

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting via Zoom Video Conference
June 8, 2020 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Weisel, Rachlin, Kim, Sgammato,
Alternate Member #1 Jolly, Counsel Addona; Village Engineer Pennella;
Secretary Meszaros

ABSENT: Alternate Member 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. Lawrence opened the Zoom meeting at 7:35 pm.

With regard to the meeting process, Ms. Lawrence advised that applicants will present their applications, followed by Board comments, and then she will turn it over to the audience for public comment. She asked members of the public to try to avoid calling in on matters that have already been addressed. Written comments will become part of the record. She welcomes any new concepts or ideas.

APPROVAL OF MINUTES – May 11, 2020

Ms. Rachlin moved, seconded by Mr. Kim, with Ms. Weisel abstaining, to approve the minutes of the May 11, 2020 regular meeting.

CONTINUATION OF PUBLIC HEARING

Diana and Merlin Shelstad
99 Riverview Avenue

Variances needed for additions and alterations to a single family home.

Merlin Shelstad, owner of 99 Riverview Avenue, appeared before the Board and introduced Mary Ting, the project architect. He advised that there were concerns raised by the neighbor's at the March meeting and it was decided to have a site visit to conduct a balloon test to assess the impact of the addition on river views as requested by Ian Coley, the owner of 94 Riverview Avenue. His home is situated diagonally across from a river view from his house at an elevation that is about 12 feet higher.

He advised Mr. Colley of the balloon test and has not heard from him but perhaps he could be commenting tonight at this meeting. Mr. and Mrs. Glick, who live next door to Mr. Shelstad, at 95 Riverview Avenue, had two concerns regarding his project.

The first concern was that the deck was too large. He has forwarded correspondence to the Glick's for the record showing that the total area of his deck is smaller than their existing deck. He indicated that the large footprint on the plan includes an extensive

stairway, which is required as a second means of egress. The deck, as proposed, satisfies the zoning requirements and does not require a variance.

Their second concern was whether the proposed addition would cast excessive shade on their home. He felt this was a legitimate concern that deserved a serious response so he prepared a shade impact study which he has submitted for the record showing pre and post construction conditions. The illustrations in this report show the shadows cast by his house at four different seasons, during four times of the day.

Ms. Lawrence thanked Mr. Shelstad for the shade study which was clear and comprehensive. She asked the Board if they have any questions. No one had any questions.

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

Josh Ringel, Village Administrator, and moderator for this meeting, introduced himself and explained that when the public comment period opens, the public can use the "raise your hand" function in the application or press "*9" on the phone to participate in public comment. They will be advised when it is their turn to speak and to state their name and address for the record.

Ms. Lawrence commented for the record, that at the site visit, the neighbor commented that the only time of the year that the improvements might affect the light is during the winter months, for a few hours during the day.

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

Mr. Jolly asked the applicant if they the neighbor is okay about the shade.

Mr. Shelstad said he spoke briefly with Mr. Glick in passing and Mr. Glick thanked him for the study and said that it helped them to understand the situation much better. Ms. Lawrence said that Mrs. Glick did say the kitchen and the hallway will have less light and it is not nice to have less light. That was her only comment on this issue.

Mr. Pennella commented for the record that the light plane exposure was reviewed when the application was originally received which is shown on sheet 6 of the plans. The light plane is measured at the neighbor's side yard setback and there was no variance required for and therefore was code compliant. In fact, the architect made a small revision to the roof pitch. So again, the small addition that they are adding does not violate the code for light plane exposure.

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

Counsel Addona read through the criteria for an area variance and Ms. Lawrence commented on the criteria.

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 said that there will be no undesirable change or impact to 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. Lawrence said that there is no other method that can be achieved considering the configuration of the lot and size.*
3. That the requested area variances are not substantial. *Ms. Lawrence stated that the variances are not substantial based on the project.*
4. That the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Lawrence stated that there is no adverse effect on the physical or environmental conditions.*
5. That the alleged difficulty was not self-created which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the variance. *Ms. Lawrence stated that this condition is self-created but does not preclude the granting of this variance and it not a detriment given the configuration of the lot and the fact that it is a small addition.*

Mr. Kim moved to approve the variances for additions and alterations to a single family home and authorize Counsel Addona to draft a resolution memorializing the discussion of this application.

Ms. Lawrence asked for a roll call vote for each Board Member as follows:

Ms. Weisel: Yes
 Ms. Sgammato: Yes
 Mr. Kim: Yes
 Ms. Rachlin: Yes
 Ms. Lawrence: Yes

The variances for additions and alterations to the single family home were unanimously approved.

CONTINUATION OF PUBLIC HEARING

Theodora Pouloutides
 59 North Washington Avenue
 Variances needed to legalize a fifth dwelling unit.

Taylor Palmer, Attorney with the law firm of Cuddy & Feder appeared and was joined by Theodora and Helen Pouloutides for area variances related to the 5th unit in the existing multi-family home located at 59 N. Washington Street. His colleague, Daniel Patrick, also with the firm of Cuddy & Feder, is also present.

Mr. Palmer briefly described the history of this project for the benefit of the Board and public. The applicant purchased the property in 1974 with her late husband and the property has operated as a multi-family dwelling consisting of five units for the entire 40

years. The fifth unit is existing non-conforming, like many other properties in this area. He showed a picture of the property which was included in their submission as exhibit A. Mr. Palmer noted for the record that they first appeared before this Board in November of 2019, and referred to information they provided regarding similar properties in close proximity to this property, included in the initial submission as exhibit J. He referred to the property located at 69 N. Washington Avenue that has 24 units, and noted the letters of support from property owners surrounding their property, included in a supplemental submission. The premises is a currently improved two-story multifamily apartment building that contains a total of 5 units with 5 off-street parking spaces and an accessory garage. The applicant is not proposing any exterior modifications to the property; they will perform interior modifications to the existing 5th unit in order to get a certificate of occupancy from the Building Department.

