

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting via Zoom Video Conference  
June 14, 2021 7:30 p.m.

PRESENT: Members Weisel, Song and Alternate Member #1 Jolly, Counsel Addona;  
Village Engineer Pennella; Secretary Meszaros

ABSENT: Chairwoman Lawrence, Members Rachlin and Braun

\*\*\*This meeting is being conducted via Zoom video conferencing, which has been authorized by the Governor's Executive Order issued in response to the Covid-19 Pandemic. The orders have been renewed and are in effect\*\*\*\*

Ms. Weisel chaired the meeting in Ms. Lawrence's absence and opened the Zoom meeting at 7:35 p.m.

#### APPROVAL OF MINUTES – April 12, 2021

There was no quorum of the Board present to approve the April 12, 2021 meeting minutes. These minutes will be considered at the next regular meeting.

#### CONTINUATION OF PUBLIC HEARING – Peter Bartolacci - 67 Miller Avenue

Peter Bartolacci, the applicant, appeared before the Board and referred to the additional information that was requested when they were before the Board back on April 12, 2021, which was submitted to the Board Members. He referred to the revised site plan looking from west to east and noted the added detail to highlight the sections on the north and south walls, where the wall height was more than the 9.5 feet. He has highlighted this area to show that it is a very small section of each of the walls. The western wall will be 9.5 feet or less. He referred to section A-A on the plan, on the north side, there is a notation indicating a 10.8 ft. section which is the maximum it will be where the two walls come together. And then, for about 3.9 feet, the wall continues to get lower and lower as you go up the grade to where it gets back to less than 9 feet. About a 4-foot section of the northern wall starts at a maximum height of 10.8 ft. and diminishes down to 9 feet again, as you travel up the grade. He referred to section C-C, the south side, and the notation indicating that the maximum height is 11 feet, and then for a distance of 4.1 feet, it continues up the grade to reach 9 feet. To summarize, on the north side, there is 3.9 feet of wall higher than 9 feet, and on the south side, there is 4.1 feet of wall higher than the 9 feet. He is showing this to point out that these are very small sections where those variances are more than the 9.5 feet which is the height of the western face.

Ms. Weisel referred to Chairwoman Lawrence's request at the last meeting for a few pictures of what the wall would look like. Mr. Bartolacci said the sections he just went through A-A, D-D and C-C do show what the wall will look like. Ms. Weisel was asking more in terms of materials or anything like that.

Mr. Bartolacci said this is Zoning and he thinks the construction materials, etc., would be addressed at Planning Board. In the past, the Planning Board has requested a sample board which shows what the engineered concrete block wall would look like. He has examples of it, but hasn't submitted it to this Board because they will be submitting it to the Planning Board.

Ms. Weisel said that they are just trying to get a vision of what the wall will look at, not just the schematics. The plans are small. Mr. Bartolacci noted that Liz Meszaros has full size plans and he submitted smaller plans as he was advised. Ms. Weisel said that they are just trying to get an idea of what this wall is going to look like, in general.

Ms. Weisel asked Mr. Pennella if he had received his answers raised in his April 1, 2021 memorandum to Mr. Bartolacci. Mr. Pennella said the answers to his questions have been provided in the revised submitted plan. They have shown the various sections of different areas of the walls to give the Board an idea of what they are constructing at the different points along the wall.

Ms. Weisel asked Mr. Pennella how much soil was going to be imported in comparison to prior design. Mr. Pennella said the plan indicates that 475 cubic yards of fill to be brought in. Mr. Pennella said the applicant can respond to what the prior plan had but he believes this amount is greater than the prior plan.

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

Mr. Jolly asked Mr. Pennella if he is satisfied that this is the best plan to go with because he feels something has to be done. Mr. Pennella said the plan is very similar to the first approved plan. The main difference is that it is not constructed of solid concrete. It is a modular block wall which uses a different principle of design which will be reviewed when the application goes to the Planning Board. Basically, it is a rough face concrete, compared to a smooth face, but achieves the same goals as it did before which is to cut off the slope and create a level area. Rather than having the concrete poured in place, it will be brought in as modular blocks.

Mr. Bartolacci wanted to clarify that the 2017 ZBA approval was for the same type of wall design which is an engineered concrete block design. They changed the concrete blocks to poured concrete when they went to the Planning Board, but the ZBA originally approved the same concrete block design.

Ms. Weisel wanted to know how essential the increase in the proposed height for the north and south sides is to the integrity of the entire structure. She is trying to figure out if there is any way to get around that particular height. Mr. Pennella said it is not that it is essential, the wall is required to have a return. Unless you cut across neighbor's property to the north, there is really no other way to do this; you have to have a return to confine it to the property limits. There isn't much leeway to what you can change in height unless, for example, the property to the north were to put a wall on their property,

off the property line, with fill behind it, which could reduce the height. That is not what is proposed here and you can only confine the work to this property.

Ms. Weisel wanted to know the difference between this plan as opposed to the original one in 2017 with respect to the height on the north and south sides. Mr. Pennella said the plan appears to be very similar. There is not much of a difference to the 2017 plan. Ms. Weisel does not recall having the north and south sides presented; they were focusing more on the west. Mr. Pennella said the condition of the left side has slightly rose a little more than it was before and is not the same. Otherwise, he doesn't see very many changes from this to the 2017 approval. In the past, the focus was on the rear walls more so than the north. The application in front of the Board now best fits the slope category of the intent of what they are trying to achieve.

