

Zoning Board of Appeals
Village of Tarrytown
Regular Meeting
March 13, 2006 8 p.m.

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

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

APPROVAL OF MINUTES

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the minutes of February 13, 2006, be approved as submitted.

CONTINUATION OF PUBLIC HEARING – LOJA – 44 STORM STREET

*Mr. Jolly recused himself on this application.

Ms. Lawrence noted she had visited the property yesterday with the Village's Code Enforcement Officer and they went into the house.

Ms. Loja stated the addition they are proposing is identical to the house next door. The four new rooms will be part of the first floor apartment.

Ms. Lawrence questioned whether anyone wished to address the Board on this matter.

Ms. Eleanor Miscioscia, 36 Storm Street, stated she felt the proposal would be a detriment to the neighborhood. The house currently is big. There are about 10 cars parked on the property. The addition would take up the backyard and take away from the house at 46 Storm Street. There was a fire in the house about 1-1/2 years ago and the fire department found locks on the bedroom doors on the third floor. "I think it is being used as a rooming house."

Ms. Annette Swenson, 40 Storm Street, stated she opposed the variances. She stated her backyard would be greatly affected by this expansion. Storm Street has parking issues because houses what were once one-family are now two and three-family. She stated she believes this is an illegal boarding house and approving this expansion would add credence to an illegal situation. The house is currently a legal three-family house with a permit for a basement addition. She requested the Board not consider the expansion.

Ms. Lawrence stated they did notice that the third floor does not appear to be set up as a typical apartment unit, and the doors had numbers on them. Ms. Loja stated there are family members living there – her grandfather and uncles. Some are her father's relatives

and some her mother's. They all want their privacy. The numbers were on the doors when they bought the house.

Mr. McGarvey stated when you see doors with numbers on them and each with a lock, it appears to be an illegal situation. Ms. Loja stated since these are relatives from two different families, they want privacy. In regard to parking, Ms. Loja stated the people living in the house park on the property.

Ms. Lawrence noted there is an open permit to finish a family room in the basement. She questioned whether this could be used to provide the extra space for the first floor apartment. Ms. Loja stated they wanted this space for a playroom. It is not conducive for sleeping space.

Ms. Lawrence noted that during the inspection, Mr. Tucci, the Village's Code Enforcement Officer, had been concerned that one bedroom on the second floor may have had too many people in it and he will go back to measure that. Ms. Loja stated that would be fine since there is a vacant area in that apartment which can be made as a bedroom for one little girl.

Mr. Joe Costa, 31 Storm Street, stated if this is approved, it could set a precedent for other people on the street wanting to add additions that totally cover the property. Ms. Loja stated there will still be a backyard even with the addition.

Upon inquiry from Mr. Jolly, Ms. Loja stated they purchased the property two years ago with the intention that the entire family could reside together. They thought at the time that they would be able to use the basement space but it turns out that it would not be good to have people living in the basement.

Ms. Lawrence stated she felt the variances were too extensive for the neighborhood. The light plane for the house next door would be affected. There are currently a lot of cars parked on the property and "I think this is extensive for the neighborhood."

Mr. Jolly stated the proposed addition would "suffocate" the two adjacent houses – particularly the one on the left. Ms. James stated that was her impression also.

Board members stated perhaps if the addition were scaled down, it might be something that would be more acceptable to the Board and the neighbors.

Mr. Jolly moved, seconded by Mr. Maloney, and unanimously carried, that the variances requested to permit a rear addition to the house at 44 Storm Street be denied.

CONTINUATION OF PUBLIC HEARING – RENHA – 3 WINDLE PARK

Ms. Lawrence noted Board members visited the property yesterday and went inside the house.

Mr. John Hughes, attorney for the applicant, stated, “I think the Board understands the nature of this application. I think there is one reason why you could deny the variance. My clients are here because of a violation notice served on them. I would urge the Board to overcome imposing a judgment. We have a Village Prosecutor and Judge who do that kind of work.”

Mr. Hughes stated Statute 5 for the granting of a variance is whether the difficulty was self-created. The difficulty was self-created by his clients. The extra apartment was done by them. This statute also states, however, that shall not necessarily preclude the ZBA from giving relief. The statute also requires the ZBA take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood by such grant. This house has been part of the neighborhood for 25 years. Were the Board to grant or deny the variance request, there would be no change in livable area in the house. If the Board denies the application, and one unit is removed, a larger apartment will be made and a family will live in it. Currently there are single people in the apartments since they are not conducive to a family. If two apartments were made one, there would be plenty of room for a family. While the parking does not meet the Village’s requirements, it is there and it is functional. It provides off-street parking. Notices of this hearing were sent to 81 people and no one has spoken on the application. “I don’t see any harm to this application. It won’t change anything and if denied, it might increase the load.”

