

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting via Zoom Video Conference  
August 10, 2020 7:30 p.m.

PRESENT: Members Weisel, Rachlin, Kim, Sgammato, Alternate Member #1 Jolly,  
Alternate Member #2 Braun, Counsel Addona; Village Engineer Pennella;  
Secretary Meszaros

ABSENT: Chairwoman Lawrence

\*\*\*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. Wiesel opened the Zoom meeting at 7:35 pm.

APPROVAL OF MINUTES – July 13, 2020

Mr. Jolly moved, seconded by Ms. Rachlin, to approve the minutes of the July 13, 2020 regular meeting. All in favor. Motion carried.

With regard to the meeting process, Ms. Weisel said 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. All written comments that have been submitted will become part of the record. She welcomes any new concepts and ideas.

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 other variances related to the construction of a 4,895 +/- s.f. two-story addition with renovations to the existing building and other related site improvements.

Counsel Addona advised that she has prepared interpretation and variance resolutions for this evening and they were circulated to the Board in advance of this meeting.

Mr. Pennella shared his screen which shows the two different uses; the posted load capacity vs. the proposed load capacity for each use. Based upon the plans submitted, there is a load capacity reduction of 20 for the classroom use and the sanctuary use load capacity reduced to 244. He wants to make the Board and the applicant aware that the occupant loads will be changing for the rooms and the applicant will be required to repost the applicant load signs for each area.

Counsel Addona said this table is something that the Board may want to include in the resolution in terms of occupancy.

Ms. Weisel would like more clarification.

Counsel Addona said the chart discussed last month calculated parking on the various uses but it is not consistent with the maximum load capacity so the applicant will be reducing the load capacities to the levels indicated in the chart.

Mr. Pennella feels that this chart will give the Board some comfort level of the split uses. The applicant will need to change the occupant loads based upon this chart, but the variance still remains at 2 spaces. As an example, he referred to the occupancy load in the chart for the sanctuary use which is 200, but based on the plans they submitted, it will be reduced to 150.

Mr. Levin further explained that the basic methodology of requesting the 2 spaces comes from what is existing and what the change is, given the use breakdown. With regard to the sanctuary use, the load posting of 200 people has existed since the building was built. There are currently 130 seats in the sanctuary and they are comfortable with changing the capacity from 200 to 150 because that is the amount of what the room can handle.

Mr. Pennella commented that are reducing the number of seats in the classroom by 20 spaces according to this chart. Mr. Levin Agreed.

Ms. Weisel asked if this takes away the need for the variance. Mr. Pennella said the Board is looking at 2 separate alternating uses that are not used concurrently which still requires a variance of 2 spaces.

Counsel Addona said the analysis of the amount of parking is based upon what was submitted in the parking/use study. Mr. Penella is saying that they are reducing the load capacity to what they could actually have, and the chart he showed represents these changes. The analysis is not changed. The chart was to make sure the analysis is what it is actually used for and the numbers are consistent with occupancy load.

Ms. Weisel said they will first vote on the interpretation and then the variances.

Mr. Jolly asked for clarification of the parking requirement code of 1 space per 100 s.f. Mr. Pennella said these are the zoning code requirements for this use, except for in the sanctuary where there are seats. The occupant load is related to the sanctuary use since there are seats involved and the calculation in the code is for every 5 seats you need a space. The chart he provided was to help the Board understand that the applicant is actually reducing the number of seats in the whole complex.

Ms. Weisel said this is helpful because there are folks that were asking for real numbers and she is glad that it is getting clarified.

Counsel Addona said that a Negative Declaration SEQRA determination was made by the Planning Board at their July 27, 2020 meeting so the Board can act on both the interpretation and the variances this evening. In addition, before they start discussing the resolutions, they should ask the applicant if they have anything to add and then ask the public if they have any comments.

Mark Levin, the project architect, said they have been clear and forthright about their needs and they leave it in the Board hands. They are certainly happy to answer any questions.