Ms. Weisel asked Mr. Bartolacci about the problem with the approved wall being cost prohibitive. She asked Mr. Bartolacci if he has a strong ballpark figure for the cost to construction this wall to avoid the same problem.

Mr. Bartolacci noted that the 2017 approved plan is a very similar design to this plan. It was for an engineered concrete block wall. It is basically the same wall. They changed the design of the wall to poured concrete when they came back to Planning. The construction cost of this wall is significantly less than the poured concrete design, which was as much as they spent on the purchase of their home. He noted that prices may have gone up since 2017 due to inflation, and the fact that contractors are also backed up with work and may charge more, but they are within a reasonable zone to build this wall versus the poured concrete design and the cost will not be an issue.

Mr. Jolly asked about the safety factor of the wall. Mr. Pennella advised that if the variances are granted then the project would have to go to Planning Board which is where the wall design is reviewed for the safety factors. A global stability analysis will also be required at Planning. At this stage, the Zoning Board is only approving a height variance. Mr. Bartolacci advised Mr. Pennella that he does have a global stability analysis and will submit it at Planning Board stage.

Ms. Weisel opened the meeting to public comment.

Geraldine Baldwin, 66 Riverview Avenue, will speak after her attorney, Kristen Wilson.

Ms. Wilson addressed the Board and noted their familiarity with this application. She wanted to raise a few points. She said that with regard to the balancing test, it is certainly clear from the site walk that there will be there will be an undeniable significant adverse impact to Ms. Baldwin's property and to the character of the neighborhood. Standing in her backyard, one can easily see the magnitude of what her view shed would look like should that wall or the series of walls be built as presented. The applicant has done nothing to show that there will not be an undeniable significant adverse impact. Second, the requested variances are substantial. The height limit of six feet and none of these walls are even close to that height, there double the height and,

in some cases, more than double the height. The Board needs to take a close look at this. The acting Chairwoman just raised the question to the Village Engineer as to whether this was the only feasible plan. She believes the answer is no. This is the plan that has been presented to the Board to consider when applying the balancing test, but there have been no alternatives, even really studied, as far as she knows, as far as the Board knows, by the applicant's engineer. Was there a series of walls studied that were six, seven or eight feet tall? Were there other designs studied? The only answer that this Board and the public has been given when those questions have been raised is that this is the design. Ms. Wilson thinks it is incumbent upon the Board to actually get an answer to that question to best understand whether or not this particular design, with these walls being so tall, is really the best design, the most feasible design, and the one that actually meets the balancing test for the Zoning Board. She noted her letters over the course of the last couple of months to this Board that there is no right to this design; there is no right to build these walls. These are variances from a code that every other property owner is required to comply with. Despite the applicant pushing this plan in front of this Board time and time again, it does not mean that this is the only plan that should be considered.

Ms. Baldwin would like her June 11, 2021 correspondence to the Zoning Board made part of the record. As she stated in her letter, she does not feel that the Board should approve the application. The Building Permit application submitted did not include a survey of the property. She referred to the copy of her survey she submitted with respect to the dry-stone wall which she feels is partially on her property, but even more important than that, they are proposing an 11.5 ft. wall on the north side and an 11 ft. wall on the south side, with no current survey of the property along those lines. The building permit also did not include a certified cost to build the wall. This is important because the applicant has been before different Boards since 2013 with no actual cost estimate, wasting the village's time and money. Only recently has he admitted that he can't afford the poured concrete walls. The reason these walls were not built was because the geogrids that were necessary for those walls were too far back and close to the house, so he couldn't build it. This is the reason why he went to the poured concrete wall design. Ms. Baldwin would like to know how the applicant is going to build the same design wall now, with the geogrids, when he couldn't build it back in 2017. Ms. Baldwin stated that there is a substantive failure of this design and this application to meet the requirements for the village code for a variance. The proposed walls, as the Village Engineer stated, will have a combined height of 18.5 feet along the western property line. This will drastically and negatively change the character of the neighborhood. There are no walls built in this century in the Miller Park or Benedict Park neighborhood, or in any village neighborhood of small residential properties on a steep slope like these proposed walls. She referred to the pictures in her appendix B submission that show walls along the properties between Miller Avenue and Riverview. There is no resemblance to the fortress applicant is proposing. The applicants have scoured the entire village and have not presented any relevant, recent newly built wall on a steep slope even vaguely resembling what is proposed. There are many high walls in the town. She noted the high stone wall along Miller Avenue that was built in the 1920's so that the children could have some playing fields. She feels that all that is

needed to stabilize the steep slope on applicant's property is a single wall, less than 8 feet high, in the same place along the westerly part of the property, as the original wall was. An alternative design certainly can be found and she would appreciate the Board telling the applicant this.

There was no other public comment. For the record, Ms. Weisel acknowledged receipt of Geraldine Baldwin's letter of June 11, 2021 with the appendix as well as the June 11, 2021 letter from Kristen Wilson, Attorney with Blanchard & Wilson, on behalf of Ms. Baldwin.

