

Board of Trustees
Village of Tarrytown
Regular Meeting No. 12
September 18, 2006 8:00 p.m.

PRESENT: Mayor Fixell, presiding; Trustees, Basher, Butler, Hoyt, McGee, Pollack, and Zollo; Village Administrator McCabe; Village Treasurer Hart; Village Engineer McGarvey; Village Attorney Shumejda; and Village Clerk Booth

The meeting began with the Pledge to the Flag.

REPORTS

Mayor Fixell reported on the following:

- He participated with the Ferry-Go-Round this past weekend. It was a great time and there were hundreds of people taking ferries. If you didn't get to take a ferry this time, when it comes around again, he recommends it highly.
- He thanked both Joan Malone of the Treasurer's Department and Safe Guard Self Storage of Elmsford, New York who agreed to donate to the Tarrytown Fire Department free storage space while we are under construction.
- On Thursday, October 5th at 7:00 p.m. at the Senior Center there will be a public meeting for the Tarrytown residents to discuss the Tappan Zee Bridge. The public will be able to hear an update on this process and ask questions.

Trustee McGee stated that this week we will be receiving the Warner Library newsletter. There are a lot of great programs offered from tots to seniors. The Library is currently discussing repairs with both the Tarrytown and Sleepy Hollow Boards.

Trustee Butler stated that the Tarrytown Lakes Committee, Chaired by Kathy Knight, is planning to make a presentation to the Board and the public regarding their mission statement, vision and goals at the next work session and Board meeting.

Trustee Pollack reported on the following:

- The Tarrytown Seniors are holding a mini-cookout tomorrow. Hamburgers, hotdogs and refreshments will be served.
- Recently the JCCA had a flood and they contacted the Tarrytown Fire Department who responded immediately and helped get everything cleaned up and made sure the building was secured. She thanks the Tarrytown Fire Department for their efforts. She also thanked the Tarrytown, Sleepy Hollow and Irvington Fire Departments and the Tarrytown Ambulance Corp for their quick response and assistance in rescuing a woman who jumped off the Tappan Zee Bridge last night.

Trustee Basher reported on a Police Department issue regarding the Automobile Club of New York in conjunction with the local Police Department who has launched its 61st annual School's Open Drive Carefully Campaign. The Tarrytown Police Department wishes to remind motorists to be particularly cautious in school zones.

RESOLUTION TO CHANGE THE DATE OF THE NEXT REGULAR MEETING OF THE BOARD OF TRUSTEES

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried that the following be approved: Vote passed: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves to change the date of the next Regular Board of Trustees Meeting from Monday, October 2, 2006 to Tuesday, October 3, 2006 due to the observance of Yom Kippur.

CONTINUATION OF A PUBLIC HEARING REGARDING A PROPOSED FRANCHISE AGREEMENT BETWEEN THE VILLAGE OF TARRYTOWN AND THE VERIZON, NEW YORK INC.

Trustee Basher moved, seconded by Trustee McGee, and unanimously carried that the public hearing be opened.

(The entire public hearing transcript is attached to the minutes in its entirety.)

Trustee Basher moved, seconded by Trustee Hoyt, and unanimously carried that the hearing be continued.

Mayor Fixell stated that the Board will continue this public hearing on the proposed Verizon franchise agreement at a Special Meeting on Thursday, September 28th at 7:00 p.m. at Village Hall.

PUBLIC HEARING REGARDING A PROPOSED AMENDMENT TO THE
"TAXICAB" PROVISIONS WITH RESPECT TO THE DEFINITION OF THE
LICENSING OFFICIAL (Adopted)

Attorney Shumejda stated that there are two changes to the law. One is to change the licensing official to now be the Village Administrator and the second is to add an appeal process if someone is denied a taxi license; they now would be able to appeal to the Police Committee.

Trustee Zollo moved, seconded by Trustee Pollack, and unanimously carried that the public hearing be opened.

