

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
March 12, 2018 7:30 p.m.

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

ABSENT: Members Jolly and Rachlin

Chairwoman Lawrence called the meeting to order at 7:33 pm.

APPROVAL OF THE MINUTES – February 12, 2018

Mr. Maloney moved, seconded by Ms. Lawrence, that the minutes of February 12, 2018 be approved as submitted. All in favor. Motion carried.

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

The Board Members left the meeting room at 7:36 pm and returned from Executive Session at 7:46 p.m.

Ms. Lawrence moved, seconded by Mr. Maloney, to come out of Executive Session. All in favor. Motion carried.

Ms. Lawrence announced the following adjournment.

Andy Todd - 11 Carriage Trail - Variances needed for site plan approval.

CONTINUATION OF PUBLIC HEARING – Joseph and Julie Fiore- 230 Crest Drive

Sam Vieira, the project architect, representing Joseph and Julie Fiore, also present, presented the plan and briefly explained that the existing home is a small ranch, the largest part of the application is to put a second story above it so it lays out like a traditional 2 story home, with the bedrooms upstairs. The plan shifts the garage forward and creates a side entrance with a laundry area and unfinished storage area in the back. There is no existing basement so a more traditional pitched roof was designed which will make it also more architecturally attractive and provide for storage. The covered front porch will be bumped out to align with the upper floor. The single story garage sits back 5 feet. Mr. Vieira went over the variances and said the porch will require a 3.5 foot front yard variance. The house across the street has this and it will add curb appeal to the home. The side yard variance is needed since the house presently sits at 7.6 feet, requiring a 4.4 foot. variance since they are adding to the second floor above that. The house also encroaches on the other side so the combination of the 2 side yards will require a 6.5 foot variance. With regard to the light plane, he revised the plan to a hip roof which moves the lower roof out of the plane.

The last request is for parking in the front yard in order to widen the driveway to be able to have the cars park side by side, but keep the same curb cut. Ms. Lawrence asked to see the plan. Mr. Vieira went up to the dais and showed the Board Members.

Mr. Vieira made reference to the pictures submitted of homes that have done similar additions by Ms. Fiore at the last meeting. Ms. Lawrence said they have the pictures. Mr. Vieira said there is a precedence for homes in this area to put on these additions. It is cheaper to go up rather than go out. There is less disturbance since you are not digging up the yard.

Ms. Lawrence commented that they do have a big backyard.

Mr. Vieira explained that this application is currently before the Planning Board for site plan approval which includes a request to remove 3 trees in the middle of the yard. Ms. Weisel asked if the tree removal will add more sunlight in terms of the light plane. Mr. Vieira said without the trees more sunlight will come through. The trees around the perimeter will stay, the ones in the backyard are proposed to be removed, which falls under the jurisdiction of Planning.

Ms. Lawrence asked what type of asphalt the driveway will be. Mr. Vieira said probably asphalt.

With regard to the light plane, Mr. Vieira said, there is still a tiny piece of roof. If it is an issue, he will lower the roof. The south side has no opposition to the light plane of the application, but it can be lowered if the Board feels it is problematic.

Mr. Vieira explained that the light plane was thought up by a planner. It is an imaginary theoretical line picked from an arbitrary point with an arbitrary angle. There is a site to plug in coordinates and he has shown the sun at its lowest angles as the seasons change. It is very hard to come to a conclusion as to how this should be specifically addressed. It is also important to understand that the homes in the Crest are all on steep slopes and have different odd shaped lots. The Fiore's are following the same trend, looking to take advantage of a structure that already exists. If homes had the proper setbacks there would be no light plane issue.

Counsel Addona advised the applicant and all applicants before the Board this evening that there are only three Board members present and if the Board were inclined to vote, all three would have to vote yes to get the application approved. She advised all applicants that they could request to delay the vote until such time that there is a full Board present.

Ms. Lawrence asked if anyone in the public would like to speak.

Mr. Barry Agdern, of 224 Crest Drive, who lives next door to the Fiore's, addressed the Board. He read a statement into the record in opposition of the addition being built. He showed photographs of his home and the Fiore's, which are only 15 feet apart. He said that the existing garage is a non-conforming use. He drew a red line showing the height

of the new addition illustrating how it will tower over his home. He referred to photos 2 and 3 that show the light that comes into his home and how it will be blocked with the new addition. In photo 4, the sun can be seen, and, if the addition is built, the sun will be blocked along with breezes and fresh air.

With regard to the side yard setback he referenced the code. The garage is being converted into habitable space. He said these variances amount to a substantial increase in non-conformity. His home will be in the shadow. There will be a loss of privacy. Three windows will be open and sounds will carry. He feels the full width of the setback should be enforced. In addition, the covered entranceway is also a concern. He feels that voices carry and it is unfair to place him and his wife in a position to overhear conversations.

Mr. Agdern suggested putting bedrooms in the back of the existing home. He explained that a light plane plan was prepared which was requested by the Planning Board. He said it is an improvement, but the addition will still block his home from sun. He disagrees on how the line is drawn.

Mr. Agdern feels that the loss of light is the most important. He pointed the photos 4 and 5 which show mold more clearly, and said sunlight is the best disinfectant. He should not be blocked from the sunlight and should also be given his privacy in accordance with 305-3 of the code. Mr. Agdern's submissions are all included in these minutes (as Exhibit "A").

Ms. Lawrence asked if the photos presented are samples of houses that have no additions over the garage. Mr. Agdern said his wife will present, but, yes, none of these homes have additions over the garage.

Counsel Addona clarified for the Board that the use is not non-conforming, it is dimensionally non-conforming.

Jane Agdern, of 224 Crest Drive, agrees with her husband's statements. She read a statement to the Board which will become part of the minutes (as Exhibit "B"). In summary, she objects to the addition and variances requested by 230 Crest Drive. People lives change and she is not against it. There are 25 houses on Crest Drive. Starting at the horseshoe, 3 of these homes have a second story. The fundamental difference between the 230 Crest Drive and the others is that none of the homes, #'s 206, 218 and 245 have built above the garage or widened the curb cut. She showed #206, a 2 story home with dormers in the front. The garage roof is flat. #218 is a 1 1/2 story house with dormers next door to her home. An extension was built in the back and is located in the rear of the home. #245, a previous owner added both dormers and a second story. The roof line of this house is lower than the proposed at #230. #239 Crest should not be a model of what houses should look like in this area. This renovation occurred in the late 80's, early 90's. For those who sat on the Board, they may remember, but there was still nothing built on top of the garage and the curb cut was not altered.

Several of the homes in the area use dormers. She has no problem with improvements, except when they affect the privacy of others. There are many homes that have had successful renovations without building over the garage. This addition will make the house look too large for this property. The Fiore's have proposed putting a shed in the rear. She asked why they can't place more of the extension in the rear instead of over the garage. They welcome the Board to visit their home to see how they will be affected by this addition. She said that in a community where the homes are so close together, people should be aware of the negative effects it may have on their neighbor. She objects to this addition and all of the variances at 230 Crest Drive.

Ms. Lawrence asked if anyone else would like to speak. No one appeared.

She asked Mr. Vieira what is going on top of the garage.

Joe Fiore, the applicant, came up and said he would like to work from home in this office above the garage and also for storage since they do not have a basement. Julie Fiore came up and said that the downstairs bedroom will not be a bedroom, it will be a playroom for their kids. Ms. Lawrence asked how many bedrooms there will be. Mrs. Fiore said there will be 4 bedrooms.

Ms. Lawrence asked if they considered not adding the addition onto the garage and putting that area to the rear of the house.

Mr. Vieira said with regard to the three windows that face the house: The foyer area it is not a habitable room, the other area is in the laundry mud room, again not a room where people congregate. The windows exist for architecture. The window for the office can also be taken out but it is not a place for congregation. 224 Crest Drive also expanded into the garage and they also park in the front driveway since the garage is no more. To solve the light plane, they can lower the light plane, the s/s the neighbor has been before the Board and had no objection to the project. To decide where to start for the light plane. We have used the average grade. If it needs to be changed then it needs to be changed in the code. Mr. Pennella reviewed it. The house sits 19 inches lower, not 4 feet which Mr. Agdern confirmed when he visited the site. The theory that the house will be in shade is not true. The sun moves, it rises and sets, it only hits the ridge for 10 minutes of the day. The homes were built too close.

Ms. Lawrence said the Agdern's do not object to converting the garage just the second story above it, or how they perceive it with regard to the light.

Mr. Vieira said the 2nd floor addition is within the plane. The shadow is going to change height, length and angle every day will be different for every day of the year.

Ms. Lawrence looked at the home at #245 Crest Drive, which has an addition to the rear. She asked if they could perhaps revise the plan. Mr. Vieira said he is not prepared to answer that tonight. He requested an adjournment since there is no full Board this evening.

Ms. Lawrence said she has concerns about widening the driveway in the front yard and the second story over the garage. The Agdern's have lived there for 40 years. We will look at it from their windows. We should have a site visit before the next meeting.

Ms. Weisel said she would also like to visit the Agdern's home and walk around the property to see the impact. She feels that the Agdern's will be looking at a wall. The second floor on top of the garage is the problem. They would also like to walk around the property again.

Mr. Pennella asked Mr. Vieira to possibly give consideration to an upper hip roof. Mr. Vieira said he is not a fan of the hip roof. If the main focus is the encroachment on this side of the house they can lower the ridge. The encroachment on the s/s is not a concern.

Mr. Vieira said it sounds like the Board has concerns beyond the light plane. He can eliminate the light plane if need be.

Ms. Lawrence said she would like to visit the site.

Ms. Weisel said it seems that the office is causing a lot of problems. It is understood that going up is less expensive but going back could be a solution.

Mr. Agdern came back and said they moved into the house with the building over the garage already. It is a 50 year old change. They did not do the construction. He is happy that a site visit will be done with the Board members and is still concerned about the noise from the windows on the side and the porch in front.

Mr. Maloney moved, seconded by Ms. Weisel, to schedule a site visit at 224 Crest Drive and continue the public hearing next month. All in favor. Motion carried.

NEW PUBLIC HEARING – Benjamin Zara - 23 Independence Street

Counsel Addona said this application was adjourned from 2-12-18 meeting at the applicant's request which is why we are opening the public hearing this evening.

Counsel Addona read the Public Hearing Notice:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, February 12, 2018**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Benjamin Zara
23 Independence Street
Tarrytown, NY 10591

Seeking an appeal for an interpretation of the Building Inspector's determination of Section 305-132.A(1) of the Village of Tarrytown ("Zoning Code"), requiring Site Plan Review for a change of use of the detached garage to a wood working shop.