Mr. Bartolacci responded to Kristen Wilson's comments regarding the variance criteria. He stated that this matter has been litigated already. It was heard by the Zoning Board of Appeals and the approved Resolution addressed the criteria and basically said that it passed the balancing test. Then, through the Article 78 procedure, the Supreme Court of Westchester County dismissed Ms. Baldwin's Article 78, essentially confirming that the Zoning Board acted properly, had gone through the deliberation, listened to both sides, and made a decision which was right and proper in granting the variances and that all of the criteria had been met. He said that the same issues keep getting raised but they have already been litigated.

In terms of alternative designs, raised by Ms. Wilson, Mr. Bartolacci refreshed everyone's memory. They started with a single wall, then looked at a tiered wall, and there was also a double tiered wall. There were a lot of different designs that were looked at. Ultimately, the decision was made that a two-tiered wall, which is what is in front of the Board, is the right one. It is not accurate to say that they have not looked at any alternatives because they absolutely have. Regarding the survey, there is allegedly a question as to where this wall sits, whether this wall is on their property or partially on Ms. Baldwin's, has absolutely nothing to do with what they are before this Board for. They are proposing to build walls seven and a half feet from the western property line, which will have no impact on that wall in question whatsoever. The survey on record is an accurate survey. He is not sure why Ms. Baldwin does not seem to think it is. He asked whether he needed to actually submit an updated survey, and he was told what they have is fine. The village could put this issue to rest by just stating that. But we keep hearing it over and over again and it gets very repetitive. He finds it rich that he gets accused of wasting the Village's time by someone who keeps raising the same issues over and over again. He also wanted to clarify that the Board heard that we couldn't afford to build the poured concrete wall. That is one person's interpretation of it. He is just being wise with money and believes that spending as much money to build a retaining wall that it would cost to buy his house was not a decision that he and his wife were willing to make. They chose not to build it because it was so ridiculously expensive.

Lastly, he has explained this before, but will explain again for those who haven't heard. With regard to the original engineered concrete block design, we were told when we went it out for global stability testing, that we would need a 20-foot geogrid. We felt that was digging way too deep into our backyard and we couldn't excavate that much. At a

later stage, I spoke to some engineered concrete block manufacturer's who put me in touch with engineers that specialize in the design of these engineered concrete block retaining walls. Typically, the geogrid has to go back about two thirds, maybe a little bit more than two thirds of the way back from the height of the wall. They confirmed that the geogrid could be around 14, 15, or maybe 16 feet, but not the 20 feet that they were originally told. This was encouraging and they engaged this engineer to come up with the design. This made it more much more feasible for them to build because they would not have to go back 20 feet from where the base of the wall is, cutting into the backyard, where it is already built up all the way to the back of the house. If you take the six or seven feet off of that, there is a lot less dirt to move. This is why they have gone back to this design. There is no issue on the stability. There is no issue on the safety of the wall. The geogrid that is proposed is adequate to support the wall.

Ms. Weisel said that the Board will not vote on this tonight given the limited number of members present. She would like to have a full Board make a decision on this application. She believes that the north and south sides is really what they are now looking at. She wanted to confirm with Mr. Pennella that the north and south side walls are within the survey bounds.

Mr. Pennella referred to the Denial Letter issued for the project, dated March 24, 2021, outlining the necessary land use approvals that will be needed with additional comments. He noted that the total cost on the application is used by the department (aside from the state having a requirement that it's above \$20,000, and needs to be signed by a design professional) to calculate the permit fee. With regard to the survey, what the applicant has done, in lieu of a survey, has placed the wall on the site plan which shows the bearings, gives a direction and distances to the property corners. This property is quite simple, with only four corners. When they get to a stage where a building permit is issued, and they are ready to perform construction, they will have to put monuments out there, and all the work is to be done on the subject property. The walls are shown on the property line on the north, on the west side it is 7.5 feet and on the south side it is probably 4 feet or so. The applicant has a right to build to their property line. The plan purely depicts where it is going to be and the information on the site plan that is shown has been obtained from a survey. That is how they get the background of existing conditions and so on. When the applicant goes to site plan, they will be required to provide a survey. For this Board's purposes, as long as they intend to do the work on their property, there should be no issue.

Mr. Bartolacci wanted to point out that they are actually moving the retaining wall. Right now, the north side of the retaining wall encroaches onto their neighbor's property by several feet. It appears that when it was built, it was built over the property line. Their intention has always been to move it back onto the property line to correct it so that there are no issues at all, and their neighbor has use of their property.

Mr. Bartolacci also wanted to mention that the heights of the walls on the north and south side are a little bit more than the nine and a half feet that had been originally permitted in the in the variance from 2017. He advised that there are letters on record

from both neighbors on the north and the south side, saying that they fully support this project 100%. There is absolutely no change in the west face it terms of what anyone will see.

Ms. Weisel recalled that originally, if they had gone with the three walls, there would not have been planting space to screen the walls. Mr. Bartolacci said there were a couple of issues. The size of the plants would not have been big enough to really provide adequate screening. It also created a very cramped building environment pushing up against the property line and they wanted to keep it away from the property line on the western side as much as they could.

Counsel Addona asked if there is any other information that the Board wants from the applicant at this point and referred to the visuals, renderings or photographs of what it will look like. These will be considered by the Planning Board but given the criteria for an area variance, it is within the Board's purview to request this and it might be more productive to do it now, so that the applicant can provide it in advance in the next meeting. Counsel also advised the Board that they could ask her to prepare a draft resolution for the Board's consideration at the next meeting, which is another option, since the meeting will be continued to next month.

