

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
September 13, 2021 7:30 p.m.

PRESENT: Chairwoman Lawrence, Members Rachlin, Song, Abraham, Alternate Member #1 Jolly, Alternate Member #2 Kaplan; Counsel Addona; Village Engineer Pennella, Secretary Meszaros

ABSENT: Member Weisel

APPROVAL OF MINUTES – August 9, 2021

Ms. Rachlin moved, seconded by Mr. Jolly, to approve the minutes of the August 9, 2021 meeting.

The secretary recorded the vote:

Member Rachlin:	Yes
Member Song:	Yes
Member Jolly:	Yes
Ms. Lawrence:	Yes

All in favor. Motion carried. 4-0

Ms. Lawrence welcomed the newly appointed Zoning Board Members:

Ritchie Abraham – New Zoning Board Member
Jeanne Kaplan – Alternate #2 Zoning Board Member

Ms. Lawrence announced the following adjournment:

CONTINUATION OF PUBLIC HEARING

Matthew Cordone Architect PLLC
88 Main Street

Variances for the construction of a scenic roof deck on a pre-existing non-conforming 3 family dwelling.

New Public Hearing – Alexey and Alison Boldyrev – 63 Embree Street

The following public hearing notice was made 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, September 13, 2021** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Alexey and Alison Boldyrev
63 Embree Street
Tarrytown, NY 10591

For area variances from Chapter 305 of the Village of Tarrytown Code (Zoning Code) required to obtain a certificate of occupancy for the single-family residence.

The property is located at 63 Embree Street and is shown on the tax maps as Section 1.190 Block 115, Lot 15 and is in the R-7.5 Zoning District.

The variances sought are as follows:

§305-21 Residential R-7.5 Zone Code Section: 305 Attachment 5	Require d	Previously Approved	Proposed As-Built	Variance Required	Deviation
Column 11: Min. Front Yard (feet)	20ft	14.03 ft	10.11 ft	9.89 ft	3.92 ft
Column 12: Min. for Each Side Yard (feet) West Side	10ft	9.54 ft	9.20 ft	0.80 ft	0.34 ft
Column 13: Min. two Side Yards (feet)	22ft	14.34 ft	14.50 ft	7.50 ft	0.66 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: September 3, 2021

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

Sam Vieira, RA, the project architect, appeared on behalf of the applicant, Ms. Boldyrev, also present. Mr. Vieira presented the site plan and survey and submitted photographs for the record. He advised that the Zoning Board granted variances in July of 2003 to allow for the proposed additions and alterations to the home, which consisted of a front addition with an expanded porch and a 9-foot addition to the west side of the house. Construction was completed in 2005 but the permit was never closed out and an As-built survey was not submitted. The owners of the property have since put the house up for sale. In the process of closing out this permit to receive a certificate of completion in order to sell the home, a survey was performed in July of 2021. Based upon this survey and the survey done in 1985, there is a discrepancy to what was built

and what was actually approved by this Board in 2003. Mr. Vieira noted that the addition to the left is approximately 6 inches closer to the property line than what was approved in 2003. The biggest difference however is the front porch, and although the addition that was approved was exactly what was built, the 1985 survey and the recent 2021 survey have a discrepancy of 4 feet. In order for the applicant to be granted a certificate of completion, they are requesting that the Board grant the revised variances based upon the current 2021 survey. Again, he noted that the addition was built as allowed but the discrepancy in the survey did not come to light until this past July. Steve Willard, principal with Ward Carpenter Engineers, is researching the discrepancy in the surveys, which he thinks could be due to the portion of roadway owned by the village. In closing, Mr. Vieira said there is an issue about the pillars in the front that may be on Village property which they will have to address if that is the case.

Mr. Vieira clarified for Mr. Jolly and Ms. Lawrence that 20 feet is required in the front yard and that the porch is 4 feet closer to the property line than what this Board originally approved.

Mr. Vieira submitted a copy of the GIS map along with streetscape photos of the porch looking west and a panoramic view which illustrates that the porch is in keeping with the character of the neighborhood and does not deviate from the rest of the homes on the street.

Mr. Vieira confirmed with Mr. Jolly that inspections were completed but the permit was never closed out and it was only until recently that the discrepancy was discovered through the As-built Survey. Mr. Pennella confirmed that after all inspections are done, the applicant requests a certificate of completion. One of the requirements is that an As-built survey be submitted which is how the discrepancy was discovered.

Ms. Lawrence asked how long ago the construction was completed. Mrs. Boldyrev said it was completed in 2005, so that is about 16 years ago.

Ms. Lawrence asked if anyone in the public had any comment. There was no public comment. The Board Members had no additional questions.