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 18th day of September, 2006, at 8 PM, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to the Code of the Village of Tarrytown by amending § 273-1 entitled "Definitions" of Chapter 273 entitled "Taxicabs and Liveries" of the Tarrytown Code. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend the Code of the Village of Tarrytown by amending § 273-1 entitled "Definitions" of Chapter 273 entitled "Taxicabs and Liveries" of the Tarrytown Code.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees has determined that the Police Committee would be the appropriate municipal body to make the discretionary decisions required of the "Licensing Official" as said term is utilized in Chapter 273 entitled "Taxicabs and Liveries" of the Tarrytown Code.

B. Legislative Intent.

It is the intention of the Board of Trustees of the Village of Tarrytown to amend § 273-1 entitled "Definitions" of Chapter 273 entitled "Taxicabs and Liveries" of the Tarrytown Code to provide that the Police Committee be designated as the "Licensing Official" as said term is utilized in said Chapter.

Material to be deleted appears in (parenthesis), material to be added is in **bold typeface**.

SECTION 2. § 273-1 entitled "Definitions" of Chapter 273 entitled "Taxicabs and Liveries" of the Tarrytown Code

§ 273-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LICENSING OFFICIAL — The (Mayor of the Village of Tarrytown) **Village Administrator of the Village of Tarrytown**

[No further changes to section]

§273-7(A)(1)(3)

If the licensing official denies the application, the applicant may appeal the decision within 30 days of the date of the decision to the Police Committee of the Village of Tarrytown.

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

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; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

DATED: September 1, 2006

Mayor Fixell questioned whether anyone wished to address the Board on this matter. No one appeared.

Trustee Pollack moved, seconded by Trustee Butler, and unanimously carried that the public hearing be closed.

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the following local law be adopted:

WHEREAS, the Proposed Action is an Unlisted action pursuant to the State Environmental Quality Review Law, and

WHEREAS, an Environmental Assessment Form [EAF] was filed and,

WHEREAS, a notice of public hearing was published in the Journal News on September 12, 2006 and

WHEREAS, public hearing was held for the proposed action on September 5 and 18, 2006 and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW THEREFORE BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 11 of 2006. Vote passed 7-0.

CONTINUED PUBLIC HEARING REGARDING A PROPOSED AMENDMENT TO
THE SPECIAL USE PERMIT HELD BY TAPPAN HILL
RESTAURANT/CONFERENCE CENTER TO PERMIT THE CONSTRUCTION OF
A 3,500 SQUARE FOOT ADDITION TO THE FACILITY FOR STORAGE

Mayor Fixell asked Attorney Shumejda for an update.

Attorney Shumejda stated that this application by Abigail Kirsch at Tappan Hill is to add 3,500 sq. ft. of space at the site. Upon completion of this construction, they will remove the trailers that are there now. The use of this building will be for food preparation and 1,000 sq. ft. for office space. The applicant has agreed as approved by the Planning Board to not only contain on site the water from the impervious surface created by this construction, but an additional 2,000 sq. ft. of existing roof and 4,550 sq. ft. of pavement and lawn area; thereby improving the drainage from this site. This will be stored in tanks on site and will be a regulated flow out so it will reduce the peak flow from the site. The applicant has also agreed to have a plan or proposal to mitigate the noise from the compressor and generators that were brought up at the Zoning Board of Appeals meeting by two neighbors. The variance was granted with this condition to be reviewed by the Village Engineer.

Trustee Pollack moved, seconded by Trustee McGee, and unanimously carried that the hearing be opened.

Dennis Noskin, Architect, 55 S. Broadway, stated that the two remaining concerns are the acoustical considerations and the storm drainage issued for your approval. He has given Mr. McGarvey an acoustical analysis proposal of the noise from the refrigeration units. In the scope of work, there were four major points: 1) to conduct a site visit to verify the location and operating conditions of one of the compressor units; 2) identify nearest residential property lines including those of the complainant and measure the equipment noise levels and compare the survey findings with applicable local noise ordinances; 3) develop a visible noise control solution with regard to the noise requirements; 4) prepare a written report of the results and findings and recommendations and the report will include product literature and sketches as required to solve the problem. This proposal was done by Cerami and Associates, a well-known acoustical engineering firm. On the issue of the storm water flow, Mr. Noskin introduced Mr. Gerald Schwalbe from Divney, Tung and Schwalbe of White Plains to present those findings.

