

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
August 12, 2019 7:30 p.m.

PRESENT: Members Weisel, Rachlin, Kim, Alternate Member Jolly
Counsel Addona; Village Engineer Pennella; Secretary Meszaros

ABSENT: Chairwoman Lawrence

Ms. Weisel chaired the meeting in Chairwoman Lawrence's absence and called the meeting to order at **7:35 pm.**

Moment of silence for Jim Maloney

Ms. Weisel briefly spoke: Jim Maloney, a member of the Zoning Board for over 37 years, passed away suddenly last month. The heartbeat of the community can be measured by the amount of people who come together and volunteer for the benefit of the community. Jim truly was a big heartbeat in this community. He was married at Transfiguration Church here in Tarrytown, where he served as a Eucharistic Minister. He was a Life Active member of Hope Hose Company#1 for over 40 years, serving as Treasurer of the company for more than 30 years and also as an ex-Captain. Jim was also a member of the Friendly Son's of St. Patrick and served on many Real Estate Boards in addition to the Westchester County Bar Association, and both the White Plains and Eastchester Bar Associations. Our deepest sympathy to his wife, Susan, daughter Clare, and his entire family. Mr. Jolly commented that Jim rarely missed a meeting or site visit during his tenure with the Board. Ms. Rachlin said that as a new Board member, Jim was very helpful to her, which she sincerely appreciated. He was a dedicated public servant who will be greatly missed.

There was a moment of silence.

APPROVAL OF THE MINUTES – June 10, 2019

The June 10, 2019 minutes will be approved at the next meeting since there are only two members present to approve the entire minutes.

CONTINUATION OF PUBLIC HEARING - Michael and Janiki Degen – 86 Crest Dr.

Counsel Addona advised that this item has been on the agenda since last summer when the Board asked the applicant to revise the plans to further reduce the FAR variance. The Board had agreed to leave it on the agenda until this past August, however, the applicant has recently advised that they are in the process of re-measuring and will not be ready to re-submit revised plans until late fall of this year.

Ms. Weisel asked if the applicant is present. No one appeared.

Ms. Weisel moved, seconded by Ms. Rachlin, that the application continue to be adjourned with the understanding that when the revised plans are submitted, the applicant will be required to re-notice prior to the public hearing so that the public is given the opportunity to comment at the public hearing. All in favor. Motion carried.

CONTINUATION OF PUBLIC HEARING—JCC on the Hudson – 371 & 425 S. Broadway

The application was re-noticed to include an additional variance for a planting island as follows:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing on Monday, July 8, 2019, at **7:30 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

JCC on the Hudson, Inc.
371 South Broadway
Tarrytown, NY 10591

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) in order to provide for additional on-site parking by expanding the west parking lot by 6,000 s.f.

The property is located at 371 and 425 South Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.140, Block 88, Lots 1-4 and is in the LB Zoning District.

The variances sought are as follows:

Zoning Code Section LB Limited Business – Business Structure West of Rt. 9	Required	Existing	Proposed	Variance Required
305-47 B. Parking in not permitted in a required setback - Rear	60 feet	n/a	2 feet	58 Feet
305-142.C.(3).(f).[13].[d]	Raised planting islands every 10 spaces		None	Stalls:16-29

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 approval is required by the Planning Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: June 28, 2019

The mailing receipts were received. The signs have been posted.

Ms. Weisel recused herself from this application as she is the President of the Irving Neighborhood Preservation Association which abuts the JCC Property. Ms. Weisel left the podium.

Counsel Addona advised Attorney Brad Schwartz, who is also Vice Chair of the JCC Board, representing the JCC, that there are only 3 members present this evening to vote on the application and in order to get approved, all 3 members would have to vote yes.

Mr. Schwartz briefly went over the variances he described at the last meeting for the addition of 29 spaces to increase and alleviate the parking shortage. He advised that they are seeking a 58 ft. variance in order to provide for parking in along the west property line. There is a 60 feet buffer needed to provide for parking. He said it is a short extension of the existing parking lot and the variance is needed to provide for approximately 8 of the proposed spaces on the plan. In addition, they are required to provide 3 planting islands; in accordance with the code, a planting island should be provided for every 10 parking spaces. They are only able to provide for 2 islands and therefore they will need variance for one planting island. He advised that the Planning Board has declared a Negative Declaration on this application and is requesting that the Board close the public hearing and vote on this action this evening.