Ms. Weisel noted that Ms. Lawrence did request those renderings and it would be helpful to see them. She also thinks that a draft resolution would be helpful to the Board in the decision-making process and to keep things moving. Counsel agreed and can prepare that in advance of the next meeting.

Ms. Bartolacci noted that at the last meeting she recalls Chairwomen Lawrence asking for some photos of the deterioration in the current wall. She was asking to see renderings of what it looked like a few years ago compared to today because at the site visit she realized that things had gotten significantly worse. She does not recall Ms. Lawrence asking for any other renderings because otherwise they would have provided them this time around. It just adds yet another hurdle they have to jump over. Mr. Bartolacci said, as he understood it, the Board was requesting the additional sections looking from the west, upwards towards the east, which they have provided for this meeting. Ms. Weisel referred to the minutes from last meeting, and it said that there are several items that need to be addressed and that Ms. Lawrence would also like the applicant to submit a few pictures of what the wall will look like for the next meeting.

Mr. Bartolacci said that is what was submitted. These are the sections of the wall, looking at it from the north, from the south, and from the west. This was his understanding of what was needed. He is not sure what the Board means when they say pictures.

Ms. Weisel clarified that what was submitted were the schematics and the Board would like to see what it would look like, some sketched out version, or perhaps a picture of this type of wall that has been built somewhere, showing the material, so they can get a picture in their minds of what the wall will look like with the materials, even if it is not

specifically designed to meet their specs. Ms. Weisel asked Mr. Bartolacci if he understands the request. Mr. Bartolacci said yes, but that was certainly not their understanding of what was requested. Counsel Addona said the Board is allowed to request more information.

Ms. Bartolacci wanted to confirm that the Board is looking for some pictures of the type of block that they would like to use but it doesn't have to be a rendering of their wall necessarily. It's more like the type of block and to show what a retaining wall of this particular size might look like. She asked if that was fair or not. Ms. Weisel said she thinks that is fair. She is sure that there is a sense of what these types of walls look like so that we can get a better idea of what their wall will look like. Ms. Bartolacci said that they can provide this for the next meeting. She believes the engineer who designed their wall will be able to share some photos of walls he has designed and have been built so that the Board can see what they look like.

Ms. Weisel said the more we can get along these lines would be helpful so that they can keep this ball moving. She thinks they are moving in the right direction and certainly everybody wants to make sure that you can get this built and things are safe. They have watched their yard diminish more and more over time. Certainly, over the last three years, they saw the damage that has been happening and the Board is very sympathetic to that.

Ms. Weisel asked if any Board Members had any more questions.

Mr. Jolly asked about the landscaping. Mrs. Bartolacci said there will be significant landscaping done as part of the Planning Board review. The last time around, they proposed Arborvitae across the lower and upper tiers, so from the western side, which is Ms. Baldwin's view, the wall should be very well screened with evergreen plantings.

Mr. Jolly moved, seconded by Mr. Song, that a draft resolution be prepared to memorialize the meeting discussion, for consideration at the July 12, 2021 meeting.

The secretary recorded the vote:

Alt. Member Jolly: Yes

Member Song: Yes

Member Weisel: Yes

All in favor. Motion carried. 3-0

Mr. Jolly moved, seconded by Mr. Song, to continue to the public hearing at the July 12, 2021 meeting.

The secretary recorded the vote:

Alt. Member Jolly: Yes

Member Song: Yes

Member Weisel: Yes

All in favor. Motion carried. 3-0

**NEW PUBLIC HEARING - Matthew Cordone Architect PLLC- 88 Main Street**

PLEASE TAKE NOTICE that the **Zoning Board of Appeals** of the Village of Tarrytown will hold a public hearing by **ZOOM video conference**, at **7:30 p.m., on Monday, June 14, 2021**, to hear and consider an application by:

Mathew Cordone Architect PLLC  
90 Hamilton Avenue  
Hastings on Hudson, NY 10706

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the construction of a scenic roof deck on a pre-existing non-conforming 3 family dwelling.

The property is located at 88 Main Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.70, Block 32, Lot 8 and is in the M-1 Zoning District.

The following variances are sought:

<b>305 Attachment 6:2</b>	<b>Required</b>	<b>Proposed</b>	<b>Variance Required</b>
Column 12, Min. Ea. Side Yard	20 Ft.	1 Ft.	19 Feet
Column 13, Two Side Yards	40 Ft.	4.8 Ft.	35.2 Feet
Column 14, Min. Rear Yard	45 Ft.	12.5 Ft.	32.5 Feet

The Public Hearing will take place via Zoom Video Conferencing in accordance with the NYS Governor’s Executive Orders 202.1 and 202.79, which have been extended.

**\*Please visit <https://www.tarrytowngov.com/home/events/33336> for instructions on how to join the meeting and for updates, if any, if the meeting location information has changed.**

Public comments may be emailed to [imeszaros@tarrytowngov.com](mailto:imeszaros@tarrytowngov.com) or mailed to Village of Tarrytown, Zoning Board of Appeals, 1 Depot Plaza, Tarrytown, NY 10591, by 12 pm on June 11, 2021. Documents relating to this application will be provided by emailing the Zoning Department at [imeszaros@tarrytowngov.com](mailto:imeszaros@tarrytowngov.com) or by calling 914-631-1487.