Ms. Weisel asked if anyone in the public has any questions. Mr. Ringel announced Fergus O'Sullivan to speak.

Fergus O'Sullivan, of 150 Grove Street, asked what defines the seat calculation vs. the square foot calculation in the code? Mr. Pennella said the basic calculation is 1 space per 100 s.f., but in the code, when there is fixed seating, such as in the sanctuary, then 1 space for every 5 seats is used, which calculates to a load capacity of 150. Mr. O'Sullivan confirmed with Mr. Pennella that if the seating is fixed, they would use the seat calculation, otherwise they use the square footage formula. He asked the applicant if they are going to take some of the seating out in the Chapel. Mr. Levin said yes. Mr. O'Sullivan noted that in the applicant's narrative, they say that 150 to 200 people will attend the services. He would like to know where the extra 50 people will go if the occupancy is only 150 in the sanctuary? Mr. Levin said they open up the partition in the back and they sit in the social hall with visibility into the sanctuary.

Ms. Weisel asked if anyone else in the public would like to speak. Mr. Ringel advised that there was not one is raising their hand to speak.

Ms. Rachlin moved, seconded by Mr. Jolly, to close the public hearing. All in favor. Motion carried.

Ms. Weisel asked for a roll call vote:

Member Rachlin:	Yes
Alt. #1 Member Jolly:	Yes
Alt. #2 Member Braun:	Yes
Member Kim:	Yes
Member Weisel:	Yes
Member Sgammato:	Abstain
Chairwoman Lawrence:	Absent

Ms. Weisel summarized the 2 different interpretations. The first way is to calculate the need based upon the separate worship and school use. The code was ambiguous and

the chart was helpful so it makes it clear now in terms of figuring out the split use vs. the aggregate.

The second way is a cumulative or aggregate number so the required number of spaces with the proposed improvements is 149, which is 2 more than what is currently required, so a variance of 2 spaces is needed. The code has specific pieces that support aggregate way of doing things, however, the need based upon the submission, comes out to be pretty much the same. The cumulative approach is more supportive of the code.

Counsel Addona will read portions of the resolutions which include the relief that the applicant is seeking, the interpretations and the variance.

### INTERPRETATIONS:

WHEREAS, the Applicant sought an interpretation from the ZBA from the Denial Letter that determined the Applicant required a variance of 45 parking spaces where Zoning Code § 305-63(D)(1) requires 1 parking space for every 100 square feet of floor space and the Applicant is proposing an additional 4,457 square feet of floor space but is not proposing any additional parking spaces,<sup>1</sup> with the Applicant's interpretations being as follows:

1. The number of parking spaces required by Zoning Code § 305-63 should be calculated based on the needs of the separate uses or occupancies of the Premises, not based on the aggregate of all rooms or areas, and since the parking need generated by each separate and distinct use of the Premises does not exceed the existing 59 parking spaces, no variance is needed ("Interpretation 1"); or alternatively
2. If the parking is calculated based upon the aggregate of all of the uses, the Applicant has a legal, nonconforming 59 parking spaces where 147 would be required by Zoning Code § 305-63(D)(1), and the Applicant has demonstrated that the proposed improvements will result in 149 parking spaces being required, a net increase of two parking spaces over what would currently be required, and therefore a variance of two parking spaces would be needed as the Applicant is not proposing any additional parking; and

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<sup>1</sup> The Denial Letter stated the Applicant was providing 6 additional parking spaces such that the variance needed would be 39 parking spaces. However, the Applicant has acknowledged in its submissions that it is not proposing any additional parking and therefore under the Building Inspector's determination the required variance would be 45 parking spaces based on the addition of 4,457 SF.