The property is located at 23 Independence Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.100, Block 68, Lot 13 and is in the R 7.5 Zoning District.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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

Lizabeth Meszaros

Secretary to the Zoning Board

Dated: February 2, 2018

The mailing receipts were received and the signs were posted. Board members visited the property.

Sam Vieira, the project architect, appeared before the Board representing Mr. Ben Zara, also present. Mr. Vieira said to summarize, Mr. Zara has taken the existing detached garage and built a small wood workshop without a building permit. The Building Inspector advised that he would need to legalize the space. His building permit to legalize this space was denied based on change of use from a garage to a woodworking shop requires Planning Board approval. Mr. Zara is here for guidance and interpretation of this determination. He does not believe that Planning Board approval is needed for this use. The law talks about buildings and the reason for the zoning board is to review if a change of use of a building could have impacts whether positive or negative, for example if it is used as a professional office or art studio, but in this situation, the section of the code does not apply, because it is not commercial. If this garage space was attached to his house and Mr. Zara chose to put a wood shop in it, would they still be having this discussion? What is the difference between putting a wood shop inside a detached garage vs. an attached garage? This is a very odd detached garage, with one garage door. It has not served as a 2 car garage forever. In a previous application, Mr. Vieira submitted a drawing with regard to the loss of parking space inside the bay, but he showed that a space could be provided and would be in compliance with the code. There is no violation here; it is simply an interpretation whether or not changing this building into a wood shop is a change of use. It is his opinion that the properties use is a single family residence which has not changed.

Ms. Lawrence asked Village Engineer Pennella, to explain his rationale for his interpretation.

Mr. Pennella said that he has made his determination based on the definition of garage in the code and read the definition. "An accessory building or part of a main building used only for the storage of motor vehicles as an accessory use for an owner or tenant." Therefore it is only intended for parking motor vehicles. If you are changing it or

converting it to a wood shop, it would trigger site plan review. It is reviewed through Planning to ensure that adequate parking is provided.

Mr. Vieira said the fact that this is a detached building, is prejudicial to Mr. Zara. He has been before the Board many times where they have taken garages and have created habitable space. We have been before this Board because of parking triggers. If this were a two car garage attached to his house and he did the same thing, there would be no discussion about Planning Board review. The intent of the law is more for a business. If Mr. Zara wanted to open up a business, that would be a different story. Mr. Zara is being held to a different standard because the garage is detached. The Planning Board process is expensive and Mr. Zara is very concerned about these costs.

Ms. Lawrence said that she is not prepared to vote on this issue this evening. She feels that she needs a full Board to weigh in on this.

Mr. Vieira wanted to confirm that the Board received Mr. Peter Feroe's letter. Ms. Lawrence confirmed that the Board did receive his letter.

Ms. Lawrence asked if anyone in the public would like to speak.

Peter Bartolacci, of 67 Miller Avenue, has tremendous concern if this interpretation is upheld and feels every resident should be concerned. What he heard is that a garage is for a car. He can assure the Board that 90% of people who live in the village do not have a car in their garage, so, if the code enforcement officer drives by, and sees other items besides a car, then they will have to go the Planning Board for a change of use. Everyone here should be very scared.

John Rosenblatt, 35 Park Avenue, works at NBC Saturday night live where they have real wood shops. He feels that the definition of a wood shop needs to be defined more clearly. This is not a professional wood shop. He said that Ben Zara is a great neighbor and has helped with building pinewood derby cars for the scouts.

Brenda Fracaroli, who lives directly across the street at 24 Independence Street, said that after reading the Zoning Board application, there were 3 professional people involved. She asked if Mr. Zara, as a teacher, thinks he would get better results with Mr. Vieira? Mr. Pennella is the expert and she does not know why he is challenging an expert. The prior owner had a 2 car garage. We watched the construction and illegal building. She submitted a letter to the Zoning Board, dated February 2, 2018, which she read into the record which gives a prior history of things that the public may not know.

The items that Mrs. Fracaroli described in her letter were not related to the matter before the Board. Ms. Lawrence advised Mrs. Fracaroli that the Board is here to interpret the determination of the building inspector, not for a variance.

Mrs. Fracaroli referred to Mr. Vieira's letter in the application, which understates the actual amount of work that was done. She has indicated that this structure was intended for a rental apartment. The east side neighbor's garage is less than 10 feet

away and will impact privacy. It is an undersized lot and where we live, parking spaces are like gold.

Counsel Addona advised that Mr. Zara did certain work to his property and based on the plans he needs site-plan approval. The Zoning Board is looking at what work was done and if it falls within the purview of the Planning Board. She advised Mrs. Fracaroli that what she is discussing is more relevant to whether the applicant is seeking a variance.

Mrs. Fracaroli asked that her letter be included in the minutes, which is attached (as Exhibit "C").

John Walsh, the owner of 17 Independence Street, adjacent to Mr. Zara's property, does not live there but he said Mr. Zara has been wonderful to his wife. He would like to know if anything will change with the certificate of occupancy. Mr. Pennella said if it does get approved at planning, a certificate of completion for the garage as a woodworking shop will be issued. It will not be classified as commercial. Mr. Walsh explained that he has owned the property for 50 years and Joe Miele, the former owner, used the garage for his cars. He just wants to make sure that it cannot be used as an Airbnb. He has no problem with using it as a wood shop. He wants to be assured that there would be no additional parking requirements and it will not change the FAR.

Ms. Lawrence said the Board is here only to interpret the determination of the Building Inspector.

Mr. Walsh said a garage is a storage structure. Mr. Pennella said the right side will be a garage, the left side will be habitable space but not for living quarters.

Mr. Pennella said the right bay of the garage is where the dust collector was, which Mr. Zara has moved to the left bay, so it will be less obtrusive to you as a wood working shop. Mr. Walsh wanted to be assured that it will be a hobby use, not commercial.

Counsel Addona said if that was changed in the future, the village would take the appropriate steps to enforce the code. Mr. Walsh asked if an EAF would be submitted. Counsel Addona said this is a Type II action for interpretation and therefore no environmental review would be required.

Peter Feroe came up and thanked the secretary for forwarding his letter to the Board. He lives at 32 Independence Street and Ben is a great neighbor. He feels that Mr. Pennella made the best interpretation of the code that he could make but the code is woefully out of date. His house was built in the 20's and is a non-conforming structure in many ways. As a professional planner and a resident, it is ridiculous that we have this situation, but this case does not support it. An accessory structure should not be subject to site plan review. If Mr Zara were to build a new tool shed within the setbacks, that would not require site plan approval. So if that doesn't require site plan approval, he cannot understand why one bay in the existing structure could require site plan approval. He cannot imagine that this is the intent of the code. Mr. Feroe said he does

not use his garage for cars, so you can sign him up too because one bay of his garage is filled with a snow blower, table, kayak and garbage cans. The garage is so small you can barely fit 2 cars in it. This is why we have the Zoning Board of Appeals to interpret the code.

David Kim, of 16 Independence Street, lives across the street from the Zara's. He has a one car garage, but has no car, so he uses the garage for storage. He asked if he needs a change of use for his garage also. It seems ridiculous and irrational. He said doing the right thing here would be beneficial to everyone.

Mr. Zara, the applicant, addressed the neighbor's concern, and said he has no intention to make the garage a place to live. He referenced his neighbor Tony, who also uses his garage as a wood shop. In general, the left side of the garage door has no springs so it is essentially a wall. Had he known he would have put a door on it. He hopes this clarifies everyone's concerns.

Anthony Fracaroli, 24 Independence Street, said it was a 2 car garage when Joe Miele lived here. His garage is full of stuff, but at any time he can take it out and put a car in there. We are all concerned that Mr. Zara had the Airbnb going in the attic so with this garage thing, we just do not want it to happen in the garage. We don't want strangers living in the garage.

John Matheson, of 30 Independence Street, also across the street said he is not opposed. He is a woodworker too.

Mr. Vieira requested an adjournment until next month.

Ms. Lawrence moved, seconded by Mr. Maloney, to continue the Public Hearing next month. All in favor. Motion carried.

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

Counsel Addona read the Public Hearing notice:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, March 12, 2018**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

21 Wildey Street, LLC
485 Putnam Avenue
Greenwich, CT 06830

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") in order to comply with site plan approval.

The property is located at 21 Wildey Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 8, Lot 8.1 and is in the M-1 Zoning District.

The variances sought are as follows:

Zone Code Section	Code Description	Required By Code	Existing on property	Proposed	Variance Required
§305-47B; §305-47B(7)- Walls	Yards; setbacks (Walls greater than 6 ft. in height)	6 feet maximum height	n/a	10.2 feet	4.2 feet
305-63 D (1)	Minimum Off Street Parking	2 ½ spaces for each dwelling total of 30 spaces	19	19	2 spaces (11-9*)
§305-63 C.(3)	Parking location in a side yard must equal a front yard setback	25 feet	6.6 feet**	6.6 feet	18.4 feet
§305-63 C.(3)(b)	Parking not permitted to encroach in a front yard setback	25 feet	13 feet**	13 feet	12 feet

(*) Indicates prior approval granted by the ZBA on July 13, 2015, attached

(**) Indicates as depicted on an as-built plan dated 12/5/2017.

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. 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

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: March 2, 2018

The mailing receipts were received and the sign was posted.

John Meyer, P.E., of 21 Wildey Street, LLC, representing the applicant, appeared with Steve Antonucci, the Project Superintendent. He explained that they are before the Board to receive a variance for wall height that was not noted on the original plan which received a prior approval. The wall has not changed from what was proposed. The height is 10.2 feet at its highest point. It was not seen, otherwise, the variance would have been sought. The wall supports a 12 foot wide sanitary sewer. The number of spaces was for 19 spaces which was approved. During construction, there were things that were changed to improve the site, which is the reason for the variances. The

dumpster has been relocated to the northeast corner in order to move it away from the residential properties. In the front of the building, parking spaces were moved to the easterly side where the retaining wall is to allow for more open area and to add more landscaping.

Ms. Lawrence asked if the wall obstructs the neighboring properties. Mr. Meyer said no it does not.

Ms. Lawrence asked if anyone in the public wished to speak.

Dean Gallea, of 28 Wildey Street, said he was surprised to see the parking move from where the site plan had it. He thought about it and could live with it, but cars will be 20 feet closer to Wildey Street now and you are more likely to see the front ends of the cars. He would like to see low evergreen hedges planted to hide the cars on the uphill side from the parking lot.

Mr. Pennella said he has discussed this with Mr. Antonucci, the project manager, and they agreed to do some planting and landscaping.

