

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
Village Hall – 1 Depot Plaza
March 13, 2023 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Weisel, Kaplan, Abraham, Alternate Member #2 Kudla, Counsel Addona; Village Engineer Pennella, Secretary Meszaros

ABSENT: Members Rachlin, Alternate Member #1 Jolly

Ms. Lawrence opened the meeting at 7:38 pm.

APPROVAL OF MINUTES – February 13, 2023

Ms. Weisel moved, seconded by Ms. Kaplan, with Mr. Abraham abstaining, to approve the minutes of the February 13, 2023 meeting as submitted.

The secretary recorded the vote:

Member Kudla :	Yes
Member Abraham:	Abstain
Chairwoman Lawrence:	Yes
Member Weisel:	Yes
Member Kaplan:	Yes

All in favor. Motion carried. 4-1 (Abstention)

CONTINUATION OF PUBLIC HEARING – Jason Merritt & Myriah Pahl – 26 Hamilton Place

Samuel F. Vieira, RA, the project architect, and the applicants, Jason Merritt & Myriah Pahl were present.

Mr. Merritt appeared before the Board and referred to the financial documentation that was requested by the Board last month which they have submitted for the record. He also noted that two additional letters of support have also been received from their neighbors to the east and west of their property since the meeting last month.

The financial information submitted in the form of a spreadsheet shows that they receive \$7,000 per month in rent for the 3 units, which includes the rent and utilities that they pay. After adding up the monthly expenses, they are left with \$600.00 per month, which would be used to pay for a new roof, boiler or any other big-ticket item that may be needed for the operation of the building. The numbers illustrate that the use of property as a two-family will deplete their savings by \$800.00 per month and does not consider the expense of a new roof which will be needed soon, or a boiler. They looked at these

numbers, and after 10 years, they would still be paying out of pocket and depleting their savings and only be making \$4.00 per month. They do not feel that this property is profitable, or however you want to phrase it, as a two unit and that is why they are seeking a variance to allow them to use this property as a three unit which will allow them to continue to live at the property and be residents in Tarrytown. Mr. Merritt thinks that this is a mutually beneficial proposition for he and his wife and the community at large. They are not trying to make a killing on the rental. They are trying to offer a small affordable one-bedroom unit within walking distance to the train and are looking to attract a commuter, who will take the train to work, that will not place a burden on local parking.

Ms. Pahl thanked the Board and she hopes that what they have provided answers their questions. They are happy to answer any other questions at this time.

Ms. Lawrence read the two letters of support from the neighbors into the record.

March 8, 2023

Dear Members of the Zoning Board of Appeals,

I am writing to support Jason Merritt and Myriah Pahl's application for a Use Variance for a third unit in their home at 26 Hamilton Place.

My family and I reside at and own 36 Hamilton Place, the home directly east of 26 Hamilton Place. Myriah and Jason purchased the property in 2021. Prior to their purchase of the property we were aware that for years the basement was utilized as a rental apartment which caused no disturbance to the neighborhood. We are supportive for this space to be used as a small rental unit and it would be a net positive for our neighborhood and village.

We are supportive of the request for a variance.

Sincerely,

Ben Williams and Amanda Ferguson-Cradler

March 9, 2023

Dear Members of the Zoning Board of Appeals,

I am writing to support Jason Merritt and Myriah Pahl's application for a Use Variance for a third unit in their home at 26 Hamilton Place.

My family and I reside at and own 24 Hamilton Place, the home directly west of 26 Hamilton Place. Myriah and Jason purchased the property in 2021. Prior to their purchase of the property we were aware that for years the basement was utilized as a rental apartment which caused no disturbance to the neighborhood. We see no reason that the space should not continue with this previous use as small rental unit and feel that improving the safety of the unit by complying with the building codes and providing safe egress options is a net positive for our neighborhood and village.

I encourage you to grant the variance.

Sincerely, Maureen and John Mullan

Ms. Lawrence was concerned about the ceiling height of the basement which appeared to be very low and did not seem safe for a typical person, and probably not compliant with the NYS code requirements. Mr. Pennella referred to his memo to the Board which stated that a variance would be required from NYS which would be subject to the approval of the use variance and subsequent area variances by this Board. Ms. Lawrence said that even though there had been a 3rd unit there, which did not comply

with village or state codes, the ceiling seems too low and she is not so sure that a height variance will be approved by the state.