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

The secretary recorded the vote:

Member Song: Yes
Member Rachlin: Yes
Alt. Member Jolly: Yes
Chair Lawrence: Yes

All in favor. Motion carried. 4 - 0

Ms. Lawrence read through and commented on 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. Lawrence believes that there is no undesirable change in the character of the neighborhood since the house has been there for 16 years and there have been no complaints.*
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 does not feel that the variances could have been achieved by some other method.*
3. That the requested area variance is not substantial. *Ms. Lawrence believes that the variance is substantial but it was due to the discrepancy in the surveys.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Lawrence does not believe that this construction had any adverse effect or impact on the physical or environmental conditions of the neighborhood. The construction was completed 16 years ago.*
5. That the alleged difficulty was 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 does not think that this matter was self-created due to the discrepancy in the surveys.*

Ms. Rachlin moved, seconded by Ms. Lawrence, to grant the variances so that the Building Inspector can issue a Certificate of Completion for this work and authorize Counsel Addona to draft a resolution memorializing the discussion of the application this evening to include general conditions.

Ms. Lawrence asked for a roll call vote:

Member Song: Yes
 Member Rachlin: Yes
 Alt. Member Jolly: Yes
 Chair Lawrence: Yes

All in favor. Motion carried. 4 - 0

New Public Hearing – Tedd Trading, LLC – 27 N. Broadway

The following public hearing notice was made 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, September 13, 2021** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Tedd Trading, LLC
 5134 Broadway
 New York, NY 10034

For variances required for a change of use from existing office space on the first floor into a restaurant.

The property is located at 27 North Broadway and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.40, Block 18, Lot 6 and is located in the RR Zone.

The variances sought are as follows:

Code Section:	Required	Proposed	Existing	Variance Required
§305-63 D. Off-Street Parking	1sp/100sf + 1sp/employee	1,233 sf = 13 sp 3 employee = 3 sp Total = 16 sp	3 offices 9 spaces	7 spaces
§305-63.F(2)(a) Off-Street Loading requirements	1 sp/6,000 sf	0	0	1 space

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 from the Village of Tarrytown Architectural Review Board and the Planning Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
 Secretary to the Zoning Board

Dated: September 3, 2021

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

Christine Broda, RA, the project architect, appeared with her client, Ehud Cafri, the owner of the Building. They propose to convert the first floor of the building located at the corner of N. Broadway and Central Avenue into a restaurant and are unable to provide parking on site or an area for loading. They are before the Board to request variances for 7 parking spaces and 1 loading space for deliveries that will take place in the early morning. Ms. Lawrence is concerned about this particular site as a restaurant. There is a lot of traffic on the street with more to come with the added population from Sleepy Hollow. She is concerned about the food deliveries taking place on Central Avenue.

Ms. Broda showed the site plan and identified one parking space adjacent to the opening in back of the building just before the two driveway entrances on Central Avenue that could be used for the deliveries that will take place between 7 am and 9 am and also for the garbage collection. She advised that they have been observing this area in the early morning hours for some time and there are no cars parked in this area in the early morning. The restaurant will be open from 11:30 am to 8 pm. It is more of a take-out convenient restaurant, and, although there are 32 seats, there is no waiter service.

Counsel Addona advised the Zoning Board cannot authorize this area for a loading zone. It is available, but the Zoning Board cannot give permission for its use. Mr. Pennella said the applicant would have to go to the Board of Trustees since they are metered spots there from 9 am to 6 pm. Ms. Broda said the deliveries would take place before 9 am. Mr. Pennella asked Ms. Broda if she had another alternative rather than this area. He confirmed with Ms. Broda that there is a 15-minute parking space in the front of the Building which they could pay for and use. Ms. Broda agreed and said they could use this for deliveries. The van is small and it would unload for about 15 to 20 minutes. The trash pickup is a 5 minute stop on the street which would also take place early in the morning.

Mr. Cafri, the applicant addressed the Board and confirmed that they are proposing a mostly take-out, self-service only restaurant. Ms. Broda said there is no waiter service but there are 32 seats. Mr. Cafri said there are 3 employees. Mr. Pennella confirmed with Ms. Lawrence that the number of employees is included in the parking variance request for the 7 spaces. It is calculated for the first floor only; the remaining floors are existing non-conforming. The restaurant use is also a permitted use but will require Planning Board and ARB approval. Ms. Broda advised that they have introduced their project to the Planning Board and will go to the ARB for a sign and awning approval.

Ms. Lawrence asked if they have to go to the BOT for the loading. Ms. Broda said that they intend to use the existing spaces that are not occupied before 9 am in the morning and do not wish to go to the Board of Trustees. Ms. Rachlin said that is assuming that there is not a car parked there. Ms. Lawrence said the parking is really for the public to park not for loading. Mr. Jolly said it might get crowded in the future with the other vacant stores that get filled.

