

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
September 9, 2019 7:30 p.m.

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

Chairwoman Lawrence called the meeting to order at 7:32 p.m.

APPROVAL OF THE MINUTES – June 10, 2019 and August 12, 2019

Mr. Kim moved, seconded by Ms. Rachlin, with Mr. Jolly recusing himself, that the minutes of June 10, 2019 meeting be approved as submitted. All in favor. Motion carried.

Mr. Jolly moved, seconded by Ms. Rachlin, with Ms. Lawrence recusing herself, that the minutes of August 12, 2019 meeting be approved as submitted. All in favor. Motion carried.

Chairwoman Lawrence announced the following adjournment:

CONTINUATION OF PUBLIC HEARING - Michael and Janiki Degen – 86 Crest Drive
Variance needed for additions and alterations to a two story single family home.

NEW PUBLIC HEARING – Spirit Halloween – 39-51 N. Broadway (Former Bolton's)

The following public hearing notice was made available to the public at this 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 9, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Spirit Halloween
6826 Black Horse Pike
Egg Harbor Township, NJ 08234

For approval from the Zoning Board of Appeals for non-compliance with **§305-62 A. (3) Nonconforming buildings, lots and uses-** to allow for a temporary conditional permit to operate a retail establishment for a (90) ninety day period.

The property is located at 39-51 N. Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 14, Lot 2 and is in the RR Zone.

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 30, 2019

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

Amarillys Cabrera, Zone manager of Spirit Halloween, appeared before the Board for a variance to open a seasonal pop-up retail establishment in the former Bolton's store located at 39-51 N. Broadway to sell Halloween costumes and decorations. She is requesting a conditional permit to allow this use from the beginning of September until the second week of November. She explained that there will be no interior alterations or construction within the store; they simply bring in fixtures and set up in accordance with all building and fire code regulations.

Ms. Cabrera said they have 1400 retail stores across the US and in Canada and as part of their philanthropy efforts, this year their Spirit of Children Campaign will benefit the Maria Ferrari Children's Hospital. They only give to hospitals that have a Child Life Department and 100% of the funds collected from customers will benefit the hospital. In addition to the donations, they also have parties for the children and donate costumes. It is an opportunity for the company to give back to the community at the end of the season. In addition, they have hired 16 local residents to work in the store for the season.

Ms. Lawrence asked about the available parking and the hours of operation.

Ms. Cabrera said the hours will be 10 a.m. to 8 p.m.; they may open earlier or stay open a little later as it gets later in the season.

Ms. Lawrence asked if anyone in the public had any questions.

Heather Reid, of 54 Main Street, representing the Merchant Council, expressed her concern that the store may impact the availability of parking spaces for the small businesses along Broadway. She asked if there was a mechanism for them to pay into the parking fund.

Ms. Lawrence commented that there should be no problem since the rear parking is already allocated to the former Bolton store which is vacant. She noted that signage would be helpful. She also noted that many of the store employees of Broadway are parking in the street spaces, which is another issue.

Mr. Jolly asked if the company was a not-for-profit. Ms. Cabrera said they are not a not-for-profit but referred to the philanthropy program to benefit children's hospitals which she previously spoke about.

Ms. Lawrence asked about the building code requirements. Mr. Pennella said a recent fire inspection was conducted and the applicant will be required to meet the fire code. The fire alarms are working and all is in order.

Mr. Pennella confirmed that with regard to the parking requirements, there was a pre-existing use of retail, which has not changed so there will be no increase in the parking requirement. Sixteen (16) spaces would be required for this use and they are available.

Ms. Lawrence asked if both levels would be used. Ms. Cabrera confirmed that both levels will be used to ensure ample space and aisle width as required by the building code.

Ms. Lawrence was pleased that they have hired local residents to work in the Halloween store.

Ms. Lawrence asked if anyone in the public had any comments.

Sandy Arno, the property manager of Coco Management, came up and advised the Board that this property already has signage for parking and they will modify the sign to include the parking location for the temporary "Spirit Halloween" store.

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

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

Ms. Weisel moved, seconded by Ms. Lawrence, that the Board approve a Temporary conditional permit to operate this pop-up retail store for a period of no more than ninety (90) days and to authorize Counsel Addona to prepare a resolution memorializing the discussion this evening to include a special condition that the proper parking signage be placed to indicate where the parking is located for the patrons. All in favor. Motion carried.

NEW PUBLIC HEARING – Yoga Love, NY (Contract Vendee) – 69 North Broadway

The following public hearing notice was made available to the public at this 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 9, 2019**, in the

Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Yoga Love NY (Contract Vendee)
c/o DelBello, Donnellan, Weingarten, Wise and Wiederkehr, LLP
1 North Lexington Avenue
White Plains, NY 10601

To amend the July 11, 2016 Zoning Board approval to allow for vacant space in the basement to be converted into a yoga studio and for a variance from Chapter 305 of the Village of Tarrytown ("Zoning Code") as follows:

Code Description	Required	Proposed	Variance
§305-63 D.(1) Off Street Parking Spaces – personal services	1700 s.f./300 s.f. = 6 spaces + 1 employee= 7	0	7 spaces

The property is located at 69 N. Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 14, Lots 4 and 5 and is in the RR Zone.

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 and Architectural Review Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: August 30, 2019

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

Diana Kolev, Attorney with the firm of DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, appeared on behalf of the applicants, Nancy Puleo and Shannon McGee, also present, and introduced Ron Hoina, the project architect.