Sam Vieira, the project architect, explained that the NYS building code has different parameters for height requirements. There is one book which addresses one and two families only, and a multiple of books for everything else. There are provisions in the building code to allow ceiling height to be lower than what you would normally design in one and two families, but the same parameters do not exist for multi-families. If the use is approved as a multi-family, then the height requirement will be more restrictive than the one and two family requirement. He will work with Dan Pennella on this, but, the first step is to get the use variance approved, then the area variances, and then appeal to the state for the height variance. He advised that he has gotten variances approved for similar and even lower heights in other applications but he has never requested a height variance for a three-family. He noted they are adding the egress window which is also a building code requirement. The height of this ceiling is 7 feet, but it drops in certain areas to 6 feet-4 inches, 6 feet-8 inches and 6 feet-7 inches. Mr. Merritt also advised that they are willing to re-route the soffit to eliminate the 6-foot, 4-inch height variance request.

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

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

Mr. Abraham commented that a use variance is a tough hill to climb. He apologized that he was not at the last meeting and asked Mr. Merritt to go over the unique characteristics of this property that resulted in this hardship.

Mr. Vieira, the project architect, returned and said that this is a two-family home that sits on the outer edge of the Restricted Retail (RR) zone. In his opinion, the map should not have been drawn to include this property. The RR district allows for single family on half acres, two family, commercial, or commercial on the ground floor, with residential above. None of the properties in the vicinity of this property match these uses. The property is surrounded by multi-family buildings. Whoever drew these maps a long time ago, probably should have kept the RR zone along the back edge of the properties that front Broadway where the traditional RR zone is located. The unique hardship is the location of the property within a zone that this property has no business to be in. The house was not built after the RR zone was created; it was just how the map was drawn. They have had zoning changes for the Landmark Building and there is a co-op building and other multi-family buildings further up the hill; just two doors up from this property there is a 4 or 5 family building.

Mr. Merritt added that there was a discrepancy between the Greenburgh assessment records and the Village of Tarrytown property records. This property was taxed as a three-family, but the Village records have it as a two-family. He noted that the neighborhood block has over 50% of multi-family homes.

Mr. Abraham asked Mr. Merritt if they knew it was a two-family when they bought the home. Mr. Merritt said, it was not very clear at the beginning, but as they progressed, they became aware and learned it was a two-family and that there were open permits that needed to be closed, and, if the permits were closed they would be able to continue with the use of the unit. Ms. Pahl said the permits were closed two weeks before they took ownership of the property and, at that point, they were packed and had nowhere to go. They felt like they had no other option at that point but to move; it was the middle of COVID. When they were told that it was a legal two unit, they agreed to move forward and try to legalize it as a three-family since that is what has been used as. They said they will go through this process since the prior owner would not. They are now trying to make the space as safe as possible, to rectify some of the issues with the ceiling height, with the egress, to be able to use the property the way that it has been used for at least 10 years prior to taking ownership.

Counsel Addona clarified that with regard to the Greenburgh records, for assessment purposes, properties are taxed as they are used, however; that doesn't always translate into the proper issues being resolved at the building department level to legalize a unit, especially when dealing with different municipalities. In this case, Greenburgh handles the Village assessment records. A reevaluation was done a few years back and presumably, at that time, the property was identified as a three-family house. While that may have been confusing when they were gathering records on the use of the property, just because it was identified as being a three-family on the tax records, doesn't mean the unit was ever legalized, and she thinks everyone understands that.

Ms. Lawrence asked if a certificate of occupancy was ever issued for this property. Mr. Pennella advised that there is a certificate of occupancy in the property file for a two-family dwelling, issued in 1979. Ms. Lawrence said so it was always a two family according to the Village record and when it was purchased, it was purchased as a two-family. Ms. Lawrence said that this does happen a lot and it is unfortunate. The Town of Greenburgh could have had this property listed as a ten-family, but the Village of Tarrytown property files are the official record. Ms. Pahl commented that they understand that now, but didn't at the time of purchase. Ms. Lawrence said that someone knew about this.

Ms. Kudla asked when the tenant moved out. Ms. Pahl said the tenant left a month before they took ownership. Mr. Merritt said the tenant thought he was going to be able to return but they received a letter saying the basement could only be used as storage from the Building Permit and not habitable space. When they saw the property, it was a fully functioning kitchen. The owner did not explain what he was doing and he moved the tenant out so the permit could be closed. When they came back, the kitchen was removed and the appliances were stored in the basement. They were told by the prior owner, take it or leave it. Ms. Kaplan asked if they ever tried to get money off the purchase price. Mr. Merritt said it was at the height of COVID and the real estate agent told them it was the hardest sale she ever made in her life.

