

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
August 13, 2018 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Maloney, Rachlin, Alternate Member Kim; Counsel Addona; Village Engineer Pennella; Secretary Meszaros

ABSENT: Members Jolly and Weisel.

Chairwoman Lawrence called the meeting to order at 7:30 pm.

APPROVAL OF THE MINUTES – July 9, 2018

Ms. Rachlin moved, seconded by Mr. Kim, with Mr. Maloney abstaining, that the minutes of the July 9, 2018 be approved as submitted. All in favor. Motion carried.

NEW PUBLIC HEARING – Frances Manfredi – 35 Rosehill Avenue

The following public hearing notice was available to the public at the meeting:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, August 13, 2018**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Frances Manfredi  
35 Rosehill Avenue  
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the installation of a backup generator.

The property is located at 35 Rosehill Avenue in the Village of Tarrytown and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.80, Block 49, Lot 5 and is located in the R 10 Zone.

**The variance sought is as follows:**

Code Section	Required	Proposed	Variance
§ 305-20: Attachment 5:1 Column [12] - Side yard setback	12.0 feet	10.5 feet	1.5 feet

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

Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: August 3, 2018

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

Frances Manfredi, the applicant, residing at 35 Rosehill Avenue, appeared before the Board and distributed the same pictures to the Board members that were submitted with the application. He is proposing to install a generator in the back of the garage. The required setback is 12 feet which will require a variance of 1.5 feet from the Zoning Board. He stated that the reasons to install the generator behind the garage is 1) there is an existing solid wooden fence which would hide the generator from view and, 2) the Con Edison gas line is immediately behind the garage and the electrical service also comes in through the back of the garage.

He showed photo #1 which illustrates the garage with the wood fence which will hide the generator. Photo #2 shows the north side of the property. The fence extends beyond the width of the garage and goes to a rail fence. The generator will be hidden from street view and from the neighbor to the north. Photo #3 shows the solid wood fence to the right behind the trees which will protect and hide the generator. Photo #4 shows the opposite side of the garage and said that this area would not be an ideal place for the generator due to the existing stone work that would impede its placement. In addition, there are also mature plantings in this area and it is close to the pool and slide where the unit could get wet and damaged.

Mr. Manfredi does not feel that there would be any undesirable change or detriment to the neighbors or have any adverse effect on the environment as a result of this installation. It is a minimal variance of 1.5 feet. He feels that this is the best and most reasonable place to install it since it is where the current electrical and gas connections exist. He is therefore asking for the Board to consider his request and grant him the variance of 1.5 feet to install the generator.

Ms. Lawrence asked the applicant if this generator meets noise reduction requirements. Mr. Manfredi said the generator is the top of the line, highly efficient with noise reduction and reminded the Board that the generator specifications were included with the application.

Mr. Maloney wanted to ensure that the generator would be placed on a cement slab.

Ms. Lawrence asked if anyone in the public wanted to speak. No one appeared.

Mr. Maloney moved, seconded by Ms. Rachlin, to close the Public Hearing. All in favor. Motion carried.

Ms. Lawrence read through 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 since the generator is not loud and will be enclosed by a fence.*
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 the applicant has explained that there is no other area to place the generator.*
3. That the requested area variance is not substantial. *Ms. Lawrence said that there is not a substantial variance.*
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 said that there will not be any adverse effect or impact on the physical or environmental conditions in the neighborhood.*
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 said that this was self-created but it seems that many people are installing generators for their homes. This shall not preclude the granting of this variance.*

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

Ms. Rachlin moved, seconded by Ms. Lawrence, that the variance be granted and Counsel Addona be directed to draft a resolution memorializing the discussion this evening and to include general standard conditions. All in favor. Motion carried.

#### NEW PUBLIC HEARING – Lisa Kaplewicz – 110 Tappan Landing Road

The following public hearing notice was available to the public at the meeting:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, August 13, 2018**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Lisa Kaplewicz  
110 Tappan Landing Road  
Tarrytown, NY 10591

For a variance from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the installation of condenser units.

The property is located at 110 Tappan Landing Road in the Village of Tarrytown and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.100, Block 65, Lot 47 and is located in the R 7.5 Zone.

**The variances sought are as follows:**

<b>Code Description §305-21 – R 7.5 Zone</b>	<b>Permitted (Required)</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required</b>
Attachment 5:1 – Column [12] Min. of Each Side Yard :				
North	10 ft.	4.8 ft.	6.8 ft.	3.2 ft.
South	10 ft.	8.0 ft.	3.6 ft.	6.4 ft.
Attachment 5:1 – Column [13] Minimum two side yards:	22 ft.	12.8 ft.	9.6 ft.	12.4 ft.