Ms. Kolev briefly stated that her clients are looking to occupy the lower level of the building located at 69 N. Broadway to be used as a yoga studio. The space is approximately 1700 s.f., which includes 800 s.f. of exercise space, a bathroom and changing room, small office, and lobby area.

Ms. Kolev referenced condition No. 3 of the July 11, 2016 Zoning Board Resolution, which was included as “Exhibit C” in their recent Board submission. Her clients are seeking an amendment to this resolution to allow for this use in the basement and for a variance for the required 7 parking spaces that they are not able to provide on-site.

Ms. Kolev referred to her letter to the Board which included the history of the site and the principal points for the balancing test for an area variance. In short, she believes that there is plenty of off-street parking available to accommodate the project. She noted that there are a total of 182 spaces within walking distance to the building consisting of 64 spaces in the back parking lot, for tenant use, 48 spaces on the street and an additional 70 metered spaces in the McKeel parking lot just across the street. The yoga studio is hoping that there will be an overlap of patrons using the Snap Fitness gym and that some will also walk to the facility.

Ms. Lawrence commented that there was a lot of noise coming from the Gym during the site visit and suggested insulation since it seems very noisy for a yoga studio. She also stated that although there seems to be a lot of parking available, this is because there are two vacant stores right now.

Mr. Pennella commented that the parking spaces have all been allocated for the tenant use even though the stores are not occupied. Snap Fitness did not have enough parking and also required parking variances from this Board. The applicant is required to provide 7 spaces for this space.

A brief discussion took place about the parking lot ownership in the back. Mr. Pennella confirmed that the 64 spaces that Ms. Kolev mentioned have been allocated for use by the tenants from Sushi Tai to Snap Fitness. In addition, the entire lot area has two separate owners and the division line is down the center of the driveway. Regardless, the spaces have already been allocated for the tenants.

Mr. Jolly asked about available parking on the street. Mr. Pennella referred to the Stonefield Engineering parking study that was done back in 2016 which indicated that there was sufficient parking for the Snap Fitness gym use even if the basement area was added.

Ms. Kolev also advised the Board that Snap Fitness is using much less parking than was anticipated. At any given time the gym has advised that there are only 15 to 17 cars parking for the gym. In addition, the municipal parking lot across the street can be used.

Ms. Lawrence said there is also a possibility that people will walk to the yoga studio.

Counsel Addona asked the applicant about the class schedule. Nancy Puleo, the applicant came up and said initially, they will start with a morning class and an evening class. Ideally they want to grow to 2 classes in the morning and 2 at night. There will

be 15 minute intervals between the classes to ensure that the parking need is controlled.

Counsel Addona asked Ms. Puleo what the maximum number of students per class will be.

Ms. Puleo said that their model is to focus on teaching yoga and individualized attention. They like small group classes; they have about 5 in each class now, the maximum would be 10 per class.

Ms. Lawrence confirmed that there will be adequate light in the parking area. She also asked about employee parking. Ms. Puleo said there is a light fixture above the back entrance and there will only be one instructor on site for each class.

Ms. Lawrence was concerned about the additional people walking and suggested that signage be installed to watch out for pedestrians in the crosswalk. Mr. Pennella said there is one by the post office and he thinks at the corner of McKeel. David Kim said that this request should be made to the Board of Trustees and they should contact the Village Administrator. If there are more people around, the area tends to get safer.

Mr. Kim commented that parking behavior for places with membership is different than a restaurant or retail. If there are free parking they will drive, if not they will make other arrangements. He feels that it will be positive to the neighborhood.

Ms. Lawrence commented that people may also walk to the facility. She really has no concerns since the McKeel parking lot is available.

Mr. Pennella advised that in accordance with §305-63 of the zoning code, the applicant may be granted up to 5 parking spaces. In this case, the required parking for this space based upon the square footage is 7 parking spaces. He is therefore recommending that the applicant pay into the parking fund for 2 parking spaces which would be \$2,000. Ms. Kolev said that this was acceptable to her client.

Counsel Addona said that because there is an existing resolution for this application, it will be amended to remove the condition that they can only use the basement area for storage and include the variance for the 7 required parking spaces and have the applicant pay into the parking fund for 2 parking spaces.

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

Ms. Lawrence moved, seconded by Ms. Weisel, to close the Public Hearing. All in favor. Motion carried.

Mr. Kim moved, seconded by Ms. Rachlin, that the Board authorize an amendment to the July 11, 2016 Zoning Board Resolution to remove the condition that the basement can only be used for storage space; to include the variance for the 7 required parking spaces and have the applicant pay into the parking fund for 2 parking spaces and authorize Counsel Addona to prepare a resolution memorializing the discussion this evening. All in favor. Motion carried.

NEW PUBLIC HEARING – Realty@460 S.B., LLC – 460 South Broadway

The following public hearing notice was made available to the public at this 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 9, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Realty@460 S.B. LLC
480 South Broadway
Tarrytown, NY 10591

To seek an interpretation of the provisions of Zoning Code Section §305-63, which govern “Off-Street Parking and Loading”, whether the temporary and intermittent display of two (2) vehicles in the front of the premises constitute “Off-Street Parking”, to be regulated by the applicable provisions of this section, and require site plan review.

The property is located at 460 South Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 96, Lot 3 and is in the NS Zone.