Mr. Palmer showed the site plan and pointed to the 5th unit. The basement unit was visited by the Building inspector and it was determined that a variance would be needed for this use. In January, this Board determined that the relief sought should be in the form of an area variance, rather than a use variance, and that a resolution has been drafted by Village Counsel, for the record, for this interpretation. It is his understanding that the Board will consider this resolution this evening.

At the recommendation of the Zoning Board Attorney, this application was referred to the Planning Board for a coordinated environmental review. They appeared before the Planning Board on April 27, 2020 and on May 27, 2020, at which time the Planning Board issued a Negative Declaration under SEQRA. They are back before this Board to seek the required variances to allow for the fifth unit, and, if approved will return to the Planning Board for final site plan approval.

The Planning Board, as lead agency, acknowledged in the negative declaration that there is no change in the building footprint or any changes to the size and the number of dwelling units in the building. Only minor interior renovations to bring the 5th unit up to code are proposed. The Planning Board also concluded that the use of the property as a multi-family building with 5 units is consistent with the overall character of the community. With regard to the off-street parking, the Planning Board concluded that the existing 5 spaces provided is consistent with the character of the surrounding community. Mr. Palmer noted that several properties in this area provide less parking. They are providing a ratio of 1 space per unit which exceeds what other properties provide.

He showed the parking spaces on the site plan and noted that the layout of the spaces was updated as recommended by the Village Engineer.

Ms. Lawrence thanked Mr. Palmer and acknowledged letters of support from the public that were included in a supplemental submission, for the record. These letters were from the tenants of 59 N. Washington Street: Rafael and Beatrice Lopez, Kathy Sinchi, Ivan Chacka. Another letter signed by all of the Tenants at 59 N. Washington noted that the only time there are parking issues is during the Halloween months on weekends due to patrons shopping, and eating in town.

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

Ms. Weisel asked Mr. Palmer to clarify the variances that they are seeking.

Mr. Palmer said they are seeking relief to allow the existing 5th unit in the building since the code allows only 4 units in each building. They are asking for a variance for 1 unit.

With regard to off-street parking requirements, they are seeking a variance for one parking space which is required for the 5th dwelling unit.

The last variance of 1500 s.f. is for minimum lot size to accommodate the fifth unit.

Ms. Weisel is concerned about setting a precedent and she asked Counsel for guidance on this.

Counsel Addona advised that any resolution prepared would be specific to the facts of the application and the arguments made by the applicant. If any future applicants sought to rely upon this case as a precedent, they would first have to make an argument to this Board. It is not the Board's affirmative obligation to apply prior decisions. If an applicant did come and ask for the same relief, they would essentially have to present the same facts in the context of the zoning variance which would be difficult to do given the criteria and the facts that are considered.

Ms. Weisel asked if these variances grant the applicant a certificate of occupancy for 5 units. Counsel Addona advised that the granting of a variance alters the code to allow something to be legal that was not permitted by the code.

Mr. Palmer agreed and noted that variance relief is absolutely specific to each application. This property is unique, it has off-street parking that exceeds other properties and there are other factors that were considered to distinguish this property with regard to impacts during the Planning Board SEQRA review.

Ms. Lawrence thanked Ms. Weisel for asking this question about setting precedent which she feels is very important. She is not in favor of adding units to a crowded neighborhood where there is very little parking, but this property is unique since it has been in existence for many years, and it does have parking.

Mr. Pennella advised that, from a building code perspective, this is a legalization. It appears that this apartment was renovated somewhere along the line. Once they get the variances and site plan approval, the Building Department will review the code and make sure that the unit is brought up to current building codes with regard to fire alarms and sprinklers, electrical, etc.

Ms. Lawrence feels assured that the unit has been maintained. She has seen many illegal apartments and it seems that the owner has maintained the unit over the years with

proper lighting, egress and ingress, which is site specific, and provides a basis for consideration of the variances.

Ms. Lawrence asked Mr. Ringel if there is anyone in the audience who would like to speak.

Mr. Ringel advised that there is no one raising their hand.

Counsel Addona advised that she circulated a draft resolution to the Board on the Interpretation Request. An oral determination was made in February and written findings have been drafted for the Board to review. The resolution concludes that the Board has determined that this is an area variance analysis based upon the specific situation and facts of the application before the Board. She advised that when she reads though the findings of the draft, the Board can make any changes before they vote. In addition, with regard to the variance, there is nothing procedurally to preclude the Board from taking action tonight since the Planning Board has adopted a Negative Declaration; however, given concerns raised, if the Board is inclined, the better way may be to draft a resolution to be considered at the next meeting in July.

Counsel Addona recommended leaving the public hearing open so that draft resolution can be prepared to be considered at the July meeting.

Mr. Palmer asked that the Board consider closing the public hearing this evening and perhaps have a limited public comment period since they have an active application before the Planning Board for site plan approval so there is still an ongoing process.

Ms. Lawrence agreed with Counsel to leave the public hearing opened.

