

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
Village Hall – 1 Depot Plaza
April 11, 2022 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Weisel, Abraham, Alternate Member #1 Jolly, Alternate Member #2 Kaplan, Counsel Addona; Village Engineer Pennella; Secretary Meszaros

ABSENT: Members Rachlin and Song

Ms. Lawrence opened the meeting at 7:30 pm.

APPROVAL OF MINUTES – March 14, 2022

Ms. Weisel moved, seconded by Ms. Lawrence, to approve the minutes of the March 14, 2022 meeting, as submitted. All in favor. Motion carried. 5-0

Ms. Lawrence announced the following adjournment:

Michael and Janaki Degen
86 Crest Drive

Variances to construct a second story over the existing garage, a one-story rear addition and a third-story addition over the principal single-family dwelling.

CONTINUATION OF PUBLIC HEARING – Lucas and Heather Isola - 7 Stephen Drive

Ms. Lawrence advised that the applicant has revised the plans to eliminate the 1 story variance request.

Wayne Esannason, ESQ, Attorney, representing the applicants, Lucas and Heather Isola, also present, appeared before the Board. Mr. Esannason introduced the project architect, Eric Baker, RA, and Sean Walters, LA, with Wagner Pools.

Mr. Esannason advised that they are here this evening for the approval of seven variances, all of which would not be required if an error did not occur the existing zoning map at that time. There were two issues that were unresolved at the last meeting, which he is hopeful have been addressed. The first issue dealt with the attic space and whether it constituted a full story or a half story. The second issue was that another site visit was to take place by Chairwoman Lawrence and he hopes that she has come to the same conclusion that the proposed renovations are consistent with character the neighborhood.

Erik Baker, the project architect, presented the revised plan showing the inability to access the space over the master bedroom. They added a truss system and have

shown the mechanical room on the 3rd floor. Square foot calculations were also submitted to Mr. Pennella for all of the floors.

Counsel Addona advised that Mr. Pennella is unable to attend this evening but she had spoken to him prior to the meeting. She referenced the note on the revised plan F 102.1 which states that the “attic area is not designed to contain finished rooms under the roof area due to pre-manufactured trusses extending from the floor to the underside of the roof. She advised that based on this note and her discussion with Mr. Pennella, he agrees that the variance for a one story is no longer required. She would like to add a condition in the resolution if the Board were to approve the resolution to include *that this area not be finished or contain habitable rooms.*

Ms. Lawrence opened the meeting for public comment. No one appeared to comment on this application.

Mr. Jolly asked about the resolution to the zoning issue. Counsel Addona advised that this application can only be considered using the current zoning for this property. The Board can request that she prepare a memo to the Board of Trustees to look into this matter. The Board members all agreed that this matter should be further investigated and asked Counsel to prepare a memorandum.

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

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

The secretary recorded the vote:

Member Weisel: Yes
Member Abraham: Yes
Alt. Member Jolly: Yes
Alt. Member Kaplan: Yes
Chair Lawrence: Yes

A resolution was provided to the Board Members in advance of the meeting. Counsel Adonna read through portions of the draft resolution which included the variances, the criteria, and conditions.

Application of Lucas and Heather Isola (“Applicant”)
7 Stephen Drive, Tarrytown, New York 10591 (the “Property”)
Sheet 1.190, Block 112, Lot 14
R-60 (Single-Family Residence) Zoning District

WHEREAS, the Applicant has appealed to the Village of Tarrytown Zoning Board of Appeals (“ZBA”) from a determination by the Building Inspector dated January 25, 2022 that the

Applicant's proposed additions totaling 1,740 square feet of finished and habitable floor area to an existing 2,120 square feet, 2-story single-family residence does not comply with the requirements of Chapter 305 of the Village of Tarrytown Zoning Code ("Zoning Code"), and

WHEREAS, the Applicant seeks the following area variances:

- 732-square foot variance to allow a principal building coverage of 2,594 square feet where a maximum of 1,862 square feet is permitted (Zoning Code § 305-15, § 305-17 and 305 Attachment 5, column 8, note 4)
- 590-square foot variance to allow a total building coverage of 2,762 square feet where a maximum of 2,172 square feet is permitted (Zoning Code § 305-15, § 305-17 and 305 Attachment 5, column 10, note 6)
- 7.2-foot variance to allow a front yard (east) of 27.8 feet where a minimum of 35 feet is required (Zoning Code § 305-15, § 305-17 and 305 Attachment 5, column 11)
- 7.5-foot variance to allow a front yard (north) of 27.5 feet where a minimum of 35 feet is required (Zoning Code § 305-15, § 305-17 and 305 Attachment 5, column 11)
- 495-square foot variance to allow a livable area of 4,375 square feet where a maximum of 3,880 square feet is permitted (Zoning Code § 305-15, § 305-17 and 305 Attachment 5, column 20a)
- 50-square foot variance to allow a floor area of 4,500 square feet where a maximum of 4,450 square feet is permitted on undersized lots (Zoning Code § 305-25, Table 2)
- 144-square foot variance to allow an impervious coverage of 5,460 square feet where a maximum of 2,986 square feet is permitted

WHEREAS, a duly noticed public hearing was opened at the regular meeting of the ZBA on March 14, 2022 and continued to the ZBA's regular meeting on April 11, 2022 and members of the public having had an opportunity to attend and be heard, the public hearing was closed on April 11, 2022; and

WHEREAS, in connection with the application, the Applicant submitted (1) a topographic survey prepared by Daniel Thomas Merritts, L.L.S. dated October 20, 2021 and last revised October 25, 2021 and (2) a signed and sealed plan set prepared by Eric D. Baker, R.A. dated January 10, 2022 and last revised February 23, 2022 consisting of (i) Title Sheet (T-001), (ii) Specifications and General Conditions (G-001.0), (iii) Specifications and General Conditions (G-002.0), (iv) Foundation Plan (A-101.0), (v) First Floor Plan (A-102.0), (vi) Second Floor Plan (A-103.0), (vii) Attic Plan/Roof Plan (A-104.0), (viii) Elevations (A-201.0), (ix) Elevations (A-202.0), (x) Sections & Details (A-301.0), (xi) Details, Recheck, Sanitary Riser Diagram (A-302.0), (xii) Demolition Plans (D-101.0), (xiii) Framing Plans (F-101.0), (xiv) Framing Plans (F-102.1) last revised March 23, 2022, (xv) Electrical Plans (E-101.0); and landscaping plan set prepared by Sean Walters, L.A. dated November 11, 2021 and last revised January 28, 2022 consisting of (i) Existing Conditions Plan (L-100), (ii) Site Protection and Removal plan (L-101), (iii) Layout Grading and Drainage Plan

(L-200), (iv) Pool Enclosure Fence Drawings (L-201), (v) Planting and Lighting Plan (L-300) and (vi) Elevations Sections and Details (L-400) (collectively referred to as the “Approved Plans”); and

WHEREAS, this Board, after having the opportunity to visit the Property and after duly considering all the proofs and evidence before it, determines as follows:

IT IS RESOLVED, this is a Type II action under the State Environmental Quality Review Act and therefore no further environmental review is required, and

IT IS RESOLVED, the findings of this Board are as follows:

1. There will be no undesirable change produced in the character of the neighborhood or detriment to nearby properties as a result of the variances. The Applicant is proposing improvements to the Property, which is a corner lot and the first house seen when driving into the neighborhood. The Applicant provided a streetscape of neighboring properties that demonstrates the proposed addition is consistent with the character of the neighborhood. Several neighboring property owners also participated in the public hearing process to voice their support for the application. The proposed addition also complies with the story and height requirements of the Code.
2. The benefit to the Applicant cannot be achieved by any other feasible means for the Applicant to pursue other than seeking the requested area variances. The benefit sought by the Applicant is to construct an addition to increase the livable area of their home and Property, which is common in the Village. The Applicant presented evidence that the Property should not be in the R-60 zone but the R-15 zone, in which many of the requested variances would not be needed. While it is beyond the Board’s jurisdiction to rezone a property or consider variances according to another zone, based upon the Property’s designation as being in the R-60 zoning district, the Applicant could not construct the requested addition without the need for variances.
3. While some of the variances may be considered substantial, the Board is cognizant of the fact that there is evidence to support the Property should be in the R-15 zoning district. But even if the Property is correctly in the R-60 zoning district, the houses across the street are in the R-15 zoning district where the proposed addition would be largely, if not entirely, zoning-compliant. The Property is also a corner lot that must comply with two front yard setbacks.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The Applicant is proposing to remove four trees, including one that blocks sunlight and impacts the effectiveness of the Applicants’ solar panels on the roof. The Applicant is also proposing evergreen screening to shield the view of the backyard from the public. The proposed project will also require site plan approval from the Planning Board and Architectural Review Board approval.
5. While the hardship may be self-created to the extent that the Applicant proposes an addition that does not comply with the Zoning Code, this does not necessarily preclude the granting of the variances, especially given the Board’s findings on the other area variance criteria.

AND IT IS FURTHER RESOLVED based upon the foregoing findings, the application is granted subject to the following conditions:

1. The variances are granted solely in connection with the Approved Plan (which is incorporated by reference) and the variances are granted only to the extent that they authorize the addition and related improvements as shown on the Approved Plans. If any material changes are made to the Approved Plans, other than those required by the Planning Board as part of its review of this proposed project (if applicable) and so long as the change(s) does not increase the number or degree of variances needed, the Applicant must make an application to the ZBA for amended approval.
2. Throughout the course of the Zoning Board review process, the Building Inspector determined that the Applicant did not need a one-story variance as stated in the Denial Letter. The basis for this was because the Applicant submitted a revised Framings Plan (F-102.1) stating that in accordance with the definition of “story” as set forth in Zoning Code § 305-5, the attic “is not designed to contain finished rooms under the roof area due to pre-manufactured trusses extending from the floor to the underside of the roof.” Accordingly, as a condition of this approval the Applicant must comply with this plan note.
3. The granting of this application shall not be deemed to relieve the Applicant of the need to obtain approvals or permits of any other board, agency or officer as prescribed by law or ordinance with regard to the Approved Plan or construction or any other phase of the project. The granting of this application shall not be deemed to relieve the Applicant of the need to comply with any and all other local, state and federal requirements, including but not limited to compliance with the New York State Uniform Fire Prevention and Building Code and any applicable regulations related to the proposed use, location or construction.
4. This variances are granted subject to the accuracy of the representations made by the Applicant and its representatives to the ZBA in its written submissions and during the public hearing and if any material representation, whether or not it is included in this Resolution, is found to be inaccurate, at the discretion of the ZBA the Applicant shall be required to make an application for an amended approval.
5. The Applicant shall procure a building permit from the Building Department within two (2) years of the date of this Resolution or one (1) year from obtaining the last required land use board approval (i.e. planning board or architectural review board), whichever is later, and all work shall be completed within one (1) year from the date of the building permit, otherwise this variance grant becomes void; and any request to extend the time within which to obtain said building permit or complete said work shall be filed no less than sixty (60) days prior to the expiration of the applicable time period.
6. The failure to observe and perform these conditions shall render this resolution invalid.

Dated as of April 11, 2022

Ms. Weisel moved, seconded by Mr. Abraham, to approve the Resolution.

The secretary recorded the vote:

Member Weisel: Yes
Member Abraham: Yes
Alt. Member Jolly: Yes
Alt. Member Kaplan: Yes
Chair Lawrence: Yes

All in favor. Motion carried. 5-0

ADJOURNMENT:

Ms. Weisel moved, seconded by Ms. Lawrence, to adjourn the meeting at 7:47 p.m.
All in favor. Motion carried.

Liz Meszaros- Secretary

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