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

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

Mr. Jolly asked if they will be up to capacity with this new parking. Mr. Schwartz said that he is hoping that this additional parking will alleviate the parking problems.

Counsel Addona advised that the applicant has agreed to merge the 4 tax lots as a condition of Planning Board approval and this should also be a condition of Zoning Board approval. Mr. Schwartz agreed that the lots will be merged as a condition of approval either through the assessor or filing a map. At the end of the process, it will be one tax lot and one zoning lot.

Mr. Jolly asked if the spaces are parallel. Mr. Pennella said the spaces that exist are not delineated yet; they exist in a gravel area. This plan will formalize the spaces. In addition, the stormwater has also been approved and there additional landscaping improvements are proposed to the north of the property. Overall, the entire area will be substantially improved.

Mr. Jolly asked how many spaces there will be. Mr. Schwartz said 29 in all and 182 spaces on the entire site. Mr. Jolly asked about the parking capacity during the day. Mr. Schwartz said that they are now staggering programs to allow for a better

experience for the members and to help to alleviate the parking on the street in the adjacent neighborhood.

Counsel Addona advised that in accordance with SEQRA, a Negative Declaration has been issued by the Planning Board with respect to this application and the Board may vote on this application this evening if they are so inclined.

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

Ms. Rachlin 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. Rachlin stated that the character of the neighborhood will be improved with the increased parking and landscaping.*
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. Rachlin stated that there is nowhere else to put the parking spaces and additional parking is necessary at this facility.*
3. That the requested area variance is not substantial. *Ms. Rachlin said that the additional parking is not substantial for the size of the lot.*
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. Rachlin said that the proposed variances will improve the parking situation on site and in the surrounding 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. Rachlin said that this was self-created but additional proposed parking will help to alleviate the current parking problem.*

Mr. Jolly moved, seconded by Mr. Kim, to approve the area variances and authorize Counsel Addona to prepare a resolution memorializing the Board's discussion and, in addition to the standard conditions, include the condition that the four (4) tax lots be merged into one lot which the applicant agreed to at the Planning Board meeting. All in favor. Motion carried.

NEW PUBLIC HEARING – Carolyn Swenson – 24 N Tappan Landing

The following public hearing notice was provided 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 12, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Carolyn Swenson
49 New Broadway 1
Sleepy Hollow, NY 10591

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

The property is located at 24 N. Tappan Landing Road and is shown on the Tax Maps as Sheet 1.100, Block 65, Lot 63 and is located in the R 7.5 zoning district.

The variance sought is as follows:

Code Section §305-20, Attachment 5	Required	Proposed	Variance
Column [12] – Side Yard Setback	10 Ft.	8 Ft.	2 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 2, 2019

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

Carolyn Swenson, the former owner of 24 N. Tappan Landing Road appeared before the Board on behalf on the new owners, the Lynches, who recently purchased the property from them. As part of the terms of the sale, the Lynches requested that they provide a certificate of compliance for the AC condenser unit installed on the property. Ms. Swenson referred to the pictures she provided her application showing the location of the unit which is placed 8 feet from the side yard property line. Ms. Swenson

explained that the homes on Tappan Landing are wedged in and the properties are pie shaped. The unit was installed to the closest point to where the heating unit was. If it were further back, additional duct work would have been required and it would not have been as efficient according to her electrician. The unit is located in the front of the home near the patio but tucked into where the chimney is. It is up against the side of the home and there is really nowhere else it can go.

Ms. Weisel asked if anyone in the public had any questions or comments. No one appeared.

Mr. Jolly asked Ms. Swenson about the noise of the unit. Ms. Swenson said it is an older unit and, in fact, she difficulty finding information on the unit with regard to decibel levels. She said that she included a letter with the application from her neighbor, which states that it does not cause them any undo stress and they are fine with it. They also have an AC unit located on the opposite side of the property.

Mr. Pennella said that the noise created by the new Bridge and the train is probably louder than the unit.

Ms. Rachlin commented that there really is no other place to put the unit.

Mr. Kim commented that the Board considered modifying the code with regard to AC units, but I guess we have not followed through with this yet.

Counsel Addona advised the Board that this is a Type II action with no additional action required under SEQRA.

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

Ms. Weisel read through the criteria for an area variance.

