

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
August 8, 2005 8 p.m.

PRESENT: Chairwoman Plunkett; Members James, Jolly; *Counsel Shumejda;
**Engineer/Building Inspector McGarvey; Secretary D'Eufemia
ABSENT: Members Lawrence, Maloney

CONTINUATION OF PUBLIC HEARING – MENDOZZA – 22 NEPERAN ROAD

Mr. Mendoza stated their application is to extend the existing driveway. The driveway is currently 18 ft. x 20 ft. and they would like to extend it back by 15 ft. so the driveway would be 18 ft. x 35 ft. which would allow four cars to park. This is a two-family house and the expansion would allow each apartment to have two off street parking spaces and take two additional cars off the street. The driveway would stop one or two feet before the wall. They would put railroad ties and have plantings at the end of the driveway.

Mrs. Plunkett questioned how the cars would be moved in and out. Mr. Mendoza stated they would be parked one behind the other.

Mrs. Plunkett questioned whether anyone wished to address the Board on this matter. No one appeared.

Mr. Jolly moved, seconded by Ms. James, and unanimously carried, that the Board issues a negative declaration that there is no adverse environmental impact from the proposed project, pursuant to the State Environmental Quality Review Law.

Mr. Jolly moved, seconded by Ms. James, and unanimously carried, that the hearing be closed and that the Board having arrived at the findings required by the ordinance:

1. That the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the neighborhood
2. That the proposed variance will not create an undesirable change to the neighborhood or detriment to the neighborhood
3. That the benefit the applicant seeks to achieve cannot be achieved by any other feasible method
4. That the variance is not substantial in the Board's judgment
5. That the variance would not have an adverse environmental impact on the neighborhood
6. That the variance is the minimum one deemed necessary and will preserve and protect the character of the neighborhood and the health, safety and welfare of the community

grants the requested variances subject to:

1. Approval of plans by the Building Inspector
2. Obtaining a building permit for the project within two years.

*Counsel Shumejda arrived at the meeting. He was delayed because of the Board of Trustees work session on the third floor.

CONTINUATION OF PUBLIC HEARING – MANCA – 140 LEROY AVENUE

Mr. Sam Vieira, architect, stated at the last meeting they submitted a proposal for a 15.8 ft. x 10 ft. front open wood deck. Board members felt the open deck was inappropriate in its size and use. They said they would consider a front porch with columns and a roof. After reviewing the application with Mrs. Manca, she is adamant about not creating a roof, which she feels would block the natural sunlight coming into the picture window. The application has therefore been modified by reducing the size of the porch so it is only 5 ft. deep by 15.8 ft. across. In response to comments by the Board last October on a previous application, they designed it to be more in keeping with a porch – post and rail with lattice work underneath. If the Board grants the variances, the applicant would still have to go to the Architectural Review Board because it is in front of the house and is visible from the street. Another mailing was done to the neighbors to advise them that the size has been reduced.

Mrs. Terry Hill, 118 LeRoy Avenue, submitted the following petition signed by 7 residents:

“The Loh Park neighbors listed below object to the proposed ‘revised’ plan for what is still clearly a deck on the front of the house on Leroy Avenue. Regardless of the size it is a well known fact, and is even stated in the new ‘The Tarrytown’ newsletter dated Summer, 2005, that decks ‘tend to be a gathering area for large numbers of people.’ A deck does not belong on the front of the house in our neighborhood.”

Mrs. Hill stated that houses in the area that have decks have them in the back or on the side, not in the front.

No one further appeared to address the Board.

Mrs. Plunkett stated she is of the same opinion as last October. There is ample room in the back for a deck. It is not a porch; it is a deck. This is a rental property and no hardship can be demonstrated.

Mrs. Manca stated the tenants are moving out of the house on August 31st and she and her husband are moving into this house. Her husband is in a wheelchair and she wants to be able to bring him out on the porch. She doesn’t want it in the backyard because of the noise from Benedict Avenue and he doesn’t want to be isolated in the back.