Ms. Lawrence questioned whether anyone wished to address the Board on this matter.

Mr. Jerome Dunbar, 94 Main Street, stated he owns the house around the corner and there is a renter in this building – a dentist - who parks on Main Street. Main Street already has a huge parking problem. Ms. Renha stated the dentist resided in the illegal basement apartment, which has been removed. That person no longer resides in the house.

Mr. McGarvey stated two spaces shown on the plan submitted are tandem, which are not functional. Mr. Hughes stated he was agreeing that the spaces as shown are not legal spaces by code, but they exist and they do work. If the variance is denied, there will still be the same living space in the building – and possibly more cars.

Ms. Lawrence noted even without the tandem spot, there are five parking spaces that can function.

Mr. Dunbar questioned how the parking layout affected safety – access by emergency vehicles. Mr. Hughes noted this is a corner lot and has access on two sides.

Ms. Lawrence stated it is a four-family house and has been for a long time. There are five parking spaces that are functional. The basement unit has been removed. She stated she did not have a problem with granting the variances. Board members agreed.

Mr. Maloney moved, seconded by Ms. James, that the Zoning Board of Appeals issues a negative declaration in that there appears to be no adverse environmental impact from the project, pursuant to the State Environmental Quality Review Law. Ms. James, Mr. Maloney and Ms. Lawrence assented. Motion carried.

Mr. Maloney moved, seconded by Ms. James, that the hearing be closed and the Board having arrived at the following 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

approves the following requested variances to legalize the fourth apartment at 3 Windle Park:

1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. Minimum lot size is required to be 7,000 sq. ft. and 5,436 sq. ft. exists
 - b. Ten off street parking spaces are required and none can be provided that do not encroach upon a required front, side or rear yard.

The Board was polled. Mr. Maloney, Ms. James and Ms. Lawrence assented. Motion carried.

CONTINUATION OF PUBLIC HEARING – KOSTARAS/KATSARIS – 14-16 MILLER AVENUE

Ms. Lawrence reported receipt of the following letter dated March 10, 2006, from John F. Burkhardt, 47 Miller Avenue:

“Re: 14-16 Miller Avenue

We reside at 47 Miller Avenue and this letter is in response to the application for numerous variances for a proposed expansion to the above-referenced property which are set forth in the attached Notice of Public Hearing dated February 2, 2006. Since I will be unable to appear in person at the continuation of the Public Hearing on March 13, 2006, I am submitting our comments in written form.

As you know, the current two family house is already located on a lot which is well below the minimum lot size (approximately 5,000 square feet instead of 7,500.) There are currently ten instances of non-conformity and the application is seeking to dramatically increase this non-conformity.

As a general proposition three story houses are inappropriate for this neighborhood and specifically, the scope and size of the proposed construction will not fit on the lot and would be out of character with the neighborhood. This is a quiet residential suburban neighborhood primarily consisting of single family homes and to squeeze a house of this size on a 5,000 square foot lot would be more appropriate for Brooklyn than for Tarrytown.

The application seeks significant variances with respect to maximum height, increase in light exposure plane and maximum floor area ratio. These variances, when applied to the subject premises, will become even greater given the extremely small size of the lot. The proposed expansion would have a negative impact on the appearance of the neighborhood by creating a mansion that would stick out like a sore thumb. It would further increase density in an already fully built out neighborhood, it would bring more automobiles to be parked on the street and would have a detrimental impact on the property values in the neighborhood.

There has been no compelling evidence why a variance should be granted in these circumstances. New York courts have held that variances are not to be granted based on the personal needs of the particular residents of a property. To grant the requested variances and to significantly increase the degree of non-conformity would be a serious mistake resulting in substantial negative consequences to the neighbors.”

Ms. Katsaris stated Mr. Burkhardt doesn’t live in their section of the neighborhood. The parking in their area does not affect him.

Ms. Lawrence stated Board members have visited the property and they appreciated the stake being put up to show the proposed height.

Ms. Kostaras stated she has lived in Tarrytown for 33 years. Her parents lived at 66-68 Miller Avenue. They are not increasing the amount of parking needed by residents of the house. They are trying to keep the addition symmetrical. She noted the group home across the street generates fifteen cars a day on the street.

Ms. Lawrence questioned whether anyone wished to address the Board on this matter. No one appeared.

Ms. Lawrence stated she felt the proposal would have a significant impact to the neighbors and the neighborhood. "It is my feeling you are adding significantly to the non-conformity of the house."

Ms. James stated she is always concerned about height; however, she did not believe the proposal for this house would cut off anyone's light. The immediate neighbors have expressed no objection. She stated she would therefore be inclined to approve the proposal.

Ms. James moved, seconded by Mr. Jolly, that the Zoning Board of Appeals issues a negative declaration in that there appears to be no adverse environmental impact from the project, pursuant to the State Environmental Quality Review Law. Mr. Jolly, Ms. James and Mr. Maloney assented. Ms. Lawrence dissented.