Mr. Pennella said the higher wall was necessary to maintain the views from the library which was requested by the Planning Board. He did work to relocate the dumpster area. It is screened quite well and not visible from Wildey Street.

Ben Gross, of 20 Wildey Street, said he was the Chair of the Affordable Housing Commission and has been very involved with the project. He would like to see a drawing of where the cars were moved to. He approached the dais and Ms. Lawrence pointed out to him the changes to the parking. Mr. Gross said that at a meeting years ago, Mr. Meyer said the new building would be set back to the library so the lawn would look like it was continuing down Wildey Street, there would be grass and landscaping. It is not going to look like that now.

Mr. Pennella said, in the original plan, looking from Broadway down, before, you would see the entire roofline of all the cars. As it is now, because the cars are parked next to the wall, you will only see the 20 foot length. Mr. Gross said he would like landscaping.

Counsel Addona said it is not outside of this Board's purview to mitigate impacts, and the Board could issue a condition of approval that it must be landscaped.

Mr. Pennella said some of this property is on the village property. We could have this be a condition of approval. He said islands have been created and we have a better landscaping plan now.

Ms. Lawrence said we will delay the voting until we see the landscape plan.

Mr. Meyer said he has no problem, but is there a need to have the Board Review if it is subject to the landscape architect approval.

Ms. Lawrence moved, seconded by Mr. Maloney, to adjourn to next month to have landscape plan reviewed by the village landscape architect. All in favor. Motion carried.

NEW PUBLIC HEARING – Leonard Brandes, RA – 22 Main Street

Counsel Addona read the Public Hearing notice:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, March 12, 2018**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Leonard Brandes, R.A.
2 Spencer Place
Scarsdale, NY 10583

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") in order to convert an existing laundromat to a restaurant use.

The property is located at 22 Main Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.70, Block 34, Lot 9 and is in the RR (Restricted Retail) Zoning District.

The variances sought are as follows:

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. All interested parties are invited to attend and be heard.

Code Description 305-39 Restricted Retail 305 Attachment 10	Required	Existing	Proposed	Variance Required
305-63.D(1) Schedule of Off-Street Parking Requirements: Restaurant 1 per employee + 1 per 3 seats or 1 per 100 gross sf (39 Seats/3=13 + 6 employees = 19)	19 Spaces	5*	0	14 Spaces
305-63.F(2)(e) Minimum Off-Street Loading No Parking in a side yard	1 Space	0	0	1 Space

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.

Additional approvals are required by the Planning Board and the Architectural Review Board.

By Order of the Zoning Board of Appeals
Dated: March 8, 2018

Lizabeth Meszaros
Secretary to Zoning Board of Appeals

The mailing receipts were received and the signs were posted. Board members visited the property.

Leonard Brandes, RA, introduced himself and Robert Gonzales, his client and the proposed proprietor of the new restaurant. He explained that they are before this Board to seek parking relief for the conversion of a laundromat into a restaurant. He explained that the current laundromat would need 9 spaces in accordance with the current code as it exists. He feels they should be given a credit for these nine spaces instead of only the five spaces they have been given credit for.

He explained that Mr. Gonzales will be providing for 4 additional spaces for his employees, one space on John Street, 2 spaces at 49 Main Street and they have an application before the Board of Trustees for a curb cut to allow a car to park in the rear of the property. He said that most of the restaurants are using the village garbage collection, however, they will be paying for private collection. They will also provide enclosed dumpsters to contain the garbage in the rear as well.

Mr. Pennella advised Mr. Brandes that the Village Board will not accept the compact spaces he proposed and that he will need to revise his plan to slide it down and also prove that a fire truck can do a turning radius from Main Street onto John Street. In addition, he will need to provide a lease agreement for the 3 other spaces that his client will be renting, otherwise a variance will be required for these spaces.

Mr. Brandes said it was determined that 10 spaces will be needed but they are seeking a reduction since 9 spaces are needed for the laundromat. Ms. Lawrence said most people who use the Laundromat do not park there.

Ms. Lawrence said we will wait to vote. She is concerned about adding to the traffic issue. They are overloaded with traffic. We are a restaurant designation.

Mr. Pennella asked Mr. Brandes if they explored the possibility of valet parking with off-site parking.

Mr. Brandes said they have explored this but there is no available space close by the restaurant for this to work. Mr. Brandes advised that they will hopefully have the Board of Trustees decision before the next meeting. If they do not hear from them by then, they can adjourn for April meeting. Mr. Brandes asked if he could start construction before that. Counsel Addona said you have to get all approvals before starting any construction and the approval order is Board of Trustees, Zoning Board and then back to the Planning Board.

Ms. Lawrence moved, seconded by Mr. Maloney, to continue the Public Hearing at the next regular meeting in April. All in favor. Motion carried.

ADJOURNMENT

Ms. Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the meeting be adjourned – 9:50 p.m. – Liz Meszaros, Secretary

EXHIBIT A
BARRY AGDERN SUBMISSION
230 CREST DRIVE APPLICATION
2-12-18 ZBA MEETING

GOOD EVENING TO THE CHAIR AND MEMBERS OF THE ZONING BOARD OF APPEALS, NEIGHBORS AND FRIENDS. MY NAME IS BARRY AGDERN AND WITH MY WIFE JANE AND DAUGHTER STACEY I LIVE AT 224 CREST DRIVE.

WE STRONGLY OBJECT TO THE PROPOSED ADDITIONS AND VARIANCE REQUESTS MADE BY THE OWNERS OF 230 CREST DRIVE.

MY WIFE AND I HAVE LIVED AT 224 CREST DRIVE FOR 43 YEARS. OUR HOME IS NEXT TO 230 CREST DRIVE; IT IS ON THE SOUTH SIDE OF OUR HOME. CURRENTLY WE RECEIVE SUNLIGHT THROUGH THE WINDOWS ON THE SOUTH SIDE OF OUR HOME AND IT IS THE PART OF THE HOUSE IN WHICH WE SPEND THE MAJORITY OF OUR DAY. HOWEVER, IF THE ADDITIONS TO 230 CREST DRIVE, AS PRESENTED IN THEIR PLANS, ARE ALLOWED TO PROCEED - SUNLIGHT AS WELL AS NATURAL LIGHT WILL BE BLOCKED AND OUR HOME WILL BE PLACED IN SHADOWS. OUR QUALITY OF LIFE WILL BE GREATLY IMPACTED. THIS BLOCKING OF LIGHT WILL ALSO AFFECT THE PATH ALONG THE SIDE OF OUR HOUSE, MAKING IT RESEMBLE MORE OF A CITY ALLEY THAN A SUBURBAN WALKWAY.

PERHAPS THE BEST WAY TO UNDERSTAND JUST HOW HARMFUL THE IMPACT WILL BE ON OUR HOME, IF THE

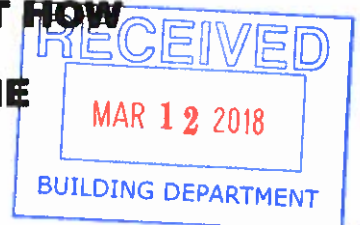
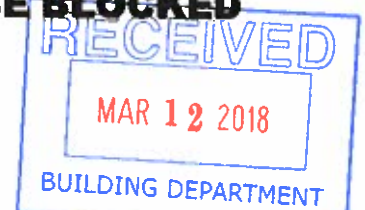


EXHIBIT "A" - Submitted a ZBA req by: Barry Agdern

ADDITIONS ARE BUILT, WOULD BE TO LOOK AT SOME PHOTOGRAPHS. PHOTOGRAPH 1 IN THE PACKET SHOWS 224 CREST DRIVE ON THE LEFT AND 230 CREST DRIVE ON THE RIGHT. THE HOUSES ARE ONLY FIFTEEN FEET APART, NOT THE 24 FEET CURRENTLY REQUIRED BY THE CODE.

THE EXISTING GARAGE AT 230 CREST DRIVE IS A NONCONFORMING USE. IT HAS BEEN BUILT 4 ½ FEET INTO THE REQUIRED SETBACK OF 12 FEET. IT IS 13 FEET HIGH AND UNDER THE PROPOSED ADDITION IT WOULD BE DOUBLED AT ITS HIGH END TO 26 FEET AND BE 19 ½ FEET AT ITS LOW END. I HAVE DRAWN A RED LINE SHOWING APPROXIMATELY HOW HIGH THIS PART OF THE NEW ADDITION WOULD BE. I HAVE DONE THIS SO THAT THE HEIGHT OF THE NEW STRUCTURE, IN CLOSE PROXIMITY TO MY HOME, CAN TRULY BE APPRECIATED. IT TOWERS OVER MY HOME. INDEED THE PROPOSED ADDITION TO THE MAIN HOUSE BRINGS ITS HEIGHT TO APPROXIMATELY 32 ½ FEET, OR, JUST ABOUT AT THE VERY TOP OF PHOTOGRAPH 1.

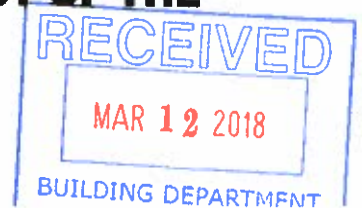
PHOTOGRAPHS 2 AND 3 IN THE PACKET WHICH WERE TAKEN INSIDE MY HOME SHOW THE LIGHT THAT COMES INTO MY HOME. ALL OF THE AREA ABOVE THE EXISTING ROOF LINE OF THE GARAGE IN THE PHOTOGRAPHS WOULD BE BLOCKED



BY THE NEW ADDITIONS. PHOTOGRAPH 4 IN THE PACKET WAS TAKEN ON THE STEP LEADING TO THE SIDE DOOR ON THE SOUTH SIDE OF MY HOME. IN IT THE SUN CAN BE SEEN. HOWEVER IF THE ADDITIONS ARE BUILT THEY WILL BE SO HIGH THAT THEY WILL BLOCK THE SUN FROM REACHING OUR HOUSE.

MOREOVER WITH THE HEIGHT OF THESE ADDITIONS THERE WILL BE A BLOCKING OF THE BREEZES AND FRESH AIR WHICH WE ARE ACCUSTOMED TO RECEIVING.