Counsel Addona read through the findings in the resolution. The entire resolution is included as follows:

ZONING BOARD OF APPEALS RESOLUTION

Application of Theodora Pouloutides (“Applicant”)
59 N. Washington Street, Tarrytown, New York 10591 (the “Property”)
Sheet 1.40, Block 12, Lot 3
M-1.5 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 November 15, 2019 (“Denial Letter”) that the Applicant’s existing five-family residential structure does not comply with the requirements of Chapter 305 of the Village of Tarrytown Zoning Code (“Zoning Code”), and

WHEREAS, the Denial Letter determined that, among other things, the Applicant needed a use variance for the existing five-family residential structure where a maximum of four units is permitted pursuant to Zoning Code § 305-32(A)(3), and

WHEREAS, as part of the Applicant's appeal to the ZBA, it requested an interpretation from this Board as to whether the variance needed to authorize the fifth dwelling unit was a use variance or an area variance; and

WHEREAS, a duly noticed public hearing was held at the regular meeting of the ZBA on December 9, 2019 and continued to the ZBA's January 13, 2020 meeting, where the ZBA discussed the issue of the Applicant's interpretation request and allowed public comment on the application; and

WHEREAS, at the Board's January 13, 2020 meeting, the Board voted on an oral resolution that it was the Board's interpretation that the appropriate relief for the Applicant is an area variance; and

WHEREAS, the public hearing on the Applicant's area variances application before this Board has been adjourned since the January 13, 2020 meeting while the Applicant appeared before the Planning Board, which is lead agency for a coordinated review under the State Environmental Quality Review Act; and

WHEREAS, this Application will be heard for the first time since the January 13, 2020 meeting at the Board's June 8, 2020 meeting and the Board desires to adopt a formal resolution with written findings outlining the basis for its interpretation; 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 interpretation is a Type II action under the State Environmental Quality Review Act and therefore no further environmental review is required, and

IT IS FURTHER RESOLVED, this Board determines that a variance to allow the five dwelling units in the Applicant's structure is an area variance based upon the following findings:

1. The bulk requirements for the M-1.5 zoning district (where the Property is located) are set forth in Zoning Code 305 Attachment 6. Attachment 6 sets forth the number of dwelling units permitted based upon the size of the lot and other bulk requirements. Attachment 6 lists the following residential uses in the M-1.5 zoning district: "1-family dwelling units", "2-family dwelling units", "3-family dwelling units" and "Multifamily." Zoning Code § 305-5 defines "Dwelling, Multifamily" as "[a] building or portion thereof containing three or more dwelling units."
2. Zoning Code § 305-32(A)(3)(a) ("Multifamily Residential M-1.5 Zone") states that in all M districts, "[t]here shall be no more than four dwelling units within each building or structure." Zoning Code § 305-32(A)(3) also contemplates that in all M districts there may be multiple multifamily buildings or structures on the Property.
3. In this case, the Applicant has 5 units in one structure where Zoning Code § 305-32(A)(3)(a) only allows 4 units in one structure. However, given that there can be multiple multifamily structures on the Property, the Applicant's deviation from the Zoning Code requirement is not with respect to the number of permissible units on the Property, but the dimensional requirement that they be in two separate structures (as well as the other applicable bulk requirements to have five units).
4. Accordingly, this Board finds that under the specific circumstances of this Application and applying the relevant Zoning Code provisions to this specific Application, the relief being requested by the Applicant is an area variance.

5. This interpretation is specific to this Application and applying the relevant Zoning Code provisions to this specific Application. This determination does not set a precedent that can be applied to other properties as each application's fact must be reviewed independently in conjunction with the relevant Zoning Code provisions.
6. This interpretation specifically does not find that a variance from the density requirements in the Zoning Code is an area variance.

Ms. Lawrence asked for a roll call vote for each Board Member as follows:

Mr. Kim: Yes
Ms. Rachlin: Yes
Ms. Sgammato: Yes
Ms. Weisel: Yes
Ms. Lawrence: Yes

The Resolution was unanimously adopted.

Ms. Lawrence asked Counsel Addona to draft a Resolution for the variances associated with this application for the Board's consideration at the next meeting in July.

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

CONTINUATION OF PUBLIC HEARING -The Hebrew Congregation of North Tarrytown and Tarrytown, a/k/a Temple Beth Abraham - 25 Leroy Avenue

To seek an interpretation challenging the determination set forth in the Building Department Letter of Permit Denial requiring an off-street parking variance of 45 parking spaces and in the alternative the applicant will seek relief for 45 parking spaces and impervious coverage related to the construction of a 4,895 +/- s.f. two-story addition with renovations to the existing building and other related site improvements.

This application was re-noticed to reflect changes and additions to the variances.

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing by videoconference at **7:30 p.m. on Monday, June 8, 2020 to hear and consider an application by:**

The Hebrew Congregation of North Tarrytown and Tarrytown
a/k/a Temple Beth Abraham
25 Leroy Avenue
Tarrytown, NY 10591

regarding the property located at 25 Leroy Avenue in the Village of Tarrytown and shown on the Tax Maps as Sheet 1.110, Block 78, Lot 18 and is classified in the M-2 Zone and R-7.5 Zone. The Applicant proposes to construct a 4,895 s/f gross floor area two-story lobby addition to the existing Temple building and other site improvements.

The Applicant is seeking an interpretation pursuant to New York State Village Law Section 7-712-b(1) and the Village of Tarrytown Zoning Code Section 305-118A overturning or modifying the determination of Donato Pennella, P.E., Building Inspector in the Letter of Permit Denial from

the Village of Tarrytown Building Department dated February 6, 2020 which finds that the Applicant requires an off-street parking variance of 45 spaces.