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 30, 2019

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

John J. Hughes, Jr., Attorney, representing the applicant, appeared before the Board and introduced Dwight Dachnowicz, the owner of the Honda facility. Mr. Hughes is before the Board to seek a fairly limited interpretation from the Board with regard to off-street parking. He referred to Exhibit D in the packet which was provided to all members before the meeting which was a picture of the existing Honda facility with two (2) small model cars in the front which constitute his client's inventory for sale.

He stated that the parking of these two (2) cars does not present any safety issues to pedestrians nor do they obstruct pedestrian or vehicular access to the building. Therefore, there is no real reason to consider that this condition would require his client to obtain site plan approval and/or seek a zoning variance to allow the cars to be there.

The reason for this use is that most dealerships have sales and service in one building but the old building 480 was not big enough to accommodate both sales and service. The 480 site is predominantly sales and the 460 site is mostly service. In this business, there is a relationship between sales and service. Vehicles are leased and service is needed. When lease ends, people will trade in the vehicles or sell their cars. The service and selling function fall together. The sales and service are separated here by virtue of the size of the buildings. Maintaining customers and continuing sales and service is all part of running a successful dealership.

Ms. Lawrence asked Mr. Hughes if there was an area within the building designated for sales. Mr. Hughes said that there is a one car display in the lobby which is part of the sales campaign. Dwight Dachnowicz, the owner, came up and said in the facility there are no sales people and one (1) vehicle in the showroom for display. All sales questions go to sales facility at 460. When people are waiting for service they tend to walk around and having these two (2) vehicles on display in the front makes it easier to look at.

Ms. Lawrence asked if Mr. Dachnowicz foresaw any reason that this would be a problem. Mr. Dachnowicz said there were many plan revisions during the approval process and the cars were not included in the display or photos but if you look at the standard of concrete that was used, it was made heavier to allow for the vehicles.

Ms. Lawrence stated that she understands what they are saying, but, to her, it is a sidewalk, and to have two cars parked on the sidewalk seems strange. It does not look right or feel right and in her opinion, it appears to be off-street as far as she can see. She would like to hear more about why Mr. Hughes feels it is not off-street parking.

Mr. Hughes said that this is easy, there are no safety issues. The off-street parking regulations in the code have to do with the size of the parking spaces, location, access of parking and distance from building to the parking area which are all inherent to safety issues in a parking lot. Parking lots are dangerous places. So off-street parking is completely safety related and the vehicles that are placed in this area do not present any of these concerns. There are no pedestrians walking behind them.

Customers, vendors, suppliers, tradesmen are not driving in this area. The vehicles are parked and stationary and do not move. They are just there to look at. It's a car dealership.

Ms. Lawrence said that there will be pedestrians walking to the other building to go to the sales office.

Ms. Weisel commented that during the approval process at the site visit, she recalls concerns about the entrance not looking like automotive. She complimented them on how they tried to make the facility blend in with the Town. She remembers asking where the loading of the cars would take place and how they meticulously went over the plan so that there would not be vehicles in the front. She can't get past that and does not feel that this is a hardship since they have sales across the street. She is trying to figure this out, since the front of the building was supposed to appear in an auto neutral fashion with the cars in the back and anything pertaining to retail was inside the building, not outside. She asked Mr. Hughes if he has anything to add to make his case.

Mr. Hughes explained to the Board with regard to point of sale while it may happen in the other building, there are 30,000 customers that come in to the 480 building to service the vehicles and a lot of the customers hang around the showroom and wait to the service is completed. While they are waiting the dealership will try to stimulate interest in the new models by displaying them. There is only room for one car inside. That car is not for everyone. It is not a hardship, it is to stimulate interest. This is an opportunity for people to look at the inventory to kill time. Most people want to touch and examine the cars. It is a display that is important to the business. They are on private property. His customer base comes in for service all the time. This is a way to stimulate his business.

Ms. Lawrence said from the beginning, they thought the 460 site was supposed to be a service facility and the 480 site was supposed to be a sales facility. Mr. Hughes said not necessarily, both buildings could be converted to sales and service since they are permitted principal uses. All they are trying to do is stimulate sales for the business. Ms. Lawrence understands that this is for marketing purposes, but she said there must be marketing across the street. Mr. Hughes said yes, but you don't have 30,000 people coming in at that site. Ms. Lawrence still feels that the cars are parked on the sidewalk. She asked Mr. Hughes if the service customers walk across the street now. Mr. Hughes said yes they might do that, the cars in the service area are strictly marketing tools. While their cars are being serviced, the customers look at the cars.

Counsel Addona clarified to Mr. Hughes that the Board is not saying that you automatically can't do this. You would just need approval to be able to park the cars. It would require going back to the board and getting additional approval or amendments to the original approval. With regard to the letter which stated that it is a temporary and intermittent condition, she asked Mr. Hughes to explain.

Mr. Hughes said much like any business you will see different products put out which is what they want to do. During the winter months and lousy weather, it is not a good time for people to go and look, so the cars are moved by employees to avoid bad weather and also if they are sold. They are not real estate, they are cars.

Ms. Lawrence asked if the cars are close to the exit doors. Mr. Hughes said no they are not close to the exit doors.

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

Mr. Jolly asked about the 480 site. Mr. Hughes said there is no service at this location; the service happens at the 460 site where the customer traffic is.

Ms. Lawrence said it is a marketing tool.

Mr. Kim asked if there were any prohibitions to display the cars in the prior approvals. Counsel Addona said it was not contemplated.

Ms. Weisel asked if sales can happen in this building or at both locations. Mr. Hughes said it can happen but there are no sales offices designated for sales at 460 but the purpose of the cars parked at 460 is to stimulate interest and then the salesperson will come over and start talking.