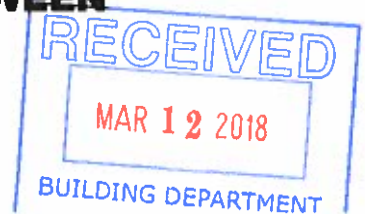
A VARIANCE OF 4 1/2 FEET IS BEING SOUGHT FROM THE SIDE YARD SETBACK. THIS ORDINARILY MIGHT NOT SEEM LIKE A LOT, ESPECIALLY SINCE THERE IS AN EXISTING NONCONFORMING USE. HOWEVER WHEN THE CHANGE TO A NONCONFORMING BUILDING INCREASES THE DEGREE OF NONCONFORMITY SUCH CHANGE IS PROHIBITED BY THE VILLAGE CODE WITH FEW EXCEPTIONS. SEE VILLAGE CODE ZONING, CHAPTER 305, ARTICLE X, §305-62 A (2). HERE A SUBSTANTIAL CHANGE IS BEING MADE TO THE GARAGE; IT IS BEING CONVERTED INTO HABITABLE SPACE. AN ADDITIONAL FLOOR IS BEING SOUGHT TO BE ADDED WITH ADDITIONAL HABITABLE SPACE, WITH AN INCREASED HEIGHT TO THE BUILDING AND ROOF. THIS MULTIPLIES THE EFFECT OF THE



CHANGE AND AMOUNTS TO A SUBSTANTIAL INCREASE IN THE NONCONFORMITY. THE EFFECT OF THE INCREASED HEIGHT WILL BE TO REDUCE THE LIGHT COMING INTO OUR HOME AND ON OUR PROPERTY AND PLACE OUR HOME IN SHADOWS. BUT MORE THAN THAT THERE WILL BE A LOSS OF PRIVACY.

THERE WILL BE THREE WINDOWS PLACED IN THE SETBACK IN THE EXPANDED GARAGE INSTEAD OF THE CURRENT SINGLE WINDOW. THE FACING WINDOWS, OUR TWO SOUTHERN WINDOWS AND THEIR THREE NORTHERN WINDOWS WILL BE OPEN THROUGHOUT MUCH OF THE YEAR, AND SOUNDS WILL CARRY. NOW EVEN THOUGH THE GARAGE IS BUILT IN THE SETBACK NO ONE IS LIVING IN THE GARAGE, AND ITS FULL WIDTH ACTS AS A BARRIER TO THE CONVERSATIONS, MUSIC AND SOUNDS THAT MAKE UP NORMAL LIVING. WITHOUT THE PROTECTION AFFORDED BY THE SETBACK OUR PRIVACY WILL BE GREATLY REDUCED. THE FULL WIDTH OF THE SETBACK SHOULD BE ENFORCED SINCE THE GARAGE WITH ITS SUBSTANTIAL CHANGES WOULD NO LONGER BE A NONCONFORMING USE.

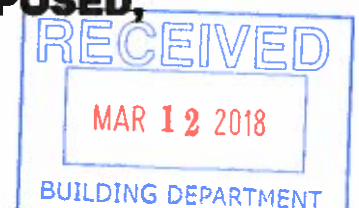
MOREOVER THE PROPOSED ADDITIONS INCLUDE A COVERED ENTRANCEWAY AS WELL. IT IS MOST NATURAL AND USUAL FOR CONVERSATIONS TO TAKE PLACE BETWEEN



FAMILY AND GUESTS IN A SHELTERED AREA. AGAIN VOICES CARRY AND IT IS UNFAIR TO PLACE US IN A POSITION WHERE WE ARE OVERHEARING THEIR CONVERSATIONS OR THEY ARE OVERHEARING OURS. THIS COVERED ENTRANCEWAY IS NOT AN EXISTING STRUCTURE BUT A COMPLETELY NEW ONE WHICH SHOULD NOT BE PERMITTED.

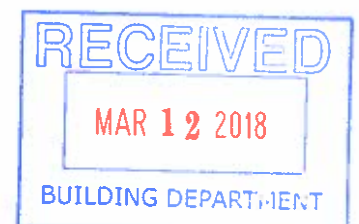
JUST TO TRULY UNDERSTAND HOW CLOSE THE ADDITIONS WILL PLACE 230 CREST DRIVE TO OUR HOUSE CONSIDER THE FOLLOWING. THE PLANS SHOW A COVERED ENTRANCEWAY 4 FEET IN LENGTH, THE FORMER GARAGE NOW TWO STORIES HIGH AND 19 FEET LONG AND A SHED 6 FEET IN LENGTH FOR A COMBINED LINEAR TOTAL OF 29 FEET TO BE BUILT INTO THE SETBACK. WHEN THE AREA OF ENCROACHMENT INTO THE SETBACK IS CALCULATED, THE TWO STORIES OF THE GARAGE, COVERED ENTRANCEWAY AND THE SHED, MULTIPLIED BY 4 ½ FEET, THE AREA IS DETERMINED TO BE 216 SQUARE FEET. THIS SHOULD NOT BE PERMITTED.

THE PLANS CONTAIN A MASTER BEDROOM, A GUEST BEDROOM, THREE OTHER BEDROOMS AND A MASTER STUDY. THE AREA BEHIND 230 CREST DRIVE SHOULD BE UTILIZED FOR AT LEAST SOME OF THESE ADDITIONS. IF A SHED COULD BE ATTACHED TO THE BACK OF THE HOUSE, AS IS PROPOSED,



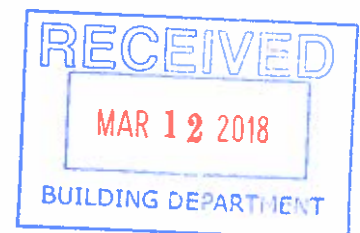
WHY NOT PLACE IN THE BACK ONE OR MORE OF THE FIVE BEDROOMS. OR IF NOT ONE OF THE MANY BEDROOMS THEN THE MASTER STUDY COULD BE PLACED IN THE BACK. BUILDING INTO AND ON TOP OF THE GARAGE IS A VERY SIGNIFICANT ENCROACHMENT ON OUR SUNLIGHT, NATURAL LIGHT, AIR AND PRIVACY.

AT THE REQUEST OF THE PLANNING BOARD MR. VIERA PREPARED A NEW LIGHT PLANE STUDY MARKED OPTION D. IN THIS STUDY HE SHOWS A CHANGED ROOF CONFIGURATION WHICH WHILE IT IS AN IMPROVEMENT STILL LEAVES OUR HOME BLOCKED FROM SOLAR ACCESS AS CAN CLEARLY BE SEEN BY THE PHOTOS. BUT MORE THAN THAT MR. VIERA AND I HAVE A DISAGREEMENT AS TO HOW THE 45° ANGLE IN THE LIGHT PLANE STUDY IS TO BE DRAWN. THE EXISTING CODE IS UNCLEAR. I CONTEND THAT THE POINT FROM WHICH THE ANGLE IS TO BE STARTED IS AT A POINT ON GRADE LEVEL ON THE NEIGHBORING SETBACK LINE. MR. VIERA AGREES THAT THE POINT SHOULD BE ON THE NEIGHBORING SETBACK LINE BUT DRAWN FROM A GRADE LEVEL POINT ON THE APPLICANT'S PROPERTY. THIS DOESN'T SEEM TO SUPPORT THE PURPOSE OF THE STUDY WHICH IS TO ALLOW LIGHT TO REACH THE NEIGHBORING PROPERTY.



I PREPARED THE ANNOTATED LIGHT PLANE STUDY IN THE PACKET, BASED ON MR. VIERA'S STUDY TO SHOW THE EFFECT OF THE TWO DIFFERENT GRADE LEVEL POINTS. THE LINE IN RED WAS DRAWN FROM THE GRADE LEVEL POINT ON THE NEIGHBORING SETBACK LINE, WHICH IS LOWER ON MY HOME. THE LINE IN BLACK DASHES FLOATS ABOVE THE GRADE LEVEL ON THE NEIGHBORING SETBACK LINE BECAUSE THE APPLICANT'S GRADE LEVEL IS HIGHER. IT CAN BE SEEN THAT THE ANGLE DRAWN IN RED INTERSECTS A PART OF THE NEW STRUCTURE OVER THE GARAGE AND A BIGGER PORTION OF THE ROOF OVER THE MAIN HOUSE THEN IS SHOWN BY THE BLACK DASHED LINE. BUT IN ANY EVENT IT IS THE LOSS OF LIGHT CLEARLY DEMONSTRATED IN THE PHOTOS THAT IS MOST IMPORTANT. I HAVE ALSO DRAWN A BLUE LINE ON THE STUDY TO SHOW HOW MUCH OF THE PROPOSED ADDITIONS FALL WITHIN THE REQUIRED 12 FOOT SETBACK.

IN ORDER TO SEE JUST SOME OF THE EFFECTS OF THE LOSS OF LIGHT WOULD HAVE ON OUR PROPERTY WE TOOK SOME PHOTOS. PHOTOGRAPH 4, WHICH I PREVIOUSLY REFFERED TO, SHOWS THE MOLD, THE MOSS AND POSSIBLY MILDEW GROWING ON THE NORTH SIDE OF 230 CREST DRIVE.



PHOTOGRAPH 5 IN THE PACKET TAKEN ON ANOTHER DAY SHOWS THE MOLD MORE CLEARLY.

WE SHOULD NOT BE PUT IN A SITUATION WHERE THE ALMOST YEAR ROUND SHADOWS CAUSED BY THE PROPOSED ADDITIONS WILL CREATE AN ENVIRONMENT SO CONDUCTIVE TO HAVING MOLD, MOSS AND MILDEW GROWING ON OUR PROPERTY – AN ENVIRONMENTAL NIGHTMARE. SUNLIGHT IS THE BEST DISINFECTANT. PLEASE DO NOT ALLOW THESE ADDITIONS TO BLOCK OUR NEEDED SUNLIGHT. AGAIN PLEASE TAKE NOTE IN PHOTOGRAPH 4 THE SUN CAN BE SEEN. HOWEVER IF THE ADDITIONS ARE BUILT THEY WILL BE SO HIGH THAT THEY WILL BLOCK THE SUN FROM REACHING OUR HOUSE.

UNDER THE ZONING CHAPTER OF THE VILLAGE CODE § 305-3. SOME OF THE LISTED SPECIFIC OBJECTIVES ARE TO PROVIDE ADEQUATE LIGHT, AIR AND PRIVACY AND TO PRESERVE SOLAR ACCESS. ALL OF THESE OBJECTIVES WILL BE CONTRAVENED BY THE PROPOSED ADDITIONS. THUS THESE ADDITIONS SHOULD NOT BE PERMITTED. OUR HOME SHOULD NOT BE PLACED IN SHADOWS. WE SHOULD NOT BE BLOCKED FROM RECEIVING LIGHT AND WE SHOULD BE ABLE TO MAINTAIN OUR PRIVACY. UNFORTUNATELY WE ARE FORCED TO



**RAISE OUR STRONG OBJECTION TO THE PLANS AS SUBMITTED
BECAUSE OF THE SUBSTANTIAL HARM THE ADDITIONS TO 230
CREST DRIVE WILL DO TO OUR HOME.**

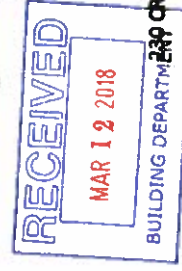
THANK YOU FOR YOUR CONSIDERATION.