**VARIANCES REQUESTED:**

WHEREAS, the Applicant also seeks the following variances from the ZBA:

- One raised planting island where Zoning Code § 305-142(C)(3)(f)(13)(d) requires one raised planting island for every 10 parking spaces and the Applicant is proposing none,
- A variance of 2.73% where Zoning Code § 305-49 allows a maximum impervious coverage of 37.25% and the Applicant is proposing impervious coverage of 39.98%, and
- With respect to parking, if the ZBA does not grant the Applicant's Interpretation 1 finding no variance is required:
  - In accordance with the Applicant's Interpretation 2, a variance of two parking spaces as the Applicant has a legal, nonconforming 59 parking spaces where 147 would be required by Zoning Code § 305-63(D)(1) and the proposed improvements will result in 149 parking spaces being required, a net increase of two parking spaces over what would currently be required, and therefore a variance of two parking spaces as the Applicant proposes no additional parking;
  - Or alternatively, if the ZBA does not grant the Applicant's Interpretation 2, a variance of 45 parking spaces where the Applicant is proposing a total increase in floor area of 4,457 square feet and Zoning Code § 305-63(D)(1) requires 1 parking space per 100 square feet of floor space; and

Counsel Addona read through the analysis for Interpretation 1 for the Board to consider:

1. The Applicant operates both worship and school uses on the Property in a variety of spaces and proposes to continue to do so in the existing and new proposed spaces.
2. The Board does not agree with the Applicant's position that generally the parking requirements must be calculated based upon the needs of the separate uses and occupancies of the Property or that there is any ambiguity in the Zoning Code as to how the parking requirements should be calculated.
3. The general rule is that parking requirements are based upon the aggregate of all of the uses on the site. The Zoning Code provisions cited by the Applicant do not demonstrate any ambiguity or any other way of calculating the parking requirements.
4. Zoning Code § 305-63(D)(3) contemplates an exception to the general rule of calculating parking requirements based upon the aggregate of all of the uses on the site and the circumstances under which parking may be calculated by analyzing shared parking for multiple uses:

**If the applicant can provide a parking study which can show that the use in question can adequately provide parking at a lesser standard, or, because of multiple uses, a shared parking analysis shows that fewer spaces are needed to provide adequate parking, the Planning Board may reduce the amount of required parking that must be built by up to 20%.**

5. Zoning Code § 305-63(D)(3) addresses specifically the issue the Applicant has raised regarding looking at multiple uses on a site and applying a shared parking analysis, and authorizes the Planning Board to reduce the amount of parking by 20% where appropriate. The fact that the Zoning Code expressly contemplated this scenario also supports that the other provisions cited by the Applicant were not intended to indirectly achieve the Applicant's intended result where the Board of Trustees expressly and clearly directed how parking should be addressed in such a situation.

Ms. Weisel asked the Board Members if they agree with this Interpretation 1:

Ms. Rachlin does not agree with Interpretation 1 and she would like to consider Interpretation 2.

Mr. Jolly does not agree with Interpretation 1 and he would like to consider Interpretation 2.

Mr. Braun does not agree with Interpretation 1 and he would like to consider Interpretation 2.

Mr. Kim does not agree with Interpretation 1 and he would like to consider Interpretation 2.

Ms. Weisel does not agree with Interpretation 1 and she would like to consider Interpretation 2.

Counsel Addona read through the analysis for Interpretation 2:

1. The Property is legal, nonconforming as to parking, with 59 parking spaces existing on the site where pursuant to the current Zoning Code requirements 147 parking spaces would be required.
2. The Applicant submitted a chart by Levin/Brown & Associates, Inc. entitled "Temple Beth Abraham Parking/Use Data 5-21-2020" ("Parking/Use Chart" attached hereto as Schedule "2") detailing all of the existing and proposed spaces on the Property related to both the worship use and the school use, the occupancy or square footage of those existing or proposed spaces and the parking requirements for those spaces, which Parking/Use Chart is incorporated by reference and attached to this Resolution. Based upon the Applicant's calculations in the Parking/Use Chart, with the proposed

improvements 149 parking spaces would be required under the current Zoning Code requirements, which is two more than is currently required for the existing spaces.

3. The Applicant is not proposing any additional parking to account for this increase is required parking.
4. Therefore, the Applicant requires an area variance of two parking spaces for the net increase in parking required from the proposed improvements for which the Applicant is not proposing to provide any additional parking.