Mrs. Manca submitted the following petition signed by 13 residents:

“We the undersigned have seen the blueprints of proposed porch for 140 Leroy Avenue and concur that it would enhance the neighborhood and fit in nicely. Porch would hardly be visible from front. The setback is 41.2 ft. and property is 75 x 150 ft. Porch size is 15.8 x 5 ft. This is a mixed neighborhood with 1 family – 2 family homes – Temple, Medical Center and a nursery school.”

Mrs. Manca stated she has lived in the neighborhood 53 years. One house has been sold seven times and the one in front of her has been sold five times. “I don’t even know my neighbors.”

Mrs. Manca submitted photographs of open decks on the front of houses in the Village. Mrs. Plunkett stated the issue is whether any of those required variances – or if building permits were even obtained for them.

In regard to the photos submitted, Counsel Shumejda stated if those decks were as of right it is not a comparable situation. “To make it comparable, there should be an analysis of those properties to determine whether they obtained variances.”

Mr. Vieira suggested they ask for a postponement this evening which would allow them to research the decks on the photos shown and also to hopefully have a full contingent of the Board present in September.

Board members unanimously agreed to continue the hearing at their September meeting.

*Counsel Shumejda left the meeting to return to the Board of Trustees work session on the third floor.

PUBLIC HEARING – ACADIA-NODDLE TARRYTOWN DEVELOPMENT CO.,
INC. – 135 WILDEY STREET

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, August 8, 2005, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

Acadia-Noddle Tarrytown Development Co., LLC
135 Wildey Street
Tarrytown, New York 10591

for a variance from the Zoning Code of the Village of Tarrytown for property they own located at the above address regarding interior alteration of an existing tenant space within a shopping mall for bank occupancy requiring the following variance:

Minimum off street parking requirement is 25 spaces and 20 are proposed requiring a variance for 5 spaces (§305-19D(1))

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 2, Parcel 25B and is located in a Restricted Retail (RR) zone.

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.

The certified mailing receipts were submitted.

Mrs. Plunkett read the following memo dated August 8, 2005, from Kathleen D'Eufemia, Designated Environmental Review Officer:

“Acadia-Noddle Tarrytown Development Co., Inc. - I have reviewed this application for interior alteration of an existing tenant space within a shopping mall for bank occupancy requiring a variance for parking.

As Environmental Review Officer, I make a recommendation that the Zoning Board of Appeals issue a negative declaration in that there appears to be no adverse environmental impact from the proposed project, pursuant to the State Environmental Quality Review Law.”

Mr. Kenneth Garvin, architect, stated the bank is proposing to put in a 5,000 sq. ft. branch in the building where Walgreens is located. The space is 10,728 sq. ft.; the bank will take 5,000 sq. ft. at the south end leaving the 5,728 sq. ft. in the middle for a future tenant. The bank's floor plan shows five teller spots and the teller spots determine the amount of parking required for the bank. For every teller over two, five spaces are required and the bank requires ten spaces; thus 25 spaces are needed. The bank feels with five tellers customers will move in and out faster.

Upon inquiry from Mrs. Plunkett, Mr. Garvin stated there will not be a drive-up window; the site cannot accommodate it. There will be an ATM vestibule, which would expedite the banking process.

Mr. John Harter, P.E. stated he had submitted a Parking Adequacy Analysis to the Board. He stated parking accumulation counts were taken on Friday, July 29, 2005 from 4 p.m. to 6 p.m. and on Saturday, July 30, 2005 from 9:30 a.m. to 12:00 p.m. It showed the overall lot, even during peak time, was well under 50% parked. There was 60% to 70% vacancy and the area where the bank is proposed was mostly empty.

Mrs. Plunkett questioned, "What happens to the next applicant?" Mr. Garvin stated they are assuming that space will be retail and the 5,728 sq. ft. would require approximately 22 parking spaces and they are leaving that available for that space.

Mr. Harter stated they are trying to demonstrate they really only need 20 parking spaces – not the 25 that are required.

Upon inquiry from Ms. James, Mr. Garvin stated in their opinion Walgreens has more than the parking they need. 59 spaces are allocated to Walgreens and in reality, they don't need more than 45. He noted there is room on the property to add parking; however, it is not needed.

Mr. Jolly questioned whether the Chase Bank on South Broadway would remain. Mr. Garvin stated he believed it would.