Counsel Addona referred to Zoning Board Resolution and noted that the Planning Board Resolution which was not included with the application. Mr. Hughes advised that there was nothing in the Planning Board Resolution which either permits or prohibits this use. Mr. Hughes pointed out to the Board that if there were safety issues he would not be making this application.

Ms. Lawrence noted the 50 foot front yard setback which was granted to the applicant in 2016. Mr. Pennella said that the area south of the Thruway along Broadway has a required setback of 100 ft. The 50 foot setback was granted to the applicant.

Mr. Kim commented that if the concrete was built up and shown on the plan, then there was an expectation that this could happen.

Mr. Pennella said the cars were not included in the site plan application. The only display was the sign which went to ARB. If they were, then the applicant would not be here before this Board. With regard to the visibility issue, the NYSDOT needs to complete their work. There will be landscaping and more screening on the side when the work is complete.

Mr. Jolly asked Mr. Hughes if the applicant received a ticket.

Mr. Hughes said that they were before the court and the judge gave his client an opportunity to come before this Board for an interpretation.

Mr. Lawrence said that her interpretation right now is that it is part of the off-street parking and would require a variance; however, she would like to think about it and asked Counsel Addona to write something up to clarify the issues to the Board.

Ms. Rachlin said that she feels it is off-street parking but it does not offend her to have the cars there and she does not feel that the cars present a safety issue with regard to people walking by.

Mr. Jolly agrees that it is not a safety issue.

Mr. Kim agrees that it is not a safety issue and noted that the sidewalk at this location is much wider than any street sidewalk.

Ms. Lawrence agrees that off-street parking is predicated on safety issues but she is not sure it is the only issue.

Mr. Pennella said he has considered the intent of the off-street parking code and if parking were allowed in a residential zone in the front yard setback, then everyone in the village would be parking their cars in this area. The intent of the code is to keep the cars out of the front yard setback. It is up to this Board to interpret the code.

Ms. Weisel moved, seconded by Mr. Kim, to leave the public hearing open and adjourn to the next regular meeting in October. All in favor. Motion carried.

NEW PUBLIC HEARING – LYONSPRIDE 14 N BDWY LLC – 14 North Broadway

The following public hearing notice was made available to the public at this 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 9, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Lyonspride 14 N BDWY LLC
521 Bedford Road
Sleepy Hollow, NY 10591

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”)

The property is located at 14 North Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.80, Block 41, Lot 13 and is in the RR zone.

The variances sought are as follows:

Code Description Section 305-21, Attachment 10	Required	Proposed	Variance Required
§305-39 D.(1) Parking in front yard setback – Hamilton Place	20 Feet	0 Feet	20 Feet
§305-63 D.(1) Off Street Parking Spaces	6 Units x 2½ sp./d.u. = 15.0 Office x 3 sp. +2 emp. = 5.0 = 20.0	5 onsite 13 offsite = 18.0	2 Spaces
§305-63 C.(1) Off Site Parking Adjacent Lot	n/a	13 Spaces	13 Spaces

The property is located at 14 North Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.80, Block 41, Lot 13 and is in the RR zone.

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 by the Planning Board and Architectural Review Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: August 30, 2019

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

Jorge Hernandez, R.A., the project architect, appeared before the Board and advised that they have been in front of the Planning Board to seek approval for a mixed use of office/retail on the lower level and six (6) residential units within the existing structure. The original plan proposed 7 units but has since been revised to reflect 6 units. In addition, a two bedroom unit on the first floor will be an affordable unit.

His client is seeking a variance of 2 parking spaces and a variance for parking which is within the front yard setback since it is a corner lot. They are able to provide 22 spaces on site which includes 13 spaces on the adjacent lot.

Mr. Kim asked Mr. Pennella to explain the parking requirements with regard to the use of 18 Hamilton Place. Mr. Pennella said the code allows them to seek a variance to use parking from the adjacent lot at 18 Hamilton Place. They are requesting to use 13 of these spaces. They can provide 22 parking spaces, but require 24 spaces for both lots

since 18 Hamilton has a requirement of 4 spaces. So, when you calculate the front half, they need 20 spaces, but are only able to provide 18 spaces. Therefore, they require a variance of 2 parking spaces.

Ms. Lawrence asked how the rear lot is accessed. Mr. Pennella said the only access is from Hamilton Avenue.

Ms. Lawrence asked if there is a difference in the size of the parking spaces. Mr. Hernandez said they are all 9 feet x 18 feet, as required. Mr. Pennella said that the Planning Board would like to see the island removed and landscaped to screen the view of the cars. Mr. Kim commented that the driveway cut is very long but these details will be worked out at Planning.

Mr. Kim commented that if they put a curb between the two driveways they could add a parking space to the street and also make it safer. Mr. Pennella said there is a grading issue but they may even be able to pick up two (2) spaces. Mr. Kim said this would be a nice improvement.

Mr. Pennella asked Mr. Hernandez to explain the types of units proposed.

Mr. Hernandez said there will be an office/retail on the first floor, with 1-one bedroom unit and 1- two bedroom unit. The second floor will have 2- one bedroom units and 1 -two bedroom unit. The third floor will have 1- two bedroom unit for a total of 3— one bedroom and 3-two bedroom. The affordable unit is the 2 bedroom on the first floor.

Counsel Addona asked if the two properties are in common ownership and referenced 305-63 (C)1 of the code which talks about shared parking on both lots and she read it.