In the alternative and in addition to the requested interpretation, the Applicant is further requesting the following area variance relief:

Code Description	Required/ Allowed	Proposed	Variance Requested
§ 305-63 D.(1) Off Street Parking Spaces, 1 space for ea. 100 sq. ft. of floor space	45 spaces	0 spaces	45 spaces
§ 305-49 Impervious Coverage	37.25%	39.98%	2.73%
§ 305-142C(3)(f)[13][d] – Raised Planting Island	1 for each 10 consecutive spaces	0	1 raised planting island

The Public Hearing will take place online via Zoom Video Conferencing (or other video conferencing platform) in accordance with the Governor's Executive Order 202.1.

Please visit <https://www.tarrytowngov.com/home/events/26484> for instructions and directions on how to join the online meeting. You can also contact the Planning and Zoning Department by emailing meszaros@tarrytowngov.com or by calling 914-631-1487.

In addition to hearing public comments at the meeting, public comments can be emailed to meszaros@tarrytowngov.com or mailed to Village of Tarrytown, Zoning Board of Appeals, 1 Depot Plaza, Tarrytown, NY 10591, in advance of the June 8, 2020 meeting.

Documents relating to this application will be provided by emailing the Planning and Zoning Department at meszaros@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

The mailing receipts were received and the public hearing notice signs were posted.

Sam Vieira, RA, introduced himself and advised that the applicant has asked him to assist and consult on this application since he is a local architect and is familiar with the village code and the neighborhood. Daniel Patrick, of Cuddy & Feder, the attorney on record, and Mark Levin, the project architect are also present this evening.

Mr. Vieira noted that considerable time has been spent on items that are more specific to Planning Board review. He would like to move forward to address the variances before the Board to get guidance with the next steps to conclude this phase so that they can move onto Planning. They are seeking a 1.71% variance for impervious coverage, a variance to eliminate a landscaped island in order to provide for more parking. The last variance is first for an interpretation from this Board for the proper calculation for parking requirements for the proposed addition. Once the Board comes to terms with

the parking requirements, then they will determine if a variance is needed and to what extent.

He advised the Board that he, along with Mr. Patrick and Mr. Levin have had two conference calls with Mr. Pennella to discuss the methodology and format on how to calculate and present the parking tabulations to the Board for review. They have prepared a chart to present to the Board this evening. He acknowledged a letter from the residents of Grove Street, dated June 2, 2020, outlining areas of concern which was also submitted with a site plan they have provided. Also in their possession is a draft memo, dated June 9, 2020, from this Board, with regard to the SEQRA review process. Both of these documents overlap and relate to issues with the walking paths, the landscape plan, the maintenance of the wooded areas surrounding the site, the sanitation and garbage collection, site lighting, fencing, pedestrian access to the Temple and configuration of the entry to the site. He advised that all of the issues and concerns are being reviewed and will be submitted to the Planning Board.

Mr. Vieira said that it is impossible to move to Planning with knowing the variances since each one of the variance could alter the site plan, so, it is important for the Board to understand the methodology to the parking requirement. The zoning code provides for parking requirements for different types of uses. He referred to the occupancy signs that are posted in buildings such as a restaurant, bar, or a theater. The occupancy signs refer to occupancy limits and they are a function of the NYS building code based upon available fire exits and load capacity. It is what the fire marshal determines to be a safe number. These limits are not related to the how the calculation for parking requirements is determined by village code. He would like the Board to carefully review the charts to determine how the new addition will affect the parking requirements. He introduced Mark Levin to go over the chart and parking requirements for each space.

Mr. Levin presented the existing layout of the building and showed a graphic which illustrates what each space is currently used for. He showed the layout of the new addition which provides for a large entry hall with a grand staircase into the gathering hall. There is an elevator, offices that have been relocated downstairs for security purposes for both the school and the Temple use, a larger coat room and a little workroom area has been added. There is no new classroom space. They have modified the existing chapel. So, the only additional assembly space is 1008 s.f. The rest of the proposed space is circulation space so that the congregation can spread out and sit down before the services begin. They are not changing the occupancy of the sanctuary and the school is not in session when the main function of the building is being used. He showed the chart that they prepared listing of each area by occupancy/use and the required number of spaces for each use. This chart is attached as "Exhibit A".

Mr. Levin concluded that for the worship use, they require 58 spaces and are providing 59 spaces. With regard to the school, which is the other primary function, and takes place during the week and on Sunday mornings, they require 48 spaces and again are providing 59 spaces. The numbers that they tallied during the week were actually under

the 48 spaces. For Bar and Bat Mitzvahs, only half of them reach the maximum occupancy. Based on the chart, they feel that the existing parking lot is relatively sufficient for the uses. He asked the Board if they had any questions.

Daniel Patrick, Attorney for the applicant, wanted to clarify why this chart was prepared. At the May meeting, the Building Inspector requested this detailed analysis to determine the amount of variance that would be required. Based upon this chart, they are asking the Board for an interpretation to determine if a variance is needed. This determination will be based on the zoning coded regulations applicable to the two separate uses of worship and school that do not occur at the same time. These uses occur in different parts of the building at different parts of the week. At no point during the week are the worship services being provided while school is in session. The property is never entirely occupied or used. They are therefore requesting that this Board find that no parking variance is required because the amount of parking required is sufficient to meet the parking requirements for each use in accordance with the village code.

Further, the village code does not specify how the amount of parking needs to be calculated. It provides specific calculations and parking requirements for each specific use. He cited section 305-63 C. (7) c of the code which indicates that the ZBA shall determine the number of off-street parking spaces which will bear a reasonable relation to the minimum off street requirements for specified uses. This section provides for more of a reasonableness and a need standard that should be used which will bear a reasonable relation to the requirements of the code when the code does not specifically set forth parking requirements. Additionally, section 305-63 A.(1) states that structures shall be provided with the amount of off-street parking and loading spaces to meet the needs of persons occupying or using the structure.