Ms. Weisel asked for a roll call vote on Interpretation 2 as follows:

Member Kim:	Yes
Alt. #2 Member Braun:	Yes
Alt. #1 Member Jolly:	Yes
Member Rachlin:	Yes
Member Weisel:	Yes
Member Sgammato:	Abstain
Chairwoman Lawrence:	Absent

The next item for consideration is the 3 variances for 1 raised landscaped parking island, 2.73% impervious coverage, and the 2 parking spaces based upon the interpretation vote.

Ms. Weisel read through portions of the criteria for the area variances:

1. There will be no undesirable change produced in the character of the neighborhood or detriment to nearby properties as a result of the variances. The temple use, with both the educational and religious aspects, is existing on the site and the Applicant is proposing certain improvements and modifications to the site. As part of the land use boards' review of this project, the Applicant is proposing to make certain additional improvements to the Property and its operations to the benefit of the neighbors, such as removing dead trees and planting new trees, coordinating with nearby establishments to use their excess parking spaces during high holy days when there may be a shortage of parking on the site, improved communication with its congregants, visitors and contractors not to park on the residential Grove Street and addressing light "hotspots."
2. The benefit to the Applicant cannot be achieved by any feasible means for the Applicant to pursue other than seeking the requested area variances. The Applicant is requesting the variance from the raised planting island in order to retain six parking spaces that were originally proposed to be removed. In addition, as the Property is legal, nonconforming as to parking, any site improvements that propose a net increase in floor area would require a parking variance.

3. This Board finds that the variances of one raised planting island, 2.73% of impervious coverage and two parking spaces is not substantial.
4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The Planning Board conducted a thorough coordinated SEQRA review and found the proposed project will not have any significant adverse environmental impacts. The property is already developed and operating as the temple use and as noted above, the Applicant is proposing improvements to the site and operations related to parking and landscaping. And the applicant is seeking a variance for the raised planting island in order to be able to preserve six parking spaces. The Applicant has demonstrated through its Parking/Use Chart that, with the exception of on the few high holy days, the 59 parking spaces on the site are sufficient to satisfy the uses that will be occurring at any one time given that at no time will the religious use and school use occur at the same time. In addition, the Planning Board noted in the Negative Declaration that during the course of site plan review the Planning Board will explore with the Applicant the possibility of reducing the amount of impervious coverage in the driveway access and parking lot layout.
5. While the hardship may be self-created to the extent that the Applicant wants to make site improvements that do not comply with the requirements of the Code, this does not preclude the granting of the variances, particularly the parking variance where the Property is legal, nonconforming as to parking.

Counsel noted the General conditions which are linked through the plan and read through portion of the special conditions in the Resolution to make sure that the Board is comfortable.

2. The Applicant shall make best efforts to pursue and incorporate the mitigation measures set forth in the Negative Declaration related to parking as follows:

[T]he Temple has contacted the Transfiguration Church regarding a reciprocal arrangement for shared parking during the need for overflow parking. They have also reached out to the Medical Arts Building management to see if there are times that their parking lot may also be used for overflow parking. The Temple has been in contact with the Tarrytown School District regarding the use of Washington Irving Middle School for overflow congregant parking. The Temple received approval from the School District on July 9<sup>th</sup> and is working with the Temple to get access to the District's Facilities Usage System for the Temple's identified dates. Finally, the Temple is developing written protocols and contractual documents that address the prohibition of caterers and contractors' outside staff employees from parking on Grove Street for Social Events.