“Required parking and loading spaces shall be provided upon the same lot as the use or structure to which they are accessory, except that off-street parking spaces required for structures or land uses on two or more adjacent lots may be provided in a single common facility on one or more of said lots, provided that a legal instrument, satisfactory to the Village Attorney, assures the continued existence of the parking facility to serve said structures.”

In the future, if there was separate ownership, there would have to be some sort of legal instrument in place so they would not lose the parking at 18 Hamilton Place. Counsel Addona wanted to know if they would be agreeable to this language. Mr. Lyons said right now, it is under common ownership, and he would be agreeable to some sort of language to protect the parking.

Ms. Lawrence confirmed that the retail space is in the front of the building.

Ms. Lawrence asked if anyone in the public or staff had any questions.

Mr. Jolly asked what the storage space was for since it is rather large. The applicant said it will be for use by the tenants.

Mr. Kim asked Mr. Lyons about his experience with parking on his other sites. Mr. Kim said in a downtown area, the smaller units usually have one car or no car at all. Mr. Lyons said in his experience, if you offer a space they come up with a car.

Ms. Lawrence asked the applicant about the occupant history of the building with regard to vacancies. Mr. Lyons said he has no history of the building; he knows that it was an aesthetic school and offices before that. He would like to turn it into an investment property and also benefit the village. Ms. Lawrence said she has concerns about the location since this project is right in the middle of the village and she wants the best for Tarrytown. They also do not know much about the tax assessments and she asked the Board if they had any fiscal concerns. The Board did not seem concerned with the fiscal impacts. Ms. Lawrence said she was pleased with the affordable unit that the applicant is providing. She has been hearing a lot about office space going vacant for a number of years now. There is a mix of units that will appeal to the millennials and with an affordable unit, it appears that residential will work at this location.

Counsel Addona commented that the code does require a retail office element with apartments above. They are not seeking a use variance or zone change and are code compliant.

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

Mr. Kim, seconded by Mr. Jolly, to close the Public Hearing. All in favor. Motion carried.

Ms. Lawrence 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. Lawrence said that there will be no undesirable change to the neighborhood, the exterior of the building will remain and is beautiful, they have provided most of the parking and have improved the safety in the area.*
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 there is no other method and they have provided for most of the parking.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the variances are not substantial.*
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 stated that this project seems to be in line with the character of 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 stated that this condition is self-created but is not creating a problem for anyone else and does not preclude the granting of this variance.*

Ms. Rachlin moved, seconded by Mr. Kim, to approve the variances and authorize Counsel Addona to draft a resolution memorializing the discussion regarding §305-63 (C) 1 of the Zoning Code, to require the applicant to provide a legal instrument satisfactory to the village attorney to be addressed at the Planning Board which would allow for the continued use of the parking spaces should the properties no longer be in common ownership. In addition, the applicant shall be required to provide a minimum of one (1) parking space on the street. All in favor. Motion carried.

NEW PUBLIC HEARING – Raul Bello, R.A. - 13 John Street

The following public hearing notice was made available to the public at this 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 9, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Raul Bello, R. A.
36 New Street
Rye, NY 10580

For variances from Chapter 305 of the Village of Tarrytown ("Zoning Code") for the construction of a single family home. The property is located at 13 John Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.70, Block 34, Lot 7 and is in the RR zone. **The variances sought are as follows:**

Code Description – RR Zone Section 305-21, Attachment 10	Required	Proposed	Variance Required
Column [6] Minimum Lot Size	20,000 s.f.	3,175 s.f.	16,825 s.f.
Column [7] Width at Front of Building	120 ft.	32 ft.	88 ft.
Column [8] Principal Building Coverage	18%	32%	14%
Column [10] Total Coverage all Buildings	22.5%	34%	11.5%
Column [11] Front Yard Setback	30 ft.	18 ft.	12 ft.
Column [12] Side Yard Setback (S)	16 ft.	4 ft.	12 ft.
Column [12] Side Yard Setback (N)	18 ft.	3 ft.	15 ft.
Column [13] Two Side Yards Setback	34 ft.	7 ft.	27 ft.
Column [19] Maximum Height	25 ft.	29 ft.	4 ft.
§305-47 B.(5) Deck - Side Yard Setback (S)	6 ft.	4 ft.	2 ft.
§305-47 B.(5) Deck - Side Yard Setback (N)	6 ft.	3 ft.	3 ft.

§305-63 C(3)(a) Driveway Side Lot Line	5 ft.	1.5 ft.	3.5 ft.
§305-63 C.(3)(c) Parking in front yard	30 ft.	0 ft.	30 ft.
§305-39 D(2) Side Lot Line Between RR Districts and Residential Districts	8 ft.	4 ft.	4 ft.
§305-39 D(3) Parking Side Lot Line Setback in RR Dist. Adjoining Residential	15 ft.	1.5 ft.	13.5 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 is required by the Planning Board and the Architectural Review Board. By Order of the Zoning Board of Appeals - Lizabeth Meszaros, Secretary Dated: August 30, 2019

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

Raul Bello, R.A, the project architect, of Bello Architecture PLLC, appeared before the Board, representing his client, Dorothy Aguiar and her son Daniel, and introduced Joe Ferrazza, of Westchester Modular Homes, the contractor. Mr. Bello presented the plan for the construction of a single family home on a vacant lot located at 13 John Street. This property is located in the RR zone, but adjacent to the M 1.5 zone. Mr. Bello explained that there was a home at this location which was deemed unsafe and taken down by the village several years ago. His client bought the property to build a home for their son and his family to live in.

