This has lessened the intensity of the application and has helped them to isolate attention on the 2<sup>nd</sup> floor dwelling unit in the carriage house in the back. The M-1 zone allows for 4 dwelling units in one structure. They are proposing 3 units in the front Victorian home and 1 unit in the back carriage house with parking. So essentially they are asking the Board to allow the use of the 4 units on the property. The unit in the back has been in use for quite some time. It will not add any traffic and nothing will change on the property. They would just like to get a certificate of occupancy for this unit. The November 30, 2018 letter requests the granting of an area variance to allow for this unit to exist, rather than a use variance for the mixed use residential above retail, which is not permitted in this zone.

Ms. Lawrence again confirmed that both structures are on one tax lot. Counsel Addona asked the applicant to confirm that they are willing to extinguish all prior use variances granted for this property in 1975 and amended in 1987 for light industrial and retail. Mr. Blanchard said they are willing to extinguish both these uses except for the area variance for the parking. Ms. Lawrence asked how many spaces will exist on the property. Mr. Barbuti, the project architect, said there are 6 spaces outside and 2

spaces will be added inside the building in the back carriage house, for a total of 8 spaces.

Ms. Lawrence asked if anyone in the public had any questions. No one appeared.

Counsel Addona advised the Board that with regard to SEQRA, this is an Unlisted Action. Before the Board can take any action on this application, they would have to do a SEQRA determination first. Since this Board is the only involved agency, they do not need discretionary approval. If the Board is so inclined they could make a SEQRA determination this evening and then approve the variance with the express condition that the applicant has agreed to extinguish the prior use variances on this property.

Ms. Rachlin moved, seconded by Ms. Lawrence, to close the public hearing. All in favor. Motion carried.

Ms. Rachlin moved, seconded by Ms. Lawrence, that the Zoning Board finds that there will be no significant adverse impacts on the physical or environmental conditions in the neighborhood as a result of this proposed action, and therefore, the Board issues a SEQRA negative declaration. All in favor. Motion carried.

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 an undesirable change in the neighborhood since there are other 4 families in this area and parking has been provided.*
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 is no other method that the applicant can pursue other than the area variance.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the 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. *Ms. Lawrence stated that in accordance with their SEQRA review, it has been determined that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions 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 stated that although this was self-created it does not preclude the granting of this variance.*

Mr. Maloney moved, seconded by Ms. Weisel, that the area variance be granted and Counsel Addona be directed to draft a resolution memorializing the Board's discussions to include general standard conditions and a specific condition that the owner has agreed to extinguish all prior use variances that have been granted for this property. All in favor. Motion carried.

Mr. Maloney moved, seconded by Ms. Lawrence, to direct Counsel Addona to prepare a separate resolution extinguishing all prior use variances associated with this property. All in favor. Motion carried.

ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Lawrence, and unanimously carried, that the meeting be adjourned – 8:10 p.m.

Lizabeth Meszaros- Secretary