All interested parties are invited to join the meeting and be heard.

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

By Order of the Zoning Board of Appeals

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: June 4, 2021

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

Mathew Cordone, the project architect, appeared before the Board and shared his screen to show the proposed plan for the construction of a scenic roof deck on a pre-existing non-conforming three-family dwelling. He noted that they will also require approval from the Planning Board for a scenery loft for this project but thought it would be a good idea to present to the ZBA first, to go over the variances and why they feel they would like to have the variances.

He noted that the building is an existing non-conforming structure. They want to put a roof terrace on top of the building however, the building already sits outside of the setbacks of the rear yard and the side yard. They are proposing to install a new access stair and terrace within the perimeter of the existing structure which is outside of the setback rules. They are not going to extend the deck past the existing structure. The variances they are seeking would allow them to work outside of the rear yard and side yard setbacks. The terrace is a straightforward deck that will sit on top of the roof to allow access for the owner and the tenants to enjoy sceneries of the Hudson River. He pointed out that what the elevation does not show is that there is that the grade change from Main Street and the setback. He showed the floor plan which illustrates that they are set back quite a bit from the front of the building with minimal impact to Main Street as far as being able to see the terrace. Most importantly, the access onto the side of the building is already in a covered canopy that allows full access from the street, from the apartments below and from the homeowner who lives on the upper floor.

He noted that this is an introduction and they will be going to Planning Board for approval of the scenery loft. He is here this evening to get the thoughts and initial instinct of the Board about this project. He showed some photos of the existing space, which are mostly wintertime shots to see the view without the leaves on the trees for full transparency. Looking down from this street, you don't see much of the terrace. From across the street on Main Street, there is a significant grade change. They have set the terrace back closer to the second window so that there is a minimal effect to the urban fabric and the streetscape of Main Street. From Windle Park, which is from the rear of the building, you don't see the terrace at all.

Ms. Wiesel asked Mr. Cordone to speak more about the scenery loft concept.

Mr. Cordone said the Scenery Loft has to do with approval by the Planning Board. It has to do with the views of this structure on top of an existing building, and how it affects the urban fabric and the surroundings and more importantly, the neighbors. It is similar to a view corridor, which you do find in many of the river towns. This is a similar type of designation.

Ms. Weisel thanked Mr. Cordone for showing the view of the deck from the different vantage points without the leaves on the trees. She noted that they saw the enclosed stairwell that takes you up to the second floor at the site visit and where the stair would extend up towards the roof and up and over. This type of structure would certainly have

a magnificent view. Ms. Weisel inquired about the property being in the historic district and asked Mr. Pennella to comment about the viewshed.

Mr. Pennella said the structure as proposed has been placed on the ridgeline. It may be good to see some line of sight, for example, from the top of the front of Goldberg's hardware store, it might be visible. It also may also be visible from Baylis Court. The picture shown does not show the height above that ridge and he believes they will be 6 feet above that. Mr. Cordone said they anticipate 3 feet above the ridge and confirmed that with the railing it would be in the 5 to 6-foot range. Mr. Pennella said it also does not provide any screening. He asked Mr. Cordone if he considered cutting into the existing roof and basically have a cut out on top of it so you can maintain the front ridge and not extend above the roofline.

Mr. Cordone said they explored this. He showed a photograph where you can actually see the upper story windows. This is where the building structure really happens at the top plate. They talked about the opportunity of cutting back inside the roof itself, but the way that the structural system sits on this building, he felt it would be a better approach to build on top and have the load paths translate along the vertical of the gable roof onto the plates of the exterior load bearing walls. He also pointed out that the property is in the M1 district, and not in the historic district. He is an historic preservation architect and he is very sensitive when it comes to historic fabric. This is part of the reason why they forced the issue of setting the roof terrace back to the second window, in order to minimize the impact from Main Street. He feels that the soundest structural solution would be to do what they are proposing.

Ms. Weisel asked if the Board Members had any comments or questions.

Mr. Jolly asked what the dimensions of the deck are? Mr. Cordone said the deck itself is 15 foot for the east/west access and 32 feet on the north/south access which basically puts them just under two thirds of the roof structure. They have a 22-foot setback from the front elevation. Mr. Jolly asked if it will only cover the west side of the roof. Mr. Cordone said just under about 20% of the roof would be covered if you were to take the roof in its full proper state with both sides of gables.

Mr. Jolly asked what is on the 2<sup>nd</sup> floor. Mr. Cordone said they have apartments on the second floor and first floor is garage and communal space.

Mr. Jolly asked how the residents of the second floor get to the entrance to the deck. Mr. Cordone said the same way the owner would be accessing it which would be from the exterior stair which he showed on the plan. The stair would come down into this canopy section which is the most convenient place since the front door of all the apartments is located there.

Mr. Jolly asked how far is it above the ridge line with the fence. Mr. Cordone said with the top railing it would be at 33 feet 11 inches, so it is around that the 6-foot dimension that he cited earlier in the in the presentation.

Ms. Weisel referred to a letter received from Chris Simao, who lives next door to the property. She opened the meeting up for public comment.