Mr. Patrick concluded that since they do not fit in with one specific use because of the unique uses that occur throughout the week at separate times, and, at no time the structure is used for both uses at the same time they are requesting that this Board make a determination of a reasonable number of parking spaces required, based upon the need that is generated at the site. At no point does the site generate the need for more than 59 spaces, which they are proposing to keep. They are therefore requesting that the Board conclude that a parking variance is not required.

Sam Vieira added that the initial denial letter from Mr. Pennella required a variance of 45 parking spaces which was based on the assembly use parking calculation of one space per 100 s.f., based upon the proposed 4,500 s.f. addition. This calculation was based upon assembly use and not on the information which has been presented in the chart this evening which illustrates that the addition is not just for assembly space.

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

Ms. Lawrence said that this Board has received many comments over the past months and they have been made part of the record. She will not give a time limit on speakers

but kindly asked that the public to refrain from presenting prior comments and concerns and welcomes comment on new information.

Mr. Ringel advised that there are a number of people in the public who would like to speak this evening.

Lisette Mendez Boyer, who lives at 159 Grove Street, referred to June 2, 2020 letter to this Board, which is attached as "Exhibit B". With regard to the 483 occupancy, which is based on fire and egress and not the number used to calculate the parking, it is reasonable to assume that if you have an occupancy of 400 plus people, it is something that could happen in the future and the 59 spaces may not be sufficient. In the June 2, 2020 letter, they stated that they understand it would be economic burden and they agree that they do not need 45 additional spaces, but they should provide the spaces for the addition plus what they have right now. In addition, she is hoping that they will create a feasibility plan to allow them to find off-street parking away from the area in close by parking lots, in the future if the 59 spaces are not sufficient, the residents are then protected. They are not trying to make it hard for the Temple; they just want a compromise that works for everyone.

She noted an inconsistency in the original plan submitted in January with regard to the square footage which was 3,959 s.f. The new chart says it is 3,000 s.f. The number of chairs and tables vs. occupants was also inaccurate. She would like to see consistency in the numbers shown and again, she would like assurance that, if the 59 spaces is not sufficient in the future, that there is some sort of overflow plan that the residents can count on, and this should be a condition of the granting the parking variance.

Fergus O'Sullivan, of 153 Grove Street said it is important to look at details and evidence. He is disappointed that the Temple is not addressing the concerns of the community. The Temple is looking for variance and is not in good standing with current relationship with back end of the property. The paper street is being used illegally. This matter is still not resolved. In terms of linkages, the garbage may impact the parking. With regard to the garbage trips to the facility, he can confirm that it is 4 trips per week. He appreciates the landscaping improvements. At the last meeting, the applicant said they would address overflow. There is no update on that and it is disappointing. With regard to the parking calculations, they are using the lowest range of spaces needed at 150 spaces, when it could easily be 200 spaces.

He referred to their Exhibit B with regard to the number of people on High holy days. 700 people equates to 140 cars, which he feels is not accurate. It should be more like 250 cars. He is concerned that they have not looked at the actual data. He feels that the application is still not complete and it should be denied so they don't have to come back once a month, every month from now to eternity. He feels that the Temple should come back with real data and acknowledge the concerns of the Grove Street residents.

Ms. Lawrence thanked Mr. O'Sullivan and said that she does not think that these meetings will go on much farther into the future. They are considering all of the facts

and public comment. When they do come to a decision, it will be a considerate and well thought out decision.

Wayne Striker, 149 Grove Street, who helped put the letter together, is also an architect and planner and a former member of the Temple for many years. He referred to the functions of the Temple and said that, during high holy days, when he has been in the Temple, education is going on during the services. Everyone brings their children and they are put in the classrooms. So the assumption that the use is not simultaneous is a poor assumption. With regard to building occupancy calculation, it is calculated either by actual number or total square footage and then you use the worst of the two ways. He sees a mixing and matching of the two and that is not the way to test it. He agrees with Mr. O'Sullivan and said that actual counts are what is needed at this point. It is difficult to do this during the Covid-19. Actual counts of the number of people and the number of cars he feels would be significantly different from what has been provided. They know this from the actual occasions on high holy days when the streets are entirely filled up with cars. He would ask that they go back to the baseline assumptions, and redo the calculations, to really come up with an actual worse case number of people that can be expected and base that on the number of cars.

There were no more public comments.

Ms. Lawrence thanked Mr. Striker and commented that the residents of Grove Street are very concerned about the congregation parking on Grove on the high holy days and on other occasions when there is an overflow. If the applicant is planning on eliminating the access from Grove Street onto their property wouldn't that solve the problem? If there is no access to the facility via this path, then who would want to park on Grove?

Sam Vieira said regarding Mr. O'Sullivan's comments about prior information about square footage, he can't speak to that, but if you analyze the way the chart was formulated, it was conservative in the in the direction of more parking than what is actually needed for certain uses. The formulas that are used are from the village code and they did not decide them. They have presented this information based on the code. The members of the public who addressed the Board tonight will return to the Planning Board. As he understands it, this is the 3rd time that the issues have been raised and he is not at liberty to respond to some of these issues but he believes that many of them will be resolved to the satisfaction of the neighbors. However, with regard to staff parking on Grove Street, he said that there is a plan in place to resolve this matter. With regard to parking on high holy days, it appears that religious institutions are losing people. He is not so sure that any Board should address a situation based on a handful of days throughout the year. For example, Transfiguration Church is not filled on a Sunday normally, but on Christmas or Easter, the lot is packed and the parking is up the ramp and around the corner. No one is denying that parking is a problem on high holy days. It is not a normal occurrence so do we really want to force an institution to provide a substantial parking area somewhere on the site. It would be a great cost to look at a big black parking lot with white stripes and no grass or vegetation, just to accommodate a handful of days throughout the year. The Temple has been operating since 1957.

