

Zoning Board of Appeals  
Village of Tarrytown  
Regular Meeting  
August 14, 2006 8 p.m.

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

APPROVAL OF MINUTES

Mr. Maloney moved, seconded by Mr. Jolly, and unanimously carried, that the minutes of July 18, 2006, be approved as submitted.

PUBLIC HEARING – ROBERTS – 63 MILLER 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 14, 2006, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

Alexander Roberts, Contract Vendee  
63 Miller Avenue  
Tarrytown, NY 10591

for a variance from the Zoning Code of the Village of Tarrytown for property located at the above address regarding construction of a new one-car garage requiring the following variances:

1. Driveway grade is proposed to be 12.66% where 10% is the maximum grade permitted (§305-20B(1))
2. One parking space will be in required front yard (§305-19C(3)(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 16A, Block 88, Lot 29 and is located in an R-7.5 (Residential) 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.

Ms. Lawrence noted two Board members visited the property.

Mr. Bill Spade, architect, stated Mr. and Mrs. Roberts filed this application as contract vendees; however, they have now purchased the home. They are proposing to build a new one-car garage on the property. There was inadequate space on either side of the property to build the garage so they are proposing to build it in the rear. In order to do that, they need a variance from the slope of the driveway to get to the rear of the property. The grade would need to be 12.66%. They are proposing this garage configuration as a less impacting situation to a garage to the side, which would have required a variance for the structure extending over the setback line. The proposed structure is within the setbacks in the rear of the house but it does need the variance for the grade of the driveway. There is also the issue of the second parking space. They felt it would be the least impacting to retain one of the existing spaces which is in the front rather than trying to accommodate a second space within the driveway. The two parking spaces in the front came about in 1999 when a previous owner closed in the garage and put the two required spaces in the front yard. One of those spaces is asphalt and the other is gravel. They are proposing to keep the gravel space and remove the asphalt. They considered creating a 20 ft. wide driveway down the side of the house and have the legal space alongside the house. They felt, however, that was not a desirable parking solution on that grade. They could have created more paved area in the back yard but felt that would create more impervious surface coverage and the necessity for drainage solutions and impact the owner to the rear. Given those issues, they felt the least impacting solution was to retain one of the parking spaces in the front yard.

Upon inquiry from Ms. Lawrence, Mr. McGarvey stated the work done on the house in the past did have a building permit. The ordinance prohibiting parking in the front yard did not go into effect until 2003.

Mr. Spade stated a Certificate of Occupancy was received for that work so he had to assume they were given permission to have the parking spaces in that location.

Mr. Spade stated on this side of Miller Avenue there are a total of seven houses on this downhill side and all have garages in the front yard setback and most rely on the driveway being one of the parking spaces since most have only a one-car garage. It would not be unusual on this street to have the one parking space in the front yard since it is a condition on the street currently.

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

Mr. Richard Miller read the following statement:

“My name is Richard Miller and I have been a resident of Riverview Avenue since 1957. In the last few years a number of variances have been given which have totally changed our neighborhood. This is because variances have been given, which have allowed existing homes to be greatly expanded. In October of 2004, 13 residents of Riverview Avenue signed a petition requesting that no more variances be given so that the

neighborhood could be preserved. At that time, the new owners of 82 Riverview Avenue and 84 MacArthur Lane came before this Board and asked for variances so they could enlarge their newly purchased homes so that extended members of their families could live with them. The Board granted them variances. The day that construction was completed on both of these houses, a For Sale sign went up on both of them. This indicates to me that the owners had no intention of enlarging their houses for family members, but meant to resell them for a profit. As neighbors, we had to endure the noise of construction for six months, in addition to having our neighborhood altered. Maybe a new ordinance should be written stating that new owners would be required to have lived in their homes for a certain amount of years before they are able to apply for a variance. Perhaps this would eliminate the flipping of houses. The new owner of 63 Miller Avenue is asking for a variance to add a garage behind what was once the garage for this house. The former owner, after adding an addition, converted the garage into living space. The current owner now wants to add a garage to the already crowded property. This would also mean adding a paved driveway down a steep hill and would use up all of the remaining property, leaving only an unsightly expanse of blacktop between this home and 47 Miller Avenue. There would no longer be any green space as a buffer between the two houses. The new owner of 63 Miller knew when purchasing the house that the garage had been eliminated, and yet is now asking for a variance that will further alter the neighborhood.”

Mr. Scott Shacter and Ms. Lisa Sloane, 61 Riverview Avenue, stated they feel the proposal will reduce the value of their property. They are concerned about drainage issues and fumes from cars in the rear of this property. They feel the driveway grade is very invasive. This property received a variance about five years ago and part of that was to do away with the garage. The properties in this area are all small with small backyards. With this driveway, they would have car headlights coming into their home. They stated they also signed the petition in 2004 because they feel the neighborhood has endured many atrocities.

Mr. Bruce Follmer, 67 Riverview Avenue, stated he lives across the street from the previous speakers. He expressed concern about drainage stating in a storm, water would come down the driveway and have an impact on the neighbors. He noted he also signed the petition in 2004 since it seems these variances are being granted to allow people to expand their property or to be able to sell it for a profit. “We are very suspicious of construction that alters the character of the residences.”