Ms. Kudla asked if they thought they could move the tenant back in once the permits were closed. Mr. Merritt said during that two-week period, it became apparent that the problem was not going to be solved at the building department level.

Ms. Lawrence asked about the permits that had to be closed.

Mr. Pennella gave a quick history. A Certificate of Occupancy was issued on August 29, 1979 for a two-family dwelling. On December 13, 2012, a building permit was issued for a bathroom legalization in the basement. On May 27, 2021, a title search indicated that a certificate of compliance was not issued for the bathroom legalization. On June 30, 2021, a certificate of compliance was issued for the legalization of the bathroom with a restriction that it could not be used for a separate dwelling. Ms. Lawrence confirmed that they saw the bathroom at the site visit. Ms. Wiesel confirmed with Mr. Pennella that the kitchen was removed when they inspected it with only the bathroom in place. The appliances were disconnected and it was no longer habitable space.

Ms. Lawrence thanked the applicants for the financial information and noted that a use variance is a hard process. She advised that they will review the material and a decision will be made at the next meeting.

Ms. Lawrence asked if the Board had any more questions or comments. There were no more questions from the Board.

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

The secretary recorded the vote:

Member Kudla :	Yes
Member Abraham:	Yes
Chairwoman Lawrence:	Yes
Member Weisel:	Yes
Member Kaplan:	Yes
All in favor. Motion carried. 5 – 0	

NEW PUBLIC HEARING - Lucio DiLeo, R.A., AIA - 30 Mechanics Avenue

The following public hearing notice was made available to the public:

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 13, 2023** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Lucio DiLeo, R.A., AIA
50 Fifth Avenue
Pelham, NY 10803

The applicant is seeking area variances for the construction of a front and rear addition to an existing two-family dwelling.

The property is located at 30 Mechanics Avenue and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.40, Block 11, Lot 24 and is located in the M-1 zone. The following area variances are sought:

Code Section §305-33 M-1 Multifamily	Required	Existing	Proposed	Variance Required
Attachment 6.2, Column [12] Min. for Each Side Yard (ft) <i>West</i>	10 ft.	0.83 ft.	0.83 ft.	9.17 ft.
Attachment 6.2, Column [12] Min. for Each Side Yard (ft) <i>East</i>	10 ft.	3.17 ft.	3.17 ft.	6.83 ft.
Attachment 6.2, Column [13] Min. Two Side Yards (ft) <i>West</i>	20 ft.	1.82 ft.	1.82 ft.	18.18 ft.
Attachment 6.2, Column [13] Min. Two Side Yards (ft) <i>West</i>	20 ft.	5.42 ft.	5.42 ft.	14.58 ft.

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.

Additional approval will be required by the Architectural Review Board.

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: March 3, 2023

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

Lucio DiLeo, RA, the project architect, appeared before the Board, representing the owner. Mr. DiLeo showed the site plan and advised that the home has been empty for over a year and is in very poor condition, inside and out. He showed the proposed one-story addition in the front and rear which will square off the home. Ms. Lawrence asked about the light plane. Mr. Pennella said there is no light plane issue. It is not in a residential district. Ms. Lawrence noted that Mechanics Avenue is a very nice street with older homes and the people that live on the street will be very happy that the home is being improved. Mr. DiLeo said that he feels he has been respectful to the historical character of the area, while keeping with the height.

Mr. Lawrence asked if any Board Members had any questions or comments. There were no questions or comment from the Board Members.

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

Charlotte Dillas, who lives at 28 Mechanics Avenue, right next door. She came up and said that there is distance of 2 feet between their homes. The property owner has made every effort to improve the property and home and he has been very cooperative. She is in favor of approving the variances so that the new owner can renovate and move in.

There was no further public comment.

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

The secretary recorded the vote:

Member Kudla :	Yes
Member Abraham:	Yes
Chairwoman Lawrence:	Yes
Member Weisel:	Yes
Member Kaplan:	Yes

All in favor. Motion carried. 5 – 0

Ms. Lawrence read through and responded to 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 the proposed project will improve the character of the neighborhood since the existing home is an eyesore. It is run down and in desperate need of renovation. The neighbors will be quite happy with the 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 the benefit sought by the applicant cannot be achieved by some other method other than the area variance due to the site limitations of the property.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the requested variances are not substantial due to the size of the property.*
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 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

5. That the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance. *Ms. Lawrence stated that it is not self-created due to the site limitations.*

Mr. Pennella advised that a specific condition should be included in the resolution that will require the owner to seek a variance from New York State for the property line to the south which requires a minimum of 3 feet when there is only 1.8 feet. A sprinkler system may be needed which will be determined based upon code requirements.