Mr. Bello said that in order to build this new single family home, they will need several variances. The lot is pre-existing, non-conforming lot, and really anything built on it would require several variances.

Mr. Bello quickly went over the variances needed for this project and noted the variances that the Board would be interested in.

With regard to the variances for minimum lot size, width at the front of the building, principal building coverage and total coverage (which includes the front porch) these variances are mainly due to the non-conformity of the lot since it is extremely small. With regard to the front yard setback variance of 12 feet, Mr. Bello explained that the Planning Board asked that the house be moved up further to fit in and align more with the existing homes on the block. This revision has prompted the variance of 12 feet. He did move the building forward, but wanted to leave enough room to be able to park two (2) cars on site - one car in the garage and the other in the driveway since the goal was always to keep parking off-street since there is limited street parking.

With regard to the side yard setback on the south side, this variance was more than originally proposed but it has been decreased since he was able to eliminate the chimney bump out which was also requested at the Planning Board meeting.

With regard to the two side yard setbacks, the side yard on the south side of the former house on the lot was 3.06 feet, and they are proposing 4 feet, and on the north side, the setback was 1.5 feet, and they are proposing 3 feet, which is an improvement from what was there originally.

With regard to maximum height required is 25 feet, and they are proposing 29 feet which requires a 4 foot variance. The reason for this variance is the lot is not level; if it were level, the variance would not be needed. In the front, they do meet the 25 feet requirement.

In order to provide for the deck, these 2 variances are required on each side. The deck is pretty much aligned with the house so it is the same distance as the side yard setbacks that are proposed.

With regard with the Driveway Side Lot line, the variance of 3.5 feet is needed to maintain the existing curb cut.

Parking in the front yard is necessary in order to be able to maintain parking for the two cars, one in the garage and one in the front yard.

The last 2 variances relate to the fact that the property is adjacent to the a residential zone (M 1.5). If the property was not next to this zone, the variances would not be required.

Mr. Bello showed the two zones on the map to clarify the need for the variances between the two zones. He stated that the lot is not unusual for this area. There are other lots of similar size and the houses are not that different from what they are proposing. He has listened to the comments from the Planning Board and some of the neighbors who expressed their concerns at the Planning Board meeting and they have tried to adjust the plan to address these comments.

Ms. Lawrence was pleased with the map Mr. Bello presented which shows the varying sizes of the lots. The house will be larger than many of these homes. Mr. Bello said it is longer not bigger.

Mr. Bello said the first plan presented at Planning had the garage in the basement. Now, it is proposed on the first floor, which took away square footage, and made the house longer.

Ms. Lawrence confirmed that the garage will be on the slab.

Mr. Pennella said it may seem larger but the other homes do not have off-street parking. Very few have off- street parking. David Kim said all of the homes to the south are identical and have small spaces to park. It may not be compliant, but they are

there. They are big enough to fit a car. There are also spaces in front of their house. On the west side, almost everyone has a space.

Ms. Lawrence said that the street spaces can be used by everyone. They are public.

Ms. Lawrence asked how far they moved the house up. Mr. Bello said he brought it back 12 feet to keep the parking spot in the front. Ms. Weisel said so it is not quite aligned but closer than the original plan.

Mr. Bello referred to the street scape and showed the front porch on the plan. The garage is set forward and the porch is set back just a bit.

Ms. Lawrence said there are a number of variances here but given the configuration of the lot and being able to construct this house, they seem necessary.

Mr. Pennella said the lot had a home on it, the prior owner took a loan for the house and eventually it went into bankruptcy. The house had to be removed; it was unsafe to the neighbors due to safety concerns. So if the house was maintained, it would be the same. He also noted that the roof was higher on the last house.

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

Mr. Jolly asked if any variances are grandfathered in. Mr. Pennella said no, since the house was demolished, you are starting from scratch and nothing could be built on this lot without getting a variance. Counsel Addona said if the house was not demolished, it would be a different situation.

Ms. Lawrence was concerned about the access to the lot to place the modular sections. Joe Ferrazza of Westchester Modular Homes came up and said that their plan is to go in from the back parking lot and it should take less than a day.

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

Mr. Kim commented that the homes on this block are all existing, non-conforming and you could not build without significant variances. The only item he has a problem with is the garage which he feels creates a vacuum and does not fit into the house. It also takes away from the living space. Mr. Kim will not approve with the garage the way it is.

Mr. Bello explained that his client definitely wants to provide for the 2 spaces on site to alleviate the parking on the street. This is new construction and most people would like to have a garage. There are other garages just around the corner.

Mr. Kim said the visual of the garage is the issue.

Ms. Lawrence said while the character of the neighborhood is important, there is a restaurant that will be opening up soon at that corner and she feels that it is a good idea for the proposed parking. She thinks that perhaps the porch could be bigger but to build this house without a garage is detrimental to people who live on the street.

Mr. Kim would just like some sort of balance. Mr. Bello said that the changes were made to address the comments at the Planning Board meeting and he is trying to be as conforming as possible. He asked if it would help to bring the porch forward; closer to the front.

Ms. Lawrence felt that it could help since it would not emphasize the garage as much.

Mr. Bello said the original plan called for the garage to be underground. To please the neighbors the plans were revised which reduced the livable space.

Mr. Kim asked the size of the garage door. Mr. Bello said they could reduce the size of the door from 9 x 8 to 8 x 8 to minimize the appearance.