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

Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros  
Secretary to the Zoning Board

Dated: August 3, 2018

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

Lisa Kaplewicz, the applicant, who resides at 110 Tappan Landing Road, appeared before the Board to request variances in order to install 3 condenser units on the side yards of her property. The units will supply heat and air conditioning to the second floor which they are currently legalizing and air conditioning to the downstairs.

The small condensers would require a variance of 3.2 feet on the north and 6.4 feet on the south side. The third condenser requires a variance of 12.4 feet. She has spoken with her neighbors and they do not have any objections.

Ms. Lawrence asked if there are any other areas to place the units.

Ms. Kaplewicz said there is not much room to put them anywhere on the property. They are in the middle of renovations and are also putting in new windows. There is no flat area in the back to place them. Mr. Pennella clarified to the Board that these condenser units are independent. They are wall mounted and not mounted to the ground. They sit on brackets.

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

Mr. Maloney moved, seconded by Ms. Rachlin, to close the Public Hearing. All in favor. Motion carried.

Ms. Lawrence read through 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 since the condensers will be screened by bushes.*
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 the applicant has explained that there are no other areas to place the units.*
3. That the requested area variance is not substantial. *Ms. Lawrence said the variances are somewhat substantial but there is very limited amount of flat land to place the units.*
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 said that there will not be any adverse effect or impact on the physical or environmental conditions in the neighborhood.*
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 said that this was self-created only in the sense that they wish to have air conditioning. This shall not preclude the granting of this variance.*

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

Mr. Maloney moved, seconded by Ms. Rachlin, to close the Public Hearing. All in favor. Motion carried.

Mr. Maloney moved, seconded by Ms. Lawrence, that the variances be granted and Counsel Addona be directed to draft a resolution memorializing the discussion this evening and to include general standard conditions. All in favor. Motion carried

**NEW PUBLIC HEARING – Debra Jacoby – 59 Embree Street**

The following public hearing notice was available to the public at the meeting:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at **7:30 p.m. on Monday, August 13, 2018**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Debra Jacoby  
59 Embree Street  
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) for the demolition of existing dwelling and construction of a new dwelling on the existing foundation. The property is located at 59 Embree Street in the Village of Tarrytown and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.190, Block 115, Lot 12 and is located in the R 7.5 Zone.

**The variances sought are as follows:**

<b>Code Description Section 305-21, Attachment 5</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required</b>
Column [11] Front Yard Setback	20 ft.	17.5 ft.	11.75 ft.	8.25 ft.
Column [12] Side Yard Setback	10 ft.	5 ft.	5 ft.	5 ft.
Column [13] Two Side Yards Setback	22 ft.	11 ft.	11 ft.	11 ft.
Column [7] Width at Front of Building	75 ft.	50 ft.	50 ft.	25 ft.
Column [7a] Minimum Street Frontage	75 ft.	50 ft.	50 ft.	25 ft.
§305-5 – Light Exposure Plane & 305- Attachment 5:1 (notes section)	10 ft.	n/a	16 ft.	6 ft.
§305-63 C.(3)(c) Parking in front yard	20 ft.	11.9 ft.	11.9 ft.	8.3 ft.

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

Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

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

Dated: August 3, 2018

Lizabeth Meszaros  
Secretary to the Zoning Board

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

Debra and David Jacoby, owners of 59 Embree Street, appeared before the Board. They currently have a single story ranch home and need more space for their family of five. They said that their home is one of the only two homes on their block that have not been expanded. They plan on demolishing the existing structure and rebuilding on the same footprint. They will be expanding from 3 to 4 bedrooms which will all be on the second floor.

Ms. Lawrence asked if the neighbors facing their house to the left have seen the plans. Mrs. Jacoby said the noticing was done and the neighbors to the right are renters. Most of the neighbors have seen the plans. Ms. Lawrence asked about the light plane exposure and if the affected neighbor received the notice. Ms. Jacoby said that the neighbor has a big bush blocking the entire window now so it appears that they are not getting any natural light on this side. They were mailed a notice. Mr. Jacoby offered to text him. Ms. Lawrence said the houses across the street are up on the hill and are all 2 story homes so they will not be affected by the addition.

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

Amr Badr, 1588 Washington Blvd, Stamford, Ct., came up and asked about if the other houses on the street have the same front setbacks. Mrs. Jacoby said there is only one house that has the required 20 foot setback. Ms. Jacoby said the setback average was 12 feet. The smallest was 6.5 feet. The next largest setback is 16.7 on the entire block. Ms. Lawrence asked that Mrs. Jacoby submit this information as part of the record.