Gerald Schwalbe stated that basically what they tried to do is to pick up everything within the new 3,500 sq. ft. addition as well as 2,000 sq. ft. of parking area and loading dock area and bringing into a sub surface detention basin located below the parking lot just south of the proposed building. The normally required hold back would be 9,454 gallons of water; they are now proposing to hold back 21,180 gallons of water. They feel with this size tank, it will mitigate the peak flow from the 9,000 sq. ft. site reducing the amount of flow from this area. Trustee Zollo stated that the standards are not measured by gallons of water, but by the surface area. They are adding 3,500 sq. ft. addition, so therefore, the standard would be to retain 7,000 sq. ft. area of water and they are proposing to retain 9,000 sq. ft.

Attorney Shumejda stated that the Board of Trustees would not want to limit the analysis to the thresholds contained in our noise ordinance. That's not what the Zoning Board of Appeals was gearing their comments and approval to. The desire of the Zoning Board was that you would mitigate the current impacts, whether that meets the thresholds of the noise law or not. The volume of the noise that's there currently must be mitigated. Mr. Noskin stated that they are trying to fix the problem not just meet the local noise ordinance, even though it is a reference point. Trustee Zollo asked if anyone from the Board, Planning Board or the Village Engineer was planning to go to

the site and hear it for themselves so they understand what the standard is, or is it beyond what the law says it can be and then what satisfies the neighbor. Attorney Shumejda stated that this is a Compatible Use Permit where the Board of Trustees has the right to condition this permit with reasonable conditions. A reasonable condition is to mitigate the noise to the satisfaction of the Village Engineer. It may require the applicant to mitigate the noise even though it doesn't meet the thresholds of the Village noise ordinance. Mr. Noskin stated that he believes our noise ordinance restrictions are 75 dba. HUD standards are set at 55 dba. He is proposing to use the 55 dba as per HUD standards at the property line at night time when you can really hear it. Then Mr. McGarvey can go with a meter and measure it.

Charney Bromberg, 93 Highland Avenue, stated that there is a wall between his property and the generator location where the noise bounces off the wall and goes in his direction more so than it does to the other homes. He stated that Tappan Hill has always been accommodating on these matters and he appreciates that the Board is looking into standards that he hopes will make this condition go away. A more difficult situation is when there is a power outage and the generators go on and you can hear it for hundreds of yards beyond and he hopes that the new electrical system will mitigate that.

John Lynch, 10 Crest Drive, stated that both the Compatible Use Permit and the Loh Park Moratorium requires a waiver. The whole premise of granting these waivers is to show hardship. By installing retaining vessels underneath, it increases the water table impervious volume, which raises the water table. The people in the Crest area are worried about the water table because they have water coming down from Hackley and storm water coming from below going into the water table and into their basements. Their basements are becoming the overflow for our storm water system. Mayor Fixell stated that the idea behind the drainage system is that the water will be held in tanks and then released to the storm water system; it won't be injected into the ground water, but rather let slowly into the storm water system. Each of the cases that we have discussed have made improvements to the amount of water flow into the Loh Park Basin which is why we approved the waivers and are considering this tonight.

Trustee Butler moved, seconded by Trustee Zollo, and unanimously carried that the hearing be closed.

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried that the following be approved:

WHEREAS, the Tarrytown Planning Board approved on August 28, 2006 Abigail Kirsch at Tappan Hill Inc.'s addition of approximately 3,500 square feet containing storage and office space, and

WHEREAS, said approval was subject to approval by the Board of Trustees of (i) a waiver of the Loh Park Drainage District Moratorium and (ii) an amendment the Compatible Use Permit issued on February 5, 1990 as amended on June 15, 1992 – specifically Section 17 which states that "...no permanent walled structure shall be constructed on the premises without an amendment to this Compatible Use Permit," and

WHEREAS, the Zoning Board of Appeals granted the requested variance subject to the following conditions:

- [a] approval of plans by the Building Inspector/Village Engineer;
- [b] approval of an amendment of the Compatible Use Permit by the Board of Trustees;
- [c] a remedy for baffling noises from the refrigeration unit being submitted to the Zoning Board for its review;
- [d] obtaining a building permit for the project within two years; and

WHEREAS, the proposed addition will include a stormwater system to collect runoff from 3,500 square feet of the new building plus 2,000 square feet of existing roof area and 4,550 square feet of pavement and lawn area and therefore actually result in less runoff entering into the Loh Park Drainage District, and

WHEREAS, the storm water system plan is subject to the approval of the Village of Tarrytown's consulting engineer, Dvirka and Bartilucci, and

WHEREAS, the applicant will install noise buffers for the generator and compressors to limit the noise at the adjacent homes to a weighted 55 dba, to be certified by the Applicant's Engineer to the Village Engineer and subject to the approval of the Village Engineer, Zoning Board of Appeals and the Village Board of Trustees, and

WHEREAS, the Proposed Action is an Unlisted action pursuant to the State Environmental Quality Review Law, and

WHEREAS, an Environmental Assessment Form [EAF] was filed and,

WHEREAS, a notice of public hearing was published in the Journal News on July 6, 2006, and

WHEREAS, public hearings were held for the proposed action on July 17, 2006 August 21st and September 18, 2006 and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW, THEREFORE, BE IT RESOLVED, that Abigail Kirsch at Tappan Hill Inc. is hereby granted a waiver from the Loh Park Drainage District Moratorium.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby amends the Compatible Use Permit issued on February 5, 1990 as amended on June 15, 1992 – specifically Section 17 which states that "...no permanent walled structure shall be constructed on the premises without an amendment to this Compatible Use Permit" to the extent that Abigail Kirsch at Tappan Hill Inc. is hereby permitted to construct the addition as approved by the Planning Board of the Village of Tarrytown on the 28th day of August, 2006. Vote passed: 7-0

PUBLIC HEARING REGARDING A PROPOSED DEFINITION OF A "FAMILY"
FOR ZONING CODE PURPOSES (Adopted)

Mayor Fixell asked Attorney Shumejda to explain.

Attorney Shumejda stated that this proposal is to update the Village's definition of family. The most important aspect of this change is that if you have four or more individuals residing in a dwelling, those individuals have to occupy the entire dwelling and function as a family housekeeping unit. For example, under this proposed legislation, it would not be considered a family if you did not share cooking facilities or

if you had separate locked rooms for sleeping and personal possessions. This definition complies with the current case law.

Trustee McGee moved, seconded by Trustee Pollack, and unanimously carried that the public hearing be opened.

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 18th day of September, 2006, at 8 PM, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to the Code of the Village of Tarrytown by amending §305-63 Definition of Family of the Tarrytown Code. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend the Code of the Village of Tarrytown by amending §305-63 Definition of Family of the Tarrytown Code.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees of the Village of Tarrytown finds a need to clarify its Zoning Code definition of “family” given the recent series of judicial and legislative enactments which have resulted in both constitutional and statutory restrictions limiting the “family” definition and the public-policy purposes for which it may be formulated.

B. Legislative Intent.

The intent of this amendment is to accomplish the fundamental and still viable purposes of municipal zoning - namely to preserve a degree of homogeneity in building types and uses within district zones which does not violate constitutional limitations and the right of privacy and due process guaranteed by both the United States and New York State Constitutions. The purpose of this amendment is to promote the health, safety, and general welfare of the residents of the Village of Tarrytown by clearly delineating the definition of “family” for the purpose of determining the basic household or housekeeping unit.

Material to be deleted appears in (parenthesis), material to be added is in **bold typeface**.

SECTION 2. Amendment to §305-63 Definition of Family

FAMILY

(1) A “family” is:

((a) A householder plus one (1) or more persons related by blood marriage or adoption living together in a family-like arrangement as a single, not-for-profit housekeeping unit sharing kitchen facilities;)

((b) A group of persons headed by a householder caring for a reasonable number of individuals in a family-like living arrangement which is the functional and factual equivalent of a family of related persons; or)

((c) A maximum of two (2) persons not sharing a relationship as described above.)