Christopher Simao, 3 Windle Park, directly adjacent to 88 Main Street, confirmed that the letter and photos Ms. Weisel referred to are from him. His major concern is the line of sight from his building. He has tenants on the second and third story levels of his property that will be affected by having a deck placed 6 ft. above the ridge line which will take away from the scenic views and sight lines to the river. Another concern is the noise factor since he feels the deck will most likely be used during the late evening hours.

Ms. Weisel would like the Board be given the opportunity to visit Mr. Simao's home and have the applicant conduct a balloon test to see the height of the deck on top of the building and from Mr. Simao's property and the area in general.

Mr. Simao said he can work this out before the July meeting. There is a roofline there now and your eye will be drawn to the river because there is nothing in your way. Once you add the 3 ft. rise at the ridge plus another 3 ft. of railing there will be sightline issues from his building for his tenants. From the photos that Mr. Cordone had shown, from Baylis Court he thinks you will be able to see it because you can see the ridge from Baylis. His building hides a lot of it from Windle Park, but from that corner of Baylis, you will be able to see the roof sticking up. As you go down toward the river, it is going to stick out because no one else has anything to that effect on their property.

Mr. Cordone has no objection of creating a mock up, whether it be a balloon test, or any more substantial mock up for this deck. He also would like to offer the opportunity of doing a fly through rendering that shows the grades, and actually shows what happens at this terrace, not only looking from behind it, but also what it looks like looking from down below. He thinks when it comes down to view corridor, and the loft space identification, it is really important to look at all aspects of it. He would be more than happy to share all the information they have and is certainly willing and welcoming any input from the neighbors and hoping that this could be a good a good presentation and a good project for the neighborhood.

Ms. Wiesel asked Mr. Pennella if there were any other projects in the past that have been proposed like this one.

Mr. Pennella said he did not recall anything like this in his 13 years with the village. There is a provision in the code that requires Planning Board approval. The closest example may be Hudson Harbor Lighthouse project which had similar situations with the roof decks which were approved with a condition that they have a glass railing around the perimeter to allow for visibility or to protect the viewshed. He is curious if the applicant has looked into doing a glass perimeter instead of the spindles.

Mr. Cordone said he will work with putting a glass railing system in that role. He also noted that the zoning stipulates a very strict noise ordinance in this area of town, which

the owner is willing to comply with. There will not be any rock and roll band playing at all time of the night on top of this roof terrace. This is going to be a place for quiet dinners to enjoy the scenery to embrace the noise ordinance established in the zoning text. His last point is that they are significantly below the required height or the allowed height increase of this building. The variances really have to do with just trying to work with this existing non-conforming building, that really establishes the setbacks as our weak point in terms of why they need the variances. He is very willing to work with the neighbors in the village to make sure that this is something that will not be a bone of contention for a number of years in the future.

Ms. Weisel asked Secretary Meszaros to arrange for this site visit with the balloon test before the July 12, 2021 meeting to see exactly what we are looking at in terms of scale. This may be a trend that catches on, in which case, they need to be pretty clear about how to best follow the limitations of what we can and can't bend. She would like to adjourn this so that they have full board participation in this and the opportunity to go on a site visit.

Counsel Addona said there was a statement made earlier that there is no quorum or full Board here this evening, which is not correct. You can't have a meeting unless you have a quorum. But, because there are only three members, any vote the Board is inclined to take, would have to be unanimous to pass. She wants to make sure that the public and the applicants understand this.

Mr. Cordone advised Mr. Simao that they will be presenting at the Planning Board Public Hearing next Monday, June 28, 2021. He hopes he can attend and is also hoping to work with him as a friendly neighbor.

Mr. Song moved, seconded by Mr. Jolly, to adjourn this application to the July 12, 2021 meeting.

The secretary recorded the vote:

Member Weisel: Yes  
Alt. Member Jolly: Yes  
Member song: Yes

All in favor. Motion carried. 3-0

**NEW PUBLIC HEARING – Jim McFarland o/b/o Wildey Group - 135-162 Wildey Street**

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing by **Zoom video conference**, at **7:30 p.m., on Monday, June 14, 2021**, to hear and consider an application by:

Jim McFarland  
o/b/o Wildey Group, LLC  
2114 Quaker Ridge Road  
Croton on Hudson, NY 10520

To seek an interpretation/appeal of the determination of the Village of Tarrytown Building Inspector in his letter dated April 27, 2021, that the proposed medical use for the collection of blood and urine specimens for offsite testing is not a permitted accessory use pursuant to 305-39 (B) of the Village Zoning Code.

Pursuant to Village Zoning Code Section §305-118(A), the applicant appeals this denial and seeks an interpretation from the Zoning Board of Appeals that the use of phlebotomy as a Permitted accessory use in the RR district conforms with the spirit and intent of the Village of Tarrytown zoning code §305-39 (B)2 which allows for “Any other accessory use permitted in and as regulated in a Multifamily Residence district”. And, in accordance with the Multifamily District sections of the code, §305-29 B.1(b), 305-30 B.1(b), 305-31 B.1(b), 305-32 B.1(b), this use is allowed as a permitted accessory use:

“Professional offices or studios of artists, architects, dentists, doctors or engineers residing on the premises, except that any doctor, dentist or other professional person maintaining regular office hours for visits of patients or clients shall be located on the ground floor only”.