Ms. James moved, seconded by Mr. Jolly, that the hearing be closed and the Board having arrived at the following 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

approves the following requested variances to permit a third story addition at 14-16 Miller Avenue:

1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. Minimum lot size is required to be 7,500 sq. ft. and 5,050 sq. ft. exists.
 - b. Minimum lot width at front of building is required to be 75 ft. and 50 ft. exists.
 - c. Maximum principal building coverage permitted is 24% and 31% exists.
 - d. Maximum accessory building coverage permitted is 6% and 8% exists.
 - e. Total coverage for all buildings permitted is 30% and 39% exists.
 - f. Minimum front yard is required to be 20 ft. and 19.32 ft. exists.

- g. Minimum for each side yard is required to be 10 ft. and 6.27 ft. exists on one side yard.
 - h. Combined side yard setbacks are required to be 22 ft. and 17.86 ft. exists.
 - i. Minimum distance from accessory building to side lot line is required to be 10 ft. and 2.85 ft. exists.
 - j. Minimum distance from accessory building to rear lot line is required to be 10 ft. and 0.49 ft. exists.
- 2. Maximum height in stories permitted is 2.5 and 3 are proposed. (§305-9)
 - 3. Increase in light exposure plane from 45° required to 62°. (§305-9)
 - 4. Maximum floor area ratio allowed is 0.43; 0.44 exists; 0.59 is proposed (§305-107)

Subject to the following conditions:

- 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.

The Board was polled. Mr. Jolly, Ms. James, and Mr. Maloney assented. Ms. Lawrence dissented. Motion carried.

PUBLIC HEARING – SCHEUBLIN – 10 HIGHLAND 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, March 13, 2006, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

Mr. and Mrs. Jeremy Scheublin
10 Highland Avenue
Tarrytown, New York 10591

for a variance from the Zoning Code of the Village of Tarrytown for property located at the above address, regarding raising the roof of the house to a full height second floor requiring the following variance:

- 1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. Minimum lot width at front of building is required to be 75 ft. and 70 ft. 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 19A, Block 105A, Lot 55 and is located in a Single-Family (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.

Mr. Larry Nardecchia, engineer, stated the Scheublins are proposing to make a full second story on the house. The current house has an A-framed roof. The ridgeline will be raised 2 ft. 8 in., which is still below the height allowed. The house is currently the minimum size house for the lot. The lot is 70 ft. x 150 ft., which is actually 3,000 sq. ft. larger than required by the R-7.5 zoning. The lot, however, only has a 70 ft. width and the code requires the lot width at the front of the building to be 75 ft., which is the reason a variance is being requested. This is a pre-existing non-conforming situation. The structure will match the existing siding. There will be less roof and more wall. There will be no light restriction to neighbors. A swimming pool is shown on the plans but it would not require any variances. The pool would be in the center of the property and can be well screened. There will be no other disturbance on the lot. There will be two separate permits – one for the house addition and one for the pool. The yard is about 50% fenced and the pool will be completely fenced.

Mr. McGarvey questioned whether the pool is definitely being constructed. Mr. Nardecchia stated the intent is to get a permit for it. The work on the house will be done first.

Ms. Lawrence questioned whether anyone wished to address the Board on this matter. No one appeared.

Ms. Lawrence reported receipt of the following memo dated March 13, 2006, from Kathleen D'Eufemia, designated Environmental Review Officer:

“Scheublin – 10 Highland Avenue

I have reviewed this application for a full second story addition to an existing 1-1/2 story house. The only variance required is due to the fact there is a pre-existing non-conforming condition with the lot width being 70 ft. rather than the 75 ft. required.

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

Mr. Jolly moved, seconded by Mr. Maloney, and unanimously carried, that the Zoning Board of Appeals issues a negative declaration in that there appears to be no adverse environmental impact from the project, pursuant to the State Environmental Quality Review Law.

Mr. Jolly moved, seconded by Mr. Maloney, and unanimously carried, that the hearing be closed and the Board having arrived at the following 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

approves the requested variance to permit a full second story addition at 10 Highland Avenue subject to:

1. Approval of plans by the Building Inspector
2. Approval of plans by the Planning Board
3. Approval of plans by the Architectural Review Board
4. Obtaining a building permit for the project within two years.

PUBLIC HEARING – MORABITO – 210 SHELDON 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, March 13, 2006, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

Domenic J. Morabito, Jr.
210 Sheldon Avenue
Tarrytown, New York 10591

for a variance from the Zoning Code of the Village of Tarrytown for property located at the above address, regarding raising the roof of the house to a full height second floor requiring the following variance:

1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. The structure is a two-family residence located in a single-family zoning district (Use variance was granted in 2000.)
 - b. Total accessory building coverage permitted is 6% and 8% exists.