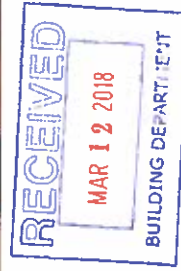
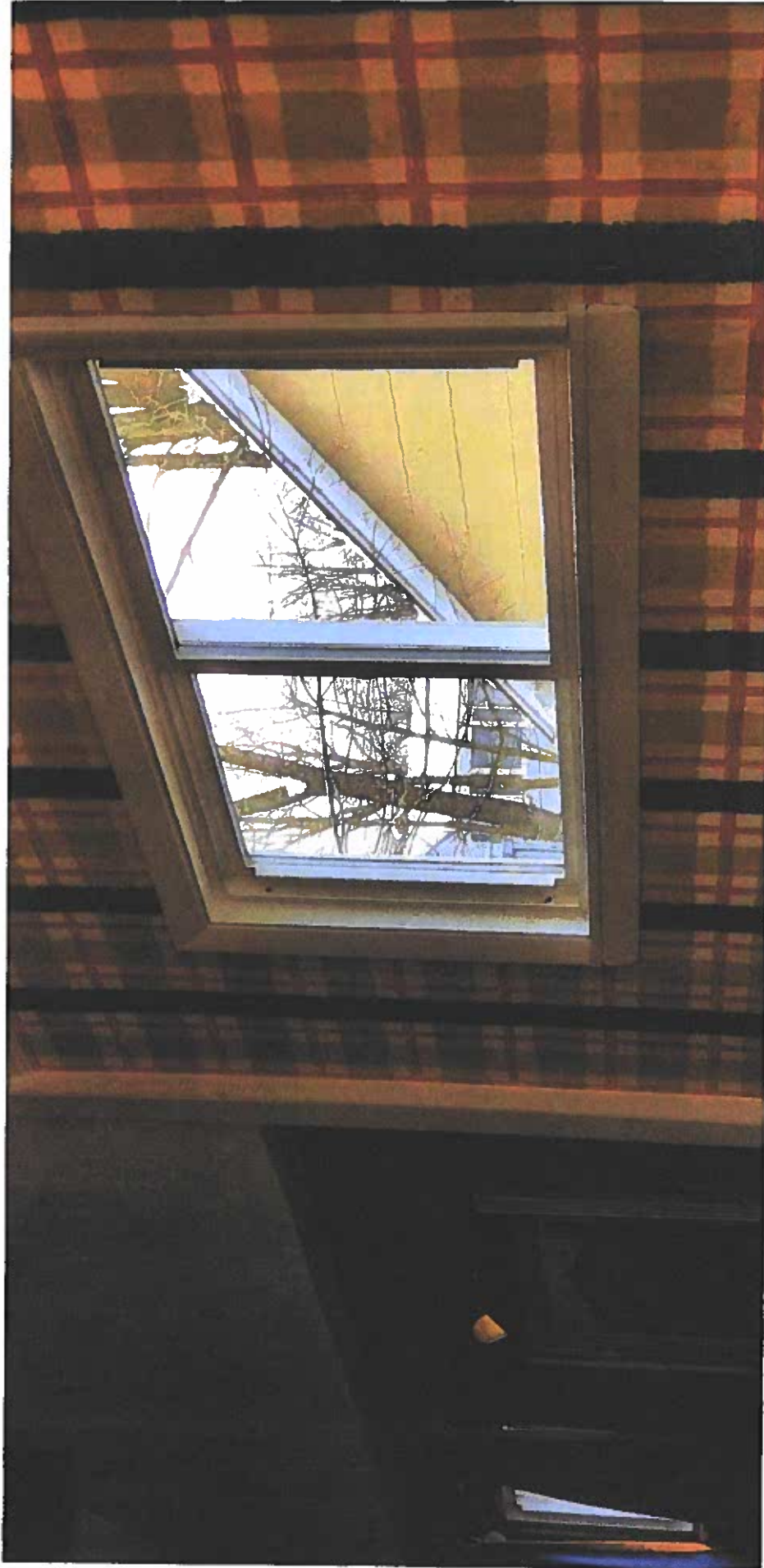




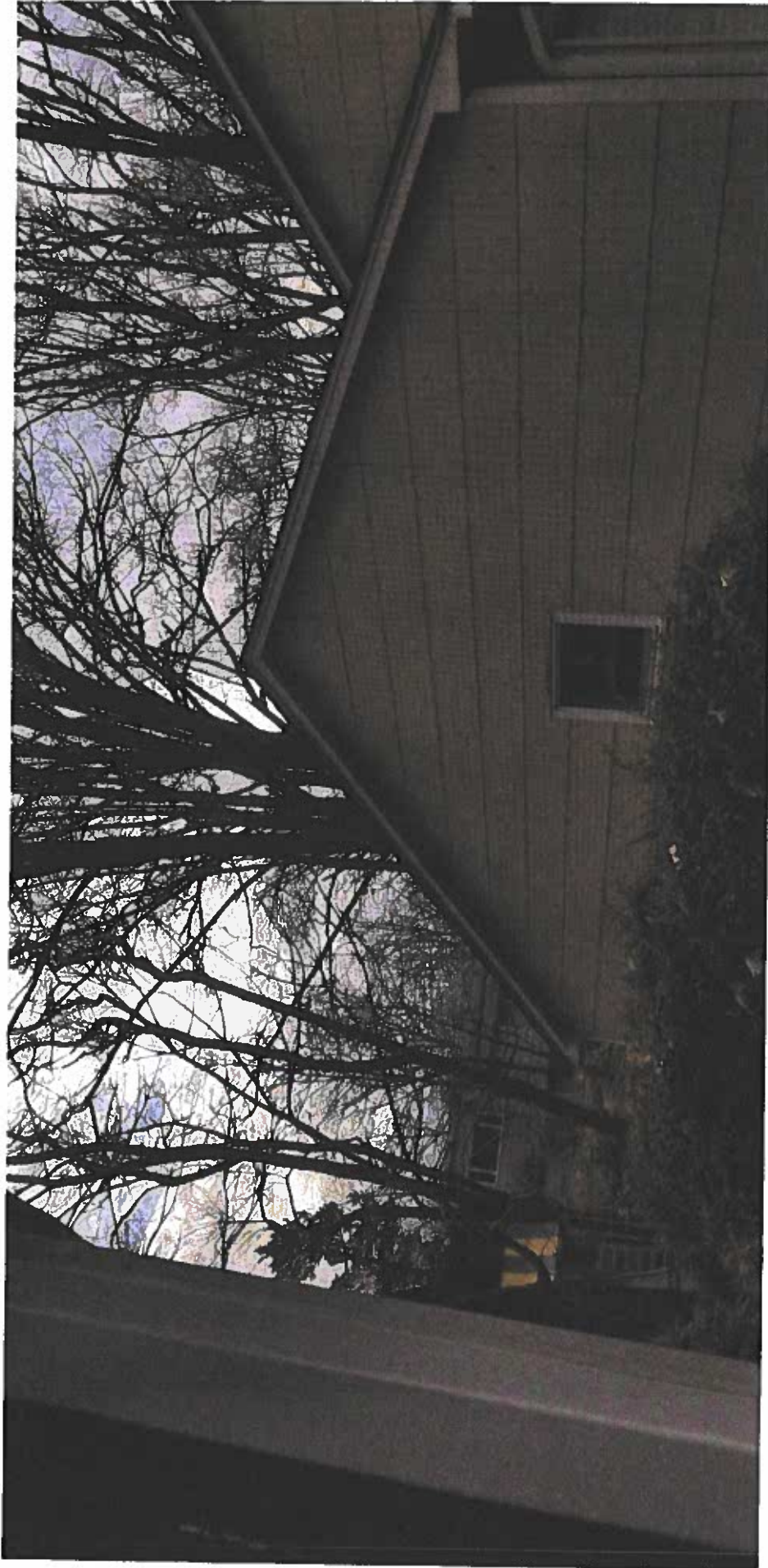
224 CREST DRIVE

PHOTOGRAPH 1



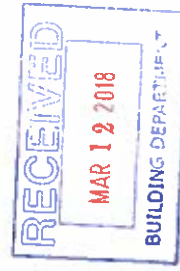


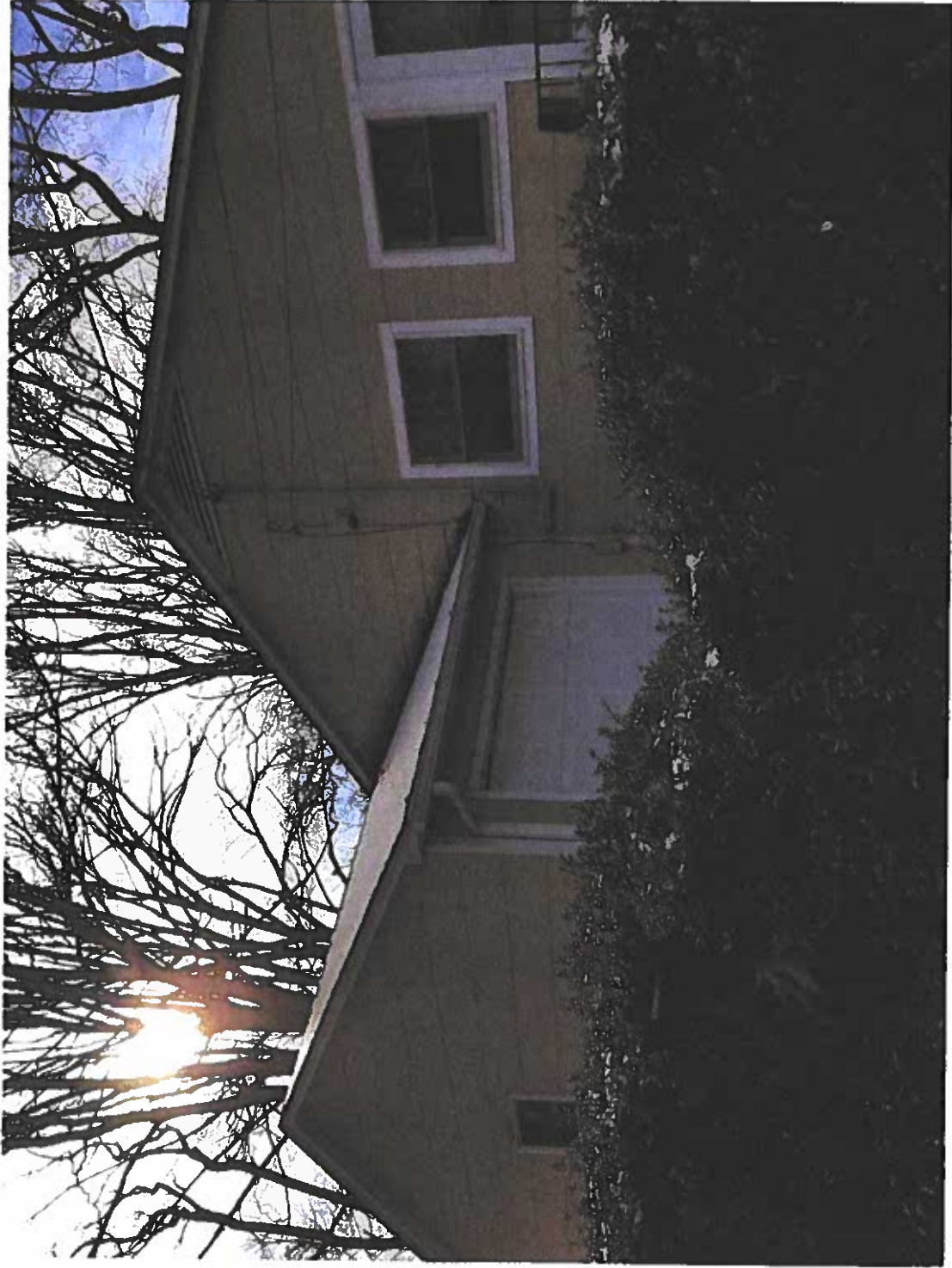
PHOTOGRAPH 2
View From a South Facing Window of 224 CREST DRIVE