Mr. Cafri noted that they have two other locations one on Mamaroneck Avenue in White Plains and the other location is in the Yonkers Shopping Center, just south of PC Richards.

Ms. Addona said the applicant has made statements regarding the hours of deliveries and type of vehicle that would be used. If the Board were inclined to go in that direction she could include the time and type of vehicle use in the conditions of approval.

Ms. Lawrence said Lefteris Restaurant at the corner of Main and Broadway is jam packed right now and this Central Avenue location is a quieter area with residences. There are quite a few tables in there which concerns her.

Mr. Jolly asked if there is an issue about the garbage. Mr. Pennella said garbage will be picked up by a private carter. It is typically collected 2 or 3 days apart. The plans indicate public parking used for deliveries which needs to be removed from the plan in order to be considered by this Board.

Ms. Lawrence asked if tenants use the spaces in the back of the building. Mr. Cafri said he does not know where they park. Mr. Cafri said he has been over there many times in the morning and no one is parked in the area. The deliveries have to be very early in the morning so they have the food to prepare prior to opening. There is a 15-minute parking option on N. Broadway and people unload right next to that also. It will not affect the traffic. The garbage pail will be one 90-gallon container on wheels which they will keep in the back of the restaurant and it will put out just before collection 3 times per week. The restaurant hours will be 11:30 a.m. to 8 p.m. He advised that they have not heard any comments from anyone in this area or from anyone in the Landmark Condominium.

Ms. Lawrence wants to adjourn and have the applicant revise the plans as Mr. Pennella suggested. She would like to take another month to think about it.

Mr. Song asked for more information about the loading requirement variance. Mr. Pennella said the one space is for loading and unloading. The applicant does not have space onsite so they are proposing to park in the 15-minute space or one of the other 2 spots. He would like the applicant to show on the plan the 15 minutes space in front of the building as an alternate or petition the BOT for a loading area on Central Avenue after the curb cut. Ms. Broda said there is also a space down by Hanks Alley that is not designated as a parking space which could be a loading area space.

The owner came back and said that location will be uphill and they would probably not park there to unload. Mr. Pennella agreed but noted that this area is also another option which the applicant should show on the plan. He would like the applicant to show all of the possible alternative loading space areas on the plan.

There was no public comment. Ms. Rachlin moved, seconded by Mr. Jolly, to continue the public hearing to the October meeting.

Ms. Lawrence asked for a roll call vote:

Member Song: Yes

Member Rachlin: Yes

Alt. Member Jolly: Yes

Chair Lawrence: Yes

All in favor. Motion carried. 4 - 0

New Public Hearing – Niall Cain, RA – 27 Sunset Way

The following public hearing notice was made 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, September 13, 2021** in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Niall Cain, RA
5 Atilda Avenue
Dobbs Ferry, NY 10522

For area variances from Chapter 305 of the Village of Tarrytown Code (Zoning Code) to permit construction of a 248 sf rear addition and adjacent 208 sf deck and covered porch at the front entry.

The property is located at 27 Sunset Way and is shown on the tax maps as Section 1.50 Block 22, Lot 17 and is in the R-10 Zoning District.

The variances sought are as follows:

Code Section §305-20 – R10 Zone §305- Attachment 5	Required	Proposed	Variance Required
North Side: Covered Ground Floor Entry Patio Column 11: Min. Front Yard	25 ft.	10.45 ft.	14.55 ft.
South Side – Rear Addition Variances:			
Column 11: Min. Front Yard East	25 ft.	7.67 ft	17.33 ft.
Column 12: Min. Side Yard West	12 ft.	11.36 ft	0.64 ft.
Column 14: Min. Rear Yard South	28 ft.	12.83 ft	15.17 ft.
Column 15: Min. Principal Building to Accessory	12 ft.	6.92 ft.	5.08 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 approval will be required from the Village of Tarrytown Architectural Review Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: September 3, 2021

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

Niall Cain, RA, appeared before the Board with the owners, also present. He showed the site plan and noted that the site layout is unusual. The house was built in 1870. The original address was on McKeel Avenue so what is now the front and rear yard used to be the side yards for this property. They are proposing a 2.5 story addition in the back where there is a screened in porch. They are proposing a deck and expanded covered front porch. The setbacks seem substantial but the property is quite large and they are just covering 7.48% of lot area which is well under the 27.5% permitted coverage in this zoning area.

They are within the light exposure plane for the adjacent property in the back. He showed the existing interior plans. The house is quite small and the owners have small children and there is a need to expand the home. He showed the proposed elevations with the covered front porch and the addition in the back. He showed photos of the existing home. He noted that the shed structure will also require a variance for setbacks and for the required distance from principal building.

