

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
September 12, 2005 8 p.m.

PRESENT: Deputy Chair Lawrence; Members James, Jolly, Maloney \*Counsel  
Shumejda; Engineer/Building Inspector McGarvey; Clerk Booth

ABSENT: Chairwoman Plunkett

Ms. Lawrence chaired the meeting in Mrs. Plunkett's absence.

APPROVAL OF MINUTES

Mr. Jolly moved, seconded by Ms. James, and unanimously carried, that the minutes of February 14, 2005, June 13, 2005 and July 11, 2005, be approved as submitted.

The minutes of April 11, 2005 and August 8, 2005 were not approved due to lack of a quorum.

ANNOUNCEMENT OF WITHDRAWAL OF THE RISO APPLICATION – 194  
CREST DRIVE

Ms. Lawrence reported this application was withdrawn by the applicant.

CONTINUATION OF PUBLIC HEARING – MANCA – 140 LEROY AVENUE

Mr. Sam Vieira, architect, stated that two meetings ago he requested variances to allow a 10' x 15.5' open wood deck/porch in front of the house at 140 Leroy Avenue. The Board expressed concerns about the size of the structure and that this style open deck would be best suited at the rear of the house. Therefore, Mrs. Manca directed him to reduce the size of the porch to 5' x 15.5'. At the last meeting there seemed to be reluctance mainly due to the occupancy of this house as a rental property.

Mrs. Manca stated all the renters are out and the house is empty. Mrs. Manca has expressed interest in moving into the house with her husband or rent it to a family. She also stated that she doesn't have much of a backyard and when it rains, they get a swamp back there so it would not be a suitable area for a deck.

Mr. John Hill, 118 Leroy Avenue, stated that he does not support an open wood deck of any shape or size in the front of the home at 140 Leroy Avenue. An open wood deck belongs in the rear of the home. An open wood deck looks totally inappropriate for this neighborhood's setting. Two prior petitions were submitted signed by over ten neighbors who are against this open wood deck at the front of this home, whether it is occupied by renters or the homeowner.

Mrs. Manca stated that she has submitted pictures of about four open decks in the immediate neighborhood. She also has submitted signatures from many neighbors who are in support of this deck/porch. She stated that her plan is to sell her house that she now resides in (142 Leroy Avenue) and move into the house at 140 Leroy for capital gains tax purposes.

Mr. John Hill stated that his deck as well as the Muenzinger's consist of a large cement stoop with a wrought iron black railing that have been there as long as the homes have been there.

Ms. Lawrence stated that one of the issues no longer exists because all the tenants are out of the house and either Mrs. Manca will move in or it will be rented to a family. She asked if that was correct.

Mrs. Manca said she doesn't know that the hallways are wide enough for the wheelchair, but she was going to find out for sure.

Ms. Lawrence stated if this passes, the front deck/porch is not to be used for family barbeques, or social parties but for passive quiet activities like reading. That was another concern of the neighbors. The rear patio exists for that type of social activity. Ms. Lawrence asked if a wheelchair can get onto this deck.

Mr. Vieira stated that the standard turning radius of the Americans with Disabilities Act requires a 5' circle.

Ms. Lawrence stated the concerns of the Board and neighbors seem to have been met with regard to the tenants and the size of the deck/porch.

Mr. John Hill stated that he doesn't believe all the neighbors' concerns have been met. Ms. Lawrence asked what concerns have not been met. Mr. Hill stated it's an open wood deck that doesn't belong in the front of a house and the pictures that were submitted are not all in the immediate neighborhood.

Mrs. Manca submitted the certified return receipt letters that came back to her.

Mr. Jolly stated that he would be more prone to vote yes if he knew Mrs. Manca was moving into this house.

Ms. Lawrence asked if Mrs. Manca would be willing to wait until she moved into the house and then apply for this variance for this deck/porch. Mrs. Manca responded no.

Ms. Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the Public Hearing be closed.

Mr. Maloney moved, seconded by Ms. James, 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 voted no; all others voted yes. Motion carried.

Mr. Maloney moved, seconded by Ms. James, 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. Approval of plans by the Architectural Review Board
3. Obtaining a building permit for the project within two years.

Mr. Jolly voted no. All others voted yes. Motion carried.