PHOTOGRAPH 3

View From Another South Facing Window of 224 CREST DRIVE





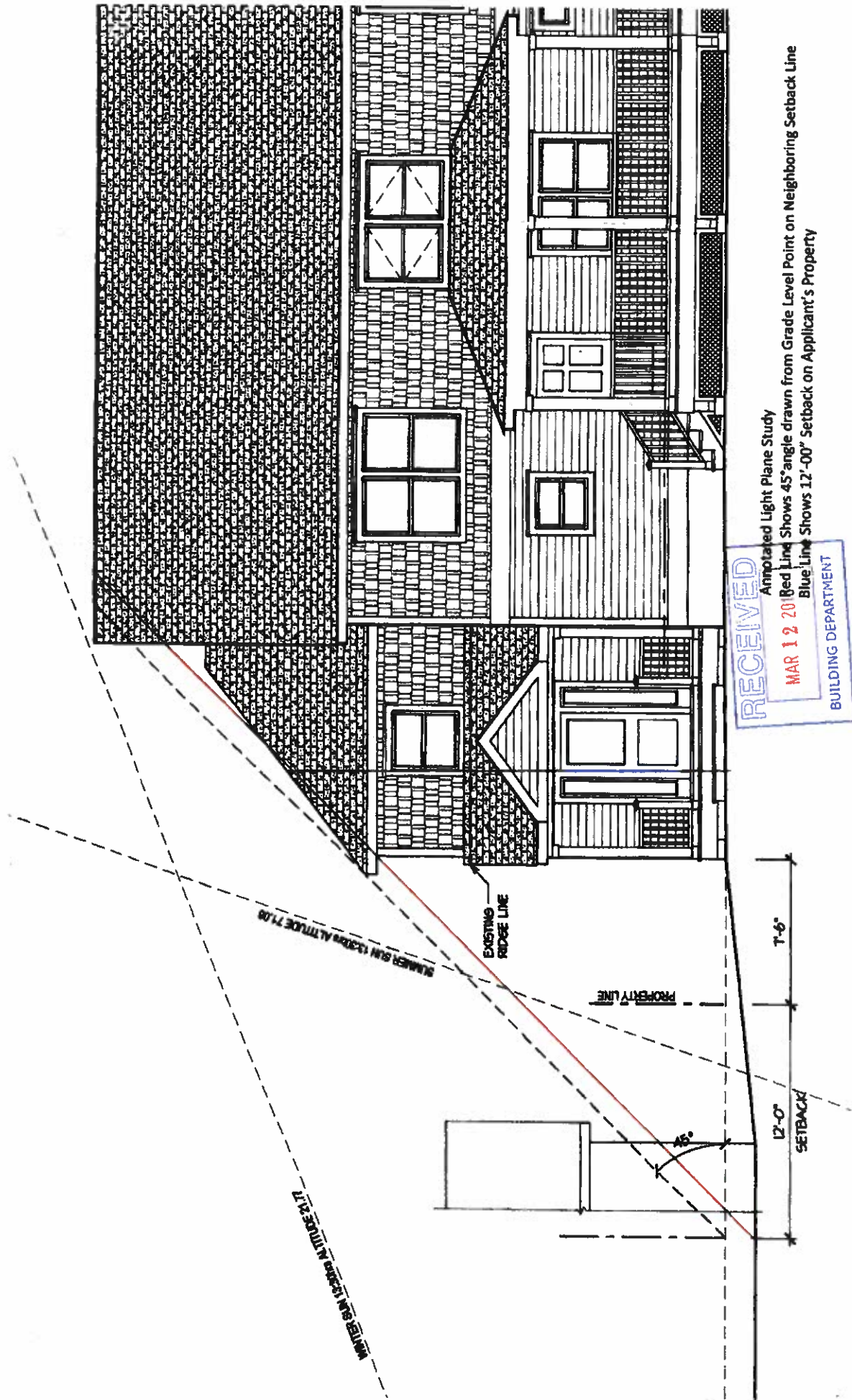
PHOTOGRAPH 4
230 CREST DRIVE

RECEIVED
MAR 12 2018
BUILDING DEPARTMENT



PHOTOGRAPH 5
230 CREST DRIVE

RECEIVED
MAR 12 2018
BUILDING DEPARTMENT



RECEIVED

Annotated Light Plane Study

MAR 12 2018
 Red Line Shows 45° angle drawn from Grade Level Point on Neighboring Setback Line
 Blue Line Shows 12'-00" Setback on Applicant's Property

BUILDING DEPARTMENT



PHOTOGRAPH 6
206 Crest Drive





PHOTOGRAPH 7
218 Crest Drive



PHOTOGRAPH 8
245 Crest Drive





PHOTOGRAPH 9
239 Crest Drive

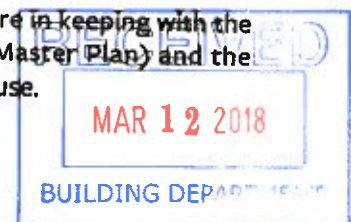


Chapter 305. Zoning

Article X. Regulations Applicable to All Districts

§ 305-62. Nonconforming buildings, lots and uses.

- A. May be continued subject to conditions. Any building or use of land or building lawfully existing under the provisions of the local law or Local Zoning Law in effect immediately prior to the date on which this chapter becomes effective, although not conforming with the provisions of this chapter for the district in which it is situated, may be continued, subject to compliance with the conditions set forth below. Similarly, whenever a district shall be changed hereafter, the provisions of this chapter with regard to any building, structure or use lawfully existing at the time of the passage of this chapter shall apply, subject to the conditions set forth below, to any building, structure or use lawfully existing in such changed district at the time of the passage of such amendment.
- (1) A change to a nonconforming building which does not increase the degree of nonconformity, and which otherwise conforms to zoning regulations, shall not require a variance. Alterations which would increase the degree of nonconformity are described below in Subsection A(2).
 - (2) Nonconformity may not be increased or moved. No such land use, building or structure which is nonconforming with respect to height, percentage of area of lot occupied, minimum yard sizes or minimum lot area per family shall be enlarged or altered in such a manner as to increase any such nonconformity or so as to substantially enlarge or increase the habitable or other useful area of such nonconformity, including, without limitation, the alteration of roof or floor levels or the addition of habitable or other useful area above or below such nonconforming structure. No such land, building or structure which is nonconforming with respect to use shall be enlarged nor shall the building or structure be altered structurally except as may be required by order of the Code Enforcement Officer to strengthen or restore such building or any part thereof to a safe condition. No nonconforming use shall be moved, in whole or in part, to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of the adoption of this section.
 - (3) Changing to substantially more conforming use. No nonconforming use shall be changed to another nonconforming use except that, within six months after the cessation of a lawfully existing nonconforming use, the Board of Appeals, after notice and hearing, may grant a temporary conditional permit for a new nonconforming use within the same structure, provided that it shall find that:
 - (a) The proposed new nonconforming use will be substantially more in keeping with the comprehensive zoning plan of land use and development (Master Plan) and the character of the neighborhood than the former nonconforming use.

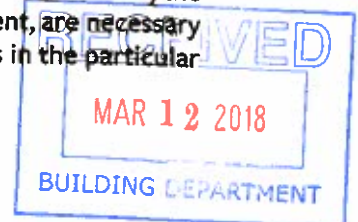


- (b) It will tend to facilitate the later conversion of the structure to a more conforming use.
- (4) If made to conform, may not revert to nonconformity. No such nonconforming building or use, if changed in whole or in part to a building or use which conforms to or is in greater conformity with the provisions of this chapter, shall be changed back to a less conforming or nonconforming building or use.
- (5) Effect of discontinuance. Any such nonconforming use, the physical operation or use of which has ceased for six months or longer, shall be deemed to be abandoned, and such nonconforming use shall not be resumed.
- (6) Effect of serious damage.
- (a) A one-family dwelling situated on a lot having an area of less than 7,500 square feet or a width at the front of the building of less than 50 feet and not conforming to this chapter with respect to required yards, if accidentally damaged from whatever cause to whatever extent, may be rebuilt or restored on its original foundations.
- (b) A one-family dwelling not falling within the category specified in Subsection A(6)(a) above and not conforming to this chapter with respect to required yards, if accidentally damaged from whatever cause to the extent of not more than 50% of its volume above the foundations as determined and certified by the Code Enforcement Officer, may be restored on its original foundations, but if damaged to a greater extent of such volume, may be rebuilt or restored to provide an equivalent livable area but shall conform to the side yard requirements herein set forth and shall not be nearer to the street than the average distance of the dwelling on the lots adjacent thereto on each side or, if there are none adjacent, the average distance of the two nearest dwellings on the same side of the street, but in any event not more than the distance required in Column 11 of the schedule.^[1]

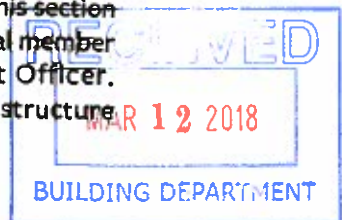
[1] *Editor's Note: The schedule is included at the end of this chapter.*

- (c) In the event of the accidental destruction or damage from whatever cause, a single building, the first floor of which prior thereto was used primarily for the sale of goods at retail or the performance of customary personal services or a combination thereof, whether or not such use was a conforming use or a lawful nonconforming use, may be restored upon the original site for the continuance of such use, subject to the following provisions:

- [1] If the damage to such building was less than 50% of the volume above the foundations, as determined and certified by the Code Enforcement Officer, it may be restored upon such foundations to its original dimensions.
- [2] If the damage was more than 50% of its volume above the foundations, as determined and certified by the Code Enforcement Officer, such building may be rebuilt, subject to the approval of the Board of Appeals, upon the same lot in such manner as to provide floor area for merchandising or personal services equivalent to that existing prior to such damage and in addition such number of off-street parking spaces which the Board of Appeals may determine can at reasonable cost be developed upon such lot by means of access directly from the street on which the property fronts or by access from a side street or by easement over the property of another. In approving such permit to rebuild, the Board of Appeals may impose such conditions as, in its judgment, are necessary in the public interest, having due regard to the circumstances in the particular case.