In the alternative, the applicant seeks a use variance from the Zoning Board of Appeals to allow for the collection of blood and urine specimens for offsite testing.

The property is located at 135-162 Wildey Street and is shown on the tax maps as Sheet 1.40, Block 9, Lot 13, and is located in the Restricted Retail “RR” Zoning District.

The Public Hearing will take place via Zoom Video Conferencing in accordance with the NYS Governor’s Executive Orders 202.1 and 202.79, which have been extended.

**\*Please visit <https://www.tarrytowngov.com/home/events/33336> for instructions on how to join the meeting and for updates, if any, if the meeting location information has changed.**

Public comments may be emailed to [imeszaros@tarrytowngov.com](mailto:imeszaros@tarrytowngov.com) or mailed to Village of Tarrytown, Zoning Board of Appeals, 1 Depot Plaza, Tarrytown, NY 10591, by 12 pm on June 11, 2021. Documents relating to this application will be provided by emailing the Zoning Department at [imeszaros@tarrytowngov.com](mailto:imeszaros@tarrytowngov.com) or by calling 914-631-1487.

All interested parties are invited to join the meeting and be heard.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: June 4, 2021

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

Ms. Weisel noted that they were at the site visit yesterday and observed the area in the back for the proposed use.

Jim McFarland, the applicant, appeared on behalf of Walgreens/LabCorp and noted that Joann Landau, the landlord/owner of the property and a representative from LabCorp is present this evening to answer questions. Jim McFarland feels this project is a great opportunity for the Village of Tarrytown and it has been a great asset to Walgreens nationally in terms of its relationship with Labcorp. He shared his screen to show photographs of other locations where they have the interior completed to give everyone a sense of what the facility will look like. The main waiting area at this location will be adjacent from the pharmacy. He showed the check in area which have kiosk stations for the public to use in addition to checking in with the pharmacy staff. He showed an example of the actual phlebotomy station where the blood will be drawn. He provided a list of inventory that will be added to the Walgreens facility to accommodate the service. He showed the proposed drawings of the current existing warehouse space that the Board observed at the site visit, including the restroom facilities, the three service areas and the work area for the staff. The pharmacy is to the adjacent side. There is a consultation room that is separate from the phlebotomy area. There are currently some types of limited blood draws that are done in consultation room in terms of diabetic testing and for patients to learn how to use supplies and prescriptions for other diseases and ailments. He showed the architect rendering of the space along with the graphic signage that will be installed.

Ms. Weisel asked if the current back wall of the pharmacy, which now shows shelving will be the entrance into this new area. Mr. McFarland said yes and they will be losing some shelf space in order to accommodate the entrance.

Mr. McFarland showed the entrance to the rear of the property by the dumpster which will continue to exist and service the backside of this store. The space is only accessible from the interior of the building and from the adjacent areas over here where the staff are checking people in and out.

Ms. Weisel asked if someone has an adverse reaction and needs an ambulance, would they have to go through the store to get to the back. Mr. McFarland said yes and that there is no intention to increase the number of doors coming into the building or as it is presently exists. The same is true if somebody had an adverse reaction at the pharmacy to a medication that they happen to be taking or for the COVID vaccine that they are presently giving at this location. They don't foresee any changes in the ability for an emergency vehicle to access this location.

Mr. McFarland confirmed with Ms. Weisel that there is a designated area for the disposal of sharps and showed a picture. Mr. Kennedy, a representative from Labcorp briefly explained that the specimens that are collected by the phlebotomist are picked up by Labcorp personnel at the end of each business day and transported to the New Jersey lab for testing. All specimens that need to be disposed of are done off-site.

Ms. Weisel asked if Board Members had any questions.

Mr. Jolly asked if they will have adequate traffic coming to the site for testing. Mr. Kennedy said that they have a partnership with Walgreens at a national level and have opened about 250 Labcorp facilities so far with the intention of another 100 or so before the end of the year. This partnership will continue to expand beyond 2021. As far as the competition at this particular site, it has all been vetted out, both by Walgreens and by LabCorp and they feel there is a need for this facility at this location.

Mr. Song asked if there is typically any waiting area as well or just the three areas for blood drawn in the staff office space. Mr. Kennedy said there is no waiting room inside the area that LabCorp is taking. Appointments can be made either online in advance of an appointment, so that a person can come in and walk directly back into lab at their scheduled time. They can also choose to check in electronically at the kiosks if they don't have an appointment in advance. A person would come in, enter their information, scan their insurance card, and then shop the store, while they are waiting for a short time until they are called by the pharmacy. They have moved mostly toward online appointments which allows people to check in before they arrive and then come in at their appointment time without waiting. Mr. Kennedy also confirmed with Mr. Jolly that the facility accepts all different kinds of insurances that are accepted throughout the country, including Medicare.

Counsel Addona advised the Board that this application before them is not for an area variance application. Certainly, it is helpful and relevant for the Board to understand exactly what is being proposed, but the standards are a little bit different here. The use that was proposed is not permitted as determined by the village, so the applicant has made an application to this Board, somewhat similar to DaVita application a few months ago. The Board is being asked to consider the code with regard to this use to determine whether what they are proposing is a permitted accessory use in the zoning district where the property is located. If the Board were to determine that it is not permitted, then secondarily, the applicant has requested a use variance. At this point, the Board should be focused on their interpretation as to whether they believe that this use is in fact permitted as an accessory use in the district where it is located.