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

#### CONTINUATION OF PUBLIC HEARING – MORABITO – 12 PARK AVENUE

Mr. Sean McCarthy, architect, stated that this application is here before the Zoning Board of Appeals because the house is an existing non-conforming structure. All setback requirements meet the zoning requirements. Therefore, they are not asking for any new zoning variances, they are just asking for consideration from the Board because the house is an existing non-conforming structure. They have reduced the second floor deck to a platform with stairs going down to the lower deck. This was kept at the minimum distance that was required to exit. They also shortened up the lower deck to just enough room to pass the stairs to the basement to exit and for the upper deck to land on that lower deck. The overall dimensions are 11 ft 2 in. in back of the house and the lower level deck is 13 ft. long. The upper deck is 4 ft. from the house and 10 ft. wide just to get

beyond the existing sliding glass door. Under the requirements in seeking an area variance for consideration from this Board, there are five points that this Board requires. At least three of them do not apply because they are not asking for any area or dimensional requirements. Can this be achieved any other way or method without seeking a variance. It can't because anything that is done to this house has to go before the Board. What they are proposing are decks that fit within the parameters of the zoning requirements. They are not asking for any zoning variances, just consideration from the Board. One of the points that the Board should consider is will the construction of these decks impact the environmental conditions of the property. There's no cutting of trees, no impact on storm water management. They're only building out into the back yard. The only remaining question is will these decks fit the character of the neighborhood. These decks are open wood decks at the back of the house not visible from the street.

Ms. Lawrence asked for explanation of the floor plans of the house. She also wanted to know why there has to be a staircase that comes down from the upper deck down to the lower deck.

Mr. McCarthy stated that the first floor level includes a bedroom, dining room, family room, kitchen and bathroom. Second floor level has a bedroom, a large office and a bathroom. Third floor level has three bedrooms and another bathroom. The staircase on the upper deck is for egress and a matter of convenience.

Dan Hanover, 27 Park Avenue, stated that he wanted to know why the plans were for a window and then sliding glass doors were put up. Why do you need a staircase from the upper deck? It makes no sense.

Mr. Variano, 32 Park Ave., stated that if the plans were approved with a window, how did the slider door get there. What is the status on the second kitchen in the house?

Mr. McGarvey, Village Engineer stated that it was approved with a window. However, there are no conditions on the building permit that restricts anyone to put a doorway there. Now the owner wants to utilize that door with a deck and stairs and that's why he is before the Board. Mr. McGarvey stated he did a final inspection on Friday and there is no kitchen on the second floor. There's a sink and a countertop. There's no stove, refrigerator or dishwasher. There are cabinets.

Phil Variano stated that the neighbors are still concerned because the plans keep changing and concerns of a two family house still look evident with the staircase from the upper deck.

Mr. McGarvey stated that this house's building permit and certificate of occupancy is for a single family house and if the neighbors see anything different, they are to report that to him immediately.

Elizabeth Hynes, 24 Park Avenue, stated she didn't understand why a single family house needs a sliding glass door on the second floor with stairs down to the lower deck.

Roger Smith, 16 Park Avenue, stated that at the last meeting there were concerns on the stairs down to the basement from the front of the house, which were not originally approved. There are three things that neighbors became aware of that were not approved but are being done. That's why the neighbors have concerns.

Tom Nugent, 63 Miller Avenue, asked if the sliding glass doors were in the approved drawing. Mr. McGarvey stated that they were not. However, as long as it is accessible, a window or door are both acceptable

Mr. Nugent stated that the second floor deck is very atypical for this street and the immensity of this house is also atypical for this street. He asked if Mr. Morabito would be willing to lose the stairs from the upper deck to the lower deck. Mr. Morabito responded that he was here for what he proposed.

Mr. McCarthy stated that the upper deck is there for access only. It's too small to put a table on it. The lower deck is also a small area - not big enough for recreation purposes.

Nancy Hanover, 27 Park Avenue, stated that this house's property is all blacktop for parking. It doesn't have much of a grassy backyard. And now, if approved, there's going to be decks and stairways.

No one further appeared to address the Board on this matter.

Ms. Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the Public Hearing be closed.

Mr. Maloney moved, seconded by Ms. James, 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. Ms. Lawrence voted no; all others voted yes. Motion carried.

Mr. Maloney moved, seconded by Ms. James, 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
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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.

Ms. Lawrence voted no. All others voted yes. Motion carried.

Zoning Board of Appeals meeting adjourned at 9:00 p.m.

Carol A. Booth  
Village Clerk