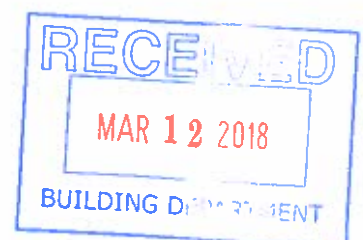


- (d) Any other building or structure not falling within the provisions of this subsection, if damaged to the extent of not more than 50% of its volume above the foundations, as determined and certified by the Code Enforcement Officer, whether or not such use was a conforming use or a lawful nonconforming use, may be restored upon the original site to its former use and dimensions, but if damaged to the extent of more than 50% of its volume, as determined and certified by the Code Enforcement Officer, may be restored to its original use and to an equivalent usable building area in accordance with the applicable provisions of Subsection A(6)(c).
- (7) Application to rebuild must be made within six months. Application for a permit to rebuild or restore the damaged portion of any building damaged or destroyed as set forth in Subsection A(6) shall be filed within six months of the day of such damage and shall be accompanied by plans for reconstruction which, as to such portion, except as specified in Subsection A(6), shall comply with the provisions of this chapter in all respects, save as to the use of the building or structure, as therein specified.
- (8) Rebuilding must be completed within 12 months. If a permit for such rebuilding or restoration is granted, it shall lapse 12 months thereafter unless reconstruction in accordance therewith has been substantially completed, except that the Code Enforcement Officer, in his discretion, may grant a six-month extension thereof.
- (9) Certain uses must cease within two years. Any nonconforming use of land upon which there is no substantial structure or building, and the use of which is considered temporary in nature by the Zoning Board of Appeals, shall be discontinued within two years from the adoption of this chapter or the date of determination by the Zoning Board of Appeals, whichever is the greater time.
- (10) Nonconforming lots.
- (a) Any parcel of land having access to a street shown on the Official Map and having an area or width at the front of the building less than prescribed for a lot in the district in which such lot is situated, which parcel was under one ownership from date of the adoption of this chapter on March 1, 1959,^[2] to the present, when the owner thereof owned no adjoining land from March 1, 1959, to the present, may be used as a lot for any purpose permitted in the district without obtaining a variance from the Board of Appeals, provided that all other area regulations prescribed for the district by this chapter shall be complied with in proportion of actual lot width to required width at the front of the building and in like manner to minimum yard dimensions, except that one side yard shall be not less than 10 feet wide.
- [2] Editor's Note: This chapter was readopted 12-1-2008 by L.L. No. 18-2008.
- (b) If such nonconforming lot(s) shall, on or after March 1, 1959, be held in the same ownership as an adjoining parcel or parcels, such nonconforming lot(s) shall be termed "merged" to form one whole lot. If the merged lot is nonconforming, the provisions of this subsection shall apply to the merged lot.
- (11) Lots made nonconforming by future amendment. Should the required area or dimensions of lots be changed by future amendment of this chapter, any legal lot existing at that date and made nonconforming by such amendment may be built upon subject to the limitations contained in Subsection A herein.
- B. Restoration of certified historic structures which may be nonconforming. Nothing in this section shall prevent the strengthening or restoring to a safe condition of any wall or structural member of a certified historic structure considered unsafe by the Code Enforcement Officer. Notwithstanding other provisions of this section to the contrary, any building or structure



certified as historic by the Village Board of Trustees may be restored to its original form in a safe and sound manner so as to protect and enhance the historic integrity of such structure. Such reconstruction and/or rehabilitation shall be subject to site development plan review and approval by the Planning Board with the advisory assistance of the ARB.

- C. If a portion of a lot has been acquired through eminent domain, and, as a result of such acquisition, the remaining portion of the lot has been rendered nonconforming with respect to lot area, setbacks, building coverage, impervious surface coverage, parking, total gross floor area or FAR, such remaining portion of the lot shall be deemed and considered a legal nonconforming lot to the extent of any nonconformity resulting solely from such exercise of eminent domain. Notwithstanding any provision of § 305-62, in connection with any proposed change of use or change of occupancy involving any lot that has had a portion of it acquired through eminent domain (the "remaining lot"), for purposes of calculating the remaining lot's conformity with lot area, setbacks, building coverage, impervious surface coverage, parking, total gross floor area or FAR, the remaining lot shall be credited as if the lot area acquired through eminent domain remained, except that no structure may be extended or expanded to a location that is further into any required setback than any building existing at the time of the acquisition through eminent domain.



Chapter 305. Zoning

Article II. Definitions and Word Usage

§ 305-5. Word usage; terms defined.

B.

Unless otherwise expressly stated, the following terms, for the purpose of this chapter, shall have the meanings herein indicated. For purposes of clarity and uniformity throughout this chapter of the Village Code, some definitions may be regulatory in nature.

...

LIGHT EXPOSURE PLANE

A light exposure plane is measured 45° vertically from the neighboring setback line. Building walls shall not encroach on a light exposure plane. If an existing structure is located within a side yard setback, then the point of measurement for a light exposure plane shall be from the required side yard setback.



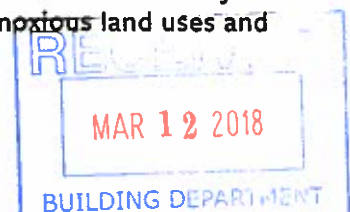
Chapter 305. Zoning

Article I. General Provisions

§ 305-3. Objectives.

The following more specific objectives are hereby established in support of and in addition to the purposes stated above:

- A. To guide the future development of the Village in accordance with a comprehensive plan designed to represent and promote the most beneficial and convenient relationship among the residential, commercial, industrial and public areas of the Village, considering the suitability of each area for such uses as indicated by existing conditions, trends and development and changing modes in living and having due regard for the use of land, building development and social, cultural and economic activity, both within the Village and with respect to the relationship of the Village to areas outside thereof.
- B. To secure safety from fire, flood, panic and other dangers.
- C. To provide adequate light, air and privacy and to preserve solar access.
- D. To prevent overcrowding of the land and undue congestion of population.
- E. To promote the most beneficial relationship between the use of land and buildings and the circulation of traffic throughout the Village and the greater area of influence of which it is a part, having particular regard for the avoidance of congestion of streets and provision of safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and buildings throughout the Village.
- F. To facilitate and support the adequate provision and maintenance of roads, driveways, traffic and transportation facilities, water, schools, parks and other public requirements and facilities.
- G. To protect, maintain, conserve and enhance the value of land and buildings and the social, economic, aesthetic and environmental stability and viability of all parts of the Village through various programs and techniques, such as controlled adaptive reuse, tourism and specific visitation of Village-wide and historic district buildings and sites.
- H. To prevent the pollution of watercourses and wetlands, to safeguard the water table, to preserve the beneficial effects of wetlands, to avoid hazardous conditions and excessive damage resulting from stormwater runoff and flooding and to encourage the appropriate use and sound management of natural resources throughout the Village.
- I. To preserve and maintain the natural beauty of the physiography, geography and plant material of the Village; to preserve significant views and vistas of natural and man-made beauty or interest; to protect the Village against unsightly, obtrusive and obnoxious land uses and



operations; to enhance the aesthetic aspect of the natural and man-made elements of the Village; and to ensure appropriate development with regard to those elements.

- J. To promote the preservation, maintenance and enhancement of the existing historic character of the Village and to encourage the development of uses which would add to or be in harmony with this character through such facilities as building and structure design, color and texture, signs, lighting, landscaping and other site plan elements.
- K. To assist in the provision of adequate and suitably located areas for recreation activities and the preservation of appropriate open spaces.
- L. To bring about the gradual conformity of the uses of land and buildings throughout the Village to the adopted comprehensive zoning plan and to minimize conflicts among the uses of land and buildings.
- M. To preserve and enhance a scale of land use and development within the Village commensurate with the height, bulk, intensity and extent of land use categorized by the residential portions of the Village and in relation to the overall topographic and physiographic characteristics of the Village so as to promote a feeling and impression of compatibility between buildings and natural terrain and to provide an overall impression to the observer that man-made structures are in scale with their natural surroundings.
- N. To assist in the preservation and promotion of a variety of types of housing so as to provide opportunities and choices which may be attractive or appropriate for different interests and economic capabilities.



impervious surface on the gross lot area, not the net developable area on a site. [Added 10-1-2007 by L.L. No 11-2007]

INN — A structure in which more than 10 but less than 20 rooms are rented to the general public.

JUNKYARD — The use of more than 200 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that abuts any street for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

LIGHT EXPOSURE PLANE — A plane extending vertically at a forty-five-degree angle from the base of a primary residential structure. The purpose of a light exposure plane is to provide sufficient light and air between neighboring primary residential structures. [Added 3-1-1999 by L.L. No. 4-1999]

LIVABLE FLOOR AREA — Includes all horizontal space within the exterior or party walls of the dwelling, exclusive of garages, cellars, heater rooms and basements and of open unheated porches and breezeways, but shall include the area of all heated front rooms, kitchens, utility rooms, bathrooms and all closets and hallways directly appurtenant thereof and the area of all attic space having a clear height of four feet from finished floor level to pitch of roof rafter and a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

EXHIBIT B
JANE AGDERN SUBMISSION
230 CREST DRIVE APPLICATION
2-12-18 ZBA MEETING

GOOD EVENING EVERYONE,

MY NAME IS JANE AGDERN. I RESIDE AT 224 CREST DRIVE. I agree with the previous statement, made by my husband. I object to the additions and all of the variances requested by the owners of 230 Crest Drive.