Ms. Weisel moved, seconded by Kaplan, to approve the variances and authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearing to include general conditions of approval and the required NYS variance approval for the proximity of the building to the property line on the south.

The secretary recorded the vote:

Member Abraham: Yes
 Member Kaplan: Yes
 Member Weisel: Yes
 Member Lawrence: Yes
 Alternate Member Kudla: Yes
 All in favor. Motion carried. 5-0

NEW PUBLIC HEARING - JCC on the Hudson, Inc. - 371- 425 South Broadway

The following public hearing notice was made available to the public:

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 13, 2023** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

JCC on the Hudson, Inc.
 371 South Broadway
 Tarrytown, NY 10591

The applicant is seeking variances for the construction of a 13,000 s.f. interior renovation to the east end portion of the building and expansion of playground area.

The property is located at 425 South Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.140, Block 88, Lot 4 and is in the LB Zoning District.

The following area variances are sought:

Code Section: LB Limited Business	Required	Proposed	Existing	Variance Required
§305-47. C. (3) Special setback	100 feet	39 feet	n/a	61 feet
§ 305-63 D.(1) Off Street Parking for Auditorium/ Office/Café/Kitchen Use	83 Spaces	0 Spaces (maintain exist.)	181 spaces (existing use)	83 spaces

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.

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

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: March 3, 2023

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

Counsel Addona advised that she has been made aware that representatives of the applicant have reached out to some of the Board Members with respect to this application. In the future, she would request that any discussion regarding applications before this Board be reserved for the public meeting. She also noted that there are Board Members who are affiliated with the JCC, in one way or another, and she would like each Board Member to confirm that they can be objective on this application and that there should be no reason to question their impartiality.

All Board Members: Ms. Kaplan, Ms. Weisel, Ms. Lawrence, Mr. Abraham, and Ms. Kudla confirmed that they can be objective in the determination of this application with no reason to question their impartiality. Ms. Lawrence added that she had no affiliation with the JCC.

Brad Schwartz, the project Attorney, also Chair of the JCC Board, appeared with Adam Weiss, the CEO of the JCC, and John Canning, PE, the project traffic consultant.

Mr. Schwartz showed the site plan for the 13,000 s.f. interior renovation that was approved by the Planning Board years ago. They have been before the Planning Board who exercised their authority to reduce the required number of parking spaces from 131 to 83 spaces. They are here to seek a parking variance for those 83 spaces in addition to the required 100-foot setback requirement on South Broadway for placement of the playground equipment which encroaches 39 feet into this setback and requires a variance of 61 feet. Mr. Weiss came up and showed the fenced in area that will be used for the children.

With regard to parking requirements on site, they do not think they need any more parking on this site and he introduced Mr. Canning. Mr. Canning appeared and noted that he is a Professional Engineer practicing in NYS for 30 years with extensive traffic and parking experience. He explained that the JCC uses do not fall neatly within the code with respect to parking requirements. The Planning Board and Building Inspector worked together to determine how much parking is needed on site based on the various uses. The site is 82% occupied. They are adding office space, communal

space and an auditorium to host events that will not overlap with the other uses. He visited the site during the busiest days at the center and determined that the maximum number of vehicles that were parked were 107. The Planning Board asked them to go back and redo the survey to get an accurate presentation, and, at peak, and it was determined that 120 spaces were filled which is well below the 181 spaces that are available on site. With the renovation, he believes that 154 spaces will be needed which still leaves available parking. The renovation will provide more room for the existing staff and members. The auditorium will not be used at the same time as the day care program. Bar and Bat Mitzvahs and other events will take place during the evenings.

Mr. Canning concluded that based on the existing parking demand and understanding how the space will be used and on industry standard, the highest demand is 154 and there are 181 spaces on site. That being said, there is a possibility of the need to have additional parking for some of the events during the evening and there is room to park an additional 67 vehicles in the flat area in the back of the property if needed. Adding parking to the neighborhood would be a detriment if it is not needed.