3. The Applicant shall adhere to the findings set forth in the Negative Declaration that “[t]he Temple indicates that they are not proposing any changes to the existing ‘informal path’ on the eastern end of the property which connects Grove Street and Loh Avenue.”
4. The ZBA’s granting of Interpretation 2 and the variance of two parking spaces are based upon the parking calculations provided by the Applicant in the Parking/Use Chart based upon square footage and/or occupancy of the various spaces. In the event the square footage and/or occupancy of any of those spaces changes such that there is a change in the required parking for those spaces, those changes must be reviewed by the Building Inspector and if the Building Inspector determines that the changes result in a need for more than 149 parking spaces under the Zoning Code, the Applicant must make an application to the ZBA for amended approval.
5. In addition to Condition 2, the Parking/Use Chart provides a maximum occupancy for the main sanctuary of 150 seats and a parking requirement of 30 spaces based upon that number of seats. However, based upon the Building Department’s records, the maximum occupancy of the main sanctuary is 200 seats. The Applicant shall restrict the use of the main sanctuary to a maximum of 150 people at all times and provide conspicuous signage to the satisfaction of the Building Inspector to this effect.
6. The ZBA grants the impervious coverage variance of 2.73% as shown on the Approved Plans. However, the Planning Board noted in the Negative Declaration that it will continue to review the driveway access and parking lot layout during site plan review with consideration of reducing impervious coverage. In the event the impervious coverage is reduced during site plan review such that a lesser or no variance is needed, the variance is granted only to the extent and for the percentage necessary based upon the final plans approved by the Planning Board.

Counsel Addona will revise the above conditions of the resolution to include references to the chart prepared by Mr. Pennella which is attached as “Exhibit 1” at the end of these minutes.

Mr. Jolly asked about the extra seats in the social hall. Mr. Pennella said each room has a certain capacity and they can’t add any more than what is proposed. The front room cannot have more than 150, but if you add them up you can go above, but you can’t have more than 150 in the room.

Mr. Braun said opening up the partition is okay because that is 1 to 100 so they are okay. It does not impact, but each room will have its own occupant load.

Ms. Rachlin moved to approve the variances for the 2 parking spaces, the parking island and for the impervious coverage, seconded by Mr. Kim. All in favor. Motion carried.

Ms. Weisel asked for a roll call vote on the variances.

Member Rachlin: Yes  
 Member Kim: Yes  
 Alt. #1 Member Jolly Yes  
 Alt. #2 Member Braun: Yes  
 Member Weisel: Yes  
 Member Sgammato: Abstain  
 Chairwoman Lawrence: Absent

The variances were unanimously approved.

Mr. Levin and Mr. Skolnick thanked the Board for their patience.

**NEW PUBLIC HEARING - Steven Hanley - 246 Crest Drive**

Variance needed for construction of shed in the rear of the property.

The following notice was mailed to the abutters. The mailing receipts were received and the sign was posted.

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, August 10, 2020 to hear and consider an application by:**

Steven Hanley  
 246 Crest Drive  
 Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") for the construction of a new tool shed in the rear of the property.

The property is located at 246 Crest Drive and is shown on the Tax Maps as Sheet 1.20, Block 84, Lot 5 and is located in the R-10 zoning district.

The variances sought is as follows:

Code Section: 305-20 B. (14) Attachment 5	Required	Proposed	Variance Required
Column 16 Minimum Distance From Accessory Building to Side Lot Line	12 Feet	5 Feet	7 Feet

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

Please visit <https://www.tarrytowngov.com/home/events/26504> for instructions and directions on how to join the online meeting. You can also contact the Planning and Zoning Department by emailing [lmesaros@tarrytowngov.com](mailto:lmesaros@tarrytowngov.com) or by calling 914-631-1487.

In addition to hearing public comments at the meeting, public comments can be emailed to [lmesaros@tarrytowngov.com](mailto:lmesaros@tarrytowngov.com) or mailed to Village of Tarrytown, Zoning Board of Appeals, 1 Depot Plaza, Tarrytown, NY 10591, by 12 noon on Friday August 7, 2020, in advance of the August 10, 2020 meeting.

Documents relating to this application will be provided by emailing the Planning and Zoning Department at [lmesaros@tarrytowngov.com](mailto:lmesaros@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: July 31, 2020

Ms. Weisel advised that the applicant would like to place a shed in the rear yard, which requires a variance of 5 feet.