In addition, I would like to state the following: I am in no way opposed to progress and alteration; people's lives change, and the needs of their houses change.

In fact, I'd like to note that THERE are 25 HOUSES IN THIS SECTION OF CREST DRIVE. 3 OF THEM HAVE A SECOND STORY. 1 is a 1 and a $\frac{1}{2}$ story.

There are some fundamental differences between the proposed plans FOR 230 Crest Drive and THE HOUSES OF THE RESIDENTS IN THIS SECTION WHO HAVE ADDED ^{to} 2ND STORIES. HERE ARE TWO. First, none of the ³~~four~~ houses have HAD A a 2ND STORY BUILT ON TOP OF THEIR GARAGES. Second, none of the four houses have ALTERED OR WIDENED CURB CUTS.



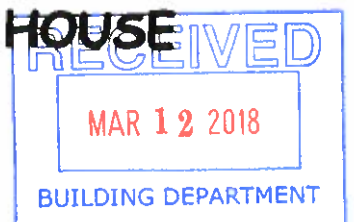
Exhibit 'B' Submitted by Jane Agdern - CBA m.s. J. R. Rye

First, there is 206 CREST DRIVE, PHOTO NUMBER 6. This is A 2 STORY HOUSE WITH DORMERS IN THE FRONT. THE GARAGE ROOF IS FLAT WITH A LEVEL DECK. THE CURB CUT REMAINS UNCHANGED IN SIZE OR WIDTH.

Second, there is 218 CREST DRIVE, PHOTO NUMBER 7. This house is considered a 1 and $\frac{1}{2}$ story house. It has dormers placed in the back. It's located next door to my house. An extension was built 13 or 14 years ago and is located in the rear of the house. It is not located on top of the garage, and the past owners did not see fit to change the curb cut.

Next we turn to 245 CREST DRIVE, PHOTO NUMBER 8. A previous owner of the house added both dormers in the front and a second story to this house. In fact, the ROOF LINE of this house APPEARS LOWER THAN THE PROPOSED PLANS FOR 230 CREST DRIVE. The garage has an extension behind it, but not above it. THE CURB CUT REMAINS UNCHANGED IN SIZE & WIDTH.

The final altered 2 story house on this block is 239 CREST DRIVE, PHOTO NUMBER 9. THIS HOUSE



SHOULD NOT BE A MODEL OF WHAT HOUSES on this street SHOULD LOOK LIKE in any way, shape or form. THIS renovation and accompanying unpleasantness OCCURRED IN THE LATE 80'S OR EARLY 90'S. THE RESULTING DESPUTE BETWEEN THE HOME OWNER AND THE VILLAGE AS WELL AS BETWEEN THE RESIDENTS OF THE STREET AND THE HOME OWNER AT THAT TIME WERE UGLY. I'D BE HAPPY TO SHARE WITH YOU WHAT I RECALL OF THE EVENTS, BUT I DON'T WANT TO GIVE ANY INCORRECT INFORMATION. PERHAPS THERE IS A FILE REGARDING THIS HOUSE THAT CAN BE REFERED TO? FOR THOSE OF YOU WHO SAT ON THIS board at that time, MAYBE YOU MIGHT REMEMBER? Despite all of this, 239 Crest Drive does NOT have a 2ND STORY ON TOP OF THE GARAGE. Nor, did they alter THE CURB CUT.

The bottom line is that NONE OF THE 25 HOME OWNERS ON THIS SECTION OF CREST DRIVE HAVE BUILT 2ND STORIES ON TOP OF THEIR GARAGES. SEVERAL of the houses make use of dormers to lower the roofline.



I have no problem with either renovations, or change. Except when renovations proposed by one neighbor alter the privacy and living conditions of another.

There are multiple houses that have undergone successful renovations on this block. In fact, you might say that the custom of building extensions in ways that don't involve using space over the garage has become a common practice given the close proximity of houses on the street.

The fact is that the proposed RENOVATIONS of 230 CREST DRIVE SIMPLY MAKE THE HOUSE TOO LARGE FOR THE PROPERTY.

On a positive note, the owners of 230 Crest Drive HAVE the idea of putting a shed in the rear, although it shouldn't be in the setback, which is - akin to some of the renovations described like 245 Crest Drive and 218 Crest Drive. Why can't they place more of their extension in the rear, instead of over the garage?

WE WOULD WELCOME THE ZONING BOARD TO COME ONTO OUR PROPERTY AND INTO OUR HOME.

WHEN YOU LIVE IN A COMMUNITY WHERE HOMES ARE SO CLOSE TOGETHER, IT IS NECESSARY TO



REMEMBER THE NEGATIVE AFFECTS YOUR
ACTIONS CAN HAVE UPON A NEIGHBOR.
THEREFORE I OBJECT TO THE PROPOSED
ADDITIONS AND ALL OF THE VARIANCES
REQUESTED BY THE OWNERS OF 230 CREST DRIVE
THANK YOU FOR YOUR TIME AND
CONSIDERATION.



EXHIBIT C
BRENDA FRACAROLI SUBMISSION
23 INDEPENDENCE STREET
2-12-18 ZBA MEETING

Ms. Brenda Fracaroli
24 Independence Street
Tarrytown, NY 10591
February 5, 2018

Zoning Board of Appeals
Village of Tarrytown
One Depot Plaza
Tarrytown, NY 10591



RE: Zara ZBA application
scheduled February 12, 2018

Dear Members of the Zoning Board of Appeals:

My name is Brenda Fracaroli and I own and have resided at 24 Independence Street for about 40 years. My property is directly across the street from the Zara residence at 23 Independence Street.

I am writing in regard to the Zara ZBA application dated 1/24/2018 to appeal the denial that Mr. Penella made on the property. I strongly agree with the Building Inspectors determination requesting a Site Plan Review for a change of use of the non-conforming garage to a woodworking shop at 23 Independence Street. **I further request that NO variance at all be given for this garage based on the following facts, reasons and prior history.**

- The lot is too small, R 7.5.
- Since 2012, when the Zara's purchased this property, they have completed a multitude of renovations both on the house and on the garage without filing appropriate permits for the work. A great proportion of the work was illegal and did not comply with the town code. Fire and other safety issues were presented. A documented history of events are on file in the Building Department.
- Additionally, the Zara's began to run an illegal B&B at this residence in violation of the town zoning laws. Twenty three Independence St was sold as a single-family property and is zoned R 7.5
- On 11/12/2015 the Zara's filed a permit (2015-8270) **to repair and insulate the garage.** The application was approved, however the Zara's continued to renovate both the interior and exterior of the garage without permits. They removed 1 double garage door, replacing it with a double-hung window and small house door with an outside step. Additional work included installation of double-hung windows on the back, two vents on the front outside above the doors and an addition on the east side of the garage. The building department required removal of the addition but the roof addition is still hanging and is an eyesore.

- On 4/25/2016 the Zara's applied to the ARB to approve a "change of front doors of garage, changed garage door from roll up door to walk-in (swing) door. Replaced old garage door". This is the third application submitted so far that blatantly understates the work even though when filing, much more work had already been completed on the structure which the Zara's knowingly omitted from the application.
- The most recent application submitted to the Zoning Board of appeals on 1/22/2018 to appeal Mr. Pennella's ruling and hiring an architect is ludicrous. This property requires detailed scrutiny. Let it be noted that Mr. Vieira's letter to ZBA once again understates the work the Zara's have already completed on the garage since they purchased the property in 2012. Some of his letter is taken out of context in that he is not seeing the bigger picture. His letter mentions the front doors and interior renovations but fails to mention specifically other interior and exterior renovations that were illegally completed since 2012 and not filed for. We have indication that this structure has been renovated to be a rental apartment. There was no electrical or plumbing in that garage when Mr. Miele owned the property prior to 2012. Electricity is present and there is a cause that water will be used. Mr. Vieira's reasoning does not take into account all aspects of the property including its location in the village and impact on the neighbors and neighborhood. The east side neighbor's garage is less than 10 feet away. The rear property line closely abuts property backyards on Park Ave. and will impact privacy of these residences. Again, it is an undersized lot, the Zara's can sell this property tomorrow and the next owners may want the use of a "garage". As a neighbor, I disagree with Mr. Vieira's interpretation of the contents/use of the inside space. I live directly across the street and am concerned about noise and air pollution, fire safety, storing, generating and possible handling of combustible/flammable/toxic materials and other equipment and materials and disposal of such equipment and materials used and/or generated in a woodworking shop. This is unregulated territory in a residential zone. The illegally installed lighting allows for extended hours. I feel this conversion will negatively impact my health and safety as well as my neighbors.
- Another issue is the architectural change. Zara destroyed the symmetry of the buildings on the property. Let it be noted that the property lies between and within, and is within walking distance of many of the Historical Landmarks which make Tarrytown what it is. Twenty three Independence Street is a one of a kind building (built in 1930) that makes a statement for Tarrytown and contributes to the history of Tarrytown and what it is today.
- The way Tarrytown's parking situation is moving for the future it would be in everyone's best interest to keep the garage as a two-car garage. There is a basement in the house which Mr. Zara can do his hobbies in. Also many people have hobbies which they carry out in a garage but they don't apply for Zoning variances. They just use the garage to putter in.
- Let it be noted that **Questions 10 and 11 on form 617.20 Appendix B/Short Environmental Assessment Form** on Zara's 4/25/2016 application to ARB was answered **"NO" for connection to an existing water supply and connection to existing wastewater utilities** and written that water is **"not needed in a**

garage” yet when the Zara’s applied to the ZBA on 1/24/2018 they answered “YES” to the use of water and connection to existing wastewater utilities. The old property card on 23 Independence clearly indicates “NO Plumbing” exists in the garage. (attached) So the bigger question and concern is there or is there not water/plumbing presently inside the garage?

In summary I am begging the Zoning Board of Appeals to deny this application and have a site plan and /or other inspection on the inside of this property not only based on Mr. Penella’s assessment but because of the answers to Mr. Zara’s questions on his applications to ARB (4/25/2016) and to ZBA (1/24/2018) regarding water utilization and connection to existing wastewater utilities inside this garage. I am requesting that the garage be put back to it’s pre-existing state with 2 double-doors to allow for the architectural symmetry. I am asking this because the Zara’s have repeatedly shown complete disregard to our Village Laws, Town Officials, town zoning and neighborhood impact.

Thank you.

Sincerely,

Ms. Brenda Fracaroli