Ms. Lawrence explained to Mr. Badr that they are not moving the house, they are going up on the same footprint. Mrs. Jacoby said there will be a front porch.

Mr. Pennella said this project will also require Planning Board site plan approval. The application was presented for a lot size of 11,000 S.F., which is for both of the lots combined, which does not trigger a FAR variance or the lot size. However the lots are not merged, so at this point there is a FAR and lot size issue. Mr. Pennella said he does not have a clear understanding of when the lots were subdivided since there is a bit of a gap in the deeds and further research is needed. If the lots are held up on separate ownership they will need to re-notice for lot area and for the FAR.

Counsel Addona said there are 2 separate zoning lots that are undersized for what is permitted in the district. The application was presented using both lots which makes it more conforming in the R 7.5 zone. There is a provision in the village code that if the lots came under common ownership after the code was enacted in 1959, the lots would be deemed merged as a matter of law. They are attempting to figure out if the 2 lots

can be merged into one for the purposes of this application. Mrs. Jacoby advised that they do get two separate tax bills, but they are in agreement to merge the lots.

Counsel Addona would like to apply this provision to this property for zoning purposes if possible, which has been done before. It appears that Lot B has always been vacant land; it is a u- shaped lot and is not useable. A discussion took place with the deeds which all refer back to an 1874 map. She asked Mr. Pennella if the lots were in common ownership in 1963. Mr. Pennella said he has no record of the merge at this point. Counsel Addona said that if we can get more information from the applicant, perhaps we can deem them merged. If not, the applicant can re-notice for additional variances, or, another alternative could be to do a quick subdivision to merge the lots at Planning.

Mr. Pennella said the application was presented and noticed under the assumption of the lots already merged. Counsel Addona agreed that the plan treats Lots A and B as one lot. A further review is needed to determine if the lots can be merged by matter of law in accordance with the code. There may be a need to do a minor subdivision at Planning which could be re-noticed at Planning by tomorrow. In the meantime, the applicant will try to show common ownership after 1959 which will merge the lots. It was decided to adjourn to next month to resolve this issue and, in addition, Ms. Lawrence reminded Mrs. Jacoby to submit the setback information for the properties on Embree Street which was discussed earlier.

Mr. Maloney moved, seconded by Ms. Rachlin, to continue the public hearing at the September 12, 2018 meeting. All in favor. Motion carried.

### **PUBLIC DISCUSSION**

Discussion on possible text amendments to the village zoning code.

Mr. Pennella proposed the following text changes to the code as follows:

1. Condensers are accessory structures which are necessities in this day and age. As accessory structures and they need to meet certain setbacks. He would like to allow them to be able to be placed 5 feet from the property line.
2. Parking in the side yard and front yard setback - also proposing 5 feet from the property line. There are different setbacks for different zones currently.

Ms. Lawrence had concerns with regard to parking in the front yard setback and asked Mr. Pennella for his rationale for this change. Mr. Pennella gave an example with the Tappan Landing homes and homes in the Crest area, many of which have been converting garages to livable space; and this Board ultimately gives them the variance to park in the front yard. It is sometimes better than parking in the street. Ms. Lawrence is concerned about front yard parking for large families. Mr. Pennella said that many people park in their front yard and explained that this is for parking in a front yard



setback, not parking in a driveway. When homes in the Crest seek variances for parking in front and side yard setback, you can deny on that variance but it is hard to give a side yard without a front yard, they go hand in hand. Ms. Lawrence would like to think about changing this section of the code.

A brief discussion took place about Main Street parking and the need to have employees who work on Main Street park off-street rather than on Main Street to free up parking to the customers. She would like to know if the village can make the business owners guarantee that their employees will not park on Main Street. Mr. Maloney said it could be done with permit parking, but would have to be enforced. Mr. Pennella said usually the building department gets these types of complaints and they follow up on these issues. This is why they encourage designated parking when applications come before the Planning Board. He explained that a certificate of occupancy is based on the number of occupants required in accordance with the parking requirements in the zoning code, which also determines the number of required parking spaces that need to be provided. Ms. Lawrence said in prior applications, the Board has emphasized that the business owners remind their employees to park off-street and not on Main Street. Mr. Kim said it only makes sense for Main Street business owners to enforce this so that their customers can park close to their business without having to walk a distance.

The Board was favorable to permitting condensers to be placed 5 feet from the property line. They felt that tool sheds should remain as accessory buildings, however, if less than 80 S.F. they can be closer to the property line. Mr. Pennella will draft up these proposed recommendations for the Board's review.

#### ADJOURNMENT

Mr. Maloney moved, seconded by Ms. Lawrence, and unanimously carried, that the meeting be adjourned – 8:20 p.m.

Liz Meszaros- Secretary