(a) Up to three persons occupying a dwelling unit; or

(b) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

(2) It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage, legal adoption or legal foster relationship do not constitute the functional equivalent of a traditional family.

(3) In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

(a) The occupants must share the entire dwelling unit, including cooking facilities, and live as a single housekeeping unit. A dwelling unit in which various occupants maintain separate and locked sleeping facilities in which such occupants' separate personal property are contained therein may not be deemed to be occupied by the functional equivalent of a traditional family;

(b) The group is not transient or temporary in nature. Evidence of not being transient or temporary in nature may include but not be limited to proof that members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration, and filing of income taxes and/or other documentation of domicile; and

(c) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

((2) A "householder" is an individual who resides in a dwelling unit and who owns, rents or otherwise has legal possession of such unit.)

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

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; a request must be made to the Village Clerk at least five days in advance of the meeting.

BY ORDER OF THE BOARD OF TRUSTEES OF THE VILLAGE OF TARRYTOWN

DATED: August 29, 2006

Mayor Fixell questioned whether anyone wished to address the Board on this matter. No one appeared.

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried that the public hearing be closed.

Trustee Pollack moved, seconded by Trustee Zollo, and unanimously carried that the following local law be adopted:

WHEREAS, the Proposed Action is an Unlisted action pursuant to the State Environmental Quality Review Law, and

WHEREAS, an Environmental Assessment Form [EAF] was filed and,

WHEREAS, a notice of public hearing was published in the Journal News on August 31, 2006, and

WHEREAS, public hearing was held for the proposed action on September 5 and 18, 2006 and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW THEREFORE BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 12 of 2006. Vote passed: 7-0

PUBLIC HEARING REGARDING A PROPOSED AMENDMENT TO THE
“CERTIFICATE OF OCCUPANCY” PROVISIONS OF THE VILLAGE CODE IN
ORDER TO MANDATE THAT UPON THE SALE OR TRANSFER OF ANY
IMPROVED PROPERTY, AN UPDATED “CERTIFICATE OF OCCUPANCY” BE
OBTAINED FOR THE PROPERTY AS USED OR OCCUPIED

Mayor Fixell asked Attorney Shumejda to explain.

Attorney Shumejda stated that the most important aspect of this proposed legislation is to require within 30 days prior to the sale or transfer of any improved real property in the Village of Tarrytown that a certificate of occupancy be obtained. That would entail the Building Inspector's office to go out and look at the property, which would update our records in the Building Department as well as updating our records in the Assessment Department of the Village.

Trustee Basher moved, seconded by Trustee Butler, and unanimously carried that the public hearing be opened.

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 18th day of September, 2006, at 8 PM, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to the Code of the Village of Tarrytown by amending §97-7 entitled "Certificates of Occupancy" of Chapter 97: Building Construction of the Tarrytown Code. A summary of the legislation is available at Village Hall. The complete text of this legislation follows:

A LOCAL LAW to amend the Code of the Village of Tarrytown by amending §97-7 entitled "Certificates of Occupancy" of Chapter 97: Building Construction of the Tarrytown Code.

SECTION 1. LEGISLATIVE INTENT AND FINDINGS OF FACT.

A. Findings of Fact.

The Board of Trustees of the Village of Tarrytown has determined that there is a need to amend §97-7 entitled "Certificates of Occupancy" of Chapter 97: Building Construction of the Tarrytown Code in order mandate that upon the sale or transfer of any improved property, an updated certificate of occupancy be obtained before the property is used or occupied.

B. Legislative Intent.

It is the intention of the Board of Trustees of the Village of Tarrytown to amend §97-7 entitled "Certificates of Occupancy" of Chapter 97: Building Construction of the

Tarrytown Code in order mandate that upon the sale or transfer of any improved property, an updated certificate of occupancy be obtained before the property is used or occupied.

Material to be deleted appears in (parenthesis), material to be added is in **bold typeface**.

SECTION 2. Amendment to §97-7 entitled "Certificates of Occupancy" of Chapter 97: Building Construction of the Tarrytown Code.

§ 97-7. Certificates of occupancy.