- c. Side yard for accessory structure is required to be 10 ft. and 6 ft. exists
 - d. Rear yard for accessory structure is required to be 10 ft. and 1.3 ft. exists
 - e. Total coverage for all buildings permitted is 30% and 32% exists.
2. Maximum Floor Area permitted is 3,335 sq. ft.; 3,579 sq. ft. exists, and 5,346 sq. ft. is proposed. (§305-107.B)

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 26, Block 75, Lot 1B and is located in a Single-Family (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.

Board members visited the property.

Mr. Sean McCarthy, architect, stated this is a proposal to add a second story to an existing house. The purpose of the addition is the Morabitos recently got the news they are increasing their family size. They have one child and they are expecting twins in July. There is an existing footprint, and they thought the most practical situation for additional bedrooms is to add a second floor to the existing footprint. Most of the variances are for existing situations. The one being asked for is the Floor Area Ratio. They are already in excess but it is needed because they must count the garage and apartment. In considering the grant for the variance the Board should consider that no undesirable change is created in the neighborhood. Mr. McCarthy noted he submitted photographs of adjacent homes and all have a second story. This house is currently architecturally out of character with the neighborhood. The Board should also consider whether they can achieve the additional bedrooms in a different way. If they pushed out, they still need the F.A.R. but also might need coverage and setback variances. The variance is substantial but because of the requirements in the F.A.R., they must take into account parking and the second apartment. The Board must consider whether any adverse effects are being created. There is no excavation proposed. They are building on an existing footprint. The Board must consider whether the variance is self-created. It is in that they are increasing the size of their family, which creates the need.

Upon Board inquiries, Mr. McCarthy stated the Morabitos purchased the property in 1998. They received a use variance to permit a rental apartment in the house in 2000. A previous owner received variances to allow construction of the deck and swimming pool.

Ms. Lawrence questioned whether anyone wished to address the Board on this matter.

Mr. Sal Zambelletti stated he owns the house next door to this one, which is also a two family house. "I don't see anything wrong with expanding the house by another story. All the houses are high."

Ms. Lawrence reported receipt of the following letter dated March 1, 2006, signed by six area residents:

"This letter is to inform you that we, Domenic and Dina Morabito, have applied to the zoning board to add a second floor addition to our home. We are expecting twins in July and the added space is necessary to continue to reside on our home. Signing this letter would be greatly appreciated and would acknowledge your approval of this addition."

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

Ms. Lawrence stated the elevation in the back is quite high so there doesn't seem to be any view objection from the rear neighbors. Mr. McCarthy stated the rear yard setback is in excess of the zoning requirement.

Ms. Lawrence stated the one thing that concerned her is the number of variances on this property – the use variance for the apartment, the variances for the swimming pool, and now the variances for this second story addition. Mr. McGarvey noted if the pool were removed, a number of the variances sought tonight would be eliminated.

Mr. McCarthy stated they would not have a problem with the Board approving the second floor addition conditioned on the removal of the pool.

The Board reported receipt of the following memo dated March 13, 2006, from Kathleen D'Eufemia, designated Environmental Review Officer:

"Morabito – 210 Sheldon Avenue

I have reviewed this application for a full second story addition to an existing 1-1/2 story house. The variance being requested for Floor Area Ratio is substantial and the Board will need to determine the criteria for granting the variances can be met before they can issue a determination that there appears to be no adverse environmental impact from the proposed project, pursuant to the State Environmental Quality Review Law."

Upon inquiry from Mr. Jolly, Mr. McCarthy stated the project does not have to go before the Planning Board – just the Architectural Review Board.

Ms. Lawrence stated with the agreement by the applicant to remove the pool thereby eliminating many of the existing non-conforming conditions on the property, she felt it would be appropriate to grant the request tonight for the second story addition.

Ms. Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the Zoning Board of Appeals issues a negative declaration in that there appears to be no adverse environmental impact from the project, pursuant to the State Environmental Quality Review Law.

Ms. Lawrence moved, seconded by Mr. Maloney, and unanimously carried, that the hearing be closed and the Board having arrived at the following 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

approves the following variances to permit a full second story addition at 210 Sheldon Avenue:

1. Increase in the degree of non-conformity (§305-18A(1)):
 - a. The structure is a two-family residence located in a single-family zoning district (Use variance was granted in 2000.)
2. Maximum Floor Area permitted is 3,335 sq. ft.; 3,579 sq. ft. exists, and 5,346 sq. ft. is proposed. (§305-107.B)

subject to:

1. Removal of the swimming pool.
2. Approval of plans by the Building Inspector
3. Approval of plans by the Architectural Review Board
4. Obtaining a building permit for the project within two years.

MEETING ADJOURNED 9:30 p.m.

Kathleen D'Eufemia
Secretary

