

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting via Zoom Video Conference
September 14, 2020 7:30 p.m.

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

ABSENT: All Present

This meeting is being conducted via Zoom video conferencing, which has been authorized by the Governor's Executive Order issued in response to the Covid-19 Pandemic. The orders have been renewed and are in effect*

Ms. Lawrence opened the Zoom meeting at 7:30 pm.

APPROVAL OF MINUTES – August 10, 2020

Mr. Weisel moved, seconded by Ms. Rachlin, with Ms. Lawrence abstaining, to approve the minutes of the August 10, 2020 regular meeting.

The secretary recorded the vote:

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

The minutes were approved 4 - 1 (abstention).

NEW PUBLIC HEARING – M. M. Home Development - 6 Hillside Street

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing by Zoom video conference at **7:30 p.m. on Monday, September 14, 2020 to hear and consider an application by:**

M.M. Homes Development, LLC
PO Box 574
Chester, NY 10918

For a two (2) year extension to the May 14, 2018 Zoning Board approval for variances related to the construction of a single-family home.

The property is located at 6 Hillside Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.150, Block 98, Lot 5.3 and is in the R 10 Zoning District.

The Public Hearing will take place via Zoom Video Conferencing in accordance with the Governor’s Executive Order which has been extended.

Please visit <https://www.tarrytowngov.com/home/events/26514> for instructions and directions on how to join the online meeting. You can also contact the Planning and Zoning Department by emailing imeszaros@tarrytowngov.com or by calling 914-631-1487.

In addition to hearing public comments at the meeting, public comments can be emailed to imeszaros@tarrytowngov.com or mailed to Village of Tarrytown, Zoning Board of Appeals, 1 Depot Plaza, Tarrytown, NY 10591, by 12 noon on Friday September 11, 2020, in advance of the September 14, 2020 meeting.

Documents relating to this application will be provided by emailing the Planning and Zoning Department at imeszaros@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: September 4, 2020

The mailing receipts were received and the sign was posted.

The applicant did not appear. Jill Paone, a resident of 2 Hillside Street had public comment and will have her turn to comment during the public comment period.

Mr. Pennella briefly described the variances which were approved on May 14, 2018 for a 5-foot front yard setback variance where 25 feet is required and 20 feet is proposed, and a 2-foot side yard setback where 12 feet is required and 10 feet is proposed to allow for the house chimney. Otherwise, he said the project was zoning compliant.

Ms. Lawrence recalled concerns of noise and rock removal from the neighbors when this application was before them and noted that they were addressed at that time.

Mr. Pennella confirmed that these items were addressed at the Planning Board level during their public hearings. On the side yard, there was an existing fence and the applicant had installed monuments to delineate where the property line exists. In addition, he advised that the rock removal will not be done by blasting, it will be done by a rock hammering process. The same rock blasting protocol was included as part of the site plan conditions of approval which required notifying the neighbors and putting monitoring devices in place with proper documentation.

Counsel Addona also commented that the reason for the requested variances was to minimize the amount of rock removal and the disturbance of steep slopes, so effectively, the variances that were approved minimized the impacts to the land disturbance.

Ms. Lawrence asked if there is any public comment.

Jill Paone, of 2 Hillside Street, the house next to 6 Hillside Street, had submitted some questions on September 10, 2020, to the Secretary, which were forwarded to the Board prior to this public hearing. Ms. Lawrence asked if Ms. Paone had any more questions. Ms. Paone is concerned about when the construction will begin and what time it will take place. She has two children who are homeschooled and have documented learning disabilities. She is concerned that the noise will be a big distraction for them in terms of learning. They both have IEP's in place and any distraction is concerning. This approval was given when there was no pandemic. The kids are home now and she would like to know if there is a timeline. She noted that there are a lot of children in the neighborhood.

Ms. Lawrence said the applicant is not here to comment this evening. Mr. Pennella said that Ms. Paone should have received notification from the applicant during the summer that he was performing a survey for rock removal. At this point the applicant has not given the building department any indication of when they intend to start.

Ms. Paone would like the construction timeline to be taken into consideration since we are in a different time now. She would like the blasting to be put off until at least the summer.

Ms. Lawrence said she would like the applicant to be able to respond and she is hesitant to vote on this application. She assumes that the applicant is aware of the meeting. Ms. Paone said she does not know why the applicant is not here but she is here and has taken the time out of her day to be here and to submit her questions well in advance of the deadline.

Ms. Lawrence asked if anyone else in the public would like to speak. Laurel Stanley, who is a neighbor, said that she shares a similar concern about the blasting while the kids are home from school.