(No use or occupancy of a building or structure may be commenced unless a certificate of occupancy has been issued for that building or structure.) **A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector:**

(1) Occupancy and use of a building hereafter erected, structurally altered or moved, or any change in the use of an existing building.

(2) Occupancy, use or any change in the use of any land.

(3) Occupancy or use after sale or transfer of any improved real property including a condominium. Upon sale or transfer of any such real property an updated certificate of occupancy, issued no earlier than 30 days before closing, shall be required before the premises may be used or occupied. It shall be the obligation of the seller to apply for and obtain the updated certificate of occupancy unless the parties agree otherwise in their contract of sale.

B. Existing floor layout plans of all levels (including basement) must be submitted to the Building Department by a licensed Engineer or Architect in a scale not less than 1/4"=1'-0" indicating size and use of all rooms. Dimensions should include all space inside exterior walls or party walls.

A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy shall expire in six months, but it may be renewed an indefinite number of times.

[No further changes to section]

SECTION 3. EFFECTIVE DATE

This local law shall take effect immediately, as provided by law.

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; a request must be made to the Village Clerk at least five days in advance of the meeting.

**BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF TARRYTOWN**

DATED: August 29, 2006

Dean Gallea, 28 Wildey Street, asked the Board if a building is improved under proper permits and there is a certificate of occupancy issued at that point; does that mean they have to get another certificate of occupancy.

Attorney Shumejda responded “yes” because the certificate of occupancy could have been many years old. Every time there is a sale or transfer of real property, the Building Department gets a request from the title company to ascertain if there’s a valid certificate of occupancy and whether or not there are any violations of record. Without an inspection, we don’t know that. The certificate of occupancy could be 30 or 40 years old and there could have been substantial changes to the home. The certificate of occupancy may or may not be valid. Same goes with violations of records. The fact that the Building Department’s file does not contain a violation means that there’s none in the file, it does not mean that the property doesn’t have violations. Then the new buyers come to find that there are illegal additions or electrical violations and come to the Building Department and want to know how we could of said there was a valid certificate of occupancy and that there were no violations. It puts the Village of Tarrytown in a position that we’re giving out information that may not be correct and then people rely on it. In order to serve the current residents to make sure all the safety and building codes are enforced but also the new residents when they see in their title report a certificate of occupancy, they know it is current.

Dean Gallea asked if the property hasn’t been improved from the point of the certificate of occupancy and there weren’t any illegal additions, does this provision call into jeopardy that original certificate of occupancy. Attorney Shumejda responded “no”.

Trustee Hoyt moved, seconded by Trustee Pollack, and unanimously carried that the public hearing be closed.

Trustee Zollo moved, seconded by Trustee Butler, and unanimously carried that the following local law be adopted:

WHEREAS, the Proposed Action is an Unlisted action pursuant to the State Environmental Quality Review Law, and

WHEREAS, an Environmental Assessment Form [EAF] was filed and,

WHEREAS, a notice of public hearing was published in the Journal News on September 12, 2006 and

WHEREAS, public hearing was held for the proposed action on September 5 and 18, 2006 and

WHEREAS, the Board of Trustees of the Village of Tarrytown is the only agency which has approval authority over the Proposed Action, and is therefore the Lead Agency for the Proposed Action

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. In accordance with Article 8 of the State Environmental Conservation Law and 6NYCRR Part 617, including without limitations the criteria set forth in 6 NYCRR Part 617.7(c) and based upon review of the Environmental Assessment Form and all other materials that were prepared for the Proposed Action, the Village Board of Trustees hereby determines that Proposed Action will not have a significant adverse impact on the environment, and hereby adopts a Negative Declaration.

NOW THEREFORE BE IT FURTHER RESOLVED that the Board of Trustees of the Village of Tarrytown hereby adopts Local Law No. 13 of 2006. Vote passed: 7-0

PUBLIC HEARING TO BE HELD REGARDING A PROPOSED AMENDMENT TO CHAPTER 218 OF THE VILLAGE CODE TO REPLACE EXISTING PROVISIONS WITH RESPECT TO PARADES WITH A FORMAL PERMIT PROCESS FOR ALL PUBLIC ASSEMBLIES

Mayor Fixell stated that this would provide criteria and standards for applying for a parade permit in the Village. Currently, there is almost nothing in the code.