Ms. James stated spaces are not assigned and what would happen if the estimates are wrong and parking becomes a problem. Mr. Garvin stated parking would have to be added. It could be done.

Mr. Jolly stated this lot is always underutilized.

Mrs. Plunkett questioned whether anyone wished to address the Board on this matter. No one appeared.

Mr. Jolly moved, seconded by Ms. James, and unanimously carried, that the Board issues a negative declaration that there is no adverse environmental impact from the proposed project, pursuant to the State Environmental Quality Review Law.

Mr. Jolly moved, seconded by Ms. James, and unanimously carried, that the hearing be closed and that the Board having arrived at the findings required by the ordinance:

1. That the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the neighborhood
2. That the proposed variance will not create an undesirable change to the neighborhood or detriment to the neighborhood
3. That the benefit the applicant seeks to achieve cannot be achieved by any other feasible method
4. That the variance is not substantial in the Board's judgment
5. That the variance would not have an adverse environmental impact on the neighborhood
6. That the variance is the minimum one deemed necessary and will preserve and protect the character of the neighborhood and the health, safety and welfare of the community

grants the requested variance subject to:

1. Approval of plans by the Building Inspector
2. Obtaining a building permit for the project within two years.

PUBLIC HEARING – RISO – 194 CREST DRIVE

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, August 8, 2005, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

Christopher and Patricia Riso
194 Crest Drive
Tarrytown, New York 10591

for a variance from the Zoning Code of the Village of Tarrytown for property they own located at the above address, regarding two single story additions to existing single story single-family house at the above address requiring the following variances:

1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. Minimum lot size is required to be 10,000 sq. ft. and 8,396 sq. ft. exists
 - b. Minimum for front yard is required to be 25 ft. and 22.4 ft. exists
 - c. Minimum for one side yard is required to be 12 ft. and 11.9 ft. exists
 - d. Minimum for rear yard is required to be 28 ft. and 12.2 ft. exists.
2. Maximum coverage of principal building is 22% (1,847 sq. ft) and 24.7% (2,080 sq. ft.) is proposed (§305-9)
3. Minimum front yard is 25 ft. and 20.7 ft. is proposed (§305-9)
4. Minimum side yard is 12 ft. and 4.75 ft. is proposed (§305-9)
5. Minimum rear yard is 28 ft. and 8.4 ft. is proposed (§305-9)
6. Stone terrace may encroach on required front yard by 6 ft., proposed encroaches 12.5 ft. (§305-14B(4))

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 19A, Block 112A, Lot 30 and is located in a Residential (R-10) zone.

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.

The certified mailing receipts were submitted.

Mrs. Plunkett read the following memo dated August 8, 2005, from Kathleen D'Eufemia, Designated Environmental Review Officer:

“Riso – 194 Crest Drive - I have reviewed this application for two single story additions to existing single story single-family house. Some of the variances, particularly the side yard setback proposed at 4.75 ft., are significant variances and the Board will have to determine there are mitigating circumstances to warrant the granting of the variances. If that can be done, the Zoning Board of Appeals can issue a negative declaration in that there appears to be no adverse environmental impact from the proposed project, pursuant to the State Environmental Quality Review Law.”

*Counsel Shumejda returned to the meeting from the Board of Trustees work session.

Mr. Sam Vieira, architect, stated the Risos have been discussing for some time how to expand the house. They have two young children and an original Crest house, which is one story. The proposal is to create a 30 ft. deep x 14 ft. wide addition adjacent to the west side of the house. That would be a combination family room and breakfast area, which would be off the existing kitchen. Presently the garage has no interior connection. They are proposing to put a 7 ft. x 12 ft. addition to the east side which will create an additional storage area and allow access from the garage directly into the basement without the need to go outside. The existing front door will be brought out to the front and a covered stoop will be added for curb appeal. After reviewing the plans with Mr. McGarvey, it was determined that due to the odd shape of the property, it would be reviewed as having one front yard, one side (west) yard and one rear (east) yard. The odd shape is responsible for most of the existing non-conformities and for the variances required. Immediately behind and adjacent to the screen porch is a stone patio. They would like to slide that to be alongside the addition. It is a sloped site. The intent is to cut into the hillside and create a 2 ft. – 3 ft. stone retaining wall. The patio would not be seen because it would be lower than the hillside it is nestled under.