Ms. Weisel recalled an Urgent Care facility located on Central Avenue. Mr. Pennella confirmed that this location is in the GB district and it is now a dental office and no longer an urgent care. Mr. Pennella also noted that parking calculations have not been provided for the use, should it be permitted. There is an expansion of the existing floor area, which has not been accounted for, so if the application were to move forward, they might also need variances for parking, unless they can adjust the parking somewhere else or eliminate some space.

Counsel Addona said the facts and the code applied to this application are different from the DaVita application. She used DaVita as an example because it was a medical type use proposed as a primary use in the MU zone. In this case, the applicant is

suggesting that this is a professional office type use that would be permitted as an accessory to the existing Walgreens use in the RR zoning district. She is not saying that these applications are comparable, or that the reasoning on one would necessarily affect the outcome. When the Board was looking at that last application, they looked very specifically at those facts and how the code applied to make sure it didn't unnecessarily expand. This is a different set of facts; however, it is comparable in the fact that it is an interpretation, but from there, the Board should be looking at the specific set of facts and the applicable code provisions as they normally would with any interpretation application.

Mr. Song asked Mr. Pennella to elaborate on the parking requirements. Mr. Pennella said that every use on this site has gotten site plan approval and variances for the parking and they are already at the maximum for parking. They are increasing the space that will be used at the Walgreens which will trigger the requirement for additional parking spaces in the lot in accordance with 305-63 of the code. Counsel Addona further advised that the interpretation to determine if the use is allowed has to be decided first, because if you cannot have any use, then there is nothing really to consider in terms of parking. If it is determined that the use can go forward, there may be other implications as to what would be required for the project.

Mr. Kennedy returned to say that he feels like they have gotten away from the purpose of the application. He said they are proposing a use for phlebotomy services that is very similar to the existing services that are already provided at Walgreens that Mr. McFarland mentioned earlier, as well as performing COVID vaccinations at this site. If there are any questions related to that, he would be happy to answer them.

Ms. Weisel confirmed that they are doing straight blood draw and urine collection. There is no other form of testing. Mr. Kennedy said Walgreens does perform injections so clearly this is similar to what they are proposing. They have 250 facilities operating that are doing exactly what they are proposing to do at this location. Ms. Weisel said she is aware that they do perform COVID vaccine and flu shots at the pharmacy.

Ms. Weisel asked if anyone in the public had any comment.

Brenda Fracaroli, of Independence Street, frequents Walgreens about 5 times a week. She did not see a specific waiting room on the plan. There are people sitting all over the store and she does not like to shop on top of them. The storage of lab chemicals and medical waste and removal needs to be secured. She has issues with these things being stored where she purchases food and over the counter type things. There needs to be a defined area and it needs to be a larger area so that family members who accompany the person have a place to sit. She sees people all over the store when she is trying to shop; there are chairs and benches all over the store. It is really hard to go in there and purchase something.

Mr. McFarland responded and said in terms of the seating capacity, one of the things that we need to be sensitive to, and not just this Walgreens in particular, is that there

are many healthcare providing organizations nationally that have had to endure some very expedited approvals, administrative approvals related to the capacity for people to either, in store, outside, on premises, with accessory structures to do just COVID testing and screening. This is not uncommon to all facilities due to COVID. They will make sure that the number of occupants does not exceed the requirements for the store. Perhaps they could sit in the pharmacy area while they are waiting.

Mr. Kennedy said that the only medical waste generated is placed in the Sharps containers and collected by a 3<sup>rd</sup> party vendor regularly after hours. They already have an onsite service for the vaccinations in a separate account at this facility. Mr. McFarland said there is nothing new that is being suggested here. There is already the same service on site.

Ms. Weisel said that designated seating would be better with the understanding that COVID has increased capacity in these stores in general. She would like to have a full Board on this matter and continue this meeting in July. She would also like to direct Counsel Addona to prepare a draft resolution for the Board to consider in advance of the meeting in order to keep things moving along.

Counsel Addona said the draft would be something for the Board to look out, revise or reject. It will lay out the facts as discussed this evening and may be helpful to the Board.

Mr. Jolly asked about the parking again. Ms. Landau, the landlord/owner appeared and asked if there was a need to prepare a parking plan for his consideration. Mr. Pennella said that would be premature at this point. If we add the additional square footage, then you would probably need an additional 2 spaces.

Mr. McFarland asked if there is any more needed information. Ms. Weisel said they have everything now and it is pretty clear. Counsel Addona will prepare a draft resolution for the interpretation issue. The parking will come back if determined, but that is not relevant to the interpretation issue.

Mr. Jolly moved, seconded by Mr. Song, to adjourn the Public Hearing to July 12, 2021.

The secretary recorded the vote:

Alt. Member Jolly: Yes  
Member Song: Yes  
Acting Chair Weisel: Yes

All in favor. Motion carried. 3-0

Adjournment

Mr. Jolly moved, seconded by Mr. Song, to adjourn the meeting.

The secretary recorded the vote:

Alt. Member Jolly: Yes

Member Song: Yes

Acting Chair Weisel: Yes

All in favor. Motion carried. 3-0

The meeting was adjourned at 9:30 pm.

Liz Meszaros – Secretary to Zoning Board