Trustee Zollo moved, seconded by Trustee Pollack, and unanimously carried that the public hearing be opened.

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Tarrytown will hold a public hearing on the 18th day of September, 2006, at 8 PM, in the Municipal Building, 21 Wildey Street, Tarrytown, New York 10591, to hear, discuss and to act upon a proposed amendment to the Code of the Village of Tarrytown Chapter 218 entitled "Parades" of the Tarrytown Code. The complete text of this legislation is available at the Village Clerk's Office at Village Hall. The purpose of the amendment is to require a permit for any parade, motorcade or public assembly in the Village of Tarrytown in order to assure the safety and convenience of the people in the use of public highways.

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; a request must be made to the Village Clerk at least five days in advance of the meeting.

BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF THE TARRYTOWN

Dated: August 29, 2006

Mayor Fixell questioned whether anyone wished to address the Board on this matter. No one appeared.

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried that the public hearing be continued.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD: SPEAKERS
HAVE 5 MINUTES BEFORE YIELDING TO THE NEXT PERSON: THEN 3
MINUTES FOR ADDITIONAL COMMENTS

Joshua Freeman, 75 North Broadway, Irvington, New York, stated that he is in support to lower the speed limit to 30 mph all along Broadway. Mayor Fixell stated that the Village of Tarrytown has already passed the resolution to request the state to lower the speed limit to 30 mph from border to border on Broadway.

John Lynch, 10 Crest Drive, asked the Board what the Abigail Kirsch's hardship was for this waiver. Attorney Shumejda stated that any homeowner in the Loh Park Moratorium district has a right to request a waiver based on hardship. Hardship is defined that if they cannot build their structure or their addition to their house that they would suffer a hardship. That hardship is determined solely with the Board's discretion in each individual case. Tappan Hill has expressed the desire to improve the situation, improve the drainage, remove the metal trailers that are there and now even improve the noise emanating from the site. They would have had a hardship if they had to wait until next year for the building season in order to get their foundation in. The hardship considered by the Board of Trustees made a determination in their sole discretion that they met the law.

RESOLUTION FOR APPROVAL OF A CHANGE ORDER FOR THE
REHABILITATION OF NEPERAN ROAD PROJECT

Trustee Basher moved, seconded by Trustee Hoyt that the following resolution be approved: Vote passed: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves a change order for the Rehabilitation of Neperan Road Project in the amount of \$10,635.84 of which 95% will be refunded through state and federal grants.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD
OF TRUSTEES HELD ON SEPTEMBER 5, 2006

Trustee Basher moved, seconded by Trustee Zollo, and unanimously carried that the following be approved: Vote passed: 7-0

BE IT RESOLVED that the Board of Trustees of the Village of Tarrytown hereby approves the minutes of the regular board meeting held on September 5, 2006 as submitted by the Village Clerk.

APPROVAL OF AUDITED VOUCHERS #5

Trustee Basher moved, seconded by Trustee Pollack that the following resolution be approved:

RESOLVED: The following Abstract bearing No. 5, dated September 18, 2006 containing Vouchers No. 001226 through No. 001406 is hereby ordered paid in the following amounts as presented:

| | |
|----------------|------------------|
| General | \$ 135,575.12 |
| Water | 101,855.06 |
| Capital | 415,934.75 |
| Library | 5,864.74 |
| Trust & Agency | <u>29,880.49</u> |
| Total | \$689,110.16 |

The Board was polled all voting “aye” with the exception of Trustee McGee who abstained from Voucher Numbers 001296, 001365 and 001395; Trustee Butler abstained from Voucher Number 001366; and Trustee Pollack abstained from Voucher Number 001366; Trustee Hoyt abstained from Voucher Number 001323. Motion carried 7-0.

ADJOURNMENT

Trustee Basher moved, seconded by Trustee Butler, and unanimously carried, that the meeting be adjourned at 9:30 p.m.

Carol A. Booth
Village Clerk