Upon inquiry from Mr. Jolly, Mr. Vieira stated one large tree will have to be removed.

Mr. Julius Sternfeld, 188 Crest Drive, stated he has lived at his home for 45 years. He lives on the side where the large extension will be 4.75 ft. from the property line. Without the property being staked it is difficult to picture this addition. “We think 4.75 ft. is too close.” Mr. Sternfeld read a statement to the Board, which is attached to the official copy of these minutes.

**Mr. McGarvey arrived at the meeting.

Mrs. Plunkett questioned, “How far from the property line is your house?” Mr. Sternfeld replied, “About 15 ft.”

Mr. Sternfeld read a letter from Stephen Gilbert, for Doris Gilbert, owner, 191 Crest Drive. This letter is attached to the official copy of these minutes.

Mr. McGarvey questioned why the Risos don't go up which would eliminate encroachment concerns. Mrs. Riso stated they thought what they were proposing would be more in keeping with the neighborhood. There have been concerns in the neighborhood about houses going up and getting big. "We thought getting rid of the screened-in porch and putting an addition this way would be less of a concern."

Mr. McGarvey stated the Board might want to see what it would look like with a second story.

Mr. Vieira stated there was a recent survey done and that has been submitted to the Board. The topography of the land is such that the water runoff is down. There would be no impact on the Sternfelds. They are also required by Village ordinance to retain any additional runoff on site and that will be done. When talking about the 4.75 ft. setback, it is only in the one corner. From the side yard to the front of the new addition, it is 30 ft. There would be 20 to 25 ft. on the other corner. This is a rectangular house on a triangular lot. In regard to adding a second story, the Risos were not looking for an addition of that size. The 4.75 ft. sounds like a lot but it is the extreme of an angle.

Mrs. Plunkett stated she felt one of the problems is the 4.75 ft. and an active patio area.

Mrs. Plunkett questioned whether anyone further wished to address the Board on this matter.

Mr. Phil Vachon, 183 Crest Drive, stated he lives in a house that is 7 ft. from the property line, as is his neighbors' house. "It is too close. I don't think anyone should put a house that close to another house. There are options that would serve this property well."

Mr. Sternfeld stated if these variances are granted, it would set a precedent in the Crest.

Mr. John Lynch, 10 Crest Drive, submitted photographs taken in front of 194 Crest Drive during the storm on June 29th. "I am trying to stop the erosion of impervious area. A second story would cure that issue. You have to be sure you don't go beyond the zoning where impervious area is involved."

Mrs. Plunkett suggested the property be staked and Board members would revisit. It could be considered further at the next meeting. She suggested the applicants also consider coming back with plans for a second story addition.

Mrs. James questioned if the Risos chose to enclose the existing screened-in porch whether that would require variances. Mr. McGarvey stated it would be converting the

area to habitable space and he would have to review the codes to determine what would be required.

Board members unanimously agreed to continue the hearing at their September meeting.

PUBLIC HEARING – MORABITO – 12 PARK AVENUE

The Secretary read the following Notice of Public Hearing:

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the Village of Tarrytown will hold a public hearing at 8:00 p.m. on Monday, August 8, 2005, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

Frank Morabito
26 Church Street
Tarrytown, New York 10591

for a variance from the Zoning Code of the Village of Tarrytown for property he owns located at 12 Park Avenue, Tarrytown, New York, regarding construction of open wood deck to a non-conforming building requiring the following variances:

1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. Minimum lot size is required to be 7,500 sq. ft. and 5,550 sq. ft. exists
 - b. Minimum lot width is required to be 75 ft. and 50 ft. exists
 - c. Minimum for one side yard is required to be 10 ft. and 5.18 ft. exists
 - d. Minimum for two side yards is required to be 22 ft. and 12.67 ft. exists
 - e. Minimum distance for accessory building to side yard is required to be 10 ft. and 3.66 ft. exists
 - f. Maximum floor area ratio is permitted to be .43 and .55 exists

Documents are available for inspection in the Planning and Zoning Office at Tarrytown Village Hall. The property is shown on the Tax Maps of the Village of Tarrytown as Sheet 16A, Block 190, Lots 22 and 23 and is located in a Residential (R-7.5) zone.