Mr. Follmer read the following statement of behalf of Sharon Powers and Fred Martin, 62 Riverview Avenue: “We wholeheartedly oppose the proposed driveway construction on 63 Miller Avenue. This property adjoins the back of our property and we feel it will cause serious noise and light pollution, disturbing our sleep – Fred has a serious heart condition - construction debris as well as drainage problems that may affect our retaining walls. We were never given an opportunity to oppose the construction of the tower added to the property a few years ago, which has been a constant source of privacy invasion

during the winter months. We feel the addition of a driveway will only serve to exacerbate an already invasive situation.”

Mr. Spade stated the code permits a 10% grade so if they proposed a slightly higher garage, they could do it without a variance.

Mr. John Burkhardt, 47 Miller Avenue, neighbor to the north, stated he did not know where the year 1999 came from. The building permit for the renovations on this house was issued in 2002 and the C.O. was issued in 2004. The existing front yard parking is depicted on those plans; however, two cars have been parking there for years. Screening for those spaces has been provided so he does not see the cars from his house. A lot of vegetation will have to be removed to put in this driveway. (Mr. Burkhardt submitted photographs showing the vegetation, which will have to be removed.) Mr. Burkhardt stated he did not believe this is a reasonable proposal. It is aesthetically and environmentally undesirable and will create problems where none exist. The impervious surface will create problems with drainage and runoff. Mr. Burkhardt stated in his opinion the Village code is out of date. There are no setbacks for the blacktop which can go up to the lot line and the blacktop does not have to be included in lot coverage, which it should. This will create a driveway next to his property line with exhaust fumes, noise, headlights, and existing natural barriers will be removed. Mr. Burkhardt stated he has a deck, which is 14 ft. from the property line and it will now be 14 ft. from blacktop. When the Roberts purchased the house, they knew there was no garage so the condition is self-created. There are no plans showing how a drainage system will work or studies about the water flow and drainage. Also, when snowplows come through, where will the snow get pushed? The proposed location of the curb cut is at the crest of Miller Avenue, which is not a good spot for it. This is a significant proposal yet it doesn't have to go to the Planning Board for site plan approval, where many of the issues being raised are usually addressed.

Mr. Spade stated if screening is an issue, they would be open to adding screening to offset what is being removed. Mr. McGarvey stated if this project goes forward, percolation studies will need to be done in regard to drainage.

Upon inquiry from Mr. Burkhardt, Mr. Spade stated the driveway length to the garage is about 50 ft. and then about 20 ft. beyond that. The driveway width is about 10-1/2 feet.

Mr. Burkhardt noted based on the plans, the roof of the garage will become a deck adding to the deck area that already exists.

Ms. Lawrence stated the Board needs to revisit the property. She requested the architect stake the area of the proposed driveway.

Mr. McGarvey stated he needs additional topographical information.

Ms. Lawrence reported receipt of the following memo, dated August 14, 2006, from Kathleen D'Eufemia, Designated Environmental Review Officer:

“Roberts – 63 Miller Avenue

This application for construction of a new one-car garage involves a driveway grade more than 2% over the allowable and providing a parking space in the front yard. The Board will need to determine both of these variances will not pose a significant adverse environmental impact in order to issue a negative declaration.”

All agreed to continue the hearing at their September meeting.

PUBLIC HEARING – 116 SOUTH BROADWAY, LLC. – 116 SOUTH BROADWAY

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 14, 2006, in the Municipal Building, 21 Wildey Street, Tarrytown, New York to hear and consider an application by

116 South Broadway, LLC  
116 South Broadway  
Tarrytown, NY 10591

for property located at the above address for renewal of a variance of the Zoning Code of the Village of Tarrytown permitting two professional offices at the above address requiring the following variance:

Currently has two (2) off-street parking spaces which are being increased to provide for four (4) off-street parking spaces where eight (8) parking spaces are required. (§305-19D)

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 15, Block 57, Lots 37 & 22A and is located in an R-10 (Residential) 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. Al Collado, owner of the property, stated he purchased this property from Dr. Blumenfeld, who has retired. When the variance, which has existed for over forty years,

was last renewed in 2001, Dr. Blumenfeld had his practice on the first floor and he had his engineering offices upstairs. Now he has taken over the whole property.

Mr. McGarvey noted when the variance was last renewed, the usage had required nine parking spaces. The current usage requires eight parking spaces. Two parking spaces exist and the Planning Board recently approved a site plan allowing Mr. Collado to construct two additional parking spaces in the rear.

Upon Board inquiries, Mr. Collado stated his engineering business has six employees. They rarely have people visiting and Broadway parking is always available for the employees who cannot park on the property. When Dr. Blumenfeld was practicing, patients came to the property.

Chairwoman Lawrence reported receipt of the following memo dated August 14, 2006, from Kathleen D'Eufemia, Designated Environmental Review Officer:

"116 South Broadway, LLC – 116 South Broadway

I have reviewed this application for renewal of a variance, which has existed for over forty years. There have been only two parking spaces for this property; however, the Planning Board recently approved a site plan, which would now provide four parking spaces. The ownership of the property has changed since the last renewal and the present use of the property only requires eight parking spaces where nine were required in 2001. 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 variance renewal, pursuant to the State Environmental Quality Review Law."

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

Mr. Jolly moved, seconded by Mr. Maloney, and unanimously carried, that the Zoning Board issues a negative declaration in that there appears to be no adverse environmental impact from the variance renewal.

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 renewal of the variance at 116 South Broadway from the required eight parking spaces to two existing parking spaces and two new spaces to be created for a term of five years.

MEETING ADJOURNED 9 p.m.

Kathleen D'Eufemia  
Secretary