They have established that the additions that are being proposed are not going to increase the capacity of the two rooms and create the concerns that the neighbors have. Everything else will be worked out at Planning. At the end of the day, they need to come to terms with whether this Board believes that the addition, as it is being presented, will have an impact on the required parking, and, if so, to what extent, and then move on from there.

Mark Levin returned and said that they are trying to be very transparent. To clarify the confusion in the numbers, in the prior narrative, when he looked at what happens on a Saturday, when there is a Bat Mitzvah, the hall can be filled at 150 seats but occasionally, it could go up to 200 since there may be a larger group so he did not want to cut it short. There was also a prior discussion about presenting a pamphlet to offer guidance to the congregation on where to park. With regard to Grove Street, they are proposing to eliminate the informal passage that encourages people to park on Grove. Nobody is trying to cook the books or come up with strange numbers. They are going by what the code says. As a synagogue, its primary function is for worship and that is what the code addresses. It goes directly to seats and gives you one space per 100 square feet calculation. With regard to the high holy days, if all Churches and Synagogues had to provide parking for that handful of days, there would be a sea of parking. The code is applied to the norm with variation and Board's make their determinations.

Ms. Lawrence referenced a draft memorandum to the Planning Board addressing environmental issues that have been raised by the Zoning Board with regard to this application which she would like to address.

Counsel Addona would like to respond to some of the comments raised this evening. She advised that the Zoning Board is an Involved Agency under SEQRA, for this application. As an Involved Agency, they have the right to review environmental issues relating to this application. This is the process that has been taking place before this Board for the past two meetings and offers the Zoning Board the opportunity to identify areas of concern that they may have and be able to convey these concerns to the Planning Board who will ultimately make a SEQRA determination. At the direction of the Board last month, she has prepared a draft memorandum outlining items that have been identified with regard to SEQRA. This memorandum has been provided to the applicant and to the Board for discussion in a public forum. If you would like to add to these comments now would be the time to discuss this.

Ms. Lawrence commented that overflow parking at off-site locations is something that needs to be looked into still. She would like something in writing with regard to alternative parking on high volume days.

David would like to include in the memo that the Temple would commit to preventing staff from parking on Grove Street and that they also come up with a parking demand management plan when there is an overflow. This would be a workable plan with a way to reduce the need for parking.

Stuart Skolnick, the Temple Director, commented that they have reached out to Transfiguration Church to see if they would be willing to trade the use of their lot on high volume days and they have not heard back. He has asked his Rabbi to personally reach out to the priest at Transfiguration. He feels that this will happen and he is sorry that this was not communicated to the residents of Grove Street. They have certainly discussed parking instructions with the congregation and have asked that they not park on Grove Street under any circumstances. So, they have heard these concerns and are responding.

For clarification, Counsel Addona advised that the point of SEQRA is for the Board to look at potential adverse environmental impacts and to make sure that they are being mitigated to the greatest extent practicable. So, this is a type of concern that is certainly relevant during this process which is why the Board is bringing them up so that they may be conveyed to the Planning Board. There may be overlap in the concerns, so this Board is making a record for the Planning Board.

There was discussion about the Sanitation issue and the dumpsters that have been moved closer to the residential properties and the access gate.

Ms. Lawrence said that it was suggested that the dumpsters be moved down to the parking lot so that the garbage trucks could access the dumpsters via the parking lot.

Counsel Addona said the remaining 2 items were the visual impacts of the landscaping and the lighting at night which were issues that were raised but it appears that the applicant will address them. Ms. Lawrence would like to include these 2 items so that the Planning Board knows that they did have a concern.

Mr. Kim would like the applicant to give consideration to a pedestrian walkway up to Leroy. Ms. Lawrence said there also needs to be a crosswalk leading into the property. Perhaps that could be looked at by the police department.

Counsel Addona advised that she will add these concerns into the memorandum and will prepare a final memo to be sent to the Planning Board in advance of their work session on Thursday, June 11, 2020.

Mr. Jolly would like the area north of the parking lot to be improved, even if it is a secondary access for the garbage trucks, in case they can't fit into the parking lot. He thinks it can be improved and cleaned up and made more accessible in case it has to be used.

Ms. Sgammato has recused herself from this application.

Counsel Addona advised that the applicant has made an argument regarding the degree of variance needed. The Planning Board is still conducting their SEQRA review so you cannot make a determination on the variances until the Planning Board has made a determination, however, you may rule on the interpretation (which is the extent

of the variance needed or the amount of parking needed) this evening since that is a Type II action. You may want to rule on the interpretation this evening so that there can be an understanding among the applicant and the Boards as to what the obligations are.

Ms. Lawrence said that she has no intention of voting on this tonight because there is new information and she needs time to review it. Further, she would like to schedule a site visit since they have not had the opportunity to do so due to COVID-19.

Ms. Lawrence would like to schedule the visit for the Sunday before the next meeting in July.

Ms. Weisel would also appreciate the time to visit the site.

Mr. Kim would like the site visit to get a personal understanding. He has been here many times in the morning and in the afternoon picking up his child and the parking lot is half empty.