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.

The certified mailing receipts were submitted.

Mrs. Plunkett read the following memo dated August 8, 2005, from Kathleen D'Eufemia, Designated Environmental Review Officer:

“Morabito – 12 Park Avenue - I have reviewed this application for construction of an open wood deck.

As Environmental Review Officer, I make a recommendation that the Zoning Board of Appeals issue a negative declaration in that there appears to be no adverse environmental impact from the proposed project, pursuant to the State Environmental Quality Review Law.”

Mr. Sean McCarthy, architect, stated they were before the Board last year and requested variances for the 2-1/2 story addition. All those variances were approved at that time. At that time the existing non-conformities of the property were discussed – size, lot width, existing garage. At that time in addition to the variances for the existing non-conformities, they needed variances for the side yard and the floor area ratio. At this time they are proposing an open wood deck. An open wood deck is allowed to encroach 6 ft. into the side yard setback but no less than 6 ft. The existing house has a 5 ft. side yard setback. They are pushing the deck in 1 ft. to make it conforming and they are not extending back beyond the rear yard setback. Because it is an open wood deck they are not increasing the building coverage or the floor area ratio. Essentially, they are not asking for any new variances. They are asking for approval to add to an existing non-conforming building and site.

Mrs. Plunkett questioned how far the deck is from the garage. Mr. McCarthy stated it is about 13 ft. It is a two-story deck and there will be sliding doors out to both levels.

Mr. McGarvey questioned whether an elevation plan had been done. Mr. McCarthy stated it had not – they just did floor plans.

Mrs. Plunkett stated it is a lot of deck. The house size has increased dramatically. The Board granted the previous variances because of where the garage was located. “I think to add a two-story deck is pushing the envelope on that space in the backyard.” Mr. McCarthy stated there will be a rear yard setback of 29 ft. where 26 ft. is required.

Mrs. Plunkett stated, “It is a lot for the neighbors to look at. If we were going to do this, I think we should have done it in the original application. It is a lot more square footage in a neighborhood where the houses are small.” Mr. McCarthy noted as part of the original application they removed an addition on the side of the house. Mrs. Plunkett stated that is one of the reasons the variances were granted at that time.

Mrs. Plunkett stated the front porch has a stairway going into the basement. There is access in the front and rear to the basement. That was not on the original plans. Mr. McCarthy stated it was a field condition. There were no variances required for that. Mrs. Plunkett stated, “It changes the character of the house a bit.”

Upon inquiry from Mr. Jolly, Mr. McCarthy stated the house is single family.

Mrs. Plunkett questioned whether anyone wished to address the Board on this matter.

Mr. Roger Smith, 16 Park Avenue, stated there are six items that are non-conforming and they are disappointed this house got approved. "We don't feel this fits the neighborhood."

Mrs. Plunkett stated the Board spent a lot of time on the original application. There were a lot of non-conformities. It does seem that what happens before the ZBA and then the ARB and what is eventually done doesn't turn out to be the same. That needs more careful review. She stated she was concerned about these back decks.

Ms. Julie Cherico, attorney for the applicant, stated none of the variances being requested at this time are relative to the deck – they are all because the property and house are non-conforming.

Mrs. Smith stated the home that was there before was about half the size of the house that is there now. The people on Park Avenue did not realize how large this house would be and it is disappointing that the Architectural Review Board approved that house. They are now proposing enormous decks on an enormous house and she expressed concern that this would remain a single family house.

Mrs. Hynes, 24 Park Avenue, stated this is a single family zone and it looks like this house will become two-family. Ms. Cherico stated that is not the issue before the Board. They are not requesting a use variance.

Mr. McGarvey stated, "I had a meeting with Frank Morabito and the neighbors about their concerns about whether this was single family or multi family. There was some concern and there was some indication it might be more than one family. Mr. Morabito changed that. The C.O. will be for a single family residence. The best eyes and ears are the neighbors. If two families move in, a violation will be issued."

Ms. Cherico requested the Board adjourn the application until their September meeting. All Board members agreed.

MEETING ADJOURNED – 9:55 p.m.

Kathleen D'Eufemia
Secretary