Mr. Pennella said that this application will go before the Architectural Review Board who will make these determinations. Ms. Weisel advised the applicant to keep in mind that they are marrying the street. She thinks they did a great job with the project. It is very close to Main Street and the applicant should be aware of that.

Mr. Jolly asked if they could eliminate the garage. Mr. Pennella commented that the Building Department encourages off-street parking whenever possible especially in the RR zone and always encourages the applicant to mitigate as many variances as practical. This project has been a real challenge due to the non-conformity of the lot.

Ms. Rachlin suggested more windows on the first floor.

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

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

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

Ms. Lawrence 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. Lawrence said that there will be no undesirable change to the neighborhood; it appears that the applicant has worked hard with the neighbors to*

align the home with the homes on the street and they are improving the vacant lot with a new structure.

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 there is no other method due to the configuration of the lot; it appears that these are the minimum amount of variances necessary for this application.*
3. That the requested area variance is not substantial. *Ms. Lawrence stated that the variances are not substantial considering the non-conformity of the lot; the other houses on the streets are also identical small lots.*
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 stated that she does not feel there will 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 stated that this condition is not self-created; this lot is small as are most of the lots on the street. The variances are needed in order to build the home.*

Mr. Jolly moved to approve these variances to construct the single family home for the good of the neighborhood and authorize Counsel Addona to prepare a resolution memorializing the discussion this evening to include general conditions and direct staff to have the minutes of this meeting submitted to the Planning Board and Architectural Review Board.

Ms. Lawrence called for an individual vote from each member.

Motion carried, all voting “Yes”, with the exception of Member Kim, who voted “No”.

Approved: 4-1

NEW PUBLIC HEARING - Peter Gaito & Associates - 84 Central Avenue

The following public hearing notice was made available to the public at this 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 9, 2019**, in the Municipal Building, One Depot Plaza, Tarrytown, New York to hear and consider an application by:

Peter F. Gaito & Associates
333 Westchester Avenue, Suite S-303
White Plains, NY 10604

For variances from Chapter 305 of the Village of Tarrytown (“Zoning Code”) in order to renovate existing first floor space into a pottery studio for a limited number of club members’ use only, which increases the number of off-street parking spaces required.

The variance sought is as follows:

Code Description	Required	Proposed	Variance Required
§305-63 D.(1) Off Street-Parking	1 space for each 5 club members = 2 spaces	0	2 Spaces

The property is located a 84 Central Avenue, Tarrytown, NY and is shown on the tax maps as Sheet 1.40, Block 16, Lot 15 and is in the GB zone.

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 by the Planning Board.

By Order of the Zoning Board of Appeals

Lizabeth Meszaros
Secretary to the Zoning Board

Dated: August 30, 2019

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

Peter F. Gaito, Jr., the project architect, appeared before the Board, representing the owner of the property and presented the plan. He explained that there is a pottery studio within the first floor of the structure which the tenant is proposing to be used by a maximum of 10 club members. The tenant is creating a club membership which will allow each member use of equipment and space. Members will be coming in at different times, during the day or evening, there are no set hours, it is not a store. The tenant works in the shop and makes delivery to people who purchase pottery. This use requires a variance of 2 parking spaces. They have asked for use of parking spaces from neighbors and have not been successful. The Shopping Center has not gotten back to them yet.

Mr. Gaito showed the layout of the spaces on the plan and the loading bay in the front. He explained that the layout of the building prevents putting cars into the space due to the columns. Ms. Lawrence said if it was a garage before, she does not understand why the cars can't fit in. Mr. Gaito said adding the parking inside will also trigger many building code requirements.

Mr. Pennella said the original application is different from what is being presented tonight. The property is in the GB zone. It was originally for a pottery studio for retail sales. The application as submitted now is for a club membership for individual designers, not just potters, to use and pay a fee for the use. As presented, there is no longer a retail component. This use allows them to reduce the number of spaces required, which is 1 space per every 5 club members, based on the limited use area as presented. Mr. Gaito confirmed that it is 1 parking space for every 5 club members and the maximum club members would be 10.

Counsel Addona said, if approved, a condition could be put in the resolution that there can only be a maximum of 10 members.

Mr. Pennella said the parking could be added, it is not that it can't be done, but it would be costly.

Mr. Pennella asked about the space in the back and the use upstairs which is a machine shop. Connor McGinn, the Potter, came up and advised the Board that the entire ground floor will be used for club members. He showed the spaces for the members on the plan.

Mr. Pennella said so the club membership is for the entire ground floor. He asked if this is all for the pottery or something else.

Mr. McGinn said it is for different makers who do their own craft. It is a shared makers space.

Mr. Pennella does not feel that the use falls under the description of a club, this is for multiple uses. He needs a better clarification of a club since there are multiple uses besides pottery. The other use is upstairs in the machine shop. He asked where they park.

Mr. Gaito said he believes this space is completely independent from the downstairs since the parking is on the other street. The upstairs space should not affect the parking.

Ms. Lawrence said if it is one building under one ownership, then it is not independent from the downstairs, and it affects the whole building. She also would like a better clarification of what a club is.

Mr. McGinn said it is similar to a shared office space. People sharing space to work on projects and their own designs in a club atmosphere. They share ideas, and help each other under the same roof and grow their business in a club atmosphere.

Ms. Lawrence said there are 2 uses in the building then: One for the proposed makers use and the second floor is for auto repair.