Ms. Rachlin feels that a site visit is the next step.

Ms. Weisel asked Mr. Levin how many Bat or Bar Mitzvahs happen on the weekends.

Mr. Levin said there are about 10 to 12 per year and rarely a double. Of the 10 to 12 events, only about half generate the larger attendance. Mr. Skolnick, the Temple Director, said it is rare to have two families at the same time. There are about 70 attendees per event and it does not strain the parking and they advise the families not to park on Grove Street.

Mr. Vieira said with regard to the methodology of the chart, he asked Mr. Pennella to comment.

Mr. Pennella feels that this project has made progress. When he first reviewed the application, it was not clear to him about the parking requirements, which is why he has worked with the applicant to come up with this chart. He agrees with the methodology of the two uses, which the code does not address. There is limited information in the file about the functions of the site. The high holy days are not addressed in the code, but that is not what the code is intended for. In addition, the police department works with the Temple during these times and they manage the traffic well. With regard to the crosswalk on Leroy to the Temple, he would not recommend this since there is not a sidewalk on the other side.

With regard to the methodology, Mr. Pennella assumes that the numbers submitted are correct. And, again, the building code has nothing to do with the parking requirements in the zoning code. So, he wants to make it clear that they will be applying the zoning code to this application. He will review the chart and the numbers. The methodology is here and it is what he wanted to see and thanked the applicant for putting it together.

Mr. Vieira is concerned moving forward, that if the variances get denied, it may alter the site plan. He would like some clarification from Counsel with regard to the SEQRA process and moving forward. Specifically, he would like to know when they can reach a point where there is a site plan that the Planning Board can actually review.

Counsel Addona advised that a SEQRA determination has to be declared before the variances can be approved by the Zoning Board. They can only act on the interpretation at this point. The Zoning Board will provide the Planning Board with their comments on this application. The Planning Board will continue its review to ensure that all of the issues have been mitigated to the greatest extent possible. And, if they have, then presumably, at some point, they will declare a Negative Declaration.

Mr. Vieira said so to clarify, the SEQRA process has to be determined first by the Planning Board. So they can continue to modify the site plan to address the SEQRA issues with the same variances as presented.

Counsel Addona said this is up to the applicant. The issue with the parking interpretation is different. This interpretation could also affect how the rest of the application moves forward. There does not seem to be any concerns about the island and impervious coverage variances. When SEQRA is complete, the ZBA can consider these variances.

ADJOURNMENT:

Ms. Lawrence moved, seconded by Ms. Rachlin, to adjourn the meeting at 9:30 p.m. All in favor. Motion carried.

Liz Meszaros, Secretary

**EXHIBITS A & B
TEMPLE BETH ABRAHAM APPLICATION
25 LEROY AVENUE**



Levin/Brown & Associates, Inc.

Exhibit "A"

TEMPLE BETH ABRAHAM PARKING/USE DATA 5-21-2020

space	Occupancy or square feet	Parking criteria	Existing Parking Req.	Proposed Parking Req.	Worship		School		Remarks
					Existing	Proposed	Existing	Proposed	
		305-63 D (1)							
Main Sanctuary	150 seats*	1/5 seats	30	30	30	30	--	--	Existing-No Change
Social Hall	3000 sf *	1/100 sf	30*	30*	--	--	--	--	Existing-No Change
Temple Staff	8 FTE people	2 + 8	10	10	10	10	****	****	Existing-No Change
Existing Cocktail Room	1100 sf*	1/100 sf	11*	11*	--*	--*	--	--	Existing-No Change
Exist Chapel	90 seats	305-63 D (1) 1/5 seats	**18	--	18**	--	--	--	Changed to Multipurpose
Proposed Classroom/Meeting #11	610 sf	1/100 sf	--	7	--	7	--	7	New Space
Proposed Classroom/Meeting #12	398	1/100 sf	--	4	--	--	--	4	New Space
Classrooms - 1 st floor & lower level	4597 sf	1/100 sf	46	46	--	--	46	46	Existing-No Change
Proposed Multipurpose - 1 st floor	873	1/100 sf	----	**9	--	9	--	--	Renovated existing Chapel space
Caretaker		1 + 1	2	2	2	2	2	2	Existing-No Change
Total			147	149	60	58	48	59	

- * Main Sanctuary, Social Hall and Cocktail Room are only used in conjunction with one singular event or gathering and at no times are more than one of these rooms occupied.
- ** Modification to Existing Chapel vs. new Multipurpose Rooms nets + 2 additional parking space
- *** The total Classroom space of 4,597 sf generates a need for 46 parking spaces based on the 1 space per 100 sf criteria. However, that total space is only occupied by 13 teachers and non-driving student. This provides a surplus of 33 spaces. After the 10 Temple Staff spaces are incorporated into those remaining spaces, the Premises is left with a final surplus of 23 spaces for any other staff, visitors, parents, etc..

Exhibit "B"

June 2, 2020

Zoning Board of Appeals Tarrytown, NY
imeszaros@tarrytowngov.com

RE: The Temple Beth Abraham proposed 4,900 SF building addition and site improvements
25 Leroy Avenue

To the Zoning Board,

We, the Grove Street Residents between Benedict Avenue and the Temple Beth Abraham, have put together the following request in light of the Temple's proposed 4,900 SF addition and associated site improvements. There are four major areas we would like to address: Off-Street Parking, Pathways, Landscape Maintenance, and Loading/Trash pick-up.