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. Weisel said that there will be no change to the character of the neighborhood or to nearby properties since the neighbor also has a condenser unit installed and the neighborhood experiences background noise from the bridge and the trains.*
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. Weisel stated that the air conditioner unit cannot be moved without losing efficiency (according to the applicant's contractor).*
3. That the requested area variance is not substantial. *Ms. Weisel stated that the requested variance is not substantial when you factor in the shape of the properties.*

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. Weisel stated that there should be no adverse effect or impact on 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. Weisel said that the alleged difficulty was self-created but it does preclude the granting of this variance.*

Mr. Kim moved, seconded by Ms. Rachlin, to approve this variance and authorize Counsel Addona to prepare a resolution memorializing the Board's discussion to include the standard conditions. All in favor. Motion carried.

NEW PUBLIC HEARING – Marcelino Quispe - 217 Wilson Park Drive

The following public hearing notice was provided 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 12, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Marcelino Quispe, PE
38 Locust Avenue
Cortlandt Manor, NY 10567

For a variance from Chapter 305 of the Village of Tarrytown ("Zoning Code") in order to convert a basement into habitable space. The property is located at 217 Wilson Park Drive and is shown on the Tax Maps as Sheet 1.10, Block 1, Lot 30.13 and is located in the R-80 zoning district.

The variance sought is as follows:

Documents are available for inspection in the Planning and Zoning Office at Tarrytown

Code Section §305-20, Attachment 5**	Permitted	Proposed	Variance
Column [20a] – Maximum Livable Area ** Bulk standards are based on cluster subdivision approval for R-40 Zone granted by the Planning Board on August 8, 2007, November 22, 2010 and December 18, 2013	7,200 S.F.	8,534 S.F.	1,334 S.F.

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
August 2, 2019

Lizabeth Meszaros
Secretary to the Zoning Board

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

Marcelino Quispe, P.E., the applicant for this application, representing the owners of 217 Wilson Park Drive, appeared with his colleague, Ms. Sely Gandarillas, Associate AIA. Ms. Gandarillas explained that the owners of 217 Wilson Park Drive, Michael and Lynelle Chang are seeking a variance to allow them to convert their existing basement into habitable space for recreational purposes. The maximum livable space permitted in the zone is 7,500 s.f. and they are seeking a variance of 1,334 s.f. This in an interior renovation and no changes will be made to the outside or to the property.

Ms. Weisel asked if this basement area was pre-existing. Ms. Rachlin commented that the homes in the area are new and it is not an expansion. Mr. Kim added that this is an unfinished basement ready to be finished.

Mr. Jolly asked when they bought the home. Mr. Pennella said the home was built by Toll Brothers, as part of the Wilson Park Subdivision, and they all have unfinished basements. It was purchased sometime around 2016. If they were expanding the footprint, the applicant would be requesting a FAR variance; in this case, the variance is for livable area space.

Ms. Weisel asked if a kitchen is included in the plan. Mr. Pennella said that the plan as submitted does not show any kitchen or cooking facilities; as a condition of approval he recommended that this home can only be used as a single family residence with no separate dwelling unit. Counsel Addona said that the plan presented is detailed and the plans will be tied to the approval and included in the resolution.

Ms. Weisel asked if anyone in the public would like to speak. No one appeared.

Ms. Weisel read through the criteria before closing the public hearing.

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. Weisel stated that this is an interior alteration to a pre-existing basement so there is no undesirable change that will affect 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. Weisel stated that the owner is finishing the basement to gain more recreational space for their family and it is an interior alteration.*
3. That the requested area variance is not substantial. *Ms. Weisel said that the variance requested is substantial but the space already exists and it is being finished for family recreation.*

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. Weisel stated that this is an interior alteration will not impact 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. Weisel said that this is self-created interior alteration but it will not affect the properties in the surrounding area.*

Mr. Jolly questioned the additional laundry area on the plan and asked if they are doubling up. He also asked if the owners had a large family. Ms. Gandarillas said that the owners of this property have a pool and they enjoy entertaining; the extra laundry area is a plus to do additional laundry.

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

Counsel Addona advised the Board that this is a Type II action with no additional action required under SEQRA.

Ms. Rachlin moved, to approve this variance, and authorize Counsel Addona to prepare a resolution memorializing the Board's discussion and, in addition to the standard conditions, include the condition that the home continue to be used as a single family residence and the plan submitted be tied to this approval. This was seconded by Mr. Kim. All in favor. Motion carried.

ADJOURNMENT

Ms. Rachlin moved, seconded by Ms. Weisel, and unanimously carried, that the meeting be adjourned – 8:08 p.m.

Liz Meszaros- Secretary