Mr. Schwartz advised that they have also prepared a landbank parking plan which can accommodate 68 spaces. In addition, they have an agreement with Montefiore to use up to 50 spaces for 1 year with an option to renew.

Counsel Addona advised that the Planning Board has not approved this application yet but they have taken affirmative action to reduce the number of spaces that the applicant will need to provide. The Planning Board also discussed their desire to revisit this application in a year or so after the improvements have been completed and to also take a second look at the traffic situation after the State roadway improvements have been finished to ensure that traffic is working.

Mr. Pennella referred to his denial letters. The 1,3000 s. f. addition will require 131 spaces. The Planning Board exercised their authority to reduce this number by 25% to 83 required spaces. In addition, the Planning Board asked the applicant to land bank 68 spaces, so they cannot use the area where they were going to put the playground because it is for the land bank. They will revisit the parking requirement and traffic patterns in a year or so. The Planning Board would like to see if there are any changes in the traffic due to the signal installation at Paulding and Broadway.

With regard to playground area, in 1995 they were granted the use as an accessory use. They had side yard set backs then but since the lots were merged a couple of years ago, there is no side yard setback requirement. They do however need a variance for the 100- foot setback which was not a code requirement at that time.

Counsel Addona advised that the playground area was recently added to the site plan for efficiency so that they could pursue both variances at the same time. The playground is more time sensitive at this point since the contractor can only do the work this April.

Ms. Lawrence has no objection to the playground variance. She would like to continue the discussion on the parking variances.

Ms. Weisel noted that there have not been any problems with parking on the neighborhood streets in a while. Mr. Weiss explained that the former directed instructed employees to park on the street so that there were spaces available for the parents to drop off for the daycare. Now they have a drop off system which has eliminated this problem altogether. The overflow was not a capacity issue, it was more of a policy issue. He also advised that they have an informal agreement with the hotel to park on their property as an informal safety net. Ms. Lawrence asked about the possibility of a shuttle service. Mr. Weiss said they have been exploring the possibility of a service for the seniors and are working toward that.

Ms. Lawrence asked for public comment. No one was present to comment.

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

Member Kudla :	Yes
Member Abraham:	Yes
Chairwoman Lawrence:	Yes
Member Weisel:	Yes
Member Kaplan:	Yes

All in favor. Motion carried. 5 – 0

Ms. Weisel read through and responded to the criteria for an area variance.

1. That no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance. *Ms. Weisel stated that the proposed project will not produce any change in the character of the neighborhood.*
2. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. *Ms. Weisel stated that the benefit sought by the applicant cannot be achieved by some other method other than the area variances.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the requested variances are not substantial.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Weisel stated that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

5. That the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance. *Ms. Weisel stated that the variances are self-created but that does not preclude the Board from granting them.*

Mr. Abraham moved, seconded by Ms. Weisel, to approve the resolution and authorize Counsel Addona to prepare a Resolution memorializing the discussion during the public hearing to include general conditions of approval and a recommendation to the Planning Board for land banking and review after the traffic improvements have been made to NYS Route 9 (South Broadway).

The secretary recorded the vote:

Member Abraham:	Yes
Member Kaplan:	Yes
Member Weisel:	Yes
Member Lawrence	Yes
Alternate Member Kudla:	Yes

All in favor. Motion carried. 5-0

BOARD DISCUSSION

First Korean Methodist Church of NY
500 South Broadway

Board Member discussion as an Involved Agency under SEQRA for the site plan application

Counsel Addona and Mr. Pennella briefly showed the current parking plan proposed for the First Korean Church. They explained that the Planning Board has been reviewing this application for some time with 9 different plan iterations proposed, and both the Planning Board and the public agreed that this was the best plan submitted to date. Mr. Pennella briefly went over the prior plans and described the variances that would be needed for this plan to be approved. He noted that this plan has the least impact on the wetland buffer with minimal variances. A stormwater plan will collect the excess water and take it toward Broadway away from the neighborhood. The existing curb cut will be reduced and the parking area will be landscaped. Counsel Addona advised that the Planning Board may be in a position to make a SEQRA determination and they would like this Board to submit comments to this plan for their consideration before making a determination.

A brief discussion took place and the Board Members advised Counsel Addona that they had no comments or concerns with regard to the plan submitted.

ADJOURNMENT:

Ms. Weisel moved, seconded by Ms. Kudla, to adjourn the meeting at 9:00 p.m.

All in favor. Motion carried. 5-0

Liz Meszaros- Secretary