Mr. Pennella said the parking analysis has to be done for the entire building. The first floor is a proposed club membership which, in his view, it is not clear to him that it is a club membership. So, the worst case scenario is that you could have 10 cars parking at one time and there is no parking at all on-site.

Mr. Gaito said the code is written that way. It is a membership; club members have to access to space, have a set of keys. It is private, it is not retail. Ms. Lawrence asked where they will all park from a realistic point of view.

Connor McGinn came up and said each club member will have their own key and come and go as they please. The members don't end up being there all at the same time.

Right now they have 5 people and 4 out of the 5 live within walking distance.

Ms. Lawrence would like better clarification of what the club is. Mr. Gaito said this was provided in the packet to the Board Members. Mr. McGinn said it is not for retail.

People do not come in to purchase. He described the clay making process and said he makes items for local restaurants wholesale, but will not sell from the building. He is working with the new Cuban restaurant coming soon in the village, Coffee Labs, and Blue Hill at Stone Barns. He envisions creating a community of makers.

Ms. Lawrence likes the concept but still has the questions about the entire building. Do they have adequate parking? She asked Mr. McGinn where he parks. Mr. McGinn said he bikes to the space from Sleepy Hollow.

Ms. Lawrence said do we consider the entire space upstairs and downstairs when calculating the parking.

Mr. Pennella said they when they originally received application it was for making pottery on site to be sold. If they are selling it and making it, the code allows for this.

The applicant then submitted the application to the Zoning Board as a club membership. The difference between the two uses is the parking. His original analysis required 6 parking spaces be provided. If it is a club membership, then only 2 spaces per each 5 club members are required. Mr. Pennella said it is not accurately noticed if it is for other uses. Ms. Lawrence said in order to make it clear, the applicant may need to re-notice for individual fabricators, makers or artists. Ms. Lawrence said the application is not just for pottery. Mr. Pennella said this is the first time we heard about the other makers.

Counsel Addona said it seems like this is a building code issue and a zoning code issue to the extent of what is being proposed is permitted in the zoning district.

Mr. Pennella said from his perspective, a club does not allow this use to be permitted. He has tried to find a use that would allow this to occur but he is still struggling with club issue.

Mr. Jolly asked if it was a hobby. Mr. McGinn said it is an incubator space for someone to come in and grow their business. We have a chef and a caterer now. There is no salary; people sell their work.

Mr. Pennella said so it is wholesale, they are selling.

Given this question, she feels that this matter should be given some review. You may want to adjourn and keep it open until next month. We need to try to see how this use works under the code.

Ms. Lawrence asked if anyone in the public had any comments.

Sal Zambelletti, owner of the building next door, came up and did not feel that what they are presenting is a club. Are they working or socializing? Ms. Lawrence said they all have a common interest. He also questioned that 1 space for every 5 members does not seem realistic. It does not make sense to him since if 10 people are working they will need to park and there are no spaces to park. He said they used to park 20 cars in that space. The people who work in the back do not have parking. The father and son park in the driveway. Their customers park in his private seven spaces. There is also a machine shop upstairs, which could be used for the downstairs. Ms. Lawrence said they can't because it is a machine shop.

Molly Canu, of 104 Central Avenue, property owner, business owner, and resident on Central Avenue came up and read a letter into the record dated September 9, 2019 as follows:

"To the Tarrytown Zoning Board:

My name is Molly Canu. I am a property owner, business owner, and resident on Central Avenue. I wanted to come in tonight to speak in favor of Mr. McGinn and his new business on Central Ave.

He has been a wonderful addition to Central Ave, thus far. He made it a point to introduce himself to his new neighbors, he is friendly, and he creates little disruption on Central Ave. As property owners, my husband and I are thrilled to see a creatively charged, new business, on our street. We have high hopes for Central Ave. I believe that down the road, Central Ave will be an integral part in encouraging traffic between the waterfront and Tarrytown's Main Village. As far as the parking variance is concerned. We don't feel that Mr. McGinn's business will negatively impact us at all and it hasn't yet. When there have been parking issues on Central Ave, I would say that the issues stem from a need to better monitor the meters. It would deter other businesses from using metered spaces to conduct their business out of and free up parking spaces.

Both as a resident and business owner, I in no way feel that Mr. McGinn's business has negatively or will negatively impact us. We appreciate that he has brought new life and light to Central Ave. He has helped to increase our foot traffic by making the street more engaging to travel down. I would hate to see a new and exciting opportunity turned away from Central Ave because of the lack of a parking variance."

Peter Davis, of 5 Linden Place, came up to speak in favor of granting the variances for this application. First and foremost, Mr. McGinn is a good neighbor and gentlemen. He built a business in short order. His business has uplifted the character of the neighborhood and has improved the safety. The area was very dark and now it is well lit. The neighborhood is better for it. Mr. McGinn is a skilled craftsman. Mr. Davis' said his cousin who lives in Sleepy Hollow is also a potter and she thinks his work is fabulous. This will bring business into Tarrytown and is a credit to the village. He would like the Board to please find a way to make it work.

Anthony Canu, of 104 Central Avenue, wanted to add that he knows 3 of the members that all walk to the club.

Ms. Lawrence thanked everyone and did say that people do walk but they may not.

Mr. Lawrence moved, seconded by Mr. Kim, to adjourn to next month to further review the description of club membership and to review the parking analysis. All in favor. Motion carried.

ADJOURNMENT

Ms. Rachlin moved, seconded by Ms. Weisel, and unanimously carried, that the meeting be adjourned – 10:25 p.m.

Liz Meszaros- Secretary