He showed the surrounding area of the homes and noted that they will not be blocking any views of the homeowners. He also noted two letters received from their neighbors. Mr. Niall said there is no practical alternative based upon the configuration of the lot. There is no impact on the environment. It will improve the neighborhood. The odd lot configuration puts them in a difficult position.

Ms. Lawrence asked Mr. Niall to go over the variances again.

Mr. Niall showed the rear yard setback as well as the portion of the front covered porch and the 12 feet required for the accessory structure. Historically, it was the side yard but with the change of address the required set back changed. In reality, it is a side yard.

There was no public comment.

Secretary Meszaros read the email she received from Ms. Wangsness into the record.

Dear Ms. Meszaros,

I live at 35 Sunset Way, and wanted to reach out to express my support for the intended construction of our neighbors Danielle Engel and Mohit Kapur at 27 Sunset Way. Danielle and

Mohit live across the street from us, and my husband and I see their renovation plans as a positive upgrade to the street. We hope the village also offers its support to their project! If you have any questions I can be contacted any time at XXX-XXX-XXX should you have any questions.

Sincerely,

Cassie Wangsness

Secretary Meszaros read a letter from Ronald and Maria DiBlasi into the record.

To the members of the Tarrytown Zoning Board of Appeals:

We are in receipt of a notification from our neighbors, Danielle Engel and Mohit Kapur, residing at 27 Sunset Way, of their intentions to undertake a renovation and addition to their house. We have consulted with them regarding their plans and understand that this renovation will not extend the footprint of the existing structure and will be an extension over their screened porch in the rear of the house. We further understand that due to the unusual configuration of their lot and the age of their house, these plans will require variances from the Zoning Code because they will entail extending a non-conforming condition. We wish to encourage the Board to render a favorable decision to Danielle and Mohit. My wife and I are both native Tarrytowners and have resided in this Village for nearly sixty years. I have lived on this street for most of those years so I assure you we are well acquainted with the character of this Village and of this street in particular. Danielle and Mohit have proven themselves, for approximately the past six years, to be fine custodians of their property and an asset to our neighborhood. We realize that these renovations will be necessary to update their home for the needs of their growing family. We reside directly across the street from Danielle and Mohit, at #28 Sunset Way, and presently enjoy a fine view of the Hudson and Tappan Zee Bridge. Upon examination, we have determined that the proposed renovations would not impinge our view especially since the existing porch is located well to the side and behind large trees. In conclusion, we see no reason why this family should not be granted relief from the setback restrictions as set forth in their proposal and hope you grant them the opportunity to improve their property.

Very truly yours,

Ronald and Maria DiBlasi

28 Sunset Way, Tarrytown, NY

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

The Secretary recorded the vote:

Member Rachlin: Yes

Member Song: Yes

Alt. Member Jolly: Yes

Chair Lawrence: Yes

All in favor. Motion carried. 4-0

Ms. Lawrence read through and commented on 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. Lawrence does not think there will be an undesirable change in the neighborhood or a detriment to other properties.*
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 given the configuration of the lot, there does not seem to be any other method.*
3. That the requested area variance is not substantial. *Ms. Lawrence said yes but given the configuration of the lot, there really is no other alternative.*
4. That the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. *Ms. Lawrence stated that the proposed variance will not have an adverse or negative effect on the environmental conditions in the neighborhood.*
5. That the alleged difficulty was 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 it is self-created because of the addition, but that does not preclude the Board from the granting of the variances.*

Mr. Song moved, seconded by Ms. Rachlin, to approve the variances and authorize Counsel Addona to draft a resolution memorializing the discussion of the application this evening to include general conditions.

Ms. Lawrence asked for a roll call vote:

Alt. Member Jolly: Yes
Member Song: Yes
Chair Lawrence: Yes
Member Rachlin: Yes

All in favor. Motion carried. 4-0

Ms. Lawrence moved, seconded by Ms. Rachlin, to go into Executive Session for advice of Counsel at 8:30 p.m.

Ms. Lawrence asked for a roll call vote:

Alt. Member Jolly: Yes
Member Song: Yes
Chair Lawrence: Yes
Member Rachlin: Yes

All in favor. Motion carried. 4-0

ADJOURNMENT:

Ms. Lawrence moved, seconded by Mr. Song, to come out of Executive Session and adjourn the meeting at 8:50 p.m.

The Secretary recorded the vote:

Member Rachlin: Yes

Member Song: Yes

Alt. Member Jolly: Yes

Chair Lawrence: Yes

All in favor. Motion carried. 4-0

Liz Meszaros
Secretary to the Zoning Board