Mr. Hanley explained that if he moves the shed closer to the fence, it will be more aesthetically pleasing. They have a path that comes between two rocks and if it was placed seven feet more, it would be right in the middle of the path. It is a 12 x 12 shed with 8-foot walls. Ms. Weisel confirmed that the tallest part of the roof is 12 feet.

Ms. Weisel asked Mr. Hanley if he spoke with his neighbors. Mr. Hanley confirmed that he mailed the notices to his neighbors as instructed by Secretary Meszaros and gave her the mailing receipts.

Ms. Weisel confirmed that she, Ms. Sgammato, and Ms. Rachlin were at the site visit. She commented that when facing the backyard, there is an enormous amount of rock on the right side. She asked Mr. Hanley if he thought about putting it anywhere else. Mr. Hanley said they originally were going to put it straight in the back but they decided to put in on the side, in front of the tree, since it would look better on the side rather than a centerpiece in the yard.

Ms. Weisel asked about the existing shed on the property. Mr. Hanley said the existing shed is very small; about 5 feet high and a couple of feet wide and is rotting.

Ms. Weisel was concerned with the height. She thinks it is in a good spot, but asked Mr. Pennella to comment about the height.

Mr. Pennella said the height is compliant. The denial letter is only for the side setback. Mr. Pennella also spoke to Mr. Hanley about moving it to the center, but he said he would lose his whole yard. There are no other issues with this application. The applicant is compliant.

Ms. Weisel asked if Board members have any questions.

Mr. Ringel advised that there is no one in the public to comment.

Ms. Sgammato moved, seconded by Mr. Kim, to close the public hearing. All in favor.  
Motion carried.

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

Ms. Sgammato moved, seconded by Mr. Kim, to approve the variances.

The secretary recorded the vote:

Member Sgammato:	Yes
Member Kim:	Yes
Alt. #1 Member Jolly:	Yes
Member Rachlin:	Yes
Member Weisel:	Yes

The variance was unanimously approved. Mr. Hanley thanked the Board.

ADJOURNMENT:

Mr. Kim moved, seconded by Mr. Jolly, to adjourn the meeting at 8:30 p.m. All in favor.  
Motion carried.

Liz Meszaros, Secretary

**EXHIBIT 1**

**Hebrew Congregation of N. Tarrytown and Tarrytown  
25 Leroy Avenue**

Temple-Beth-Abraham  
25 Leroy Avenue  
8/10/2020

Revised Occupant Loads Based on Parking Analysis  
February 24, 2020 - Planning Board Application for Two Story Addition

	Room No.	Posted Load Capacity	Proposed Load Capacity	AREA				
<b>GROUND FLOOR</b>								
<i>Dwelling unit</i>						870		2
<i>Classroom</i>	1	22	36	25.5	17	433.5	1/100	4.335
	2	23	31	25.5	17	433.5		4.335
	3	23		25.5	17	433.5		4.335
	4	30	24	25.5	18	459		4.59
<b>FIRST FLOOR</b>	<i>Subtotal</i>	98	91			2629.5		17.595
	<i>Reduction</i>		7					
<i>Classroom</i>	5	26	29	24	17	408	1/100	4.08
	6	20	22	24	17	408		4.08
	7	20	22	24	17	408		4.08
	8	20	23	24	17	408		4.08
	9	26	23	24	17	408		4.08
	10	26	30	24	17	408		4.08
	11	24		33	17	561		5.61
	<i>Subtotal</i>	162	149			3009		30.09
	<i>Reduction</i>		13					
<b>Kitchen</b>								
<i>Cocktail Room</i>		75	75	20	55	1100	1/100	11
<i>Social Hall</i>		677	483	50	69	3450	1/100	34.5
<i>Sanctuary</i>		200	150	34	48	1632	1/5	30
	<i>Subtotal</i>	952	708					
	<i>Reduction</i>		244					
<i>Cantor Chapel</i>		140	90	21	14	294		
<i>Rabbi's Office</i>	14			20	11	220		
						6476		
<i>Entry Foyer</i>								