OFF-STREET PARKING

The existing parking count at the Temple site was described to be based on the existing Sanctuary 200 occupancy capacity. The existing Social Hall has a capacity of 225 occupants with tables and chairs, and 483 with chairs only. At 483 allowable occupancy the Temple would need to provide a total of 97 parking spaces on site (§ 305-63. Off-street parking and loading - 1 parking space for every 5 seats). The existing parking count is severely under the required total for the existing allowed occupancy in the Social Hall. The new addition will only exacerbate the existing parking condition experienced by the surrounding community during large occupancy events.

The Residents of Grove Street acknowledge meeting the required parking count for large occupancy events would be a financial hardship and it would have a negative impact on the environment. Instead, we would like for the Temple and the Zoning Board to consider the following:

Maximize the parking count by extending the lot north to fit ± 6 additional parking spaces for the new 1,100 SF classroom, a Public Assembly use. Provide a feasibility plan for overflow parking for high holidays and other events related to the Social Hall at nearby parking sites. The Temple should commit to notifying employees and event staff not to park on Grove Street. Parking variance approval to be contingent on this parking plan. Please refer to the diagram.

PATHWAYS

Two informal pedestrian pathways cross through the Temple's property, and the Village Paper Street, connecting Grove Street residents on either side of the Temple. The eastern most path, adjacent to 156 Grove Street, is also used by bicyclist to avoid Broadway. A pedestrian connection through the site is important for the local community and should serve the residents of Tarrytown.

A new path should be provided to align with the existing sidewalk on Grove Street and connect to the Paper Street through the northern end of the Temple's site. The location of the new path on the Temple's north site can be balanced with the encroachment of the Temple's parking into the Paper Street. If the Temple is permitted to extend into the right of way, the Temple should provide restitution in the form of a new pathway along the north end of the site and the Paper Street for the benefit of the public. The existing eastern most path should remain and connect to the new path. Please refer to the diagram.

Exhibit 'B'

LANDSCAPE MAINTENANCE - NORTH SITE

The north side of the Temple's property is in disrepair after years of neglect. The existing landscape is overgrown, with dead trees, abandoned fallen trees and uncontrolled growth of poison ivy. This plant has been found in nearby properties and it is a danger to residents who are highly allergic. The ambiguous location of the paper street that cuts through the Temple site is one of the factors no one is taking responsibility for its maintenance. This needs to be addressed by the Temple and the Village of Tarrytown.

As part of this work the Temple should address the existing landscape condition, cut down dead trees, remove abandoned fallen trees, and mitigate the growth of poison ivy on their property. We believe the Village of Tarrytown should do the same on the Paper Street. As part of the approval process, the Temple should provide a commitment to maintain the landscape service for their site, including the north side facing Grove Street as noted on the Zoning Ordinance. (§ 305-65. Property maintenance, § 281-2. Powers and duties of Superintendent of Public Works). Please refer to the diagram.



North site at Grove Street

TRASH

When the Temple was built in 1950's the existing residential community on Grove Street may not have had the opportunity to question the long-term impact of the service/loading location of a major institutional building on their small residential dead-end street. The Temple is one story on the end of Grove Street, but it expands southward into a large two story building.

Now 60 years later, the Temple is proposing a 5,000 SF addition to their building and it is the opportune time to rethink the service/loading location on Grove Street. Considering the new addition will provide the much needed services to improve the use of the Temple's public assembly spaces, there is the prospect for additional large events taking place. This will add to the trash collection and increase the number of garbage truck trips on our residential street, a safety concern for the residents.

We should also take into account that at the time the Temple was built, the size of garbage trucks were smaller in size and able to maneuver the small residential street. The 2020 garbage trucks back down Grove Street in reverse to get to the Temple's service area. This is a dangerous situation and a major concern considering the number of families and young children on our block.

Exhibit "B"



Garwood Load Packer—introduced a compaction system and lifting mechanism inside the container. 1940's - 1950's



Tarrytown Sanitation Truck - 2020

The existing dumpsters are located by the service entrance facing Grove Street on the north side of the Temple's property. Based on the architectural drawings, the service entrance connects directly to the existing kitchen, utility rooms, Meeting Room (75 max occupants), the Social Hall (483 Max Occupants), and Sanctuary (200 Max Occupants). There are 12 residences on this side of Grove Street and we share our small residential street with the service/loading area of an institutional building with the capacity to hold 225 to 483 Occupants in a Social Hall. This scale difference is a nuisance that needs to be addressed as part of this proposed addition.

In our last Planning Meeting the Temple proposed a new wooden gate to conceal the garbage dumpster from Grove Street. They have also argued the dumpsters need to remain on the north side of their building, adjacent to the kitchen and their public assembly spaces. We have looked at their plans and noted that the service rooms of the building facing Grove Street are actually 4 feet below finish grade and any trash being removed needs to be taken out by an exterior stair to reach the street level. In light of this existing condition we would like for the Temple to consider relocating their dumpsters to the parking lot level, at the institutional scale of their property. Access can be provided by adding an exterior stair (7 feet elevation difference) from the service entry to the parking level, which is a safer and more convenient location for garbage truck access.

We appreciate your attention on this matter and look forward to the upcoming Zoning Board Meeting.

Thank you.

Grove Street Residents

THE PROPOSED BUILDING FOOTPRINT IS LOCATED ON THE NORTH SITE OF THE TEMPLE, ADJACENT TO THE EXISTING BUILDING. THE PROPOSED BUILDING IS A RECTANGULAR STRUCTURE WITH A FLAT ROOF. THE SURROUNDING LANDSCAPE IS A MIXTURE OF OPEN SPACE AND EXISTING BUILDINGS.