Mr. Pennella said again, they will not be blasting, but the Planning Board imposed the same blasting protocol as part of site plan approval in order to make sure the concerns of the neighbors were addressed. He added that when they built the house at 2 Hillside Street, they removed much more rock than what is proposed here. The variances that the Zoning Board approved for this project have allowed the applicant to mitigate the rock removal as much as possible. If this approval is extended, the applicant still has to do surveys and submit paperwork for review before they can even start the rock removal process. So, they are at least 4 to 5 months out. Mr. Pennella said his last

conversation with the applicant is that they may sell the parcel and, without the approvals, it is difficult to sell.

Counsel Addona said the applicant has requested an extension for 2 years. So, they may not be ready to move on this quite quickly. She would like to state for the benefit of the Board and the public that when considering the criteria for area variance you look at things such as undesirable change in character of the neighborhood from the variances and whether the variances, in this case 2 feet and 5 feet, are substantial, whether there will be adverse impacts and whether or not they were self- created. So, the construction could potentially be a short-term impact, but in terms of Zoning Board approval, the impacts of the variances are what should be considered, not necessarily the construction of a single-family home. In this case, the applicant was before the Board to seek relief to minimize these impacts.

Ms. Lawrence said that the only change with this application is that we now have Covid-19 restrictions in place and many children are learning from home. The variances have not changed. It is the same application that was approved 2 years ago, and, as a condition, the applicant is required to let the neighbors know when the rock removal will begin. However, she is still uncomfortable to move forward without having the applicant here to respond this evening to the neighbor's concerns.

Counsel Addona advised that the Board certainly could adjourn this application to next month so that the applicant may respond and address these concerns. Mr. Jolly asked if they have to go to the Planning Board. Mr. Pennella advised that they will be on the Planning Board agenda at the end of the month. Also, with regard to the blasting, they were given a period of 30 days to complete the removal and it could only be done between certain hours of the day. He thought it was 9 am to 3 pm.

Counsel Addona said to be clear it is rock removal, not blasting, that is to be done.

Ms. Lawrence asked the Board members how they wish to proceed this evening.

Ms. Rachlin feels that if they do not extend the approval, the applicant could alter the plan and cause more disturbance.

Mr. Kim wanted to know if it was even legally possible to put a timeline in terms of when they can start the construction.

Counsel Addona said that there needs to be a conversation with the applicant about this to get a sense from him about the timeline as there are also other considerations if they should sell the property.

Mr. Pennella said we are focused on the two variances, a front yard and side yard setback. The applicant was previously granted these variances before with conditions. The Board could make a recommendation to the Planning Board with regard to the

putting restrictions on the time of day to perform the rock removal as long as the applicant agrees with this.

Mr. Braun wants to know how much rock removal will take place and how long it will take to complete. He would like to adjourn and get these simple questions answered by the applicant at the next meeting in order to address the concerns of the neighbors.

Mr. Pennella said the applicant was given a period of 30 days to complete the removal with limited hours and, if it was not completed in 30 days, the applicant would have to renew the process. Rock hammering is also very cost prohibitive, about \$5000.00 per day so, it is unlikely that they would be there for more than a month. It was not a massive amount of rock to be removed but he would like to hear from the applicant as well.

Ms. Weisel would also would like to hear from the applicant to get his thoughts. She recalls guiderail and screening issues, vibration and noise concerns. There is an exceptional concern now with COVID and the children are staying at home. This project may be 4 or 5 months out, but she also would like to hear from the applicant on the timeline so that the neighbor's concerns can be taken into consideration.

Ms. Sgammato agreed that the application should be adjourned until the next meeting so that the Board can hear from the applicant. It would make for a more productive discussion and also address the concerns of the neighbors.

Mr. Jolly said if the applicant wants to get approval to sell then he would not have any idea when the rock removal would take place. He asked if the removal would be done before he sold the property?

Ms. Lawrence thinks that the applicant wants the approvals in place before he sells the property, which is typical. So, by the time all of this happens, the work may not even start until the spring anyway. Again, the applicant should have a chance to answer these questions at the next meeting scheduled for Tuesday, October 13, 2020.

Ms. Lawrence moved to adjourn this application to be continued at the next regular ZBA meeting, which is scheduled for Tuesday, Oct 13, 2020.

Ms. Lawrence asked for a roll call vote:

Member Kim:	Yes
Member Rachlin:	Yes
Member Weisel:	Yes
Member Lawrence:	Yes
Member Sgammato:	Yes

All in Favor. Motion carried.

In the interim, Counsel Addona advised that staff will reach out to the applicant and let him know that his presence is required at the October 13, 2020 meeting.

ADJOURNMENT:

Mr. Kim moved, seconded by Ms. Lawrence, to adjourn the meeting at 8:00 p.m. All in favor. Motion carried.

The secretary recorded the vote:

Member Kim:	Yes
Member Rachlin:	Yes
Member Weisel:	Yes
Member Lawrence:	Yes
Member Sgammato:	Yes

Liz Meszaros, Secretary